

Order 253-05/06

Given first reading: 5/15/06. Referred to CDC: 6/5/06

Public Hearing & Passage: 7/17/06 8-0 (Duson absent)

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CITY OF PORTLAND
IN THE CITY COUNCIL

JAMES F. CLOUTIER (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)
EDWARD J. SUSLOVIC (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, (LAND USE), SECTION 473 (VARIANCES)
RE: PRACTICAL DIFFICULTY VARIANCES**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Section 14-473 of the Portland City Code is hereby amended in subsection (c)(3) (practical difficulty variance) as follows:*

Sec. 14-473. Variances.

(c) *Conditions for variances:*

. . .

(3) *Practical difficulty variance:*

- a. Notwithstanding the provisions of subsections 14-473 (c)(1) and (2) of this section, the board of appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions in the neighborhood;
2. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental

effect on either the use or fair market value of abutting properties;

3. The practical difficulty is not the result of action taken by the applicant or a prior owner;
4. No other feasible alternative is available to the applicant, except a variance;
5. The granting of a variance will not have an unreasonably adverse effect on the natural environment; and
6. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. § 435, nor within a shoreland zone or flood hazard zone, as defined in this article.

b. The following words have the meanings set forth below:

1. *Dimensional standards:* Those provisions of this article which relate to lot area, lot coverage, frontage, and setback requirements.
2. *Practical difficulty:* A case where strict application of the dimensional standards of the ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant.
3. *Significant economic injury:* The value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.