

MAINE STATE LEGISLATURE

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NATURAL RESOURCES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 786, L.D. 1074, Bill, "An Act to Establish Practical Difficulty Standards for a Variance from the Dimensional Standards of a Municipal Zoning Ordinance"

Amend the bill in section 1 in subsection 4 in the first line (page 1, line 6 in L.D.) by striking out the following: "and 4-B" and inserting in its place the following: 'and, 4-B and'

Further amend the bill by striking out all of sections 2 and 3 and inserting in their place the following:

'Sec. 2. 30-A MRSA §4353, sub-§4-C is enacted to read:

4-C. Variance from dimensional standards. A municipality may adopt an ordinance that permits the board to grant a variance from the dimensional standards of a zoning ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

A. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;

B. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;

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2 C. The practical difficulty is not the result of action
4 taken by the petitioner or a prior owner;

6 D. No other feasible alternative to a variance is available
8 to the petitioner;

10 E. The granting of a variance will not unreasonably
12 adversely affect the natural environment; and

14 F. The property is not located in whole or in part within
16 shoreland areas as described in Title 38, section 435.

18 As used in this subsection, "dimensional standards" means and is
20 limited to ordinance provisions relating to lot area, lot
22 coverage, frontage and setback requirements.

24 As used in this subsection, "practical difficulty" means that the
26 strict application of the ordinance to the property precludes the
28 ability of the petitioner to pursue a use permitted in the zoning
30 district in which the property is located and results in
32 significant economic injury to the petitioner.

34 Under its home rule authority, a municipality may, in an
36 ordinance adopted pursuant to this subsection, adopt additional
38 limitations on the granting of a variance from the dimensional
40 standards of a zoning ordinance.'

SUMMARY

The amendment adds to the zoning adjustment statute a 4th type of variance that may be granted from a zoning ordinance. It authorizes a municipality to adopt an ordinance that permits the board of appeals to grant a variance from the dimensional standards of a zoning ordinance, which are defined to include lot area, lot coverage, frontage and setback requirements, when strict application of the ordinance would cause a practical difficulty and certain conditions exist. This type of variance may not be granted if the property is in the shoreland zone.