

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

S.P. 474 - L.D. 1143

An Act to Update Language on Setback Variances for Single-family Dwellings

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA §4353, sub-§4-B, as amended by PL 1993, c. 627, §1, is further amended to read:

4-B. ~~Set-back~~ Setback variance for single-family dwellings. A municipality may adopt an ordinance that permits the board to grant a ~~set-back~~ setback variance for a ~~single-family~~ dwelling. An ordinance adopted under this subsection may permit a variance from a ~~set-back~~ setback requirement only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. The term "undue hardship" as used in this subsection means:

- A. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- B. The granting of a variance will not alter the essential character of the locality;
- C. The hardship is not the result of action taken by the applicant or a prior owner;
- D. The granting of the variance will not substantially reduce or impair the use of abutting property; and
- E. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

An ordinance adopted under this subsection is strictly limited to permitting a variance from a ~~set-back~~ setback requirement for a ~~single-family~~ dwelling that is the primary year-round residence of the petitioner. A variance under this subsection may not exceed 20% of a ~~set-back~~ setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage. An ordinance may allow for a variance under this subsection to exceed 20% of a ~~set-back~~ setback requirement, except for minimum setbacks from a wetland or water body required within shoreland zones by rules adopted pursuant to Title 38, chapter 3, subchapter 1, article 2-B, if the petitioner has obtained the written consent of an affected abutting landowner.