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DEC 21 2012

ZONING BOARD OF APPEALS
Variance Appeal Application

Dept. of Building Inspections
City of Portland Maine

Except as specifically provided by the Ordinance, a variance may be granted by the Board of Appeals ONLY where strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. In order for the Board to find "undue hardship" the applicant must answer ALL of the following questions and provide supporting evidence. The Board will consider this evidence in deciding whether to grant the appeal.

1. The land in question cannot yield a reasonable return unless a variance is granted.
[NOTE: "failure to yield a 'reasonable return' means 'the practical loss of all beneficial use of the land...Reasonable return DOES NOT mean maximum return" *Rowe v. City of South Portland, 730 A.2d 673, 675 (ME 1999) (citations omitted.)*]

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

It is clear from my time as property manager that 'the land in question does not and cannot yield a reasonable return' unless a variance is granted for several reasons and that there is the real potential of 'the practical loss of all beneficial use of the land.'

- Ground floor level – the space in the basement is unfinished with a dirt floor and boarded-up windows (see pictures). There is no real rental market for this type of space and the owners lack the funds necessary to make the space more appealing to a more broad pool of tenants. The owners feel fortunate to have ANY tenant interested in this space – particularly this one who will take on the burden of rehabilitating the space, which will ultimately upgrade the entire building, transforming it from a neighborhood blight to a neighborhood asset. Without THIS tenant who is willing to make this substantial investment and enter a long-term lease, there is no hope in the immediate future for this ground floor space to be rented nor for the building to be improved.
- Current income/rents are insufficient - building is occupied as a single family home with rent barely covering expenses and not allowing owners to establish reserves for even routine maintenance - let alone repairs or upgrades.
- One income is risky – a one-rental property poses significant risk to the owners. When the current tenant chooses to move out, there will likely be a one to three month vacancy. This lapse in income could cause the property's owners irreparable financial harm and potential loss of the property.
- An additional tenant - will allow owners to have the funds to make immediately- needed repairs and improvements. The property is at a critical point where if repairs (envelope, structural, infrastructure, mechanicals, etc.) are done, it can be saved and improved to a higher quality level – if not, we might be looking at another condemned building.
- Behind in rent – current tenants have not fully paid December, let alone January rent.
- Tenants might be moving out 2/1 – this has just come to our attention and this mid-winter move out could be catastrophic to the owners.

2. The need for a variance is due to the unique circumstances of the property and NOT to the general conditions of the neighborhood.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

I truly believe that 'the need for this variance is due to the unique circumstances of the property and not the general condition of the neighborhood'

- 'Place in Peril' – 227-229 York Clearly is a Place in Peril – if we can borrow this phrase from our friends at Greater Portland Landmarks. The maintenance, preservation and improvement of this circa 1860 property (reportedly once a single family home upstairs and a tavern in the ground floor level) will not only enhance the street scene bring this property back in line with its intended benefit/function for this neighborhood.
- Negative Impact – property stands out and has a significant negative impact on local property values and the general aesthetic.
- Too Many Issues - there are just too many problems with this property to gloss over and hope that they go away, but none of them are the result of its location.
- Good for The Hood - the neighborhood has signs of improvement and a better- maintained property would support that energy. This is clearly an area that 'needs a little nudge' to help it become more vibrant and livable. The tenants' proposal is something that the area clearly supports and desires. (Think about the heart of the East End around Rosemont Market, Hill Top Coffee Shop and The Front Room. These small business zones make for a more livable, walk-able - and for that matter - enjoyable city.)
- No Room For Parking - The property is burdened by its size, as there is simply no room for on-site parking. (See previously submitted variance application.)

3. The granting of a variance will NOT alter the essential character of the locality.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

227-29 York is in a B1 zone with a soon-to-be-opened restaurant to the left, an established condo building to the right, and a mix of residential and commercial in the general area. We feel that 'the granting of a variance will not alter the essential character of the locality.'

- B1 Zone - the location is meant to be a small business / commerce area. The zone is very limited in size, encompassing properties in and immediately around the corner of Brackett St. and York. This is not necessarily a busy intersection but one that - for as long as anyone can remember - had multiple commercial enterprises. So this property's proposed use would be complimentary to the neighborhood.
- Little / No impact on Area - with the park across the street, ample on-street parking and limited number of seats this will have little impact on the local street scene or parking.
- Better Neighborhoods = Better City. Most patrons will be people living on the surrounding streets, and will walk to this location - adding to the livability of this general area and Portland.
- Stimulus & Jobs – with this approval, the project's developers will move forward with a significant investment into this property. The will also provide immediate work to Portland-based contractors and craftspeople - not to mention ongoing employment for local people for years to come.

4. The hardship is NOT the result of action taken by the applicant or a prior owner.

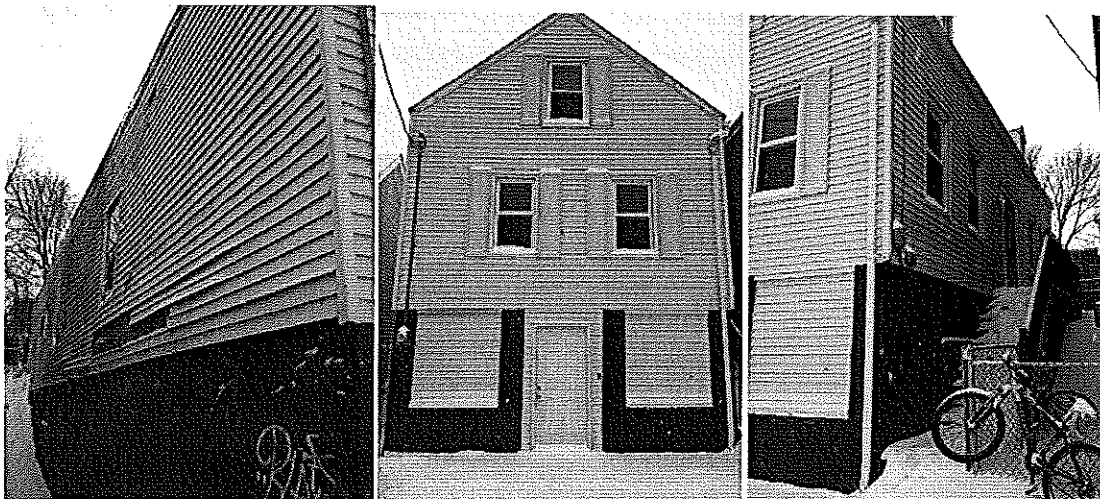
Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

'The hardship is clearly not the result of actions taken by the applicant or prior owner'

- Best they Could - the previous owners lived in the property as a single family and did the best they could to keep up with needed repairs and maintenance
- Making an Effort - the current owners took 4 month post-purchase to do repairs, renovations and upgrades in order to make the property livable / rentable, but additional work is obviously needed.
- Renting and Trying - current owners have been renting since repairs were complete and are doing all they can to maintain.

Exterior Front



Basement – proposed restaurant



Upper Level – single family rental

