

*Harrison
Avery
Katsiarracos
Cutz*

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

R-6 Residential Zone
Variance Appeal

DECISION

Date of public hearing: August 4, 2016

Name and address of Appellant: Michael D. Bunker
Two 07 LLC
103 Gray Street
Portland, Maine 04102

Location of property under appeal: 152 Washburn Avenue
CBL 052 H004001

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

*Michael D. Bunker
103 Gray St.*

Exhibits admitted (e.g. renderings, reports, etc.):

Application w/ attachments

Findings of Fact and Conclusions of Law:

The applicant is seeking a hardship variance from the requirements of City of Portland Code of Ordinances Sec. 14-136(a)(2)(b), which provides that for multifamily dwellings in the R-6 Zone, "[n]o open outside stairways or fire escapes above the ground floor shall be constructed."

The Board of Appeals has jurisdiction to hear and grant or deny applications for variances pursuant to Sec. 14-471.

Findings:

Sec. 14-473 provides that "[A] variance may be granted by the board only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship." An undue hardship exists where all of the four following criteria are satisfied:

1. The land in question cannot yield a reasonable return unless a variance is granted;

Satisfied _____

Not Satisfied

Reason and supporting facts:

No evidence that property will not yield reasonable return. Only evidence is as to cost of enclosing stairway.

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

Satisfied _____

Not Satisfied

Reason and supporting facts:

Nothing unique about parcel that requires variance. Presently two unit. Functions as a saleable/marketable property w/o variance.

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

Satisfied Not Satisfied

Reason and supporting facts:

Applicant has demonstrated character of locality has many exterior staircases.

4. That the hardship is not the result of action taken by the applicant or a prior owner.

Satisfied Not Satisfied

Reason and supporting facts:

hardship is ~~that~~ the cost of the 3rd unit. The property will not look like other properties. 3rd unit triggers need for stairway.

Decision: (check one for each item)

Option 1: The Board finds that the applicant has satisfactorily demonstrated that strict application of the ordinance, or a provision thereof, to the applicant and his property would cause undue hardship and GRANTS the variance without limitation.

Option 2: The Board finds that the applicant has satisfactorily demonstrated that strict application of the ordinance, or a provision thereof, to the applicant and his property would cause undue hardship and GRANTS the variance with the following limitations:

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Option 3: The Board finds that the applicant has NOT satisfactorily demonstrated that that strict application of the ordinance, or a provision thereof, to the applicant and his property would cause undue hardship and DENIES the variance.

Dated:

8-4-16

[Handwritten Signature]

Board Chair