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CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

I-M Moderate Industrial Zone
Practical Difficulty Variance Appeal

DECISION

Date of public hearing: May 5, 2016

Name and address of applicant: H.P. Hood, LLC
349 Park Ave.
Portland, ME 04102

Location of property under appeal: 349 Park Ave.
Portland, ME 04102

For the Record:

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

Richard Seiler - Maintenance Manager HP Hood

Dan Cowles - project manager - HP Hood

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

Application and Exhibits

Findings of Fact and Conclusions of Law:

The applicant proposes to construct two new vertical milk storage silos at its existing milk processing plant. The applicant is seeking a practical difficulty to reduce the minimum front yard setback from the required 39 feet to 27 feet.

"Practical Difficulty" Variance standard pursuant to Portland City Code §14-473(c)(3):

1. The application is for a variance from dimensional standards of the zoning ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied ☒ Not Satisfied ☐

Reason and supporting facts:

Variance is seeking reduction of front setback from 39 feet to 27 feet

2. Strict application of the provisions of the ordinance would create a practical difficulty, meaning it 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. "Significant economic injury" means 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.

Satisfied ☐ Not Satisfied ☐

Reason and supporting facts:

In order to replace loss of capacity of indoor tanks, the proposal appears to be the only viable solution. Loss of the indoor tanks with no replacement would lead to significant economic loss.

tabled for more information on economic injury. Tabled until May 19, 2016

3. 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:

4. 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.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

6. No other feasible alternative is available to the applicant, except a variance.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

8. 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.

Satisfied _____ Not Satisfied _____

Reason and supporting facts:

Conclusion: (check one)

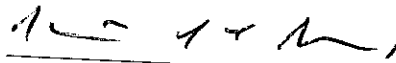
___ Option 1: The Board finds that the standards described above (1 through 8) have been satisfied and therefore GRANTS the application.

___ Option 2: The Board finds that while the standards described above (1 through 8) have been satisfied, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

___ Option 3: The Board finds that the standards described above (1 through 8) have NOT all been satisfied and therefore DENIES the application.

Dated:

5/13/16


Board Chair

Tabled to May 19, 2016