

## §963-A. Special use variance

**1. No variance where prohibited.** No variance shall be granted in order to permit a use within a district in which such use is expressly prohibited, except in accordance with this section. A special use variance may be granted, after notice and public hearing, to permit a single family dwelling within the Resource Protection District upon a finding by the commission that the grant of such a special use variance is necessary to avoid undue hardship to the applicant, provided that hardship shall not be construed to include:

A. Any hardship attributable to any act, course of conduct or failure to act of the applicant or the applicant's predecessor in interest, beginning with the owner of record on March 19, 1974; or [RR 2021, c. 2, Pt. B, §260 (COR).]

B. Any hardship that is not unique to the petitioner's land. [PL 1979, c. 459, §1 (NEW).]

A special use variance under this section may be granted by the commission only in cases where such a variance is necessary to avoid a deprivation of property in violation of the Constitution of Maine, Article I, Section 6, a taking of private property without compensation in violation of the Constitution of Maine, Article I, Section 21, a violation of due process clause of the 14th Amendment of the Constitution of the United States, or a violation of other applicable state or federal constitutional provisions.

The owner of a building lot of record which is wholly within the corridor on March 19, 1974, shall be entitled to a variance for a single family residence which may be granted by the commission without public hearing. Any variance granted by the commission may be granted subject to such reasonable conditions concerning matters enumerated in section 959-B as the commission finds necessary to avoid the dangers enumerated in section 957-D. For purposes of enforcement, special use variances granted hereunder and the conditions thereto shall be treated as orders of the commission.

[RR 2021, c. 2, Pt. B, §260 (COR).]

### SECTION HISTORY

PL 1979, c. 459, §1 (NEW). RR 2021, c. 2, Pt. B, §260 (COR).

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