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*Penny St. Louis Littell- Director of Planning and Development
Marge Schmuckal, Zoning Administrator*

Warren Currier & Buchanan
57 Exchange Street
Portland, Maine 04101-5020
Attn: Brenda M. Buchanan

RE: 21 Wiley Street, Peaks Island, 087-D-011 (the "Property") – Current IR-2 Zone

Dear Ms. ~~Buchanan~~ ^{Brenda},

I am in receipt of your request to determine whether the Property is in compliance with the current Land Use Zoning Ordinance.

An issue arose concerning a bathroom in an addition at the northeast corner of the house. A search of the City's files in regard to the Property did not reveal any permits for this addition or alteration. Further research with the previous owner of the Property revealed the approximate circumstances and year of this addition/alteration. Based upon an affidavit from the previous owner, Mr. David H. Parker, the addition/alteration occurred in the Spring or Summer of 1953. Mr. Parker could not affirm whether he had taken out a permit at that time.

A search of our past zoning ordinances and maps revealed documentation covering applicable zoning from 1946 to June 5, 1957. The Property was located in an "A" Residential Zone in 1953. According to the ordinance regulations at that time, an eight foot side yard setback and a twenty-five foot rear yard setback were required. A sketched site plan indicates that the current side yard setback of the north side of the building is nine feet. The rear yard setback is 41.6 feet. Both of the existing setbacks meet the zoning ordinance in effect in 1953 when the alterations were made.

The basis of our current Land Use Zoning Ordinance went into effect on June 5, 1957. Because this addition/alteration was initiated and completed prior to our current ordinance, I have determined that the Property is legally nonconforming and in compliance with current zoning ordinance. It does not constitute a current day zoning violation.

Very truly yours,

Marge Schmuckal
Zoning Administrator

FAX



To: Brenda Buchanan

Fax Number: 772-1279

From: Marge Schmuck

Fax Number:

Date: 11/10/08

Regarding: 21 W. Long St - P. I

Total Number Of Pages Including Cover: 2

Phone Number For Follow-Up:

Comments:

Brendz,

I will put the original in
the mail -

Marge

City Of Portland, Maine

Inspections Division Services

389 Congress St Room 315 Portland Me 04101-3509

Phone: (207) 874-8703 or (207) 874-8693

Fax: (207) 874-8716

<http://www.portlandmaine.gov/>

WARREN & CURRIER BUCHANAN

Limited Liability Company, P.A.

Carol Godfrey Warren
David E. Currier
Brenda M. Buchanan

October 30, 2008

Marge Schmuckal
Zoning Administrator
City of Portland
389 Congress Street
Portland, Maine 04101

RE: Property of Jane M. Ryder
21 Wiley Street, Peaks Island
Map 87, Block D, Lot 11

Dear Marge:

Following up on our conversation earlier this month, please find enclosed two affidavits, one from Jane Ryder, the current owner of the above-referenced property, and the other from David H. Parker, the owner of the property in 1953 when the back porch was enclosed to create an indoor bathroom. Also enclosed is a sketch done by me, using lot measurements taken by the broker, overlaid by the current configuration of the house as shown on the City assessing records. The bathroom is the 8 x 7 area at the northeast corner of the house.

As we discussed, Ms. Ryder has put her home on the market. Her broker's routine inquiry to your office about the zoning compliance status of the property resulted in one issue of concern – whether the bathroom had been built without a permit in 1953. With your help, I determined that the zoning ordinance in effect in 1953 was the one adopted April 26, 1946. This property was in the "A" Zone, which required a sideline setback of 8 feet. As you can see from the sketch, the section of the house where the bathroom is located is 9 feet from the sideline.

Mr. Parker's affidavit also clarifies that he did not change the footprint when he created this bathroom, he simply enclosed a pre-existing porch. Neither the Parkers or Ms. Ryder have done anything to the house since 1953 that impacts this sideline setback.

Your records apparently do not show that the Parkers obtained a permit and they do not recall whether they did. However, as we discussed, if they had applied for a permit in

57 Exchange Street, Portland, Maine 04101-5020

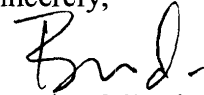
Telephone (207) 772-1262 Telecopier (207) 772-1279 E-mail: counsel@wacubu.com

1953, one would have been issued, because the house met then-applicable setback requirements.

On behalf of my client, I would like to request at this time a written determination by you, pursuant to City Code Section 14-465, that the possible failure of the prior owner to obtain a building permit in 1953 does not constitute a current day zoning violation and the above-referenced property is in compliance with the zoning code.

Thank you for your assistance with this matter.

Sincerely,



Brenda M. Buchanan

Cc: Jane M. Ryder
Jill Keefe, Port Island Realty

30 2003

AFFIDAVIT

I, Jane M. Ryder of Harwich, in the County of Barnstable and Commonwealth of Massachusetts, f/k/a Jane M. Kilkelly, being duly sworn, do depose and state that:

1. Since April 20, 1981 I have been an owner of certain real property located at 21 Wiley Street on Peaks Island, in the City of Portland, County of Cumberland and State of Maine (the "Property").
2. The Property is shown on the City of Portland Tax Maps as Map 87, Block D, Lot 11. It is improved with a 416-square foot cottage (the "Cottage.")
3. The Property was conveyed by David H. Parker to me and Karen J. Ryder, Valerie A. Ryder and Charlotte J. Ryder by deed recorded in the Cumberland County Registry of Deeds, Book 4771, Page 151.
4. By deed dated March 2, 1998, Karen J. Ryder, Valerie A. Ryder and Charlotte J. Ryder conveyed their interest in the Property to me by deed recorded in the Cumberland County Registry of Deeds, Book 13708, Page 153, leaving me the sole owner of the Property.
5. During the entire period of my ownership -- from 1981 to the present -- I have not made any changes to the footprint of the Cottage.

E. HARWICH,
MASS.

Dated at 10-21-08, ~~Maine~~ this 21 day of October, 2008.



Jane M. Ryder

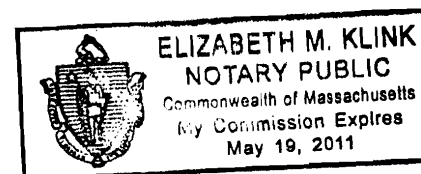
COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE, ss

Then personally appeared the above-named Jane M. Ryder who stated that the foregoing statements are true and based on her personal knowledge and that her execution of this affidavit is her free act and deed.

Before me,


Notary Public


Printed Name



Commission Expires:

AFFIDAVIT

I, David H. Parker of Portland, in the County of Cumberland and State of Maine, being duly sworn, do depose and state that:

1. From 1953 to 1981, I was the owner of certain real property located at 21 Wiley Street on Peaks Island, in the City of Portland, County of Cumberland and State of Maine (the "Property").

2. The Property is shown on the City of Portland Tax Maps as Map 87, Block D, Lot 11. It is improved with a 416-square foot cottage (the "Cottage.")

3. The Property was conveyed to me by Leon B. MacVane by deed dated June 17, 1953, which is recorded in the Cumberland County Registry of Deeds, Book 2133, Page 381.

4. When we bought the Property, the Cottage did not have an indoor bathroom, so in the spring or summer of 1953, I added an 8' x 7' bathroom onto the rear (northeast) corner of the house by enclosing an existing back porch. This did not change the footprint of the house.

5. I never did any renovation that caused a change in the footprint on that side of the cottage.

6. On April 20, 1981 I conveyed the Property to Jane M. Ryder, Karen J. Ryder, Valerie A. Ryder and Charlotte J. Ryder by deed recorded in the Cumberland County Registry of Deeds, Book 4771, Page 151.

Dated at Portland, Maine this 29th day of October, 2008.

David H. Parker
David H. Parker

STATE OF MAINE
CUMBERLAND, ss

October 29, 2008

Then personally appeared the above-named David H. Parker who stated that the foregoing statements are true and based on his personal knowledge and that his execution of this affidavit is his free act and deed.

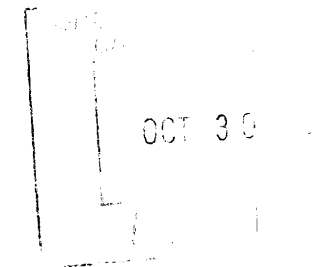
Before me,

Andrea M. Cesario
Notary Public/Attorney at Law

Andrea M. Cesario
Printed Name

Commission Expires:

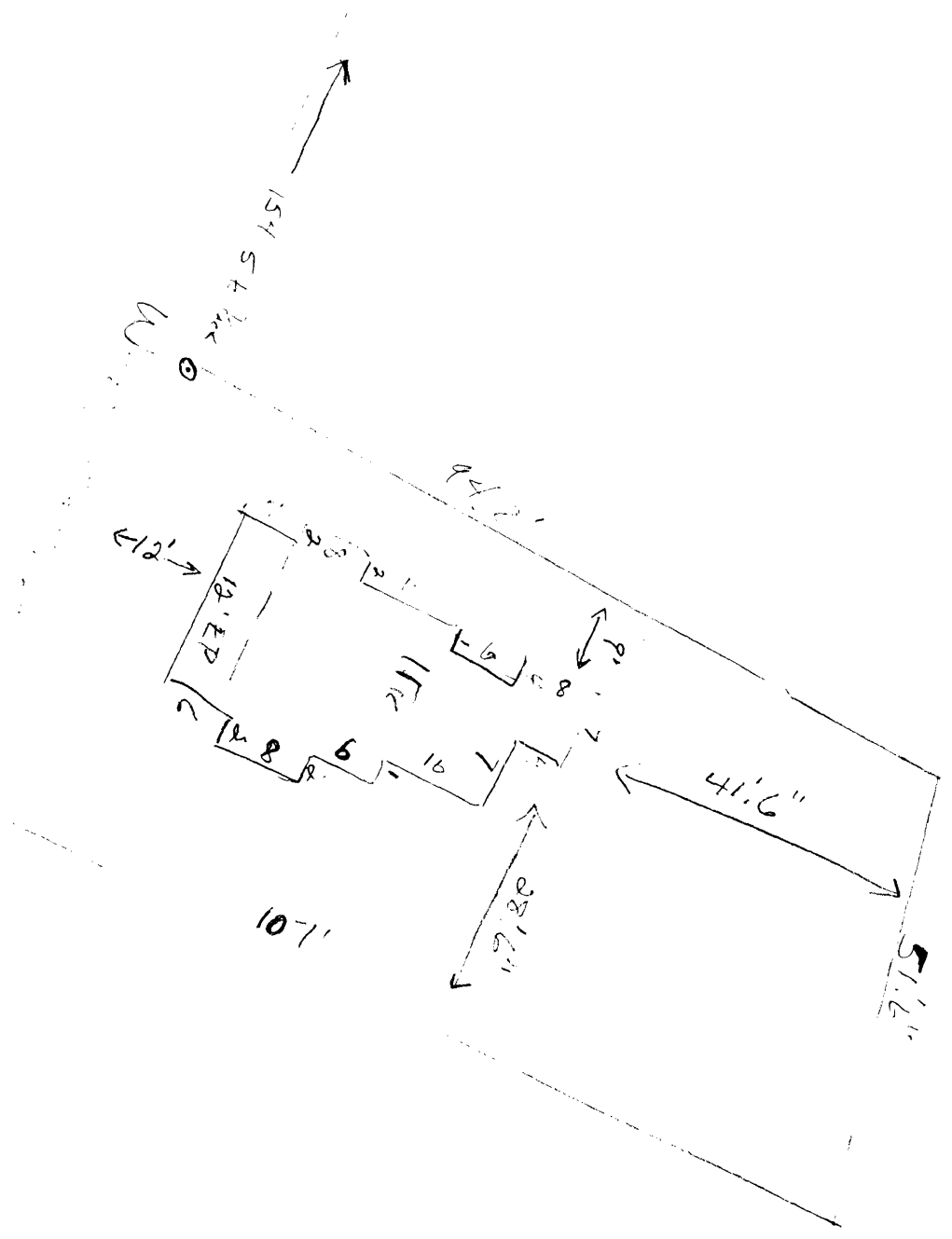
ANDREA M. CESARIO
NOTARY PUBLIC
STATE OF MAINE
My commission ends August 11, 2013



87-D-11

11
= 001

N



23' from rear line
in front of house

001 30 000

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number	1 of 1
Parcel ID	087 D011001
Location	21 WILEY ST
Land Use	SEASONAL
Owner Address	RYDER JANE M 20 SUGAR HILL DR HARWICH MA 02645
Book/Page	NCFY08/
Legal	87-D-11 WILEY ST PEAKS ISLAND 5045 SF

*IF Zoned
95 to 2000, 1957
Zone K*

Current Assessed Valuation

Land	Building	Total
\$101,900	\$50,000	\$151,900

Property Information

Year Built	Style	Story Height	Sq. Ft.	Total Acres	
1900	Cottage	1	416	0.116	
Bedrooms	Full Baths	Half Baths	Total Rooms	Attic	Basement
1	1		3	None	Pier/slab

Outbuildings

Type	Quantity	Year Built	Size	Grade	Condition
SHED-FRAME	1	1980	7X8	D	F

Sales Information

Date	Type	Price	Book/Page
03/01/1998	LAND + BLDING		13708-153

Picture and Sketch

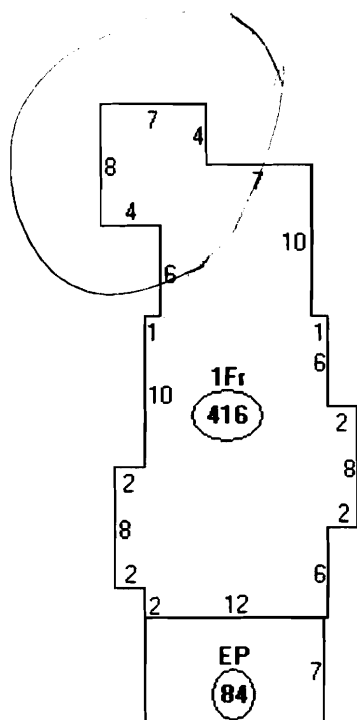
Picture	Sketch	Tax Map
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Click here to view Tax Roll Information.

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or e-mailed.

New Search!





Descriptor/Area

A: 1Fr
416 sqft
B: EP
84 sqft

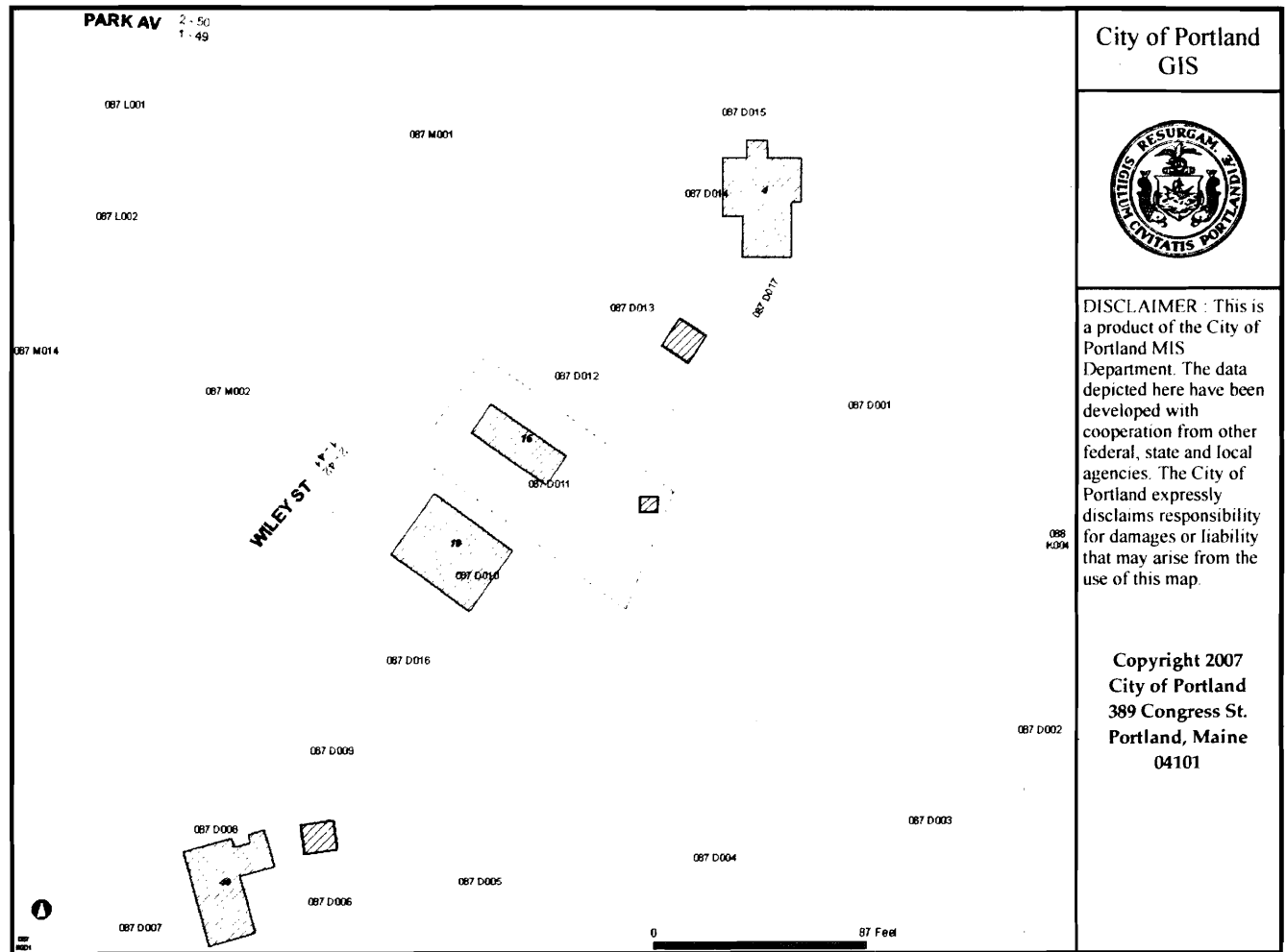
416
84

500

ok

50 ft \times 35% = 1765.75 sq max
lot coverage in
1953

IR-2



City of Portland
GIS



DISCLAIMER : This is a product of the City of Portland MIS Department. The data depicted here have been developed with cooperation from other federal, state and local agencies. The City of Portland expressly disclaims responsibility for damages or liability that may arise from the use of this map.

Copyright 2007
City of Portland
389 Congress St.
Portland, Maine
04101

Old Zoning

Ordinance

City of Portland, Maine
ORDINANCE

Zoning

April 26, 1946

to

June 5, 1957

RESIDENCE A LONES

Section 11. IN A RESIDENCE A LONE:

A. USE. No building shall be erected, altered or used, and no premises shall be used for any use injurious, noxious or offensive to a neighborhood by reason of the emission of odor, fumes, dust, smoke, vibration or noise or other cause, or for any use except one or more of the following:

1. Detached one-family dwelling house;
2. Church;
3. Educational use, exclusive of private business colleges and trade schools;
4. Farm, garden, fruit or berry raising, plant nursery, non-commercial greenhouse, excluding buildings and structures exclusively for sale of products except as authorized by the Board of Appeals, and excluding the sale of products not raised on the premises;
5. Poultry or animal raising other than pigs on any lot of three acres or more provided such use is set back one hundred feet from each street line and fifty feet from property of other owners;
6. Municipal recreational use;
7. Accessory use customarily incident to the above uses (See Sec. 14, Par. A);
8. Any of the following uses only if and as authorized by the Board of Appeals:
 - a. Alteration of a one-family dwelling house with a combined gross first and second floor area exceeding fifteen hundred square feet existing on January 1, 1946, to accommodate not more than two families;
 - b. Aviation;
 - c. Cemetery;
 - d. Private club not conducted for profit and containing not more than five sleeping rooms

- e. Garage space for or parking or storage of more than three motor vehicles, not including repair or service garages or the storage of more than one commercial motor vehicle;
- f. Golf links;
- g. Gravel, loam, sand or stone removal;
- h. Greenhouse;
- i. Hospital, convalescent home, sanitarium, institution or philanthropic use;
- j. Ice harvesting and storage on the same premises;
- k. Municipal use;
- l. Poultry or animal raising other than pigs;
- m. Private business college or trade school;
- n. Riding stable;
- o. Trailer or other vehicle for dwelling purposes;
- p. Camp, park or lot accommodating trailers or other vehicles for dwelling purposes.

→ B. REAR YARDS. There shall be behind every building a rear yard having a minimum depth of twenty-five feet or twenty-five per cent of the depth of the lot, whichever is the less.

→ C. SIDE YARDS. There shall be on each side of each building a side yard having a minimum width of eight feet, provided that the width of one side yard may be reduced one foot for every foot that the other is correspondingly increased in width but no such yard shall be less than five feet wide, and provided further that on no lot held under separate and distinct ownership from adjacent lots and of record on December 5, 1938, shall the buildable width be reduced by this requirement to less than twenty-four feet.

D. FRONT YARDS. There shall be in front of every building a front yard having a minimum depth of twenty feet, provided that no front yard need be deeper than the average of the depths of front yards on the lots next thereto on either side, a vacant lot or a lot occupied by a building with a front yard more than twenty feet deep being considered as having a front yard twenty feet deep; and provided further that on a lot of record on December 5, 1938, and less than one hundred feet deep no front yard need be deeper than twenty per cent of the depth of the lot.

E. CORNER CLEARANCE. Between the lines of intersecting streets and a line joining points on such lines twenty feet distant from their point of intersection, or, in the case of a rounded corner, the point of intersection of the tangents, no building, structure or foliage may be erected or maintained between a height three and one-half feet and a height ten feet above the plane through their curb grades.

F. HEIGHT. No building shall exceed thirty-five feet or two and one-half stories in height unless it sets back from each street and lot line ten feet in addition to the above requirements, plus one foot for each foot of excess height. No building shall exceed fifty-five feet or four stories in height.

G. BUILDING AREA. No dwelling house shall occupy more than thirty-five per cent of its lot and no building other than a dwelling house shall occupy more than fifty per cent of its lot, provided that on a corner lot an additional area of four hundred square feet may be occupied.

H. AREA OF LOT PER FAMILY. No dwelling house shall be erected on a lot containing less than six thousand square feet unless such lot is of record on January 1, 1946.

I. WIDTH OF LOT. No dwelling house shall be erected on a lot less than sixty feet wide, the lot width to be measured through that part of the building to be erected where the lot is narrowest, nor less than forty feet wide at any point between such building and a street, provided that one dwelling house may be erected on any lot held under separate and distinct ownership from adjacent lots and of record on January 1, 1946.

REAL ESTATE ASSESSMENT RECORD — CITY OF PORTLAND, MAINE

CURR. DESC.	LAND NOS.	STREET	BLDG. NO.	CARD NO.	DEVELOPMENT NO.	AREA	DIST.	ZONE	CHART	BLOCK	LOT	CURR. DESC.						
		Peaks Island Wiley St		OF					87	D	11							
TAXPAYER ADDRESS AND DESCRIPTION O'DONNELL ARLENE T WILEY ST PEAKS ISLAND MAINE LAND & BLDG WILEY ST PEAKS ISLAND PORTLAND MAINE ASSESSORS PLAN 87-D-11 AREA 5045 SQ FT			RECORD OF TAXPAYER				YEAR	BOOK	PAGE	PROPERTY FACTORS								
			<i>1951</i> [Handwritten notes and signatures]							TOPOGRAPHY		IMPROVEMENTS						
										LEVEL	<input checked="" type="checkbox"/>	WATER						
										HIGH		SEWER						
										LOW		GAS						
										ROLLING		ELECTRICITY						
										SWAMPY		ALL UTILITIES						
										STREET		TREND OF DISTRICT						
										PAVED		IMPROVING						
										SEMI-IMPROVED		STATIC						
										DIRT	<input checked="" type="checkbox"/>	DECLINING						
										SIDEWALK								
										TILLABLE	PASTURE	WOODED	WASTE					
LAND VALUE COMPUTATIONS AND SUMMARY						LAND VALUE COMPUTATIONS AND SUMMARY						ASSESSMENT RECORD		INCREASE	DECREASE			
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR 1951	19	FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	19	19	1950	LAND	50		
50	10 1/2	2.00	100	210	100									1951	BLDGS.	275		
												1950	TOTAL	325				
												1951	LAND	50				
												1951	BLDGS.	350				
												1951	TOTAL	400				
												195	LAND					
												195	BLDGS.					
												195	TOTAL					
												19	LAND					
												19	BLDGS.					
												19	TOTAL					
												19	LAND					
												19	BLDGS.					
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												19	BLDGS.					
												19	TOTAL					
												19	LAND					
												19	BLDGS.					
												19	TOTAL					
YEAR	ORIG. COST		RENTAL															
YEAR	SALE PRICE		EXPENSE															
YEAR	U. S. R. S.		NET															

RECORD OF BUILDINGS
 GRADE DENOTES QUALITY OF CONSTRUCTION: A—EXCELLENT; B—GOOD; C—AVERAGE; D—CHEAP; E—VERY CHEAP

YEAR 19

YEAR 19

CONSTRUCTION

FOUNDATION		FLOOR CONST.		PLUMBING	
CONCRETE		WOOD JOIST	<input checked="" type="checkbox"/>	BATHROOM	
CONCRETE BLOCK		STEEL JOIST		TOILET ROOM	
BRICK OR STONE		MILL TYPE		WATER CLOSET	<input checked="" type="checkbox"/>
PIERS	<input checked="" type="checkbox"/>	REIN. CONCRETE		LAVATORY	
CELLAR AREA FULL		FLOOR FINISH		KITCHEN SINK	<input checked="" type="checkbox"/>
1/4 1/2 3/4			B 1 2 3	STD. WAT. HEAT	
NO. CELLAR	<input checked="" type="checkbox"/>	CEMENT		AUTO. WAT. HEAT	
EXTERIOR WALLS		EARTH		ELECT. WAT. SYST.	
CLAPBOARDS	<input checked="" type="checkbox"/>	PINE		LAUNDRY TUBS	
WIDE SIDING		HARDWOOD	<input checked="" type="checkbox"/>	NO PLUMBING	
DROP SIDING		TERRAZZO		TILING	
NO SHEATHING		TILE		BATH FL. & WCOT.	
WOOD SHINGLES	<input checked="" type="checkbox"/>			TOILET FL. & WCOT.	
ASBES. SHINGLES		ATTIC FLR. & STAIRS		LIGHTING	
STUCCO ON FRAME		INTERIOR FINISH		ELECTRIC	<input checked="" type="checkbox"/>
STUCCO ON TILE			B 1 2 3	NO LIGHTING	
BRICK VENEER		PINE	<input checked="" type="checkbox"/>	NO. OF ROOMS	
BRICK ON TILE		HARDWOOD		BSMT.	2ND
SOLID BRICK		PLASTER		1ST	3RD
STONE VENEER		UNFINISHED		OCCUPANCY	
CONC. OR CIND. BL.		METAL CLG.		SINGLE FAMILY	<input checked="" type="checkbox"/>
TERRA COTTA		Beaver board	<input checked="" type="checkbox"/>	TWO FAMILY	
VITROLITE		RECREAT. ROOM		APARTMENT	
PLATE GLASS		FINISHED ATTIC		STORE	
INSULATION		FIREPLACE		THEATRE	
WEATHERSTRIP		HEATING		HOTEL	
ROOFING		PIPELESS FURNACE		OFFICES	
ASPH. SHINGLES	<input checked="" type="checkbox"/>	HOT AIR FURNACE		WAREHOUSE	
WOOD SHINGLES		FORCED AIR FURN.		COMM. GARAGE	
ASBES. SHINGLES		STEAM		GAS STATION	
SLATE TILE		HOT WAT. OR VAPOR		ECONOMIC CLASS	
METAL		NO HEATING	<input checked="" type="checkbox"/>	OVER BUILT	
COMPOSITION		GAS BURNER		UNDER BUILT	
ROLL ROOFING		OIL BURNER		DT. 709	AR. 13
INSULATION		STOKER		LD. 13	PD. 13
				MS. 13	CK. 3

ins from next door

COMPUTATIONS

UNIT	1951				
340 S. F.	910				
ADDITIONS	+ 150				
211 2/3	+ 60				
BASEMENT					
WALLS	+ 60				
ROOF					
F.I.D.T.	- 110				
FLOORS	+ 90				
ATTIC					
FINISH	- 90				
FIREPLACE					
HEATING					
PLUMBING	+ 70				
TILING					
TOTAL	1140				
FACT.					
REP. VAL.	1140				

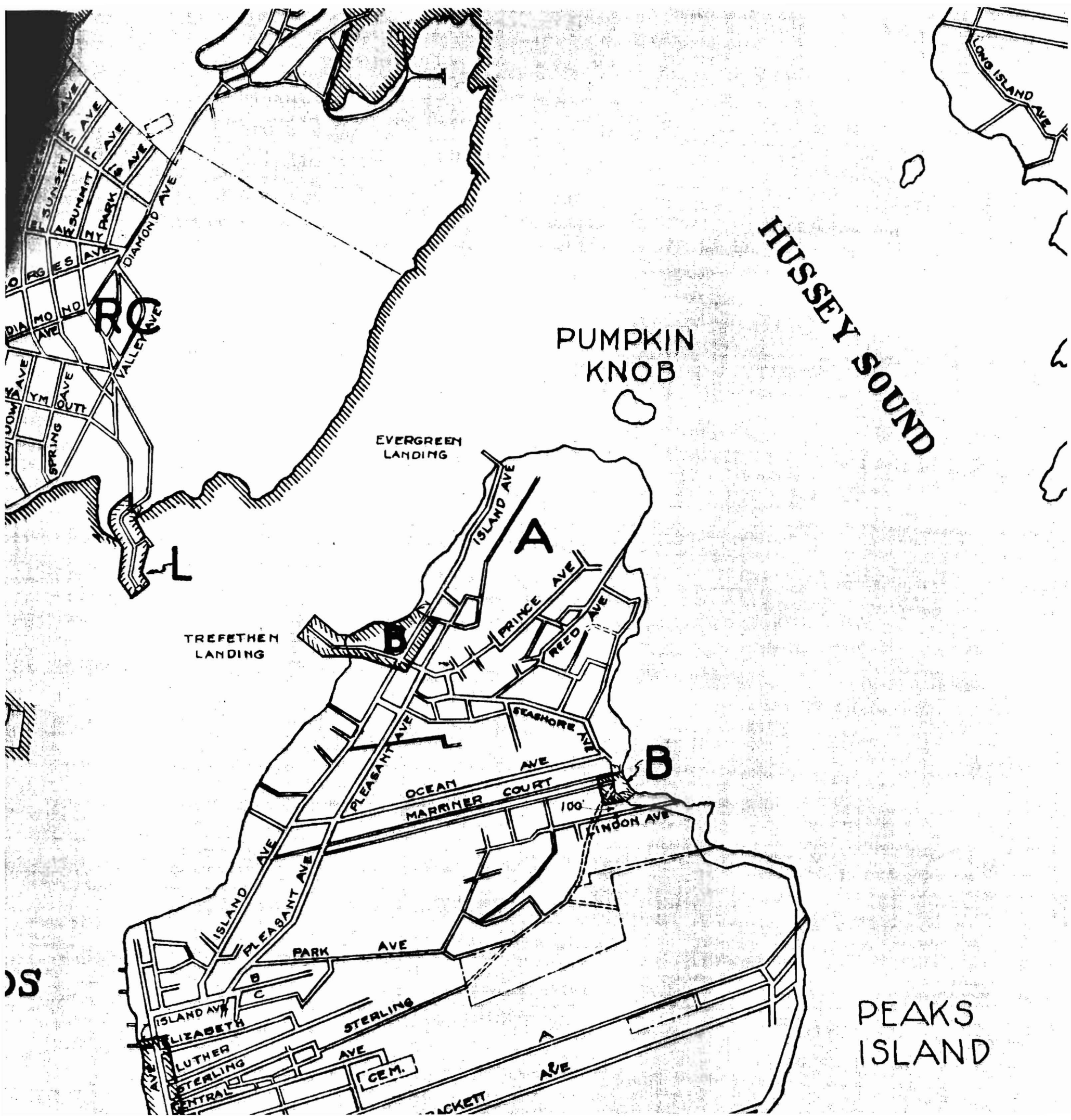
Handwritten notes on the grid:
 30 1/2 FR
 12
 7 1/2 FR
 150

SUMMARY OF BUILDINGS

OCC'Y	TYPE	GR.	AGE	REMOD.	COND.	REP. VAL.	F. D.	PHY. VAL.	F. D.	SOUND VAL.	TAX VAL.	YF
cottage	A 1 1/2 FR	DC			F	1140	50%	570	A		350	
	B								B			
	C								C			
	D								D			
	E								E			
	F								F			
	G								G			
YEAR	1951											
TAX VAL.												
OLD VAL.												
CHANGE												
										1951 TOTAL BLDGS.		
										570		

1951

1951 TOTAL BLDGS.
570



ZONING CITY OF PO ISLAND

OUTER GREEN
I.D.



0

SCALE IN

0 1000 2000 3

FEB. 2, 19

AMENDMENTS

VICINITY OF FERN AVE. AND HARBOR
GRACE ST. - LONG ISLAND
ORDAINED - OCT. 7, 1946

ATTEST: *W. H. ...*
CITY CLERK

ZONING I

AS ADOPTED MAR
BY THE CITY CO

ATTEST:- *H. ...*