



PORTLAND MAINE

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Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator

February 20, 2013

Warren Currier & Buchanan
7 Exchange Street
Portland, ME 04101-5020
Attn: Attorney Brenda M. Buchanan

RE: 87-K-2, 87-K-8, & 87-K-29 Island Avenue & Pleasant Avenue, Peaks Island –
IR-2 Zone

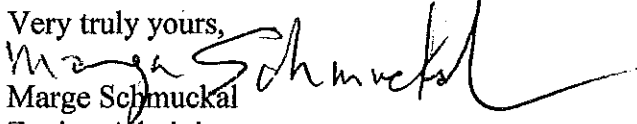
Dear Attorney Buchanan,

I am in receipt of your request for a determination letter concerning the lots owned by Jean K, Gulliver on Peaks Island represented by Assessor's numbers 87-K-2, 87-K-8, & 87-K-29. The entire property is located in the Island Residence Two (IR-2) Zone. My determination is based upon a signed stamped survey dated November 27, 2012 by Eugene Schleh, a professional land surveyor,

I have been given two reduced copies of the survey each suggesting a different division of land into two parcels. Based upon the IR-2 zoning requirements, option "A" would not meet the underlying zone requirements requiring 70 foot of street frontage [section 14-145.11(b)]. Please note that section 14-422 does not permit the division of land if any lot shall be so reduced that yards, lot width, *lot frontage*, lot area, area per dwelling unit, and space for off-street parking and/or off-street loading shall be less than the minimum required under the Land Use Zoning Ordinance. Currently the one lot is meeting the minimum street frontage requirements using both Pleasant Avenue and Island Avenue as combined street frontage. It is agreed that either division of land options will not affect the current legal nonconformity of the existing single family dwelling for the northern side setback, for the minimum lot width, or for the minimum front setback.

Therefore, at this time before a formal division of land is completed with a survey, the concept of option "B" appears to better meet the Land Use Zoning Ordinance and based upon the information given in your letter, would meet the requirements of the IR-2 zone.

If you have any questions regarding this determination, please do not hesitate to contact me at 874-8695.

Very truly yours,

Marge Schmuckal
Zoning Administrator

WARREN & CURRIER BUCHANAN

Limited Liability Company, P.A.

Carol Godfrey Warren
David E. Currier
Brenda M. Buchanan

January 30, 2012

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

RECEIVED

JAN 30 2013

RE: Request for Zoning Determination

Dept. of Building Inspections
City of Portland Maine

Dear Marge:

I am writing to request a zoning determination letter in regard to a plan by my clients John and Jean Gulliver to divide a large parcel they own on Peaks Island into two lots. The property in question is comprised of three tax parcels in the IR-2 zone that city records say total 41,788 square feet in area:

- A. 87-K-2, which the tax map says is a 5,000 sf parcel, fronts on Pleasant Avenue. It is the location of a single-family home built in 1880. (Street address, 48 Pleasant Avenue); *4151.0^{sq ft} per Eugene Schleich 2012 Survey*
- B. 87-K-8, which the tax map says is a 5,738-sf parcel, undeveloped, with no road frontage, and *6667.7^{sq ft} per E.S. 2012 Survey*
- C. 87-K-29, which the tax map says is a 31,050-sf parcel, undeveloped, with frontage on Island Avenue. *29,474.8^{sq ft} E.S. 2012 Survey*

The Gullivers recently had this land surveyed by Northeastern Land Surveying. A full-size copy of that plan is enclosed. Unsurprisingly, the surveyor came up with different area for each parcel (he shows Parcel A as 4,151 sf; Parcel B as 6,667.7 sf and Parcel C as 29,474.8 sf, for a total of 40,293.50 sf.)

As I understand the lot merger rules, these three parcels have merged into one, as they have been in common ownership since 1977 when Gloria Nilsen conveyed Parcel C to John P. and Bertha C. Gulliver, who already owned Parcels A and B.

57 Exchange Street, Portland, Maine 04101-5020

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

My clients wish to divide this parcel into two lots, both of which will meet the IR-2 Zone minimum lot size of 20,000 sf. I have attached two marked up reduced-size copies of the survey (sorry it is a bit blurry) showing different alternatives of how this could be done. The location and angle of the dividing line shown on the markups are for illustrative purposes only (they were done by me). My purpose in showing you two options is to confirm that both are viable from a zoning perspective. If so, my clients will confer with their architect to determine which offers a better building envelope, and the surveyor will calculate a precise division line before deeds are exchanged that will result in each lot being at least 20,000 sf in size.

Under both options, the existing house on the Pleasant Avenue side will be part of Lot #1, which is the shaded area on my markups. It is grandfathered as to frontage (though at 68.93 feet, it is only 1.7 feet short of the requirement set forth in Section 14-145.11 of the Zoning Code) and also is grandfathered as to setbacks.

The parcel labeled Lot #2 will have at least 70 feet of road frontage in both configurations. It is understood any new home built on Lot #2 will have to meet all relevant setback and lot coverage requirements.

I believe this is a straightforward situation. It is not a subdivision, because it is only two lots. Both will meet minimum lot size. One is grandfathered as to dimensional requirements, the other will meet all of those requirements.

My clients intend to deed one lot into one of their names individually to accomplish the division, but prefer to have a written determination from you prior to taking that step.

I have enclosed the \$150.00 determination fee.

Thank you for your assistance, Marge. Please call if you have any questions.

Best regards,



Brenda M. Buchanan

Cc: John and Jean Gulliver

IR-2

City of Portland
Code of Ordinances
Sec. 14-145

Land Use
Chapter 14
Rev. 9-15-11

- 7. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the requirements of CMR 241 Section 2-E. The land area requirements in subsection f. of this section shall not apply to such a replacement system.

For purposes of this subsection, the mean high tide mark shall be considered to be the shoreline lot line.

14-145.11.(b) (b) Minimum street frontage:

Seventy (70) feet, except that a lot of record as described in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and lots created after July 15, 1985, which are not part of a subdivision need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of July 15, 1985. Such easement or right-of-way shall have a minimum width of sixteen (16) feet and a minimum travel width of eight (8) feet except that an easement or right-of-way providing access for three (3) or more lots or providing the only means of access to a parcel or parcels of three (3) acres or more, shall be a minimum thirty-two (32) feet wide and meet the construction requirements of article III of chapter 25 (street acceptances) of this Code. Such easement or right-of-way shall permit municipal service delivery.

(c) Minimum yard dimensions:

(Yard dimensions shall include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

- 1. *Front yard:* Principal or accessory structures: Twenty-five (25) feet except that a front yard need not exceed the average depth of front yards on either side of the lot.
- 2. *Rear yard:* Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.

Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Ten (10) feet.

3. *Side yard:* Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.

Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: fifteen (15) feet, except that the minimum distance from a principal structure may be five (5) feet.

4. *Side yard on side streets:* Principal or accessory structures: Twenty (20) feet.

5. Notwithstanding the foregoing, the width of one side-yard may be reduced to not less than ten feet in the case of a lot of record, existing as of June 5, 1957, and which contained a structure in use at that time and at all times subsequent thereto as a year-round, single-family residence, and which is served by public sewer and water, at the time of any expansion permitted by this section, where the reduction is necessary either to bring the use into compliance with health and safety codes or to improve a condition which the Board of Appeals determines constitutes a health or safety problem. Any alteration or expansion authorized by this section may only be situated in the rear yard and shall not encroach into the required setback more than the existing building does prior to the construction of such alteration or expansion. Any such alteration or expansion will be subject to the maximum lot coverage requirements applicable to this zone; and, cumulatively, during the lifetime of the structure, may not exceed forty percent (40%) of the combined floor area of the habitable rooms existing at the time of the first expansion permitted by this section. For the purposes of this section "floor area" and "habitable room" shall have the same meaning ascribed to them in Portland Municipal Code, §6-106, et seq., Housing Code, as it may be amended from time to time.

Gulliver Property - Peaks
Proposed Lot Split.
Option A.

min street frontage
street problem of 7th
approach on this

BOUNDARY SURVEY OF LAND
48 PLEASANT AVENUE AND 308 ISLAND AVENUE
PEAKS ISLAND, PORTLAND, MAINE

MADE FOR JEAN E. AND JOHN W. GULLIVER
23 THORNHURST ROAD, FALMOUTH, MAINE 04105

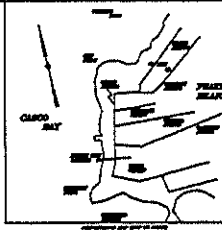
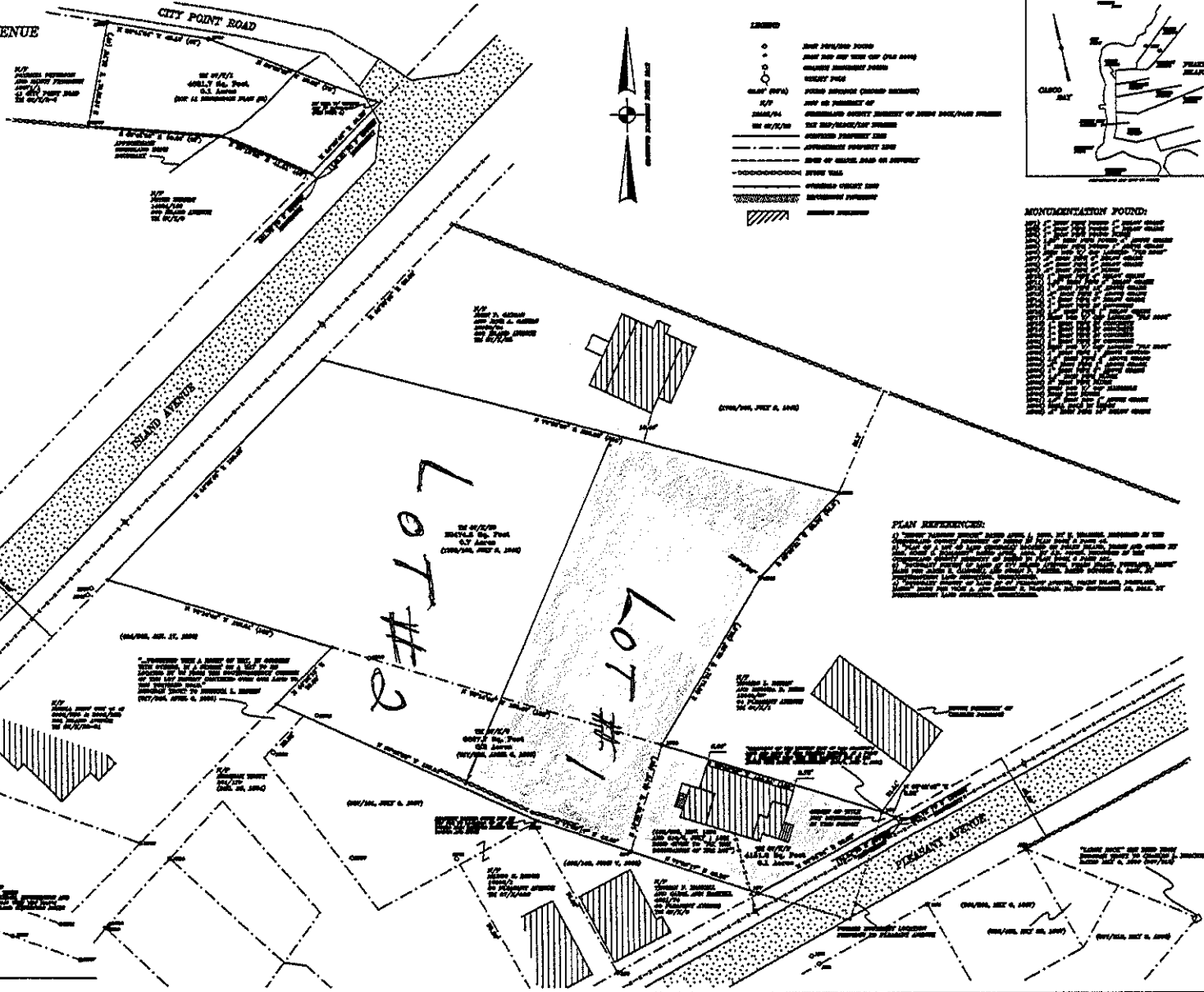
MADE BY NORTHEASTERN LAND SURVEYING
16 COLLEGE AVENUE, GORHAM, MAINE 04038

NOVEMBER 27, 2012 JOB #12-011 SHEET 1 OF 1

SCALE 1" = 40'
0' 20' 40'

NOTES:

- 1) THE OWNERS OF RECORD ARE JEAN E. GULLIVER AND JOHN W. GULLIVER.
- 2) RECORDS OF RECORD ARE RECORDED BY THE CONCORDIA COUNTY REGISTER OF DEEDS IN BOOKS BOUND BOOKS PAGE 208 AND 209 PAGE 17000 PAGE 184.
- 3) THE CAPITAL IMPROVEMENTS AND CITY OF PORTLAND THE MAP OF BLOCK E LOTS A, B AND AN AS WELL AS THE MAP OF BLOCK F LOT 1.
- 4) BEING AVOIDED HAS A 60' WIDE RIGHT OF WAY (SEE "STREET" RECORD VOL. 2 PAGE 184). PLANNED AVENUE MAP 4.00 THE RIGHT OF WAY LINE EXTENDS BEYOND THE PLANNED AVENUE MAP 4.00 TO THE CITY OF PORTLAND ROAD CENTER LINE (SEE "STREET" RECORD VOL. 2 PAGE 184). LOCATED IN THE CITY OF PORTLAND ROAD CENTER LINE (SEE "STREET" RECORD VOL. 2 PAGE 184). LOCATED IN THE CITY OF PORTLAND ROAD CENTER LINE (SEE "STREET" RECORD VOL. 2 PAGE 184). LOCATED IN THE CITY OF PORTLAND ROAD CENTER LINE (SEE "STREET" RECORD VOL. 2 PAGE 184).
- 5) THE TRAVELERS DO NOT FALL IN A "SPECIAL FLOOD HAZARD AREA" PER 24-C.R.S. AND CONSIDERED "SPECIAL FLOOD HAZARD" SUBJECTIVE DATE JULY 11, 2004.
- 6) BEING THE PARTIAL SPLIT IN THIS IS A HOME, THE MAP OF BLOCK F LOT 1 PARTIALLY SPLIT IN THE CONCORDIA COUNTY REGISTER OF DEEDS IN BOOKS BOUND BOOKS PAGE 208 AND 209 PAGE 17000 PAGE 184.
- 7) THE TRAVELERS DO NOT FALL IN A "SPECIAL FLOOD HAZARD AREA" PER 24-C.R.S. AND CONSIDERED "SPECIAL FLOOD HAZARD" SUBJECTIVE DATE JULY 11, 2004.
- 8) THE TRAVELERS DO NOT FALL IN A "SPECIAL FLOOD HAZARD AREA" PER 24-C.R.S. AND CONSIDERED "SPECIAL FLOOD HAZARD" SUBJECTIVE DATE JULY 11, 2004.
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MONUMENTARY FOUND:

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PLAN REFERENCES:

1. THE TRAVELERS DO NOT FALL IN A "SPECIAL FLOOD HAZARD AREA" PER 24-C.R.S. AND CONSIDERED "SPECIAL FLOOD HAZARD" SUBJECTIVE DATE JULY 11, 2004.

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Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8466

City Home Departments City Council E-Services Calendar Jobs

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:

Services

- Applications
- Doing Business
- Haps
- Tax Relief
- Tax Roll
- Q & A

CBL 087 K002001
Land Use Type SEASONAL
Property Location 48 PLEASANT AVE PI
Owner Information GULLIVER JEAN K
 23 THORNHURST RD
 FALMOUTH ME 04105
Book and Page 22806/252
Legal Description 87-K-2-8-29
 PLEASANT AVE 48 ISLAND AVE
 PEAKS ISLAND
 41788 SF
Acres 0.9593

IR-2

Current Assessed Valuation:

- browse city services a-z
- browse facts and links a-z

TAX ACCT NO. 13508 **OWNER OF RECORD AS OF APRIL 2012**
 GULLIVER JEAN K
LAND VALUE \$321,300.00 23 THORNHURST RD
BUILDING VALUE \$93,700.00 FALMOUTH ME 04105
NET TAXABLE - REAL ESTATE \$415,000.00
TAX AMOUNT \$7,810.30

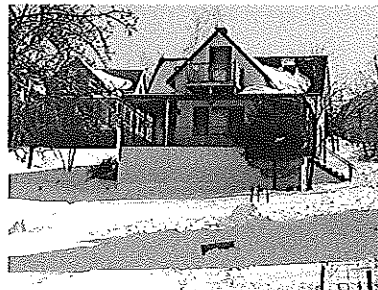
Any information concerning tax payments should be directed to the Treasury office at 874-8490 or e-mailed.



Best viewed at 800x600, with Internet Explorer

Building Information:

Building 1
Year Built 1880
Style/Structure Type OLD STYLE
Stories 1.5
Units 1
Bedrooms 3
Full Baths 1
Total Rooms 6
Attic NONE
Basement PIER/SLAB
Square Feet 1075



[View Sketch](#) [View Map](#) [View Picture](#)

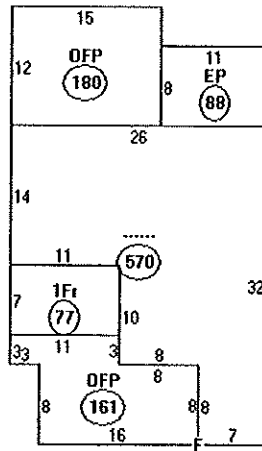
Outbuildings/Yard Improvements:

Building 1
Year Built 1900
Structure SHED-FRAME
Size 10X18
Units 1
Grade C
Condition A

Sales Information:

Sale Date	Type	Price	Book/Page
6/28/2005	LAND + BUILDING	\$0.00	22806/249
6/28/2005	LAND + BUILDING	\$57,175.00	22806/252

[New Search!](#)



Descriptor/Area	
A:.....	570 sqft
B: OFP	161 sqft
C: 1Fr	77 sqft
D: OFP	180 sqft
E: EP	88 sqft
F: RS1	180 sqft

1256 #
 should be
 OK

20000 x 20000 = 40000 #
 min lot cov

48 Pleasant Ave - P.I.



Copyright 2011 Esri. All rights reserved. Mon Feb 11 2013 10:51:06 AM.

4151.0
6667.7
29474.8

40293.5

12
7

IR-2

20,000^{sq} min lot size

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
 389 Congress Street
 Portland, Maine 04101

RECEIPT OF FEES

Application No: 0000-1624	Applicant: GULLIVER JEAN K
Project Name: 48 PLEASANT AVE PI	Location: 48 PLEASANT AVE PI
CBL: 087 K002001	Application Type: Determination Letter
Invoice Date: 01/31/2013	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$150.00		\$150.00		\$0.00	On Receipt

Previous Balance **\$0.00**

Fee Description	Qty	Fee/Deposit Charge
Zoning Determinations	1	\$150.00
		\$150.00
Total Current Fees:	+	\$150.00
Total Current Payments:	-	\$150.00
Amount Due Now:		\$0.00

CBL 087 K002001
Bill to: GULLIVER JEAN K
 23 THORNHURST RD
 FALMOUTH, ME 04105

Application No: 0000-1624
Invoice Date: 01/31/2013
Invoice No: 39991
Total Amt Due: \$0.00
Payment Amount: \$150.00

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

Portland, Maine 04101
207-772-1262
brenda@wacubu.com
www.wacubu.com

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