

Donna Karszeficz  
Chip Gavin  
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Eric Larsson

**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

IR-2 Island Residential Zone:

**Variance Appeal**

**DECISION**

Date of public hearing: March 3, 2016;

Name and address of applicant: Sandra K. Radis  
328 Island Avenue, Peaks Island  
Portland, ME 04108

Location of property under appeal: 328 Island Ave. Portland, ME 04108

For the Record:

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

Sandra Radis      Brenda Buchanan  
328 Island Ave      Warren, Carrier + Buchanan  
Peaks Island

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

Application with Exhibits

Findings of Fact and Conclusions of Law:

The applicant is seeking a variance pursuant to §14-473(c)(1) to reduce her side property line setback from the required 20 feet to 6.5 feet. The single-family dwelling on the property was constructed in 2005. At that time, the standard boundary survey submitted as part of the building application showed the setback from the southern side property line as 23 feet. In 2015, the property was re-surveyed. The 2015 survey revealed that the foundation is actually located 12 feet from the southern side property line. An access boardwalk and ramp were also constructed on the side of the dwelling without permit approval, thus reducing the side setback even further to 6.5 feet.

A. Conditions for variances pursuant to Portland City Code §14-473(c)(1)

The board may authorize variances from this Article where strict application of the ordinance, or a provision thereof, would cause undue hardship to the petitioner. "Undue hardship" exists when:

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

Satisfied  Not Satisfied

Reason and supporting facts:

*The house was already located on lot. Without the value it is lost a significant amount of its value. Property was surveyed & house built 10 years ago property can't be sold without a variance; no title insurance would be available. Property owner volunteered the information to the City. No objection from public.*

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:

*Good faith survey relied on by applicant & City to place "misplace" the structure on property. Structure has been there 10 years and is in keeping with neighborhood. No objection from public.*

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

Satisfied  Not Satisfied

Reason and supporting facts:

variance maintains existing character of  
best neighborhood; there is an  
existing structure.

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:

survey error not owner's fault  
tried to buy land from abutter  
and they wouldn't sell  
good faith effort by owner to resolve  
and voluntarily brought issue  
forward

**Conclusion:** (check one)

*Harrison, Gavin*

Option 1: The Board finds that Standards 1-4 have been satisfied, and therefore GRANTS the variance without limitation.

Option 2: The Board finds that Standards 1-4 have been satisfied, and therefore GRANTS the variance with the following condition(s):

Option 3: The Board finds that Standards 1-4 have not been satisfied and therefore DENIES the application.

Dated:

*[Handwritten Signature]*

Board Chair