

WARREN & CURRIER BUCHANAN

Limited Liability Company, P.A.

Carol Godfrey Warren
David E. Currier
Brenda M. Buchanan

February 18, 2016

Christina Stacey, Zoning Specialist
City of Portland
389 Congress Street
Portland, Maine 04101

RE: Variance Application of Sandra K. Radis
Property at 328 Island Avenue, Peaks Island
Tax Map 87, Block R, Lot 2

Dear Christina:

Please find enclosed eleven (11) copies of an application I am filing on behalf of my client Sandra K. Radis for a variance regarding a sideline setback at her property at 328 Island Avenue, Peaks Island. As is more fully outlined in the support materials, this appeal application was prompted by the recent discovery by my client of an error in a boundary survey done in 2005 prior to construction of the structure on her property, which survey was relied upon by my client and the City in the permitting of that construction.

You will find enclosed with this letter:

1. A copy of the appeal application, with narrative responses to the hardship criteria and Exhibits A through E.
2. A full-size standard boundary survey of the applicant's property done in 2015, showing the correct southerly line along with the location of structures in relation to the lot lines, lot size and setback dimensions. Highlighted in yellow on this survey is the erroneous southerly line that was shown on the 2005 survey and relied upon by both the applicant and the City at that time;
3. An affidavit by the surveyor, with Exhibits 1 – 6;
4. A copy of the tax map showing the property, which is 87-R-2;

5. Two photographs showing the Radis home in relation to the former CMP power station, which abuts to the south, one taken from Island Avenue and the other from the shore;

6. A copy of the current deed, showing Sandra K. Radis as owner of the property, and

7. A copy of a letter from Sandra K. Radis dated September 15, 2015 authorizing me to act for her in regard to this appeal.

I already have delivered to you a check in the amount of \$150 for the filing and processing fees.

If you have any additional questions, please feel free to call.

Best regards,

A handwritten signature in black ink, appearing to read "Brenda M. Buchanan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brenda M. Buchanan

Cc: Sandra K. Radis
Ann Machado

Christina Stacey - RE: Sandra K. Radis Variance application - 87-R-2

From: Brenda Buchanan <Brenda@wacubu.com>
To: Christina Stacey <cstacey@portlandmaine.gov>
Date: 2/19/2016 11:43 AM
Subject: RE: Sandra K. Radis Variance application - 87-R-2
CC: "sradis@maine.rr.com" <sradis@maine.rr.com>

Hi Chris,

Thank you for this clarification. I was conceptualizing this as two variances, but as you consider the ramp/boardwalk to be the point from which measurement should be taken, only one variance is needed.

I therefore wish to correct two statements found in the narrative portion of the variance application I delivered to you yesterday.

In the summary, I said: "The requested variance is from the 20-foot side setback requirement applicable in the IR-2 zone. The existing distance from the southerly line to the building (measured from the corner boards) is 12.05 feet, necessitating a variance of 7.95 feet. The existing distance from the southerly line to the most southerly point of the ramp, which provides access to and from the upper (residential) floor of the building, is 6.5 feet, necessitating a variance of 13.5 feet."

This should be amended to say: "The requested variance is from the 20-foot side setback requirement applicable in the IR-2 zone. The existing distance from the southerly line to the building (measured from the corner boards) is 12.05 feet, and the existing distance from the southerly line to the most southerly point of the ramp/boardwalk, which provides access to and from the upper (residential) floor of the building, is 6.5 feet. Because the ramp/boardwalk is the closest point of the building to the line, the needed variance is 13.5 feet."

Similarly, the final two paragraphs of item (c) under the variance criteria should be amended into one paragraph, which says:

"The applicant's boathouse/residence now has existed for a decade. At 18,643 sf, the parcel is larger than many of the surrounding parcels. (See tax map in packet for comparison.) The grant of a variance to allow the building and its ramp/boardwalk to remain in its current location 6.5' from the sideline setback will not alter the essential character of the locality in any way."

Thank you again for your help with this matter.

Best,

Brenda

Brenda M. Buchanan, Esq.
Warren, Currier & Buchanan, LLC
57 Exchange Street
Portland, Maine 04101
Tel. 207-772-1262
Fax 207-772-1279

Narrative response to criteria for variance request by Sandra K. Radis

Summary: The requested variance is from the 20-foot side setback requirement applicable in the IR-2 zone. The existing distance from the southerly line to the building (measured from the corner boards) is 12.05 feet, necessitating a variance of 7.95 feet. The existing distance from the southerly line to the most southerly point of the ramp, which provides access to and from the upper (residential) floor of the building, is 6.5 feet, necessitating a variance of 13.5 feet.

The boathouse/residence on the parcel was built in 2005 pursuant to a validly-obtained building permit that—the applicant only recently discovered—was based on an erroneous survey (the “Back Bay Boundary Plan”). The Back Bay Boundary Plan places the property line in a location that is too far south (the “Erroneous Line,” which is shown highlighted in yellow on the full-size plan that is part of this application packet). Because the surveyor in 2005 was measuring to the Erroneous Line, the Back Bay Boundary Plan showed the structure to be built would be 23’ from the sideline. Now that the error in the Back Bay Boundary plan has been discovered, it is clear the structure is actually 12.05 feet from the sideline.

The applicant’s father, who uses a wheelchair, stays in the residence when he visits. For that reason, access to the upper story of the building is via a ramp that leads to a landing on the south side of the building. The building plans approved by the City in 2005 included an 8’ x 5.5’ landing with roof overhang on that south side, and a ramp approximately 4 feet long to bridge the gap from the ground to the landing. (See elevation sketch marked as Exhibit A).

As built, the landing is slightly smaller than what was permitted (7’ x 5.5’) but the ramp is 12’ long, which is the length necessary to reach the ground at a grade suitable for use by a person in a wheelchair. (See photograph marked as Exhibit B). Ten years later, the reason for this discrepancy in the length of the ramp on the plans and as-built is unclear.

At the bottom of the ramp the applicant has installed a boardwalk to allow wheelchair access around the back of the building. The boardwalk, which is not affixed to the ground, lies as close to the house as possible. (See photograph marked as Exhibit C.) The boardwalk is necessary because the land is uneven and is muddy after rain. This boardwalk was not shown on the plans submitted in 2005. The applicant requests it be allowed to remain because it facilitates safe access to the building.

As is evident from the 2015 survey that is part of this application packet and the photograph attached as Exhibit B, there was a set of stairs that led from the landing into the yard. Those stairs were not included in the 2005 application, and they have recently been removed. (See photograph marked as Exhibit D).

Hardship variance standards pursuant to Portland City Code §14-473 (c) (3):

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

Strict application of the setback provisions of the ordinance would require the applicant's building to be either drastically altered or removed from this parcel, because there is no way it can be re-located on the parcel and meet the other setbacks. Both of these "solutions" would result in significant economic and practical hardship for the applicant, and prevent her from achieving a reasonable return, considering the funds she invested to construct this home pursuant to a valid building permit.

b. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.

The unique circumstance that forms the basis for this variance request is the erroneous survey that was relied upon by the applicant in 2005 in siting and designing the building, and relied upon by the City during the permitting process. As noted, above, the applicant did not learn of the error in identifying the southerly line of her parcel until 2015, when she hired a different surveyor to do additional survey work after the monuments set by the 2005 surveyor were disrupted during Portland Water District extension of public water/sewer lines past her home.

The 2015 surveyor—Eugene Schleh PLS of Northeastern Land Surveying—noticed the mistake in the 2005 survey. Details about the error are set forth in an affidavit by Mr. Schleh that is included in this application packet. Even though the applicant did everything right prior to building this structure—she had a full survey done and went through the permitting process—the building is out of compliance with the zoning ordinance because of the previous surveyor's error. The error was not in any way due to the applicant's action or inaction.

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

This is a densely-settled beachfront neighborhood of Peaks Island. Many lots in the area do not meet the minimum lot size of 20,000 sf in the IR-2 zone because they existed in their current configuration long before zoning was adopted.

The 2015 survey shows the applicant's parcel contains 18,643.3 square feet. It is legally non-conforming as to lot size because it was a lot of record held under separate and distinct ownership from any adjoining lots since prior to July 15, 1985 (see Land Use Code §14-433). This confirmation that it is a lot of record per §14-433 was made by the City in 2005 when the building permit was issued.

The applicant's boathouse/residence now has existed for a decade. At 18,643 sf, the parcel is larger than many of the surrounding parcels. (See tax map in packet for comparison.) The grant of a variance to allow the building to remain in its current location 7.95 feet within the sideline setback will not alter the essential character of the locality in any way.

As for the ramp and the boardwalk, the grade of the land necessitates 12' ramp for the pitch to be navigable, and the boardwalk (which is not attached to the ground) acts as an extension of that ramp in order to allow access via wheelchair. The grant of a variance to allow the ramp/boardwalk to remain in its current location 13.5 feet within the sideline setback will not alter the essential character of the locality in any way.

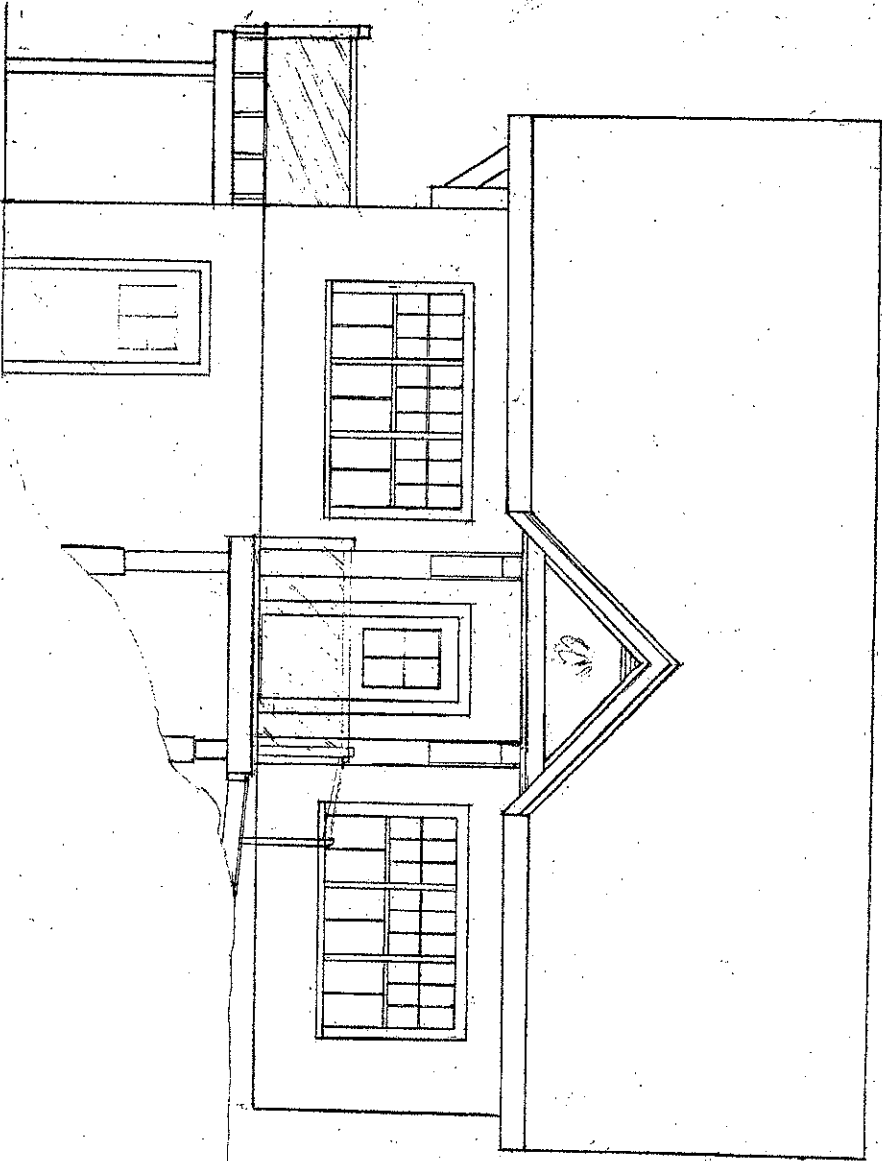
d. The hardship is not the result of action taken by the applicant or a prior owner.

The need for a setback variance stems from an error by a licensed surveyor who represented to both the applicant and the City an inaccurate location of the boundary line between the applicant's land and the parcel immediately to its south. Neither the applicant nor the City was aware of this error until 2015 when another surveyor noticed it. Accordingly, the hardship cannot be said to be in any way the result of action taken by the applicant or a prior owner.

The applicant has inquired with the abutter to the south (Central Maine Power Company) about purchasing land that would cure this setback deficiency, but CMP is unwilling to sell, as is evidenced by the email exchange attached as Exhibit E hereto. Accordingly, no other option is available to the applicant besides a variance.

Radi's
Boathouse
Elevation
1/4" = 1'-0"

South Elevation



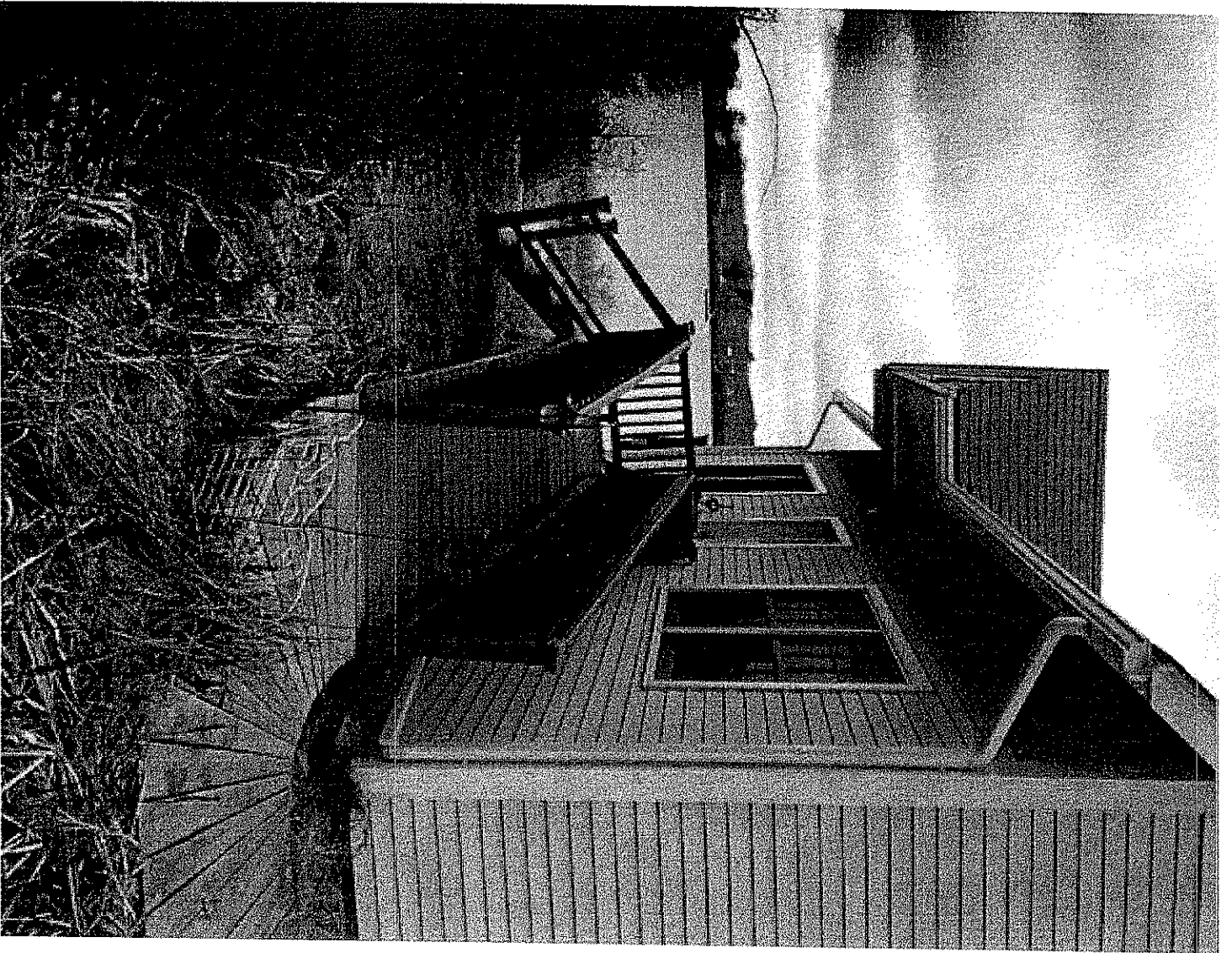


EXHIBIT B

Landing with ramp and stairs

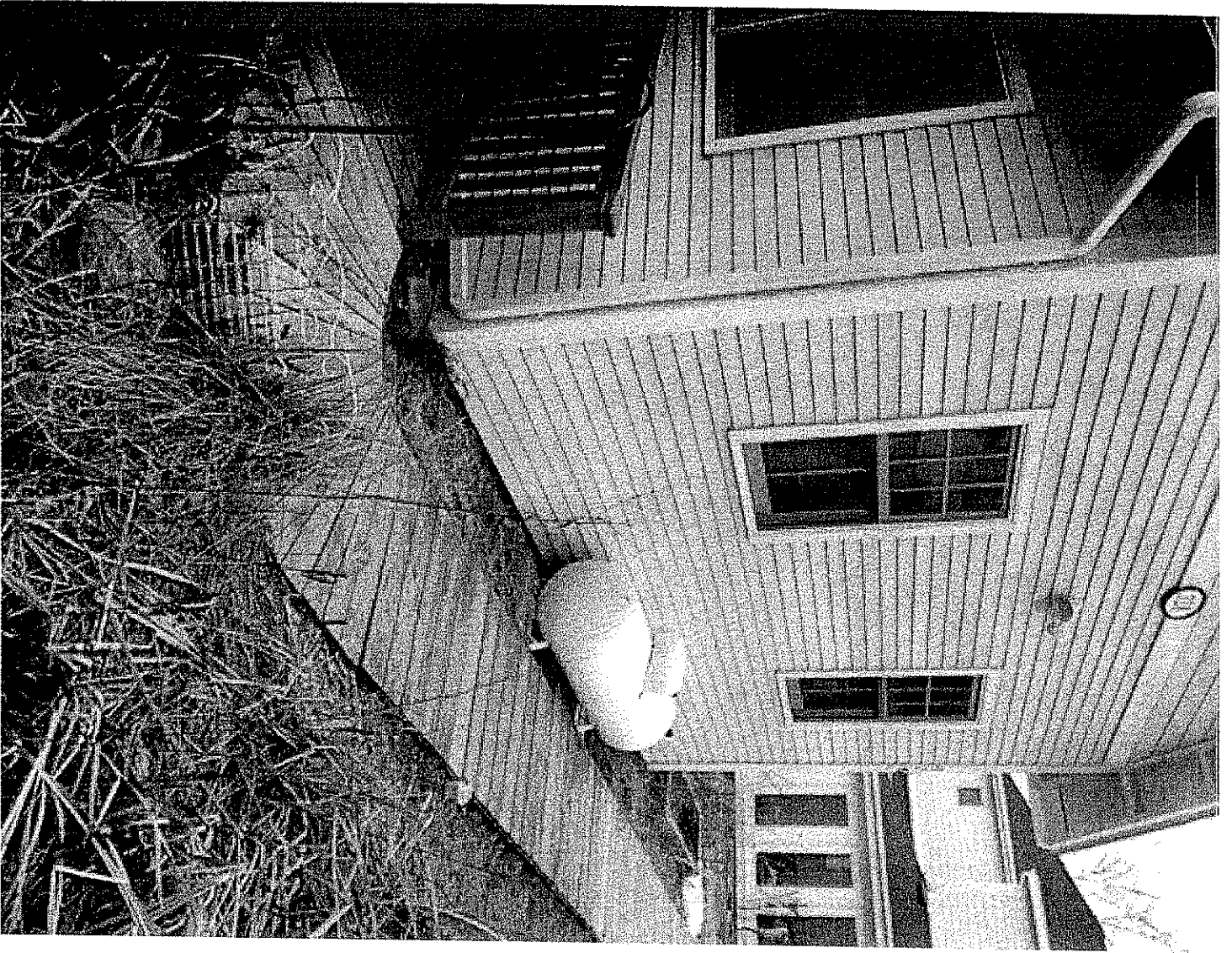
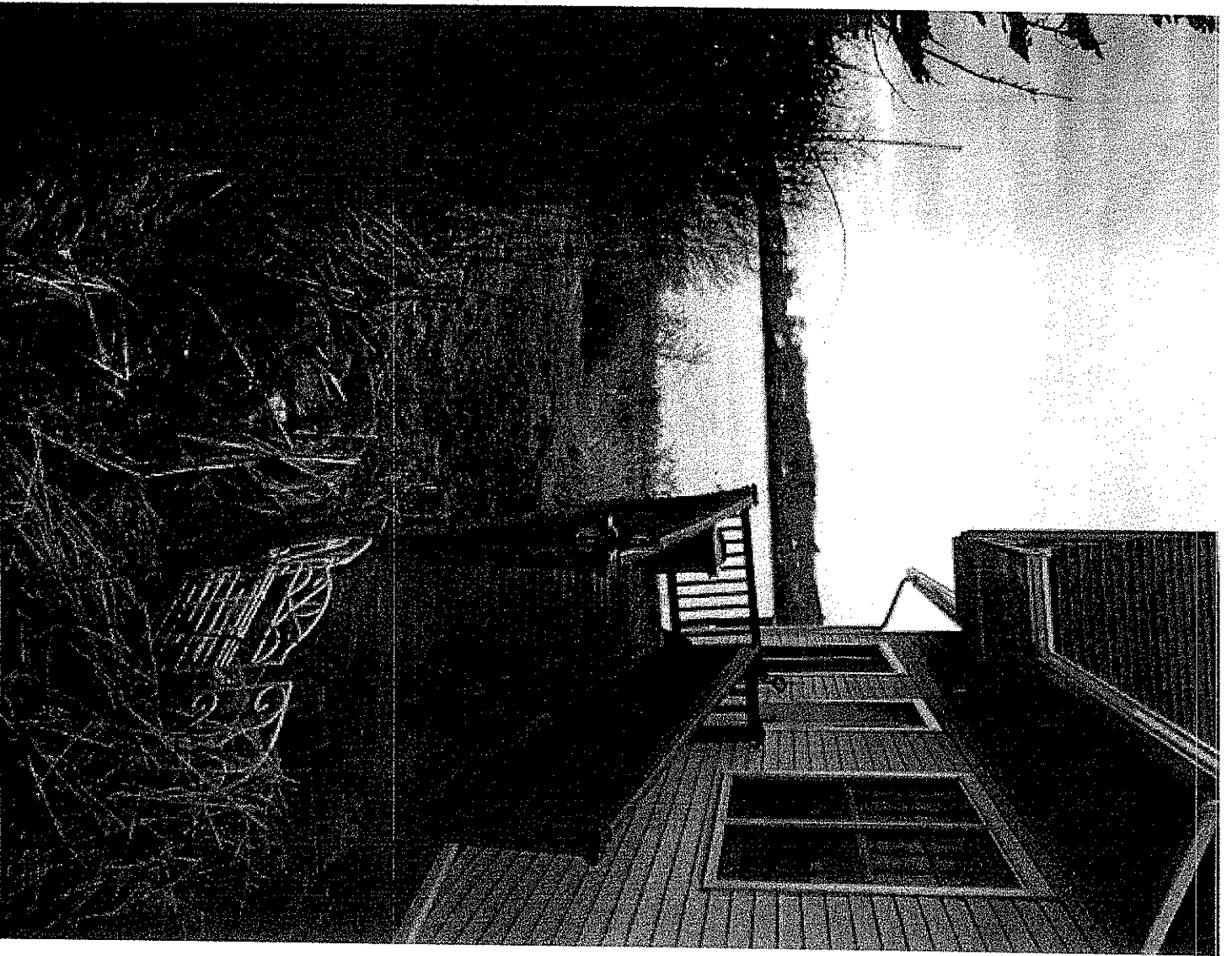


EXHIBIT C



-

EXHIBIT D

-

Landing with ramp only
(stairs were removed
February, 2016)

Brenda Buchanan

From: Brenda Buchanan
Sent: Monday, August 31, 2015 3:52 PM
To: 'Hevey, Richard P.'
Subject: RE: Voicemail from Friday

Hello Rich,

Thank you for being back to me. The switchboard routed me to you, but maybe the operator assumed you were the one to match me up with the right lawyer.

In any event, I have a client who owns property abutting the old CMP power station on Peaks Island, which is at the corner of Island Avenue and City Point Road. In 1984, CMP conveyed to my client's predecessor in title a piece of land that was most but not all of a parcel it had obtained in 1946. For some reason, CMP retained a long, narrow triangle from that 1984 conveyance.

My client is interested in finding out if CMP might now be willing to convey that long, narrow triangle to her. I know there have been some environmental issues with the CMP property there, and obviously my client would need some assurances that the land in question is not contaminated, but first things first, I want to find out if CMP is even open to selling it to her.

Does that help define the scope?

Many thanks,

Brenda

Brenda M. Buchanan, Esq.
Warren, Currier & Buchanan, LLC
57 Exchange Street
Portland, Maine 04101
Tel. 207-772-1262
Fax 207-772-1279
brenda@wacubu.com
www.wacubu.com

From: Hevey, Richard P. [<mailto:Richard.Hevey@cmpco.com>]
Sent: Monday, August 31, 2015 2:32 PM
To: Brenda Buchanan
Subject: Voicemail from Friday

Brenda,

I got your voicemail late on Friday. I'll give you disclaimer that I don't dabble much in Real Estate issues. If you could send me a quick e-mail on what you are looking for, I'll get you in touch with the right person in CMP's Real Estate area.

Thanks,

Rich



**CENTRAL MAINE
POWER**

**Richard Hevey
Senior Counsel**

83 Edison Ave, Augusta, ME 04336
Telephone 207.621.6546
Cell 207.557.0290
Fax 207.621.4714
Richard.Hevey@cmpco.com



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please print only if necessary and recycle.

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Brenda Buchanan

From: Richards, Alice D. <Alice.Richards@cmpco.com>
Sent: Monday, August 31, 2015 4:47 PM
To: Brenda Buchanan
Cc: Hevey, Richard P.
Subject: Peaks Island Property

Brenda,

Richard Hevey forwarded your email to me regarding CMP property on Peak's Island. Unfortunately, CMP is not interested in a sale of the property at this time. I will keep your name and contact information on file in the event the property becomes available in the future.

Thank You

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Jeff Levine, AICP, Director
Planning & Urban Development Department

Ann Machado
Zoning Administrator

ZONING BOARD OF APPEALS
Variance Appeal Application

Except as specifically provided by the Ordinance, a variance may be granted by the Board of Appeals ONLY where strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. In order for the Board to find "undue hardship" the applicant must answer ALL of the following questions and provide supporting evidence. The Board will consider this evidence in deciding whether to grant the appeal.

1. The land in question cannot yield a reasonable return unless a variance is granted. [NOTE: "failure to yield a 'reasonable return' means 'the practical loss of all beneficial use of the land...Reasonable return DOES NOT mean maximum return" *Rowe v. City of South Portland, 730 A.2d 673, 675 (ME 1999) (citations omitted.)*]

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

2. The need for a variance is due to the unique circumstances of the property and NOT to the general conditions of the neighborhood.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:



Jeff Levine, AICP, Director
Planning & Urban Development Department

Ann Machado
Zoning Administrator

ZONING BOARD OF APPEALS
Variance Appeal Application

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

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

4. The hardship is NOT the result of action taken by the applicant or a prior owner.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

AFFIDAVIT

I, Eugene Schleh, in my capacity as President of Northeastern Land Surveying of Gorham, Maine, being duly sworn and under oath do hereby depose and state that:

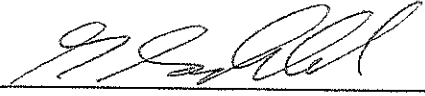
1. I am a professional land surveyor licensed by the State of Maine. My license number is 2063.
2. In June, 2015, I performed a Standard Boundary Survey for Charles and Sandra Radis (collectively, "Radis") the respective owners of adjacent parcels located at 328 and 334 Island Avenue, Peaks Island, Maine. My survey, dated June 30, 2015 and entitled "Boundary Survey of Land at 328 and 334 Island Avenue, Peaks Island, Portland, Maine" shall be referred to herein as "the NLS Survey."
3. The parcel at 334 Island Avenue currently is owned by Charles Radis by virtue of a deed from Bruce and Eunice Lincoln dated May 30, 1986 and recorded in the Cumberland County Registry of Deeds ("CCRD") in Book 7195, Page 319.
4. The parcel at 328 Island Avenue currently is owned by Sandra Radis by virtue of a deed from Eunice Lincoln (formerly Eunice Garrett) dated May 30, 1986 and recorded in the CCRD in Book 7195, Page 323. For the purpose of this affidavit, it shall be referred to as the "Sandra Radis Parcel."
5. In the course of my work for Charles and Sandra Radis, I examined a number of past surveys of land near the Radis lots, including a plan titled "Boundary Survey Plan 334 Island Avenue, Peaks Island, Maine for Charles D. & Sandra K. Radis" made by Back Bay Boundary dated March 12, 2004. I found this plan in the building permit file for the parcel in the City of Portland Municipal offices, (the "Back Bay Boundary survey"). A reduced-size copy of same is attached hereto, marked as Exhibit 1.
6. The Back Bay Boundary survey shows the southerly boundary of the Sandra Radis Parcel in what appears to be the same location as the southerly boundary of a lot conveyed by Bertram F. Hill to the Casco Bay Light & Power Company (now known as Central Maine Power Company) by deed dated October 9, 1937 and recorded in the CCRD in Book 1825, Page 408 (the "Hill Deed").
7. The Hill Deed describes the land being conveyed as "being part of Lot three (3) as delineated on the Plan of Division of the Real Estate of Henry Parsons, recorded in the Cumberland County Registry of Deeds, Plan Book 2, Page 46; bounded on the north by a portion of lot two (2); on the east by Island Avenue; on the south by a

portion of lot four (4) on said plan (now or recently owned by Peaks Island Corporation whose name was changed to Casco Bay Light and Power Company, effective July 17, 1942) and on the west by the seashore.” The above-referenced Henry Parsons Plan is attached to this affidavit, marked as Exhibit 2.

8. Central Maine Power Company conveyed a portion of the land described in the Hill Deed to Eunice Garrett on February 2, 1984 in a deed recorded in the CCRD in Book 6397, Page 14 (the “CMP to Garrett Deed”). It is attached as Exhibit 3.
9. The CMP to Garrett Deed does not describe and convey all of what CMP got in the Hill Deed. The deed states clearly that it is meant and intended to “convey a portion of the premises conveyed to Casco Bay Light & Power Company by Bertram F. Hill by deed dated July 1, 1946, recorded in the Cumberland County Registry of Deeds in Book 1825, Page 408.”
10. When the legal descriptions recited in the Hill Deed and the CMP to Garrett Deed are compared, the portion of the Hill parcel retained by Central Maine Power is evident. The retained portion is shown highlighted in yellow in a reduced-size copy of my survey, which is attached as Exhibit 4.
11. As is clear from my work, the portion of land retained by CMP lies immediately adjacent to other land owned by CMP to the south.
12. On its 2004 plan, Back Bay Boundary survey failed to recognize that CMP retained a portion of what had been conveyed to it by Hill. Accordingly, based on my research and field work done in the course of the Radis Survey, it is my professional opinion that the Back Bay survey shows the southerly boundary of what is now the Sandra Radis parcel at 328 Island Avenue in an incorrect location.
13. The correct location of the boundary between the CMP-owned land and the Sandra Radis parcel at 328 Island Avenue is as shown on my plan.
14. The erroneous Back Bay Boundary survey was relied upon by Sandra Radis and the City during the permitting of construction of the home located at 328 Island Avenue. Attached to this affidavit and marked as Exhibit 5 is Building Permit #04-0899, with accompanying inspection notes.
15. Attached to this affidavit and marked as Exhibit 6 is a letter dated October 5, 2005 from Robert T. Greenlaw PLS of Back Bay Boundary to the Portland Building Inspector’s office certifying that his firm’s survey crew verified that the foundation footings complied with applicable setbacks.

16. Because the side setback requirement in the IR2 zone in 2005 (and still today) is twenty (20) feet, it is clear the Back Bay Boundary crew was measuring from the boundary line shown on its erroneous plan. If the Back Bay Survey were correct, the house built by Sandra Radis would be in conformity with setback requirements. However, as is evident from my plan, the southeasterly corner of the structure located on the Sandra Radis Parcel is, in fact, only 12.5' from the southerly boundary of that parcel with the adjacent CMP parcel.
17. The above statements are based on my personal knowledge, and I believe them to be true and accurate.

Dated at Portland, Maine this 31st day of December, 2015




Eugene Schleh, President
Northeastern Land Surveying

STATE OF MAINE
CUMBERLAND, ss

Date: 12/31/15

Then personally appeared the above-named EUGENE SCHLEH, in his capacity as President of Northeastern Land Surveying, and stated that the foregoing statements are true and based on his personal knowledge, and that he executes this affidavit as his free act and deed.

Before me,



Notary Public

Notary Public

BRENDA M. BUCHANAN

Printed Name

Commission Expires: N/A.

MAINE BAR # 7042

EXTENT OF ZONE A2
ELEVATION 9 AS SHOWN
ON FEMA MAP, SEE NOTE

MEAN HIGHWATER AS
OBSERVED ON 12/15/2003

FLOOD NOTE: BY GRAPHIC PLOTTING AND ELEVATION DATUM
THIS PROPERTY APPEARS TO BE IN ZONE C OF THE FLOOD
INSURANCE RATE MAP, COMMUNITY/PANEL No.230051/15B,
WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 1986 AND
IS NOT IN A SPECIAL FLOOD HAZARD AREA.
AS IS SHOWN HEREON A PORTION OF THIS PROPERTY IS
IN SPECIAL FLOOD HAZARD ZONE A-2, THIS PORTION OF
THE PROPERTY DOES NOT AFFECT THE BUILDABLE PORTION
OF THE SITE.

N/F
CENTRAL MAINE POWER COMPANY
6397/14



ROBERT T. GREENLAW P.L.S.
PRESENT BACK BAY BOUNDARY, INC.

Robert T. Greenlaw

DATE: 03-4-2004

SURVEYOR'S STATEMENT:

I HEREBY CERTIFY THAT THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE
FOR PROFESSIONAL LAND SURVEYORS STANDARDS OF PRACTICE AS ADOPTED APRIL 01,
2001 WITH THE FOLLOWING EXCEPTIONS:

- a) NO WRITTEN REPORT
- b) NO NEW DESCRIPTION



- LEGEND**
- Capped 5/8" Rebar Found
 - Iron Pipe or Solid Dig Found
 - ▲ Survey Instrument Point
 - Abutler Line
 - Property Line
 - Street Line
 - (5000') Distance from reference plan or deed.
 - N/F New Or Formerly
 - Overhead Utility
 - Utility Pole
 - Edge of traveled way
 - Set Back Line

- GENERAL NOTES:**
1. RECORD OWNER OF PARCEL: SANDRA K. RADIS BOOK 7195
PAGE 319 AS RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF
DEEDS
 2. BEARINGS ARE BASED UPON A MAGNETIC OBSERVATION TAKEN AT
THE TIME OF THIS SURVEY.
 3. AREA OF SUBJECT PARCEL: 191238SQ. FT. 0.44 ACRES
 4. REFERENCE IS MADE TO THE FOLLOWING PLANS:
a.) PORTION OF LOT NO. 2 ACCORDING TO PLAN BY E. THRASHER,
DATED APRIL 1865 RECORDED IN PLAN BK 2 PG 46.
b.) LAND NOW OR FORMERLY OF EUNICE A. GARRETT, PEAKS ISLAND,
CITY OF PORTLAND, MAINE RECORDED IN THE CUMBERLAND COUNTY
REGISTRY OF DEEDS PLAN BOOK 2 PAGE 46.
c.) CITY OF PORTLAND ASSESSORS PLAN NO. 87 PEAKS ISLAND.
 5. ZONING: IR2
 6. FRONT YARD 25 FEET, REAR YARD 25 FEET, SIDE YARD 20 FEET
ELEVATIONS BASED UPON A WATER SURFACE OBSERVATION ON
12-05-03 @ 1:03 PM, BASED ON N.G.V.D. 1929 MEAN SEA LEVEL.

PREPARED BY:
JACK BAY BOUNDARY, INC.
PROFESSIONAL LAND SURVEYING
65 NEWBURY STREET
PORTLAND, MAINE
207-774-2855 FAX 207-761-2010

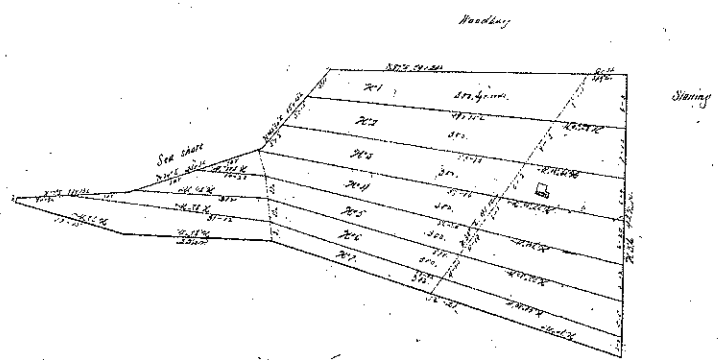
DRAWN BY: P.M.
CHECKED BY: P.M.D.
SCALE: 1"=40'
JOB NUMBER:
12000128
SHEET 1 OF 1

BOUNDARY SURVEY PLAN
334 ISLAND AVE PEAKS ISLAND, MAINE

FOR:
CHARLES D. & SANDRA K. RADIS

Book on Pg 46

EXHIBIT 2



Scale to read in inch

COPIED FROM

06255

KNOW ALL MEN BY THESE PRESENTS

THAT CENTRAL MAINE POWER COMPANY, a corporation organized and existing under the laws of the State of Maine and located at Edison Drive, Augusta, in the County of Kennebec and State of Maine 04336, in consideration of One Dollar and other valuable consideration paid by EUNICE A. GARRETT and whose mailing address is P.O. Box 542, Scarborough, Maine 04074, the receipt whereof it does hereby acknowledge, does hereby remise, release, bargain, sell and convey, and forever quit-claim unto the said Eunice A. Garrett, her heirs and assigns forever, a certain lot or parcel of land situated on Peaks Island in the City of Portland, County of Cumberland, State of Maine, more particularly located and described as follows:

Beginning at an iron pipe on the westerly sideline of Island Avenue, so called; thence northeasterly eighty eight (88) feet, more or less, along the westerly sideline of Island Avenue to an iron pipe; thence westerly two hundred sixty (260) feet, more or less, along the Grantees' southerly property line to an iron pipe; thence continuing on the same course to the low water mark; thence south-westerly along the low water mark sixty four (64) feet, more or less, to a point; thence southeasterly two hundred sixty five (265) feet, more or less, to the point of beginning.

Meaning and intending to convey a portion of the premises conveyed to Casco Bay Light & Power Company by Bertram F. Hill by deed dated July 1, 1946, recorded in Cumberland County Registry of Deeds in Book 1825, Page 408.

And the Grantor does covenant with the said Grantee her heirs and assigns, that it will warrant and forever defend the premises to the said Grantees, her heirs and assigns, forever, against the lawful claims and demands of all persons claiming by, through or under it.

The Grantor covenants and agrees that it will obtain the release of the premises hereby conveyed from the lien of its First and General Mortgage to State Street Bank and Trust Company, Trustee, dated as of June 1, 1921, and indentures supplemental thereto, and also from the lien of its General and Refunding Mortgage Indenture to The First National Bank of Boston, Trustee, dated April 15, 1976, and indentures supplemental thereto, on or before May 1, 1985.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said Eunice A. Garrett, her heirs and assigns, forever.

IN WITNESS WHEREOF, the said Central Maine Power Company has caused this instrument to be sealed with its corporate seal and signed in its corporate name by Robert C. Matheson, its Assistant Vice President, thereunto duly authorized, this 2nd day of February, in the year of our Lord one thousand nine hundred and eighty four.

Signed, Sealed and Delivered

in presence of

J. Robert Curtis

CENTRAL MAINE POWER COMPANY

BY: Robert C. Matheson

Robert C. Matheson

Assistant Vice President

Administrative Services

STATE OF MAINE

Kennebec, ss

February 2, 1984

Personally appeared the above named Robert C. Matheson, Assistant Vice President, Administrative Services, Central Maine Power Company, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of said Central Maine Power Company, before me,

J. Robert Curtis

J. Robert Curtis

Justice of the Peace

RECEIVED

1984 MAR -1 AM 11:09
RECORDED REGISTRY OF DEEDS
CUMBERLAND COUNTY

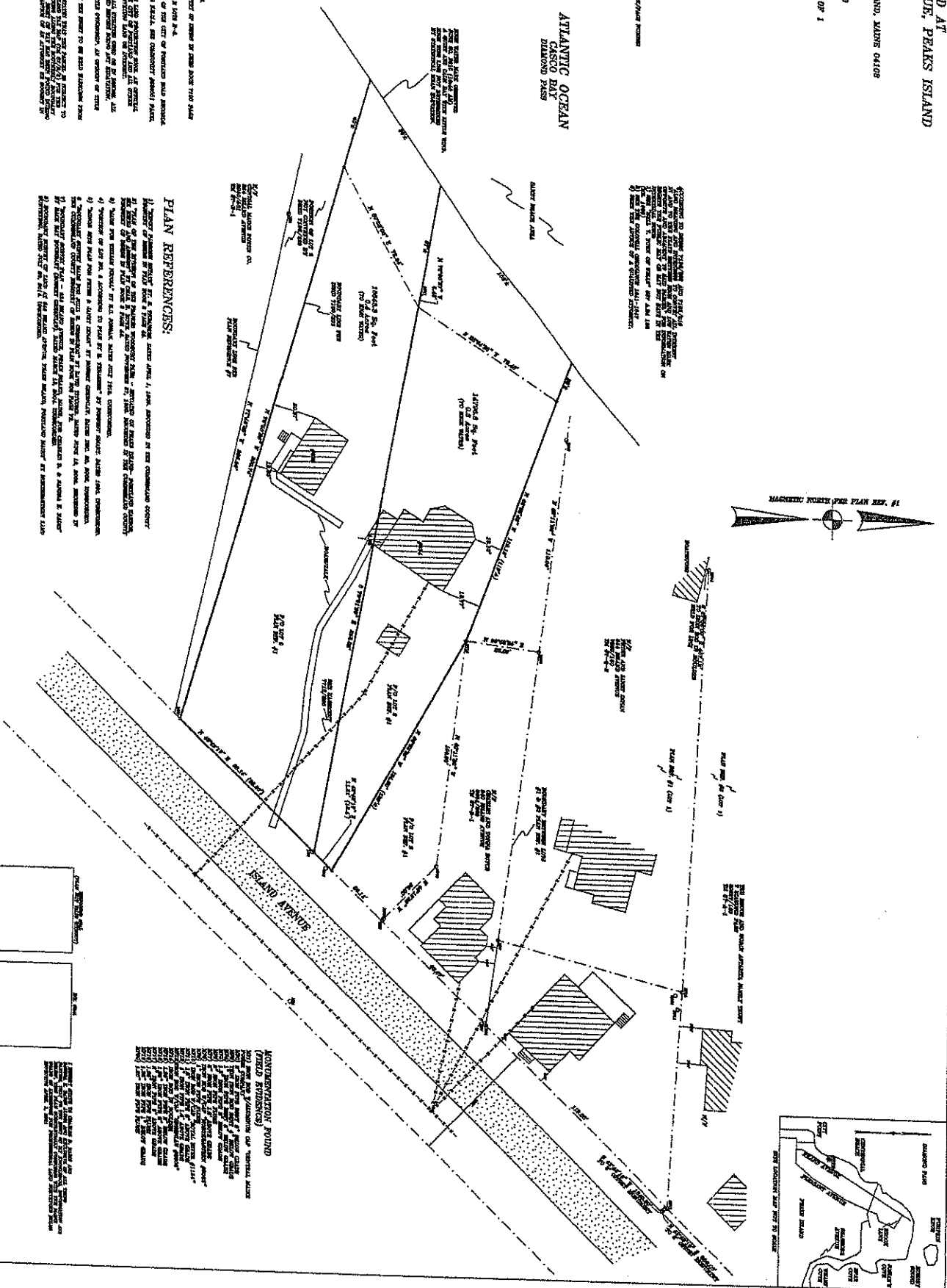
James J. Walsh

**BOUNDARY SURVEY OF LAND AT
328 AND 324 ISLAND AVENUE, PEAKS ISLAND,
PORTLAND, MAINE**

LAND FOR CHARLES AND SANDRA RADIS
24 ISLAND AVENUE, PEAKS ISLAND, PORTLAND, MAINE 04108
LAND FOR INVESTMENT LAND SURVEYING
9 CALDWELL AVENUE, COLUMBIA, MAINE 04008
ME 06, 2015 208 916-008 SHEET 1 OF 1
CLASS 1" = 80'



ATLANTIC OCEAN
CASCO BAY
BILBOOD PASS

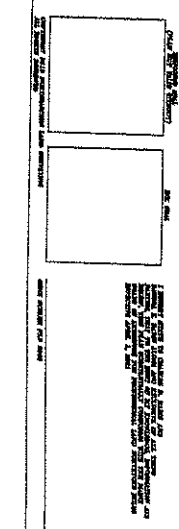


REFERENCE TO OTHER PLANS: THIS PLAN IS TO BE CONSIDERED AS A PART OF THE SURVEY OF THE LAND AT 328 AND 324 ISLAND AVENUE, PEAKS ISLAND, PORTLAND, MAINE, AND IS TO BE CONSIDERED AS A PART OF THE SURVEY OF THE LAND AT 328 AND 324 ISLAND AVENUE, PEAKS ISLAND, PORTLAND, MAINE, AND IS TO BE CONSIDERED AS A PART OF THE SURVEY OF THE LAND AT 328 AND 324 ISLAND AVENUE, PEAKS ISLAND, PORTLAND, MAINE.

PLAN REFERENCES:

- 1) Survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.
- 2) Survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.
- 3) Survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.
- 4) Survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.
- 5) Survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.

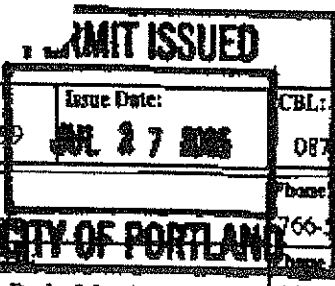
NOTES:
1. The boundaries shown on this plan are based on the survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.
2. The boundaries shown on this plan are based on the survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.
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5. The boundaries shown on this plan are based on the survey of the land at 328 and 324 Island Avenue, Peaks Island, Portland, Maine, dated June 1, 1988, approved by the Commission on Land Use.



NON-REPRESENTATIVE POINTS
POINTS NOT SHOWN ON THIS PLAN ARE NOT TO BE CONSIDERED AS PART OF THE SURVEY OF THE LAND AT 328 AND 324 ISLAND AVENUE, PEAKS ISLAND, PORTLAND, MAINE, AND IS TO BE CONSIDERED AS A PART OF THE SURVEY OF THE LAND AT 328 AND 324 ISLAND AVENUE, PEAKS ISLAND, PORTLAND, MAINE.

City of Portland, Maine - Building or Use Permit Application
 389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Location of Construction: 328 Island Ave <i>P.I.</i>		Owner Name: Radis Sandra K		Owner Address: 334 Island Ave		Phone: 766-3915	
Business Name:		Contractor Name: D Laing		Contractor Address: 17 Wiley Ave Peaks Island		Phone: 2077665915	
Lessee/Buyer's Name:		Phone:		Permit Type: Single Family		Zone: IR-2	
Fast Use: Vacant land		Proposed Use: <i>single family</i> Boathouse gr floor/guesthouse 1st fl - 1/2 attic for storage total 1500 sq ft		Permit Fee: \$582.00		Cost of Work: \$54,000.00	
Proposed Project Description: Build Boathouse gr floor/guesthouse 1st fl - 1/2 attic for storg. total 1500 sq ft		PERMITS: <input type="checkbox"/> Approved <input type="checkbox"/> Denied		INSPECTION: Use Group: <i>R3</i> Type: <i>SB</i> IRC-2003		Signature: <i>JMB/2/05</i>	
Permit Taken By: jodinea		Date Applied For: 06/30/2004		PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Signature: _____ Date: _____			



Zoning Approval		
Special Zone or Reviews <input checked="" type="checkbox"/> Shoreland <i>within but over R01 from HWY</i> <input type="checkbox"/> Wetland <input checked="" type="checkbox"/> Flood Zone <i>Panel 15 zone 15</i> <input type="checkbox"/> Subdivision <input checked="" type="checkbox"/> Site Plan # <i>2004-0137</i> Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input checked="" type="checkbox"/> <i>OK with conditions</i> Date: <i>9/3/04</i>	Zoning Appeal <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied Date: _____	Historic Preservation <input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approval w/Conditions <input type="checkbox"/> Denied Date: <i>8</i>

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE

City of Portland, Maine - Building or Use Permit

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 04-0899	Date Applied For: 06/30/2004	GBL: 087 R002001
-----------------------	---------------------------------	---------------------

Location of Construction: 328 Island Ave P.L.	Owner Name: Radis Sandra K	Owner Address: 334 Island Ave	Phone: () 766-5915
Business Name:	Contractor Name: D Laing	Contractor Address: 17 Wiley Ave Peaks Island	Phone: (207) 766-5915
Lessee/Buyer's Name:	Phone:	Permit Type: Additions Duplex Single Family	

Proposed Use: Boathouse gr floor/single family above 1st fl - 1/2 attic for storage total 1500 sq ft	Proposed Project Description: Build Boathouse gr floor/single family 1st fl - 1/2 attic for storg. total 1500 sq ft
---------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------

Dept: Zoning Status: Approved with Conditions Reviewer: Marge Schmuckal Approval Date: 09/07/2004
 Note: 7/13/04 Denied - see letter - not meeting min lot size - within 75 feet of HWM - floodplain info need -
 predevelopment grades needed - off street parking needed to be shown
 8/04 submitted revised plans and further information
 1) This permit is being approved on the basis of revised plans and information submitted. Any deviations shall require a separate approval before starting that work.
 2) This property shall remain a single family dwelling. Any change of use shall require a separate permit application for review and approval.
 3) Separate permits shall be required for future decks, sheds, pools, and/or garages.

Dept: Building Status: Approved with Conditions Reviewer: Jeanine Bourke Approval Date: 07/27/2005
 Note: 09/22/04 left vm w/Radis' to call about issues. Existing septic system needs evaluation for additional dwelling.
 9/23 Spoke w/Sandra R. About additional submittals on review checklist & septic system. She said the existing 3 br dwelling is on a separate system and the system installed in 1991 was done due to a malfunction of that system and that since then has been pumped and continued to be used. I told her we need verification that the existing house is not using the new system & a new HHE-200 form needs to show how the new house is hooked up. Also, the other tank must be removed or filled. She will get back to me.
 12/20/04 Chuck Radis called to update the septic system design. Working out details w/possible connection w/public sewer or private system. Will inform by Feb. Or March on details.
 7/27/05 Met w/Chuck R. To review revisions and the proposal from Lionel Plante to hook up to the public sewer main, ok to issue.
 1) Separate permits are required for any electrical, plumbing, or heating.
 2) Permit approved based on the plans submitted and reviewed w/owner/contractor, with additional information as agreed on and as noted on plans.
 3) The design load spec sheets for any engineered beam(s) must be submitted to this office.
 4) ~~Need detail on attic floor joist framing~~ /concrete header to Rafter anchors

Dept: DRC Status: Approved with Conditions Reviewer: Jay Reynolds Approval Date: 09/10/2004
 Note: Ok to Issue:
 1) A sewer permit is required for you project. Please contact Carol Merritt at 874-8300, ext. 8822. The Wastewater and Drainage section of Public Works must be notified five (5) working days prior to sewer connection to schedule an inspector for your site.
 2) All Site work (final grading, landscaping, lawn and seed) must be completed prior to issuance of a certificate of occupancy.
 3) NO CHANGES IN GRADING IS PROPOSED. ANY CHANGES IN TOPOGRAPHY SHALL REQUIRE ADDITIONAL REVIEW AND APPROVAL BY THE CITY.
 4) Two (2) City of Portland approved species and size trees must be planted on your street frontage prior to issuance of a Certificate of Occupancy.
 5) Your new street address is now #328 Island Ave., the number must be displayed on the street frontage of your house prior to issuance of a Certificate of Occupancy.

8/30/05 - See additional notes @ cross section per
meeting w/ David Laing to satisfy conditions
JMB

10/12/05 - Setbacks OK - letter received from
surveyors verifying setbacks - foundation in full
work completed - OK to backfill. JMB

3/8/06 - Close in w/ Paul E - plumbing/elec OK to proceed.
Blocking needed at ceiling ht. as walls are below
framed. Roof framing (clips - bracing) OK - Egress of
Deck Framing OK - used 4-2x12 @ 11'2" span w/
6x6 posts OK JMB

3/9/06 Spoke w/ Rachel as code also allows insulation
~~blocking~~ blocking or wood. She said the already installed
wood - OK JMB

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE
CITY OF PORTLAND

Please Read
 Application And
 Notes, if Any,
 Attached

GERMINT ISSUE
JUL 27 2016
 Permit Number: 040899
CITY OF PORTLAND

This is to certify that Radis Sandra KD Living St
 has permission to Build Boatbase or floored
 at 328 Island Ave PT

1500 sq ft
087 R000001

provided that the person or persons
 of the provisions of the Statute of
 the construction, maintenance and
 this department.

cepting this permit shall comply with all
 of the City of Portland regulating
 of buildings and structures, and of the application on file in

Apply to Public Works for street line
 and grade if nature of work requires
 such information.

Inspection must
 in permit
 thereof
 in
 NOTICE IS REQUIRED.

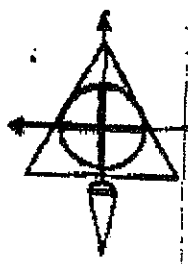
A certificate of occupancy must be
 procured by owner before this build-
 ing or part thereof is occupied.

OTHER REQUIRED APPROVALS

Fire Dept.
 Health Dept.
 Appeal Board
 Other

Laura Banks 7/27/16
 Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD



BACK BAY BOUNDARY, INC.
LAND SURVEYING

87 R-3

October 6, 2005

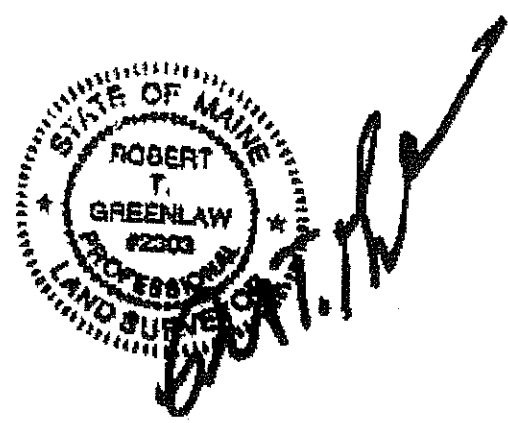
Mr. Tom Mardey
Building Inspections/Planning
389 Congress Street
Portland, Maine 04101

RE: Sondi and Chuck Radis, 334 Island Ave. Peaks Island, Maine
New dwelling on land owned by above. Tax Map 007 -Block R- Lot 002

Please accept this letter as certification that our survey crew checked the placement of the foundation footings and placement of the foundation forms and found them to be in compliance with the applicable zoning setbacks.

Cordially,

Robert T. Greenlaw, PLS
Professional Land Surveyor #2303

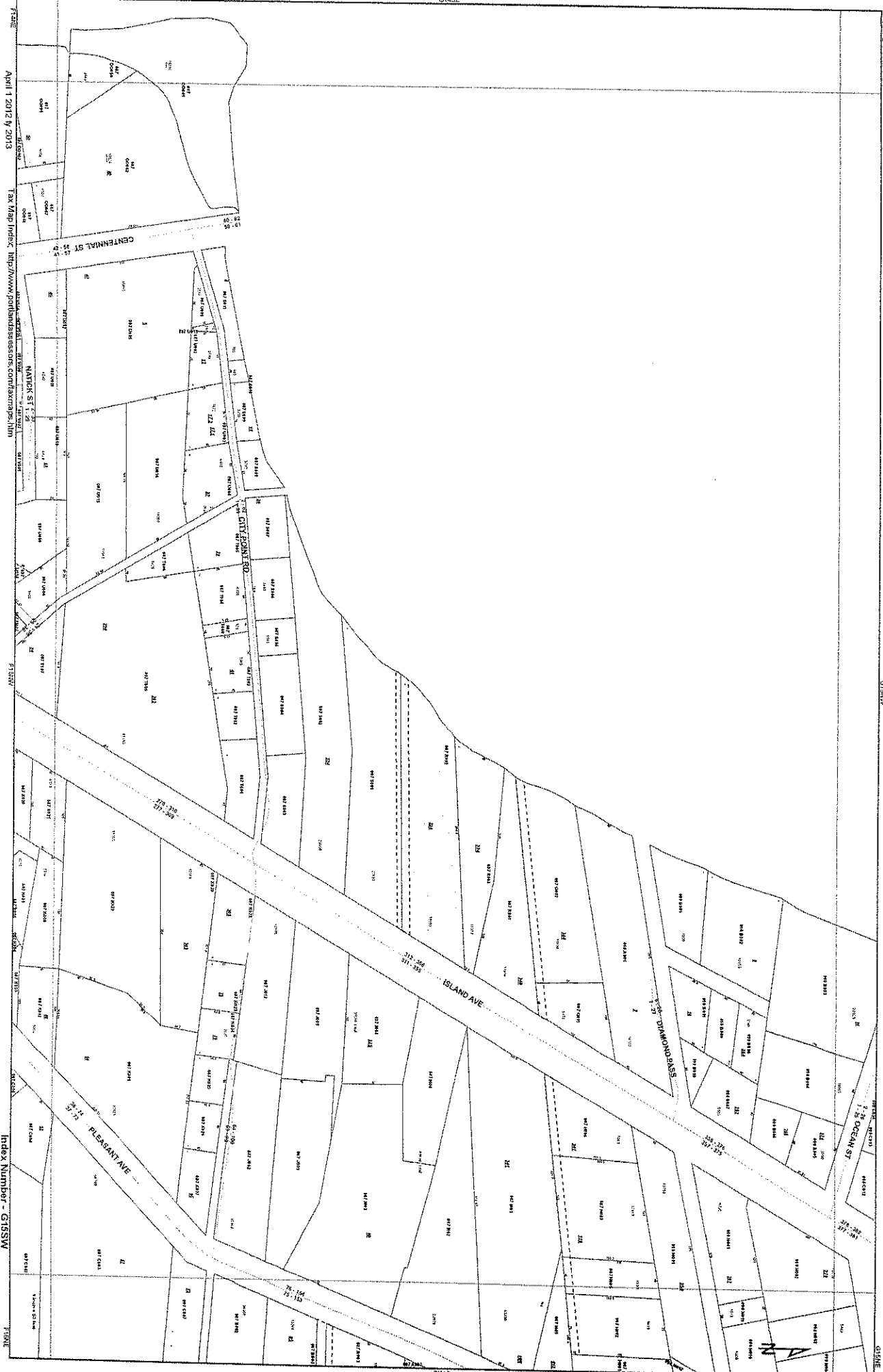


(207) 774-2858

645 Forest Avenue Portland, Maine 04101
Email - Backbayboundary@bbs.com

Fax (207) 347-4348

www.Backbayboundary.com



April 1 2012 by 2013
 Tax Map Index: <http://www.portlandassessors.com/taxmaps.htm>

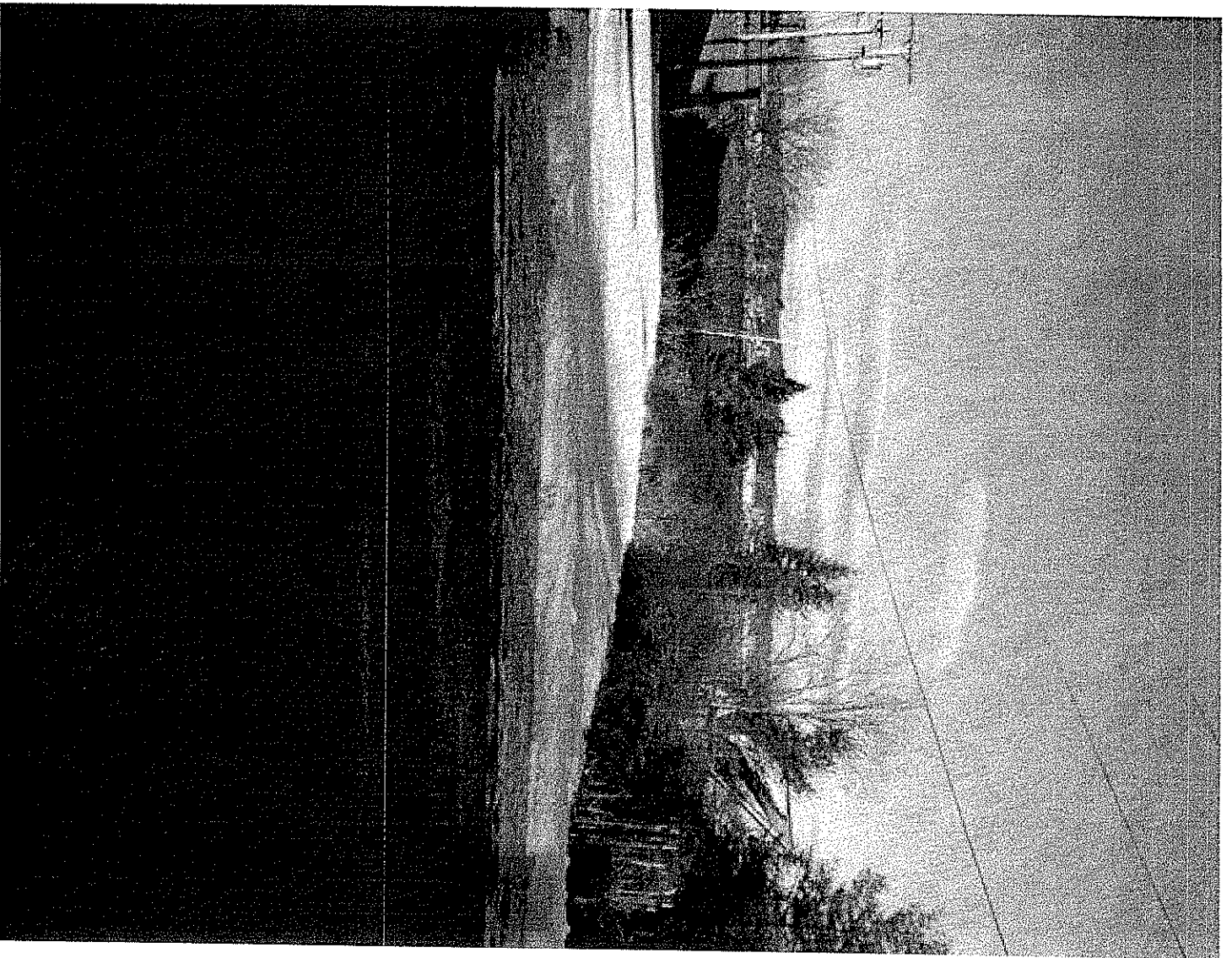
Index Number - 6155W

View from shore



Radis home on left
Former CMP power station on right

View from Island Avenue



Former CMP power station on left

Radis home on right

BK7195PG0328

WARRANTY DEED

23315

Know all Men by these Presents,

That EUNICE A. LINCOLN (formerly Eunice A. Garrett) of Scarborough, Cumberland County, Maine ("Grantor")

In consideration of one dollar and other good and valuable consideration

paid by SANDRA K. RADIS

whose mailing address is Island Avenue, Peaks Island, Portland, Maine 04108 ("Grantee")

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said Sandra K. Radis,

her heirs and assigns forever, a certain lot or parcel of land situated on Peaks Island, Portland, County of Cumberland, and State of Maine, bounded and described as follows:

Beginning at an iron pipe located on the Northwesterly sideline of Island Avenue, and said pipe being also located on the Southerly sideline of lot number 3 according to E. Thrasher plan of Peaks Island, dated April 1865 and recorded in the Cumberland County Registry of Deeds in Plan Book 2, Page 46; thence North 69° 50' West, 265 feet, more or less, by said land now or formerly of Central Maine Power Company to an iron pipe located at the high water mark of Casco Bay; thence North Easterly by said high water mark, 64 feet, more or less, to an iron pipe, and land, now or formerly, of Bruce F. Lincoln et ux; thence North 75° 43' East, 256.6 feet, more or less, by land, now or formerly, of said Lincoln to an iron pipe, and Northwesterly sideline of said Island Avenue; thence South 47° 55' West, 88 feet, more or less, by the Northwesterly sideline of said Island Avenue to the point of beginning.

Also meaning and intending to convey by this instrument all interest in and to the flats between high and low water mark opposite and adjacent to said parcel.

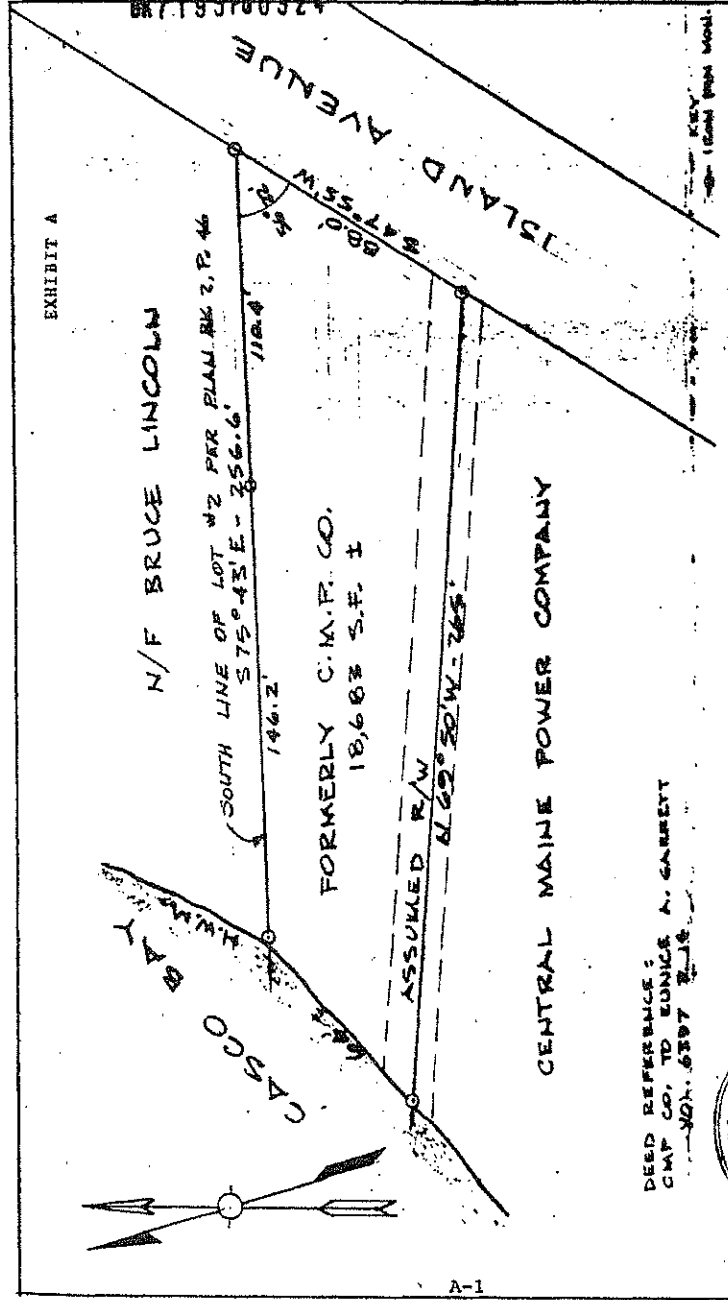
Reserving from said parcel all utility easements and rights of way of record.

Reference may be had to Deed of Central Maine Power Company to Eunice A. Garrett dated February 2, 1984, and recorded in said Registry of Deeds in Book 6397, Page 14.

Reference may also be had to Exhibit A attached hereto.

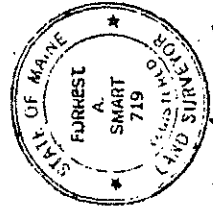
EXHIBIT A
BK 7195P00324

EXHIBIT A



LAND NOW OR FORMERLY OF
 EUNICE A. GARRETT
 PEAKS ISLAND
 CITY OF PORTLAND
 COUNTY OF CUMBERLAND
 STATE OF MAINE
 SCALE: 1" = 40' ESC MAY 19, 1986

DEED REFERENCE:
 CMP CO. TO EUNICE A. GARRETT
 VOL. 6397 P. 18



Forrest A. Smart
 5/14/86

To have and to hold the aforegranted and bargained premises, with all the privileges and appurtenances thereof, to the said Grantee, her

heirs and assigns, to her and their use and behoof forever.

And I do warrant with the said Grantee, her heirs and assigns,

that I am lawfully seized in fee of the premises, that they are free of all encumbrances

that I have good right to sell and convey the same to the said Grantee to hold as aforesaid; and

that I and my heirs shall and will warrant and defend the same to the said

Grantee, her heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof,
(Formerly Eunice A. Garrett)

I, the said EUNICE A. LINCOLN

and Bruce F. Lincoln

husband/wife of the said Eunice A. Lincoln

joining in this deed as Grantor, and relinquishing and conveying all rights by descent and all other rights

In the above described premises, have hereunto set our hands and seals this 30th

day of the month of May, A.D. 1986.

Witness, Signed and Delivered

in presence of

[Handwritten signatures of witnesses]

Eunice A. Lincoln
Eunice A. Lincoln (formerly
Eunice A. Garrett)
Bruce F. Lincoln
Bruce F. Lincoln

State of Maine, County of Cumberland ss: May 30, 1986.

Then personally appeared the above named EUNICE A. LINCOLN and BRUCE F. LINCOLN

and acknowledged the foregoing instrument to be their free act and deed.

Before me,

[Signature of Notary Public]
Notary Public
Attorney at Law

DENNIS C. KEFLER
Typed or Printed Name

RECEIVED
RECORDED DEPARTMENT OF DEEDS
1986 MAY 30 PH 3:03
CUMBERLAND COUNTY
[Signature]

SANDRA K. RADIS
334 Island Avenue
Peaks Island, Maine 04108

September 15, 2015

Zoning Board of Appeals
City of Portland
389 Congress Street
Portland, Maine 04101

RE: Application for Practical Difficulty Variance
328 Island Avenue, Peaks Island
Map 87, Block R, Lot 2

To Whom It May Concern:

I hereby authorize my attorney, Brenda M. Buchanan, Esq. of the firm Warren, Currier & Buchanan LLC of Portland to represent me in discussions with the City of Portland zoning administration and before the Zoning Board of Appeals on all matters related to my above-referenced application for a practical difficulty variance, and to sign all applications and other necessary documentation in regard to same on my behalf.

Thank you for your assistance with this matter.

Sincerely,



Sandra K. Radis