



Planning &amp; Urban Development Department

*Jeff Levine, AICP, Director**Marge Schmuckal, Zoning Administrator*

April 22, 2014

James D. Nadeau, P.L.S., C.F.M.

Nadeau Land Surveys

918 Brighton Avenue

Portland, Maine 04102

RE: 374 Island Avenue, Peaks Island, 90-B-5 &amp; part of 90-B-4 – IR-2 Zone with a Shoreland Overlay

Dear Jim,

I am in receipt of your request for a determination letter concerning the property located at 374 Island Avenue, Peaks Island. It is noted that on 7/1/65 The Zoning Board of Appeals allowed the lot configuration as shown on a Bruce Bowman sketch plan and allowed a 52' lot width. The Bruce Bowman sketch is similar to the survey provided by Nadeau Land Surveys with this request. My determination is based upon a stamped and signed survey by James D. Nadeau, P.L.S. dated 3-20-2014 along with other worksheets. The entire property is located in the IR-2 (Island Residence-two) zone with a shoreland Overlay. The property is not affected by any floodplain zone.

There is a fundamental change to the orientation of the existing structure. Currently the single family faces Island Avenue as evidenced by the front door and the given street number. The determination concerning this property is conceived by changing the front of the building to Ocean Street. I have done comparisons of the IR-2 dimensional requirements with the structure facing both ways – front toward Island Avenue and front toward Ocean Street. Based upon this comparison I have determined that when the existing building is facing Ocean Street, there are less nonconformities. Therefore the official orientation of the existing building may face its front toward Ocean Street. Please note that going forward Ocean Street will be considered the front of the property. It will not be able to be changed back for zoning purposes to face the official front toward Island Avenue.

You have also submitted several work sheets to allow appropriate setbacks based upon the new front Ocean Street orientation and several sections of the Land Use Zoning Ordinance. Section 14-145.11.c.1 allows an owner to reduce the required 25 foot front yard setback if the average depth of front yards on either side of the lot is less. I have found your calculations accurate and able to be used to reduce the front yard setback to a minimum of 13.8 feet.



Planning &amp; Urban Development Department

*Jeff Levine, AICP, Director**Marge Schmuckal, Zoning Administrator*

Pg 2

You have also submitted information concerning Section 14-428 relating to corner lots. Again based upon the information submitted concerning corner lots, this particular lot and calculations would allow the rear lot to be reduced to that allowed for a side yard in this zone. Therefore, twenty foot would be allowed for the rear setback.

To sum up my determination, the submission titled "For Review – Minimum Yard Dimensions" may be used for determining the placement of any addition to the existing dwelling. Please note that this determination is not giving any specific approval on any specific addition. Any new addition must be supported with a permit application for reviews and approvals.

Very truly yours,

A handwritten signature in black ink that reads "Marge Schmuckal".  
Marge Schmuckal

Zoning Administrator

City of Portland, Maine

Applicant:

Date:

Address: 374 Island Ave, Peaks

C-B-L: 90-B-5 part of 90-B-2

CHECK-LIST AGAINST ZONING ORDINANCE

Date -

front currently facing Isl. Ave Newly facing Ocean

Zone Location - IR-2 Zone

Interior or corner lot - Island Ave & Ocean St

Proposed Use/Work -

Sewage Disposal -

Lot Street Frontage - 70' min

(16.1' d/b) 53.90' Nonconf.

168' meet

Front Yard - 25' min

42.25'

13.8 AV (1.05 d/b) 12.75 exist

Rear Yard - 25' min

94.5'

13.5 (-6.5)

Side Yard - 20' min

40/26.25 (3.75') 12.75 13.5'

meets 45.25 94.5'

Projections -

Width of Lot - 80' min

design meet 53.90' (26.1')

168' meet

Height -

Lot Area - 20,000 sq ft min

836.7 sq ft legally non conforming existing

836.7 sq ft legally non conforming

Lot Coverage/ Impervious Surface - 20% for future MAP

Area per Family -

Off-street Parking -

Loading Bays -

1.05

Site Plan -

6.56

Shoreland Zoning/ Stream Protection - within - but beyond 75'

46.10

13.75

26.10

7.55

Flood Plains - not in flood zone - not a D-Fring

45.95

seems to be less Non Conf facing Ocean St

## **Marge Schmuckal - 374 Island Ave - Peaks**

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**From:** Marge Schmuckal  
**To:** Jim Nadeau  
**Date:** 4/22/2014 12:24 PM  
**Subject:** 374 Island Ave - Peaks

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Hi Jim,

I wanted to catch you up as to where I am on this determination letter. I figured out the discrepancies for the setbacks and other dimensional requirements between the two different orientations of the existing structure. There are actually less discrepancies for the building facing Ocean Street than facing Island Street.

I am putting your letter together today. I will e-mail you a copy and send the original in the mail.

Marge

# Nadeau Land Surveys

Professional Land Surveyors  
Certified Floodplain Managers

March 18, 2014

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

RECEIVED  
MAR 19 2014  
Dept. of Building Inspections  
City of Portland Maine

**RE: Minimum yard dimensions, 374 Island Avenue, Peaks Island, Portland, Maine (2131380L1)**

Dear Marge,

For your review, please accept this letter, worksheets, exhibit and boundary survey plan. Our client desires to rebuild a residential dwelling on her current parcel, which she acquired August 15, 2004 per Cumberland County Registry of Deeds Book 21670, Page 317. The parcel is partially comprised of Lots 4 and 5 on City of Portland Assessor's Map 90, Block B and created by the City of Portland Board of Appeals, Miscellaneous Appeal granted July 1, 1965 for the creation of a new dividing line resulting in a parcel 52 feet in width instead of the required 65 feet. Further reference is made to "Parcel A" as depicted on a plan entitled "Plan Depicting The Results Of A Boundary Survey & Partial Topographic Survey Made For Linda Capone-Newton Northwesternly Sideline Of Island Avenue & Southwesterly Sideline Of Ocean Street, Peaks Island, Portland, Maine", dated April 30, 2013, revised March 6, 2014, by Nadeau Land Surveys, Portland, Maine, and attached hereto.

NO Flood Zone  
Shoreland Overlay

The Locus Parcel is located in the Island Residential-2 Zoning District and partially within the Shoreland Zoning Overlay. Our client intends to rebuild within the current parcel boundary, but is looking for confirmation of their interpretation of the City of Portland, Code of Ordinance, Sec. 14-145.11.c .1, 2, 3 Minimum yard dimensions and Sec. 14-428. Corner Lot provision, to determine the maximum building area. Please refer to the worksheet provided for aggregate yard calculations, the exhibit, and boundary survey plan for the surveyed building corner offsets. This office does not believe any other Space and Bulk requirements have been altered, but please verify.

Please find enclosed a check in the amount of \$150 to review the minimum yard dimensions at 374 Island Avenue, Peaks Island, Portland, Maine. It is our desire that your formal determination be in writing, confirming our client has correctly interpreted the average depth of the front yards on either side of the lot, reduced the rear setback per corner lot provision, accounted for a greater aggregate of yards than facing the short side depicted on the attached exhibit, and would be in compliance to the City of Portland Zoning Ordinance. Upon completion of this process, a formal Site Plan shall be prepared for review and construction permitting. Our client understands that this request does not secure a building permit. Thank you for your time and please do not hesitate to call if you have any questions.

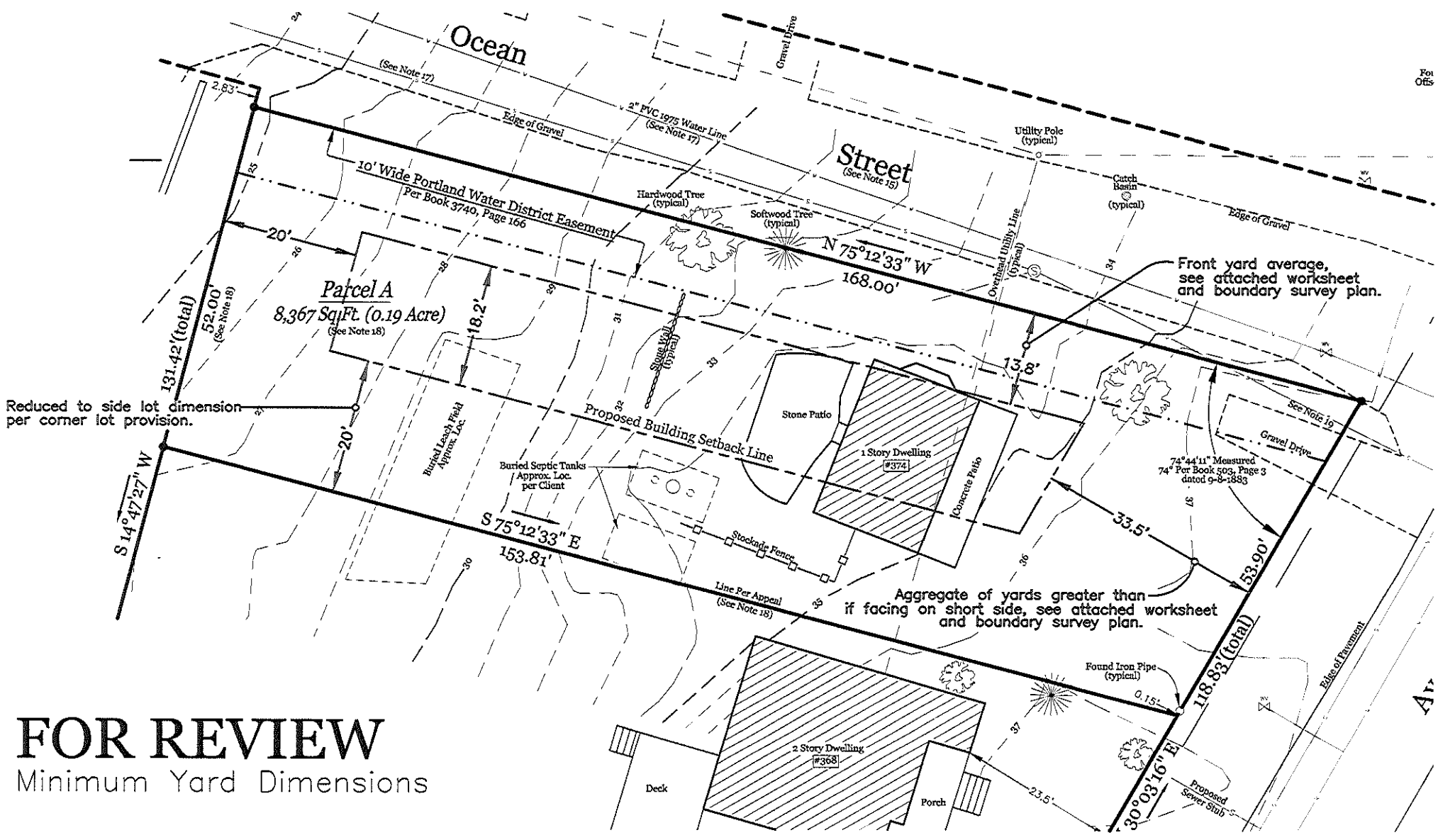
Sincerely,  
Nadeau Land Surveys

James D. Nadeau, P.L.S., C.F.M. (agent)

CC: Peter & Linda Capone-Newton

front currently  
faces Island AVE





**FOR REVIEW**  
Minimum Yard Dimensions

WORKSHEET FOR 374 ISLAND AVE. (CAPONE-NEWTON)

374 Island Ave. is located on Peaks Island in the IR-2 zone.

References:

**Sec. 14-145.11.c.1, 2, 3**

Minimum yard dimensions: front yard 25 feet, rear yard 25 feet, side yard 20 feet.  
 A front yard need not exceed the average depth of front yards on either side of the lot.

**Sec. 14-428. Corner lots.**

In case a dwelling house has its front yard upon the long side of a corner lot, the rear yard may be reduced to a depth not less than the width required for a side yard on the lot, provided the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all yards required if the front yard were faced on the short side of the lot. □(Code 1968, § 602.19.G)

Required front yard for 368 Island Ave. if front yard on Island Ave.:

If on Island Ave (short side)	
368 Island Ave. front yard	19.3 ft
(no neighbor)	25 ft
374 Island front yard (average)	22.2 ft

Required front yard for 368 Island Ave. if front yard on Ocean St.

If on Ocean St. (long side)	
11 Ocean St. front yard	2.6 ft
(no neighbor)	25 ft
374 Island front yard (average)	13.8 ft

*Porch Averaging*

Existing facing long side- aggregate of yards		Required setbacks if facing on short side	
Front yard	13.8 feet	Front yard	22.2 feet
Rear yard*	20 feet	Rear yard	25 feet
Side yard -rt	20 feet	Side yard -rt	20 feet
Side yard -lft	33.5 feet	Side yard -lft	20 feet
TOTALS	87.3 feet	is greater than	87.2 feet

\* Reduced to side lot dimension per corner lot provision

Sec. 14-428. Corner lots.

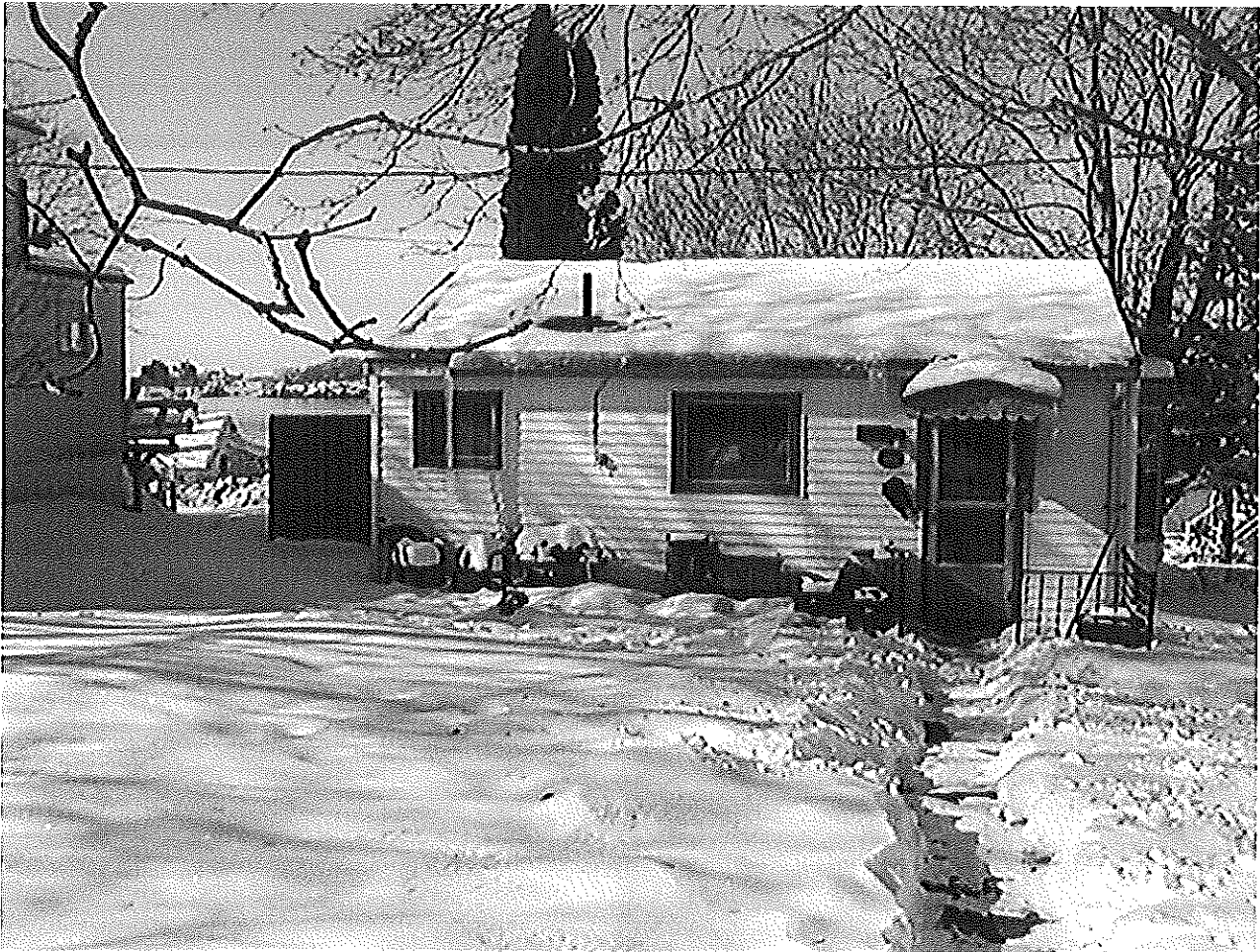
In case a dwelling house has its front yard upon the long side of a corner lot, the rear yard may be reduced to a depth not less than the width required for a side yard on the lot, provided the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all yards required if the front yard were faced on the short side of the lot.

(Code 1968, § 602.19.G)

Existing facing long side- aggregate of yards		Required setbacks if facing on short side	
Front yard	13.8 feet	Front yard	22.2 feet
Rear yard	20 feet	Rear yard	25 feet
Side yard -rt	20 feet	Side yard -rt	20 feet
Side yard -lft	33.5 feet	Side yard -lft	20 feet

TOTALS 87.3 feet is greater than 87.2 feet



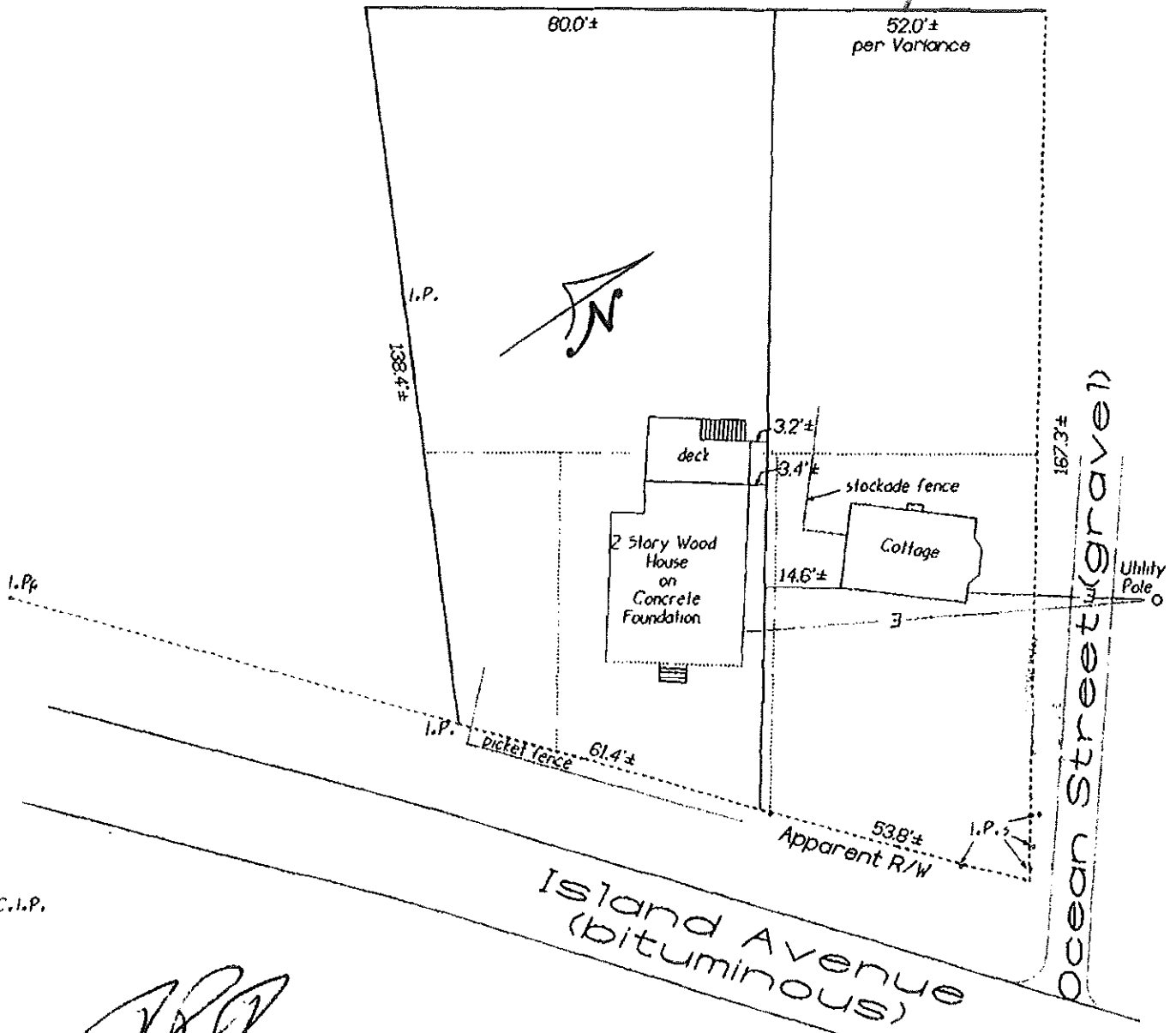


800 W ST  
↑

Island Ave

**SKETCH PLAN**  
 368-374 Island Avenue  
 Peake Island  
 Portland, Maine  
 for  
 Linda Capone-Newton  
**BRUCE R. BOWMAN, Inc.**  
 Professional Land Surveyor  
 Box 12A, Cumberland Head, Maine 02071 829-3359 Fax 829-3572  
 Date: 04-30-02 Job: 355-55  
 Drawn By: Scale: 1"=30'

7/1/65  
GRANTED



C.I.P.

*[Handwritten Signature]*

This is not a Boundary Survey

B.S. Co. paid 4/24/65  
Granted 7/1/65  
60795

CITY OF PORTLAND, MAINE  
IN THE BOARD OF APPEALS

MISCELLANEOUS APPEAL

(Assessors Lot Nos. 90-B-4, 5, & 6)  
Island Ave., Peaks Island

Mrs. Mary Hays, owner of property at Island Ave., Peaks Island  
under the provisions of Section 24 of the Zoning Ordinance of the City of Portland, hereby respectfully petitions the Board of Appeals to permit: conversion of a single family dwelling of an existing two-car garage, 16 feet by 24 feet, at the above location. This permit is presently not issuable under the Zoning Ordinance because the new lot on which the proposed dwelling is to be located (lot to be created by setting up a new line dividing the property into two lots instead of three as at present) will be only 52 feet wide instead of the minimum of 65 feet required by Section 4-B-9 of the Ordinance applying to the R-3 Residence Zone in which the property is located.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that enforcement of the terms of the Ordinance would result in undue hardship and desirable relief may be granted without substantially departing from the intent and purpose of the Ordinance.

*[Signature]*  
APPELLANT

DECISION

After public hearing held July 1, 1965 the Board of Appeals finds that enforcement of the terms of the Ordinance would result in undue hardship and desirable relief may be granted without substantially departing from the intent and purpose of the Ordinance.

It is, therefore, determined that such permit may be issued.

BOARD OF APPEALS  
*[Signatures]*

Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

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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](#)
- [Maps](#)
- [Tax Relief](#)
- [Tax Roll](#)
- [Q & A](#)

**CBL** 090 B005001  
**Land Use Type** SEASONAL  
 Verify legal use with Inspections Division  
**Property Location** 374 ISLAND AVE  
**Owner Information** CAPONE-NEWTON LINDA J  
 368 ISLAND AVE  
 PEAKS ISLAND ME 04108  
**Book and Page** 21670/317  
**Legal Description** 90-B-5  
 ISLAND AVE 374  
 OCEAN ST  
 PEAKS ISLAND 3800 SF  
**Acres** 0.0872

[browse city services a-z](#)

[browse facts and links a-z](#)



Best viewed at 800x600, with Internet Explorer

**Current Assessed Valuation:**

<b>TAX ACCT NO.</b>	14436	<b>OWNER OF RECORD AS OF APRIL 2013</b>
<b>LAND VALUE</b>	\$65,300.00	CAPONE-NEWTON LINDA J
<b>BUILDING VALUE</b>	\$37,400.00	368 ISLAND AVE
<b>HOMESTEAD EXEMPTION</b>	(\$10,000.00)	PEAKS ISLAND ME 04108
<b>NET TAXABLE - REAL ESTATE</b>	\$92,700.00	
<b>TAX AMOUNT</b>	\$1,799.32	

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

**Building Information:**

**Building 1**

**Year Built** 1900  
**Style/Structure Type** COTTAGE  
**# Stories** 1  
**# Units** 1  
**Bedrooms** 1  
**Full Baths** 1  
**Total Rooms** 3  
**Attic** NONE  
**Basement** PIER/SLAB  
**Square Feet** 396

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

**Sales Information:**

Sale Date	Type	Price	Book/Page
8/16/2004	LAND + BUILDING	\$375,000.00	21670/317
5/1/1993	LAND + BUILDING	\$30,000.00	10727/19

[New Search!](#)

**CITY OF PORTLAND**  
**DEPARTMENT OF PLANNING & URBAN DEVELOPMENT**

389 Congress Street  
 Portland, Maine 04101

**RECEIPT OF FEES**

<b>Application No:</b> 0000-1871	<b>Applicant:</b> CAPONE-NEWTON LINDA J
<b>Project Name:</b> 374 ISLAND AVE	<b>Location:</b> 374 ISLAND AVE
<b>CBL:</b> 090 B005001	<b>Application Type:</b> Determination Letter
<b>Invoice Date:</b> 03/19/2014	

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

**Previous Balance** **\$0.00**

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

**CBL:** 090 B005001  
**Bill to:** CAPONE-NEWTON LINDA J  
 368 ISLAND AVE  
 PEAKS ISLAND , ME 04108

**Application No:** 0000-1871  
**Invoice Date:** 03/19/2014  
**Invoice No:** 44443  
**Total Amt Due:** \$0.00  
**Payment Amount:**

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.  
 Check the status of your permit or schedule an inspection on-line at <http://www.portlandmaine.gov/planning/permitstatus.asp>



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374 ISLAND AVE. PEAKS ISLAND  
Score: 100  
Zoom to 3600

r Book 342, Page 279, dated 4-23-1866

Line per Book 660, Page 342, dated 3-13-1898  
(See Note 26)

*Porch Overhang*

11.4'

10.0'

Chimney

Porch

2 Story Dwelling  
#11

2nd Floor

Concrete Drive

Stone Retaining Wall

2.83'

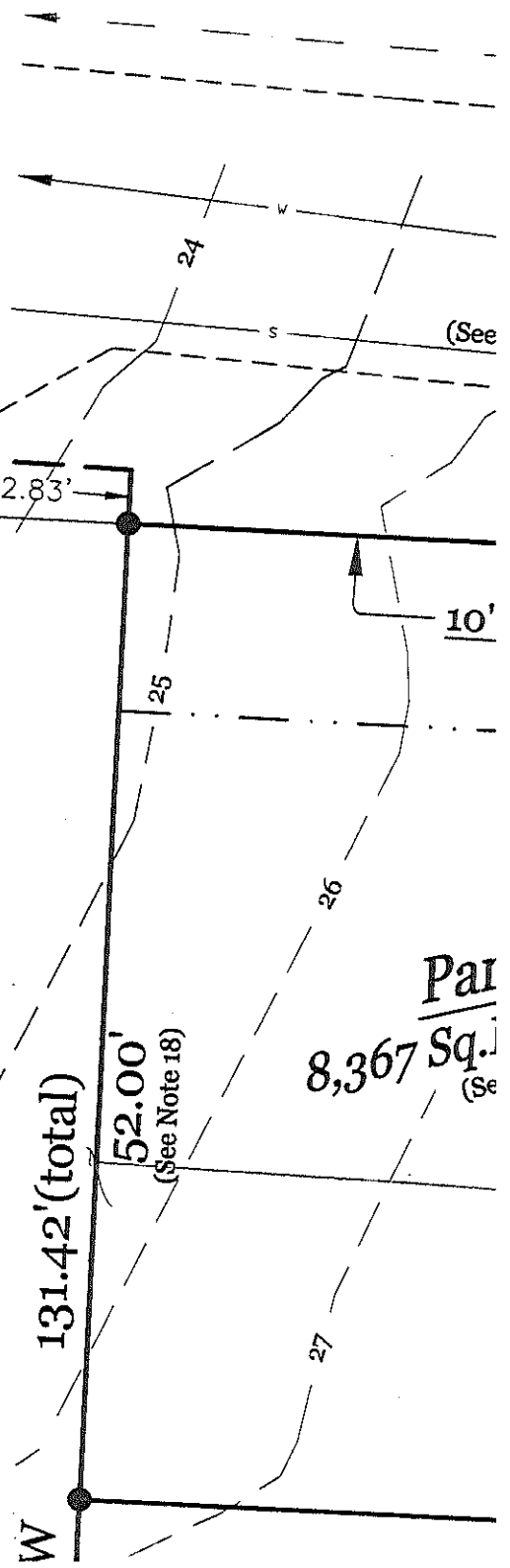
131.42'(total)

52.00'  
(See Note 18)

8,367 Sq. Ft.  
(See Note 18)

**General Notes:**

- This plan is not intended to depict limits or extent of fee title ownership. An opinion of title should be rendered by a title attorney.
- This office reserves the right to be held harmless by all 3rd party claims.
- This survey does not purport to reflect any of the following:
  - a. easements other than those that are visible or specifically stated in the referenced documents.
  - b. building setback compliance or restrictive covenants.
  - c. zoning or other land use regulations.
  - d. the location of any underground utilities or structures.
- This office reserves the right to be held harmless for unknown or obtainable private records which could affect the results of this survey.





#5 Steel Rebar w/Survey  
Cap #2124 To Be Set  
(typical)

1.6'

Dwelling  
#364

Lot number per

5

Plan Reference 2  
(typical)

0.9'

0.3'

(See Note 9)

0.6'

137.74'

S 82°12'14" E

2.1'

Shed

N/F  
Doane

ok 9938, Page 156

N/F  
Babcock

Book 11344, Page 286

Dwelling  
#362

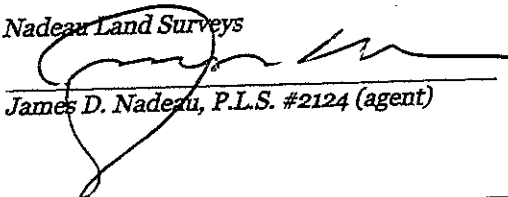
1

Surveyor's Statement:

Nadeau Land Surveys hereby states exclusively to the client listed hereon, that this plan is based on, and the result of, an on the ground field survey and that to the best of our knowledge, information, and belief, it conforms to the Maine Board of Licensure For Professional Land Surveyors Standards of Practice.

This plan is not valid without the signature and surveyor's seal of the below listed Professional Land Surveyor who prepared this plan as it may contain unauthorized alterations unknown to this office.

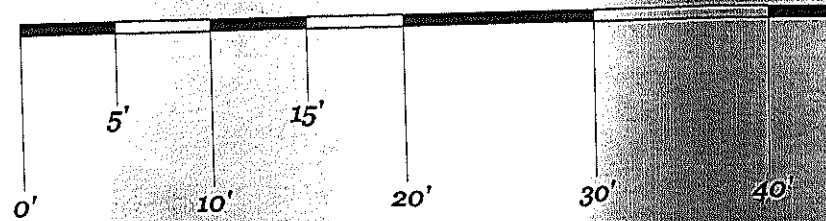
Nadeau Land Surveys

  
James D. Nadeau, P.L.S. #2124 (agent)

Date:

3-20-14

Graphic Scale:



Plan References:

1. "Plan Of The Francis Woodbury Farm Situated On Peaks Island, Portland Harbor, Six Heirs And Assigns", dated November 27, 1865, by Charles H. Howe, recorded December 10, 1865 at Cumberland County Registry of Deeds (CCRD) in Plan Book 2, Page 49.
2. "Plan Of Land, Peaks Island Maine", Sheet No. 2, recorded August 24, 1896 at CCRD in Plan Book 8, Page 51.
3. "Plan Of A Lot Of Land Near Trefethen's Landing, Peaks Island, ME, Formerly Owned By Simeon Skillings, Esq. And Now Belonging To Nancy E. Skillings", dated October 5, 1897, surveyed by J.B. Jones, recorded October 14, 1897 at CCRD in Plan Book 8, Page 101.
4. "Standard Boundary Survey Of Peaks Island School, Land Of Kimberly L. Skillin", dated January 1995, by City of Portland, Maine Public Works Department Engineering Division, City File 940/17.
5. "Plan Of Property And Topography 350 Island Avenue, Peaks Island, Portland, Maine, Made For Susan And Bruce Astarita", last revised August 25, 2012, by Royal River Survey Co.
6. Plan of "Peaks Island-Portland, Maine Sewerage Extensions & Water Main Renewal Island Ave And Winding Way Areas", last revised January 1, 2013, by Deluca-Hoffman Associates, Inc.

Revised 3-6-2014: Adjust northerly, westerly and interior boundary lines due to additional monumentation found, add building offsets requested by the client and add Note 26.

*Plan Depicting The Results Of A Boundary Survey  
& Partial Topographic Survey Made For*

**Linda Capone-Newton**

*Northwesterly Sideline Of Island Avenue & Southwesterly Sideline Of Ocean Street*

**Peaks Island, Portland, Maine**

PREPARED BY:



**Nadeau Land Surveys**  
Professional Land Surveyors  
Certified Floodplain Managers

918 BRIGHTON AVENUE  
PORTLAND, ME 04102

RECEIVED  
MAR 20 2014  
Dept. of Building Inspections  
City of Portland Maine

PH. (207) 878-7870  
FAX (207) 878-7871

<u>RECORD OWNER:</u> Linda J. Capone-Newton 368 Island Avenue Peaks Island, Portland, Maine 04108	<u>DRAWN BY:</u> MLC	<u>PLAN DATE:</u> 04/30/2013
	<u>CHECKED BY:</u> JDN/TPB	<u>SURVEY DATE:</u> March - April 2013
	<u>INSTR.</u> Topcon GPT-3003W & Topcon Hyper II GPS	<u>SCALE:</u> 1" = 10'
<u>FIELD BOOK:</u> FB 398 & Topcon Ranger	<u>JOB No:</u> 2131380BT	<u>SHEET No:</u> 1 of 1