

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



EUGENE S. MARTIN  
Chairman

MERRILL S. SELTZER  
Secretary

JACQUELINE COHEN  
TIMOTHY E. FLAHERTY  
THOMAS J. MURPHY  
PAULETTE P. PARKER  
MICHAEL E. WESTORT

Assessor's #87-Z-19 & 20 and  
Assessor's #87-00-21 & 22  
Island Avenue, Peaks Island

November 6, 1984

Thomas & Helen Young  
Island Avenue  
Peaks Island, ME 04108

Dear Mr. and Mrs. Young:

As you know, at its meeting of November 1, 1984, the Board of Appeals voted to permit change of use of the lodging house at the above location to eight (8) dwelling units, and to permit installation of an in-ground swimming pool. The Board, however, imposed the following conditions:

1. Screening at parking lot be within 2 ft. of the perimeter of actual parking area on the abutters' sides. Plantings to a height of not more than 4 ft. high.
2. Screening at rear property line of house on Island Avenue, rear property line from Luther Street to a point on the northerly side of the "el", and plantings whose height mature to a height of 20 ft. or more.
3. Parking lot site conditions: A licensed engineering report be submitted by the owner to the Building Inspection Dept. with recommendations to the plan review that an engineering report include drainage and erosion plans which will protect banking in rear and all abutters' property, and recommendations made require the owner to carry out.

A copy of the Board's decision is enclosed for your records.

You should now come in to this office to pay for the change of use permit.

Sincerely,

Kathleen A. Taylor  
Secretary

enc.

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Assessor's #87-00-21 & 22  
Island Avenue, Peaks Island

November 6, 1984

Thomas & Helen Young  
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Peaks Island, ME 04108

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A copy of the Board's decision is enclosed for your records.

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Sincerely,

Kathleen A. Taylor  
Secretary

enc.

( ) Disapproval - All conditions required by Sec.602.24C 3.b. (1) do not exist with respect to this property, as evidenced by one or more negative responses to statements set forth in IV. A. through IV. E. above, and that a space and bulk variance should not be granted in this case.

VI. Signatures of Board

Engene S. Mathis Chairman  
Marshall A. Keith  
Michael E. Winters  
Josephine L. ...  
Thomas Murphy

11/1/84  
 THE BOARD FINDS THE REAR OF THE BUILDING IS IN THE REAR AND THEREFORE SINCE IT IS THE REAR YARD THE SWIMMING POOL IS CONSIDERED THE REAR YARD. THIS IS ALSO THE DETERMINATION OF THE BUILDING INSPECTOR. 5/1/85.

CONDITIONS IMPOSED #1 SCREENING AT PARKING LOT BETWEEN ST. ... THE PLANTING OF ACTUAL PLANTING AREAS ON THE REAR SIDES. PLANTINGS TO A HEIGHT OF NOT MORE THAN 10 FT HIGH. #2 SCREENING AT REAR PROPERTY LINE OF HOUSEHOLD SIDE AND REAR PROPERTY LINE FROM LUTHER ST. TO ... ON BOTH SIDES OF THE ... AND PLANTING WHOSE HEIGHT MATERS TO A HEIGHT OF 10 FT OR MORE. #3 PARKING LOT SITE CONDITIONS. A LICENSED ENGINEERING FIRM BE SUBMITTED BY THE ... TO THE BOARDING INSPECTOR OF THE ... WITH RECOMMENDATIONS TO THE PLAN REVIEW. THAT ENGINEERING REPORT INCLUDES DRAINAGE AND EROSION PLANS WHICH WILL PROTECT PARKING IN REAR AND ... AND RECOMMENDATIONS AND ... TO ...

CITY OF PORTLAND, MAINE  
BOARD OF APPEALS

SPACE AND BULK VARIANCE APPEAL

10/12/85  
ASK TO POSTPONED  
TO NEXT MEETING  
NOV 1 1984

motion  
PASSED  
5965

I. Findings of Fact

A. Applicant Thomas and Helen Young

B. Property Location Assessor's #87-7-19 & 20/ #87-00-21 & 22  
Island Avenue, Peaks Island

C. Applicant's Interest in Property:

- Owner  
 Tenant  
 Other

D. Property Owner same

E. Owner's Address Island Avenue, Peaks Island, ME 04108

F. Zone (Circle One):

- R-1 R-2 R-3 R-5 R-6 R-4  
R-P B-1 B-2 B-3 A-B  
I-P I-I I-2 I-2b I-3 I-3b I-4  
RPZ W-1

*R-3 requirements  
apply*

G. Site Plan Approval required \_\_\_\_\_

H. Present Use of Property lodging house

I. Section(s) to Which Variance Related 14-90.2 14-432.3 a

J. Reasons Why Permit Cannot be Issued insufficient lot size (13,197 sq. ft. rather than 52,000 sq. ft. min. required - R-3 requirements) and swimming pool between building and street line, contrary to 14-432.3.

K. Requested Variance Would Permit change to 8 unit apartment house and allow in-ground swimming pool between building and street

L. Notice Sent to \_\_\_\_\_ Adjacent Property Owners

II. Appearances

A. Those Advocating Variance

MICHAEL LINT LAWRENCE  
GEORGE CLARK  
RALPH ASHMORE  
BARBARA MILLER

B. Those Opposing Variance

RUTH SARGENT  
WALTER CLANDALL  
EDWARD CLARK

(Attachments, As Necessary)

III. Exhibits (Any documents, photos, plans, further findings of fact, etc. presented to the Board as part of its records)

JOHN'S LETTERS

IV. Reasons for Decisions - Undue Hardship (The following checklist relates with the Board of Appeals hardship definitions for Space and Bulk variances as contained in Section 602.24C 3.b.(1) (a) through (c)

A. The parcel is exceptional due to physical characteristics or topographic features which amount to more than a mere inconvenience

- Yes/Agreement with statement
- No/Disagreement with statement

Reasons SIZE & LOCATION OF LOT  
LIMITED USE OF OPEN FRONT PROPERTY DUE TO PROVISION

B. If yes, the unique physical conditions: (Check One)  
Sec. 602.24C 3.b.(1) (b)

- Existed at the time of the enactment of the provision from which a variance is sought; or
- Were caused by natural forces; or
- Were the result of governmental action

C. Pertinent ordinance provision deprives owner of substantial use or enjoyment of property in the manner commonly enjoyed by owners of property subject to the same provisions (Sec. 602.24C 3.b. (1) (c))

Yes/Agreement with statement

No/Disagreement with statement

Reasons LOSS OF A USE LESS IMPACT.

D. As evidenced by affirmative answers to either IV. A. or IV. C. above, the variance will not create a special privilege for the applicant. Sec. 602.24C 3.b. (1) (d)

Yes/Agreement with statement

No/Disagreement with statement

Reasons \_\_\_\_\_

E. The variance will not adversely affect neighborhood property in the same zone and will not be detrimental to the general public health and safety Sec. 602.24C 3.b. (1) (e)

Yes/Agreement with statement

No/Disagreement with statement

Reasons \_\_\_\_\_

V. Specific Relief Granted

After a public hearing held on 11/1/1984, the Board of Appeals finds that: (Check One)

Approval - All of the conditions required by Sec. 602 24C 3.b. (1) exist with respect to this property, as evidenced by affirmative responses to all statements set forth in IV. A. through IV. E above, and that a space and bulk variance be granted in this case.

Conditions of Approval (If any) \_\_\_\_\_

( ) Disapproval - All conditions required by Sec. 602.24C 3.b. (1) do not exist with respect to this property, as evidenced by one or more negative responses to statements set forth in IV. A. through IV. E. above, and that a space and bulk variance should not be granted in this case.

VI. Signatures of Board

Engene S. Martin Chairman  
Emorell A. Keith  
Michael E. Leland  
Jacqueline L. ...  
Thomas J. Murphy

11/1/84  
 THE BOARD FINDS THE REAR AREA OF THE BUILDING IS IN THE REAR AND THEREFORE SINCE IT IS THE REAR YARD THE SWIMMING POOL IS CONSIDERED THE REAR YARD. THIS IS ALSO THE DETERMINATION OF THE BUILDING INSPECTOR. 5/1/85.

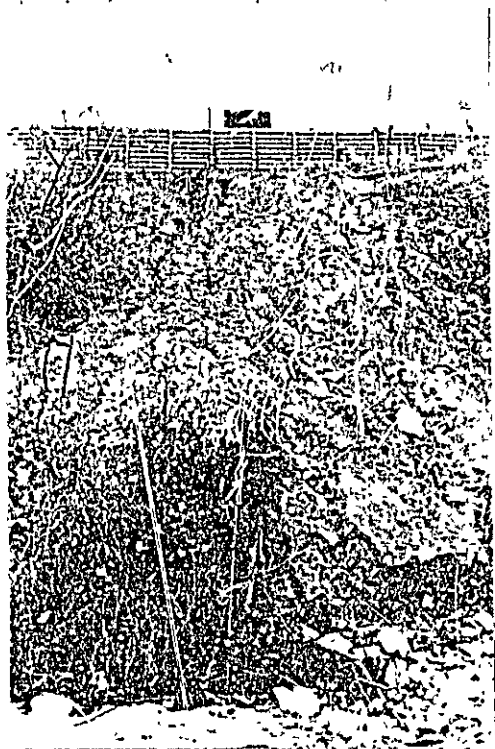
CONDITIONS APPROVED #1 SCREENING AT PARKING LOT BE WITHIN 3 FT. OF THE PERMITS OF ACTUAL PARKING AREAS ON THE ADJACENT SIDES. PLANTINGS TO A HEIGHT OF NOT MORE THAN 4 FT HIGH. #2 SCREENING AT REAR PROPERTY LINE OF HOWARD ISLAND AND REAR PROPERTY LINE FROM LUTHER ST. TO A POINT IN THE REAR SIDE OF THE ISLAND, AND PLANTING WHOSE HEIGHT MATTER TO A HEIGHT OF 4 FT OR MORE.  
 #3 PARKING SITE CONDITIONS. A LICENSED ENGINEERING FIRM BE SUBMITTED BY THE APPLICANT TO THE HONORARY INSPECTOR OF THE PERMITS WITH RECOMMENDATIONS TO THE PLAN REVIEW. THAT ENGINEERING REPORT INCLUDES DRAINAGE & EROSION PLANS WHICH WILL PROTECT BANKING IN REAR AND ALL ADJACENT PROPERTIES, AND RECOMMENDATIONS WHICH RELATE TO THE APPLICANT TO CARRY OUT.

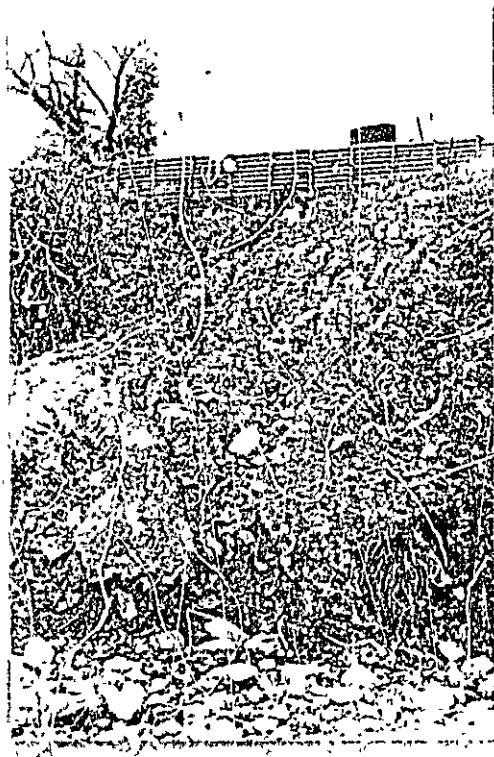
Telephone company slide  
and retaining wall built  
after slide. Note erosion  
(especially gully which is  
beginning to undermine  
the new wall) which has  
taken place since the  
wall was built in the  
summer of 1984.

Peaks Island - 1984.

Elmer Clark



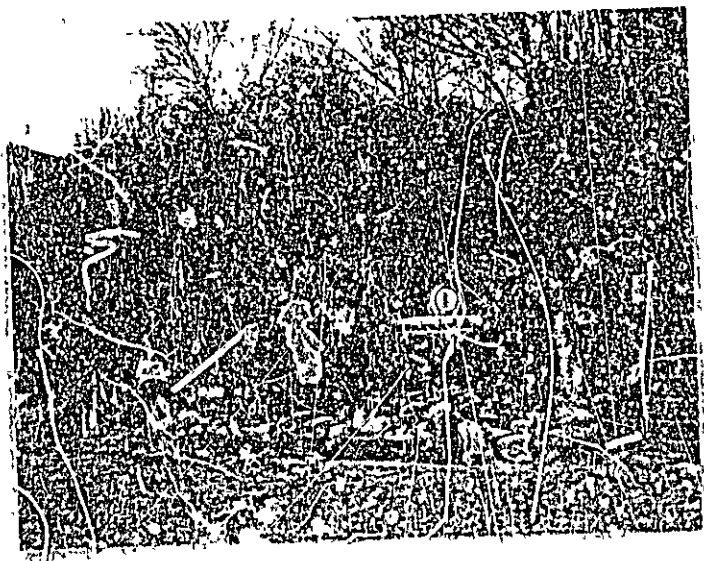




phone company  
slide  
and wall.

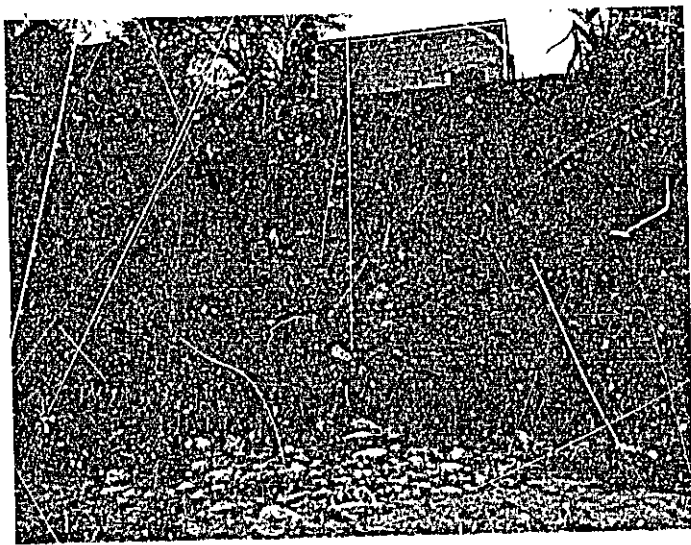
Peaks island, 1984

Finer Clark



Ruth Sargent's property.  
Terracing built to  
retain earth. The  
Avenue House property  
is on the left.

Elinor Clark



Phone company slide  
and wall

My house is on the left  
(Moonshel Dam)

Plover Island, 1984

Elinor Clark

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THOMAS J. MURPHY  
PALLETTE P. PARKER  
MICHAEL E. WESTORI

Assessor's #87-Z-19, 20 &  
Assessor's #87-00-21, 22  
Island Avenue, Peaks Island

September 24, 1984

cc: George W. Clark, Jr.  
Welch Street  
Peaks Island, ME 04108

Robert McTigue  
Brackett Avenue  
Peaks Island, ME 04108

Michael D. Lang, Esq.  
P.O. Box 190  
Freeport, ME 04032

Thomas & Helen Young  
Island Avenue  
Peaks Island, ME 04108

Dear Mr. and Mrs. Young:

Building permit and certificate of occupancy to change the use of the lodging house at the above-named location to eight (8) dwelling units are not issuable under the Zoning Ordinance because the area of the lot on which this building is located is only about 13,197 sq. ft. rather than the 52,000 sq. ft. minimum (6,500 sq. ft. per unit) required by Section 14-90.2 of the Ordinance applying to the B-2 Business Zone in which this property is located (R-3 Residential Zone requirements).

Permit to install the in-ground swimming pool is not issuable under the Zoning Ordinance because this pool would be located between the building and the street line, contrary to Section 14-432.3.a.

We understand that you would like to exercise your appeal rights in this matter. Accordingly, you or your authorized representative should come to this office, Room 315, City Hall, to file the appeal on forms which are available here.

A fee of \$50 for a Space & Bulk Appeal shall be paid at this office at the time the appeal is filed. If fee has been paid and appeal filed prior to this letter, then consider this letter as a matter of formality. Section 14-473

Sincerely,

  
Malcolm G. Ward  
Zoning Enforcement Officer

MGW/kat



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**ELIZABETH**

32	9
31	4264
30	4202
29	6050
28	5594
27	5545
26	5603
25	5244
24	5697
23	5596
22	5870
21	20

**LUTHER**

34	7000
33	5000
32	4302
31	4314
30	2500
29	4431
28	4347
27	4378
26	4400
25	3570
24	3626

**STERLING**

4	10100
5	10100
6	1716
7	4365
8	4404
9	4050
10	3210
11	6475
12	4737
13	5103
14	6100
15	3150
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18	3555

**CENTRAL**

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Island Avenue  
Peaks Island, Maine

October 30, 1984

Mr. Eugene Martin  
Portland Zoning Board  
Portland City Hall  
389 Congress Street  
Portland Maine 04101

Dear Mr. Martin:

I have just today learned that the Zoning Board will be meeting on Thursday of this week to consider an application for a variance on a property on Peaks Island. Unfortunately I cannot be there to present my views to the Board personally. The land in question is the so-called "Avenue House" on Island Avenue. I believe it is proposed to convert this building into a seven to nine unit condominium development which will include a swimming pool in the rear of the property as well as provision for parking on the ocean side of the street.

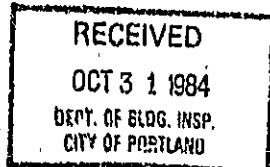
This type of development is not needed for that area and although I am not currently familiar with all the recently discussed zoning restrictions planned for the Island, it would seem that this may be in direct conflict with many of those proposals. I strongly urge you, as a member of the Board, not to grant such variances as requested.

Thank you for your consideration.

Respectfully submitted,

*Robert W. Wilhoite*

Robert W. Wilhoite



CITY OF PORTLAND, MAINE  
MEMORANDUM

TO: Chairman, Board of Appeals  
FROM: Warren J. Turner, Zoning Specialist  
SUBJECT: Avenue House Variances

DATE: 10/31/84

As you know, space and bulk appeals require notice to only the abutters of the property involved as subject of the variance.

Ms. Ruth Sargent called to express the following concerns as an abutter to the parking lot for Avenue House, which is located on the shoreland side of Island Avenue:

- 1) One of the abutting properties has recently been sold by Howard Heller to a new owner; another of the abutting properties was owned by Helen Pease, who died last week;
- 2) Ms. Sargent is concerned about the possibility of erosion from tidal action on the water side of the land included with Avenue House for a parking lot;
- 3) Sanitary Waste Disposal: If there are eight (8) units, Ms. Sargent is concerned about the additional burden to be created on the public sewer, which goes directly untreated into Casco Bay;
- 4) Ms. Sargent is concerned about the close proximity of her house to the parking lot and the resulting obnoxious fumes from the exhaust from eight (8) vehicles which would be wafted into her bedroom windows;
- 5) Ms. Sargent is also requesting that due to attendance by Island residents who may wish to take a 5:30 P.M. boat that consideration be given to taking the Avenue House out of order on the agenda. The Island residents may have come to City Hall last time only to be told that this item was postponed at the request of the applicant who could not be present.

**FILE COPY**

**DATE**

This \_\_\_\_\_ day of July 19 84

**1. PARTIES**  
(fill in)

Thomas Young  
hereinafter called the SELLER, agrees to SELL and  
George W. Clark, Jr. ~~\_\_\_\_\_~~

hereinafter called the BUYER or PURCHASER, agrees to BUY, upon the terms hereinafter set forth, the following described premises:

**2. DESCRIPTION**

(fill in and include title reference)

Two parcels of land located on the opposite sides of Island Ave. Peaks Island, Maine, with the building thereon known as The Avenue House said property being more particularly described in a certain deed recorded at book \_\_\_\_\_ page \_\_\_\_\_ in the Cumberland County Registry of Deeds.

As described on assessors map - 87-2-20  
87-00-21  
87-00-22

**3. BUILDINGS, STRUCTURES, IMPROVEMENTS, FIXTURES**

(fill in or delete)

Included in the sale as a part of said premises are the buildings, structures, and improvements now thereon, and the fixtures belonging to the SELLER and used in connection therewith including, if any, all venetian blinds, window shades, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges and gas burners and fixtures appurtenant thereto, hot water heaters, plumbing and bathroom fixtures, electric and other lighting fixtures, mantels, outside television antennas, fences, gates, trees, shrubs, plants, and, if built in, air conditioning equipment, ventilators, garbage disposers, dishwashers, washing machines and ~~\_\_\_\_\_~~, and but excluding \_\_\_\_\_

**4. TITLE DEED**  
(fill in)

\* Include here by specific reference any restrictions, easements, rights and obligations in party walls not included in (b), leases, municipal and other liens, other encumbrances, and make provision to protect SELLER against BUYER'S breach of SELLER'S covenants in leases, where necessary.

Said premises are to be conveyed by a good and sufficient warranty deed running to the BUYER, or to the nominee designated by the BUYER by written notice to the SELLER at least seven days before the deed is to be delivered as herein provided, and said deed shall convey a good and clear record and marketable title thereto, free from encumbrances, except  
(a) Provisions of existing building and zoning laws;  
(b) existing rights and obligations in party walls which are not the subject of written agreement;  
(c) Such taxes for the then current year as are not due and payable on the date of the delivery of such deed;  
(d) Any liens for municipal betterments assessed after the date of this agreement;  
\* (c)

**5. PLANS**

If said deed refers to a plan necessary to be recorded therewith the SELLER shall deliver such plan with the deed in form adequate for recording or registration.

**6. REGISTERED TITLE**

In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the BUYER to a Certificate of Title of said premises, and the SELLER shall deliver with said deed all instruments, if any, necessary to enable the BUYER to obtain such Certificate of Title

**7. PURCHASE PRICE**  
(fill in); space is allowed to write out the amounts if desired

(provide for payment by certified or Bank's Check acceptable to the SELLER, if required)

The agreed purchase price for said premises is ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ Thousand dollars of which

\$ 500.00  
\$ 4,000.00  
\$ ~~\_\_\_\_\_~~  
\$ \_\_\_\_\_

have been paid as a deposit this day and are to be paid as additional deposit at end of inspection period. ~~\_\_\_\_\_~~ are to be paid at the time of delivery of the deed in cash.

~~\_\_\_\_\_~~ TOTAL

**8. TIME FOR PERFORMANCE; DELIVERY OF DEED (fill in)**

Such deed is to be delivered at \_\_\_\_\_ o'clock \_\_\_\_\_ M. on the \_\_\_\_\_ day of \_\_\_\_\_ 1984, at the \_\_\_\_\_ Cumberland County Registry of Deeds, unless otherwise agreed upon in writing. It is agreed that time is of the essence of this agreement.

**9. POSSESSION and CONDITION OF PREMISES.**  
(attach list of exceptions, if any)

Full possession of said premises free of all tenants and occupants, except as herein provided, is to be delivered at the time of the delivery of the deed, said premises to be then (a) in the same condition as they now are, reasonable use and wear thereof excepted, and (b) not in violation of said building and zoning laws, and (c) in compliance with the provisions of any instrument referred to in clause 4 hereof.

10. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM

(Change period of time if desired.)

If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the deed the premises do not conform with the provisions hereof, then any payments made under this agreement shall be refunded and all other obligations of the parties hereto shall cease and this agreement shall be void and without recourse to the parties hereto, unless the SELLER elects to use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the SELLER shall give written notice thereof to the BUYER it or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of thirty days.

11. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM, etc.

If at the expiration of the extended time the SELLER shall have failed so to remove any defects in title, deliver possession, or make the premises conform, as the case may be, all as herein agreed, or if at any time during the period of this agreement or any extension thereof, the holder of a mortgage on said premises shall refuse to permit the insurance proceeds, if any, to be used for such purposes, then, at the BUYER'S option, any payments made under this agreement shall be forthwith refunded and all other obligations of all parties hereto shall cease and this agreement shall be void without recourse to the parties hereto.

12. BUYER'S ELECTION TO ACCEPT TITLE

The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises, in their then condition and to pay therefor the purchase price without deduction, in which case the SELLER shall convey such title, except that in the event of such conveyance in accord with the provisions of this clause, if the said premises shall have been damaged by fire or casualty insured against then the SELLER shall, unless the SELLER has previously restored the premises to their former condition, either

- (a) pay over or assign to the BUYER, on delivery of the deed, all amounts recovered or recoverable on account of such insurance, less any amounts reasonably expended by the SELLER for any partial restoration, or
- (b) if a holder of a mortgage on said premises shall not permit the insurance proceeds or a part thereof to be used to restore the said premises to their former condition or to be so paid over or assigned, give to the BUYER a credit against the purchase price, on delivery of the deed, equal to said amounts so recovered or recoverable and retained by the holder of the said mortgage less any amounts reasonably expended by the SELLER for any partial restoration.

13. ACCEPTANCE OF DEED

The acceptance of a deed by the BUYER or his nominee as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof to be performed after the delivery of said deed.

14. USE OF PURCHASE MONEY TO CLEAR TITLE

To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed.

15. INSURANCE

\* Insert amount (list additional types of insurance and amounts as agreed)

~~Until the delivery of the deed, the SELLER shall maintain insurance on said premises as follows:~~

Type of Insurance	Amount of Coverage
(a) Fire	\$
(b) Extended coverage	*
(c)	*

16. ASSIGNMENT OF INSURANCE

(delete entire clause if insurance is not to be assigned)

~~Unless otherwise notified in writing by the BUYER at least ten days before the time for delivery of the deed, and unless prevented from doing so by the refusal of the insurance company(s) involved to issue the same, the SELLER shall assign such insurance and deliver binders therefor in proper form to the BUYER at the time for performance of this agreement. In the event of refusal by the insurance company(s) to issue the same, the SELLER shall give notice thereof to the BUYER at least two business days before the time for performance of this agreement.~~

17. ADJUSTMENTS

(list operating expenses, if any, or attach schedule)

Collected rents, mortgage interest, prepaid premiums on insurance if assigned as herein provided, water and sewer use charges, operating expenses (if any) according to the schedule attached hereto or set forth below, and taxes for the then current year, shall be apportioned and fuel value shall be adjusted, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed. Uncollected rents for the current rental period shall be apportioned if and when collected by either party.

18. ADJUSTMENT OF UNASSESSED AND ABATED TAXES

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

19. BROKER'S FEE

(fill in fee with dollar amount or percentage; also name of broker(s))

A broker's fee for professional services of 7% is due from the SELLER to Akers & Akers the Broker(s) herein, but if the SELLER pursuant to the terms of clause 22 hereof retains the deposits made hereunder by the BUYER, said Broker(s) shall be entitled to receive from the SELLER an amount equal to one-half the amount so retained or an amount equal to the broker's fee for professional services according to this contract, whichever is the lesser.

The Broker(s) named herein warrant(s) that they (they) are duly licensed as such by the State of Maine.

WITNESSETH  
THE SELLER

State of Maine

21. DEPOSIT  
(fill in, or delete reference to broker(s) if SELLER holds deposit)

All deposits made hereunder shall be held by the broker(s) Akers Assco., Portland, ME as agent for the SELLER, subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement

22. BUYER'S DEFAULT; DAMAGES

If the BUYER shall fail to fulfill the BUYER'S agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages to be paid to the SELLER and the BUYER shall have no other recourse to the Buyers.

23. VETERANS FINANCING  
(fill in blank spaces or delete entire clause)

The finan shall insti at a Vali of a Plor BU

LAGOULIS & CLARK, P.C.

No. July 28 1984 11/11

PAY TO THE ORDER OF AKERS + AKERS

Four thousand and 00/100 \$ 4000 DOLLARS

**Arlington Trust**  
NEWBURYPORT MASSACHUSETTS company

FOR Balance of deposit for House

⑆011301170⑆ ⑆08 3442 4⑆

*[Signature]*

24. F.H.A. FINANCING  
(fill in blank spaces or delete CLAUSES 24 & 25)

LAGOULIS & CLARK, P.C.

No. July 4 1984 11/11

PAY TO THE ORDER OF AKERS Associates

Five hundred and 00/100 \$ 500 DOLLARS

**Arlington Trust**  
NEWBURYPORT MASSACHUSETTS company

FOR Deposit on Purchase House

⑆011301170⑆ ⑆08 3442 4⑆

*[Signature]*

25. F.H.A. APPRAISAL STATEMENT  
(fill in amount or delete Clauses 25 & 24)  
(the wording of this clause is required verbatim by F.H.A. Rules & Regulations)

26. SALE OF PERSONAL PROPERTY  
(fill in and attach list or delete entire clause)

with respect to the real estate, and any breach of the terms and conditions of the provisions of this agreement with respect to the real estate.

27. RELEASE BY HUSBAND OR WIFE

The SELLER'S spouse hereby agrees to join in said deed and to release and convey all statutory and other rights and interest in said premises.

28. BROKER AS PARTY

The broker(s) named herein, join(s) in this agreement and become(s) a party hereto, in so far as any provisions of this agreement expressly apply to(s) (them), and to any amendments or modifications of such provisions to which(s) (they) agree(s) in writing.

29. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, etc.

If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER, as executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

30. CONSTRUCTION OF AGREEMENT  
\* delete "triplicate" and substitute "quadruplicate" if required. (See "Instructions in General", 1.)

This instrument, executed in ~~Massachusetts~~ <sup>Maine</sup> is to be construed as a ~~Massachusetts~~ <sup>Maine</sup> contract, is to take effect as a sealed instrument, set forth the entire contract between the parties, is binding upon and enures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns, and may be cancelled, modified or amended only by a written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

31. ADDITIONAL PROVISIONS

see schedule "A"

*[Signature]* 7/21/84  
Husband or Wife of Seller

*[Signature]*  
SELLER

*[Signature]*  
Husband or Wife of Buyer

*[Signature]*  
BUYER

*[Signature]*  
Broker

**SCHEDULE "A":** The buyers shall have a period of fifteen (15) days from the execution hereof to conduct an inspection of the said premises and may at any time prior to the end of said fifteen (15) day period notify the seller of their intention to terminate this agreement and any payments made hereunder shall be forthwith refunded and this agreement shall be void without recourse to the parties hereto.

Also, buyers' obligation to purchase is contingent upon buyers' ability to obtain a zoning variance if one is required from the City of Portland to convert said property into at least seven (7) individual condominium units. *Said variance to be obtained within Ninety (90) days unless an extension to this contract is agreed upon by all parties involved.*

*Buyer to have 60 days for approval of variance J24*

### Extension

The time for the performance of the foregoing agreement is extended until \_\_\_\_\_ Date.....  
 on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_ o'clock \_\_\_\_\_ M.  
 as extended \_\_\_\_\_, time still being of the essence of this agreement

This extension, executed in triplicate, \_\_\_\_\_ is intended to take effect as a sealed instrument.

\_\_\_\_\_  
 Husband or Wife of Seller SELLER  
 \_\_\_\_\_  
 Husband or Wife of Buyer BUYER  
 \_\_\_\_\_  
 Broker

#### INSTRUCTIONS IN GENERAL

*(These instructions are suggestions only, consult your ATTORNEY for particulars and details)*

1. Prepare agreement in quadruplicate if BUYER intends to apply for VA guaranteed or FHA insured loan; otherwise in triplicate.
2. Any lists or schedules to be attached should be properly incorporated by reference and initialed by all parties concerned.
3. This agreement, in its printed form, may not be suitable for use by trustees or other fiduciaries unless amended.
4. Each party should bring his agreement with him when passing title.

#### INSTRUCTIONS TO SELLER

After this agreement has been executed by all parties, arrange at once for drawing the deed and assigning insurance and obtaining binders if insurance is to be transferred.

1. Bring at the appointed time to the place designated for completing the transaction:
2. The deed signed by you and your spouse properly acknowledged before a Notary, and if registered land, the owner's certificate of title
3. A list of tenants and lessees, with a statement of amount of rents and the dates to which the rents are paid
4. All leases on the premises and tenancy at will agreements, also all permits you have for the use of the premises
5. If Buyer has agreed to purchase insurance, all insurance policies (some or all of the policies may be in the custody of the holder of the mortgage on said premises, and if so obtain certificates of such policies from your insurance agent in advance); receipted insurance bills or a statement from the insurance agent that premiums on such policies from your insurance agent in advance; receipted insurance bills from your insurance agent in favor of the BUYER.
6. Water bills for the period of one year next preceding the time of performance.
7. Receipt for your last payment of interest on the mortgage, the mortgage pass book and, if any reduction has been made in the principal of the mortgage, bring a statement from the holder thereof showing how much is due
8. If an existing mortgage on said premises is to be discharged, be sure to have the mortgage note available for cancellation in addition to the discharge.
9. Guarantees for roof, sidewalls, plumbing, heating, or other fixtures.
10. Documentary stamps.

#### INSTRUCTIONS TO BUYER

If you are giving a mortgage, your spouse must join in signing it and so should be present at time of drawing title.

1. Bring at the appointed time to the place designated for completing the transaction:
2. A certified or Bank's Check (if acceptable to the SELLER) drawn payable to your order and one hundred dollars in cash, the total amount to equal the amount of payment to be made at time of passing title.
3. Sufficient additional cash to pay for apportionment of rents, taxes, water rates, insurance premium, and other adjustments, attorney's bill, plot plans, and recording fee.

It is customary for the BUYER to pay for drawing any mortgage given by him and fees for recording his deed and purchase money mortgage. He also pays for examination of title and for Tax Collector's report showing whether there are any municipal liens or unpaid taxes.

# PURCHASE and SALE AGREEMENT

\_\_\_\_\_  
 SELLER  
 \_\_\_\_\_  
 BUYER  
 \_\_\_\_\_  
 Property Address:  
 \_\_\_\_\_  
 Date of Agreement  
 \_\_\_\_\_  
 Date for Delivery of Deed  
 \_\_\_\_\_

FROM THE OFFICE OF

November 1, 1984

Zoning Board of Appeals  
Portland, Maine

Dear Board Member,

My residence and my business (Moonshell Inn) are located about 100 feet from the Avenue House on Peaks Island, kitty corner across Island Avenue and one house away from the proposed parking lot. Two things about this project are of particular concern to me because it will be so close by: (1) the parking lot on the water side of the street and (2) the swimming pool.

As far as the parking lot is concerned, it's my impression that the Avenue House project, which will be within 250' of the high water mark, falls within state shoreland zoning restrictions which deal with both aesthetics and erosion. There have been a number of landslides or banking collapses along this stretch of the front shore in 1984, one right next door to me on Telephone Company property. The phone company slide happened because heavy equipment was being used close to the edge to correct a previously existing banking problem. Another slide about 1/5 mile north occurred after a down-pour because of heavy water runoff from the street. I can speak only for myself but I believe that all of us in this area of the island are very concerned with this sometimes dramatic erosion because our houses--in my case, my business--are threatened. The banking is high (30-60' in places), steep, and already severely eroded in spots from natural causes alone. As a consequence, I am concerned with both the construction phase of this project and its ongoing use, with the continuous movement of cars in and out. Moreover, a parking lot would mar the view of Portland Harbor from that stretch of Island Avenue, especially were it to be filled with so-called "island cars," which are not required to meet state inspection standards. They are serviceable but they are definitely not "aesthetic."

I would like to ask the prospective owners to request an additional variance which would eliminate the parking lot requirement for this project. Many of us who live in the town section of Peaks Island don't keep vehicles there. It's a small island, after all. From the Avenue House to the ferry landing is a five minute walk. It's two minutes to the grocery store and there are both a taxi and a freight-carrying service which are available when needed.

My other concern is with the swimming pool. As it is, our neighborhood is remarkably quiet, especially considering it's in the built up section of the island. I'm afraid a pool such as this one--to be located so close to the island's main street--will attract young people with radios at all hours of the day and night. It clearly will not be sufficiently private for either the bathers themselves or those of us who live nearby. There are many children in the neighborhood, too, perhaps beginning swimmers at heart, who would not be turned away by a four foot fence, who might, in fact, consider it a challenge and who could be hurt as a consequence.

I think the Avenue House deserves to be saved and I congratulate the prospective owners for wanting to do it. As it stands, however, this particular project needs reconsideration given the concerns there are now about rezoning with an eye to retaining the island's distinct character. Increasing population density is already taxing city services: garbage disposal, road maintenance, sewage and the like. Islanders who filled out a recent questionnaire regarding the city's rezoning study overwhelmingly support retaining the rural and natural character of the island.

Thank you for your attention.

Elinor Clark  
Island Ave.  
Peaks Island,



CITY OF PORTLAND, MAINE  
MEMORANDUM

TO: Chairman, Board of Appeals  
FROM: Warren J. Turner, Zoning Specialist  
SUBJECT: Avenue House Variances

DATE: 10/31/84

As you know, space and bulk appeals require notice to only the abutters of the property involved as subject of the variance.

Ms. Ruth Sargent called to express the following concerns as an abutter to the parking lot for Avenue House, which is located on the shoreland side of Island Avenue:

- 1) One of the abutting properties has recently been sold by Howard Heiler to a new owner; another of the abutting properties was owned by Helen Pease, who died last week;
- 2) Ms. Sargent is concerned about the possibility of erosion from tidal action on the water side of the land included with Avenue House for a parking lot;
- 3) Sanitary Waste Disposal: If there are eight (8) units, Ms. Sargent is concerned about the additional burden to be created on the public sewer, which goes directly untreated into Casco Bay;
- 4) Ms. Sargent is concerned about the close proximity of her house to the parking lot and the resulting obnoxious fumes from the exhaust from eight (8) vehicles which would be wafted into her bedroom windows;
- 5) Ms. Sargent is also requesting that due to attendance by Island residents who may wish to take a 5:30 P.M. boat that consideration be given to taking the Avenue House out of order on the agenda. The Island residents may have come to City Hall last time only to be told that this item was postponed at the request of the applicant who could not be present.

CITY OF PORTLAND, MAINE  
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Ruth Sargent  
Island Avenue  
Peaks Island  
Maine 04108

October 25, 1984

Mr. Eugene Martin  
% Board of Appeals  
Zoning Dept.  
City Hall  
Portland, Me 04111

Dear Mr. Martin:

RE: PROPOSED CONDOMINIUM CONVERSION OF THE AVENUE HOUSE, PEAKS ISLAND, ME

First, I wish to state that I am wholly in favor of a planned future for this site which is now in deplorable condition.

Mr. Clarke's proposal would be a great benefit to this prominent location and would enhance the area. However---I am totally opposed to the suggestion of a parking lot next to my home.

I have only ten (10) feet between my house and this lot and three of my bedrooms are on that side. People who keep cars there would be using them from 6 a.m. until past midnight or even later. This would create a serious disturbance for my family.

This particular lot has always been an "open space" of great beauty since the white man first settled on this island. People stop to watch the boats and ships in the harbor; there is always an appreciative viewer of the spectacular sunsets seen from that point; groups gather to watch the fireworks on the East End beach in Portland each Fourth of July; the Scotia Prince is viewed there as it enters and departs from the harbor.

Such scenic places are so few and far between nowadays, that this particular one should be protected. Although plans state only seven spaces for cars--this could expand in the future.

My other concern is the fragility of the soil there. No testing has been done and in the past a great deal of erosion has transpired. When I bought my home 29 years ago, there was a great deal more land on the waterside of that lot, with stairs, a small landing and large trees. During the years this has all crumbled away, leaving my lot exposed some 25 ft. and the home owner on the other side of the lot had to have extensive repair work done on his exposed side.

My sons have nearly completed a new metal retaining wall on our property at great expense and days of heavy, hard work. But if the side is exposed further, this will all be in vain. I have only 10 ft. in back of my house and then it drops 60 ft to the beach. So I cannot endanger this precious site.

Please consider revising the plans so that a parking lot next to me will be omitted. Thank you for your consideration in this pertinent matter.

Encl: Island Living . . . . . unforgettable!

Most sincerely,  
*Ruth Sargent*  
Ruth Sargent

R. Sargent  
Peaks Island

PORTLAND

60' to Beach

Beach

60' to Beach

wall

wall

Back Yard  
10 ft.

60' DWP  
to Beach

erosion - no wall

wall

MY  
HOUSE

Neighbor's  
House

10 ft.  
side

Ave House  
Lot.

front

ISLAND AVE

AVE HOUSE

Island Avenue  
Peaks Island, Maine

October 30, 1984

Mr. Eugene Martin  
Portland Zoning Board  
Portland City Hall  
389 Congress Street  
Portland, Maine 04101

Dear Mr. Martin:

I have just today learned that the Zoning Board will be meeting on Thursday of this week to consider an application for a variance on a property on Peaks Island. Unfortunately I cannot be there to present my views to the Board personally. The land in question is the so-called "Avenue House" on Island Avenue. I believe it is proposed to convert this building into a seven to nine unit condominium development which will include a swimming pool in the rear of the property as well as provision for parking on the ocean side of the street.

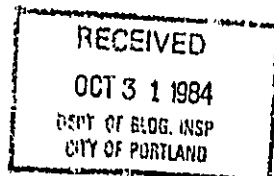
This type of development is not needed for that area and although I am not currently familiar with all the recently discussed zoning restrictions planned for the Island, it would seem that this may be in direct conflict with many of those proposals. I strongly urge you, as a member of this Board, not to grant such variances as requested.

Thank you for your consideration.

Respectfully submitted,

*Robert W. Wilhoite*

Robert W. Wilhoite



Applicant: THOMAS & HELEN YOUNG

Date: 9/24/84

Address: ISLANDS BAY RD.

Assessors No.: 87-2-19,20

87-00-21,22

CHECK-LIST AGAINST ZONING ORDINANCE

Date -

Zone Location - B-2 R-3 REQ.

Interior or corner lot -

Use - LOGGING HOUSE TO 8 DWELLING UNITS

Sewage Disposal -

Rear Yards -

Side Yards -

Front Yards -

Projections -

Height -

Lot Area - 13,197 sq ft - 5200 sq ft MIN. 25,995 sq ft

Building Area -

Area per Family -

Width of Lot -

Lot Frontage -

Off-street Parking -

Loading Bays -

Site Plan -

Shoreland Zoning -

Flood Plains -

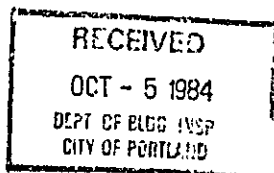
	2 -	00 -
	5000 sq ft	6618 sq ft
	7995 sq ft	6180 sq ft
	<u>13197 sq ft</u>	<u>12798 sq ft</u>
		13197

14-90.0

14-432.3.A.

10-4-84

Zoning Board of Appeals  
City of Portland, Maine



Dear Merrill Seltzer,

Received your letter of notice re-  
variance appeal of Thomas and Helen Young,  
as abutting property owners we  
have no objections to proposed change  
of use of lodging house at # 87-2-19, 20 and  
# 87-00-21, 22 Island Avenue, Peaks Island.  
also no objections of proposed inground  
swimming pool.

In fact, we are delighted that  
more housing will be available  
for those who seek decent housing.

Such proposed changes will  
be an asset to the island.

Sincerely,

Maryone K. Erico

Richard P. Erico

Sorry I am unable to attend - hope  
this letter will suffice, ME

LANG, WEEKS & HUSTON  
ATTORNEYS AT LAW

Michael D. Lang  
Marsha A. Weeks  
J. Michael Huston

Telephone  
(207) 865-3145

September 20, 1984

City of Portland  
Zoning Board of Appeals  
City Hall  
Portland, ME 04101

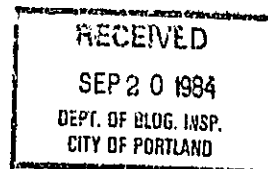
Re: George and Robin Clark  
Property on Island Avenue  
Peaks Island

Dear Friends:

On behalf of my clients, Robin and George Clark, I am submitting an application for two (2) space and bulk variances under the provisions of the Portland Zoning Ordinance.

The subject property consists of two parcels, each of approximately 13,000 square feet located on opposite sides of Island Avenue. On the easterly parcel is located Avenue House, a large frame structure, used variously since the early part of this century as a boarding house, hotel, art gallery and most recently as a rooming house. The westerly parcel is vacant, and lies along the shoreline.

Mr. and Mrs. Clark propose to renovate and restore the structure, converting the 8000 square feet of interior space into eight condominium apartment units. The original structure will not be enlarged or expanded; except for the addition of one or more exterior stairways and connecting walkways. In addition to the renovation of the building, the Clarks intend to construct an in-ground swimming pool together with a surrounding patio to be situated between the building and Luther Street. Eight parking spaces will be developed on the westerly parcel. Other than the creation of the parking spaces, and walking to the shore, the parcel on the westerly side of Island Avenue will remain undeveloped.



99 Cushing Avenue • P.O. Box 190 • Freeport, Maine 04032



City of Portland  
Zoning Board or Appeals  
September 20, 1984  
Page Two

The subject parcels are located in the B-2 Zone, which because of the zoning of adjacent parcels requires any use to comply with the space and bulk requirements of the R-3 Zone. Section 14-88(8) of the Ordinance requires a minimum of 6500 square feet of land area for each dwelling unit. Without a variance, only two dwelling units could be developed in the structure. Given the size of the building - 8000 square feet of interior living space (excluding attic and basement) - such a use would be impractical and uneconomical. Accordingly, the Clarks seek a variance to permit the development of eight condominium apartment units.

The Clarks also seek a variance from the provisions of Section 14-432(3)(a) of the Ordinance in order to permit the construction of the swimming pool between the existing building and the side street, Luther Street.

With regard to the provisions of Section 14-473 (c)(2)(a) of the Ordinance, the applicant states the following:

(a) The parcels, and the existing structure, are unique in this area of Peaks Island in that no other structure of similar size and bulk exists, and it is in fact the size of the building which dictates a more intensive use than that allowed under the Ordinance. The subject building contains a volume several times greater than the neighboring houses and cottages, and because of this bulk any owner must consider a use which is more intensive than the single family uses which dominate the surrounding area.

(b) The building was constructed in the late 19th or early 20th centuries, and has not in recent years been enlarged - at least since the adoption of the Ordinance. The space and bulk requirements of the Ordinance have otherwise limited the use of the building.

(c) As noted above, few other properties on Peaks Island, and certainly none in the immediate vicinity are of the size and bulk of the Avenue House. The other buildings in the neighboring area, mostly cottages and single-family residences, were constructed for limited use and occupy lots of about 4000 - 7000 square feet. However, the subject property, while constructed on a double lot, was developed for more intensive use - a boarding house, hotel or inn.

City of Portland  
Zoning Board of Appeals  
September 20, 1984  
Page Three

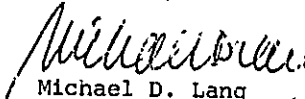
No other property in the vicinity is therefore affected by the Ordinance requirements as is the Avenue House.

(d) The variances, if granted, would not give the applicant a special privilege not otherwise available to other lots in the same zone for the reasons outlined above.

(e) Avenue House has been operated over the years as a facility intended for large numbers of people. Whether as an art gallery, rooming house, hotel or inn, the property has generated considerable traffic throughout its history. The proposed use will be no more intensive than prior uses - and possibly less intensive; the building will not be enlarged; the parking area will be limited in size and landscaped with landscaping. The impact on the neighborhood resulting from the conversion of the Avenue House will be positive and complimentary.

Thank you for your careful consideration of this request.

Very truly,

  
Michael D. Lang

MDL/tec

cc: George and Robin Clark

FINANCIAL ANALYSIS STATEMENT

	Yearly Expenses Before Conversion*	Yearly Expen. After Conversi
Yearly mortgage or loan debt service (exclude equity)		
Amount of Mortgage <u>240,000</u>		
Dates of Term <u>during construction</u>		
Interest Rate <u>14%</u>		
Total Cost of Conversion <u>390,000</u>		
Real Estate Taxes	<u>15,000 approx</u>	<u>2150</u>
Insurance (exclude personal property)		<u>N/A</u>
Water and Sewer (only renter(s) costs)		<u>N/A</u>
Heat (only if you pay tenant(s) heat costs)		<u>N/A</u>
Electricity (only if you pay tenant(s) electricity costs).		<u>N/A</u>
Legal		<u>N/A</u>
Audit		<u>N/A</u>
Tras. removal		<u>N/A</u>
Maintenance		<u>N/A</u>
Repairs		<u>N/A</u>
Snow Removal		<u>N/A</u>
Lawn Care		<u>N/A</u>
Supplies		<u>N/A</u>
Payroll		<u>N/A</u>
Reserve for replacement		<u>N/A</u>
Reserve for vacancy		<u>N/A</u>
Advertising		<u>N/A</u>
Management and bookkeeping		<u>N/A</u>
TOTAL YEARLY COST		<u>N/A</u>
TOTAL RENTAL INCOME		
No. of Apartments _____		
Rents Apartment 1 _____		
Apartment 2 _____		
Apartment 3 _____		

\*All figures must include only the costs or percentage of costs attributable to the rental units and not the personal living costs of the owner's unit. If this is a 2-family house, only 50% of cost is eligible if the owner occupies one unit.

LANG, WEEKS & HUSTON  
ATTORNEYS AT LAW

COPY

Michael D. Lang  
Martha A. Weeks  
J. Michael Huston

Telephone  
(207) 865-3145

September 20, 1984

City of Portland  
Zoning Board of Appeals  
City Hall  
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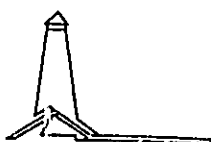
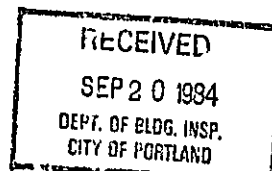
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With regard to the provisions of Section 14-473 (c)(2)(a) of the Ordinance, the applicants state the following:

(a) The parcels, and the existing structure, are unique in this area of Peaks Island in that no other structure of similar size and bulk exists, and it is in fact the size of the building which dictates a more intensive use than that allowed under the Ordinance. The subject building contains a volume several times greater than the neighboring houses and cottages, and because of this bulk any owner must consider a use which is more intensive than the single family uses which dominate the surrounding area.

(b) The building was constructed in the late 19th or early 20th centuries, and has not in recent years been enlarged - at least since the adoption of the Ordinance. The space and bulk requirements of the Ordinance have otherwise limited the use of the building.

(c) As noted above, few other properties on Peaks Island, and certainly none in the immediate vicinity are of the size and bulk of the Avenue House. The other buildings in the neighboring area, mostly cottages and single-family residences, were constructed for limited use and occupy lots of about 4000 - 7000 square feet. However, the subject property, while constructed on a double lot, was developed for a more intensive use - a boarding house, hotel or inn.

City of Portland  
Zoning Board of Appeals  
September 20, 1984  
Page Three

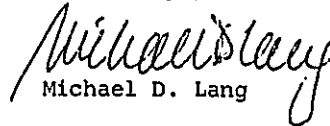
No other property in the vicinity is therefore affected by the Ordinance requirements as is the Avenue House.

(d) The variances, if granted, would not give the applicant a special privilege not otherwise available to other lots in the same zone for the reasons outlined above.

(e) Avenue House has been operated over the years as a facility intended for large numbers of people. Whether as an art gallery, rooming house, hotel or inn, the property has generated considerable traffic throughout its history. The proposed use will be no more intensive than prior uses - and possibly less intensive; the building will not be enlarged; the parking area will be limited in size and well-screened with landscaping. The impact on the neighborhood resulting from the conversion of the Avenue House will be positive and complimentary.

Thank you for your careful consideration of this request.

Very truly yours,

  
Michael D. Lang

MDL/tec

cc: George and Robin Clark

**CITY OF PORTLAND, MAINE**

ZONING BOARD OF APPEALS



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Chairman

MERRILL S. SELTZER  
Secretary

JACQUELINE COHEN  
TIMOTHY E. FLAHERTY  
THOMAS J. MURPHY  
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MICHAEL E. WESTORT

Assessor's #87-Z-19, 20 &  
Assessor's #87-OO-21, 22  
Island Avenue, Peaks Island

All persons interested either for or against this Space & Bulk Variance Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday, November 1, 1984 at 3:30 p.m. This notice of required public hearing has been sent to the owners of property directly abutting and directly across a street or alley from the property as required by Ordinance.

Thomas & Helen Young, owners of the property, located at Assessor's #87-Z-19, 20 and Assessor's #87-OO-21, 22, Island Avenue, Peaks Island, under the provisions of Section 14-473 of the Zoning Ordinance of the City of Portland, Maine hereby respectfully petition the Board of Appeals to permit a change of use of the lodging house at this location to eight (8) dwelling units, not allowed because the area of the lot on which this building is located is only about 13,197 sq. ft. rather than the 52,000 sq. ft. minimum (6,500 sq. ft. per unit) required by Section 14-90.2 of the Ordinance applying to the B-2 Business Zone in which this property is located (R-3 Residential Zone requirements apply). They also petition the Board to permit installation of an in-ground swimming pool, not allowed because the pool would be located between the building and the street line, contrary to Section 14-432.3.a.

LEGAL BASIS OF APPEAL: Such per it may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-473 of the Zoning Ordinance have been met.

Merrill S. Seltzer  
Secretary

10/19/84

kat

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



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**LEGAL BASIS OF APPEAL:** Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-473 of the Zoning Ordinance have been met.

Merrill S. Seltzer  
Secretary

10/19/84  
kat



~~87-00-18~~  
87-2-19+20

87-00-21, 22

Island Ave

87-E-24 - City

25 - Carol G. Mitchell, 3 Luther Pl

26 - Barbara Brown - 5 Hilltop

87-2-18 - Doris M. + Walter D. Grandall, Luther St

21 - Richard P. + Marjorie Erico, 2 Eliza St

23 - "

87-00-20 - Roger Ken MacBride, 2461 Arlington Blvd  
Suite 14, Charlottesville, VA 22903

23 - Sargent, Elvyn Evers, Island Ave

CITY OF PORTLAND, MAINE  
IN THE BOARD OF APPEALS

SPACE AND BULK VARIANCE ( OTHER THAN FOR DWELLING UNIT CONVERSIONS)

Thomas & Helen Young, owner of property at Island Avenue Peaks Is.

under the provisions of Section 14-473(c) of the Zoning Ordinance of the City of Portland, hereby respectfully petitions the Board of Appeals to permit:

change the use of the lodging house at this location to eight (8) dwelling units, not allowed because the area of the lot on which this building is located is only about 13,197 sq. ft. **RECEIVED** the 52,000 sq. ft. minimum (6,500 sq. ft. per unit) required by Section 14-90.2 of the Ordinance applying to the R-2 Business Zone in which this property is located (R-3 requirements). **SEP 20 1994**

Also to permit installation of an in-ground swimming pool, not allowed because the pool would be located between the building and the street line, contrary to Section 14-432.3.a. **DEPT OF BLDG. INSP.**  
**CITY OF PORTLAND**

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-473 (c)(1) of the Zoning Ordinance have been met. (See reverse side hereof for said conditions.)

Site Plan approval (is/is not) required by the Site Plan Ordinance. If Site Plan approval is required a preliminary or final site plan is attached hereto as Exhibit A.

Michael D. Laing, Attorney  
APPELLANT

Sec. 14-473 (c)(2) Space and Bulk Variances/other than for Dwelling Unit Conversions:

(a) The subject lot or parcel is exceptional as compared to other lots or parcels subject to the same provision by reason of unique physical condition, including irregularity, narrowness, shallowness, or substandard or marginal size; exceptional topographical features; and other extraordinary physical conditions peculiar to and inherent in the lot or parcel in question, which amount to more than a mere inconvenience to the owner.

(b) The aforesaid unique physical condition existed at the time of the enactment of the provision from which a variance is sought or were created by natural forces or were the result of governmental action.

(c) The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the lot or parcel in question of substantial use and enjoyment of this property in the manner commonly enjoyed by owners of other lots or parcels subject to the same provision.

(d) The hardship is not merely the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots or parcels subject to the same provision.

(e) Property in the same zone or neighborhood will not be adversely affected by the granting of the variance and the granting of the variance will not create conditions which would be detrimental to the public health or safety.

CITY OF PORTLAND, MAINE  
MEMORANDUM

TO: Chairman and Members of the Board of Appeals *Warren J. Turner* DATE: 10/01/84  
FROM: Warren J. Turner, Zoning Specialist *Warren J. Turner*  
SUBJECT: Agenda for Board of Appeals for October 11th Meeting

1. UNFINISHED BUSINESS:

155-161 Lambert Street -- Robert H. Miller

This is a request for a second unit in the R-2 zone. The Board tabled this item by a vote of 6 to 9 to allow the applicant to submit an affidavit or in person to include statements of age and possible condition of the occupant and his or her benefit and use of such occupancy would result. The lot contains 10,000 square feet in the R-2 Residence Zone.

2. CONDITIONAL USES:

33-39 Lane Avenue - James and Kathleen Dall

This is an application for a change of use from single family to single family with a day care center as a conditional use in the R-3 Residence Zone in which the residence is located. The size of the lot is 13,000 square feet and the lot is 100 feet in width by 130 feet in depth.

Several letters testify that this facility is much needed in this location. Day care centers serve an important function in the care of children of working mothers. This facility has a State license for 12 children and physical alterations have been made at an estimated cost of \$4,000. Recommend approval of this conditional use.

3. SPACE AND BULK VARIANCES:

130 Cumberland Avenue - Thomas Sesto

This is an application for a variance to allow a change of use from a two family to a three family on a lot containing only 2506 square feet instead of 3,000 square feet required for three units in the R-6 Residence Zone by the Zoning Ordinance.

Island Avenue, Peaks Island - Thomas and Helen Young  
(Assessor's Reference 87-Z-19 and 20 & 87-CO-21 and 22)

This is an application for a change of use from a lodging house to eight (8) apartment units. This building known as the "Avenue House" is located on Island Avenue in the B-2 Business Zone on a 13,197 square foot lot. A permit to install a swimming pool is also not issuable under the Zoning Ordinance because the pool would be located between the building and the street line of Luther Street. Adequate offstreet parking can be provided.

The building contains 8,000 square feet of interior floor area which could be remodeled into eight apartment units. The structure has been used as a boarding house, hotel or inn and for an art gallery. The building would not be enlarged if this variance is granted. Michael D. Lang, Attorney for George and Robin Clark, contends that the impact on the neighborhood resulting from the proposed conversion will be positive and complimentary. The estimated cost of conversion is \$390,000.

ENC: Agenda for 10/11/84

CC: Joseph E. Gray, Jr., Director, Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
P. Samuel Hoffses, Chief Inspection Services  
David A. Lourie, Corporation Counsel  
Malcolm Ward, Code Enforcement Officer  
Each Case File

CITY OF PORTLAND, MAINE  
MEMORANDUM

TO: Chairman and Members of the Board of Appeals DATE: 10/25/84  
FROM: Warren J. Turner, Zoning Specialist, Planning *Warren J. Turner*  
SUBJECT: Agenda for Thursday, November 1, 1984 at 3:30 P.M.

1. Unfinished Business:

Space & Bulk:

130 Cumberland Avenue - Thomas Sesto

To change from a two family to a three family apartment house. This is not allowed because the area of the lot is only 2,506 square feet rather than the 3,000 square feet required in the R-6 Residence Zone based on 1,000 square feet of land area per family unit by Section 14-139.2 of the Zoning Ordinance.

156-164 Veranda Street - Francis P. Drake

This is a request for a variance to allow sixteen (16) apartment units on an 18,340 square foot lot of land that would accommodate only six (6) units based on 3,000 square feet per unit (R-5 Residence density) in the existing B-2 Zone in which the building is located.

Also a variance is requested for a four (4) foot right hand side yard rather than the twelve (12) feet required by the R-5 Zone for a two story (proposed) structure. The application requests an eighty (80) feet by eightytwo (82) feet second story addition to be made on the building to accommodate the conversion from a warehouse building to a sixteen (16) family apartment building.

This appeal was tabled from the July 23rd and August 16th meetings of the Board at the request of Robert P. Snow, Architect, representing the applicant.

2. Nonconforming Uses: None

3. Conditional Uses

Assessor's #407-L-1, 2, 3 and 402-G-1, 2, 3, 4 - Florida Avenue -  
George J. Connick

The applicant wishes to locate a three bedroom ranch with full foundation (24'x40') on a lot which is 30,562 square feet in total area. This structure composed of two sections joined together would conform to

the requirements for a single family multiple unit manufactured dwelling. William Goodwin of Public Works has said this proposed building can be connected to the City sewer.

4. Appeals: None

5. Variances:

Space & Bulk:

Assessor's #87-Z-19 & 20 and #87-00-21 & 22 - Island Avenue, Peaks Island - Thomas and Helen Young

This is a request for a variance to allow the Avenue House, a lodging house in the B-2 Business Zone on a 13,197 square foot lot of land to be changed to an eight (8) unit apartment house (R-3 Residence Zone density requires 6,500 square feet of land area per family unit or 52,000 square feet for eight (8) apartment units.) This location is served by the City sanitary sewer in Island Avenue.

The request for a variance to allow the installation of a swimming pool is contrary to the Zoning Ordinance as the proposed pool would be located between the building and the street side line of Luther Street. The requirements of 10 feet setback all around are supplemented by its prohibited site location between a building and the side street.

Assessor's #85-F-28 and 29 Spruce Avenue, Peaks Island - Susanna Adams

This is a request for a variance for an accessory building (storage shed) to be located only 10 feet from the side street rather than 20 feet required by the Zoning Ordinance in the R-3 Residence Zone in which the property would be located. The lot is almost entirely ledge and the applicant there is no other place to put a storage structure of this lot.

Other structures on Merriam Street are located within 7 to 10 feet of the pavement edge. Photographs and an affidavit by Joseph E. Gray, Jr. are included with this variance application to support the request.

Enclosure: Agenda for Nov. 1, 1984  
Board of Appeals meeting

cc: Joseph E. Gray, Jr., Director, Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
P. Samuel Hoffses, Chief, Inspection Services  
Malcolm Ward, Code Enforcement Officer  
David Lourie, Corporation Counsel  
Each Case File



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



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THOMAS J. MURPHY  
PAULETTE P. PAPER  
MICHAEL E. WESTORT

APPEAL ACENDA

The Board of Appeals will hold a public hearing in Room 209, City Hall, Portland, Maine on Thursday, November 1, 1984 at 3:30 p.m. to hear the following appeals:

1. Unfinished Business:

Space & Bulk:

130 Cumberland Avenue - Thomas Sesto - To permit change of use of the two-family dwelling at this location to a three-family apartment house, not allowed because the area of the lot is only about 2,506 sq. ft. rather than the 3,000 sq. ft. minimum required (1,000 sq. ft. per family) by Section 14-139.2 of the Ordinance applying to the R-6 Residential Zone.

156-164 Veranda Street - Francis P. Drake - To permit a change of use of the building at the above-named location from a warehouse to a 16-family apartment building, not allowed for the following reasons: (1) The area of the lot on which this building is located is only 18,340 sq. ft. rather than the 48,000 sq. ft. (3,000 sq. ft. per family) required by Section 14-120.2.; and (2) The proposed second floor addition will have a 4 ft. right side yard rather than the 12 ft. minimum required by Section 14-120.4.c. of the Ordinance applying to the B-2 Business Zone in which this property is located (R-5 requirements).

2. Nonconforming Uses: None

3. Conditional Uses:

Assessor's #407-L-1, 2, 3 and Assessor's #402-G-1, 2, 3, 4, Florida Avenue - George J. Connick - To permit erection of a 24' x 40' single family, multiple unit, manufactured dwelling at the above-named location, not allowed in the R-3 Residential Zone in which this property is located unless authorized by the Board of Appeals under the provisions of Section 14-88.1:A.

4. Appeals: None

5. Variances:

a. Space & Bulk:

Assessor's #87-Z-19 & 20 and Assessor's #87-00-21 & 22, Island Avenue, Peaks Island - Thomas and Helen Young - To permit change of

(continued....)



use of the lodging house at this location to eight (8) dwelling units, not allowed because the area of the lot is only about 13,197 sq. ft. rather than the 52,000 sq. ft. minimum (6,500 sq. ft. per unit) required by Section 14-90.2 of the Ordinance applying to the B-2 Business Zone in which this property is located (R-3 requirements). They also petition the Board to permit installation of an in-ground swimming pool, not allowed because the pool would be located between the building and the street line, contrary to Section 14-432.3.a.

Assessor's #85-F-28 & 29, Spruce Avenue, Peaks Island - Susanna Adams - To permit Amendment No. 1 to Permit No. 83-1001, to permit a 10 ft. side yard setback from the side street at the above-named location rather than the 20 ft. minimum required by Section 14-90.4.d. of the Ordinance applying to the R-3 Residential Zone in which this property is located.

- b. Use Appeals: None
- c. Dwelling Unit Conversions: None

/kat