

87-Y-20



CITY OF PORTLAND

CONDITIONAL USE APPEAL

APPLICATION

Applicant's name and address: Loren F + Janice M Johnston
Island Ave, Peaks Island, ME 04108

Applicant's interest in property (e.g., owner, purchaser, etc.):

Owner's name and address (if different):

Address of property (or Assessor's chart, block and lot number):

Zone: _____ Present use: _____

Type of conditional use proposed: _____

Conditional use authorized by: Section 14- _____

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit, as above-described, and certifies that all information herein supplied by him is true and correct to the best of his knowledge and belief.

Dated: 1/2, 1986

Loren Johnston
Signature of Applicant



CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
INSPECTION SERVICES DIVISION

August 31, 1987

Loren and Janice M. Johnston
Island Avenue
Peaks Island, ME 04108

RE: Island Avenue, Peaks Island, ME

Dear Mr. and Mrs. Johnston:

In February 1986, the Board of Appeals granted your conditional use appeal for the conversion of your residence in the I-B Island Business Zone from a single family dwelling to a two-family dwelling.

However, since no action was taken by you within the six months following approval of your appeal, the approval lapsed. We therefore advise you to have your appeal taken before the Board of Appeals again if you wish to have your conditional use appeal reinstated.

I am returning your check for \$25.00 with this letter.

Sincerely,

P. Samuel Hoffses

PSH:lab

Enclosure

3-C. The impact does not (circle one) differ substantially from the impact which would normally occur from such a use in that zone, for the following reason(s):

5-0

Conclusion*

After public hearing on 2/27, 1986, and for the reasons above-stated, the accompanying application is hereby (check one)

granted. 5-0

granted subject to the following condition(s):

denied.

Dated: 2/27, 1986

Harold H. [Signature]
Secretary of the Board

* The application may be denied only if EITHER the finding for #1 or 2. above is in the negative OR the findings for #'s 3-A, 3-B and 3-C above are each in the affirmative.

Granted

Harold H. [Signature]
Francis [Signature]
Marshall [Signature]
Mark E. [Signature]
Eugene [Signature]

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



MERRILL S. SELTZER
Chairman
JOHN C. KNOX
Secretary

Peter F. Morelli
THOMAS F. JEWELL
DAVID L. SILVERMAN
MICHAEL F. WESTORT
CHRISTOPHER SINAN

September 9, 1987

87-4-20

RE: Island Avenue, Peaks Island

Loren and Janice Johnston
Island Avenue
Peaks Island, Maine 04108

Dear Mr. and Mrs. Johnston:

Receipt of your letter of September 2nd is hereby acknowledged. If you wish to have your conditional use appeal reviewed again by the Board of Appeals, the necessary forms are enclosed for your submission of such a request.

Copies of your original appeal are enclosed to assist you in filing again. The fee is \$50.00 plus a proportionate share of publication costs. If your conditional use appeal is received before noon September 21st, then your appeal can be included on the agenda for October 3th

Sincerely,

Warren J. Turner
Zoning Enforcement Inspector

/s/

Enclosures: Conditional Use Appeal

cc: Merrill Seltzer, Chairman, Board of Appeals
Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
P. Samuel Horvath, Chief of Inspection Services
Arthur Addato, Code Enforcement Officer

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS



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DAVID L. SILVERNAI
MICHAEL E. WESTORT

37-Y-20
Island Avenue, Peaks Island

All persons interested either for or against this Conditional Use Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday afternoon February 27, 1986 at 3:30 p.m. This notice of required public hearing has been sent to the owners of property within 500 feet of the property in question as required by Ordinance.

Loren J. and Janice A. Johnston, owners of the property Assessor's Chart 87-Y-20, Island Avenue, under the provisions of Section 14-474 of the Zoning Ordinance of the City of Portland, hereby respectfully petition the Board of Appeals to permit change of use of the single family dwelling to two family (with a new apartment on the second floor), not allowed in the IB Island Business Zone in which this property is located unless authorized by the Board of Appeals under the provisions of Section 14-116.6.d.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-474 of the Zoning Ordinance have been met.

Jacqueline Cohen
Secretary

2/4/86

e1

87-4-20

1/2/85

To whom it may concern;

We would like to convert the second floor of our home into an apartment. There are several reasons for this desire:

1) - After buying this home, our tenants in our home in Delaware moved out. We have not been able to rent or sell this property. Therefore, we have been paying two mortgages since July of 85. This is a hardship.

2) - Both of us would like to further our education; with our expenses as such, we do not do so at this time.

3) - Should one of us lose our jobs, we would not be able to meet our expenses without the extra income that an apartment would bring.

4) - My parents ages are 70 + 85, my husband's parents ages are 76 + 71 - should any of them need a place to live, we would like to be able to take them in without too much change in our private lives. An apartment would offer an environment of independence yet closeness for all parties involved.

In reference to the 3rd requirement, there will not be any change in the character of our home to any other family dwelling. No structural changes will be made. A place for an apartment to alter in our

Should you have any quest, feel free to contact

Shirley, James M. Johnston + Ben D. Johnston

Applicant: Le in 7, 7 Janice M Johnston Date: Feb 26, 1986
Address: Island Ave
Assessors No.: 87-4-10 Island Ave, Peab's Island

CHECK LIST AGAINST ZONING ORDINANCE

Date -
Zone Location - I-B Zone (76' in depth) Rear is 1 R-1
Interior or corner lot - Interior
Use - Proposed Change from 1 to 2 Family
Sewage Disposal -
Rear Yards -
Side Yards -
Front Yards -
Projections -
Height -
Lot Area - 39,600 sq ft
Building Area -
Area per Family -
Width of Lot - 132'
Lot Frontage - 132'
Off-street Parking - ample
Loading Bays -
Site Plan -
Shoreland Zoning -
Flood Plains -



CITY OF PORTLAND

DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
INSPECTION SERVICES DIVISION

February 3, 1986

RE: 87-Y-20
Island Avenue, Peaks Island

Loren J. and Janice M. Johnston
Island Avenue
Peaks Island, Maine 04108

Dear Mr. and Mrs. Johnston:

Building permit and certificate of occupancy for your proposed change of use from single family to two family (with a new apartment on the second floor) can not be issued because such a conversion is subject to conditional use approval by the Board of Appeals. Section 14-274(1) Conditional Uses in the I-B Island Business Zone contains the criteria which must be met for such a conversion. Section 14-474(c)(2) contains the standards for approval of such uses by the Board of Appeals.

We understand you wish to petition the Board of Appeals for approval of a conditional use appeal to enable you to change the use for your building from single family to two family in the I-B Island Business Zone on Island Avenue. This item will be the subject of a public hearing on Thursday afternoon, February 27, 1986, at 3:30 p.m., in Room 26, City Hall, Portland, Maine. A copy of the agenda will be sent when it becomes available.

Sincerely,

Warren J. Turner
Zoning Specialist

WT/el

cc: Merrill Seltzer, Chairman, Board of Appeals
Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
P. Samuel Hoffses, Chief of Inspection Services

87-Y-20

LAND USE

§ 14-223

Sec. 14-220. Off-street loading.

Off-street loading in a B-3 zone is required as provided in division 21 of this article. (Code 1968, § 602.10.E)

Sec. 14-221. Shorelands.

No building or structure shall be erected, altered, enlarged, rebuilt or used on any premises shall be used in a B-3 zone within the land area situated between the shoreland zone line and the normal high water mark of the waters of the Stroudwater River, Presumpscot River, Fore River, Portland Harbor, Back Cove, and the bays, coves, sounds, inlets, and open waters of Casco Bay, as shown on the city zoning map and on all land areas of all islands not having a shoreland zone line on the city zoning map, which does not comply with the requirements of division 16 of this article. (Code 1968, § 602.10.F; Ord. No. 49-74, § 5, 8-13-74)

DIVISION 12. I-B ISLAND BUSINESS ZONE

Sec. 14-222. Purpose.

The purpose of the I-B island business zone is to provide limited areas on the islands for retail and service establishments that serve primarily the needs of the local island market area. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-223. Permitted uses.

The following uses are permitted in the I-B island business zone:

- (1) Single-family detached dwellings;
- (2) Retail or service establishments, excluding those listed below:
 - a. Automobile service stations;
 - b. Inns;
- (3) Marinas and yacht clubs;
- (4) Lodging houses;
- (5) Wharves, piers, docks, or landing ramps;
- (6) Off-street parking;
- (7) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (Accessory Uses) of this article including but not limited to home occupations. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-224. Conditional uses.

The following uses are permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (Conditional Uses) of this article, and any special provisions, standards, or requirements specified below:

- (1) Two, three or four-family dwelling, provided that:
 - a. No open, outside stairways, or fire escapes above ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;
 - b. A lower level dwelling shall have a minimum of one-half (½) of its floor to ceiling height above the average adjoining ground level;
 - c. The land area requirement for dwellings served by public sewer shall be four thousand (4,000) square feet of land area per dwelling while dwellings not served by a public sewer shall have six thousand five hundred (6,500) square feet of land area per dwelling for the first two (2) dwellings and ten thousand (10,000) square feet of land area for each additional dwelling;
 - d. Any additions or exterior alterations shall be compatible with the original architecture of the building. The exterior design of new construction, including the architectural style, facade materials, roof pitch, building form, and height shall be compatible with neighboring properties;
 - e. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
 - f. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with all applicable federal, state and local regulations.
 - h. The proposed conversion has sufficient water for the needs of the dwellings and will not cause an unreasonable burden on an existing water supply nor adversely affect groundwater resources.
- (2) Automobile service stations;
- (3) Inns;
- (4) Schools;
- (5) Nursery schools, kindergartens and day care centers for seven (7) or more children;
- (6) Municipal uses, provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
- (7) Churches or other places of worship;
- (8) Private clubs, fraternal organizations. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-225. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-226. Dimensional requirements.

In addition to the provisions of division 25 (Space and Bulk Regulation and Exceptions) of this article lots in the I-B zone shall meet the following minimum requirements:

(1) Minimum lot size:

- a. Residential: Six thousand five hundred (6,500) square feet, except as provided for in section 14-224 (1) and as provided for in section 14-433 (Lots of Record) of this article.
- b. Retail or service establishments: None required.
- c. Restaurants: Ten thousand (10,000) square feet, except that no minimum lot size shall be required if served by a public sewer.
- d. Schools and other educational facilities: Twenty thousand (20,000) square feet.
- e. Churches and other places of worship: Twenty thousand (20,000) square feet.
- f. Private clubs, fraternal organizations: Twenty thousand (20,000) square feet.
- g. Lodging houses: One thousand (1,000) square feet for each lodging bed.
- h. Inns: Forty thousand (40,000) square feet.
- i. Municipal uses: Twenty thousand (20,000) square feet.
- j. Automobile service station: Twenty thousand (20,000) square feet.

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

(2) Minimum street frontage: Forty (40) feet.**(3) Minimum yard dimensions:**

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

a. Front yard:

Principal or accessory structures: Twenty (20) feet, except that a front yard need not exceed the average depth of front yards on either side of the lot.

b. Rear yard:

Principal or accessory structures: Ten (10) feet.

(Except for variable setback for attached or detached garages and accessory structures, as provided in section 14-432 (Garages or Accessory Uses) of this article.)

c. Side yard:

Principal structures: Ten (10) feet.

Accessory structures: Ten (10) feet except that the minimum distance from a principal structure may be five (5) feet.

87-7-20

§ 14-226

PORTLAND CODE

(Except for variable setback for attached or detached garages and accessory structures, as provided in section 14-432 (Garages and Accessory Uses) of this article.)

d. Side yard on side streets:

Principal or accessory structures: Ten (10) feet.

(4) Maximum lot coverage: Fifty (50) per cent of lot area.

(5) Minimum lot width: Forty (40) feet.

(6) Maximum structure height:

Principal structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet. (Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-227. Other requirements.

[Other requirements include the following:]

(1) Off-street parking: Off-street parking shall be required at twenty-five (25) per cent of the required number of parking spaces for specified uses as provided in division 20 (Off-Street Parking) of this article except that residential uses shall meet the full parking requirement.

(2) Shoreland regulations: No building or structure shall be erected, altered, enlarged, or rebuilt within the land area situated between the shoreland zone line and the normal high water mark of tidal waters as shown on the official zoning map and on all areas of all islands not having a shoreland zone line, which does not comply with the requirements of division 26 (Shoreland Regulations) of this article provided, however, that a minimum setback of seventy-five (75) feet from the high water mark shall be required for all principal structures. The planning board may, however, reduce the seventy-five-foot setback if an applicant demonstrates that the structure and land improvements meets the following:

- a. The development is in compliance with requirements of shoreland regulations (division 26) and site plan review (article V);
- b. Vegetation shall not be significantly disturbed or cleared from the proposed building line to the water edge of the shoreland zone unless the vegetation is replaced with vegetation of at least comparable quality;
- c. The scale and massing of the proposed structure is compatible with neighboring structures, if any, and the natural landscape; and
- d. The vicinity is not subject to significant erosion within seventy-five (75) feet of the high water marks and the proposed development will not unreasonably contribute to erosion.

(3) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days. (Ord. No. 30-85, § 1, 7-15-85)

Secs. 14-228-14-230. Reserved.

Supp. No. 10

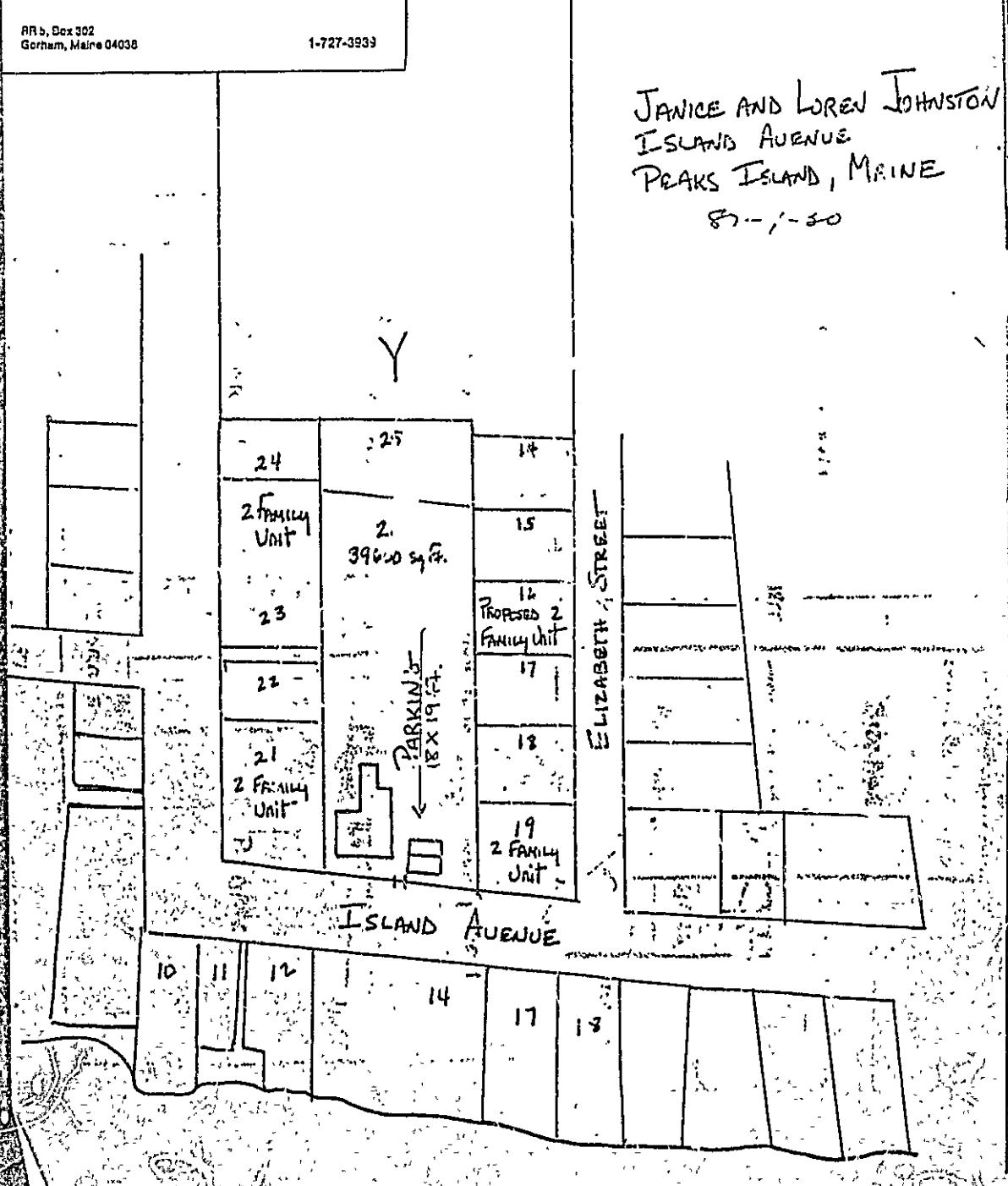
6
Joe Hayes
Licensed Electrician

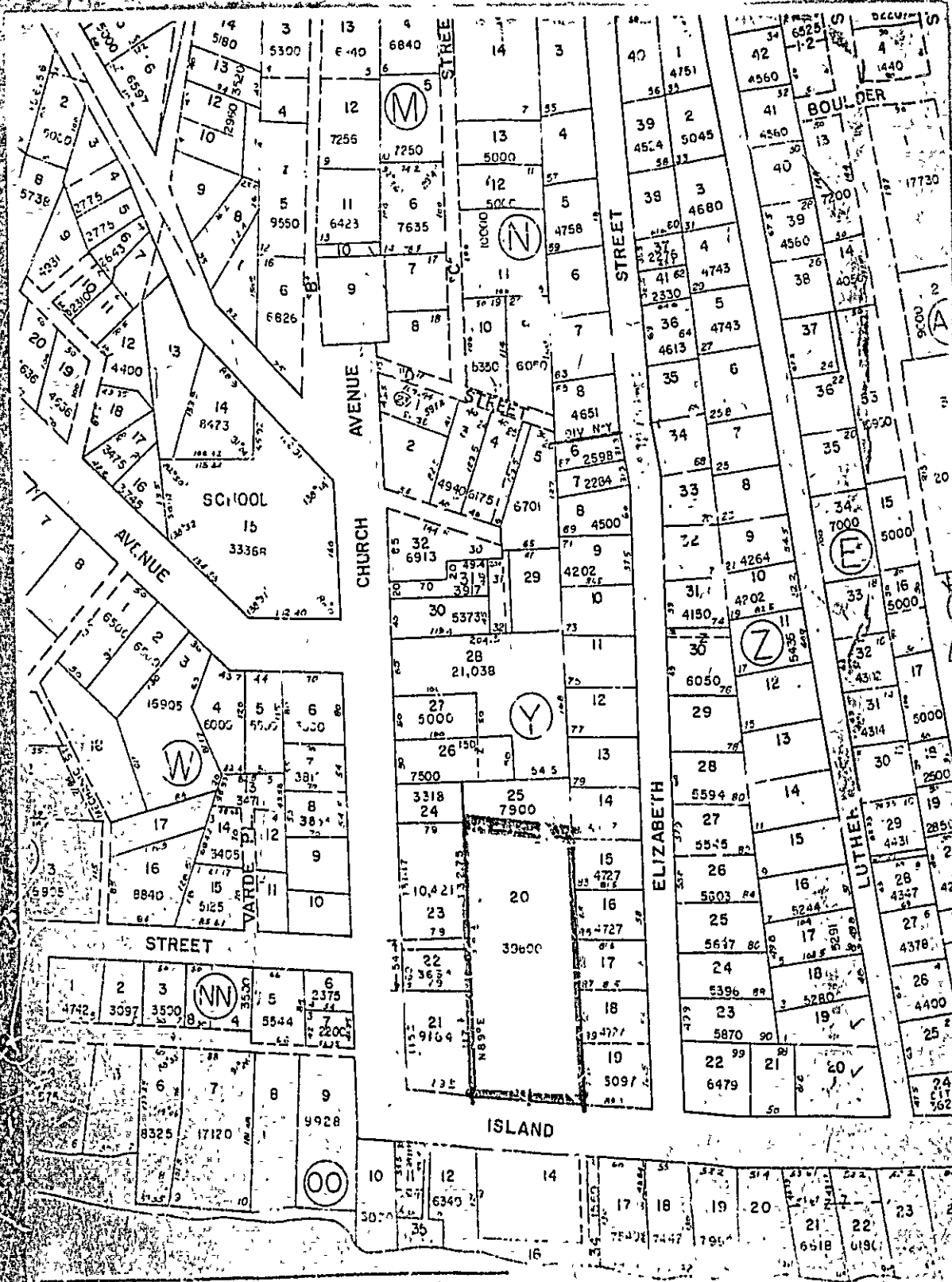
RR 5, Box 302
Gorham, Maine 04038

1-727-3939

TAX MAP No 87
PEAKS ISLAND

JANICE AND LOREN JOHNSTON
ISLAND AVENUE
PEAKS ISLAND, MAINE
87-1-30





87-y-30

September 2, 1987

87-4-20

P. Samuel Hoffses
City of Portland
Department of Planning and Urban Development
Inspection Services Division
Portland, Maine 04101

RE: Change of Use Permit

Dear Mr. Hoffses,

Thank you for your explanation of the six month deadline for the change of use permit. Unfortunately that condition was not made available to us during the application process, during the Board of Appeals Meeting nor the subsequent correspondence. You will note that on the back page of the Board findings it grants a change of use with no conditions. It would seem to me that a 6 month deadline to apply for the conversion is a condition.

Having gone through this process on our own, we would appreciate some consideration concerning a re-application as nothing has changed from our last application and you have all our application materials. Both my wife and I would be available to answer any questions that the Board may have. Please advise. Thank you for your assistance.

Sincerely,

Loren and Janice Johnston

Loren and Janice Johnston
Island Avenue
Peaks Island, Maine 04108

*WAVEN
SEP 11 1987*

2/23/86
Peahi Island
Maui 09108

To Whom It May Concern

As we are unable to attend the
public hearing on Thursday 2/27/86 3:30pm
we are writing regarding the appeal of
Loren J. and Janice M. Johnston - property address
Chail 87-4-20 Island and Peahi Island.

We have no objections to permitting
change of use of single dwelling to two family.

Sincerely

Mayone K. Erico

Richard P. Erico

87-y-20

23 Thornhurst Road
Falmouth Foreside, Maine 04105
February 24, 1986

Mrs. Jacqueline Coker, Secretary
Dept of Planning and Urban Development
Room 315
City Hall
Portland, Maine
04101

Dear Mrs. Coker,

Thank you for the notice of required public hearing to be held Thursday, February 27, 1986, at 3:30 P.M. in Room 209, City Hall. I deeply regret a previous commitment prevents my attending.

The essential character of the island is a small single family home. Although there are a few multiple family units, they are not in the area of the Gore change. The Gore was put there to preserve the character of the island.

Therefore, I am against this Conditional Use Appeal.

Sincerely yours,
Bartha C. Sullivan
(Mrs. John P.)

CITY OF PORTLAND, MAINE
MEMORANDUM

87-7-30

TO: John Joy, Director of Data Processing

DATE: Jan. 30, 1986

FROM: Warren Turner, Zoning Specialist *Warren J. Turner*

SUBJECT: Request for address labels

I would like to request the following Chart - Block - Lot labels:

87-C-2, 5 & 6
87-D
87-E-1 to 43
87-F-5
87-K-1 to 21, 28 & 29
87-L
87-M
87-N
87-O-3 & 4
87-P-8
87-S
87-T
87-U
87-V
87-W
87-Y
87-Z
87-AA
87-BB
87-EE
87-FF
87-GG
87-HH-22 to 43
87-JJ
87-NN
87-OO

84-P-1, 2, 8, 9

Spady