

Google Earth Image showing Trott-Littlejohn Park area to the right and Upper A Street at bottom center. Yellow line from nearest residence to dot in "park" measures approximately 575 feet, according to the Google "ruler" tool. Dot in park represents approximate location of anemometer tower.

AUG 21 2003

[illegible]

**IMPORTANT NOTICE FROM CITY OF PORTLAND  
INSPECTIONS DIVISION  
TO RESIDENTS AND PROPERTY OWNERS  
IN THE VICINITY OF 250 BRACKETT AVENUE, PEAKS ISLAND**

**WHAT** B. Conditional Use Appeal:  
250 Brackett Avenue, Peaks Island, Samuel S. Saltonstall, Peaks Environmental Action Team, lessee, Tax Map 088, Block K, Lot 001 & Tax Map 089, Block E, Lot 004, ROS Zone: The appellant is seeking a Conditional Use Appeal under section 14-155(d) to install a temporary wind anemometer tower. Representing the appeal is Samuel S. Saltonstall from Peaks Environmental Action Team.

**WHEN** The Zoning Board of Appeals meeting will be held on Thursday, September 3, 2009 at 6:30 pm at Portland City Hall, located at 389 Congress Street. The meeting will take place on the second floor in Room 209, 2nd Floor, City Hall.

**FOR MORE INFORMATION**  
For more information you may contact Marge Schmuckal, Zoning Administrator, at 207-874-8695.

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**From:** Eleanor Palais <epalais@erols.com>  
**To:** "mes@portlandmaine.gov" <mes@portlandmaine.gov>  
**Date:** 9/1/2009 8:43:16 PM  
**Subject:** We are strong supporters of wind energy for Peaks Island. We hope there will be a way to conduct a test on Peaks. I have been involved in wind energy surveys since the 1970's. I would be glad to volunteer time if there is a need to get this for our island. Ned Shenton 781 9562499

Sent from my iPhone

**CC:** Ned Shenton <epalais@erols.com>

or other arts, or the practice of arts such as music or dance, or the production of custom handcrafted, or limited production of products such as furniture, wood, clay and metal products, publications and similar low impact arts and crafts activities.

**Temporary wind anemometer tower:** A temporary structure which may be installed for no more than two (2) years for data collection purposes and which supports devices for measuring wind speed, direction and other characteristics to assess wind energy potential and design issues for any permanent wind energy installation; often termed "meteorological towers" or "met towers".

**Theaters:** Any establishment devoted to showing motion pictures, or for dramatic, musical or live performances.

**Tourist home:** A building in which more than one (1) but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests. No owner, operator, director, employee, shareholder, partner, corporate officer or agent of a bed and breakfast facility, hotel, inn, lodging house, motel, or tourist home (as defined in this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

**Transient guest:** A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period.

**Tributary stream:** means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

- (d) Golf courses, excluding miniature golf;
- (e) Boat landings, beaches, and marinas for public uses;
- (f) Outdoor ballfields and public athletic fields;
- (g) Swimming pools and tennis courts;
- (h) Picnic groves and areas;
- (i) Natural parks and scenic overlooks;
- (j) Hiking, walking, bicycling or cross-country ski trails;
- (k) Community gardens for cultivation by and for city residents;
- (l) Sewage pumping stations and sewage treatment facilities;
- (m) Sports complexes;
- (n) Accessory uses, including structures or buildings of less than two thousand five hundred (2,500) square feet of floor area.

(Ord. No. 232-81, § 602.7B.2, 11-16-81; Ord. No. 60-91, § 1, 8-5-91; Ord. No. 187-01/02, § 3, 4-17-02)

**Sec. 14-155. Conditional uses.**

The following uses are conditional uses in the recreation and open space zone, subject to approval by the board of appeals.

- (a) Accessory uses with structures or buildings of two thousand five hundred (2,500) square feet or more of floor area;
- (b) Other recreational facilities and uses that are open to the public;
- (c) Water pumping stations.
- (d) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency)

and related meteorological data, but shall not be used for any other purpose; and

8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

(Ord. No. 232-81, § 602.7B.3, 11-16-81; Ord. No. 67-89, § 1, 8-7-89; Ord. No. 60-91, § 2, 8-5-91; Ord. No. 29-09/10, 8-3-09, emergency passage)

**Sec. 14-156. Standards for conditional uses.**

In addition to the criteria listed in section 14-474(c), the board of appeals shall consider the following criteria when reviewing conditional uses specified in section 14-155(a), (b) and (c):

- (a) The use shall be in conformity with or satisfy a deficiency identified in a federal, state, regional, or city recreation and open space plan, including but not limited to the state comprehensive outdoor recreation plan, as such plans may from time to time be created or revised.
- (b) Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.
- (c) Indoor recreation or nonrecreational uses shall serve a significant public purpose that cannot reasonably be accommodated outside of the recreation and open space zone.

(Ord. No. 232-81, § 602.7B.4, 11-16-81; Ord. No. 29-09/10, 8-3-09, emergency passage)

**Sec. 14-157. Space and bulk requirements.**

No building or structure of a permanent nature shall be erected, altered, enlarged, rebuilt, or used unless it meets the following requirements:



area may be increased twenty (20) percent.  
(Code 1968, § 602.19.H)

**Sec. 14-430. Height limits.**

(a) *Roof structure.* Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples, roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings.

(b) *Public art.* Except in residential zones, public art that has been individually accepted by the city council for inclusion within the public art collection, pursuant to Article XI, Public Art Program of the Land Use Code, (Section 14-852(c)), shall not be subject to the height limitations for buildings within the underlying zone.

(c) *Temporary wind anemometer towers.* Temporary wind anemometer towers may be erected above the height limitation for buildings within the underlying zone, subject to receiving Board of Appeals approval and FAA approval, if necessary.  
(Code 1968, § 602.19.I; Ord. No. 428-83, § 1, 4-25-83; Ord. No. 36-89, § 3, 6-28-89; Ord. No. 96-08/09, 11-17-08; Ord. No. 29-09/10, 8-3-09 emergency passage)

**Sec. 14-431. Yards.**

The height in stories or feet of that part of the principal building adjoining a yard shall be used in determining the required width or depth of that yard, but in no case shall any higher part of the building be closer to the property line than width or depth of yard required for that height. In case an addition is to be made to a building which existed on June 5, 1957, the side yard spaces of which complied with the ordinance in effect on that date, the aggregate side yards may be the same as required on that date, provided the yard on the side where the addition is intended would comply with the minimum width required by the present ordinance. Yards as prescribed for residential uses shall be required for an apartment house or hotel erected above the ground floor of a building where the ground floor is designed exclusively for business purposes.  
(Code 1968, § 602.19.J)

**Sec. 14-432. Swimming pools.**

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

Peter Coyne  
Philip Saucier-chair  
Jill E. Hunter  
Gordan Smith-secretary  
William Getz  
Sara Moppin

September 16, 2009

Sam Saltonstall  
Peaks Wind Group of PEAT  
21 Elizabeth Street  
Peaks Island, ME 04108

RE: 250 Brackett Avenue, Peaks Island  
CBL: 088 K001  
ZONE: ROS

Dear Mr. Saltonstall:

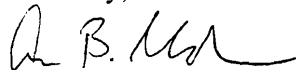
As you know, at the September 3, 2009 meeting, the Zoning Board voted 6-0 to grant your Conditional Use Appeal with conditions to install a temporary wind anemometer tower.

Enclosed please find the billing for the abutter's notification; also a copy of the board's decision. Your conditional use application (permit #09-0982) is in the process of being reviewed by the Inspections Division.

Appeals from decisions of the Board may be filed in Superior Court, pursuant to 30-A M.R.S.A. section 2691 (2) (G).

Should you have any questions please feel free to contact me at 207-874-8709.

Sincerely,



Ann B. Machado  
Zoning Specialist

Cc: file

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

### ZONING BOARD APPEAL DECISION

**To:** City Clerk  
**From:** Marge Schmuckal, Zoning Administrator  
**Date:** September 8, 2009  
**RE:** Action taken by the Zoning Board of Appeals on September 3, 2009.

**Members Present:** Phil Saucier (chair), Gordon Smith (secretary), Jill Hunter, Sara Moppin, Peter Coyne and William Getz.

#### 1. New Business:

##### A. Variance Appeal:

1213-1221 Congress Street, Richard A. Stewart, Jr., lessee, Tax Map 186, Block D, Lot 001, B-1 Zone:  
The appellant is seeking a Variance Appeal under section 14-162 to allow an automobile garage repair shop as a permitted use. Representing the appeal is the lessee, Richard A. Stewart, Jr. **The Board voted 6-0 to grant the Variance Appeal.**

##### B. Conditional Use Appeal:

250 Brackett Avenue, Peaks Island, Samuel S. Saltonstall, Peaks Environmental Action Team, lessee, Tax Map 088, Block K, Lot 001 & Tax Map 089, Block E, Lot 004, ROS Zone: The appellant is seeking a Conditional Use Appeal under section 14-155(d) to install a temporary wind anemometer tower. Representing the appeal is Samuel S. Saltonstall from Peaks Environmental Action Team. **The Board voted 6-0 to grant the Conditional Use Appeal with two conditions. The applicant must submit proof of insurance and proof of a removal agreement with the tower provider.**

##### C. Conditional Use Appeal:

56 Pine Street, Harvac Properties, LLC, owner, Tax Map 056, Block C, Lot 005, B-1 Zone: The appellant is seeking a Conditional Use Appeal under section 14-163(a) to expand the existing restaurant, Caiola's. Representing the appeal is Lisa Viccaro, Harvac Properties, LLC. **The Board voted 6-0 to grant the Conditional Use Appeal.**

#### 2. Other Business:

A. Election for the offices of Chair and Secretary. **Philip Saucier was elected Chair for the next term and Gordon Smith Was elected Secretary for the next term.**

#### Enclosure:

Agenda of September 3, 2009  
Original Zoning Board Decision  
One dvd  
CC: Joseph Gray, City Manager  
Penny St. Louis Littell, Director, Planning & Urban Development  
Alex Jaegerman, Planning Division  
T.J. Martzial, Housing & Neighborhood Services Division

