

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

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

July30, 2009

Jonathan L. Goldberg Esq.  
Mittel Asen, LLC  
85 Exchange Street  
Portland, ME 04101

RE: 16 Whitehead Street, Peaks Island  
CBL: 084 N004  
ZONE: IR-2

Dear Mr. Goldberg:

As you know, at the July 16, 2009, meeting, the Board voted 4-0 and approved your Practical Difficulty Variance Appeal to keep the 6' x 8' enclosed rear entry that was built without a permit.

I am enclosing a copy of your Certificate of Variance Approval. **The original must be recorded in the Cumberland County Registry of Deeds within 90 days of July 22, 2009, when it was signed.** Failure to record the Certificate will result in it being voided. This office shall be provided with a copy of the recorded certificate of Variance showing the book and page recorded.

Enclosed is the residential application for you to submit to the inspections office to legalize the after the fact 6' x 8' rear entry. You have six months from the date of this letter, referenced under section 14-474 (f) to apply for your permit, or the Zoning Board approval will expire.

Enclosed please find the invoice for the Zoning Board Appeals legal ad and abutter's notification; also a copy of the agenda decision.

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 207-874-8701.

Sincerely,



Gayle Guertin  
Office Assistant

CC: Thomas & Barbara Kipp, owner  
File



**CITY OF PORTLAND**

**CERTIFICATE OF VARIANCE APPROVAL**

I, Philip Saucier, the duly appointed Chair of the Board of Appeals for the City of Portland, Cumberland County and State of Maine, hereby certify that on the 16th day of July, 2009, the following variance was granted pursuant to the provisions of 30-A M.R.S.A. Section 4353(5) and the City of Portland's Code of Ordinances.

1. **Current Property Owner: Thomas P. and Barbara H. Kipp**
2. **Property: 16 Whitehead Street, Peaks Island, Portland, ME CBL: 084-N-004**  
Cumberland County Registry of Deeds, Book 26349 Page 181  
Last recorded deed in chain of Title: 09/22/2008
3. **Variance and Conditions of Variance:**  
To grant relief from Section 14-145.11(c)(3) of the Land Use Zoning Ordinance in regards to the right side setback for a 6' x 8' enclosed rear entry from a required 20 feet to approximately 11 feet. And to grant relief from Section 14-145.11(d) of the Land Use Zoning Ordinance requiring a maximum lot coverage of twenty (20) percent to an allowance of approximately twenty-six point 8 (26.8) percent lot coverage.

IN WITNESS WHEREOF, I have hereto set my hand and seal this 22nd day of July, 2009

  
City of Portland Zoning Board,

, Chair of

Philip Saucier (Printed or Typed Name)

STATE OF MAINE  
Cumberland, ss.

Then personally appeared the above-named Philip Saucier and acknowledged the above certificate to be his free act and deed in his capacity as Chairman of the Portland Board of Appeals, with his signature witnessed on July 22, 2009.

**KATE E. HATCH**  
Notary Public, Maine  
My Commission Expires August 2, 2012

(Printed or Typed Name)  
Notary Public

PURSUANT TO 30-A M.R.S.A. SECTION 4353(5), THIS CERTIFICATE MUST BE RECORDED BY THE PROPERTY OWNER IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS WITHIN 90 DAYS FROM FINAL WRITTEN APPROVAL FOR THE VARIANCE TO BE VALID. FURTHERMORE, THIS VARIANCE IS SUBJECT TO THE LIMITATIONS SET FORTH IN SECTION 14-474 OF THE CITY OF PORTLAND'S CODE OF ORDINANCES.

Members Present: Philip Sauer - Gordon Smith - Bill Getz -  
CITY OF PORTLAND, MAINE Jill Hunter - Peter Cagne -  
ZONING BOARD OF APPEALS Deborah Rutter  
Absent - SARA Moppin  
APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 16, 2009 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

called to order: 6:30 pm

1. New Business:

A. Interpretation Appeal:

6-0  
Application  
the building  
Application  
was denied  
cause it  
does

38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a).

B. Practical Difficulty Variance Appeal:

Grant - 0

4-0

16 Whitehead Street, Peaks Island, Thomas and Barbara Kipp, owners, Tax Map 084, Block N, Lot 004, IR-2 Island Residential Zone: The appellants are seeking a variance to keep the 6' x 8' enclosed rear entry that was built without a permit. The appellants are requesting a variance for the right side setback from a required 20' to 11' [section 14-145.11(c)(3)]. The appellants are also requesting a variance for the maximum allowable lot coverage of 20% [section 14-145.11(d)]. The lot is 4,109 square feet. The footprint of the building with the 6' x 8' enclosed rear entry is 1,102 square feet which covers 26.8% of the lot. Representing the appeal is Jonathan Goldberg, Esq.

C. Conditional Use Appeal:

Granted

4-0

47 Runnells Street, Debra L. R. & Chad M. Flynn, owners, Tax Map 177, Block A, Lot 010, R-5 Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a family daycare/nursery school at her home for 8-10 children. Representing the appeal is the owner, Debra Flynn.

D. Conditional Use Appeal:

Granted

4-0

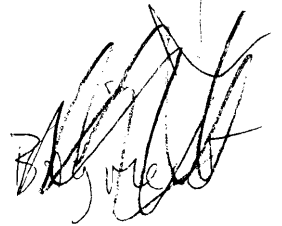
90 Crescent Avenue, Great Diamond Island, Kathy Sue & Douglas Roberts & Nancy Jo Connolly, owners, Tax Map 083A, Block E, Lots 007, 008 & 010, IR-2 Island Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-145.9(a)(1) requesting that an accessory dwelling unit be added to their single family dwelling. Representing the appeal are Nancy Jo Connolly and Attorney Jim Cloutier.

2. Other Business:

3. Adjournment:

9:30 pm

members  
present  
Gordon  
Smith  
-  
Deborah  
Rutter  
-  
Bill Getz  
-  
Jill Hunter



# 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:** July 28, 2009  
**RE:** Action taken by the Zoning Board of Appeals on July 16, 2009.

**Members Present:** Philip Saucier (chair), Gordon Smith (secretary), Deborah Rutter, Jill Hunter, William Getz, and Peter Coyne.

**Member Absent:** Sara Moppin

#### 1. New Business:

##### A. Interpretation Appeal:

38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a). **The Board found by a 6-0 vote that the building application did not meet the requirements of section 14-436(a).**

**\*Members Philip Saucier and Peter Coyne left after the first appeal. Members Gordon Smith, Deborah Rutter, Jill Hunter, and William Getz were present for the duration of the meeting.**

##### B. Practical Difficulty Variance Appeal:

16 Whitehead Street, Peaks Island, Thomas and Barbara Kipp, owners, Tax Map 084, Block N, Lot 004, IR-2 Island Residential Zone: The appellants are seeking a variance to keep the 6' x 8' enclosed rear entry that was built without a permit. The appellants are requesting a variance for the right side setback from a required 20' to 11' [section 14-145.11(c)(3)]. The appellants are also requesting a variance for the maximum allowable lot coverage of 20% [section 14-145.11(d)]. The lot is 4,109 square feet. The footprint of the building with the 6' x 8' enclosed rear entry is 1,102 square feet which covers 26.8% of the lot. Representing the appeal is Jonathan Goldberg, Esq. **The Board voted 4-0 to grant the Practical Difficulty Variance Appeal.**

##### C. Conditional Use Appeal:

47 Runnells Street, Debra L. R. & Chad M. Flynn, owners, Tax Map 177, Block A, Lot 010, R-5 Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a family daycare/nursery school at her home for 8-10 children. Representing the appeal is the owner, Debra Flynn. **The Board voted 4-0 to grant the Conditional Use Appeal.**

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

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per Deborah Rutter

**"Practical Difficulty" Variance Appeal**

**DECISION**

Date of public hearing: July 16, 2009

Name and address of applicant: Thomas & Barbara Kipp  
14 Balsam Dr.  
Bedford, MA 01730

Location of property under appeal: 16 Whitehead St.  
Peaks Island

**For the Record:**

Names and addresses of witnesses (proponents, opponents and others):

Jonathan Goldberg, Esq. representing the appeal.

Thomas Kipp - Applicant / See above for address

Ralph Ashmore - Broker for Mr. Kipp

Exhibits admitted (e.g. renderings, reports, etc.):

> per packets to Board members

> Copies of 1987, 1997 building permits of different property purchased by applicant

> Letters from abutters via Atty Goldberg (3) plus lot map of surrounding abutters

Findings of Fact and Conclusions of Law:

The applicant is seeking a variance from sections 14-145.11(c)(3), side yard setback, and 14-145.11(d), maximum lot coverage, in order to keep a six foot by eight foot room on the rear of a cottage on Peaks Island in the IR-2 island residential zone.

The applicant purchased the cottage in 2008. There are no building permits on file for this property and therefore the footprint on the 1951 assessor's card is considered the legal footprint of the building. The footprint on the assessor's card includes a front porch, but does not include the six foot by eight foot room on the rear of the building that was constructed in 1974. The footprint in 1951 was 1,054 square feet, or 25.6% of the 4,109 sq. ft. lot. The rear addition brought to lot coverage to 26.8%. The addition would have met the side yard setback requirement in 1974, which was eight feet.

Section 14-145.11(c)(3) sets the side yard set backs at 20 feet. The applicant is seeking a variance from the side setbacks from the required 20 feet to 11 feet on the right side.

Section 14-145.11(d) sets the maximum allowable lot coverage at 20%. The applicant is seeking a variance from the maximum of 20% to 26.8%.

“Practical Difficulty” Variance standard pursuant to Portland City Code §14-473(c)(3):

1. The application is for a variance from dimensional standards of the zoning ordinance (lot area, lot coverage, frontage, or setback requirements).

Satisfied ✓ (9) Not Satisfied \_\_\_\_\_

Reason and supporting facts:

Applicant testimony and documentation

2. Strict application of the provisions of the ordinance would create a practical difficulty, meaning it would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant. "Significant economic injury" means the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

Satisfied ✓ (4) Not Satisfied \_\_\_\_\_

Reason and supporting facts:

Testimony to move major home systems (laundry, electrical panel, shower)

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

Satisfied ✓(4) Not Satisfied \_\_\_\_\_

Reason and supporting facts:

> Addition is not unique in that no one else has non-conforming additions.

> Significant integral part of house regarding systems

> Addition is 1% of excess of lot coverage

>

4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.

Satisfied ✓(4) Not Satisfied \_\_\_\_

Reason and supporting facts:

- > 3 of 4 abuttas testify no adverse effect
- > No testimony in opposition of variance to be granted
- >

5. The practical difficulty is not the result of action taken by the applicant or a prior owner.

Satisfied (4)✓ Not Satisfied \_\_\_\_

Reason and supporting facts:

- > Non-conforming lot is diminimus in terms of excess
- > Question about whether absense of permit means none exists
- > Had permit been issued; would have ~~been non-conforming~~ complied w/ set backs in place at time of application

6. No other feasible alternative is available to the applicant, except a variance.

Satisfied ✓(4) Not Satisfied \_\_\_\_

Reason and supporting facts:

- > Dismantling the structure would be nearly impossible
- >

7. The granting of a variance will not have an unreasonably adverse effect on the natural environment.

Satisfied ✓(4) Not Satisfied     

Reason and supporting facts:

> Letter testimony that there will be no effect

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. § 435, nor within a shoreland zone or flood hazard zone.

Satisfied (4) Not Satisfied     

Reason and supporting facts:

> Testimony from city

> Documentation

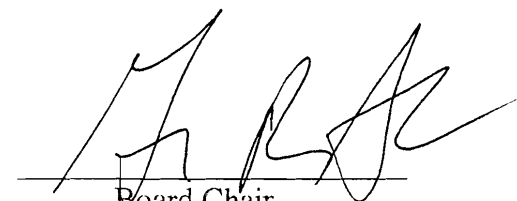
**Conclusion:** (check one)

☒ Option 1: The Board finds that the standards described above (1 through 8) have been satisfied and therefore GRANTS the application.

☐ Option 2: The Board finds that while the standards described above (1 through 8) have been satisfied, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

☐ Option 3: The Board finds that the standards described above (1 through 8) have NOT all been satisfied and therefore DENIES the application.

Dated: July 16, 2009

  
Board Chair



VIA HAND DELIVERY

Zoning Board of Appeals, Rm. 315  
City of Portland  
389 Congress Street  
Portland, ME 04101

Re: *Practical Difficulty Variance Application of Thomas and Barbara Kipp  
for Property at 16 Whithead Street, Peaks Island, Maine  
C/B/L 84/N/4; Permit # 09-0028*

Dear Board Members:

I Patricia Olivieri, am the owner of 15 Whitehead St., Peaks Island, Maine, further identified as Chart/Block/Lot (84-H-12) on the Portland Assessor's Maps. I have owned this property for approximately 52 years. My property is directly across the street from 16 Whitehead Street, the property in question.

It has come to my attention that Thomas and Barbara Kipp have been ordered by the office of the Zoning Administrator to remove a 6' X 8' entry room at the rear of their house identified above. In light of the apparent facts that the room in question was constructed approximately 35 years ago and that the Kipp's had no foreknowledge that the addition may or may not have been constructed without a building permit, I urge the Zoning Board of Appeals to grant a variance to the Kipp's so that they may maintain their entry room.

As a close by property owner, I support the Kipp's position that the room in question: (1) will not have an unreasonably detrimental effect on either the use or fair market value of the abutting properties; (2) will not have an unreasonably adverse effect on the natural environment; and that (3) no other feasible alternative is available to the applicant, except a variance.

I respectfully request that the Zoning Board of Appeals grant the variance sought by Mr. and Mrs. Kipp.

PATRICIA J. OLIVIERI  
Print Name: \_\_\_\_\_

Patricia J. Olivieri  
Print Name: \_\_\_\_\_



VIA HAND DELIVERY

Zoning Board of Appeals, Rm. 315  
City of Portland  
389 Congress Street  
Portland, ME 04101

Re: ***Practical Difficulty Variance Application of Thomas and Barbara Kipp  
for Property at 16 Whitehead Street, Peaks Island, Maine  
C/B/L 84/N/4; Permit # 09-0028***

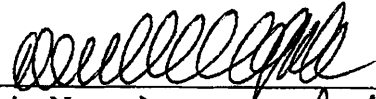
Dear Board Members:

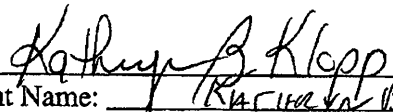
We Donald and Kathryn Klopp, are the owners of 9 Whitehead St., Peaks Island, Maine, further identified as Chart/Block/Lot (84-H-9) on the Portland Assessor's Maps. We have owned this property for approximately 30 years. Our property is immediately next door to the south of the property in question, 16 Whitehead Street.

It has come to our attention that Thomas and Barbara Kipp have been ordered by the office of the Zoning Administrator to remove a 6' X 8' entry room at the rear of their house identified above. In light of the apparent facts that the room in question was constructed approximately 35 years ago and that the Kipp's had no foreknowledge that the addition may or may not have been constructed without a building permit, we urge the Zoning Board of Appeals to grant a variance to the Kipp's so that they may maintain their entry room.

As the next door owner's of this property, we support the Kipp's position that the room in question: (1) will not have an unreasonably detrimental effect on either the use or fair market value of the abutting properties; (2) will not have an unreasonably adverse effect on the natural environment; and that (3) no other feasible alternative is available to the applicant, except a variance.

We respectfully request that the Zoning Board of Appeals grant the variance sought by Mr. and Mrs. Kipp.

  
Print Name: Donald W. Klopp

  
Print Name: Kathryn B. Klopp

March 1, 2009

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

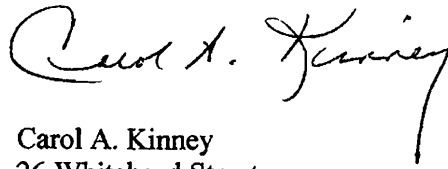
Dear Zoning Board members,

I live at 26 Whitehead Street, Peaks Island and I am a neighbor adjacent to 16 Whitehead Street. I have lived in this house since 1994 and I was a close neighbor and friend to the owners of 16 Whitehead Street prior to the recent sale. I can vouch for the character of Father James Steuterman and his Aunt Katie Kelly. I am sure that the work they did on their house would have met the code at the time and that they would insist on following the law at all times. I can attest that the addition was in place prior to my purchase of 26 Whitehead Street and that the only change I have seen is the addition of panels surrounding the shower. I have been in the house many times and the addition appears to be vintage 1970.

As a neighbor I am opposed to any action that would require that the new owners remove the small addition on the rear of the house. It serves no purpose to remove it and it is and has been an integral part of the house for many years.

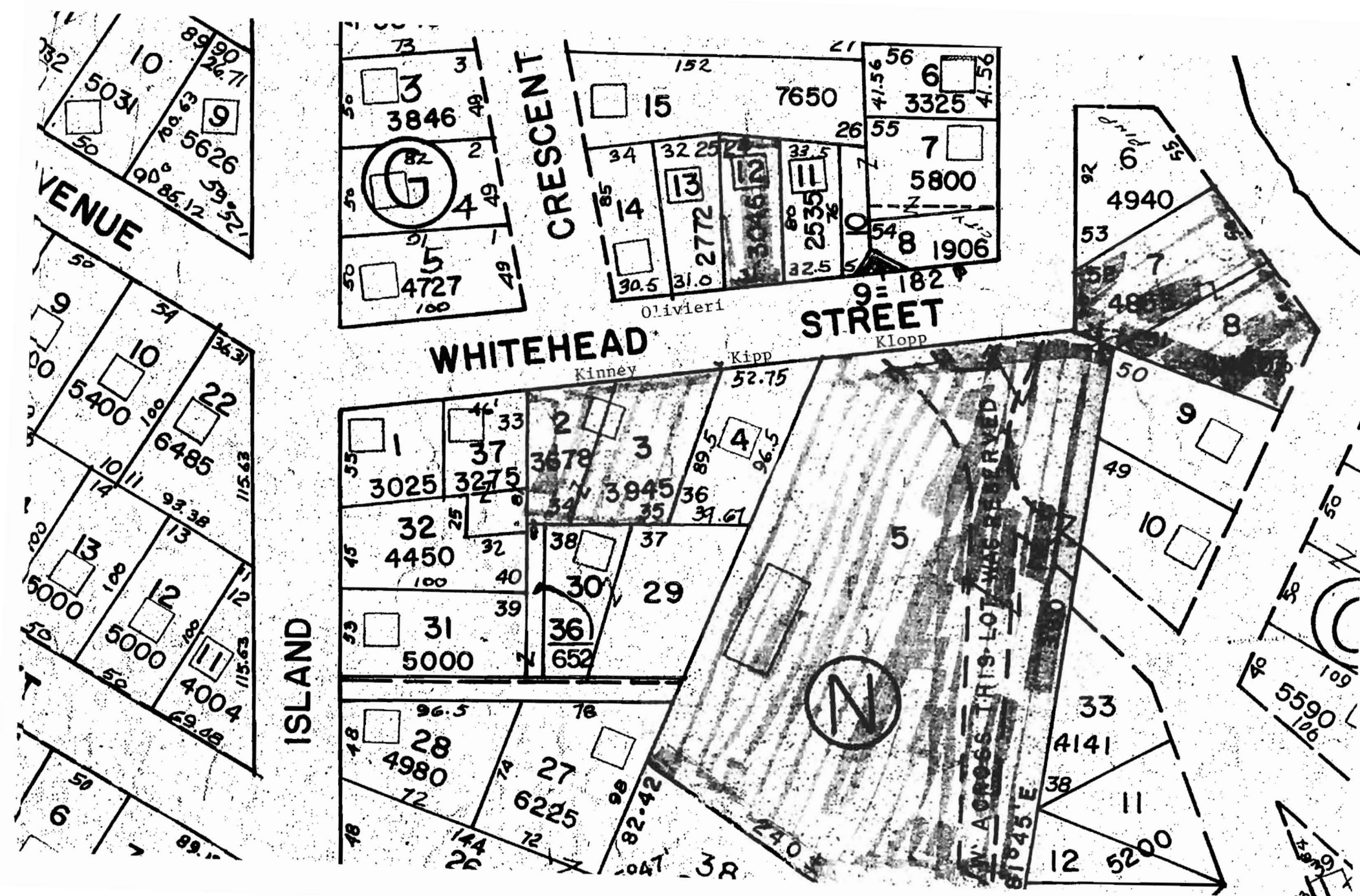
This house is very visible from the street and I would conclude that the person representing the zoning board as the island inspector at that time, or any interested islander, would have brought any discrepancies to the attention of the contractor and the owner if permits were not posted or if regulations were not followed.

Respectively,

A handwritten signature in black ink, appearing to read "Carol A. Kinney". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Carol A. Kinney  
26 Whitehead Street  
Peaks Island, Maine 04108

207-766-5950 home phone



Submitted to The Board 7/16/09

PERMIT # _____	<b>PORTLAND BUILDING PERMIT APPLICATION</b>		DATE <u>6/30/87</u>
<b>I. GENERAL INFORMATION</b>			
Location/address of construction <u>Peaks Island - Seashore Ave. &amp; Hussy Rd.</u>			
1. Owner's name <u>Ketty Beane</u>	Tel. _____		<div>PERMIT ISSUED 8/11/87 City of Portland</div>
Address <u>same</u>			
2. Lessee's name _____ Tel. _____			
Address _____			
3. Contractor's name <u>W. D. Crandall Inc.</u>		Tel. <u>756-2273</u>	
Address <u><del>533000000000</del> Luther Street Peaks Island 04108</u>			
4. Is this a legally recorded lot? yes _____ no _____			
<b>II. DESCRIPTION OF WORK:</b>			
to put on 1 story addition as per plans			
send permit to #3			
<b>III. BUILDING DIMENSIONS:</b> length _____ width _____ square footage _____ height _____ #stories _____			
<b>IV. ZONE</b> _____ Street frontage _____ Zoning board approval: no <input type="checkbox"/> yes <input type="checkbox"/> date _____			
Setbacks: front _____ back _____ side _____ side _____ Planning board approval: no <input type="checkbox"/> yes <input type="checkbox"/> date _____			
<b>V. REVIEW REQUIRED:</b> variance _____ other _____			
site plan _____ subdivision _____ shore _____ floodplain mgmt _____		Number of off-street parking spaces: _____ enclosed _____ outdoors _____	
<b>VI. FEES:</b>			
base fee _____		other fees _____	
subdivision fee _____		late fee _____	
site plan review fee _____		TOTAL <u>\$155.00</u>	
<b>VII. DETAILS OF WORK</b>			
1. WATER SUPPLY: <input type="checkbox"/> public <input type="checkbox"/> private		7. ELECTRICAL: service entrance size _____ # smoke detectors _____	
2. SEWER: <input type="checkbox"/> public <input type="checkbox"/> private, type _____		8. CHIMNEY: # flues _____ material _____ # fireplaces _____	
3. HEAT: type _____ fuel _____		9. FRAMING: floor joists _____ size _____ max. on center _____	
4. FOUNDATION: type _____ thickness _____ footing _____		ceiling joists _____ rafters _____	
5. ROOF: type _____ pitch _____ covering _____ load _____		studs _____ wall studs _____	
6. PLUMBING: SPRINKLER SYSTEM? yes <input type="checkbox"/> no <input type="checkbox"/>		10. If 1-story building w/masonry walls: wall thickness _____ height _____	
		11. BEDROOM WINDOWS height _____ width _____ sill height _____ egress window? yes <input type="checkbox"/> no <input type="checkbox"/>	
<b>VIII. OFFICE USE:</b>		<b>IX. NEW OR PHASED SUBDIVISION REFERENCE</b>	
TAX MAP # _____		Name _____	
LOT # _____		Lot _____	
VALUE/STRUCTURE _____		Block _____	
PERMIT EXPIRATION _____			
CODE _____ If other, explain _____		Seasonal _____ Condominium _____ Apartment _____	
<b>X. PROPOSED USE:</b> _____			
<b>XI. PAST USE:</b> _____			
<b>XII. OWNERSHIP:</b> PUBLIC _____ PRIVATE _____			
<b>XIII. EST. CONSTRUCTION COST:</b> _____		<b>XIV. GR. SQ. FT. OF LOT BUILDING:</b> _____	
<b>COMPLETE XV AND XVI ONLY IF THE NUMBER OF UNITS WILL CHANGE</b>			
<b>XV. RESIDENTIAL BUILDINGS ONLY:</b>		<b>XVI. # RESIDENTIAL UNITS:</b>	
BEDROOMS		# NEW DWELLINGS _____	
1. BDRM _____ 2. BDRMS _____ 3. BDRMS _____		# EXISTING DWELLINGS _____	
# NEW DWELLING UNITS WITH _____		TOTAL RESIDENTIAL UNITS _____	
# EXISTING DWELLING UNITS WITH _____			

PERMIT #	PORTLAND BUILDING PERMIT APPLICATION	DATE 6/30/87	PERMIT ISSUED 8/10/87 City of Portland
I. GENERAL INFORMATION			
Location/address of construction Peaks Island - Seabrook Ave. & Hussey Rd.			
1. Owner's name	Betty Beane	Tel.	
Address:	same		
2. Lessee's name		Tel.	
Address			
3. Contractor's name	W. D. Crandall Inc.	Tel.	766-2273
Address	Seabrook Avenue		Luther Street Peaks Island 04108
4. Is this a legally recorded lot?	yes	no	

## II. DESCRIPTION OF WORK:

to put on 1 story addition as per plans

send permit to #3

III. BUILDING DIMENSIONS:	length	width	square footage	height	#stories
IV. ZONE					
Street frontage					
Zoning board approval: no <input type="checkbox"/> yes <input type="checkbox"/> date					
Setbacks: front back side side Planning board approval: no <input type="checkbox"/> yes <input type="checkbox"/> date					
V. REVIEW REQUIRED: variance other					
Number of off-street parking spaces: enclosed outdoors					
VI. FEES:					
base fee					
subdivision fee					
site plan review fee					
TOTAL \$155.00					

## VII. DETAILS OF WORK

1. WATER SUPPLY: <input type="checkbox"/> public <input type="checkbox"/> private	7. ELECTRICAL: service entrance size # smoke detectors	8. CHIMNEY: # flues material # fireplaces
2. SEWER: <input type="checkbox"/> public <input type="checkbox"/> private, type	9. FRAMING: floor joists ceiling joists studs	size max. on center rafters wall studs
3. HEAT: type fuel	10. If 1-story building w/masonry walls: wall thickness height	11. BEDROOM WINDOWS height width sill height egress window? yes <input type="checkbox"/> no <input type="checkbox"/>
4. FOUNDATION: type thickness footing		
5. ROOF: type covering pitch load		
6. PLUMBING: SPRINKLER SYSTEM? yes <input type="checkbox"/> no <input type="checkbox"/>		
VIII. OFFICE USE: TAX MAP # LOT # VALUE/STRUCTURE PERMIT EXPIRATION		IX. NEW OR PHASED SUBDIVISION REFERENCE Name Lot Area
CODE: If other, explain Seasonal Condominium Apartment		
X. PROPOSED USE: 134		
XI. PAST USE:		
XII. OWNERSHIP: PUBLIC PRIVATE		
XIII. EST. CONSTRUCTION COST: 28,000		XIV. GR. SQ. FT. OF LOT BUILDING

## COMPLETE XV AND XVI ONLY IF THE NUMBER OF UNITS WILL CHANGE

XV. RESIDENTIAL BUILDINGS ONLY: BEDROOMS 1 BDRM 2 BDRMS 3 BDRMS		XVI. RESIDENTIAL UNITS: NEW DWELLINGS EXISTING DWELLINGS TOTAL RESIDENTIAL UNITS
NEW DWELLING UNITS WITH EXISTING DWELLING UNITS WITH		
APPROVALS BY: DATE		MISCELLANEOUS
BUILDING INSPECTION - PLAN EXAMINER		Will work require disturbing of any tree on a public street?
ZONING:		Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed?
C.E.O.		
FIRE DEPT.		

NOTE TO APPLICANT: Separate permits are required by the installers and subcontractors of heating, plumbing, electrical, and mechanicals.

District No. 7	XVII. SIGNATURE OF APPLICANT: [Signature] PHONE #
	TYPE NAME OF ABOVE: W. D. CRANDALL INC. 21-3-4-2

White-GPCOG Green-Applicant Yellow-Assessor Pink-Office File Gold-Field Inspector

[Signature]



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

Location of Construction: 670 Seashore ave, Peaks Isl		Owner: Beane, Bette		Phone:		Permit No: 970352	
Owner Address:		Lessee/Buyer's Name:		Phone:		BusinessName:	
Contractor Name: Walter Crandall		Address: 14 Luther St Peaks Isl, ME		Phone: 04108 766-2273		Permit Issued: APR 28 1997	
Past Use: 1-fam		Proposed Use: Same		COST OF WORK: \$ 26,000.00		PERMIT FEE: \$ 150.00	
Proposed Project Description:  Construct 2nd story		FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied		INSPECTION: Use Group: 42 Type: 50		Zoning: CBL: 089-F-015	
		Signature:		Signature: [Signature]		Zoning Approval: OK 4/24/97	
		PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)		Special Zone or Reviews: <input checked="" type="checkbox"/> Shoreland w/ [unclear] but over [unclear] <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone [unclear] (Zone C) <input type="checkbox"/> Subdivision [unclear] 15.4.17 <input type="checkbox"/> Site Plan maj <input type="checkbox"/> minor <input type="checkbox"/> mm <input type="checkbox"/>			
Permit Taken By: Mary Gresik		Date Applied For: 18 April 1997		Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved with Conditions <input type="checkbox"/> Denied		Historic Preservation <input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review	

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal rules.
2. Building permits do not include plumbing, septic or electrical work.
3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..

PERMIT ISSUED  
WITH REQUIREMENTS

CERTIFICATION

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

SIGNATURE OF APPLICANT: Linda Tuttle ADDRESS: DATE: 18 April 1997 PHONE:

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE PHONE:

White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector

CEO DISTRICT

6

M. GARY



City of Portland, Maine  
Planning and Development Department  
Zoning Board of Appeals  
Practical Difficulty Variance Application

Applicant Information:

Thomas and Barbara Kipp

Name

14 Balsam Drive

Business Name

Bedford, MA 01730

Address

781-771-2387

Telephone

207-871-0683

Fax

Applicant's Right, Title or Interest in Subject Property:

Record Owners

(e.g. owner, purchaser, etc.):

Current Zoning Designation: IR-2

Existing Use of Property:

Single-family Residence

Owners are represented by:

Jonathan L. Goldberg, Esq.

MittelAsen, LLC

85 Exchange Street

Portland, ME 04101

207-775-3101

207-871-0683 fax

jgoldberg@mittelasen.com

Subject Property Information:

16 Whitehead Street, Peaks Island

Property Address

M/B/L 84 N 4

Assessor's Reference (Chart-Block-Lot)

Property Owner (if different):

Name

Address

Telephone

Fax

Practical Difficulty Variance from Section 14 - 145.11(c)  
and 14-145.11(d)

(side setback from 20 feet to 11 feet;  
maximum lot coverage from 20% to 26%)

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

The undersigned hereby makes application for a Practical Difficulty Variance as above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

Signature of Applicant

Jonathan L. Goldberg, Esq.  
Attorney for Applicant

Date

6/29/09

Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Board of Appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

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

The lot in question is 4,109 square feet in area, while the minimum lot size in this IR-2 zone is 20,000 square feet. It was created prior to the adoption of zoning in Portland, and therefore ill-suited to strict application of current zoning standards (specifically, lot coverage and setbacks) because of its diminutive size. The unique circumstances of the property—its sub-standard size coupled with the age of the dwelling (pre-1951) and the age of the rear addition (1974) create the need for the variance.

2. The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of the abutting properties:

Grant of the variance will have no discernible effect on the use or fair market value of abutting properties, it merely will allow the property to remain in the same configuration—with the same setbacks and lot coverage—as have existed for over 35 years.

3. The Practical Difficulty is not the result of action taken by the applicant or a prior owner:

The Practical difficulty results from the absence of a building permit that was or should have been issued in 1974. The City's records of building permits is incomplete, making it impossible for the current owners to document a permit application that would have been submitted nearly 35 years before they took ownership of the property. Information that the City has provided does not allow one to determine conclusively whether a permit was granted in 1974.

4. No other feasible alternative is available to the applicant, except a variance:

Current zoning precludes reconfiguration of the dwelling to accommodate the laundry appliances, plumbing, electrical panel box and mudroom function of the rear addition to the house for which the City has ordered removal.

5. The granting of the variance will not have an unreasonably adverse effect on the natural environment:

On the contrary, maintenance of the rear addition will have no effect on the natural environment that has been maintained for the last 35 years; removal of



the addition will require landscaping changes that will have minimal impact on the natural environment.

6. Strict application of the dimensional standards of the ordinance to the subject property will preclude a use which is permitted in the zone in which the property is located:

Single-family residential use is permitted in the IR-2 zone. Strict application of the dimensional standards will require removal of the rear porch addition that is part of a permitted use.

7. Strict application of the dimensional standards of the ordinance to the subject property will result in significant economic injury to the applicant:

The costs of removal of the rear porch addition would include relocation of the laundry appliances, relocation of water supplies and drains, relocation of the electrical panel box (and significant re-wiring that will result), demolition of the structure, and reconstruction of the new rear exterior wall and doorway into the home.

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. Section 435, nor within a shoreland or flood hazard zone as defined in this article:

The property is not within a shoreland area, shoreland, or flood hazard zone as so defined.

# MITTEL ASEN, LLC

ATTORNEYS AT LAW  
P.O. BOX 427  
PORTLAND, ME 04112-0427

ROBERT E. MITTEL  
MICHAEL P. ASEN  
PETER G. CARY  
DIANE DUSINI  
JONATHAN L. GOLDBERG  
BARRY E. SCHKLAIR  
SUSAN S. BIXBY

85 EXCHANGE STREET, 4<sup>th</sup> FLOOR  
PORTLAND, MAINE 04101

PHONE 207 775-3101  
FAX 207 871-0683

jgoldberg@mittelasen.com

June 29, 2009

VIA HAND DELIVERY

Zoning Board of Appeals, Rm. 315  
City of Portland  
389 Congress Street  
Portland, ME 04101

JUL 1 2009

Re: ***Practical Difficulty Variance Application of Thomas and Barbara Kipp  
for Property at 16 Whithead Street, Peaks Island, Maine  
C/B/L 84/N/4; Permit # 09-0028***

Dear Members of the Zoning Board of Appeals:

This office represents Thomas and Barbara Kipp, owners of property known as 16 Whitehead Street, Peaks Island, Maine (the "Property"). Please see the enclosed authorization letter signed by Mr. and Mrs. Kipp authorizing me to pursue this appeal (Exhibit A enclosed).

In her letter of January 21, 2009 (Exhibit B enclosed), Ann Machado denies the Kipps' application for Building Permit # 09-0028. The offending part of the application is a rear mudroom that serves also as laundry and utility room. The room does not meet the required minimum side setback of 20 feet; the distance from the mudroom to the lot line is about eleven (11) feet. Further, the original dwelling (that was constructed prior to adoption of zoning for Peaks Island) covers about 25% of the total lot area. The mudroom increases that percentage to about 26% of total lot area.

The City of Portland, through Ann Machado, acknowledges that the original dwelling existed prior to 1951. Zoning became effective in 1957, making the original structure legally conforming ("grandfathered"). Enclosed herewith is a letter and Affidavit from Reverend Steuterman, a former owner of the Property, documenting that the rear addition was constructed

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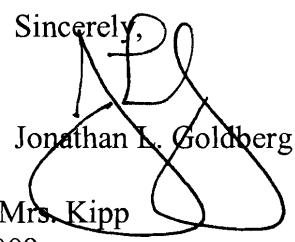
in 1974, more than 35 years ago. These documents are attached as Exhibits C (letter), D (Affidavit), and E (deed). The Reverend states that the work was performed by a reputable contractor, very experienced in the contracting business, who "always worked by the rules." It seems clear that there was no intent on the part of the former owner to avoid the permitting process. Since the City does not have records of building permits from 1974 readily available, the applicants are unable to provide documentation of the existence of a building permit. It bears mention that the City has no evidence that suggests that a permit was *not* issued.

The City, again, through Ann Machado, has provided a portion of the Portland Zoning Ordinance from circa 1974, attached as Exhibit F. That page states clearly that the required side yard for a 1½ story building is eight (8) feet. The subject dwelling is identified on the Portland Assessor's Card (Exhibit G) as having a story height of "1.5." When the addition was constructed in 1974, it met the then-current side setback.

In fact, the only zoning standard that the Property may not have met in 1974 is the lot coverage maximum, which increased from 25% to 26 % with the addition of the mudroom. We respectfully request the Board to grant a Practical Difficulty Variance on the bases that (1) other than the *de minimus* increase in lot coverage from 25% to 26%, the mudroom meets the requirements of the Portland Zoning Ordinance that were in effect in 1974 when the room was constructed; (2) there is no proof that a building permit was not issued in 1974 for construction of the mudroom; (3) it would work an undue hardship upon the Property owners to remove the addition, with no apparent benefit to the City, the neighborhood, or the abutters; (4) the City is estopped from taking enforcement action against the Property for activity that occurred 35 years ago, during which time the City has collected taxes annually and reassessed the Property numerous times, and (5) the Property owners have no apparent means of mitigating the loss that would result from forced removal of the mudroom/laundry room/utility room.

Thank you for your consideration.

Sincerely,

  
Jonathan L. Goldberg

Enclosures: Exhibits

- (A) Authorization letter signed by Mr. and Mrs. Kipp
- (B) Ann Machado's letter of January 21, 2009
- (C) Reverend Steuterman's letter
- (D) Reverend Steuterman's Affidavit
- (E) Quit Claim Deed
- (F) Zoning Board Ordinance Circa 1974
- (G) Portland Assessor's Card
- (H) Tax Map
- (I) Building Footprint
- (J) Property Photographs (3 pages)
- (K) Warranty Deed (2 pages)

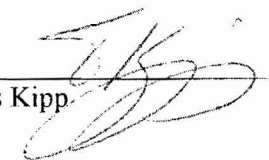
June 29, 2009

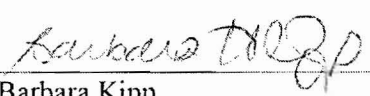
Zoning Board of Appeals, Rm. 315  
City of Portland  
389 Congress Street  
Portland, ME 04101

Re: *Appeal of Decision of Zoning Specialist Ann Machado  
Concerning Building Permit Number Application # 09-0028  
For 16 Whitehead Street, Peaks Island*

Dear Board Members:

In all matters related to our appeal of Permit Application No. 09-0028, we, the undersigned, designate Jonathan L. Goldberg, Esq. and MittelAsen, LLC as our representative. We authorize Mr. Goldberg to appear on our behalf in all matters that come before the Portland Zoning Board of Appeals pursuant to our appeal of the above-referenced Decisions and to submit any materials on our behalf. We further authorize Mr. Goldberg to speak, negotiate, prepare and sign any and all documents on our behalf pursuant to this appeal.

  
Thomas Kipp

  
Barbara Kipp



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov*

*Penny St. Louis Littell - Director of Planning and Development  
Marge Schmuckal, Zoning Administrator*

January 21, 2009

Ralph Ashmore  
20 Welch Street  
Peaks Island, ME 04108

Re: 16 Whitehead Street, Peaks Island – 084 N004 – IR-2 – permit #09-0028

Dear Mr. Ashmore,

I'm writing this letter as a follow up to the conversation we had at the counter on January 16, 2009. In reviewing your application (#09-0028) to add a dormer and deck, enclose part of the porch and do interior renovations, I needed to make sure that the existing porch had been permitted. In researching our records, I could not find any building permits for this property. When there are no permits on file, we look at what the footprint was on the 1951 assessor's card which is from before the ordinance went into effect in 1957. This is what we consider the legal footprint of the building. The assessor's card showed that the front porch did exist in 1951, but the six foot by eight foot single story room on the rear of the building did not exist. Since the six foot by eight foot room did not exist on the 1951 card and there is no permit for it, it is not legal, and the property must be brought into compliance.

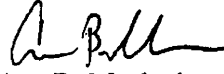
16 Whitehead Street, Peaks Island is located in the IR-2 residential zone. Section 14-145.11(c) of the ordinance gives the minimum required side setback as twenty feet. The plot plan submitted with the application shows the side setback to the six foot by eight foot room as eleven feet. Section 14-145.11(d) gives the maximum lot coverage as twenty percent of the lot. The lot is 4,109 square feet, so the maximum lot coverage is 821.8 square feet. The footprint of the building that existed on the 1951 assessor's card is 1,054 square feet which is already over the allowable maximum lot coverage. The six foot by eight foot addition makes the building more nonconforming. Since the six foot by eight foot room does not meet the side setback or the maximum lot coverage, it cannot be permitted under today's standards. Unless you can find a record of a building permit for the six foot by eight foot room, you will need to remove it to bring the property into compliance.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork if you decide to file an appeal.

Room 315 – 389 Congress Street – Portland, Maine 04101 (207) 874-8695 – FAX:(207) 874-8716 – TTY:(207) 874-3936

If you have any questions regarding this matter, please feel free to call me at (207) 874-8709. I have enclosed a copy of the assessor's pre-1957 card.

Yours truly,



Ann B. Machado  
Zoning Specialist  
(207) 874-8709

Cc. Thomas Kipp  
file



# ✠ Saint Ann's Church ✠

P.O. Box 488 • North Oxford, Massachusetts 01537 • (508) 987-8892

EXHIBIT

C

February 24, 2009

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

Dear Board Members,

I am writing in regards to the property at 16 Whitehead St., Peaks Island. Up until recently, this property had been in my family since 1957. Upon my aunt's death in 2005, I became the sole owner. (see attached deed Book 7056; page 144). The 6' x 8' rear entry and stairs were added to the cottage in 1974 by Charles Franco. Charles was a reputable contractor and lived on Winding Way on the Island. He worked on many many cottages for years and always worked by the rules. The outside shower was added in 1957 and the privacy partitions were recently installed.

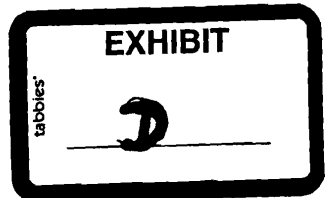
Although I have no permits in my possession I can attest that this work was performed and completed in 1974 by contractor Charles Franco. (see attached affidavit) It is my understanding that the set back requirements then were 8' from the side yard and 25' from the rear. This addition is well within these setbacks. (see attached plot plan dated 12/16/08) After 35 years it seems ridiculous that the new owners of the property should be asked to remove these structures!

I am hoping that your Board is one that facilitates ease for homeowners on the Island who improve and enhance the quality of this unique area as well as the City of Portland.

Sincerely yours,

James M. Steuterman 2/24/09  
(Rev.) James M. Steuterman Date

**GENERAL AFFIDAVIT  
BEFORE NOTARY**



I, Rev. James M. Steuterman, Priest of the Roman Catholic Diocese of Massachusetts, a resident of North Oxford, County of Worcester, Commonwealth of Massachusetts, do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge: the 6'x 8' rear entry and stairs at 16 Whitehead St., Peaks Island, Maine were installed and completed in 1974 by contractor Charles Franko. The outside shower was added in 1957 and the privacy partitions were recently replaced.

WITNESS my signature this 24<sup>th</sup> day of February 2009 (year and month).

Rev. James M. Steuterman  
Rev. James M. Steuterman

State of Massachusetts )  
County of Worcester )

On February 24, 2009, James M. Steuterman  
personally came before me and, being duly sworn, did state that he or she is the person described in the  
above document and that he or she signed the above document in my presence.

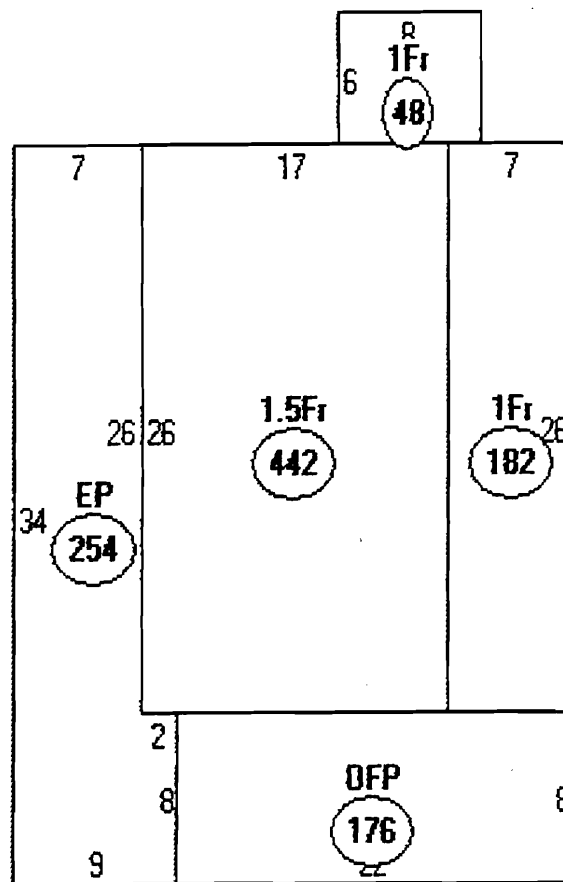
Notary Public  
Signature of Notary Public

Notary Public, In and for the County of SAMIR BITAR JR.  
State of Notary Public  
My Commission Expires June 12, 2009  
My commission expires: \_\_\_\_\_

Notary Seal

Received Time Feb. 25. 2:07PM





Descriptor/Area

A: 1.5Fr  
442 sqft

B: EP  
254 sqft

C: 1Fr  
48 sqft

D: 1Fr  
182 sqft

E: DFP  
176 sqft

Sketch of 16 Whitehead St., Peaks Island, Maine taken from the city of Portland's Assessor's web site

## QUITCLAIM DEED

BOOK 7036 PAGE 144

04322

KNOW ALL MEN BY THESE PRESENTS, THAT I, CATHERINE M. KELLY, of Peaks Island, in the City of Portland, County of Cumberland and State of Maine, in consideration of One Dollar (\$1.00) and other valuable considerations, paid by the said CATHERINE M. KELLY of Whitehead Street in said Peaks Island and REV. JAMES M. STEUTERMAN, with a mailing address at 6 Goucher Avenue, Worcester, Massachusetts 01605, as joint tenants and not as tenants in common, the receipt whereof I do hereby acknowledge, do hereby REMISE, RELEASE, BARGAIN, SELL AND CONVEY, and forever QUITCLAIM unto the said CATHERINE M. KELLY and REV. JAMES M. STEUTERMAN, as joint tenants and not as tenants in common, their heirs and assigns forever,

A certain lot or parcel of land with the buildings thereon situated at said Portland, on Peaks Island, and bounded and described as follows: Commencing at a point on the westerly line of Whitehead Street at the southeasterly corner of lot numbered thirty-five (35) as laid down on a plan of building lots on land of J. W. Brackett, easterly from Greenwood Garden as delineated by James B. Jones, surveyor; June 1899, which said plan is recorded in Cumberland County Registry of Deeds, Plan Book 9, Page 35; thence southerly by the line of said street; fifty-two and three-fourths (52-3/4) feet to a point; thence northeasterly ninety-six and five-tenths (96-5/10) feet to a point, and to the southeasterly corner of lot numbered thirty-seven (37); thence northerly on the line of lot numbered thirty-seven (37), thirty-nine and two-thirds (39-2/3) feet to a point; thence southeasterly on the line of lot numbered thirty-five (35), eighty-nine and five-tenths (89-5/10) feet to the line of said street and the point begun at. Meaning hereby to convey lot numbered thirty-six (36) on said plan to which reference is hereby made for a particular description.

Being the same premises conveyed to the said Catherine M. Kelly and Francis P. Kelly, as joint tenants, by warranty deed of Loretta V. Kahill, dated September 16, 1957, and recorded in the Cumberland County Registry of Deeds in Book 2373, Page 266; the said Francis P. Kelly being now deceased, leaving the Grantor as the surviving joint tenant, and being the same premises conveyed by the Grantor to the Grantor and Rev. James B. Kelly, by deed dated August 26, 1974, and recorded in said Registry of Deeds in Book 3592, Page 196, the Rev. James B. Kelly being now deceased, leaving the Grantor as the surviving joint tenant.

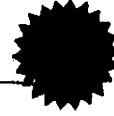
TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to them the said CATHERINE M. KELLY and REV. JAMES M. STEUTERMAN, as joint tenants and not as tenants in common, their heirs and assigns forever.

IN WITNESS WHEREOF, the said CATHERINE M. KELLY, being unmarried, has hereto set her hand and seal this 28th day of December in the year of our Lord one thousand nine hundred and eighty-six.

SIGNED, SEALED AND DELIVERED  
IN PRESENCE OF

*Sister Ann Murphy, SND, ASW.*

*Catherine M. Kelly*  
CATHERINE M. KELLY



STATE OF MAINE  
CUMBERLAND, SS.

December 28, 1986

Personally appeared the above named CATHERINE M. KELLY, and acknowledged the above instrument to be her free act and deed.

Before me,

*Sister Ann Murphy, SND, ASW.*  
Notary Public

Type Name:

SISTER ANN MURPHY, SND, ASW.

11/1/86

SISTER ANN MURPHY, SND, ASW.  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES 11/1/87

SISTER ANN MURPHY, SND, ASW.  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES 11/1/87

RECEIVED  
1986 JUN 30 PM 3:47  
CUMBERLAND COUNTY  
MAINE

10 R-2

Accessory buildings or structures - 5 feet except that they may be 3 feet if more than 50 feet from street line. Minimum distance from principal building: 5 feet.

EXHIBIT

F

- ✓ Minimum side yards on side streets 3. Principal buildings or structures - 20 feet  
602.3 B. 3. Accessory buildings or structures - 20 feet
- ✓ Minimum front yards 4. Principal buildings or structures - 25 feet - except that no front yard need be deeper than the average of the depths of front yards on the lot next thereto on either side, a vacant lot or a lot occupied by a building with a front yard more than 25 feet deep being considered as having a front yard 25 feet deep; and provided further that on a lot of record on June 5, 1957, and less than one hundred feet deep no front yard need be deeper than 20% of the depth of the lot.  
602.3 B. 4.
- ✓ Maximum height 5. Principal buildings or structures - 2-1/2 stories or 35 feet.  
602.3 B. 5. Accessory buildings or structures - 1 story or 15 feet
- ✓ Maximum building area 6. Principal building or group of buildings - 20% of lot area  
602.3 B. 7. Minimum lot area 7. 8,000 square feet for residential and non-residential uses excepting public or private non-profit schools which shall have at least 1/2 acre where access to public sewer is available, or 8,000 square feet or the area required under Lot Requirements in Unsewered Residential Districts, Section 602.19, whichever is larger, where the property is unsewered.
- ✓ Minimum area per family 8. 8,000 square feet.  
Minimum width of lot 9. 80 feet (except as provided in Paragraph B-2 above) or the sum of the width of the principal building and the height of the principal building, whichever is greater, the width to be measured through that part of the building to be erected where the lot is narrowest.  
602.3 B. 9.
- ✓ Minimum lot frontage on street 10. 50 feet.  
602.3 B. 10.  
Off-street parking C. Off-street parking shall be provided as required under Section 602.14 of this Ordinance. CHECK SIDE STREET YARD  
602.3 C. D. FRONT OF BOOK

Section 602.4

R-3 RESIDENCE ZONE

Use  
602.4 A.

A. No building shall be erected, altered, enlarged, rebuilt, or used, and no premises shall be used, except for the following uses:

Received Time Jul. 2. 9:14AM

- Page 1108.6*
1. Any use permitted in the R-2 Residence Zone. *SECT. 602.4A*
  2. Hospital on a lot of more than two acres.
  3. Accessory buildings and uses customarily subordinate
  4. or incidental to a conforming principal building or use.

By adding to Section 602.4 A. the following additional language:

"4. Sewage pumping stations and sewage treatment plants upon site plan approval by the Planning Board."

exchange building.

b. Private nursery school.

c. Alteration of one-family dwelling house with a combined gross first and second floor area exceeding fifteen hundred square feet existing on June 5, 1957, to accommodate not more than two families provided that: (a) No apartment shall have an area of less than 600 square feet exclusive of partitions, public hallways, and storage in basement, cellar or attic; (b) No open outside stairways or fire escape above the ground floor shall be constructed; (c) There shall be no cubical increase in volume of any existing buildings; and (d) No living quarters shall be permitted below the first story.

d. Recreational areas, including camping and tenting sites.

e. Off-street parking of passenger cars as provided in Section 602.14M.

f. Non-profit athletic fields.

9. ~~No building or structure shall be erected, altered, enlarged, rebuilt, or used which does not comply with the following requirements:~~

Space and Bulk  
602.4 B.

1. Principal buildings or structures - 25 feet  
Accessory buildings or structures - 3 feet

Minimum rear yards  
602.4 B. 1.

2. Principal buildings or structures - there shall be on each side of each building a side yard having a width as determined in the following table, provided that the width of one side yard may be reduced one foot for every foot that the other is correspondingly increased in width but no such yard shall be less than 8 feet in width, and provided further that on no lot held under separate and distinct ownership from adjacent lots and of record on June 5, 1957, shall the buildable width be reduced by this requirement to less than twenty-four feet, nor either side yard to less than five feet.

Minimum side yards  
602.4 B. 2.

*House &  
SIDE YARD*

Received Time Jul. 2. 9:14AM

12 R-3

Circa 1974 ordinance

Height of Building	Required Side Yard
1 story	8 feet
1-1/2 stories	8 feet
2 stories	14 feet
2-1/2 stories	16 feet

CHG H  
JUL 24  
✓ Accessory buildings or structures - 5 feet except that they may be 3 feet if more than 50 feet from street line.  
Minimum distance from principal building 5 feet.

- |   |  |
|---|--|
| <p><u>Minimum side yards on side streets</u><br/>602.4 B. 3.</p> <p><u>Minimum front yards</u><br/>602.4 B. 4.</p> <p><u>Maximum height</u><br/>602.4 B. 5.</p> <p><u>Maximum building area</u><br/>602.4 B. 6.</p> <p><u>Minimum lot area</u><br/>602.4 B. 7.</p> <p><u>Minimum area per family</u><br/>602.4 B. 8.</p> <p><u>Minimum width of lot</u><br/>602.4 B. 9.</p> <p>✓ <u>Minimum lot frontage on street</u><br/>602.4 B. 10.</p> <p><u>Off-street parking</u><br/>602.4 C.</p> | <p>3. <u>Principal buildings or structures</u> - 20 feet<br/><u>Accessory buildings or structures</u> - 20 feet</p> <p>4. <u>Principal buildings or structures</u> - 25 feet - except that no front yard need be deeper than the average of the depth of front yards on the lots next thereto on either side, a vacant lot or a lot occupied by a building with a front yard more than 25 feet deep being considered as having a front yard 25 feet deep; and provided further that on a lot of record on June 5, 1957, and less than one hundred feet deep, no front yard need be deeper than 20% of the depth of the lot.</p> <p>5. <u>Principal buildings or structures</u> - 2-1/2 stories or 35 feet.<br/><u>Accessory buildings or structures</u> - 1 story or 15 feet.</p> <p>6. <u>Principal building or group of buildings</u> - 25% of lot area.<br/><i>OPEN PLAT PLANNING NOT INCORPORATED - THE RECORD</i><br/>6,500 square feet for all uses, excepting hospitals which shall have at least 2 acres and public or private non-profit schools which shall have at least 1/2 acre, where access to public sewer is available, or 6,500 square feet or the area required under Lot Requirements in Unsewered Residential Districts, Section 602.19, whichever is the larger where the property is unsewered.</p> <p>8. 6,500 square feet.</p> <p>9. 65 feet (except as provided in Paragraph B-2 above) or the sum of the width of the principal building and the height of the principal building, whichever is the greater, the width to be measured through that part of the building to be erected where the lot is narrowest.</p> <p>10. 50 feet.</p> |
|---|--|

C. Off-street parking shall be provided as required under Section 602.14 of this Ordinance. *CHECK SIDE STREET PARKING*

D. FRONT OF BOOK

602.4 D.

Accessory buildings or structures - 5 feet except that they may be 3 feet if more than 50 feet from street line. Minimum distance from principal building: 5 feet.

- ✓ Minimum side yards on side streets  
602.3 B. 3.
- ✓ Minimum front yards  
602.3 B. 4.
- ✓ Maximum height  
602.3 B. 5.
- ✓ Maximum building area  
✓ Minimum lot area  
602.3 B. 7.
- ✓ Minimum area per family  
Minimum width of lot  
602.3 B. 9.
- ✓ Minimum lot frontage on street  
602.3 B. 10.  
Off-street parking  
602.3 C.
3. Principal buildings or structures - 20 feet  
Accessory buildings or structures - 20 feet
4. Principal buildings or structures - 25 feet - except that no front yard need be deeper than the average of the depths of front yards on the lot next thereto on either side, a vacant lot or a lot occupied by a building with a front yard more than 25 feet deep being considered as having a front yard 25 feet deep; and provided further that on a lot of record on June 5, 1957, and less than one hundred feet deep no front yard need be deeper than 20% of the depth of the lot.
5. Principal buildings or structures - 2-1/2 stories or 35 ft. feet.  
Accessory buildings or structures - 1 story or 15 feet
6. Principal building or group of buildings - 20% of lot area  
*CHECK FOR FORM NOT MORE THAN 20% (OVER 20%)*
7. 8,000 square feet for residential and non-residential uses excepting public or private non-profit schools which shall have at least 1/2 acre where access to public sewer is available, or 8,000 square feet or the area required under Lot Requirements in Unsewered Residential Districts, Section 602.19, whichever is larger, where the property is unsewered.
8. 8,000 square feet.
9. 80 feet (except as provided in Paragraph B-2 above) or the sum of the width of the principal building and the height of the principal building, whichever is greater, the width to be measured through that part of the building to be erected where the lot is narrowest.
10. 50 feet.
- C. Off-street parking shall be provided as required under Section 602.14 of this Ordinance. *CHECK SIDE STREET YARD*

602.3 D.

D. FRONT OF BOOK

\* Section 602.4R-3 RESIDENCE ZONE

Use  
602.4 A.

A. No building shall be erected, altered, enlarged, rebuilt, or used, and no premises shall be used, except for the following uses:

- R-3 11
1. Any use permitted in the R-2 Residence Zone. *Sec. 602.4A*  
2. Hospital on a lot of more than two acres.  
3. Accessory buildings and uses customarily subordinate  
4. or incidental to a conforming principal building or use.

By adding to Section 602.4 A. the following additional language:

"4. Sewage pumping stations and sewage treatment plants upon site plan approval by the Planning Board."

exchange building.

b. Private nursery school.

c. Alteration of one-family dwelling house with a combined gross first and second floor area exceeding fifteen hundred square feet existing on June 5, 1957, to accommodate not more than two families provided that: (a) No apartment shall have an area of less than 600 square feet exclusive of partitions, public hallways, and storage in basement, cellar or attic; (b) No open outside stairways or fire escape above the ground floor shall be constructed; (c) There shall be no cubical increase in volume of any existing buildings; and (d) No living quarters shall be permitted below the first story.

d. Recreational areas, including camping and tenting sites.

e. Off-street parking of passenger cars as provided in Section 602.14M.

f. Non-profit athletic fields.

**9**  
B. No building or structure shall be erected, altered, enlarged, rebuilt, or used which does not comply with the following requirements:

Space and Bulk  
602.4 B.

1. Principal buildings or structures - 25 feet  
Accessory buildings or structures - 3 feet

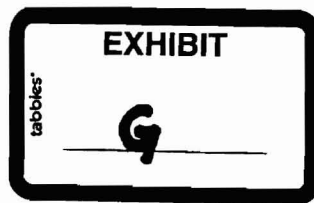
Minimum rear yards  
602.4 B. 1.

2. Principal buildings or structures - there shall be on each side of each building a side yard having a width as determined in the following table, provided that the width of one side yard may be reduced one foot for every foot that the other is correspondingly increased in width but no such yard shall be less than 8 feet in width, and provided further that on no lot held under separate and distinct ownership from adjacent lots and of record on June 5, 1957, shall the buildable width be reduced by this requirement to less than twenty-four feet, nor either side yard to less than five feet.

Minimum side yards  
602.4 B. 2.

*House &  
Side Yard*





This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

### Current Owner Information

Card Number	1 of 1
Parcel ID	084 N004001
Location	16 WHITEHEAD ST
Land Use	SEASONAL
Owner Address	KIPP THOMAS P & BARBARA H KIPP JTS 14 BALSAM DR BEDFORD MA 01730
Book/Page	26349/181
Legal	84-N-4 WHITEHEAD ST PEAKS ISLAND 4109 SF

### Current Assessed Valuation

Land	Building	Total
\$197,600	\$66,600	\$264,200

### Property Information

Year Built	Style	Story Height	Sq. Ft.	Total Acres	
1925	Old Style	1.5	1004	0.094	
Bedrooms	Full Baths	Half Baths	Total Rooms	Attic	Basement
3	1		6	None	Crawl

### Outbuildings

Type	Quantity	Year Built	Size	Grade	Condition
------	----------	------------	------	-------	-----------

### Sales Information

Date	Type	Price	Book/Page
09/22/2008	LAND + BLDING	\$380,000	26349-181
12/22/2000	LAND + BLDING		15918-349

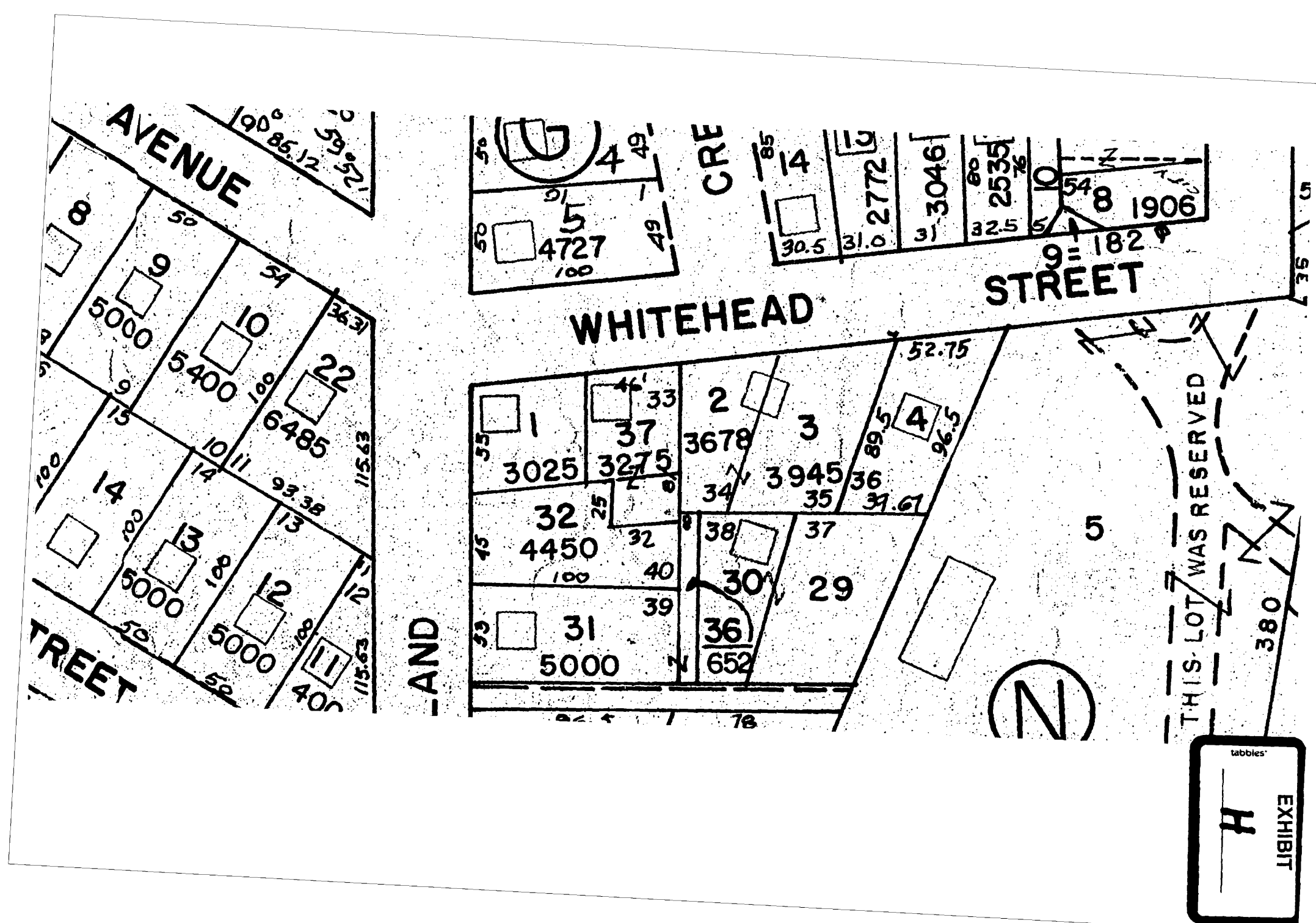
### Picture and Sketch

Picture	Sketch	Tax Map
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[Click here to view Tax Roll Information.](#)

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

[New Search!](#)



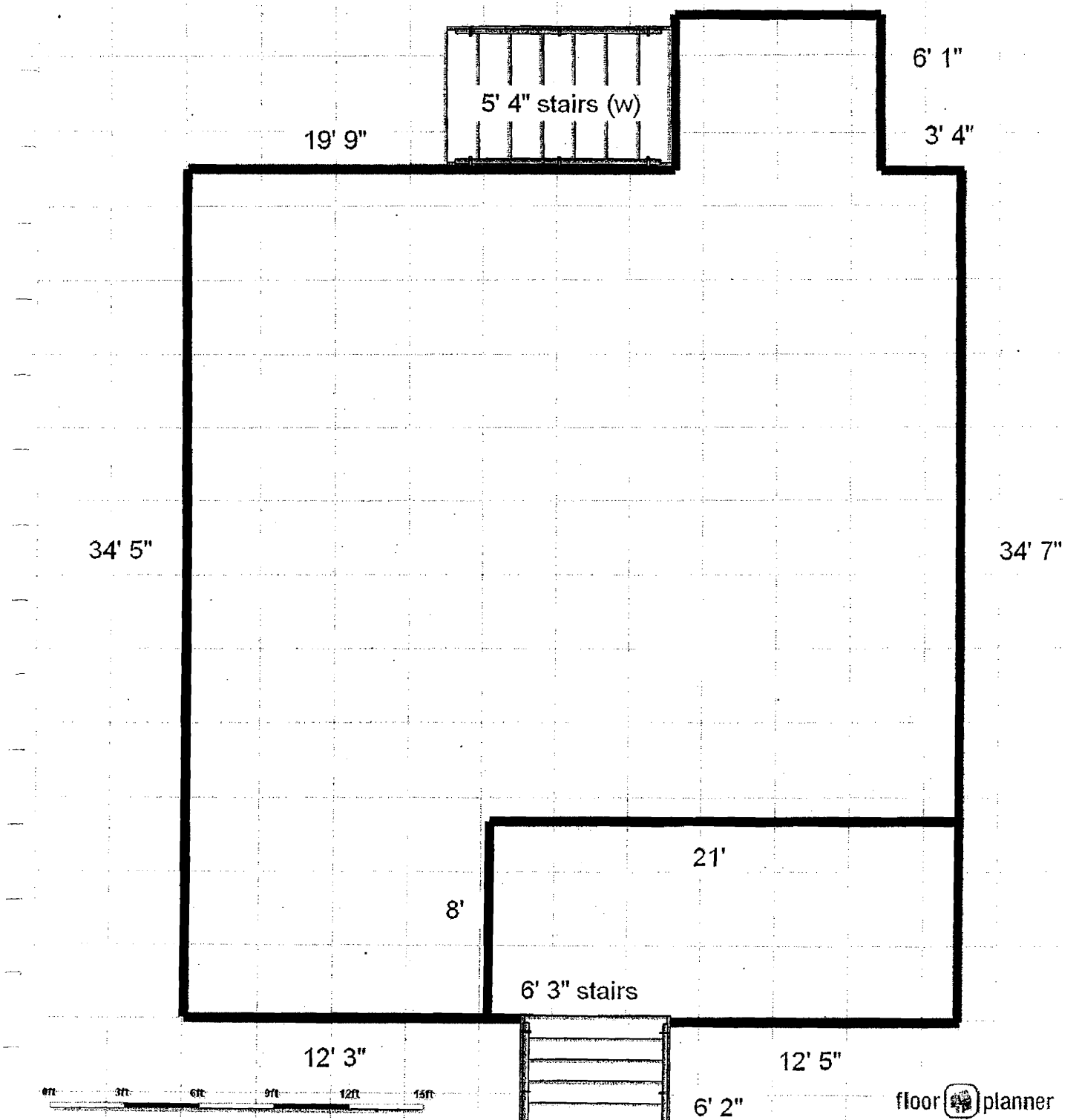
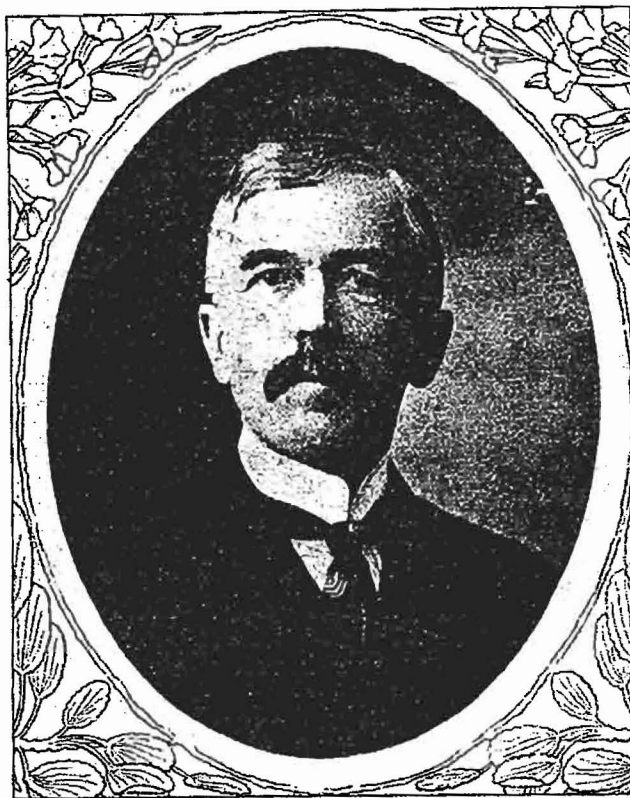


EXHIBIT  
**I**

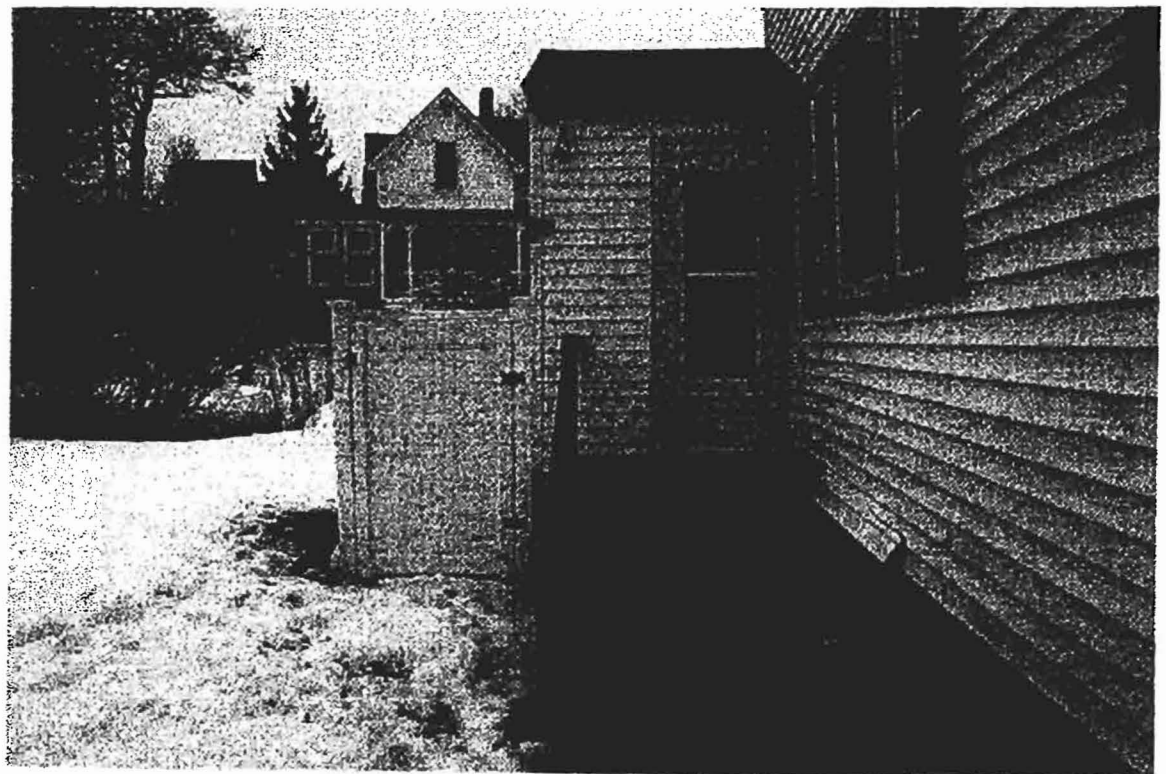
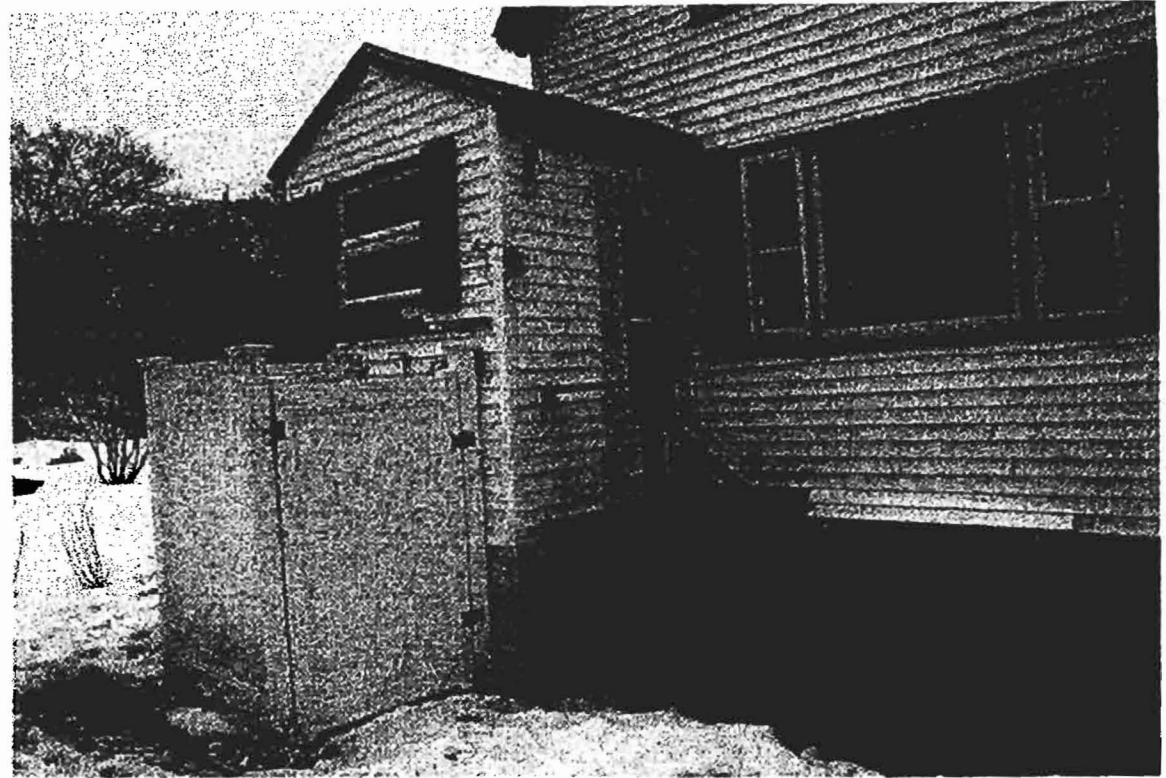


The islands did not only attract visitors from faraway destinations. Albert A. Cordwell was the mayor of Westbrook from 1893 to 1895. He served as a Republican in the Maine Legislature from 1901 to 1903 and in later years was cashier and paymaster at S.D. Warren Co.

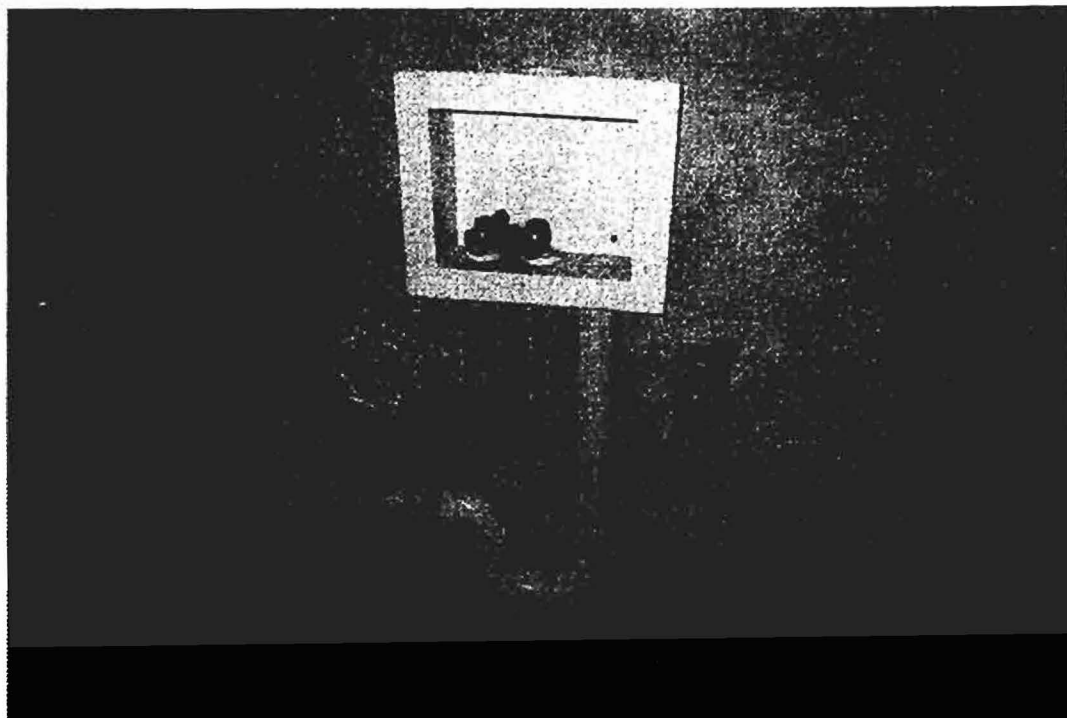
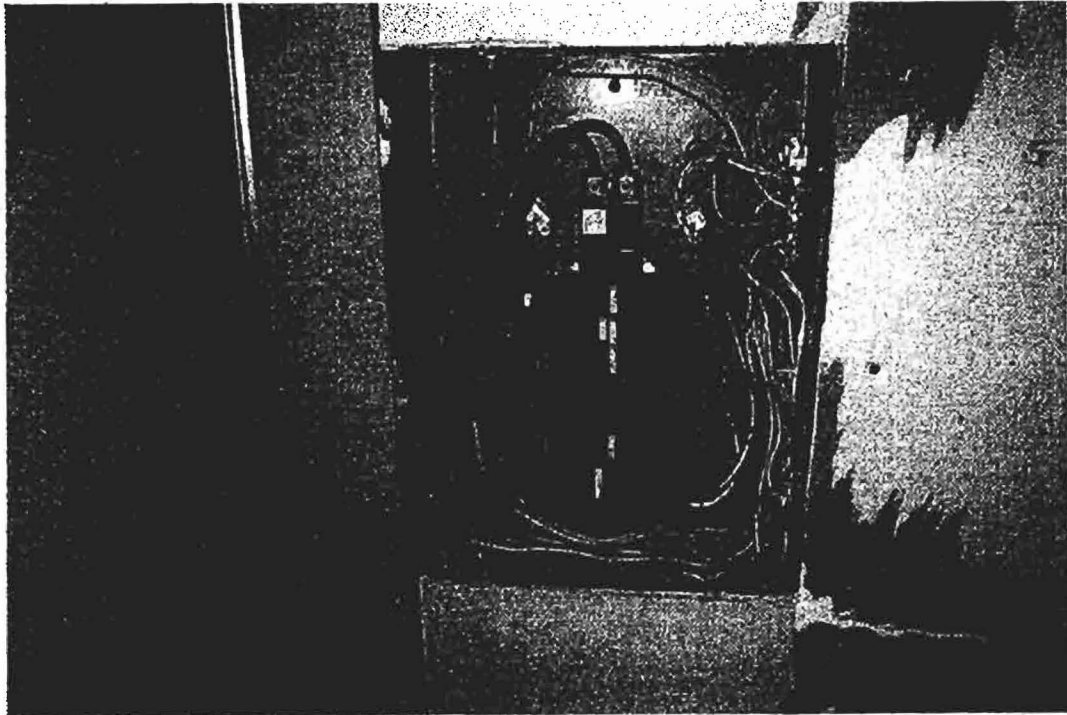


This is Albert Cordwell's summer home on Peaks Island. He built it himself on Whitehead Street, and from its windows the family could enjoy spectacular views of Cushing Island and Whitehead profile.

16 Whitehead St., P.I. rear entry, stairs & shower



16 Whitehead St., Peaks Island



rear entry contains the electric service panel and washer dryer hook up.

MAINE REAL

2005, and the Grantor herein is the sole surviving joint tenant.

Dated: September 18, 2008

Rev. James M. Steuterman  
Rev. James M. Steuterman

State of Massachusetts  
Worcester, ss.


September 18, 2008

Then personally appeared Rev. James M. Steuterman, and acknowledged the foregoing instrument to his free act and deed.

Before me,

SEAL

Kevin M. O'Connor  
Notary Public  
Print Name: Kevin M. O'Connor  
My commission expires: Jan 21, 2011

 KEVIN M. O'CONNOR  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
January 21, 2011

March 1, 2009

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

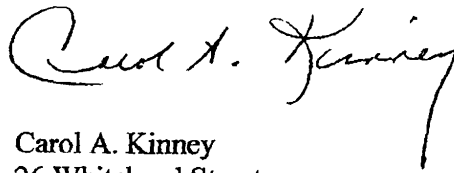
Dear Zoning Board members,

I live at 26 Whitehead Street, Peaks Island and I am a neighbor adjacent to 16 Whitehead Street. I have lived in this house since 1994 and I was a close neighbor and friend to the owners of 16 Whitehead Street prior to the recent sale. I can vouch for the character of Father James Steuterman and his Aunt Katie Kelly. I am sure that the work they did on their house would have met the code at the time and that they would insist on following the law at all times. I can attest that the addition was in place prior to my purchase of 26 Whitehead Street and that the only change I have seen is the addition of panels surrounding the shower. I have been in the house many times and the addition appears to be vintage 1970.

As a neighbor I am opposed to any action that would require that the new owners remove the small addition on the rear of the house. It serves no purpose to remove it and it is and has been an integral part of the house for many years.

This house is very visible from the street and I would conclude that the person representing the zoning board as the island inspector at that time, or any interested islander, would have brought any discrepancies to the attention of the contractor and the owner if permits were not posted or if regulations were not followed.

Respectively,



Carol A. Kinney  
26 Whitehead Street  
Peaks Island, Maine 04108

207-766-5950 home phone

MAR - 3 2009



**CITY OF PORTLAND, MAINE**  
Zoning Board of Appeals

**Zoning Board of Appeals Committee**

**DATE:** 7/16/2009  
**TIME:** 6:30:00 PM  
**LOCATION:** 389 Congress Street

**AGENDA**

- 1 A. Interpretation Appeal: 38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a).
- 1 B. Practical Difficulty Variance Appeal: 16 Whitehead Street, Peaks Island, Thomas and Barbara Kipp, owners, Tax Map 084, Block N, Lot 004, IR-2 Island Residential Zone: The appellants are seeking a variance to keep the 6' x 8' enclosed rear entry that was built without a permit. The appellants are requesting a variance for the right side setback from a required 20' to 11' [section 14-145.11(c)(3)]. The appellants are also requesting a variance for the maximum allowable lot coverage of 20% [section 14-145.11(d)]. The lot is 4,109 square feet. The footprint of the building with the 6' x 8' enclosed rear entry is 1,102 square feet which covers 26.8% of the lot. Representing the appeal is Jonathan Goldberg, Esq.
- 1 C. Conditional Use Appeal: 47 Runnells Street, Debra L. R. & Chad M. Flynn, owners, Tax Map 177, Block A, Lot 010, R-5 Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a family daycare/nursery school at her home for 8-10 children. Representing the appeal is the owner, Debra Flynn.
- 1 D. Conditional Use Appeal: 90 Crescent Avenue, Great Diamond Island, Kathy Sue & Douglas Roberts & Nancy Jo Connolly, owners, Tax Map 083A, Block E, Lots 007, 008 & 010, IR-2 Island Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-145.9(a)(1) requesting that an accessory dwelling unit be added to their single family dwelling. Representing the appeal are Nancy Jo Connolly and Attorney Jim Cloutier.



## Gayle Guertin - legal ad for zoning board of appeals

---

**From:** Gayle Guertin  
**To:** classified@pressherald.com  
**Date:** 7/8/2009 9:53 AM  
**Subject:** legal ad for zoning board of appeals  
**CC:** Ann Freeman; Gayle Guertin; Marge Schmuckal

Good Morning Joan,

Attached is the Zoning Board of Appeals legal ad for Friday,  
July 10, 2009

Thank You  
Gayle Guertin @ 874-8701

**Gayle Guertin - Re: legal ad for zoning board of appeals**

---

**From:** Joan Jensen <jjensen@pressherald.com>  
**To:** Gayle Guertin <GG@portlandmaine.gov>  
**Date:** 7/8/2009 11:22 AM  
**Subject:** Re: legal ad for zoning board of appeals

Hi Gayle,

All set to run your ad on Friday, July 10.  
The cost is \$258.63.

If you have any questions, please call or email me.

Thank you,  
Joan

Joan Jensen  
Portland Press Herald/Maine Sunday Telegram  
P.O. Box 1460  
Portland, ME 04104  
Tel. (207) 791-6157  
Fax (207) 791-6910  
Email classified@pressherald.com

On 7/8/09 9:53 AM, "Gayle Guertin" <GG@portlandmaine.gov> wrote:

Good Morning Joan,

Attached is the Zoning Board of Appeals legal ad for Friday,  
July 10, 2009

Thank You  
Gayle Guertin @ 874-8701



## City of Portland Zoning Board of Appeals

July 9, 2009

Jonathan L. Goldberg Esq  
Mittel Asen, LLC  
85 Exchange Street  
Portland, Maine 04101

Dear Appellant,

Your Practical Difficulty Variance Appeal has been scheduled to appear before the Zoning Board of Appeals on **Thursday, July 16, 2009 at 6:30 p.m.** located on the second floor room 209 of City Hall.

Please remember to bring a copy of the packet with you to the meeting to answer any questions the Board may have.

I have included an agenda with your appeal highlighted, as well as the procedures of the meeting for you to familiarize yourself.

I have also included the bill for the legal ad and notices. The check should be written as follows:

MAKE CHECK OUT TO:	City of Portland
MAILING ADDRESS:	Room 315
	389 Congress Street
	Portland, ME 04101

Please feel free to contact me at 207-874-8701 if you have any questions.

Sincerely,

Gayle Guertin  
Office Assistant

Cc: Thomas & Barbara Kipp, owners  
File

389 Congress St., Portland, Maine 04101 (207) 874-8701 FAX 874-8716 TTY 874-8936

# CITY OF PORTLAND, MAINE

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## ZONING BOARD OF APPEALS

### APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 16, 2009 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

#### 1. New Business:

##### A. Interpretation Appeal:

38 Torrington Avenue, Peaks Island, Richard & Patricia Ashton, owners, Tax Map 084, Block S, Lot 006, IR-2 Island Residential Zone: The original Interpretation Appeal was heard by the Board on November 13, 2008. An appeal of that decision went to Superior Court who remanded the appeal back to the Board to review the proposal for compliance under section 14-436(a).

##### B. Practical Difficulty Variance Appeal:

16 Whitehead Street, Peaks Island, Thomas and Barbara Kipp, owners, Tax Map 084, Block N, Lot 004, IR-2 Island Residential Zone: The appellants are seeking a variance to keep the 6' x 8' enclosed rear entry that was built without a permit. The appellants are requesting a variance for the right side setback from a required 20' to 11' [section 14-145.11(c)(3)]. The appellants are also requesting a variance for the maximum allowable lot coverage of 20% [section 14-145.11(d)]. The lot is 4,109 square feet. The footprint of the building with the 6' x 8' enclosed rear entry is 1,102 square feet which covers 26.8% of the lot. Representing the appeal is Jonathan Goldberg, Esq.

##### C. Conditional Use Appeal:

47 Runnells Street, Debra L. R. & Chad M. Flynn, owners, Tax Map 177, Block A, Lot 010, R-5 Zone: The appellant is seeking a Conditional Use Appeal under section 14-118(c)(3) to have a family daycare/nursery school at her home for 8-10 children. Representing the appeal is the owner, Debra Flynn.

##### D. Conditional Use Appeal:

90 Crescent Avenue, Great Diamond Island, Kathy Sue & Douglas Roberts & Nancy Jo Connolly, owners, Tax Map 083A, Block E, Lots 007, 008 & 010, IR-2 Island Residential Zone: The appellants are seeking a Conditional Use Appeal under section 14-145.9(a)(1) requesting that an accessory dwelling unit be added to their single family dwelling. Representing the appeal are Nancy Jo Connolly and Attorney Jim Cloutier.

#### 2. Other Business:

#### 3. Adjournment:

CITY OF PORTLAND  
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT  
389 Congress Street  
Portland, Maine 04101

INVOICE FOR FEES

Application No:	0000-1530	Applicant:	Kipp Thomas P &
Project Name:	16 Whitehead St	Location:	16 WHITEHEAD ST
CBL:	084 N004001	Application Type:	Practical Difficulty Variance Appeal
Invoice Date:	07/09/2009		

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$100.00		\$100.00		\$0.00	On Receipt

Previous Balance\$0.00

Fee Description	Qty	Fee/Deposit Charge
Legal Advertisements	1	\$64.66
Legal Ad Processing Fee	1	\$12.50
Appeal Fee	1	\$100.00
		\$177.16
Total Current Fees:		+ \$177.16
Total Current Payments:		- \$100.00
Amount Due Now:		\$77.16

	CBL 084 N004001
	Application No: 0000-1530
	Invoice Date: 07/09/2009
	Invoice No: 34967
Bill to: Kipp Thomas P & 14 Balsam Dr Bedford , MA 01730	Total Amt Due: \$0.00
	Payment Amount: \$100.00

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.

**IMPORTANT NOTICE FROM CITY OF PORTLAND  
TO RESIDENTS AND PROPERTY OWNERS**

TO RESIDENTS AND PROPERTY OWNERS  
IN THE VICINITY OF 16 WHITEHEAD STREET, PEAKS ISLAND

**WHAT**

A. Practical Difficulty Variance Appeal:  
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**WHEN**

The Zoning Board meeting will be held on Thursday, July 16, 2009 at 6:30pm at Portland City Hall, located at 389 Congress Street. The meeting will take place in room 209, 2nd floor.

**FOR MORE INFORMATION**

For more information you may contact Marge Schmuckal, Zoning Administrator, at 207-874-8695

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CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	BAIRD ABIGAIL & JONATHAN D BAIRD &	149 COLLEGE AVE # 6 POUGHKEEPSIE , NY 12603	28 GREENWOOD ST	1
	BARKER HUGH T III	54 TORRINGTON AVE PEAKS ISLAND , ME 04108	54 TORRINGTON AVE	1
	BAROWITZ ELLIOTT & JANE JTS	330 LAFAYETTE ST NEW YORK, NY 10012	28 LONG POINT RD	0
	BAROWITZ ELLIOTT & JANE JTS	330 LAFAYETTE ST NEW YORK, NY 10012	11 SEASHORE AVE	1
	BROWN JAMES WWII VET & AMELIA M JTS	15 NEW ISLAND AVE PEAKS ISLAND, ME 04108	15 NEW ISLAND AVE	1
	BUTLER PATRICIA & PAMELA BUTLER O'BRIEN JTS	100 PERKINS ROW TOPSFIELD , MA 01983	10 SEASHORE AVE	1
	CARRIER J ROBERT & MARIE T JTS	315 BRIDGE ST WESTBROOK, ME 04092	9 MERIDIAN ST	0
	CARRIER J ROBERT & MARIE T	315 BRIDGE ST WESTBROOK, ME 04092	13 MERIDIAN ST	1
	CASHMAN JOHN E & MARY JO JTS	8 FARMS EDGE WAY CUMBERLAND , ME 04021	23 SEASHORE AVE	1
	CASHMAN MARY JO & JOHN E JTS	8 FARMS EDGE WAY CUMBERLAND CENTER , ME 04021	39 NEW ISLAND AVE	1
	CLANCY JUDITH K & PAUL G CLANCY JTS	48 GLEN RD YARMOUTH , ME 04096	30 WHITEHEAD ST	1
	CLARKE MARIE H	7 FIR WAY HARPSWELL , ME 04079	19 WHITEHEAD ST	1
	COGAN CAROLYN H	11 WILDER ST NASHUA, NH 03060	13 ADAMS ST	1
	COTTON LINDA & GEORGE B COTTON LIFE ESTATE	1435 BELVEDERE AVE MARCO ISLAND , FL 34145	2 HADLOCK COVE RD	1
	DANTE ROGER & ELEANOR JTS	19 COVENTRY TERR MARLBORO , NJ 07746	13 LONG POINT RD	1
	DEBELLIS SUSAN V & MARK F JTS	2006 COUNTRYCLUB DR EUSTIS , FL 32726	11 OAKLAND AVE	1
	DEMOS STEPHEN KW VET & LAVINIA C JTS	25 CRESCENT AVE PEAKS ISLAND , ME 04108	25 CRESCENT AVE	1
	DERVIS DONALD C TRUSTEE	26 MAIN ST PARK MALDEN , MA 02148	2 OAKLAND AVE	1
	DESMOND WILLIAM J III	33 SEASHORE AVE PEAKS ISLAND, ME 04108	33 SEASHORE AVE	1
	DOANE H DANIEL ETALS	364 ISLAND AVE PEAKS ISLAND , ME 04108	98 TORRINGTON AVE	1
	DYE STUART S & JANET LANE DYE JTS	55 MERRILL RD FALMOUTH , ME 04105	4 OAKLAND AVE	1
	EATON ERIC K & HOLLY L HURD-FORSYTH JTS	59 NEW ISLAND AVE PEAKS ISLAND , ME 04108	59 NEW ISLAND AVE	1
	ECKEL PETER L & JENNIFER G ECKEL JTS	21 WHITEHEAD ST PEAKS ISLAND , ME 04108	21 WHITEHEAD ST	1
	ERIKSON JOHAN & PATRICIA P ERIKSON JTS	29 GREENWOOD ST PEAKS ISLAND , ME 04108	29 GREENWOOD ST	1
	ERIKSON JOHAN P & PATRICIA P ERIKSON JTS	29 GREENWOOD ST PEAKS ISLAND , ME 04108	52 OAK AVE	1
	FIELDSEND TOM H & VONDELLE J FIELDSEND JTS	17 ADAMS ST PEAKS ISLAND , ME 04108	17 ADAMS ST	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	FLAHERTY ALICIA E & HELEN J FLAHERTY JTS	187 MUSSEY ST SOUTH PORTLAND, ME 04106	15 OAKLAND AVE	1
	FLYNN KERRY J & STEPHEN F	93 NEW ISLAND AVE PEAKS ISLAND, ME 04108	93 NEW ISLAND AVE	1
	GAETANI SALVATORE A & CAROL E GAETANI JTS	PO BOX 556 WHITE PLAINS , NY 10603	14 CRESCENT AVE	1
	GALLANT FRANCIS J KW VET & ELLIN K JTS	111 CENTRAL AVE PEAKS ISLAND , ME 04108	8 ADAMS ST	1
	GAY LOIS M	44 LONGWOOD DR PORTLAND, ME 04102	47 OAK AVE	1
	GRITMAN ROBERT E ETALS	60 TORRINGTON AVE PEAKS ISLAND, ME 04108	60 TORRINGTON AVE	1
	HART VALENTINE C & GRACE A VALENZUELA	29 SUNNYFIELD LN CUMBERLAND , ME 04021	11 CRESCENT AVE	1
	HASSON RICHARD B	64 NEW ISLAND AVE PEAKS ISLAND, ME 04108	64 NEW ISLAND AVE	1
	HATFIELD DOUGLAS S & PAUL L KNOX TRUSTEES	501 PRATT RD BRADFORD , VT 05033	15 SEASHORE AVE	1
	HOLBROOK NANCY CHASE	3628 CHESTNUT ST NEW ORLEANS , LA 70115	19 HADLOCK COVE RD	1
	HOLLENBACH SUSAN & WILLIAM	780 LAWSON AVE HAVERTOWN, PA 19083	29 ADAMS ST	1
	HORTON ELLEN B WID WWII VET	12 OAKLAND AVE PEAKS ISLAND, ME 04108	10 OAKLAND AVE	1
	JOHNSON HARVEY S & HEATHER S THOMPSON JTS	9 ADAMS ST PEAKS ISLAND , ME 04108	9 ADAMS ST	1
	JONES DOROTHY	41 ROSEMONT AVE PORTLAND , ME 04103	5 WHITEHEAD ST	0
	JONES DOROTHY ANNE & HERBERT A JONES HEIRS	41 ROSEMONT AVE PORTLAND , ME 04103	6 SEASHORE AVE	1
	KANE JOSEPH W & B SUZANNE	72 TORRINGTON AVE PEAKS ISLAND , ME 04108	72 TORRINGTON AVE	1
	KENNEDY HARRIS W & ALICE G KENNEDY JTS	47 NEW ISLAND AVE PEAKS ISLAND , ME 04108	47 NEW ISLAND AVE	1
	KINNEY CAROL A & RICHARD R JTS	26 WHITEHEAD ST PEAKS ISLAND, ME 04108	26 WHITEHEAD ST	1
	KIPP THOMAS P & BARBARA H KIPP JTS	14 BALSAM DR BEDFORD , MA 01730	16 WHITEHEAD ST	1
	KLOPP DONALD W & KATHRYN B JTS	PO BOX 74 WHITEHEAD ST PEAKS ISLAND, ME 04108	9 WHITEHEAD ST	0
	KLOPP DONALD W & KATHRYN B	WHITEHEAD ST PEAKS ISLAND, ME 04108	32 HADLOCK COVE RD	1
	KNUDSEN CHRISTOPHER R &	68 PINEHURST DR BOXFORD, MA 01921	11 HADLOCK COVE RD	1
	LANDY RICHARD M & JOAN S JTS	6100 VERNON TER ALEXANDRIA, VA 22307	97 NEW ISLAND AVE	1
	LANE RICHARD A WWII VET	91 NEW ISLAND AVE PEAKS ISLAND, ME 04108	91 NEW ISLAND AVE	1
	LANG MATINA TRUSTEE	5 NELSON DR CHESTNUT HILL , MA 02467	5 ADAMS ST	1
	LYNCH THOMAS F & KATHLEEN K LYNCH	4 HOSKING WAY RAMSEY , NJ 07446	32 WHITEHEAD ST	1



CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	MCCARTHY KATHLEEN	20 ADAMS ST PEAKS ISLAND, ME 04108	16 ADAMS ST	1
	MCCARTHY KATHLEEN	20 ADAMS ST PEAKS ISLAND, ME 04108	20 ADAMS ST	1
	MEHLER KENNETH	13 WHITEHEAD ST PEAKS ISLAND , ME 04108	13 WHITEHEAD ST	1
	MOKEME OSCAR & SHARON C	8 OAKLAND AVE PEAKS ISLAND, ME 04108	8 OAKLAND AVE	1
	MONROE ANITA & DEBORAH SAPP & LINDA BRADT	26 LARNED RD OXFORD , MA 01540	12 ADAMS ST	1
	NAPOLITANO JOHN C	96 EMERY ST PORTLAND, ME 04102	25 ADAMS ST	1
	NICOLOPOULOS PAULINE & NADINE TSOUKAS JTS	4681 WESTMOUNT AVE MONTREAL D2, CN H3Y 1W9	10 CRESCENT AVE	1
	O'SULLIVAN LOUISE G	8300 BLVD EAST # 4B NORTH BERGERN , NJ 07047	24 ADAMS ST	1
	OLIVIERI PATRICIA J & ARTHUR J JTS	78 WILDERS GROVE RD NEWTON, NH 03858	15 WHITEHEAD ST	1
	PAGE DEIRDRE D & ROBERT J JTS	9 CRESCENT AVE PEAKS ISLAND, ME 04108	9 CRESCENT AVE	1
	PERRON ROSE MARIE & THOMAS S JTS	94 HILLSIDE AVE SOUTH PORTLAND, ME 04106	14 SEASHORE AVE	1
	PERRON THOMAS S & ROSEMARIE JTS	94 HILLSIDE AVE SOUTH PORTLAND, ME 04106	16 SEASHORE AVE	1
	PETERSON SYLVIA A	4 ADAMS ST PEAKS ISLAND, ME 04108	6 ADAMS ST	1
	POWERS MARJORIE J & DAVID B JTS	17 TORRINGTON PT PEAKS ISLAND, ME 04108	17 TORRINGTON PT	1
	RICCIOTTI DIANE M	19 OAKLAND AVE PEAKS ISLAND, ME 04108	19 OAKLAND AVE	1
	ROBINSON MARK D	3 TAYLOR RD STOW, MA 01775	70 TORRINGTON AVE	1
	ROCQUE KEVIN & KAREN PETERSON JTS	31 NEW ISLAND AVE PEAKS ISLAND , ME 04108	31 NEW ISLAND AVE	1
	RODICK THOMAS W	157 MYRTLE ST HANOVER, MA 02339	6 HADLOCK COVE RD	1
	RYEFIELD ASSOCIATES LLC	49 SUMMIT ST SOUTH PORTLAND , ME 04106	94 TORRINGTON AVE	1
	SCHMIDT REMINGTON O	41A ISLAND AVE PEAKS ISLAND, ME 04108	43 NEW ISLAND AVE	1
	SCHMIDT REMINGTON OSBORNE	41 A NEW ISLAND AVE PEAKS ISLAND, ME 04108	37 NEW ISLAND AVE	1
	SHERWOOD RICHARD A & EMILY D JTS	96 NEW ISLAND AVENUE PEAKS ISLAND, ME 04108	96 NEW ISLAND AVE	1
	SPEAR ROBERT R	381 HANCOCK POND RD SEBAGO , ME 04029	5 LONG POINT RD	1
	STERLING PETER & LOUISE E JTS	39 LATHAM ST SOUTH PORTLAND, ME 04106	70 OAK AVE	1
	STERLING PETER E & LOUISE E JTS	39 LATHAM ST SOUTH PORTLAND, ME 04106	57 TORRINGTON AVE	1
	SUTTON KERRY & LARRY STOLTZ &	906 CONSTITUTION AVE NE WASHINGTON , DC 20002	41 NEW ISLAND AVE	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
	TABBUTT ANN FOSTER & ARTHUR J FINK JTS	10 NEW ISLAND AVE PEAKS ISLAND, ME 04108	10 NEW ISLAND AVE	1
	TANOUS DAVID J & MARY K JTS	20 SEASHORE AVE PEAKS ISLAND , ME 04108	20 SEASHORE AVE	1
	TAYLOR EUGENE GOSS & KAREN DILL TAYLOR JTS	77 TORRINGTON POINT PEAKS ISLAND, ME 04108	77 TORRINGTON AVE	1
	THORNE ANTHONY ZIEGLER & DORIS JEAN OR SURV	19 CHURCHILL RD WHITTING , NJ 08759	18 CRESCENT AVE	1
	TUTTLE LINDA M & DONALD G CRANDALL JTS	63 NEW ISLAND AVE PEAKS ISLAND , ME 04108	63 NEW ISLAND AVE	1
	TYLER-MILLAR VICTORIA & MARK L MILLAR TRUSTEES	23 FOWLER RD CAPE ELIZABETH , ME 04107	13 TORRINGTON PT	1
	WAGNER BRENT H & CATHRYN H	1401 FOREST PARK AVE VALPARAISO, IN 46385	18 OAKLAND AVE	1
	WATTERS DAVID H & JANICE M ALBERGHENE JTS	19 MAPLE ST DOVER, NH 03820	62 OAK AVE	1
	WEIGLE LAURA C & MICHAEL A WEIGLE TRUSTEES	90 NEW ISLAND AVE PEAKS ISLAND, ME 04108	80 NEW ISLAND AVE	1
	WILSON JOHN J	469 51ST ST # 2 BROOKLYN , NY 11220	21 ADAMS ST	1
	WOODBURY H HUGH & JOYCE N	76 TORRINGTON AVE PEAKS ISLAND , ME 04108	76 TORRINGTON AVE	1

CBL	OWNER	OWNER MAILING ADDRESS	PROPERTY LOCATION	UNITS
Total Listed:		89		85

**Ann Machado - Re: 16 Whitehead St., Peaks island**

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**From:** Ann Machado  
**To:** Ralph Ashmore  
**Date:** 3/4/2009 3:17 PM  
**Subject:** Re: 16 Whitehead St., Peaks island

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Ralph -

Thanks for the two letters. They have been added to the ZBA packets.

As far as the R-3 page from the early 1980s - the page you have does have the information. It is #6.  
Maximum Building Area: Principal building or group of buildings - 25% of lot area.

I don't know what the "Newell Amendment" is.

As far as applying for an after the fact permit, an after the fact permit would have to meet today's IR-2 standards and the structure doesn't.

Please get the revised cover letter and the answers to the questions on the Practical Difficulty Variance Application in as soon as possible.

Ann Machado  
Zoning Specialist  
(207) 874-8709

>>> "Ralph Ashmore" <Ralph@ashmorerealty.com> 03/03 1:56 PM >>>  
Hi Ann,

Thanks for the call today. Attached are letters from Father Steuterman, the recent former owner and from the next door neighbor Carol Kinney. I couldn't find anything in the R-3 pages you gave me about lot coverage. If you get a chance, please forward the section that speaks to lot coverage. Also, I was hoping you could provide be with a copy of the so called Newell Amendment.

Just curious; do think it might be worth a shot if I asked Marge if an after-the-fact permit could be granted based on this particular situation and in light of Rev. Steuterman's letter?

Many thanks for your assistance.



**207.766.2981**  
[Ralph@AshmoreRealty.com](mailto:Ralph@AshmoreRealty.com)

**Ann Machado - RE: 16 Whitehead St. Practical Difficulty appeal**

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**From:** "Ralph Ashmore" <Ralph@ashmorerealty.com>  
**To:** "Ann Machado" <AMACHADO@portlandmaine.gov>  
**Date:** 3/10/2009 10:16 AM  
**Subject:** RE: 16 Whitehead St. Practical Difficulty appeal  
**CC:** "Jonathan Goldberg" <JGoldberg@mittelasen.com>

---

Ann,

I know the Kipp's are planning to attend the April 2<sup>nd</sup> meeting but Jon Goldberg has sent them a form letter to represent them just the same. I'm sure Jon will be forwarding this along to your office.

Namaste'



**207.766.2981**  
[Ralph@AshmoreRealty.com](mailto:Ralph@AshmoreRealty.com)



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**From:** Ann Machado [mailto:AMACHADO@portlandmaine.gov]  
**Sent:** Tuesday, March 10, 2009 7:48 AM  
**To:** Ralph Ashmore  
**Subject:** RE: 16 Whitehead St. Practical Difficulty appeal

Ralph -

Thanks for the update. I just want to get this straight. Are the owners going to be at the meeting? If not they

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3/10/2009

will need to put in writing that Jonathan Goldberg is representing them.

Thank you.

Ann Machado  
Zoning Specialist  
(207) 874-8709

>>> "Ralph Ashmore" <Ralph@ashmorerealty.com> 03/09 5:41 PM >>>

Ann,

Gail from your office, called me last week and said she was working on the ZBA matter with you. I spoke with her about the owners schedule and it was agreed that we would go on the April 2<sup>nd</sup> hearing with paper work in by the 16<sup>th</sup>. Jonathan Goldberg from the law office of Mittel Asen will be completing the paperwork and is scheduled to make the presentation to ZBA.

Kindly,



**207.766.2981**  
[Ralph@AshmoreRealty.com](mailto:Ralph@AshmoreRealty.com)



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**From:** Ann Machado [mailto:AMACHADO@portlandmaine.gov]  
**Sent:** Monday, March 09, 2009 12:33 PM  
**To:** Ralph@ashmorerealty.com  
**Subject:** 16 Whitehead St. Practical Difficulty appeal

Ralph -

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3/10/2009

We cannot move forward with the appeal for the March 19, 2009 ZBA meeting without the revised cover letter and the more complete answers to the application. I need to receive that information by noon tomorrow, March 10, 2009 for your appeal to be on the March 19, 2009 ZBA agenda.

Ann Machado  
Zoning Specialist  
(207) 874-8709

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**Database version: 5.11920**  
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**Database version: 5.11930**  
**<http://www.pctools.com/spyware-doctor-antivirus/>**

**E-mail message checked by Spyware Doctor (6.0.0.386)**  
**Database version: 5.11930**  
**<http://www.pctools.com/spyware-doctor-antivirus/>**

**Ann Machado - ZBA hearing for 16 Whitehead St.**

**From:** "Ralph Ashmore" <Ralph@ashmorerealty.com>  
**To:** <amachado@portlandmaine.gov>  
**Date:** 3/11/2009 4:25 PM  
**Subject:** ZBA hearing for 16 Whitehead St.

Hi Ann,

I just spoke to Gail in your office and she now has us scheduled the for the May 7th hearing. It's been difficult trying to coordinate every ones schedules but I think we finally have it nailed down and I wanted to make sure you were in loop.

Please contact me with any questions and many thanks for your assistance with this.



**207.766.2981**  
[Ralph@AshmoreRealty.com](mailto:Ralph@AshmoreRealty.com)



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**Database version: 5.11940**  
<http://www.pctools.com/spyware-doctor-antivirus/>



## Gayle Guertin - 16 Whitehead Street

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**From:** Gayle Guertin  
**To:** ralph@ashmorerealty.com  
**Date:** 3/12/2009 7:02 AM  
**Subject:** 16 Whitehead Street  
**CC:** Ann Machado; Gayle Guertin; Marge Schmuckal

Hi Ralph,

The Zoning Board of Appeals has 16 Whitehead Street scheduled for May 7, 2009 as you requested on March 11, 2009. The deadline for the revised cover letter and complete answers to the Practical Difficulty Variance is 12:00pm Monday, April 20, 2009.

Thank You  
Gayle Guertin @ 874-8701

**Gayle Guertin - Re: 16 Whitehead St., Peaks Island**

**From:** Ann Machado  
**To:** Ralph Ashmore  
**Date:** 4/16/2009 2:55 PM  
**Subject:** Re: 16 Whitehead St., Peaks Island  
**CC:** Gayle Guertin

Ralph -

We have rescheduled the practical difficulty appeal for 16 Whitehead Street from May 7, 2009 to June 4, 2009. Please make sure that all the required material is submitted by May 18, 2009 at noon.

Ann Machado  
Zoning Specialist  
(207) 874-8709

>>> "Ralph Ashmore" <Ralph@ashmorerealty.com> 04/16 11:14 AM >>>  
Subject: 16 Whitehead St., Peaks Island

Ann,

I am writing to you on behalf of Thomas Kipp who is requesting a delay of hearing before the Board of Appeals. Mr. Kipp and his attorney Jonathan Goldberg are waiting to hear from the title insurance company regarding affirmative coverage. Please reschedule hearing for June 4<sup>th</sup> ; materials pertaining to hearing will be delivered to you by May 18<sup>th</sup> .

Please confirm rescheduled hearing to me via email.

Many thanks for your assistance.



**207.766.2981**  
[Ralph@AshmoreRealty.com](mailto:Ralph@AshmoreRealty.com)  
[www.AshmoreRealty.com](http://www.AshmoreRealty.com)



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4/17/2009

## Gayle Guertin - ZBA appeal for 16 Whitehead St.

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**From:** Ann Machado  
**To:** Gayle Guertin  
**Date:** 6/30/2009 8:09 AM  
**Subject:** ZBA appeal for 16 Whitehead St.

.

Gayle -

Ralph Ashmore left me a voicemail at the end of the day yesterday saying that the owner wants to move ahead with the appeal for July 16. He asked for a couple extra days to get the necessary information in. I just left him a voicemail saying that we need the revised cover letter & application by first thing Thursday morning at the latest.

Ann

## Gayle Guertin - Zoning Board of Appeals application for 16 Whitehead, Peaks Island

**From:** Ann Machado  
**To:** Ralph Ashmore  
**Date:** 6/23/2009 11:07 AM  
**Subject:** Zoning Board of Appeals application for 16 Whitehead, Peaks Island  
**CC:** Gayle Guertin

Ralph -

The appeal application submitted 2/20/09 was incomplete. You asked for an extension to be on the July 16, 2009 agenda.

You need to revise your cover letter. It needs to state exactly what you are asking for in the appeal. What is the required side setback and what is the side setback you are asking for? Also what is the maximum lot coverage you are asking for since the building is over the required maximum lot coverage.

Your application was also incomplete. You need to be more specific about how the eight conditions on the second page of the application exist. Just saying true is not enough. Explain how each condition is being met.

You also should be specific about how the rear entry conformed to the rules at the time.

The deadline for submittals for the July 16 appeal is Monday, June 29, 2009 at noon. We need the revised cover letter and more complete answers to the application at that point because we need to draw up the agenda.

Thank you.

Ann Machado  
zoning Specialist  
(207) 874-8709



February 18, 2009

City of Portland Zoning Board of Appeals  
389 Congress St.,  
Portland, Maine 04101

Subject: 16 Whitehead St., Peaks Island, Maine

Dear Members of the Zoning Board of Appeals,

Upon applying for a renovations building permit on behalf of Thomas and Barbara Kipp I received a letter from Zoning Specialist Ann Machado (see attached letter of January 21, 2009), stating that based on her research, the 6'x8' rear entry to the property does not conform to current zoning standards and unless a record of a building permit for this portion of the property can be found, it must then be removed. Although the city assessors web page depicts a sketch of the building with the 6x8 rear entry (see attached sketch), Ms. Machado was instructed to obtain a sketch from the 1951 archives that does not show it (see attached).

Upon receiving this notice, I contacted the recent former owner, Rev. James Steuterman. Rev. Steuterman is out of the country working but is expected to return next week. While on the phone with Rev. Steuterman he recited the attached letter for me to present to you. Upon his return, he will provide his signature.

Since the rear entry and stairs were added in 1974 and outside shower was added in 1957 these structures did conform to the rules and setbacks of the time, I respectfully request that you approve the Practical Difficulty Variance.

Thank you for your consideration.

Sincerely,

Ralph W. Ashmore

Telephone: 207.766.2981

✓ - need questions on application answered in more detail. ~ has specifically if the conditions being met?  
- cover letter. - needs to be more specific

Signed letter  
attached  
good

- make sure  
you have  
info.

What specifically are you asking for.  
you need to ask for a specific #.  
for side setback - both sides.  
required is 20' what asking for  
steps on left  
6x8 on right.

- need to address lot coverage issue too.  
20% today 25% before.

1027.25 ±  
1954 in 1951

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February 18, 2009

City of Portland Zoning Board of Appeals  
389 Congress St.,  
Portland, Maine 04101

Subject: 16 Whitehead St., Peaks Island, Maine

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Thank you for your consideration.

Sincerely,

Ralph W. Ashmore

Telephone: 207.766.2981



Planning and Development Department  
Zoning Board of Appeals  
Practical Difficulty Variance Application

# 59500001

Applicant Information:

Name Ralph Ashmore

Business Name Ashmore Realty

Address 20 Welch St

Telephone Peaks Island, ME 04108 Fax

Applicant's Right, Title or Interest in Subject Property:

(e.g. owner, purchaser, etc.): Representing the Kipp's

Current Zoning Designation: IR-2

Existing Use of Property:

single family residence

Subject Property Information:

Property Address 16 Whitehead St., P.I.

Assessor's Reference (Chart-Block-Lot) 84-N-4

Property Owner (if different):

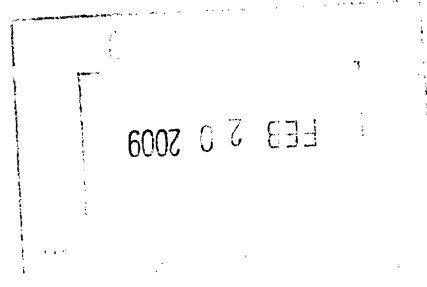
Name Thomas & Barbara Kipp

Address 14 Balsam Dr.

Telephone Bedford, MA 01730 Fax

781-771-2387

Practical Difficulty Variance from Section 14 - 145.11(c)(3)  
§ 14-145.11(d)



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

The undersigned hereby makes application for a Practical Difficulty Variance as above described, and certified that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

[Signature]  
Signature of Applicant  
Ralph Ashmore

2/18/09  
Date



Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the Board of Appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:

1. The need for the variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood: *true*

---

2. The granting of the variance will not have an unreasonably detrimental effect on either the use or fair market value of the abutting properties: *true*

---

3. The Practical Difficulty is not the result of action taken by the applicant or a prior owner: *true*

---

4. No other feasible alternative is available to the applicant, except a variance: *true*

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5. The granting of a variance will not have an unreasonably adverse effect on the natural environment: *true*

---

6. Strict application of the dimensional standards of the ordinance to the subject property will preclude a use which is permitted in the zone in which the property is located: *true*

---

7. Strict application of the dimensional standards of the ordinance to the subject property will result in significant economic injury to the applicant: *true*

---

8. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. Section 435, nor within a shoreland of flood hazard zone as defined in this article: *true*

---

The following words have the meanings set forth below:

- a.) Dimensional Standards: Those provisions of this article which relate to lot area, lot coverage, frontage and setback requirements.
- b.) Practical difficulty: A case where strict application of the dimensional standards of the ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant.
- c.) Significant Economic Injury: The value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land.

A Practical Difficulty Variance may not be used to grant relief from the provisions of Section 14-449 (Land Use Standards) to increase either volume or floor area, nor to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this article.

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# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life* • [www.portlandmaine.gov](http://www.portlandmaine.gov)

*Penny St. Louis Littell - Director of Planning and Development  
Marge Schmuckal, Zoning Administrator*

January 21, 2009

Ralph Ashmore  
20 Welch Street  
Peaks Island, ME 04108

Re: 16 Whitehead Street, Peaks Island – 084 N004 – IR-2 – permit #09-0028

Dear Mr. Ashmore,

I'm writing this letter as a follow up to the conversation we had at the counter on January 16, 2009. In reviewing your application (#09-0028) to add a dormer and deck, enclose part of the porch and do interior renovations, I needed to make sure that the existing porch had been permitted. In researching our records, I could not find any building permits for this property. When there are no permits on file, we look at what the footprint was on the 1951 assessor's card which is from before the ordinance went into effect in 1957. This is what we consider the legal footprint of the building. The assessor's card showed that the front porch did exist in 1951, but the six foot by eight foot single story room on the rear of the building did not exist. Since the six foot by eight foot room did not exist on the 1951 card and there is no permit for it, it is not legal, and the property must be brought into compliance.

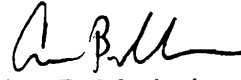
16 Whitehead Street, Peaks Island is located in the IR-2 residential zone. Section 14-145.11(c) of the ordinance gives the minimum required side setback as twenty feet. The plot plan submitted with the application shows the side setback to the six foot by eight foot room as eleven feet. Section 14-145.11(d) gives the maximum lot coverage as twenty percent of the lot. The lot is 4,109 square feet, so the maximum lot coverage is 821.8 square feet. The footprint of the building that existed on the 1951 assessor's card is 1,054 square feet which is already over the allowable maximum lot coverage. The six foot by eight foot addition makes the building more nonconforming. Since the six foot by eight foot room does not meet the side setback or the maximum lot coverage, it cannot be permitted under today's standards. Unless you can find a record of a building permit for the six foot by eight foot room, you will need to remove it to bring the property into compliance.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork if you decide to file an appeal.

Room 315 – 389 Congress Street – Portland, Maine 04101 (207) 874-8695 – FAX:(207) 874-8716 – TTY:(207) 874-3936

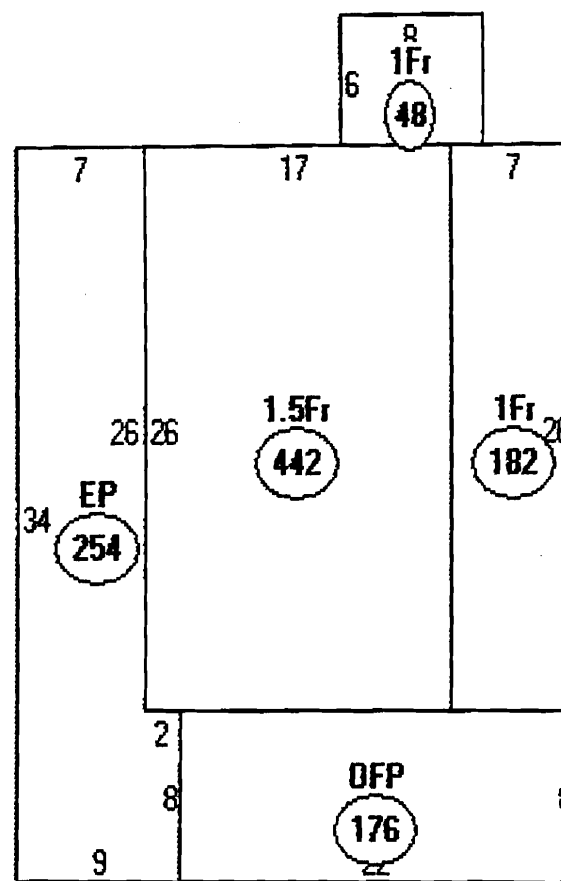
If you have any questions regarding this matter, please feel free to call me at (207) 874-8709. I have enclosed a copy of the assessor's pre-1957 card.

Yours truly,

A handwritten signature in black ink, appearing to read 'Ann B. Machado', with a stylized flourish at the end.

Ann B. Machado  
Zoning Specialist  
(207) 874-8709

Cc. Thomas Kipp  
file



Descriptor/Area

A: 1.5Fr  
442 sqft

B: EP  
254 sqft

C: 1Fr  
48 sqft

D: 1Fr  
182 sqft

E: OFF  
176 sqft

Sketch of 16 Whitehead St., Peaks Island, Maine taken from the city of Portland's Assessor's web site

YEAR 19

$$31 \times 34 = 1054 \text{ ¢}$$
[illegible]

CONSTRUCTION									
FOUNDATION			FLOOR CONST.				PLUMBING		
CONCRETE			WOOD JOIST				BATHROOM		✓
CONCRETE BLOCK			STEEL JOIST				TOILET ROOM		
BRICK OR STONE			MILL TYPE				WATER CLOSET		
PIERS	✓		REIN. CONCRETE				LAVATORY		
CELLAR AREA FULL			FLOOR FINISH				KITCHEN SINK		✓
1/4 1/2 3/4	✓			B	1	2	3	STD. WAT. HEAT	✓
NO. CELLAR			CEMENT					AUTO. WAT. HEAT	
EXTERIOR WALLS			EARTH	✓				ELECT. WAT. SYST.	
CLAPBOARDS	✓		PINE		✓	✓		LAUNDRY TUBS	
WIDE SIDING			HARDWOOD					NO PLUMBING	
DROP SIDING	✓		TERRAZZO						
NO SHEATHING			TILE						
WOOD SHINGLES									
ASBES. SHINGLES									
STUCCO ON FRAME			ATTIC FLR. & STAIRS				LIGHTING		
STUCCO ON TILE			INTERIOR FINISH				ELECTRIC		
BRICK VENEER				B	1	2	3	NO LIGHTING	
BRICK ON TILE			PINE		✓	✓		NO. OF ROOMS	
SOLID BRICK			HARDWOOD					BSMT.	2ND 3
STONE VENEER			PLASTER					1ST	3RD
CONC. OR CIND. BL.			UNFINISHED			✓		OCCUPANCY	
			METAL CLG.					SINGLE FAMILY	
TERRA COTTA			SHEATHED			✓	TWO FAMILY		✓
VITROLITE			RECREAT. ROOM				APARTMENT		
PLATE GLASS			FINISHED ATTIC				STORE		
INSULATION			FIREPLACE				THEATRE		
WEATHERSTRIP			HEATING				HOTEL		
ROOFING			PIPELESS FURNACE				OFFICES		
ASPH. SHINGLES	✓		HOT AIR FURNACE				WAREHOUSE		
WOOD SHINGLES			FORCED AIR FURN.				COMM. GARAGE		
ASBES. SHINGLES			STEAM				GAS STATION		
SLATE TILE			HOT WAT. OR VAPOR				ECONOMIC CLASS		
METAL			NO HEATING			✓	OVER BUILT		
COMPOSITION			GAS BURNER				UNDER BUILT		
ROLL ROOFING			OIL BURNER				DT. 8/11	AR. 30	
INSULATION			STOKER				LD. 13	PD. 30	
							MS. 13	CK. 1	

COMPUTATIONS	
UNIT	1951
442 S. F.	1500
S. F.	
ADDITIONS	+790
F.D.T.	-120
BASEMENT	+70
WALLS	
ROOF	
FLOORS	-20
ATTIC	
FINISH	-270
FIREPLACE	+150
HEATING	
PLUMBING	+240
TILING	
TOTAL	2340
FACT.	
REP. VAL.	2340

OCC'Y		TYPE	GR.	AGE	REMOD.	COND.	REP. VAL.*	P. D.	PHY. VAL.	F. D.	SOUND VAL.	TAX VAL.
cottage	A	1 1/2 / FR	DC	50		F	2340	55%	1050	A	1050	625
	B									B		
	C									C		
	D									D		
	E									E		
	F									F		
	G									G		
YEAR	1951						1951 TOTAL BLDGS.				1050	625
TAX VAL.							19			19		
OLD VAL.	625						19			19		
CHANGE							19			19		

Saint Ann's Church  
Rev. James M. Steuterman  
652 Main Street  
P.O. Box 488  
652 Main Street,  
North Oxford, MA 01537

February 18, 2009

City of Portland Zoning Board of Appeals  
389 Congress St.,  
Portland, Maine 04101

Dear Board Members;

I am writing in regards to the property at 16 Whitehead St., Peaks Island. Up until recently, this property had been in my family since 1957. Upon my aunt's death I became the sole owner in 1986,(see attached deed Book 7056; page 144). The 6'x8' rear entry and stairs were added to the cottage in 1974 by Charles Franko. Charles was a reputable contractor on the island for many years and always worked by the rules. The outside shower was added in 1957 and the privacy partitions were recently replaced.

Although I have no permits in my possession I can attest that this work was performed and completed in 1974 by contractor Charles Franko (see attached affidavit). It is my understanding that the set back requirements then were 8' from the side yard & 25' from the rear. These additions are well within these setbacks (see attached plot plan dated 12/16/08) and therefore the new owners of this property, the Kipp's, should not be made to tear these structures from their home.

Sincerely Yours,

---

Rev. James M. Steuterman

Date



## ✠ Saint Ann's Church ✠

P.O. Box 488 • North Oxford, Massachusetts 01537 • (508) 987-8892

February 24, 2009

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

Dear Board Members,

I am writing in regards to the property at 16 Whitehead St., Peaks Island. Up until recently, this property had been in my family since 1957. Upon my aunt's death in 2005, I became the sole owner. (see attached deed Book 7056; page 144). The 6' x 8' rear entry and stairs were added to the cottage in 1974 by Charles Franco. Charles was a reputable contractor and lived on Winding Way on the Island. He worked on many many cottages for years and always worked by the rules. The outside shower was added in 1957 and the privacy partitions were recently installed.

Although I have no permits in my possession I can attest that this work was performed and completed in 1974 by contractor Charles Franco. (see attached affidavit) It is my understanding that the set back requirements then were 8' from the side yard and 25' from the rear. This addition is well within these setbacks. (see attached plot plan dated 12/16/08) After 35 years it seems ridiculous that the new owners of the property should be asked to remove these structures!

I am hoping that your Board is one that facilitates ease for homeowners on the Island who improve and enhance the quality of this unique area as well as the City of Portland.

Sincerely yours,

*James M. Steuterman* 2/24/09  
(Rev.) James M. Steuterman Date

MAR - 3 2009



**GENERAL AFFIDAVIT  
BEFORE NOTARY**

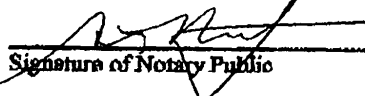
I, Rev. James M. Steuterman, Priest of the Roman Catholic Dioceses of Massachusetts, a resident of North Oxford, County of Worcester, Commonwealth of Massachusetts, do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge: the 6'x 8' rear entry and stairs at 16 Whitehead St., Peaks Island, Maine were installed and completed in 1974 by contractor Charles Franko. The outside shower was added in 1957 and the privacy partitions were recently replaced.

WITNESS my signature this 24<sup>th</sup> day of February 2009 (year and month).

  
Rev. James M. Steuterman

State of Massachusetts )  
County of Worcester )

On February 24, 2009, James M. Steuterman  
personally came before me and, being duly sworn, did state that he or she is the person described in the  
above document and that he or she signed the above document in my presence.

  
Signature of Notary Public

Notary Public, In and for the County of Worcester **SAMIR BITAR JR.**  
State of Massachusetts **Notary Public**  
**My Commission Expires**  
My commission expires: June 12, 2009

Notary Seal

QUITCLAIM DEED

BOOK 7036 PAGE 144

04322

KNOW ALL MEN BY THESE PRESENTS, THAT I, CATHERINE M. KELLY, of Peaks Island, in the City of Portland, County of Cumberland and State of Maine, in consideration of One Dollar (\$1.00) and other valuable considerations, paid by the said CATHERINE M. KELLY of Whitehead Street in said Peaks Island and REV. JAMES M. STEUTERMAN, with a mailing address at 6 Goucher Avenue, Worcester, Massachusetts 01605, as joint tenants and not as tenants in common, the receipt whereof I do hereby acknowledge, do hereby REMISE, RELEASE, BARGAIN, SELL AND CONVEY, and forever QUITCLAIM unto the said CATHERINE M. KELLY and REV. JAMES M. STEUTERMAN, as joint tenants and not as tenants in common, their heirs and assigns forever,

A certain lot or parcel of land with the buildings thereon situated at said Portland, on Peaks Island, and bounded and described as follows: Commencing at a point on the westerly line of Whitehead Street at the southeasterly corner of lot numbered thirty-five (35) as laid down on a plan of building lots on land of J. W. Brackett, easterly from Greenwood Garden as delineated by James B. Jones, surveyor; June 1899, which said plan is recorded in Cumberland County Registry of Deeds, Plan Book 9, Page 35; thence southerly by the line of said street, fifty-two and three-fourths (52-3/4) feet to a point; thence northeasterly ninety-six and five-tenths (96-5/10) feet to a point, and to the southeasterly corner of lot numbered thirty-seven (37); thence northerly on the line of lot numbered thirty-seven (37), thirty-nine and two-thirds (39-2/3) feet to a point; thence southeasterly on the line of lot numbered thirty-five (35), eighty-nine and five-tenths (89-5/10) feet to the line of said street and the point begun at. Meaning hereby to convey lot numbered thirty-six (36) on said plan to which reference is hereby made for a particular description.

Being the same premises conveyed to the said Catherine M. Kelly and Francis P. Kelly, as joint tenants, by warranty deed of Loretta V. Kahill, dated September 16, 1957, and recorded in the Cumberland County Registry of Deeds in Book 2373, Page 266; the said Francis P. Kelly being now deceased, leaving the Grantor as the surviving joint tenant, and being the same premises conveyed by the Grantor to the Grantor and Rev. James B. Kelly, by deed dated August 26, 1974, and recorded in said Registry of Deeds in Book 3592, Page 196, the Rev. James B. Kelly being now deceased, leaving the Grantor as the surviving joint tenant.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to them the said CATHERINE M. KELLY and REV. JAMES M. STEUTERMAN, as joint tenants and not as tenants in common, their heirs and assigns forever.

IN WITNESS WHEREOF, the said CATHERINE M. KELLY, being unmarried, has hereunto set her hand and seal this 28th day of December in the year of our Lord one thousand nine hundred and eighty-six.

SIGNED, SEALED AND DELIVERED  
IN PRESENCE OF

*Sister Ann Murphy, S.D., A.S.W.* *Catherine M. Kelly*  
CATHERINE M. KELLY

STATE OF MAINE  
CUMBERLAND, SS.

December 28, 1986

Personally appeared the above named CATHERINE M. KELLY, and acknowledged the above instrument to be her free act and deed.

Before me,

*Sister Ann Murphy, S.D., A.S.W.*  
Notary Public

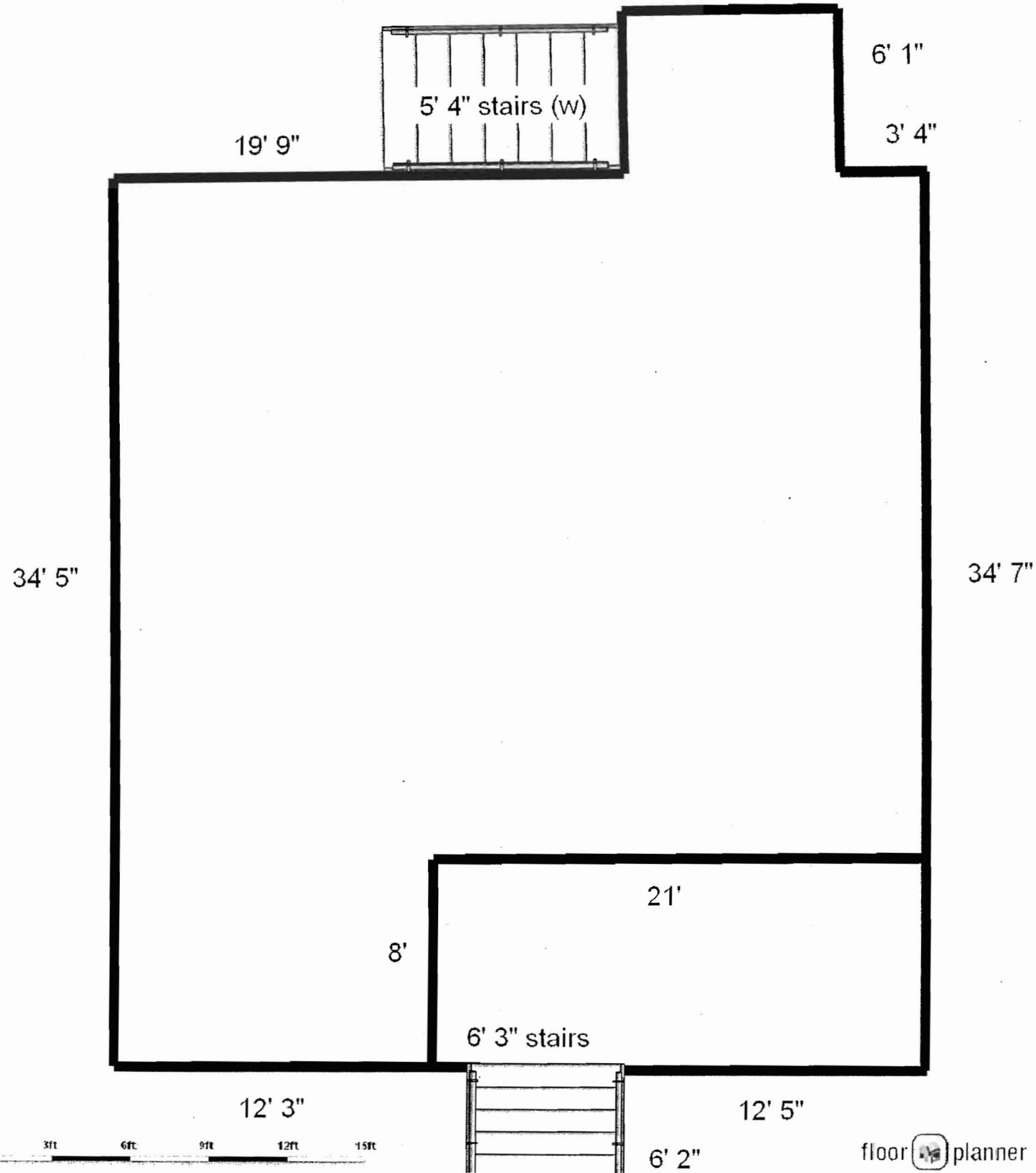
*Sister Ann Murphy, S.D., A.S.W.*  
Notary Public

Type Name:  
SISTER ANN MURPHY, S.D., A.S.W.

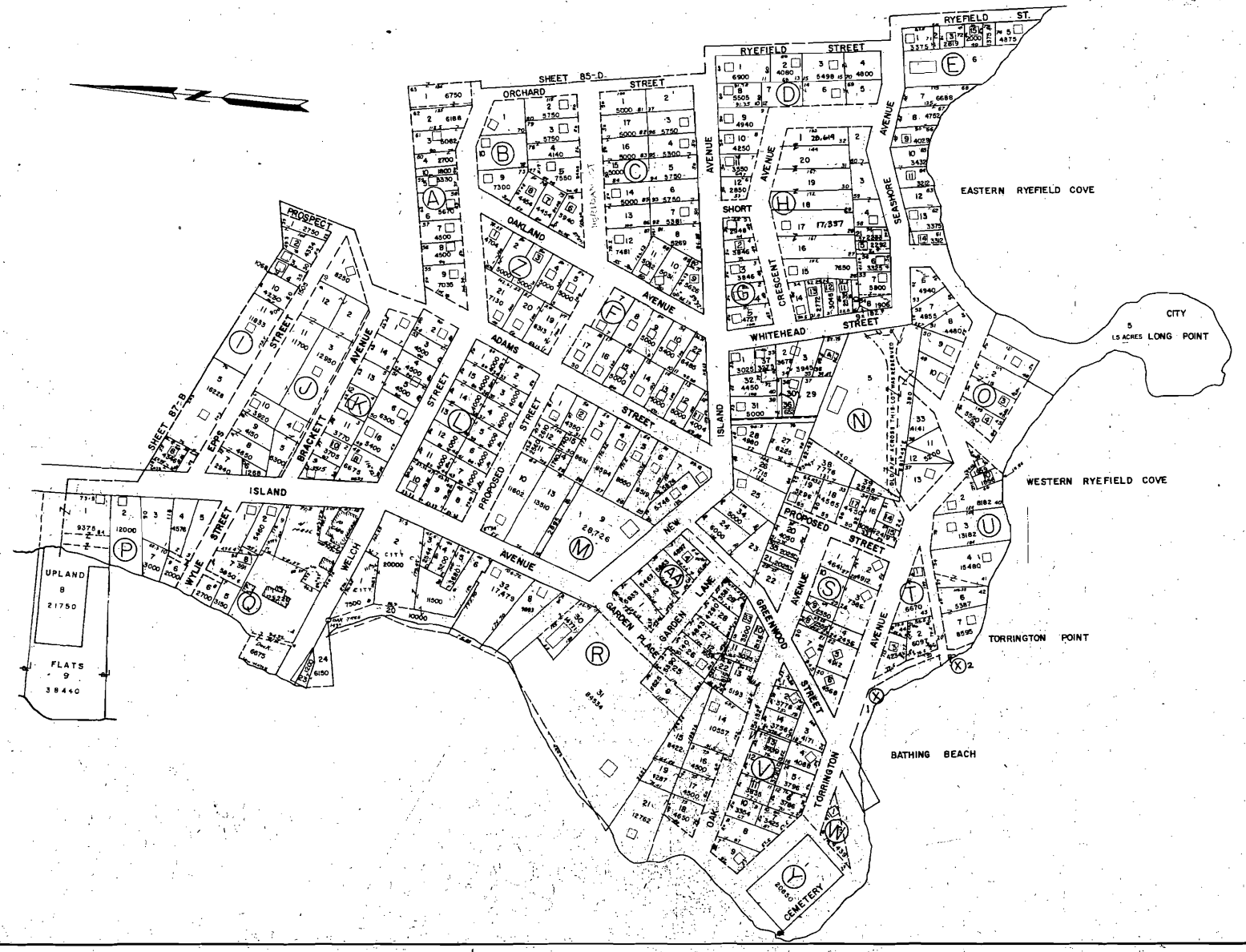
SISTER ANN MURPHY, S.D., A.S.W.  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES.....

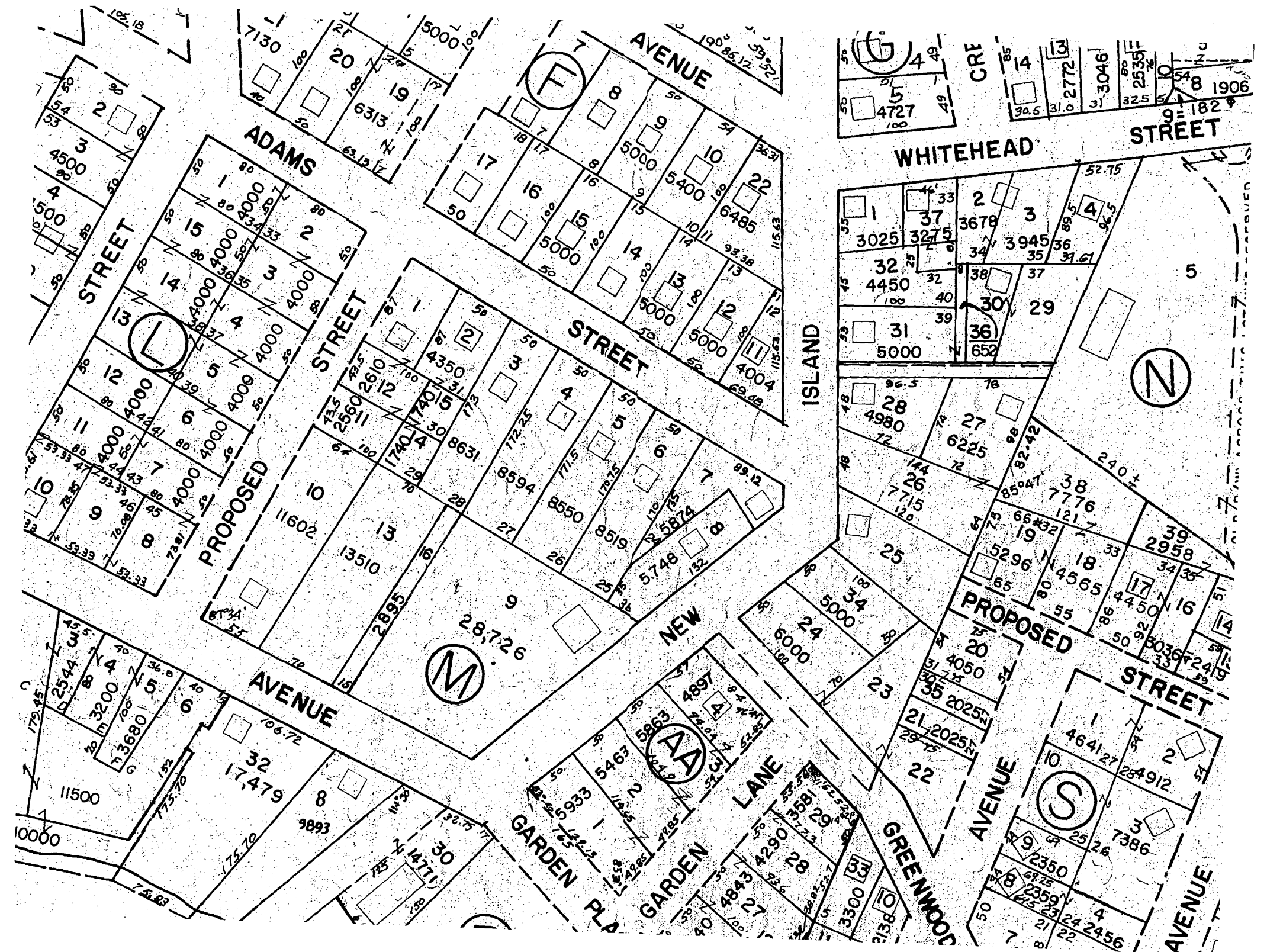
SISTER ANN MURPHY, S.D., A.S.W.  
NOTARY PUBLIC, MAINE  
MY COMMISSION EXPIRES.....

RECEIVED  
1986 JUN 30 PM 3:47  
CUMBERLAND COUNTY



Nº 84  
PEAKS ISLAND







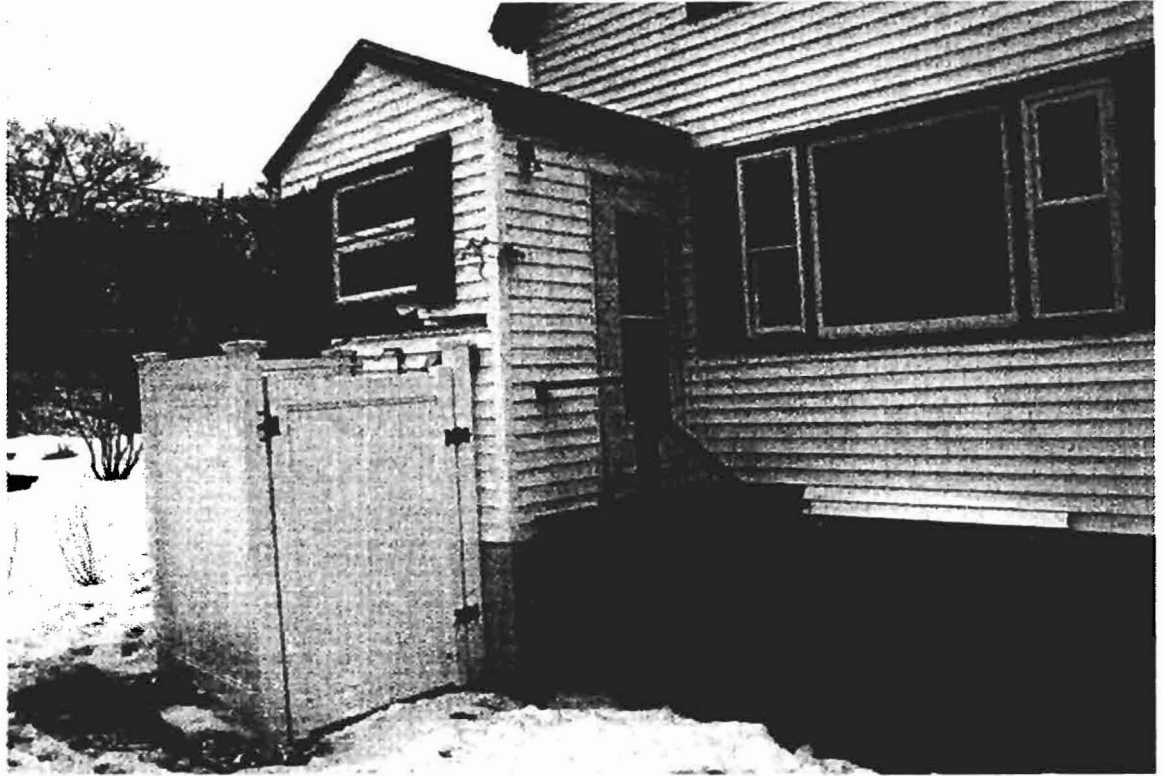
The islands did not only attract visitors from faraway destinations. Albert A. Cordwell was the mayor of Westbrook from 1893 to 1895. He served as a Republican in the Maine Legislature from 1901 to 1904 and in later years was cashier and paymaster at S.D. Warren Co.



This is Albert Cordwell's summer home on Peaks Island. He built it himself on Whitehead Street, and from its windows the family could enjoy spectacular views of Cushing Island and the Whitehead profile.

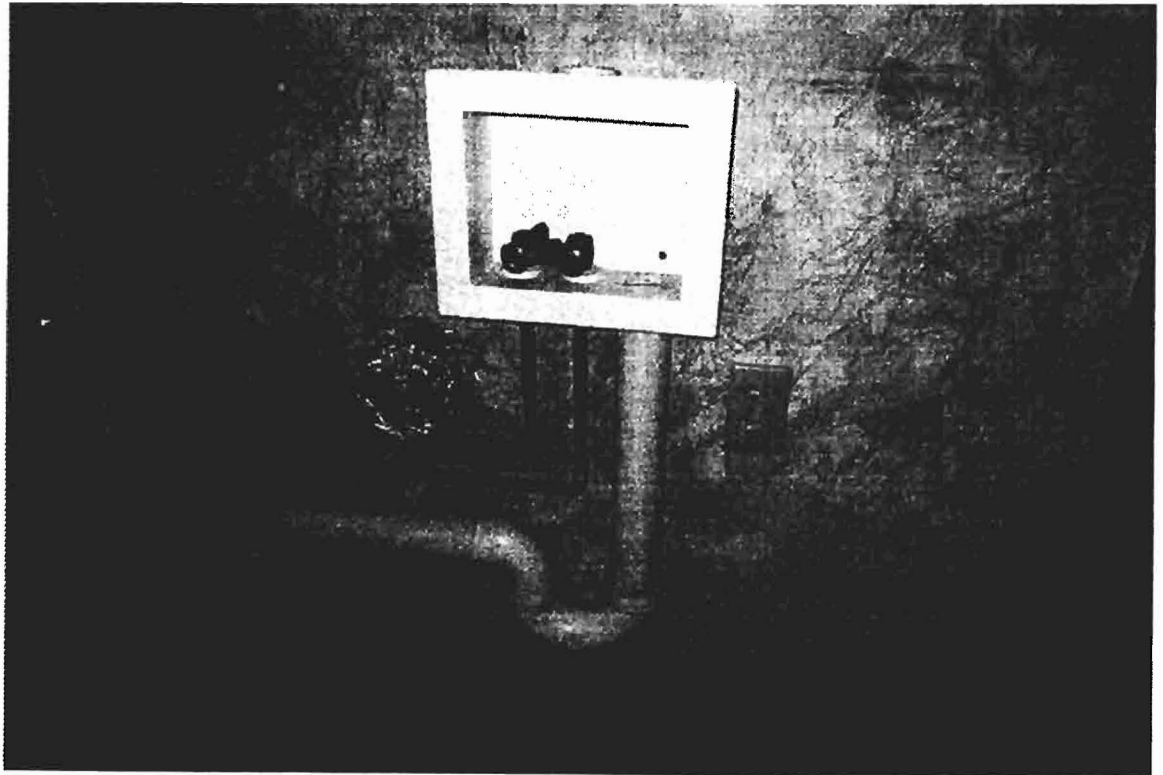
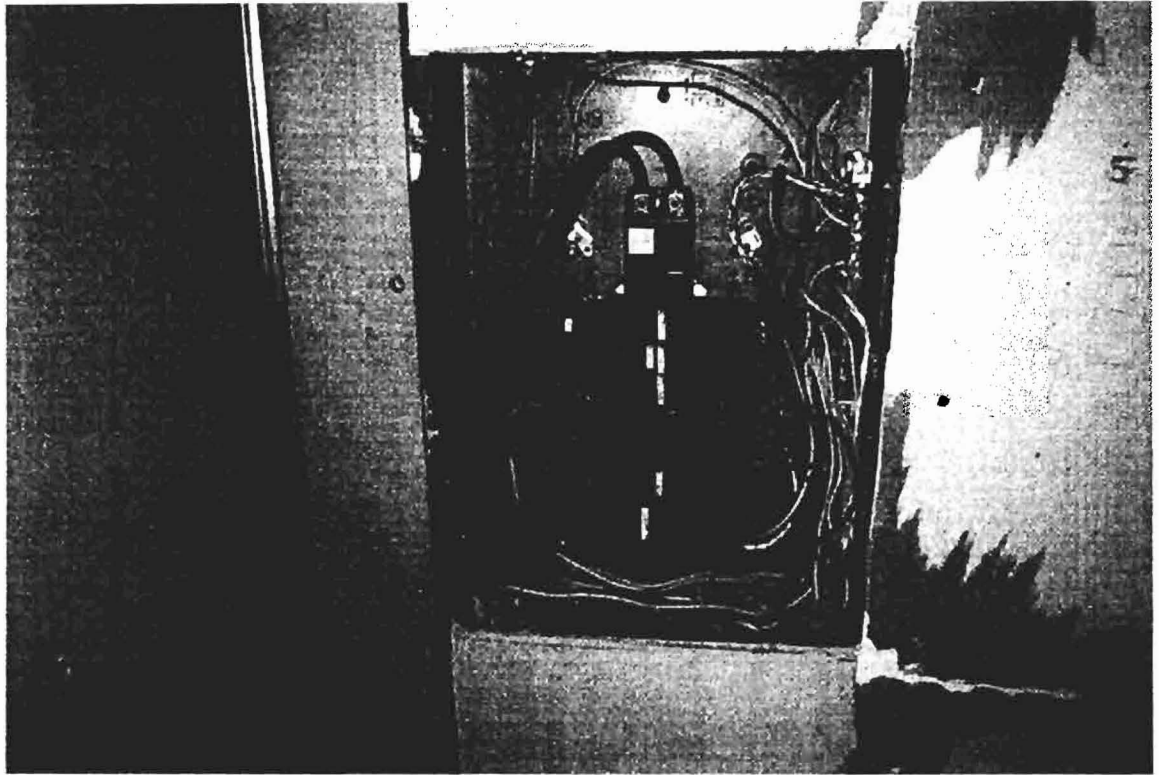


16 Whitehead St., P.I. rear entry, stairs & shower





16 Whitehead St., Peaks Island



rear entry contains the electric service panel and washer dryer hook-up.

Warranty Deed

Rev. James M. Steuterman, an individual, with a mailing address of c/o Saint Ann's Church, P.O. Box 488, North Oxford, MA 01537, for consideration paid, grants to **Thomas P. Kipp and Barbara H. Kipp**, husband and wife, whose mailing address is 14 Balsam Drive, Bedford, MA 01730, as joint tenants and not as tenants in common, with WARRANTY COVENANTS, land and buildings located on Peaks Island in the City of **Portland, Cumberland County, Maine**, more particularly described as follows:

See Attached Exhibit A

Being the same land and premises conveyed by Catherine M. Kelly to Catherine M. Kelly and Rev. James M. Steuterman, as joint tenants and not as tenants in common, by Quit Claim Deed dated December 28, 1986, and recorded in the Cumberland County Registry of Deeds in Book 7056, Page 144. Pursuant to a State of Maine death certificate, Ms. Kelly died on April 1, 2005, and the Grantor herein is the sole surviving joint tenant.

Dated: September 18, 2008

Rev. James M. Steuterman  
Rev. James M. Steuterman

State of MASSACHUSETTS  
WILMSTER, ss.


September 18, 2008

Then personally appeared Rev. James M. Steuterman, and acknowledged the foregoing instrument to his free act and deed.

Before me,

SEAL

Kevin M. O'Connor  
Notary Public  
Print Name: Kevin M. O'Connor  
My commission expires: Jan 21, 2011

 KEVIN M. O'CONNOR  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
January 21, 2011

MAINE REAL ESTATE TAX PAID

EXHIBIT A

A certain lot or parcel of land with the buildings thereon situated at said Portland, on Peaks Island, and bounded and described as follows: commencing at a point on the westerly line of Whitehead Street at the southeasterly corner of lot numbered thirty-five (35) as laid down on a plan of building lots on land of J. W. Brackett, easterly from Greenwood Garden as delineated by James B. Jones, surveyor; June 1899, which said plan is recorded in Cumberland County Registry of Deeds, Plan Book 9, Page 35; thence southerly by the line of said street, fifty-two and three-fourths ( $52\frac{3}{4}$ ) feet to a point; thence northeasterly ninety-six and five-tenths ( $96\frac{5}{10}$ ) feet to a point, and to the southeasterly corner of lot numbered thirty-seven (37), thirty-nine and two-thirds ( $39\frac{2}{3}$ ) feet to a point; thence southeasterly on the line of lot numbered thirty-five (35), eighty-nine and five-tenths ( $89\frac{5}{10}$ ) feet to the line of said street and the point begun at. Meaning hereby to convey lot numbered thirty-six (36) on said plan to which reference is hereby made for a particular description.

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Received  
Recorded Register of Deeds  
Sep 22, 2008 11:10:04A  
Cumberland County  
Pamela E. Lovles

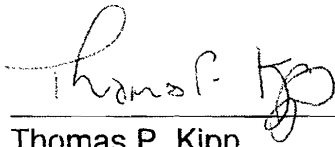
Thomas P. Kipp  
14 Balsam Drive  
Bedford, MA 01730

February 13, 2009

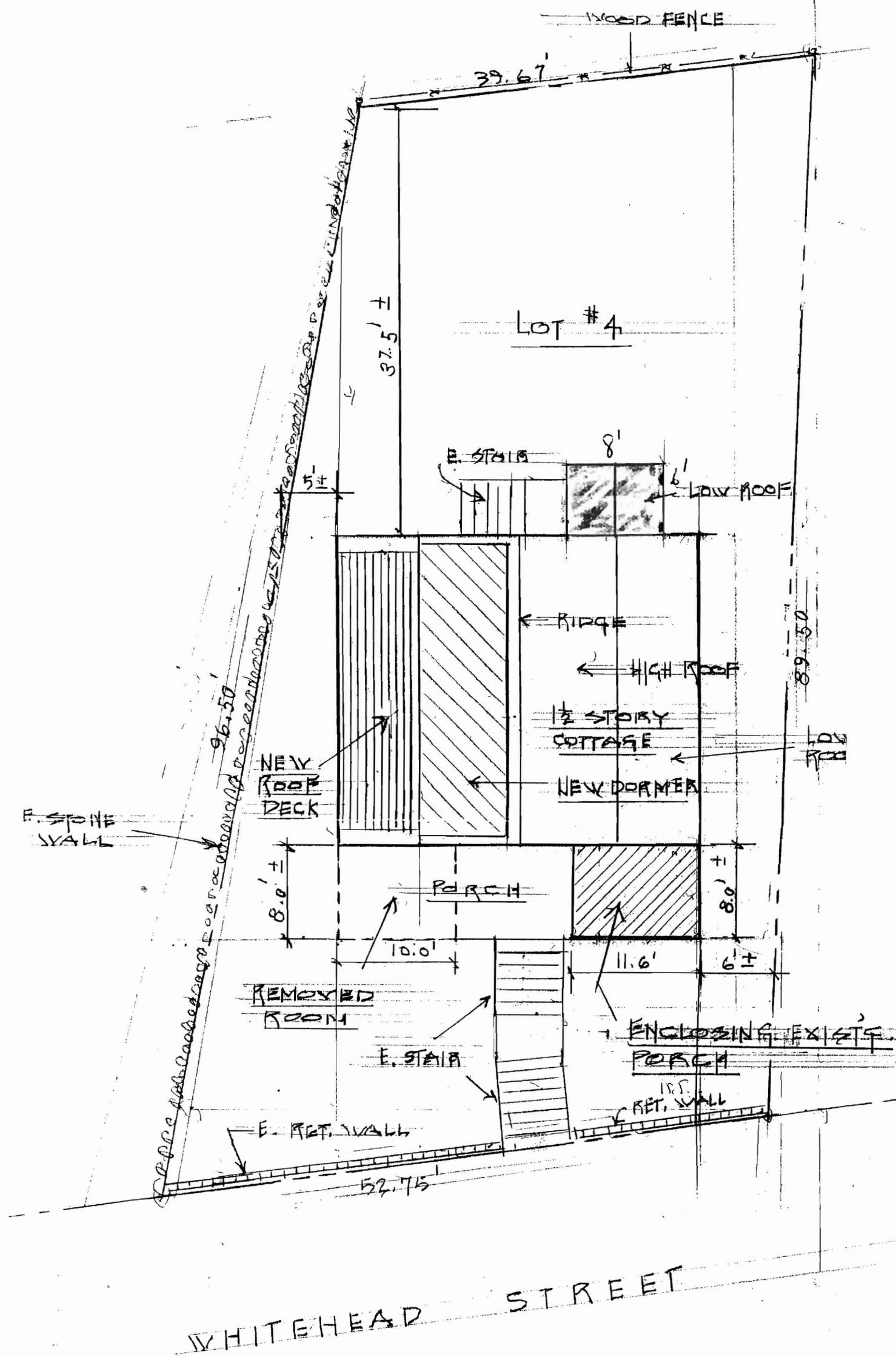
Ann Machado  
Zoning Specialist  
Room 315  
389 Congress St.,  
Portland, Maine 04101

Dear Ms. Machado;

I am the owner of 16 Whitehead St., Peaks Island, Maine. I am writing to inform you that I authorize Ralph Ashmore to represent me with any and all dealings with the city of Portland pertaining to this property.

  
Thomas P. Kipp

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JAN 13 2009

"WHITEHEAD LODGE"  
 16 WHITEHEAD STREET  
 PEAKS ISLAND, ME.

PLOT PLAN

DATE:	SCALE	DIVN		
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