



# PORTLAND MAINE

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

July 13, 2009

Dick Stewart  
81 Elderberry Drive  
South Portland, ME 04106

Re: 1217 Congress Street – 186 D001 – B-1 – auto repair station

Dear Dick,

I'm writing this letter as a follow up to the various discussions we have had about the use of the property as an auto repair garage.

At the end of December 2008, our office received a fire inspection slip from the city Clerk's office for D&M Automotive at 1217 Congress Street. Zoning has to check that the use is permitted in the zone that it is located in.

1217 Congress Street is located in the B-1 Neighborhood Business Zone. Section 14-162 of the ordinance lists the permitted uses, and section 14-163 lists the conditional uses for the B-1 zone. Section 14-164 states that "uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited". An auto repair service station is not listed in either section 14-162 or section 14-163, so it is not a permitted use.

Our records show that the property at 1217 Congress Street has been used as a auto repair service station in the past. On September 14, 1956 the Zoning Board of Appeals granted an appeal to build a 28' x 46' building to be used a motor vehicle service station. The appeal was necessary because the service station was not permitted in the zone. Our records show that this use as a service station was continued until sometime in 2006 when the underground tanks and gas pumps were removed. Permit #06-1381 was issued on October 23, 2006 to remove three underground storage tanks and associated piping. The permit was closed on October 29, 2007 after the work was completed. At this point building appeared to be vacant. Section 14-387 states that "if a nonconforming use of a building or premises is discontinued for a period of twelve (12) months, such discontinuance shall constitute an abandonment of the use and the building or premises shall not thereafter be occupied or used except in conformity with the provisions of this article".

From the conversations that we have had, it appears that you cannot provide evidence to show that the building was not vacant for more than a year, so the legal non-conforming

use has been lost. Since the use as an auto repair service station is not legal, you must either vacate the premises or apply for a variance from the Zoning Board of Appeals. You indicated that you would like to apply for the variance, and I faxed you an application and guidelines on April 6, 2009. You have thirty days from the date of this letter to apply for a variance or you must vacate the premises. If we do not receive the application by then and you continue to operate your business, we will turn the matter over to our corporation counsel, and they may begin legal proceedings to bring the use of the property into compliance.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

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