

Presumpscot River Place II  
Portland, Me 04103  
December 22, 1996

Mr. P. Samuel Hoffses  
Chief of Code Enforcement  
City of Portland, Me

Dear Mr. Hoffses:

We are writing to express our concerns regarding Building Permit No. 961214 issued to Mr. Rod Berube for construction at 168 Curtis Rd. (ref. 368 - G - 24). The Building Permit pertains to the construction of a new foundation on this property with the intent of moving the former Amato's office building, presently located at the corner of Washington and Allen Ave.'s, to this site and locating it on the new foundation.

We wish to take exception to the issuance of this Permit for the following reasons:

- Precedence not to allow encroachment into the existing City of Portland sewer easement.
- Lack of an approved plan for relocating the building and the required permit from Public Works
- Lack of a site plan showing all necessary utility connections.
- Failure to address regrading of the lot and its effect on drainage for this lot and those of the abutting landowners.
- Development Review Application based on a new residential building, not on a relocated structure.
- Proposed residence is out of character with this area and will not blend in with the rest of the houses in the neighborhood.

As we are sure you are aware, an existing 30' wide City of Portland sewer easement essentially bisects this property running from the southeast corner of the lot to the northwest corner. Additionally, for an R-2 Residence zoning, the City of Portland requires minimum setbacks on both the front and rear of this lot of 25' and minimum setbacks on the sides of 16' although we understand the Code does allow this to be reduced to 12' on one side if the opposite side setback is increased to 20' under certain conditions. Based on the above constraints, and the size of the proposed foundation, that being, 36' - 1" by 22' - 5", the foundation can not be constructed without encroachment into the City's easement of more than 4'. Further, the above foundation dimensions do not take into consideration the additional width that the wall footing adds to a foundation. The foundation wall footing proposed for this house is twenty inches (20") wide with a ten inch (10") wall which means that the foundation dimensions are an additional eight inches (8") wider in both directions than the Building Permit application indicates. Normally this is not a problem except when you are trying to build right on a property line or easement. This footing projection will therefore make the encroachment even greater.



We understand that the City's Engineer, Ms. Katherine A. Staples, P.E., has reviewed the Building Permit Application. We also understand that, according to Ms Staples, it is the City's policy not to allow encroachments on any of its easements. However, Ms. Staples did give a conditional approval to the construction of the foundation with certain conditions. Among the conditions was that the foundation be truncated along the easement but she did not require that the house be similarly truncated. As previously stated, it is the policy of the City of Portland not to allow encroachments on any of its easements and precedence has been set for this very easement to not allow even the structure to overhang. The garage of the house on Lot 7 of Presumpscot River Place belonging to Wilfred W. and Nancy J. Gagnon was required by the City of Portland to be truncated at its time of construction because it would otherwise be over the easement. This is extremely significant because Lot 7 is directly behind the lot on which Mr. Berube proposes to build. Based on this, it seems inappropriate to allow Mr. Berube to construct a house extending over the very same easement. Further, since the City, in essence, granted a variance to Mr. Berube to allow this, we feel it was not appropriate to do so without advising the abutting landowners of this variance and without allowing their comments.

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*NO FIRST TIME FOR ENCROACHMENTS  
NO*

Ms. Staples also required that Mr. Berube verify the actual location of the existing sewer as it currently exists since it may vary from the locations shown on the plans. Mr. Berube was requested to excavate to find the existing sewers and to have a Registered Land Surveyor locate the sewer and the right of way. He was further requested to have the land surveyor stake out the location of the proposed foundation in its agreed upon location. Ms. Staples asked Mr. Berube to submit a plan to the City for review showing the proposed location of the foundation and it's relationship to the existing sewer (i.e. distances and elevation differences) before construction begins. Because Mr. Berube has not located the sewer lines, staked out the proposed foundation nor submitted the requested plan, the protection of the City's interests is in question and we feel the City should not have issued a Building Permit.


The issue of moving the building was only addressed to the extent that it was noted that a permit was required to be obtained from Public Works prior to moving the building. This does not even touch upon the logistics of such a large endeavor which we feel should be addressed before the foundation is even started. It seems illogical to allow the foundation to be constructed until all the issues concerning the move have been addressed adequately. If the foundation were constructed only to find out later that the building move is unfeasible or not cost-effective, then the issue of the safety of an open foundation would have to be addressed. This neighborhood has a number of children under the age of 8 and their safety would be at risk.

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The most logical route for moving this building is out Allen Ave., left onto Summit Street and the right onto Curtis Rd. Because the building is 2½ stories high, all the electric, telephone and cable lines will need to be raised in order to move the building to its proposed location. This will require significant coordination between the mover, CMP, NYNEX and Time - Warner Cable. All this will take a considerable amount of time and will affect traffic on these streets. The thought of moving a 22 foot wide building down any of those streets carrying traffic including school buses and potentially emergency vehicles as well as the

daily commuter traffic is inconceivable. This would also require coordination with the Portland Police, Fire and School Departments as well as any neighboring communities that may use Allen Ave. for their ambulances, etc. Signs would also be needed to give commuters advance warning of traffic delays. Additionally, once the building gets past Abby Lane, Curtis Road will be effectively blocked and no vehicles will be able to get on or out while the house is in the road. This is the only access route for approximately 35 homes and a school bus route.

The height of the building would also have an impact on the trees along this route that overhang the road. It is entirely conceivable that the mover would have to trim trees in order to move the house, particularly on the upper end of Curtis Road. Many of these trees are quite large and majestic and it would be unacceptable to the residents along the route to have their beauty destroyed by trimming to make way for the mover of a building. We also believe that a permit would be required from the City Arborist prior to cutting any of the trees on the City's property.

 The City of Portland also requires that Mr. Berube show all utility connections including water, sanitary sewer, storm drain, electricity, cable and telephone, on his site plan as indicated on the Site Plan Review (Addendum) Conditions of Approval, Item #5. The current plan does not include any of this information. The Building Permit should not have been issued until all information required had been provided.

The Building Permit application does not adequately address the issue of regrading of the site necessary in order to construct the foundation and its impact on the adjacent landowners with respect to drainage concerns. As indicated on the plan submitted with the Building Permit application, the finish floor of the basement is proposed to be at El. 104' - 4" whereas the proposed grade in the northwest corner of the foundation is at approximately 105' - 6". The top of the basement walls are at approximately El. 111' per the submitted plan. The proposed foundation walls are to be 8' high on the 10" wall footing. This means that the bottom of footing is at El. 102' - 2". In order to get below frost, which is at 4 feet below grade, the foundation must be below El 101' - 6" here or the existing grade must be raised more than proposed thereby creating drainage questions.

Because of its affects on the abutting landowners, we feel it is appropriate to have the revised plans reviewed prior to the issuance of the Building Permit and not after construction has started.

The City of Portland Development Review Application was submitted as if the building were a new residential structure and not one that was being relocated. In Ms. Staple's review, she discussed the construction as if it were to be built on site and not an existing building to be moved to this site. The Development Review Application did not address the change of use issue either. At its present location, the building, although originally a residence, is an office building in a B-1 zone. Mr. Berube proposes to move this building and make it an R-2 zone dwelling. According to the BOCA 1996 Building Code, Section 3405.0, Change of Occupancy, the Code Official shall certify that such structure

meets the intent of the provisions of law governing building construction for the proposed occupancy, and that such change of occupancy does not result in any greater hazard to the public health, safety or welfare. With regards to moving the building, Mr. Berube is moving the structure within the same jurisdiction and therefore is required by the BOCA 1996 Building Code, Section 3407.8, Moved Structures, to comply with the provisions of the code for new structures. This would include plumbing and electrical upgrades to the current codes, adding smoke detectors, as well as removing any hazardous materials. The existing building is quite old and although it has been modernized somewhat, we believe it probably contains lead-based paints and lead solder in the plumbing. We also suspect that it has asbestos somewhere within the building, be it in the floor tiles, the roof shingles and/or the heating system. For the safety of all the children in our neighborhood, these materials must all be removed from this building and the structure certified to be free of all hazardous materials by a licensed industrial hygienist before it is moved from its present location.

The Building Permit Application listed the cost of the work to be \$19,000 which we consider to significantly underestimated. Included with the application was a quote for the foundation and the basement slab of \$5,221.00. This quote does not appear to include the excavation costs. Nor does it include the cost of moving the house to the site. It is hard to imagine that the hole can be dug, the house can be moved to the site, all the necessary code upgrade work can be done, all the lead, asbestos and other hazardous materials removed from the house and the house interior reconstructed for the remaining \$13,189.00. Anyone who has had a basement refinished or a garage built knows that this can easily exceed \$10,000.

The Development Review Application reviewed by Mr. Jim Wendel on Nov. 25, 1996 included a list of 15 conditions that will be enforced on Mr. Berube's site plan. These included a copy of the Sewer Permit being submitted to the Development Review Coordinator, and a Street Opening Permit. We also understand that Section 25-135 does not allow Street Opening Permits to be issued between Nov. 15 and April 15. Therefore, Mr. Berube will not be allowed to change the location of his driveway from the north end of his lot to the south end as proposed on the site plan until next April. He may further have difficulty making his utility tie-ins unless they are presently terminated on his property.

Marge Schmuckal performed a second review of the Application on Dec. 10, 1996 providing further conditions. Among the conditions put forth by Ms. Schmuckal was that Mr. Berube obtain a permit to move the existing building from the Public Works Dept. prior to moving the building. It would seem more appropriate to require Mr. Berube to have the Permit in hand prior to issuing the Building Permit and not after.

As previously stated, the existing building is a very old structure. We feel it would be out of place in the location proposed by Mr. Berube and would be more appropriate relocated to a neighborhood where it would blend in with the other houses. Because Lot 4 is so impacted by easements and setbacks, the house cannot be positioned on the lot in the orientation that it is presently in. What this means is that the front of the house will be facing a side of the lot and a side of the house will be facing the street making for a very awkward

looking house. Its presence will have a very negative effect on the character of the neighborhood. All the other houses in this neighborhood face the street.

In summation, we believe that the City was premature in issuing the Building Permit to Mr. Berube without having all the necessary information regarding its impact on the easement, utility tie-ins, permit from Public Works to move the building, drainage concerns, issues pertaining to updating to the current Building Code, presence of hazardous materials and its impact on the neighborhood in general. We, the undersigned, therefore hereby request that the City revoke or suspend Mr. Berube's Building Permit and that no work be allowed to continue until all the above issues have been addressed to our satisfaction. We understand that it is Mr. Berube's intent to start excavation for the foundation as soon as Monday, Dec. 23, 1996 so prompt and immediate action on these issues is required.

cc: Katherine A. Staples, P.E., City Engineer  
Joseph Gray, Jr., Dir. of Planning and Urban Development

<u>NAME</u>	<u>SIGNATURE</u>	<u>ADDRESS</u>
1. <u>Paul Gillis</u>	<u>Paul Gillis</u>	<u>7 Whaleboat Road Portland, ME</u>
2. <u>Carol Gillis</u>	<u>Carol Gillis</u>	<u>7 Whaleboat Rd. Portland, ME</u>
3. <u>Jennifer T. Mull</u>	<u>Jennifer T. Mull</u>	<u>174 Curtis Rd Portland, ME</u>
4. <u>Charles W. Mull</u>	<u>Charles W. Mull</u>	<u>174 Curtis Rd PORT, ME</u>
5. <u>John C Burton</u>	<u>John C. Burton</u>	<u>158 Curtis Rd Portland Me.</u>
6. <u>Sarah A Burton</u>	<u>Sarah W. Burton</u>	<u>158 Curtis Rd Portland Me</u>
7. <u>Howard Strang</u>	<u>Howard Strang</u>	<u>1103 CURTIS RD, PORTLAND, ME</u>
8. <u>Katherine S. Strang</u>	<u>Katherine S. Strang</u>	<u>1103 Curtis Rd. Port., ME</u>
9. <u>Linda A. Morais</u>	<u>Linda A. Morais</u>	<u>10 Overseas Rd. Port. ME</u>
10. <u>Christine R. Foley</u>	<u>Christine R. Foley</u>	<u>189 Curtis Rd. Portland, ME</u>
11. <u>Kevin B. Foley</u>	<u>Kevin B. Foley</u>	<u>189 Curtis Rd Portland, Me.</u>
12. <u>Robert Reno Jr</u>	<u>Robert Reno Jr</u>	<u>45 Overseas Rd, Portland Me.</u>
13. <u>Ross Weber</u>	<u>Ross Weber</u>	<u>51 Overseas Rd. Portland, Me</u>
14. <u>Barbara Peisner</u>	<u>Barbara Peisner</u>	<u>26 Overseas Rd. Portland ME</u>
15. <u><del>Michael Peisner</del></u> <u>MICHAEL PEISNER</u>	<u>Michael Peisner</u>	<u>26 OVERSEAS RD, PORTLAND</u>
16. <u>William M. Woods</u>	<u>William M. Woods</u>	<u>19 Whitehead Cir Portland</u>
17. <u>Lynn Woods</u>	<u>Lynn Woods</u>	<u>19 Whitehead Cir. Portland</u>
18. <u>David P. Laetsch</u>	<u>David P. Laetsch</u>	<u>24 Whitehead Circle Portland</u>
19. <u>Barbara L. Laetsch</u>	<u>Barbara L. Laetsch</u>	<u>24 Whitehead Circle Portland</u>
20. <u>Steve D'Amico</u>	<u>Steve D'Amico</u>	<u>20 Whitehead Circle</u>

NAME

SIGNATURE

ADDRESS

- 21. Therese B. Lamato     Therese B. Lamato     20 Whitehead Circle
- 22. Nancy M. Mattis     Nancy M. Mattis     11 Whitehead Circle
- 23. MICHAEL J. MATTIS     Michael J. Mattis     11 WHITEHEAD CIR.
- 24. Denise Connick     Denise Connick     22 Whaleboat Rd
- 25. Paul Jones     \_\_\_\_\_     15 Whitlasing rd.
- 26. Valerie Jones     Valerie Jones     16 Whaleboat Rd.
- 27. RAY JONES     Ray Jones     16 Whaleboat Rd
- 28. Steve Morris     Steve Morris     10 OVERT ROAD
- 29. NANCY CAGNON     Nancy Cagon     61 Clapboard Rd
- 30. Eugene G. Ardito     E G Ardito     17 overset rd
- 31. Barbara W. Ardito     Barbara W. Ardito     17 Overset Rd,
- 32. TIMOTHY L. LAYTON     Timothy L. Layton     11 OVERT RD.
- 33. Roberta A. Layton     Roberta A. Layton     11 Overset Road
- 34. Sheryl A. Simmons     Sheryl A. Simmons     5 Overset Road
- 35. Deane J. Simmons     Deane J. Simmons     5 Overset Road
- 36. \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_
- 37. \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_
- 38. \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_
- 39. \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_
- 40. \_\_\_\_\_     \_\_\_\_\_     \_\_\_\_\_