



**CITY OF PORTLAND**  
Planning and Urban Development Department

**MEMORANDUM**

**TO:** Gary Wood, Corporation Counsel  
**FROM:** Kevin Carroll, Code Enforcement Officer, District 7 ~~7~~  
**SUBJECT:** 168 Curtis Road, Mr. Rod Berube, owner  
**DATE:** March 14, 1997

Following is a brief sequence of events which have taken place at 168 Curtis Road since the building permit was first issued in December 1996.

- \* Building permit #96-1214 issued on December 12, 1996
- \* Structure actually moved onto vacant lot at 168 Curtis Road on January 18, 1997
- \* Work progressed slowly from January 20, 1997 for about 2 weeks (basement structural supports installed, chimney partially completed, reattachment of top section to bottom section partially completed)
- \* Work ceased on or about February 6th or 7th, no progress since
- \* This office has had many calls from several of Mr. Berube's sub-contractors claiming that they have not been paid and will not resume work until financial arrangements have been made.
- \* Neighbors have also been complaining about the lack of progress and the fact that the structure left as is, is an eyesore and a nuisance and hazard to neighborhood children.
- \* Since mid-February, I have attempted to contact Mr. Berube several times at 758-0859, which is a voice pager number. He has yet to respond.
- \* After our conversation with Joe Gray, he agreed that Mr. Berube should be made aware of the consequences of Section 108.2 of the BOCA Building Code/1996 (copy attached) and the State of Maine's Dangerous Structure Laws.

.cc: R. Ganley, City Manager  
J. Gray, Dir, PUD  
P. S. Hoffses, C, Insp Svcs Div

**SECTION 107.0 APPLICATION FOR PERMIT**

**107.1 Permit application:** An application shall be submitted to the code official for the following activities, and these activities shall not commence without a permit being issued in accordance with Section 108.0:

1. Construct or alter a structure.
2. Construct an *addition*.
3. Demolish or move a structure.
4. Make a *change of occupancy*.
5. Install or alter any equipment which is regulated by this code.
6. Move a *lot line* which affects an existing structure.

**107.1.1 Repairs:** Application or notice to the code official is not required for ordinary repairs to structures. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or loadbearing support, or the removal or change of any required *means of egress*, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include *addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.*

**107.2 Form of application:** The application for a permit shall be submitted in such *written* form as the code official prescribes and shall be accompanied by the required fee as prescribed in Section 112.0.

**107.3 By whom application is made:** Application for a permit shall be made by the *owner* or lessee of the building or structure, or agent of either, or by the *registered design professional* employed in connection with the proposed work. If the application is made by a person other than the *owner* in fee, it shall be accompanied by an affidavit of the *owner* or the qualified applicant or a signed statement of the qualified applicant witnessed by the code official or his designee to the effect that the proposed work is authorized by the *owner* in fee and that the applicant is authorized to make such application. The full names and addresses of the *owner, lessee, applicant* and the responsible officers, if the *owner* or lessee is a corporate body, shall be stated in the application.

**107.4 Description of work:** The application shall contain a general description of the proposed work, the location of the proposed work, the occupancy of all parts of the building or structure and of all portions of the site or *lot* not covered by the building or structure, provisions for *special inspections* required by Section 1705.0, and such additional information as required by the code official.

**107.5 Construction documents:** The application for permit shall be accompanied by not less than two sets of *construction documents*. The code official is permitted to waive the requirements for filing *construction documents* when the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to this code, specific information shall be given to establish such quality, and this code shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

**107.6 Site plan:** The application for permit shall be accompanied by a site plan showing to scale the size and location of all new construction and all existing structures on the site, distances from *lot lines*, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.

**107.6.1 Private sewage disposal system:** The site plan shall indicate the location of a private sewage disposal system where a public sewer is not available. All technical data and soil data required by the private sewage disposal code listed in Chapter 35 shall be submitted with the site plan.

**107.7 Engineering details:** The code official shall require to be filed adequate details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. All engineering plans and computations shall bear the signature and seal of the engineer or architect responsible for the design as required by Section 114.1.

**107.8 Amendments to application:** Subject to the limitations of Section 107.9, amendments to a plan, application or other records accompanying (the same shall be filed at any time) before completion of the work for which the permit is sought or issued. Such amendments shall be deemed part of the original application and shall be filed therewith.

**107.9 Time limitation of application:** An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the code official shall grant one or more extensions of time for additional periods not exceeding 90 days each if there is reasonable cause.

**SECTION 108.0 PERMITS**

**108.1 Action on application:** The code official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the *construction documents* do not conform to the requirements of all pertinent laws, the code official shall reject such application in *writing*, stating the reasons therefor. If the code official is satisfied that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, the code official shall issue a permit therefor as soon as practicable. \* \* \* \* \*

**108.2 Suspension of permit:** Any permit issued shall become invalid if the authorized work is not commenced within six months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six months after the time of commencing the work. \* \* \* \* \*

**108.3 Previous approvals:** This code shall not require changes in the *construction documents*, construction or designated use group of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been actively prosecuted within 90 days after the effective date of this code and is completed with dispatch.

CITY OF PORTLAND, MAINE  
DEPARTMENT OF PUBLIC WORKS  
OPERATIONS / ENGINEERING SECTION  
MEMORANDUM

*TO: Marge Schmuckal, Assistant Chief of Codes / Zoning Administration*  
*FROM: Katherine A. Staples, P.E., City Engineer*  
*DATE: January 23, 1997*  
*SUBJECT: #168 Curtis Rd.*

In response to your memo dated 1/7/97 regarding tonight's Board of Appeals meeting, I provide the following information.

Items 2 and 3 of the "basis of appeal" memo are the only ones which apply to Public Works, my response to each is as follows.

Our decision to allow a minor encroachment in the air above our thirty foot (30') sewer easement is consistent with Department policy for the past three years. As stated by Bill Bray in the meeting held 1/21/97, we do attempt to accomodate the needs of our potential residents when certain criteria can be met by them. This case did meet our criteria, therefore we allowed a portion of the home to overhang our easement. Public Works has no record of the Gagnon property issue raised in the memo, however, I understand that this permit was granted in the early 1980's. It seems apparent that a policy modification may have occurred since the Gagnon's permit was granted.

I completely disagree with the statement made that certain conditions within my memo of 12/10/96 have not been complied with. As you know, a stop work order did have to be issued on 12/26/96, but my memo's conditions were met on 12/27/96, allowing the order to be lifted. It seems that some wording in my memo has been misinterpreted by others to mean that the actual exposure of the sewer main and a written agreement "must" have been completed. My memo uses the words "should" and "may" rather than "shall" and "will" in these cases to allow the flexibility necessary for compliance. I am satisfied that conditions number 1 through 3 have been met. In addition, we surveyed the lot yesterday to double-check the lot lines, easement lines, and foundation location. A copy of this pplan will be delivered to you this afternoon. We have confirmed that no physical encroachment exists into the ground within our sewer easement on this lot. Items number 4 and 5 of my memo still need to be complied with, but this does not require any work to be stopped at this time.

I trust this will assist you in advising the Zoning Board of Appeals tonight. Please call if I can be of further assistance.

KAS/kas

pc: Bruce Bell, Operations Manager  
Bill Bray, P.E., Deputy Director



**CITY OF PORTLAND**  
Planning and Urban Development Department

MEMORANDUM

**TO:** Marge Schmuckal, Zoning Administrator  
**FROM:** Kevin Carroll, Code Enforcement Officer, District 7  
**SUBJECT:** 168 Curtis Road  
**DATE:** January 21, 1997

Following are my responses to the five items mentioned in memo titled "Miscellaneous Appeal Application Attachment" regarding subject property.

1. I inspected the site in question and all setbacks meet the criteria stated on the approved building permit. Due to the sensitivity of this case, I had the measurements verified and signed off by E. Lawrence, PLS.
2. The question of encroachment into the sewer easement was resolved in a memo from Kathy Staples, City Engineer. All requirements set forth in Ms. Staples' memo of December 10, 1996 have, so far, been met to her satisfaction.
3. See #2 above
4. This structure is a 1 1/2 - 2 story building which, when placed on the foundation, as designed, will meet the height requirements.
5. I inspected the building in early December 1996 and when completed it will meet the City of Portland code requirements for a single family dwelling unit in an R-2 Zone. When completed, I shall inspect again to assure code compliance before issuing a certificate of occupancy.

cc: Joseph Gray, Dir, PUD  
P. Samuel Hoffses, C, Insp Svcs Div