

389-G-025  
**Corporation Counsel**  
Gary C. Wood



**CITY OF PORTLAND**

**Associate Counsel**  
Charles A. Lane  
Elizabeth L. Boynton  
Natalie L. Burns  
Donna M. Katsiaficas

June 25, 1997

Charles W. and Jennifer T. Mull  
174 Curtis Road  
Portland, ME 04103

File  
→ **RE: 174 Curtis Road - 389-G-25- R-2 Zone - Land Use Violations**

Dear Mr. and Mrs. Mull:

This matter has been referred to my office for prosecution (see attached). I have assigned the case to Assistant City Attorney Natalie Burns. She is currently on vacation but will be in the office next week.

I encourage you to call Natalie to see if we can reach a mutually acceptable resolution of the land use issues. We do our best to work with our taxpayers to resolve matters short of litigation if at all possible. Our general goal is to get land owners into compliance with the City's ordinances and we would rather have you spend your money on fixing things rather than fighting with us in court.

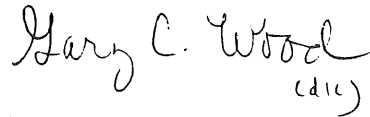
In thinking about settlement, please understand that we are limited by the requirements of the City's laws. We will do our best to suggest ways to come into compliance with the City law, but we cannot allow ongoing violations.

Before you call us, you should confer with an attorney of your choice. My office represents the City as a whole and in this case it is our job to enforce the City's law. We cannot act as your lawyers or legal advisors.

Charles W. & Jennifer T. Mull  
June 25, 1997  
Page 2

If we have not heard from you by Wednesday, July 2 we will assume that you are not inclined to settle this matter at this point and act accordingly.

Sincerely,

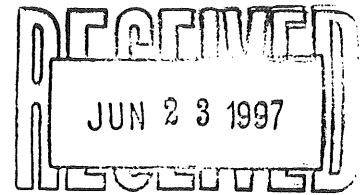
A handwritten signature in cursive script that reads "Gary C. Wood". Below the signature, the initials "(dlc)" are written in a smaller, handwritten font.

Gary C. Wood  
Corporation Counsel


GCW:dlc  
Enc.

c: Councilor Charles W. Harlow  
Robert B. Ganley, City Manager  
Joseph E. Gray, Jr., Director of Planning & Urban Development  
Marge Schmuckal, Zoning Administrator/Assistant Chief of Inspection Services  
Natalie L. Burns, Associate Corporation Counsel

mull.ltr



# INTEROFFICE MEMORANDUM

To: Gary Wood, Corporation Counsel  
CC: Joseph Gray, Jr. & P. Samuel Hoffses  
From: Marge Schmuckal   
Date: June 20, 1997  
Subject: 174 Curtis Road, Portland, ME - 389-G-25 - R-2 Zone

Gary,

I am sending this to you for legal action. Background info: During the time of moving in an old house on a lot at 168 Curtis Road, it came to our attention that one of the abutting neighbors was encroaching on the lot line setbacks both for both the side and rear. They had constructed a very large deck and installed a pool without the benefit of any building permits. We first concentrated our efforts to resolving the issues with the house that was brought in. It wasn't until appeals and such were completed that we then turned our attention to the violations at 174 Curtis Road.

My first letter went out to the owners, Mr & Mrs Mull, on March 3, 1997. After much discussion with Mr. Hoffses and checking our microfiche, Mr. Mull finally applied for a building permit on April 14, 1997. During my review of the permit, I found zoning violations and I wrote them another letter dated April 17, 1997 informing them that the permit was not issuable due to the setback violations. Again several phone calls went back & forth, but without any action by the Mulls to amend their plans nor to change the situation on site. I sent out a final letter dated June 2, 1997 giving them another 10 days (working days). I have received no information from the Mulls on this follow up. The field inspector (Kevin Carroll) confirmed on June 19, 1997 that no changes to the violations have been made on site.

I am now turning this over to Corporation Counsel for legal action. I am enclosing all information on this project. Let me know where to proceed from here.

FROM THE DESK OF...

MARGE SCHMUCKAL  
ASSISTANT CHIEF OF CODES/ ZONING ADMINIST.  
CITY OF PORTLAND, MAINE  
389 CONGRESS STREET - CITY HALL, ROOM 315  
PORTLAND, MAINE 04101

(207) 874-8300 EXT. 8695  
Fax: 874-8716

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles W. & Jennifer T. Mull  
174 Curtis Road  
Portland, ME 04103

March 3, 1997

RE: 174 Curtis Road - 389-G-25 - R-2 Zone

Dear Mr. & Mrs. Mull,

It has come to our attention that you have constructed a deck and swimming pool at your address above without the proper permits. It would be necessary to apply immediately for these permits immediately within 10 working days. A belated fee will be charged.

Please note that there is some concern that this construction does not meet the zoning requirements, as far as setbacks, of the R-2 zone in which you are located.

When you come in to apply for a permit, it will be necessary to submit a plot plan showing the building setbacks from the lot lines and a structural plan with dimensions showing how the deck was constructed. It will also be necessary to show us the pool criteria from the manufacturer. Our office is open from 7:00 am to 4:00 pm in order to apply for a permit. The permit fee is based on the cost of the work, with the belated fee added in.

If you have any questions regarding this matter, please do not hesitate to contact this office. If we do not hear from you within the designated time as stated above, this matter shall be turned over to our Corporation Counsel for any legal action.

Very Truly Yours,

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: P. Samuel Hoffses, Chief of Insp. Services  
Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
Kevin Carroll, Code Enforcement Officer

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

Location of Construction: -174 Curtis Rd		Owner: Mull, Charles		Phone:		Permit No:	
Owner Address: SAA Ptld, ME 04103		Lessee/Buyer's Name:		Phone:		BusinessName:	
Contractor Name:		Address:		Phone:		Permit Issued:	
Past Use: 1-fam		Proposed Use: Same		COST OF WORK: \$ 5,035.00		PERMIT FEE: \$ 45 + 100/late fee	
				FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied		INSPECTION: Use Group: Type:	
Proposed Project Description:  Install A/G Pool and deck - After the Fact				Signature:		Signature:	
				PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: Approved <input type="checkbox"/> Approved with Conditions: <input type="checkbox"/> Denied <input type="checkbox"/>		Zone: R-2 CBL: 389-G-25	
Permit Taken By: XXXXXXXXXXXX Mary Gresik		Date Applied For: 14 April 1997				Zoning Approval:	
						Special Zone or Reviews: <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan maj <input type="checkbox"/> minor <input type="checkbox"/> mm <input type="checkbox"/>	

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..

**Zoning Appeal**

☐ Variance  
☐ Miscellaneous  
☐ Conditional Use  
☐ Interpretation  
☐ Approved  
☐ Denied

**Historic Preservation**

☒ Not in District or Landmark  
☒ Does Not Require Review  
☐ Requires Review

**Action:**

☐ Approved  
☐ Approved with Conditions  
☐ Denied

Date: 4/15/97  
K. Galvez for  
D. Andrews

## 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

*Charles W. Mull*  
SIGNATURE OF APPLICANT Charles Mull ADDRESS: DATE: 14 April 1997 PHONE: 878-0965

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE PHONE:

CEO DISTRICT 7

File

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles W. & Jennifer T. Mull  
174 Curtis Road  
Portland, ME 04103

February 3, 1997

RE: 174 Curtis Road - 389-G-25 - R-2 Zone

Dear Mr. & Mrs. Mull,

It has come to our attention that you have constructed a deck and swimming pool at your address above without the proper permits. It would be necessary to apply immediately for these permits immediately within 10 working days. A belated fee will be charged.

Please note that there is some concern that this construction does not meet the zoning requirements, as far as setbacks, of the R-2 zone in which you are located.

When you come in to apply for a permit, it will be necessary to submitted a plot plan showing the building setbacks from the lot lines and a structural plans with dimensions showing how the deck was constructed. It will also be necessary to show us the pool criteria from the manufacturer. Our office is open from 7:00 am to 4:00 pm in order to apply for a permit. The permit fee is based on the cost of the work, with the belated fee added in.

If you have any questions regarding this matter, please do not hesitate to contact this office. If we do not hear from you within the designated time as stated above, this matter shall be turned over to our Corporation Counsel for any legal action.

Very Truly Yours,

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: P. Samuel Hoffses, Chief of Insp. Services  
Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
Kevin Carroll, Code Enforcement Officer

*File*

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles W. & Jennifer T. Mull  
174 Curtis Road  
Portland, ME 04103

March 3, 1997

RE: 174 Curtis Road - 389-G-25 - R-2 Zone

Dear Mr. & Mrs. Mull,

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Please note that there is some concern that this construction does not meet the zoning requirements, as far as setbacks, of the R-2 zone in which you are located.

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Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
Kevin Carroll, Code Enforcement Officer

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

April 17, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

I am in receipt of your permit application for a deck and pool at the above named location. Please note that this permit can not be issued because proper zoning setbacks can not be maintained. You are located in an R-2 residential zone which requires a 25 foot setback to your rear property line. You are showing only 21 feet to the rear property line. The R-2 zone requires a 12 side yard setback to your side property line. You are showing only 5 feet to that side line. Neither of these setbacks are allowable.

Since this structure is already built without the benefit of permits, you will need to alter you existing deck to meet the proper zoning setbacks. We will also need an amended plot plan showing the alterations you chose to meet the required setbacks. We will be waiting to hear from you within 10 working days showing those changes.

Very Truly Yours,

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, JR., Dir. of Planning & Urban Dev.  
P. Samuel Hoffses, Chief of Insp. Services  
K. Carroll, Code Enforcement Officer



Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

June 2, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

I know that you were in receipt of my letter dated on April 17, 1997 since I spoke to your wife and you spoke with Mr. Hoffses. As of this date, there has been no change to your pool or deck in order to come into compliance with the Zoning Ordinance. You need to amend your plans in order to comply with the ordinances and then follow thru in timely manner to physically correct this situation.

If you do not amend the plans as stated in order to correct this situation within 10 working days, this matter shall be turned over to our Corporation Counsel for legal action.

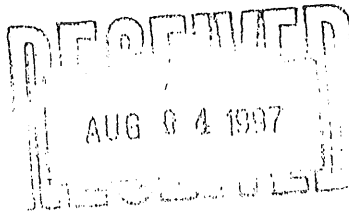
Very Truly Yours,

A handwritten signature in dark ink, appearing to read "Marge Schmuckal", with a long, sweeping horizontal line extending to the right.

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
P. Samuel Hoffses, Chief of Insp. Services  
K. Carroll, Code Enforcement Officer  
Corporation Counsel

STATE OF MAINE  
CUMBERLAND, SS.



NINTH DISTRICT COURT  
DIVISION OF SO. CUMBERLAND  
CIVIL ACTION  
DOCKET # 97-795

\*\*\*\*\*  
CITY OF PORTLAND,

Plaintiff

v.

CHARLES MULL and  
JENNIFER MULL,

Defendants  
\*\*\*\*\*

CONSENT ORDER

*File*  
Defendants have caused a swimming pool and deck to be placed upon their property at 174 Curtis Road, Portland without obtaining permits, which permits are not issuable until the deck and pool are relocated to comply with sideline setbacks and house setback. The parties have reached an agreement to resolve the situation by Defendants taking further action this Fall through the entry of this Consent Order. It is hereby ORDERED:

I. PERMANENT INJUNCTION

- A. On or before September 1, 1997 Defendants shall obtain final approval from the City's Building inspection for all necessary permits to erect or maintain a deck or decks, and/or to place an above ground pool at their property at 174 Curtis Road, Portland (the "Property"); and
- B. On or before October 1, 1997 Defendants shall remove all portions of the existing deck (including any sonotubes, supports, and/or foundations) not specifically authorized by said permits, and any deck or deck(s) erected thereafter, and the placement of the pool shall be as authorized by said permits, except as amended with the approval of the building inspector.
- B. This injunction shall not prevent any use of the Property which is allowed under the Portland Zoning ordinance, provided Defendants obtain necessary permits and approvals in compliance with all applicable requirements of the ordinances

of the City of Portland.

- C. Plaintiffs may cause a copy of this Consent Order to be recorded in the Cumberland County Registry of Deeds and the terms of this injunction regarding the use of the Property shall be binding on Defendants and any successors to their interests in the Property.

II. STIPULATED COSTS

Any fines, award of costs, or payment of attorney's fees to Plaintiff is waived as Defendants have agreed to fully rectify the situation; borne the cost of preparing the necessary legal documents; and paid the required filing fee.

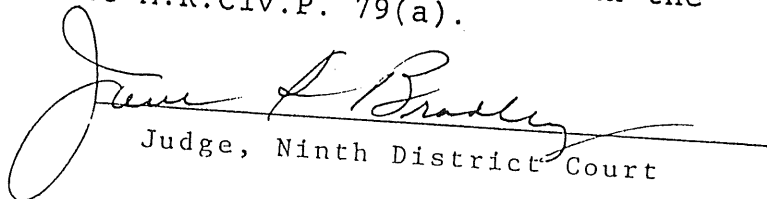
III. STIPULATED PENALTY FOR CONTEMPT

If, upon motion for contempt brought by Plaintiff, this Court finds that Defendants have violated any provision of this Order, in addition to any other relief the Court may grant, Defendants shall pay to Plaintiff the sum of \$500.00 as a stipulated penalty for violation of the terms of this Order, and shall pay the Plaintiff's reasonable costs and attorney fees for bringing such motion.

IV. DOCKET ENTRY BY REFERENCE

The Clerk is directed to enter this consent order in the docket by reference pursuant to M.R.Civ.P. 79(a).

Dated: 7/31/97

  
Judge, Ninth District Court

REC'D  
JUL 31 1997

**Corporation Counsel**

Gary C. Wood



**CITY OF PORTLAND**

**Associate Counsel**

Charles A. Lane  
Elizabeth L. Boynton  
Natalie L. Burns  
Donna M. Katsiaficas

June 25, 1997

Charles W. and Jennifer T. Mull  
174 Curtis Road  
Portland, ME 04103

**RE: 174 Curtis Road - 389-G-25- R-2 Zone - Land Use Violations**

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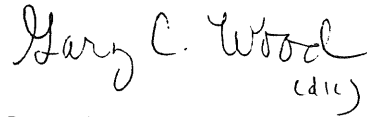
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Charles W. & Jennifer T. Mull  
June 25, 1997  
Page 2

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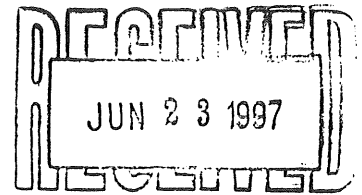
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Gary C. Wood  
Corporation Counsel


GCW:dlc  
Enc.

c: Councilor Charles W. Harlow  
Robert B. Ganley, City Manager  
Joseph E. Gray, Jr., Director of Planning & Urban Development  
Marge Schmuckal, Zoning Administrator/Assistant Chief of Inspection Services  
Natalie L. Burns, Associate Corporation Counsel

mull.ltr



# INTEROFFICE MEMORANDUM

To: Gary Wood, Corporation Counsel  
CC: Joseph Gray, Jr, & P. Samuel Hoffses  
From: Marge Schmuckal   
Date: June 20, 1997  
Subject: 174 Curtis Road, Portland, ME - 389-G-25 - R-2 Zone

Gary,

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FROM THE DESK OF...

MARGE SCHMUCKAL  
ASSISTANT CHIEF OF CODES/ ZONING ADMINIST.  
CITY OF PORTLAND, MAINE  
389 CONGRESS STREET - CITY HALL, ROOM 315  
PORTLAND, MAINE 04101

(207) 874-8300 EXT. 8695  
Fax: 874-8716

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles W. & Jennifer T. Mull  
174 Curtis Road  
Portland, ME 04103

March 3, 1997

RE: 174 Curtis Road - 389-G-25 - R-2 Zone

Dear Mr. & Mrs. Mull,

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Very Truly Yours,

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: P. Samuel Hoffses, Chief of Insp. Services  
Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
Kevin Carroll, Code Enforcement Officer

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

Location of Construction: -174 Curtis Rd		Owner: Mull, Charles		Phone:		Permit No:	
Owner Address: SAA Ptlld, ME 04103		Lessee/Buyer's Name:		Phone:		BusinessName:	
Contractor Name:		Address:		Phone:		Permit Issued:	
Past Use: 1-fam		Proposed Use: Same		COST OF WORK: \$ 5,035.00		PERMIT FEE: \$ 45 + 100/late fee	
				FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied		INSPECTION: Use Group: Type:	
Proposed Project Description:  Install A/G Pool and deck - After the Fact				Signature:		Signature:	
				PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: Approved <input type="checkbox"/> Approved with Conditions: <input type="checkbox"/> Denied <input type="checkbox"/>		Zone: R-2 CBL: 389-G-25	
Permit Taken By: <del>XXXXXXXXXX</del> Mary Gresik		Date Applied For: 14 April 1997				Zoning Approval:	
						Special Zone or Reviews: <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan maj <input type="checkbox"/> minor <input type="checkbox"/> mm <input type="checkbox"/>	

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..

**Zoning Appeal**

☐ Variance  
☐ Miscellaneous  
☐ Conditional Use  
☐ Interpretation  
☐ Approved  
☐ Denied

**Historic Preservation**

☒ Not in District or Landmark  
☒ Does Not Require Review  
☐ Requires Review

## 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 <i>Charles W. Mull</i> Charles Mull		ADDRESS:		DATE: 14 April 1997		PHONE:	
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE						878-0965 PHONE:	

**Action:**

☐ Approved  
☐ Approved with Conditions  
☐ Denied

Date: 4/15/97  
*K. Galvot for*  
*D. Andrews*

CEO DISTRICT 7





Applicant: Charles Mull

Date: 4/17/97

Address: 174 Curtis Rd

C-B-L: 389-G-25

CHECK-LIST AGAINST ZONING ORDINANCE

Date - Existing 1995

Zone Location - R-2

Interior or corner lot -

Proposed Use/Work - New Deck & Pool

Sewage Disposal -

Lot Street Frontage -

Front Yard - N/A

→ Rear Yard - 25' req - 21' shown

→ Side Yard - 12' req - 5' shown

Projections -

Width of Lot -

Height -

Lot Area -

10,000<sup>sq</sup>

Lot Coverage/ Impervious Surface -

2,000<sup>sq</sup>

Area per Family -

Off-street Parking -

Loading Bays -

Site Plan -

Shoreland Zoning/ Stream Protection -

Flood Plains -

$$10 \times 12 = 120$$

$$26 \times 32 = 832$$

$$22 \times 22 = 484$$

on The high side of pool is 26' 1436<sup>sq</sup>

Deck 20' x 20' = 560<sup>sq</sup>

1996

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

April 17, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

I am in receipt of your permit application for a deck and pool at the above named location. Please note that this permit can not be issued because proper zoning setbacks can not be maintained. You are located in an R-2 residential zone which requires a 25 foot setback to your rear property line. You are showing only 21 feet to the rear property line. The R-2 zone requires a 12 side yard setback to your side property line. You are showing only 5 feet to that side line. Neither of these setbacks are allowable.

Since this structure is already built without the benefit of permits, you will need to alter you existing deck to meet the proper zoning setbacks. We will also need an amended plot plan showing the alterations you chose to meet the required setbacks. We will be waiting to hear from you within 10 working days showing those changes.

Very Truly Yours,

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Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, JR., Dir. of Planning & Urban Dev.  
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Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

June 2, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

I know that you were in receipt of my letter dated on April 17, 1997 since I spoke to your wife and you spoke with Mr. Hoffses. As of this date, there has been no change to your pool or deck in order to come into compliance with the Zoning Ordinance. You need to amend your plans in order to comply with the ordinances and then follow thru in timely manner to physically correct this situation.

If you do not amend the plans as stated in order to correct this situation within 10 working days, this matter shall be turned over to our Corporation Counsel for legal action.

Very Truly Yours,

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
P. Samuel Hoffses, Chief of Insp. Services  
K. Carroll, Code Enforcement Officer  
Corporation Counsel

FOUNDATION

511

28. x. 20

Size

SPAN OF SILL

.10 FT

Distance between foundation supports

JOISTS SPAN

24 ft

JOISTS SIZE

2 x 6

(3) X

2 1 8

2 x 10

### DISTANCE BETWEEN JOISTS

...

16" O.C.

..... 24" O.C.

05195

" DECKING

~~5/4~~

other explain.

GUARD HEIGHT

~~36~~

42<sup>ii</sup>

DISTANCE BETWEEN BALUSTER

 $3\frac{3}{4}$ 

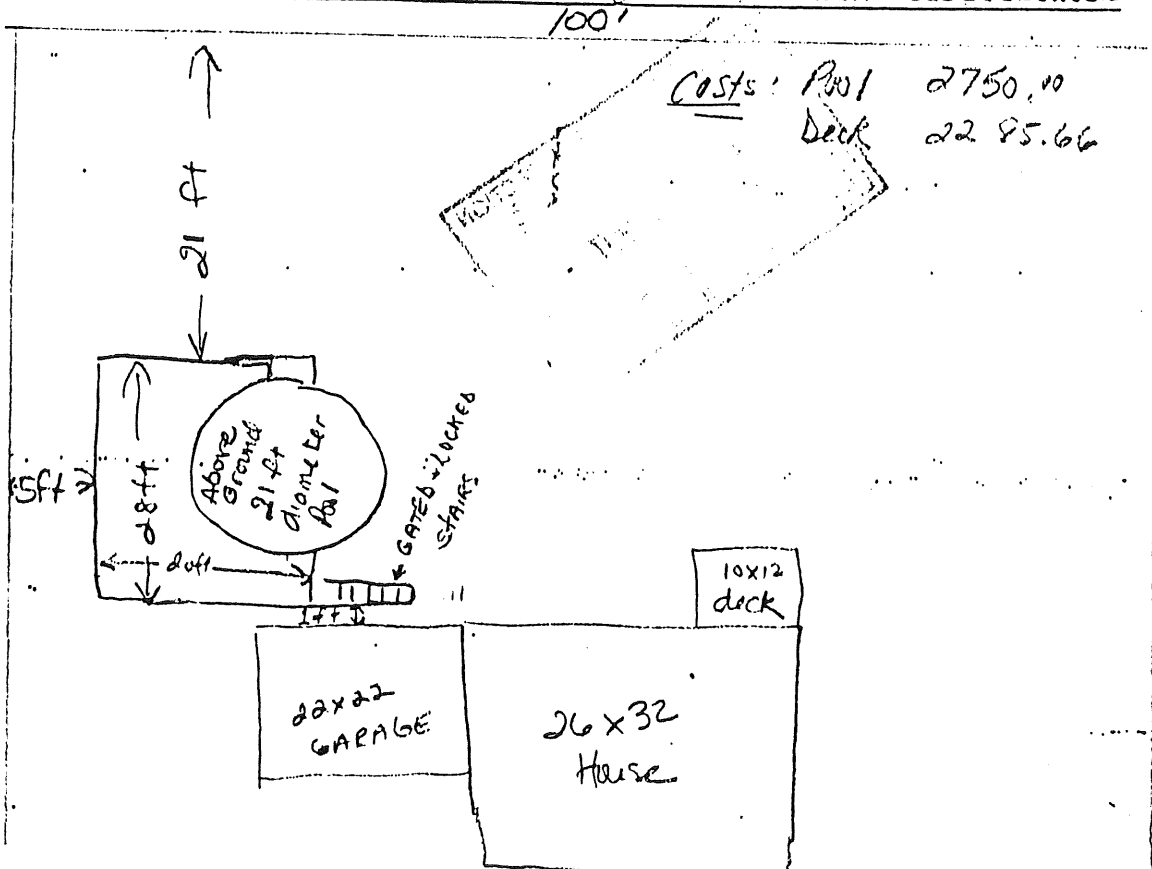
4" spacing between

## STAIR CONSTRUCTION

minimum ... 9" tread 11"

maxima 8 1/4" rise 8 1/4"

please use space below for drawing of deck with measurements.



Applicant: Charles Mull

Date: 4/17/97

Address: 174 Curtis Rd

C-B-L: 389-G-25

CHECK-LIST AGAINST ZONING ORDINANCE

Date - Existing 1995

Zone Location - R-2

Interior or corner lot -

Proposed Use/Work - New Deck & Pool

Sewage Disposal -

Lot Street Frontage -

Front Yard - N/A

→ Rear Yard - 25' req - 21' shown

→ Side Yard - 12' req - 5' shown

Projections -

Width of Lot -

Height -

Lot Area -

10,000<sup>sq</sup>

Lot Coverage/ Impervious Surface -

2,000<sup>sq</sup>

Area per Family -

Off-street Parking -

Loading Bays -

Site Plan -

Shoreland Zoning/ Stream Protection -

Flood Plains -

$$10 \times 12 = 120$$

$$26 \times 32 = 832$$

$$22 \times 22 = 484$$

on the high side of pool is part of deck

$$20 \times 20 = 400$$

$$1996$$

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

April 17, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

I am in receipt of your permit application for a deck and pool at the above named location. Please note that this permit can not be issued because proper zoning setbacks can not be maintained. You are located in an R-2 residential zone which requires a 25 foot setback to your rear property line. You are showing only 21 feet to the rear property line. The R-2 zone requires a 12 side yard setback to your side property line. You are showing only 5 feet to that side line. Neither of these setbacks are allowable.

Since this structure is already built without the benefit of permits, you will need to alter your existing deck to meet the proper zoning setbacks. We will also need an amended plot plan showing the alterations you chose to meet the required setbacks. We will be waiting to hear from you within 10 working days showing those changes.

Very Truly Yours,

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, JR., Dir. of Planning & Urban Dev.  
P. Samuel Hoffses, Chief of Insp. Services  
K. Carroll, Code Enforcement Officer

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

June 2, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

I know that you were in receipt of my letter dated on April 17, 1997 since I spoke to your wife and you spoke with Mr. Hoffses. As of this date, there has been no change to your pool or deck in order to come into compliance with the Zoning Ordinance. You need to amend your plans in order to comply with the ordinances and then follow thru in timely manner to physically correct this situation.

If you do not amend the plans as stated in order to correct this situation within 10 working days, this matter shall be turned over to our Corporation Counsel for legal action.

Very Truly Yours,

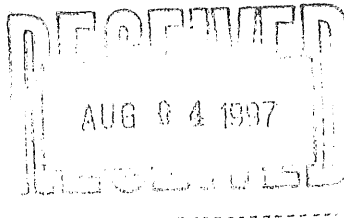
A handwritten signature in cursive script, appearing to read "Marge Schmuckal".

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
P. Samuel Hoffses, Chief of Insp. Services  
K. Carroll, Code Enforcement Officer  
Corporation Counsel



STATE OF MAINE  
CUMBERLAND, ss.



NINTH DISTRICT COURT  
DIVISION OF SO. CUMBERLAND  
CIVIL ACTION  
DOCKET # 97-97-795

\*\*\*\*\*  
CITY OF PORTLAND,

Plaintiff

v.

CHARLES MULL and  
JENNIFER MULL,

Defendants  
\*\*\*\*\*

CONSENT ORDER

File

174 Curtis Rd

Defendants have caused a swimming pool and deck to be placed upon their property at 174 Curtis Road, Portland without obtaining permits, which permits are not issuable until the deck and pool are relocated to comply with sideline setbacks and house setback. The parties have reached an agreement to resolve the situation by Defendants taking further action this Fall through the entry of this Consent Order. It is hereby ORDERED:

I. PERMANENT INJUNCTION

- A. On or before September 1, 1997 Defendants shall obtain final approval from the City's Building inspection for all necessary permits to erect or maintain a deck or decks, and/or to place an above ground pool at their property at 174 Curtis Road, Portland (the "Property"); and
- B. On or before October 1, 1997 Defendants shall remove all portions of the existing deck (including any sonotubes, supports, and/or foundations) not specifically authorized by said permits, and any deck or deck(s) erected thereafter, and the placement of the pool shall be as authorized by said permits, except as amended with the approval of the building inspector.
- B. This injunction shall not prevent any use of the Property which is allowed under the Portland Zoning ordinance, provided Defendants obtain necessary permits and approvals in compliance with all applicable requirements of the ordinances

of the City of Portland.

- C. Plaintiffs may cause a copy of this Consent Order to be recorded in the Cumberland County Registry of Deeds and the terms of this injunction regarding the use of the Property shall be binding on Defendants and any successors to their interests in the Property.

II. STIPULATED COSTS

Any fines, award of costs, or payment of attorney's fees to Plaintiff is waived as Defendants have agreed to fully rectify the situation; borne the cost of preparing the necessary legal documents; and paid the required filing fee.

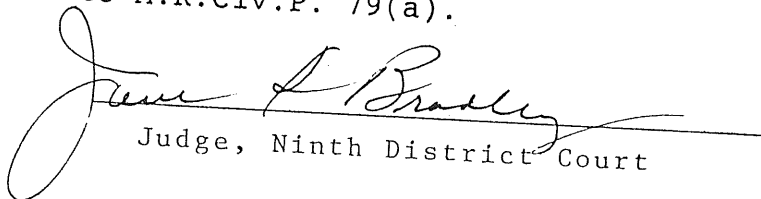
III. STIPULATED PENALTY FOR CONTEMPT

If, upon motion for contempt brought by Plaintiff, this Court finds that Defendants have violated any provision of this Order, in addition to any other relief the Court may grant, Defendants shall pay to Plaintiff the sum of \$500.00 as a stipulated penalty for violation of the terms of this Order, and shall pay the Plaintiff's reasonable costs and attorney fees for bringing such motion.

IV. DOCKET ENTRY BY REFERENCE

The Clerk is directed to enter this consent order in the docket by reference pursuant to M.R.Civ.P. 79(a).

Dated: 7/31/97

  
Judge, Ninth District Court

REC'D  
AUG 3 1 1997

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

Location of Construction: 174 Curtis Rd		Owner: Mull, Charles		Phone:		Permit No:	
Owner Address: SAA Ptld, ME 04103		Lessee/Buyer's Name:		Phone:		BusinessName:	
Contractor Name:		Address:		Phone:		Permit Issued:	
Past Use: 1-fam		Proposed Use: Same		COST OF WORK: \$ 5,035.00 FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied Signature:		PERMIT FEE: \$ 45 + 100/late fee INSPECTION: Use Group: Type: Signature:	
Proposed Project Description:  Install A/G Pool and deck - After the Fact <i>See letter</i>				PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: Approved <input type="checkbox"/> Approved with Conditions: <input type="checkbox"/> Denied <input type="checkbox"/> Signature: Date:		Zone: <i>R-2</i> CBL: <i>389-G-25</i> Zoning Approval:	
Permit Taken By: <del>XXXXXXXXXX</del> Mary Gresik		Date Applied For: 14 April 1997					
<p>1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal rules.</p> <p>2. Building permits do not include plumbing, septic or electrical work. <i>(DAVID LAMIE IS THEIR ATTNY)</i></p> <p>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..</p> <p><i>There is a contractual Agreement with The Mulls To remove The Deck &amp; Pool by October 1, 1997</i></p> <p><i>Note: 9/29/97 AT 1:37pm Kevin Carroll (code ENF. OFF) reported That The deck &amp; pool were removed</i></p> <p><b>CERTIFICATION</b></p> <p>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</p> <p><i>Charles W. Mull</i></p>							
SIGNATURE OF APPLICANT Charles Mull		ADDRESS:		DATE: 14 April 1997		PHONE: 878-0965	
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE						PHONE:	
White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector						<b>CEO DISTRICT</b> <span style="border: 1px solid black; padding: 5px; display: inline-block; text-align: center;">7</span> <i>K. Carroll</i>	

**Special Zone or Reviews:**

☐ Shoreland  
☐ Wetland  
☐ Flood Zone  
☐ Subdivision  
☐ Site Plan maj ☐ minor ☐ mm ☐

**Zoning Appeal**

☐ Variance  
☐ Miscellaneous  
☐ Conditional Use  
☐ Interpretation  
☐ Approved  
☐ Denied

**Historic Preservation**

☒ Not in District or Landmark  
☒ Does Not Require Review  
☐ Requires Review

**Action:**

☐ Approved  
☐ Approved with Conditions  
☐ Denied

Date: *4/15/97*  
*K. Galvot for*  
*D. Andrews*

please check off the appropriate description

FOUNDATION

           Frost Wall, min 4' below grade.  
8" thick

  X   Sono Tube, 4' below grade. . . . .  
6" min. on footing, hard pan or  
bedrock.  
           Other

SILL

28' X 20' Size

SPAN OF SILL

10 FT Distance between foundation supports

JOISTS SPAN

24 FT . . . . .

JOISTS SIZE

           2 x 6 (3) X 2 x 8            2 x 10

DISTANCE BETWEEN JOISTS

  X   16" O.C.            24" O.C.            other

DECKING

  X   5/4            other explain

GUARD HEIGHT

  X   36"            42"

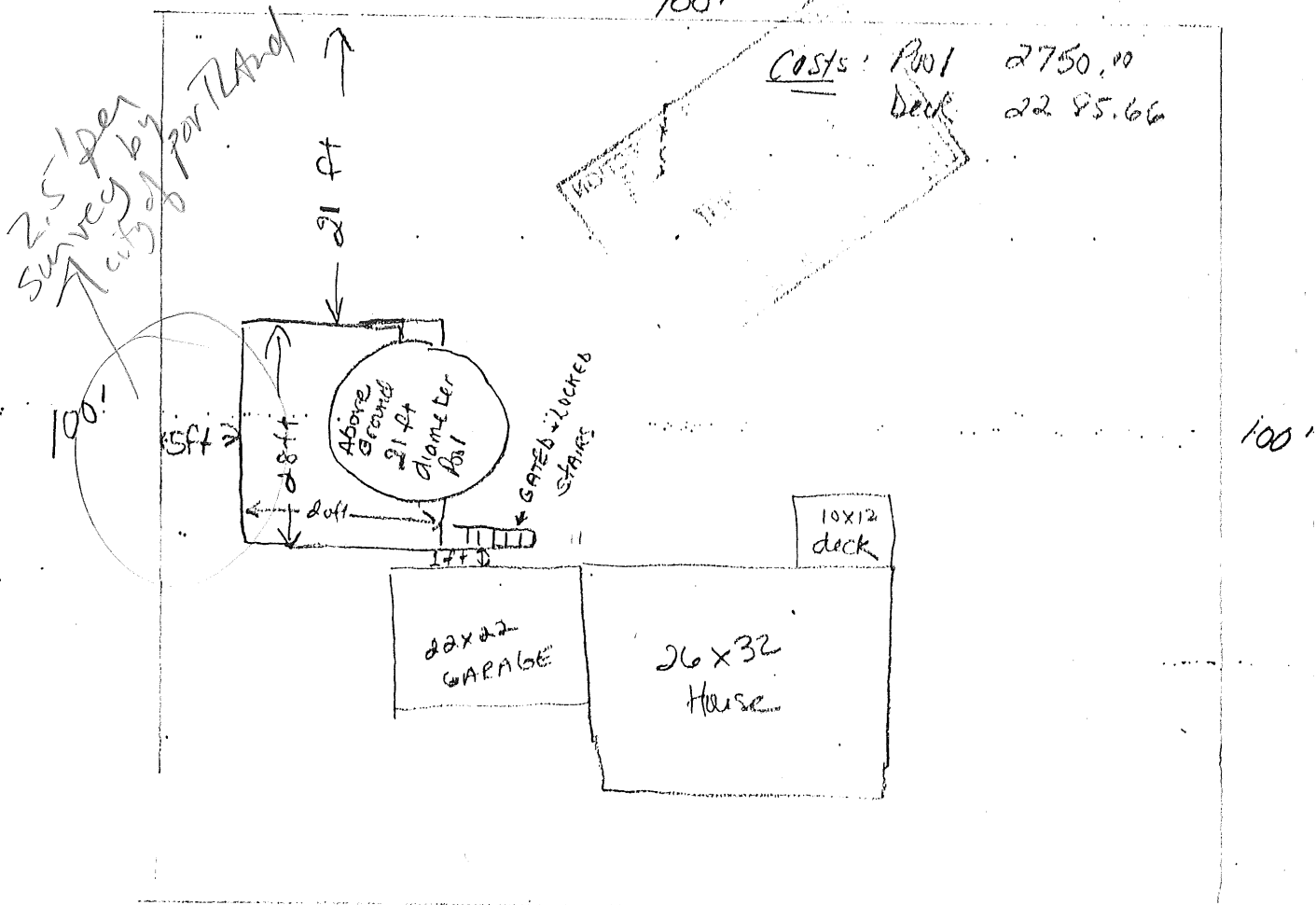
DISTANCE BETWEEN BALUSTER

3 3/4 4" spacing between

STAIR CONSTRUCTION

minimum 9" tread 11"  
maximum 8 1/4" rise 8 1/4"

please use space below for drawing of deck with measurements.



Applicant: Charles Mull

Date: 4/17/97

Address: 174 Curtis Rd

C-B-L: 389-G-25

CHECK-LIST AGAINST ZONING ORDINANCE

Date - Existing 1995

Zone Location - R-2

Interior or corner lot -

Proposed Use/Work - New Deck & Pool

Sewage Disposal -

Lot Street Frontage -

Front Yard - N/A

→ Rear Yard - 25' req - 21' shown

→ Side Yard - 12' req - 5' shown

Projections -

Width of Lot -

Height -

Lot Area -

10,000<sup>sq</sup>

Lot Coverage/ Impervious Surface -

2,000<sup>sq</sup>

Area per Family -

Off-street Parking -

Loading Bays -

Site Plan -

Shoreland Zoning/ Stream Protection -

Flood Plains -

10 x 12 = 120  
26 x 32 = 832  
22 x 22 = 484

on The high  
Side Pool is  
Deck  
28 x 20 = 560<sup>sq</sup>

1436<sup>sq</sup>  
1996

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles W. & Jennifer T. Mull  
174 Curtis Road  
Portland, ME 04103

March 3, 1997

RE: 174 Curtis Road - 389-G-25 - R-2 Zone

Dear Mr. & Mrs. Mull,

It has come to our attention that you have constructed a deck and swimming pool at your address above without the proper permits. It would be necessary to apply immediately for these permits immediately within 10 working days. A belated fee will be charged.

Please note that there is some concern that this construction does not meet the zoning requirements, as far as setbacks, of the R-2 zone in which you are located.

When you come in to apply for a permit, it will be necessary to submitted a plot plan showing the building setbacks from the lot lines and a structural plans with dimensions showing how the deck was constructed. It will also be necessary to show us the pool criteria from the manufacturer. Our office is open from 7:00 am to 4:00 pm in order to apply for a permit. The permit fee is based on the cost of the work, with the belated fee added in.

If you have any questions regarding this matter, please do not hesitate to contact this office. If we do not hear from you within the designated time as stated above, this matter shall be turned over to our Corporation Counsel for any legal action.

Very Truly Yours,

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: P. Samuel Hoffses, Chief of Insp. Services  
Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
Kevin Carroll, Code Enforcement Officer

Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

April 17, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

I am in receipt of your permit application for a deck and pool at the above named location. Please note that this permit can not be issued because proper zoning setbacks can not be maintained. You are located in an R-2 residential zone which requires a 25 foot setback to your rear property line. You are showing only 21 feet to the rear property line. The R-2 zone requires a 12 side yard setback to your side property line. You are showing only 5 feet to that side line. Neither of these setbacks are allowable.

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Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, JR., Dir. of Planning & Urban Dev.  
P. Samuel Hoffses, Chief of Insp. Services  
K. Carroll, Code Enforcement Officer

# INTEROFFICE MEMORANDUM

---

To: Gary Wood, Corporation Counsel  
CC: Joseph Gray, Jr. & P. Samuel Hoffses  
From: Marge Schmuckal   
Date: June 20, 1997  
Subject: 174 Curtis Road, Portland, ME - 389-G-25 - R-2 Zone

Gary,

I am sending this to you for legal action. Background info: During the time of moving in an old house on a lot at 168 Curtis Road, it came to our attention that one of the abutting neighbors was encroaching on the lot line setbacks both for both the side and rear. They had constructed a very large deck and installed a pool without the benefit of any building permits. We first concentrated our efforts to resolving the issues with the house that was brought in. It wasn't until appeals and such were completed that we then turned our attention to the violations at 174 Curtis Road.

My first letter went out to the owners, Mr & Mrs Mull, on March 3, 1997. After much discussion with Mr. Hoffses and checking our microfiche, Mr. Mull finally applied for a building permit on April 14, 1997. During my review of the permit, I found zoning violations and I wrote them another letter dated April 17, 1997 informing them that the permit was not issuable due to the setback violations. Again several phone calls went back & forth, but without any action by the Mulls to amend their plans nor to change the situation on site. I sent out a final letter dated June 2, 1997 giving them another 10 days (working days). I have received no information from the Mulls on this follow up. The field inspector (Kevin Carroll) confirmed on June 19, 1997 that no changes to the violations have been made on site.

I am now turning this over to Corporation Counsel for legal action. I am enclosing all information on this project. Let me know where to proceed from here.

FROM THE DESK OF...

MARGE SCHMUCKAL  
ASSISTANT CHIEF OF CODES/ ZONING ADMINIST.  
CITY OF PORTLAND, MAINE  
389 CONGRESS STREET - CITY HALL, ROOM 315  
PORTLAND, MAINE 04101

(207) 874-8300 EXT. 8695  
Fax: 874-8716



Inspection Services  
P. Samuel Hoffses  
Chief



Planning and Urban Development  
Joseph E. Gray Jr.  
Director

## CITY OF PORTLAND

Charles Mull  
174 Curtis Road  
Portland, ME 04103

June 2, 1997

RE: Permit application for deck and pool after the fact - 174 Curtis Rd. - 389-G-25

Dear Mr. Mull,

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Very Truly Yours,

A handwritten signature in cursive script, reading "Marge Schmuckal".

Marge Schmuckal  
Zoning Administrator/  
Asst. Chief of Insp. Services

cc to: Joseph Gray, Jr., Dir. of Planning & Urban Dev.  
P. Samuel Hoffses, Chief of Insp. Services  
K. Carroll, Code Enforcement Officer  
Corporation Counsel

please check off the appropriate description

FOUNDATION

           Frost Wall, min 4" below grade.  
8" thick

  X   Sono Tube, 4" below grade. . . .  
6" min. on footing, hard pan or  
bedrock.

           Other

SILL

28 x 20 Size

SPAN OF SILL

10ft Distance between foundation supports

JOISTS SPAN

24ft

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           2 x 6 (3) X 2 x 8            2 x 10

DISTANCE BETWEEN JOISTS

  X   16" O.C.            24" O.C.            other

DECKING

  X   5/4            other explain

GUARD HEIGHT

  X   36"            42"

DISTANCE BETWEEN BALUSTER

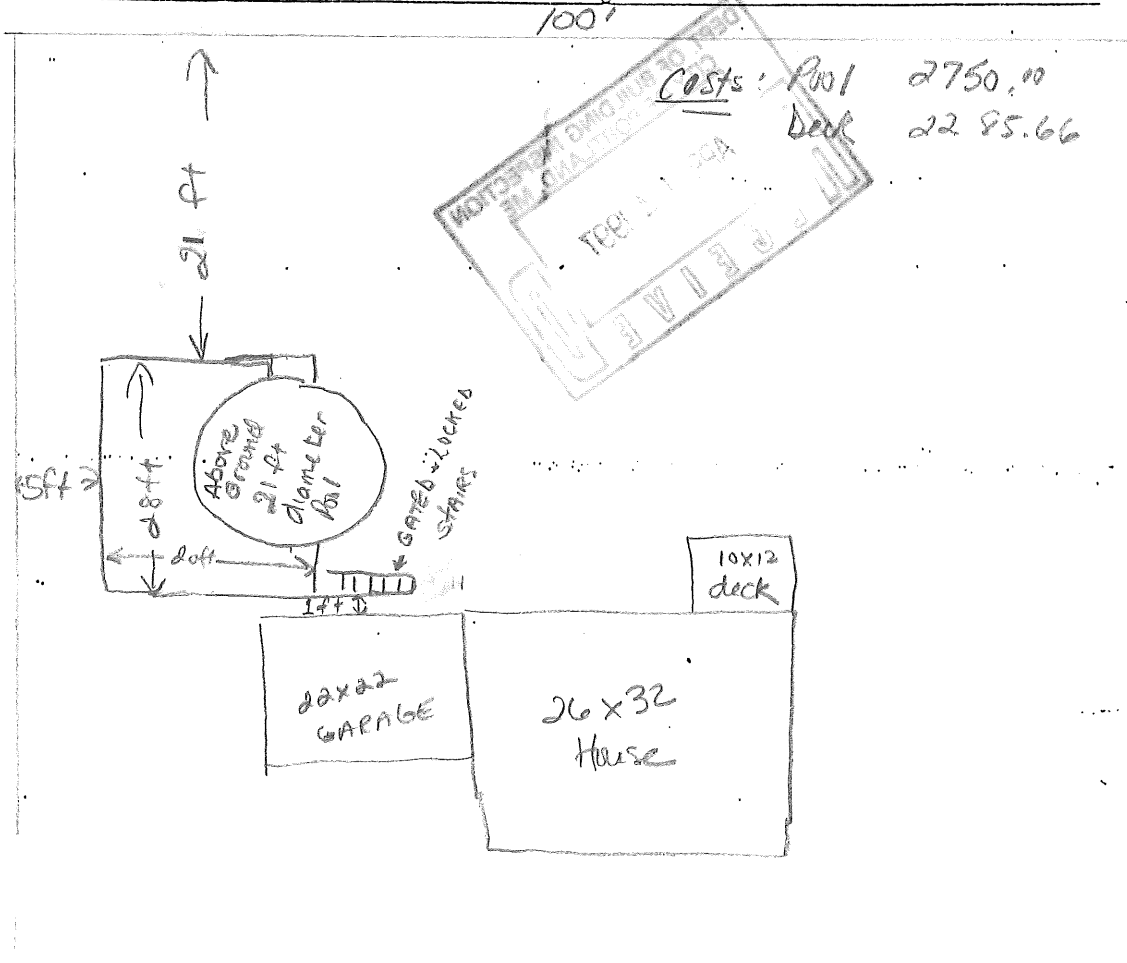
3 3/4 4" spacing between

STAIR CONSTRUCTION

minimum 9" tread 11"

maximum 8 1/4" rise 8 1/4"

please use space below for drawing of deck with measurements.



174 Curtis

30' EASEMENT

30.00'

6.0'

PORCH

0.7' FND.  
0.9' FND.

HOUSE  
RECENTLY  
MOVED ONTO  
NEW FOUNDATION

FOUNDATION  
FOR BULKHEAD

FND.

12.6'

12.4'

12.0'

2.2'

9.7'

APPARENT PROPERTY LINES

WOOD DECK FOR  
ABOVE GROUND POOL

GRASS

GARAGE

#174 CURTIS RD

15.2'

EDGE OF PAVED  
PARKING AREA

BASKETBALL BACKBOARD POST

12.3'

25.4'

CATV JCT. BOX

CMP TRANSFORMER

TEL. JCT. BOX