



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
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Commissioner

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Dear Construction Official:

There have been several, well-publicized incidences involving attempts to elevate existing houses. This guidance is issued to address the role of construction officials in protecting property and ensuring safety on the site of an existing house being elevated.

The Occupational Safety and Health Act (OSHA) is a federal law governing worker safety. This law preempts any state or local laws with the express purpose of protecting workers. This means that the safety of workers on a construction site is covered by OSHA and not by the State's Uniform Construction Code (UCC). The UCC ensures the safety of the public and of the eventual occupants of any building or structure by establishing construction standards, requiring inspections and mandating the ultimate issuance of a Certificate of Occupancy. However, the construction official does not have responsibility for the safety of a construction site. This includes the sites of houses being elevated.

The construction official does, however, have responsibility to ensure that precautions are taken during construction to protect those using a public right of way (sidewalk or street) and to protect people and property on adjoining sites. The UCC provides that "owners who undertake construction, rehabilitation or demolition work at their properties shall protect adjoining properties from damage caused by the work." (N.J.A.C. 5:23-2.34.) This section requires that "the measures to be taken to safeguard adjoining properties shall be submitted with the permit application for review and approval by the construction official." (See N.J.A.C. 5:23-2.34(a) and (c).)

This means that the construction official must obtain the plan to protect adjoining properties and public rights of way prior to issuance of a permit to begin elevating an existing structure. This submittal should be required only in instances where the lot size or position of the existing structure on the lot is such that there is a need to provide protection. The construction official also should have confirmation of utility disconnects on file for proposed building elevations.



There are several ways this regulation can be satisfied. If the home being raised is in close proximity to the public way, closing the street and/or sidewalk would afford the protection required by the code. In the case where the house being elevated is located in close proximity to an adjoining structure, it may not be physically possible to protect the adjoining property. In these cases, the only way to protect the adjoining property is to require the submission of a plan to ensure the elevating and cribbing of the house is performed in a manner consistent with accepted engineering practice. There is no standard provided for this in the UCC. However, FEMA has provided guidance on safely performing this work. See Publication P-312, Chapter 5. The Division of Codes and Standards recommends that construction officials use this publication to evaluate the plans for elevating the house. When the safety of neighboring structures is involved, construction officials may require that the plans for elevation be prepared by a licensed design professional.

If, during the progress of work, the construction official observes a situation which poses a threat to a neighboring property or to a public right of way which remains open during work, then the construction official should issue the necessary Notice and Orders to stop work and to cause the site to be secured and rendered safe.

Subsections (b) and (d) of N.J.A.C. 5:23-2.34 contemplate situations where it is necessary for the owner undertaking the work to access the neighbor's property to put the planned safeguards in place. This may or may not be necessary for the elevation of a house. If protection can be accomplished without accessing the neighbor's property, then subsections (b) and (d) would not apply.

N.J.A.C. 5:23-2.21, "Construction control," establishes the responsibilities of architects/engineers and of contractors during construction which are separate from the responsibility of the construction official to enforce the UCC. Subsection (e) states that, "The actual construction of the work shall be the responsibility of the contractor(s) as identified on the approved construction permit" which includes "execution and control of all methods of construction in a safe and satisfactory manner." (See N.J.A.C. 5:23-2.21(e)2).

Should you have any questions, please contact Code Assistance at (609) 984-7609.

Sincerely,



Edward M. Smith
Director
Division of Codes and Standards