

Re: Unsightly Premises and Poultry on Residential Property
(Item 25, Report No. 46, Meeting July 17, 1972)

Council on July 17, 1972, received a letter from Mr. and Mrs. Furlani and others concerning property which is located at 6565 - 12th Avenue. They contend that Mr. G. Jones, the owner is in contravention of the Unsightly Premises By-law, is in violation of a law which prohibits the keeping of poultry in residentially zoned areas and has not properly concealed from public view an offensive picture which is on display in his home.

The findings of the Medical Health Officer are recorded below. Members of Council will find attached to their reports a sketch of the area and a chronological explanation of various occurrences that have been documented as having taken place on the Jones' property between 1960 and the present time. Members of Council will also have the opportunity to review a series of pictures of the property in question before Council Meeting convenes at 7:00 p.m. on August 14, 1972.

RECOMMENDATION:

THAT the recommendations of the Medical Health Officer be adopted.

* * * * * CONCLUDED

The above noted property is 62.66' in width by 132.85' in depth and contains an older type two storey frame dwelling which is occupied by Mr. G.C. Jones and family. Mr. Jones owns the property. The adjoining lot, north-east, is 65.66' by 132.85', municipally owned and borders the Stride Avenue dump site. Twelfth Avenue dead ends at this point. The properties directly across the street, Lots 27-34 inclusive are municipally owned, vacant and contain a dense growth of trees and underbrush. Lot 13 and the Stride Avenue dump site are municipally owned. The dump site is still in use for the deposit of inorganic refuse by Burnaby residents.

The lot to the south of the Jones' property, until recently 99' x 132.85', contains a dwelling which is owned and occupied by two of the complainants, Mr. & Mrs. Furlani.

The accompanying extract of strip map 16 will illustrate the description and locations of the involved properties.

For many years, dating back to 1930, poultry, and at one time, a cow and calf, have been kept on the Jones' property. Presently there are six geese and four chickens, one rooster, kept on the property. This Department has been faced with a very difficult problem due to Mr. Jones' persistence in maintaining a salvage and junk operation on his property, the adjacent municipal lot, the boulevard and the dead end of the Twelfth Avenue street allowance. He also stored equipment, which he used in his business (back hoes, mowing equipment, pick-up truck). It must be borne in mind this Department did not have the advantage of utilizing the Unsightly Premises By-law during most of our activities as this by-law was not effective until July, 1969. Over the years a great deal of time and expence has been applied to the resolving of this problem. A perusal of the appendices to this report will show the continuing action of this Department.

The following is a resume of court action and the physical removal of stored refuse, debris, junk, and salvage materials by municipal equipment and workmen.

1. October 1963 Summons issued. Mr. Jones fined \$15.00 by Magistrate Bell.
2. October 1970 C.M.P. charged Mr. G.C. Jones on two counts. The results are noted on the accompanying records.
3. December 1970 The municipal lot and road allowance were cleared by municipal equipment and municipal workmen.

4. August 1971 Mr. Jones' yard was partially cleared by municipal workmen and municipal equipment. The remaining material, salvageable and of value was cleared by Mr. Jones. A confrontation took place at this time and police action was involved. (See pictures).
5. October 1971 Property cleared to the requirements of the Burnaby Unsightly Premises By-law.

Mr. & Mrs. Furlani applied to the Board of Variance and received permission to erect a six foot fence between their property and the Jones' property. A tight board fence was subsequently erected by the Furlani's.

In November of 1971 the Planning Department granted preliminary approval for subdivision of Mr. & Mrs. Furlani's property. (You will note earlier in this report that the lot size of the concerned property was 99' x 132.85'). One of the conditions of subdivision was that the existing dwelling be sited on one of the newly created lots. The existing house, owned and occupied by Mr. & Mrs. Furlani, was moved approximately 27' closer to the southerly boundary of the Jones' property, leaving a side yard of approximately 5'. It is our understanding that the survey of the property, necessitated by subdivision, revealed that the rightful property line between the Jones' and Furlani's property was approximately 10" north of where the original 6' fence, approved by the Board of Variance, had been erected. Mr. Jones stated that the fence was consequently moved by approximately 10" to the newly surveyed property line.

On July 11, 1972 this Department received from the Municipal Clerk a copy of a petition regarding the Jones' property which was signed by eleven residents of the 6500 Block 12th Avenue. Two of the eleven signees were Mr. & Mrs. Furlani. The complaint was in regard to the following:

1. unsightliness of 6565 - 12th Avenue;
2. keeping of poultry;
3. picture of a naked lady placed in the kitchen window of 6565 - 12th Avenue and facing the Furlani dwelling.

Inspection revealed:

1. Unsightly Premises

In the clearing of materials from the front yard of 6565 - 12th Avenue shrubbery and vegetation were removed. The Jones family, in lieu of planting lawns and shrubs chose to place ornaments, of all different kinds, in their front yard. It is rather interesting to note that it is very difficult to see this yard from any point other than standing directly in front of the Jones property. From this vantage point one also observes the face of the Stride Avenue dump.

We are of the opinion that while the front yard of 6565 - 12th Avenue (Jones property) is unusual it does not contravene the Unsightly Premises By-law. It is but fair to state that the fence erected by Mr. & Mrs. Furlani does not enhance the aesthetic quality of the Jones property.

2. Poultry

As stated previously poultry has been harboured on this property for many years, according to Mr. Jones since 1930. This statement must be accepted as there is no evidence to the contrary. It is necessary that we receive legal opinion from the Municipal Solicitor as to whether the keeping of poultry on this property is a legal non-conforming use. Should the Solicitor advise that this is a legal non-conforming use then Mr. Jones will be notified to house and maintain the poultry in a proper manner. Should the Solicitor advise that the keeping of poultry is not a legal non-conforming use then Mr. Jones will be notified to remove the poultry. The geese and chickens presently roam the property and as a result droppings and flies are in evidence. We have requested of Mrs. Jones, that droppings be collected and flies controlled.

An inspection will be made at dawn to ascertain the validity of the rooster crowing complaint.

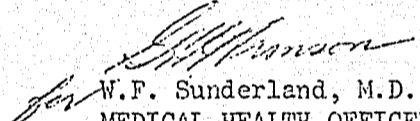
3. Picture in Window

There is a picture hanging in the kitchen window of the Jones residence which could be seen from the Furlani dwelling. We would not presume to advise on this subject as it is not a matter of public health concern.

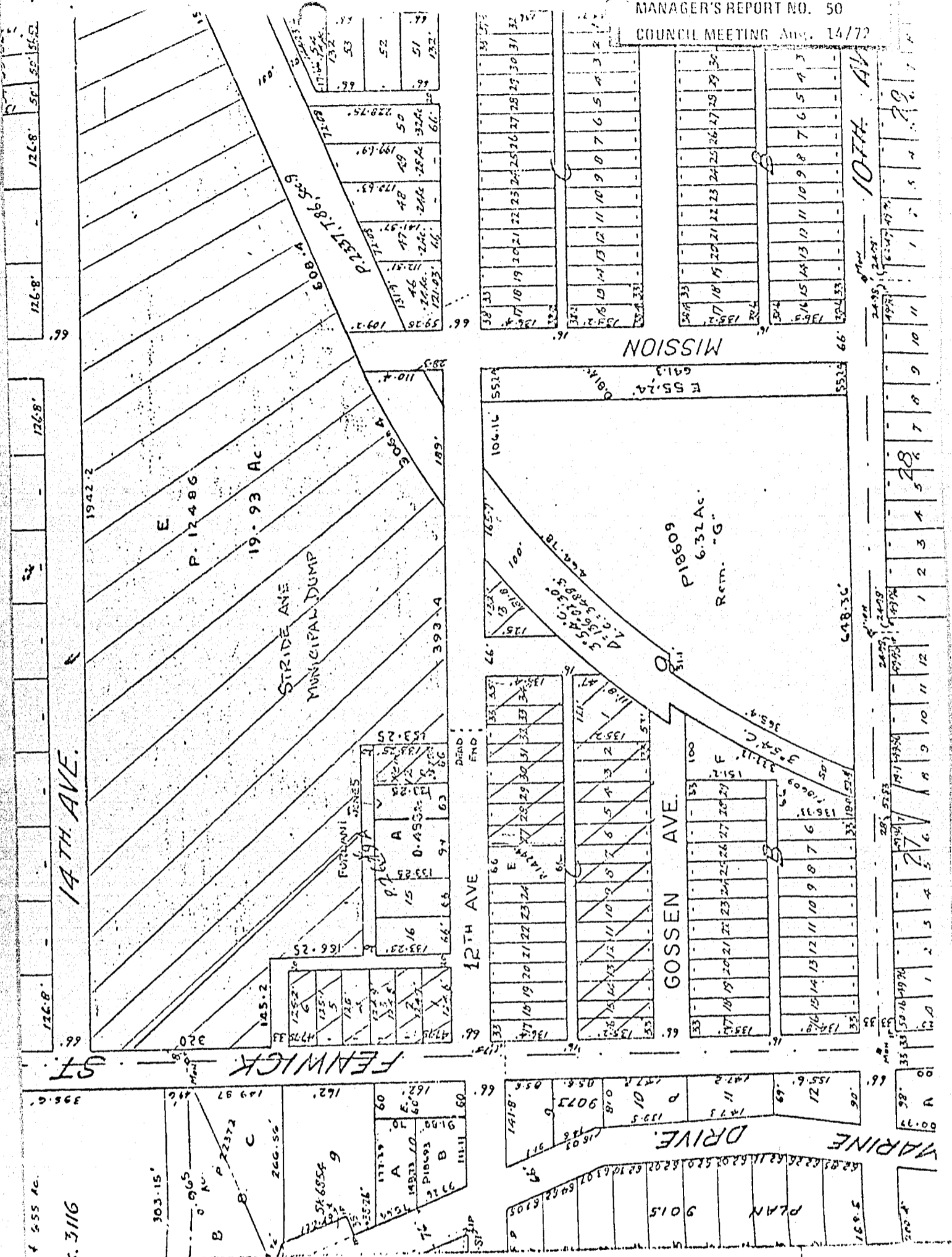
RECOMMENDATIONS

1. We do not consider that there is a contravention of the Unsightly Premises By-law at this time. We are prepared however to make periodic inspections to ascertain the condition of the property.
2. (a) That action regarding the keeping of poultry on this property be deferred until the Solicitor has advised of the legal aspects of zoning.

(b) That the Health Department carry out very early morning inspections to ascertain the extent of noise made by the rooster crowing.
3. We would recommend that the subject of the picture in the window be referred to the Municipal Solicitor.


W.F. Sunderland, M.D., D.P.H.
MEDICAL HEALTH OFFICER

GHA/lb



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