

15. Re: Encroachment of Structures on the Shepherd Street Allowance

Shepherd Street is currently under initiation for Street Improvements Stage 2 of our Local Improvement Program. Arising from the receipt of notices by property owners, we have received complaints on the continuing encroachment of buildings (house and garage) on the road allowance of Shepherd Street which are shown on the attached sketch.

Mr. R.C. Noxon of 4763 Shepherd Street, on behalf of property owners in the area, alleges that these buildings were required to be moved within 10 years of subdivision of the parcel on which they originally legally were situated in 1954. The Assessment and Engineering Departments were unable to find a document confirming this (the search included the Land Registry Office and the Clerk's and Planner's files).

Although we have not been able to locate any agreement relating to the removal of the buildings from the street allowance of Shepherd Street, we have reviewed the microfilm in the Engineer's files for 1954 and discovered the following letter:

"June 3, 1954.

C.C. Brown
Municipal Clerk.

Dear Sir:

Re: Subdivision of Blk. 11, Lot 32, Group 1

The estimated cost of construction of the dedicated roads and lanes on the above plan are as follows:

Sheppard Street	\$1,000.
Lanes	800.
	<u>\$1,800.</u>

However, there are two encroachments at the present time on the proposed dedicated road allowance. One at the southwest corner of Nelson Avenue and the other at the southeast corner of Sussex Ave. and Sheppard St. These encroachments, unless removed, will necessitate the construction of Sheppard St. to be limited to 33' in width for approximately 125' from Nelson Ave. and approximately 125' from Sussex Ave.

Yours truly,

D.A. Whelen
Municipal Engineer"

GE:lh

We could not find an answer from the Clerk's Office in respect to the Engineer's advice. We note that the plan was approved by D.A. Whelen on June 15, 1954, a few days later.

A fire resolved the encroachment of the building at Nelson Avenue but the other at Sussex Avenue remains as a source of grievance to the residents of the street. Their spokesman, Mr. Noxon, has requested a reply to his original request on November 3, 1972 (see attachment).

The residents, according to Mr. Noxon, will not approve of the proposed local improvement unless a commitment by the Municipality is made to have the buildings removed. The buildings now exist illegally on a street allowance. To improve the street and install sidewalks, we have had to design a layout requiring the off-centering of the improvements on the right-of-way, as shown on the attached sketch. Mr. Noxon rightly points out that such a design would condone an illegal situation and create an eyesore to the street.

Continued ...

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15. Re: Encroachment of Structures on the Shepherd Street Allowance (cont'd)

Mr. L.S. Frith of 5798 Sussex Avenue, who became owner of the encroachment at Shepherd and Sussex in 1956, has not yet been contacted.

RECOMMENDATION:

THAT the Land Agent be instructed to negotiate with Mr. L.S. Frith for the removal of the subject encroachments from the street allowance forthwith.

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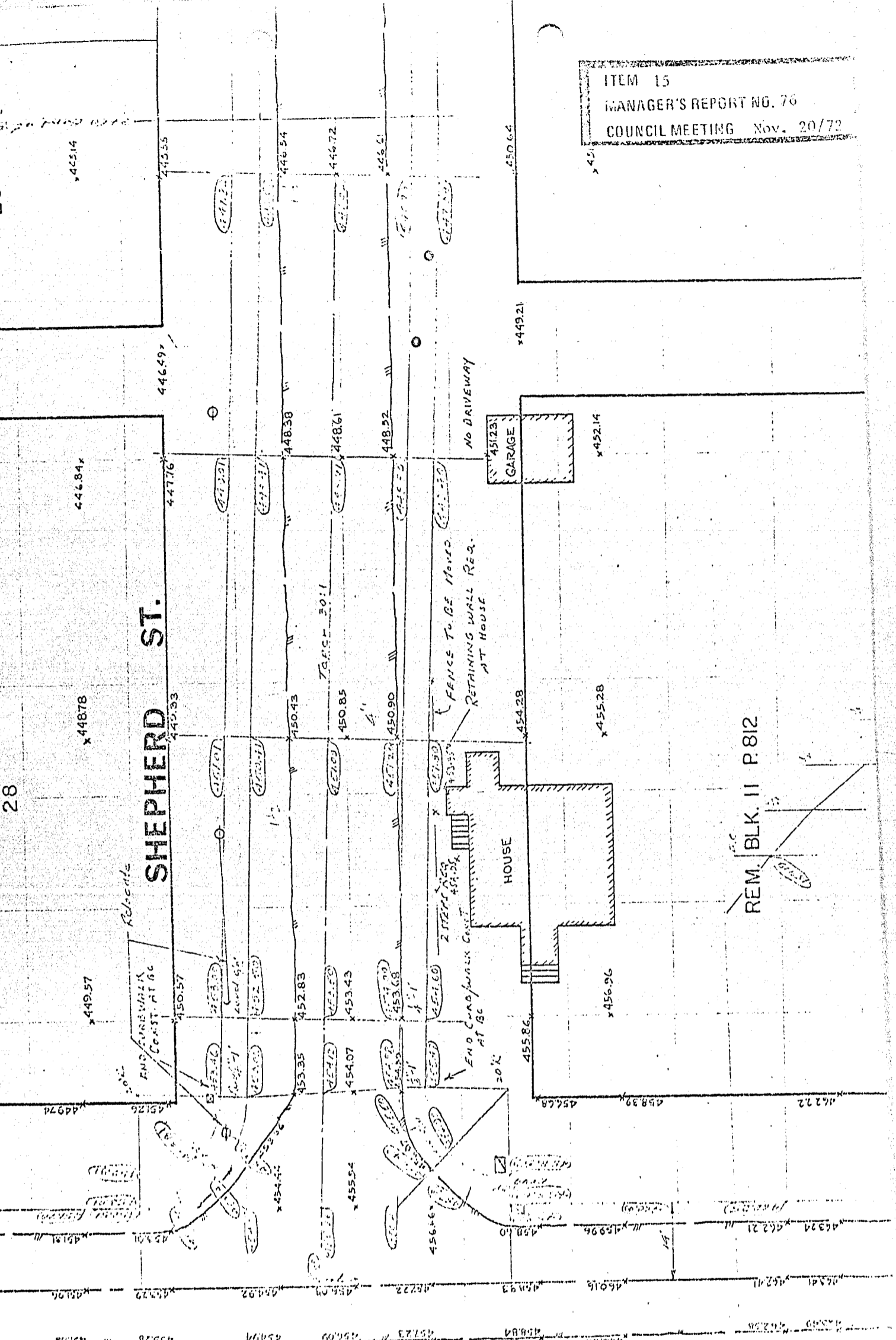
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SHEPHERD ST.

SUSSEX AVE

REM. BLK. II P. 812



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MANAGER'S REPORT NO. 76

COUNCIL MEETING Nov. 20/72

4763 Shepherd Street
Burnaby 1, B.C.

November 3rd, 1972.

MUNICIPAL MANAGER'S
OFFICE

Mr. John H. Shaw
Municipal Clerk
The Corporation of the District of Burnaby
4949 Canada Way
Burnaby 2, B.C.

Dear Sir:

re : Notice that the Municipality Propose
to construct as a Local Improvement
28' Pavement with 5' Curb Sidewalks
on both sides of Shepherd Street from
Sussex Avenue to Nelson Avenue

Since receiving your Notice I have been endeavouring to ascertain just where the sidewalks and the pavement would be constructed on Shepherd Street, and with particular reference to the property on the South East corner of Shepherd Street and Sussex Avenue, address of 5794 Sussex Avenue. The legal description of same is - Dlk 11, North Part, except plan 14472, District Lot 32, Plan 012. The property has an encroachment of from 8 to 12 feet on the Road Allowance of Shepherd Street to a depth of approximately 117 feet. In other words, the S.E. corner property encroaches on the road allowance of Shepherd Street to the extent of approximately 936 - 1404 sq. ft. to the detriment of the tax payers' properties, as well as making that corner a dangerous hazard for vehicle and pedestrians.


The Land Registry Office in New Westminster advise that there is no agreement on file between the Municipality of Burnaby and the property owner of 5794 Sussex Avenue whereby such encroachments are to be removed at any specific time. "Does the Municipality have any agreement made when the acreage was subdivided in 1954? The buildings on the land consist of a frame house, wooden garage and a so-called picket fence which have been rented for practically the full seventeen years that I have resided on Shepherd Street. Your Water Department advise me that water was connected to the house in 1939 so the house is thirty-three years old - and looks it.

I am in full accord with the proposed improvements being constructed, but feel that before they are, providing no petition against same is filed, that the encroachment should be removed. Then, the property lines of all the houses on the south side of Shepherd Street would be the same and therefore the proposed sidewalks and pavement would run in a straight line throughout the full length of the street. Then - the "Improvements" would be obvious.

Before closing, I would like to thank the various employees of the Municipal Hall for their assistance and patience in answering my phone calls apropos of this subject. They were very courteous and helpful, and of course, this includes yourself.

Trusting to hear from you in due course, I remain

Yours very truly


H.C. Noxon