

ITEM 13

MANAGER'S REPORT NO. 53

COUNCIL MEETING Aug. 6/74

Re: Letter dated July 22, 1974 from Mr. and Mrs. J.M. Hine
515 S. Ellesmere Avenue, Driveway Crossing for Parking in Front Yard
(Item 42, Manager's Report No. 51, July 22, 1974)

Appearing on the Agenda for the July 22, 1974 Council meeting was a copy of a letter dated July 16, 1974 from Mr. and Mrs. J.M. Hine, 515 S. Ellesmere Avenue, appealing a decision of the Municipal Engineer to not approve of a driveway crossing in connection with a new local improvement. Appearing on the Agenda for the August 6, 1974 Council meeting is a letter dated July 22, 1974 from Mr. and Mrs. Hine elaborating on their request.

The following is a report from the Municipal Engineer dated July 26, 1974 in this connection. The Engineer has also included in his report a request dated July 18, 1974 from Mr. Cliff Wight addressed to the Municipal Engineer appealing his decision to not permit two crossings in the form of a loop driveway to this particular property.

RECOMMENDATIONS:

THAT Council establish a policy whereby all non-conforming parking areas in existence prior to June 7, 1965 be classed as legal non-conforming and that standard vehicular accesses be provided at the time of a local improvement project;

And that if this recommendation is approved,

THAT 515 S. Ellesmere Avenue be given a vehicular crossing to the existing asphalt front yard parking area; and

THAT 5450 Portland Street be granted a crossing to the easterly driveway to service that area existing prior to June 1965; and

THAT both Mr. and Mrs. Hine and Mr. Wight be sent copies of this report.

* * * * *

TO: MUNICIPAL MANAGER

July 26, 1974

FROM: MUNICIPAL ENGINEER

RE: DRIVEWAY CROSSINGS FOR PARKING IN FRONT YARD
515 S. ELLESMERE AVENUE
5450 PORTLAND STREET

Prior to all Local Improvement projects the Traffic Division of the Engineering Department inspects all existing vehicle parking arrangements to assure that they meet all the requirements of the Burnaby Zoning Bylaw 1965, the Provincial Motor Vehicle Act, and the Burnaby Street and Traffic Bylaw. If the vehicle crossing from the street leads to a legal parking area or can be extended to lead to a legal parking area as defined under the Zoning Bylaw 1965 then a vehicle crossing of the curb and or sidewalk is normally approved. However, should the crossing being requested accommodate only a parking area that would be in violation of the Zoning Bylaw the crossing is normally refused. Other crossings that are refused are those that would violate the provisions of the Provincial Motor Vehicle Act or the Burnaby Street and Traffic Bylaw. These usually involve some form of parking area that has been constructed in the street right of way, i.e.: parking on the boulevard or sidewalk area.

Many of the parking areas we find that are in violation of the Burnaby Zoning Bylaw 1965 are quite elaborate and have involved a fair amount of expense to the property owner. However they are a violation to a bylaw and as ignorance of a law has always been deemed to be no excuse for a violation we have had no alternative but to refuse vehicle crossings to such areas.

An exception to the above we feel should be to those violations to the Burnaby Zoning Bylaw 1965 that were in existence prior to June 7, 1965 the date when the bylaw came into effect. In fact section 705 of the Municipal Act states:

- 705 (1) A building or structure lawfully under construction at the time of the coming into force of a zoning bylaw shall, for the purpose of that by-law, be deemed to be a building or structure existing at that time.
- (2) A lawful use of premises existing at the time of the adoption of a zoning bylaw, although such use does not conform to the provisions of the bylaw, may be continued; but if such non-conforming use is discontinued for a period of thirty days, a future use of those premises shall, subject to the provisions of this section, be in conformity with the provisions of the zoning bylaw.

While the Municipal Act refers only to buildings and structures and not to paved parking areas we feel that many of the parking areas we deal with involve as much investment as some permitted structures.

In view of the above we are recommending that Council establish a policy whereby all non-conforming parking areas in existence prior to June 7, 1965 (these can be authenticated from our aerial photos taken on June 29, 1965) be classed as legal non-conforming and that standard vehicular accesses be provided at the time of a local improvement project.

515 S. ELLESMERE AVENUE (No Lane Access)

The owners of the captioned home have been notified that their existing parking area is in violation of the Burnaby Zoning Bylaw 1965 and as a result would not be receiving the standard vehicle crossing. The owners, Mr. & Mrs. J.M. HINE have appealed this decision to Council.

It has been established that the paved front yard parking area was in existence prior to June 29, 1965. (See attached sketch and report from Traffic Division).

5450 PORTLAND STREET (No Lane Access)

The owner of the above property, Mr. C. WIGHT has appealed a refusal by the Engineering Department to provide vehicular access to a graveled loop driveway in the front yard that does not provide a legal parking area as defined under the Burnaby Zoning Bylaw 1965. In checking the aerial photo taken in June of 1965 we were able to confirm that there was a driveway entrance on the east side of the lot that extended along the east side of the lot to the front of the house. The westerly gravel driveway entrance does not appear in the photo and must have been constructed at some later date. (See attached letter from Mr. Wight dated July 18, 1974 and sketch).

On March 4, 1974 Council when considering a request from a Mr. Jazz Singh of 4840 McKee Place to construct a loop driveway approved in principle an Engineering policy related to loop driveways. Two points as they relate to 5450 Portland street are that the lot must be at least 80 feet in width (the subject lot is 66') and the loop must extend beyond the front yard. The gravelled loop driveway in question as noted on the attached sketch is entirely within and occupies 78% of the front yards surface area. Also it should be noted that loop driveways on such small width lots occupy up to 80% of the boulevard area.

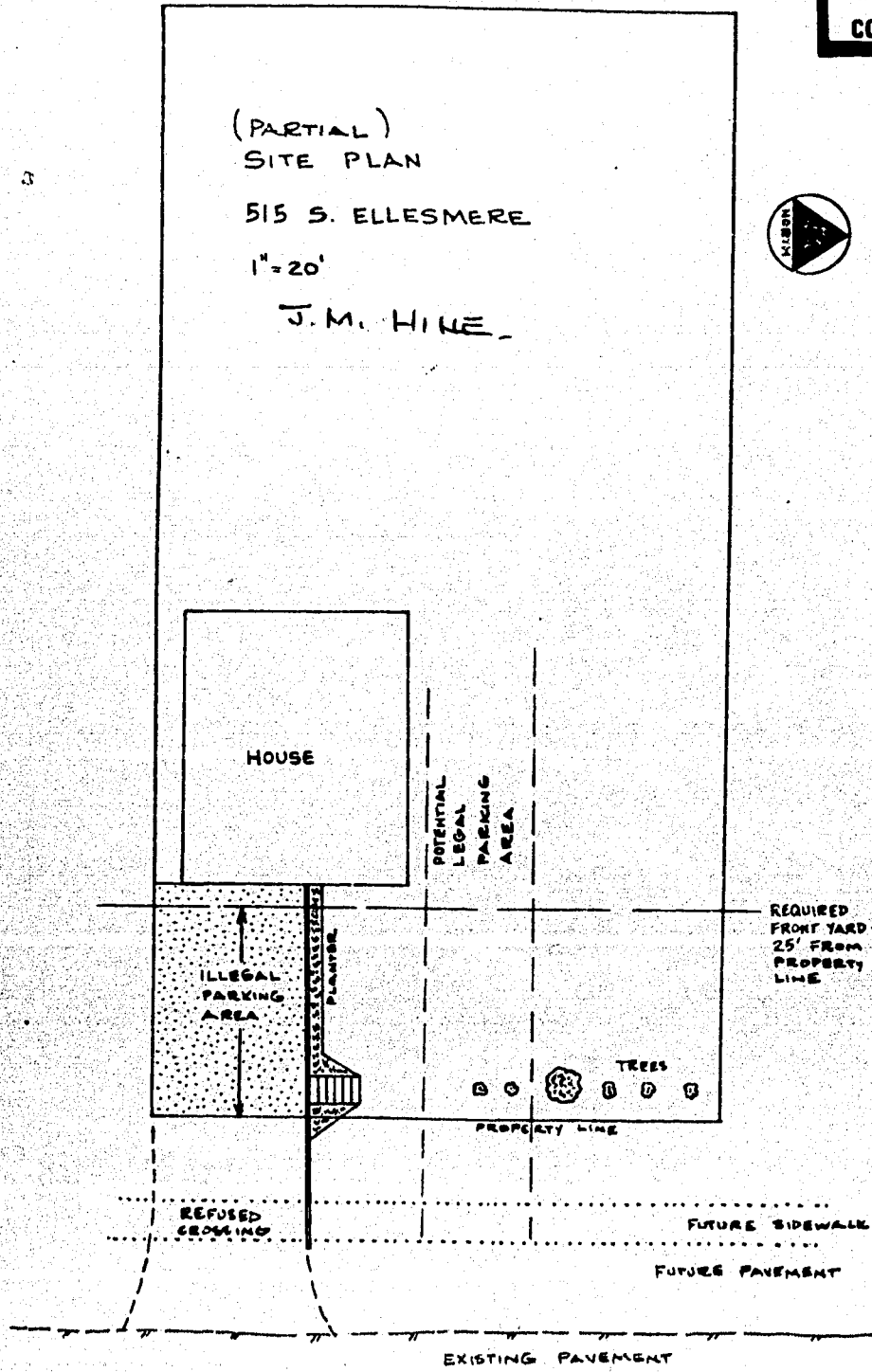
RECOMMENDATION:

- (a) THAT Council establish a policy whereby all non-conforming parking areas in existence prior to June 7, 1965 be classed a legal non-conforming and that standard vehicular accesses be provided at the time of a local improvement project.
- (b) THAT subject to approval of "A" 515 S. ELLESMERE AVENUE be given a vehicular crossing to the existing asphalt front yard parking area.
- (c) THAT subject to approval of "A" 5450 PORTLAND STREET be granted a crossing to the easterly driveway to service that area existing prior to June 1965.
- (c) THAT both Mr. & Mrs. HINE and Mr. WIGHT be sent copies of this report.

E.E. O'Brien
MUNICIPAL ENGINEER

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COUNCIL MEETING Aug. 6/74

(PARTIAL)
SITE PLAN
515 S. ELLESMERE
1"=20'
J.M. HINE



CORPORATION OF THE DISTRICT OF B
Traffic Division, Engineering Department

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VEHICLE ACCESS REPORT

NAME J. M. & E. R. HINE DATE JULY 19, 1974
ADDRESS 515 S. ELLESMERE AVENUE
ZONE R4 RESIDENTIAL
REQUIRED FRONT YARD 25 FT.
CONSTRUCTION REQUESTED 17' crossing over 5' curb sidewalk to provide access from
future 36' pavement (LIP)
ALTERNATIVE ACCESS There is space in the side yard for suitable parking.
No rear access.
EXISTING LANDSCAPING Attractive and well maintained.
LOT DIMENSIONS 66' frontage
SAFETY FACTORS Residents claim parking on Ellesmere shoulder is hazardous
and that at times there is a space shortage.
SITUATION PRIOR TO JUNE, 1965 The aerial photograph for June, 1965 shows that the
parking area was used at that time.
BY-LAW VIOLATION Parking in a required front yard (contary to Section 800,6(1)
of the Burnaby Zoning Bylaw 1965)
COMMENTS There are only 2 - 3 feet of legal parking space in the
existing driveway.

RECOMMENDATION That a vehicle crossing to the existing parking area be
refused but that access to a legal side area be approved if
PHOTOGRAPHS..... requested and a guarantee of conformity with the Bylaw acquired.



REPORTED BY D.W.M. 140

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Registered

5450 Portland street
Burnaby, B.C.

ENGINEERING DEPT.

July 18, 1974

JUL 22 1974

E.E. Olson, P. Eng.
Municipal Engineer
The Corporation of the District of Burnaby
Municipal Hall
4949 Canada Way
Burnaby, B.C.

DATE	
HB	
DWM	

Dear Sir,

Re vehicle crossing at the above address

This is written to appeal the decision conveyed in your form letter of July 5 advising that no vehicular access would be provided to the property referred to.

The access and egress for vehicular traffic to the property was designed and installed prior to 1965. The circular driveway that has existed since that time was so designed to eliminate the need for backing onto the street.

The property needs 2 crossings for vehicular traffic to serve the existing driveway and landscaping.

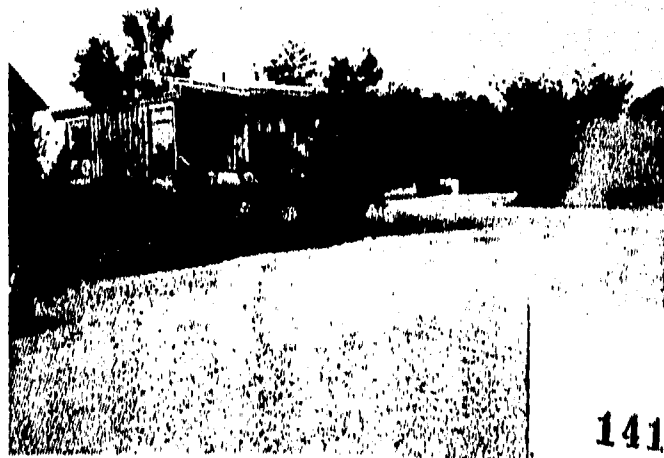
Please review the file on this subject which was first raised by me in January and advise by return.

Yours very truly,

Cliff Wight
Cliff Wight

CW/cw.

c.c. Mayor T. Constable
Alderman V. Stusiak
Alderman G. McLean
Alderman A. Emmott
Alderman Wm. Lewarne
Alderman D. Lawson.



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