

ITEM 12
MANAGER'S REPORT NO. 63
COUNCIL MEETING Oct. 6/75

Re: LETTER DATED SEPTEMBER 19, 1975 FROM MR. GARY PARSONS,
C/O GALAXIE COLLISION LTD., 7498A GRIFFITHS STREET
WHICH APPEARED ON THE SEPTEMBER 29, 1975 COUNCIL AGENDA.
OPERATION OF AUTOMOBILE BODY SHOP AT 6540 AND 6542 KINGSWAY

Council, at its meeting of September 29, 1975 received a letter from Mr. Gary Parsons concerning his proposal to operate an automobile body shop at the captioned location, within a C4 District.

At that meeting, the Municipal Manager advised that the subject matter was that of rezoning rather than a variance due to interpretation of the By-law on matters relating to size, shape and siting of buildings.

The Director of Planning advised that "automotive repairs and service" as well as "body shops" were not a permitted use in the Service Commercial District (C4) Zone.

Following is the report of the Planning Director in this regard.

RECOMMENDATIONS:

1. THAT Mr. Parsons be advised that the matter to which he refers is beyond the jurisdiction of the Board of Variance; and
2. THAT Mr. Parsons, c/o Galaxie Collision Ltd., 7498A Griffiths Street, be sent a copy of this report.

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PLANNING DEPARTMENT
OCTOBER 3, 1975

TO: MUNICIPAL MANAGER
FROM: DIRECTOR OF PLANNING
SUBJECT: LETTER FROM MR. GARY PARSONS, c/o GALAXIE COLLISION LTD.
6540 and 6542 KINGSWAY

BACKGROUND:

Appearing on the agenda for the Council meeting of September 29 was a letter from Mr. Gary Parsons concerning his proposal to operate an automobile body shop at the captioned location, within a C4 District. Both the Planning and Building Departments have had contact with this matter since Mr. Parsons purchased the properties, commenced work to alter the premises without Preliminary Plan Approval or Building Permits, and erected several signs advertising a use not permitted in this zone, without benefit of application for the necessary sign approval and building permit.

Attached is a memorandum from the Chief Building Inspector outlining his Department's knowledge of the situation since it became aware of the work carried out on the premises. Letters were directed to Galaxie Collision Ltd., 7498 Griffiths Avenue, on August 21 and August 26, 1975, pointed out that the alterations to the building and the placing of the signs respectively were in contravention of Municipal bylaws, and accordingly that work was to cease and the signs be removed. On October 2 the Building Inspector followed up the letter of August 26 on the matter of removal of the illegal signs in view of the fact that the signs had not been removed to date.

In the month of August, the situation also came to the attention of the Licence and Planning Departments. On August 21 Mr. D.L. Collins, Solicitor, visited the Planning Department on behalf of Mr. Parsons to explain the predicament his client found himself in, and to discuss both the nature of the problem and possible solutions. Mr. Collins recognized that his client's error would have been brought to light at an early stage had he applied for a business licence, development approval, and building permits in the necessary fashion before commencing work. Mr. Parsons has had considerable

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contact with the Building and Licence Departments previously in connection with his premises and business operation at 7498A Griffiths Avenue, and it seems improbable that he could have been unaware of permit and licencing requirements in this Municipality. Further, we are advised that a representative of the sign company which fabricated the free-standing sign (but which did not install it) advised Mr. Parsons that the sign manufacturer did not take responsibility for the erection of the sign, as a permit was required.

During his visit, Mr. Collins was advised of the Districts in which such activities may be conducted, of the uses which are actually permitted in the C4 District, and of the procedures for obtaining approval, and he was furnished with copies of pertinent zoning bylaw information.

Subsequently, the Secretary of the Board of Variance received a request from Dadson and Collins, Barristers and Solicitors, for an appeal in connection with this matter (see letter dated August 26 from Dadson and Collins, attached). The powers of the Board of Variance are set out in the Municipal Act, Section 709 and these powers do not include the authority to rezone property. As the use Mr. Parsons proposed to conduct is specifically designated for other zoning districts, an appeal would be tantamount to a request for rezoning to such other category. Consequently, no such appeal could be heard by the Board and the request was not granted. The purpose of Mr. Parson's present letter therefore seems to be to have the Council direct the Board of Variance to hear an appeal beyond its jurisdiction.

DISCUSSION

Automotive repair work, including body repairs and painting is permitted as a principal use only in the M1 Manufacturing District, M2 General Industrial District, M3 Heavy Industrial District and M4 Special Industrial District. This provision is set out very clearly in the Burnaby Zoning Bylaw. On the other hand, such a use is not listed among those permitted principal uses in the C4 District, and cannot legally be approved in that zone.

The only means whereby the subject premises would be capable of being used for automotive repair purposes including body repairs and painting, if such were desirable, would be by rezoning the properties at 6540 and 6542 Kingsway from the prevailing category to one of the Industrial categories mentioned above, or alternatively by passing a bylaw amending the text of the Zoning Bylaw - C4 District regulations to include such use, an action that would open up all of the C4 zoned properties in the Municipality to such uses.

The former course of action - rezoning of the properties on Kingsway to Industrial - would be clearly in conflict with the objective of upgrading the use, character, and appearance of this primary arterial, through progressive redevelopment, and the latter - introducing an industrial service activity in the permitted uses of the C4 Commercial District - would have a widespread and distinctly negative effect on compatibility of C4 uses with neighbouring uses throughout the Municipality.

As mentioned above, an appeal of the sort desired by Mr. Parsons is outside the jurisdiction of the Board of Variance, and it would be improper to refer such a matter to the Board for consideration. Further, while any citizen has the right to make application for rezoning of property through the Council, the circumstances of the present case would result in a negative recommendation from your staff and rezoning of the property to industrial would be totally contradictory to Council's interest in recent years to enhance the nature of Kingsway.

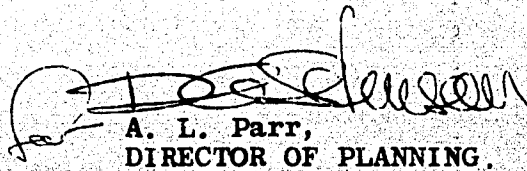
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While the position in which Mr. Parsons finds himself is unfortunate, it appears that it would have been avoided had he sought the customary approvals before committing himself, commencing alteration work, and erecting business signs. Under the circumstances, it can only be suggested that Mr. Parsons seek an appropriately zoned location to carry out his intended business expansion and that the subject property on Kingsway either be sold for another user, in conformity with the C4 District, or that it be retained and used by the present owner for purposes permitted in this District.

RECOMMENDATION

It is recommended that:

1. Mr. Parsons be advised that the matter to which he refers is beyond the jurisdiction of the Board of Variance, and
2. Mr. Parsons, c/o Galaxie Collision Ltd., 7498A Griffiths Street, be sent a copy of this report.


A. L. Parr,
DIRECTOR OF PLANNING.


DGS:cm

Attach.

c.c. Chief Building Inspector



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THE CORPORATION OF THE DISTRICT OF BURNABY

BUILDING DEPARTMENT

MUNICIPAL HALL
4949 CANADA WAY
BURNABY B.C. V5G 1M2

October 2nd, 1975.

Mr. A. L. Parr,
PLANNING DIRECTOR.

Attention: Mr. D. Stenson:

Dear Sir:

Subject: 6540/42 Kingsway:
Lot 12 W $\frac{1}{2}$, Blk. "D", D.L. 96 N., Plan 1740:

It came to the attention of the Building Department on August 20th, 1975, that interior alterations were underway at the captioned premises. An inspection carried out in the afternoon of August 20th, 1975, by Mr. J. Crowther, Building Inspector, revealed that considerable work had already been done. Mr. Crowther posted a suspension notice, pursuant to Section 3(5) of Burnaby Building Bylaw No. 6333. At the time of Mr. Crowther's inspection, it was also noted that signs advertising "Body Shop and I.C.B.C. Repairs" had been attached to both sides and the front of the building, as well as a free-standing sign in the front yard. All signs were erected without the necessary permit.

At 3:00 P.M. Mr. Gary Parsons, who operates a Body Shop at 7498-A Griffiths Avenue, and who had recently purchased 6542 Kingsway as a second location, contacted Mr. H. R. Swift of the Building Department to enquire what the trouble was at 6542 Kingsway. He stated he had purchased the property after checking with the Planning Department as to the permitted use. He said he had read the permitted uses in a C4 Commercial zone and was allowed to "service" automobiles. He was immediately informed that if the term "servicing automobiles" did appear in the C4 permitted uses (which does not appear to be the case) it certainly did not cover auto body repairs. This use is clearly covered in the Burnaby Zoning Bylaw Manufacturing District (M1), Section 401.1. He kept insisting that he was servicing automobiles. He wanted to know who was going to "clear the matter up" so he could get going. The conversation ended with Mr. Parsons again being informed that auto body repairs are not permitted in a C4 zone and it was very unlikely that the subject property would be rezoned to Manufacturing District (M1).

On August 21st, 1975, Mr. D. L. Collins of Dadson & Collins, Barristers and Solicitors, visited the Building Department on behalf of his client, Mr. Gary Parsons. He pleaded on behalf of his client to get approval for the intended "Body Shop" use. He indicated his client's interest to use the Kingsway site as an office for his Griffiths Avenue operation and as a place to do "minor" repairs. Mr. Collins then left the Building Department to discuss his client's problems with the Planning Department.

It is the opinion of the Building Department that permission should not be granted to carry out repairs of any kind on the site. The extent of repairs could not possibly be regulated and the use can only be classified as undesirable in the area.

Yours truly,

Frank R. Williams

for M. J. Jones,
CHIEF BUILDING INSPECTOR.

HRS:js

c.c. -Mr. H. R. Swift, Supervisor,
Building Inspectors:

-Mr. R. Thompson,
Building Inspector:

DADSON & COLLINS
BARRISTERS AND SOLICITORS

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TELEPHONE: 980.7541

PHILLIP J. DADSON, B.COMM.
DOUGLAS L. COLLINS, B.A., LL.B.

TWO NORTHMOUNT MEDICAL CENTRE
208-125 EAST 13TH STREET
NORTH VANCOUVER, B.C.
V7L 2L3

August 26, 1975

The Corporation of the District of Burnaby,
4949 Canada Way,
BURNABY, B. C.

Attention: Mr. Bruce Leache, Clerk

Re: 6516 and 6542 Kingsway and Application
to Board of Variance

Dear Sirs:

On May 7, 1975 our client Gary J. Parsons entered into an interim agreement to buy the above property. He was told the property was zoned C-4. He was under the impression that C-4 zoning included automotive repairs and service and thought this included body shops.

By July 30, 1975 Mr. Parsons had arranged the necessary financing to purchase the property.

On August 15, 1975 the transaction was completed and he took possession.

Between the interim and the completion Mr. Parsons purchased and took delivery of all the necessary equipment to completely equip a body shop. The major items were a DeVilvis spray booth, compressor, and a Guy Chart pulldozer, and miscellaneous tools amounting to a cost to him of over \$12,000.

After July 30, 1975 Mr. Parsons painted the large two storey structure and other outbuildings, except the house, which is in good repair. He organized the parking facilities on the lot in front of the house and erected signs to advertise the business.

After August 15, 1975 Mr. Parsons began to make the necessary alterations to the interior of the two storey building so that it would accommodate his business.

On August 20, and August 21, 1975 a building inspector visited the site and posted a Notice of Suspension.

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Mr. Parsons was unaware of the need for building permits. He was especially unaware of the possibility that the site may not be zoned for the purpose he bought it.

Mr. Parsons plans on using this site as a first class body shop operation. It is his intention to do lighter work at this location. He has another location on nearby Griffiths Street where major repairs will be carried out. He presently employs seven men on Griffiths Street and anticipates this number will increase as a result of the increased business being generated from the Kingsway location, which in itself will employ about seven people.

Mr. Parsons paid \$170,000 for this property. His monthly payment of principal, interest and taxes amount to close to \$2,000 a month plus business taxes.

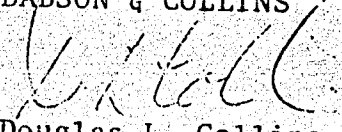
If he is unable to carry on his business at this location he will suffer grievous financial losses.

Any delay is expensive and for a small businessman like Mr. Parsons it is doubly expensive.

We would appreciate an opportunity to appear before the Board of Variance at its September meeting.

Yours very truly,

DADSON & COLLINS


Douglas L. Collins

DLC/j1