

ITEM	7
MANAGER'S REPORT NO.	31
COUNCIL MEETING	Apr. 25/77

Re: LETTER FROM MR. AND MRS. F. KOUWENHOVEN WHICH APPEARED ON THE AGENDA FOR THE APRIL 18, 1977 MEETING OF COUNCIL (Item 3a)
DRIVEWAY CROSSING AT 6844 LINDEN AVENUE

On April 18, 1977, a letter from Mr. and Mrs. F. Kouwenhoven requesting permission to retain a crossing to their property at 6844 Linden Avenue was received by Council. Mr. Kouwenhoven on this occasion also addressed Council on this matter. The results of an evaluation on this request for a crossing is contained in the following report from the Municipal Engineer.

The Municipal Council will recognize that the subject of driveway crossings is one discussed quite frequently. Our policy is that if a front yard driveway existed prior to 1965 when the Zoning By-Law came into effect, we have treated such driveways as legal non-conforming. In this case this does not apply as there was a legal driveway in existence prior to the alterations to the house. It is not a simple case of "relaxing" a by-law as the Council is not legally empowered to do so. If Council is sympathetic to this case, the by-law must be amended to permit parking in all similar situations in front yards, as any law must be of general application. This we do not recommend, and there are many instances where people have been told of the law and have complied.

RECOMMENDATIONS:

1. THAT Mr. Kouwenhoven be advised that a bylaw cannot be "relaxed".
2. THAT the Engineering Department remove the sidewalk crossing at Mr. and Mrs. Kouwenhoven's expense; and
3. THAT Mr. and Mrs. Kouwenhoven be advised accordingly.

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TO: MUNICIPAL MANAGER . 20 APRIL , 1977.
 FROM: MUNICIPAL ENGINEER
 SUBJECT: 6844 LINDEN - DRIVEWAY CROSSING.

Mr. Frits Kouwenhoven made application to the Building Department for a Building Permit to enclose his existing carport at the above address. At this time he was informed that his proposal would not be approved as it would result in violations of Burnaby Zoning Bylaws pertaining to parking requirements. He was informed that Board of Variance approval would be required before a Building Permit would be issued.

On February 18, 1977, Mr. Kouwenhoven sent a letter to the Secretary of the Board of Variance, requesting permission to park in the required front yard of his property so that he may fill in his carport. In this letter Mr. Kouwenhoven pointed out that he has no lane access, insufficient side yard to permit access, and only 24.9 feet of front yard of which 20 feet is the "required front yard."

The appeal presented before the Board of Variance was for relaxation of Section 800.4 (1) of the Burnaby Zoning Bylaw, which gives the requirement of a legal parking area for at least one vehicle for a single family residence. The filling in of the carport would remove the only existing legal parking area provided for this property.

The Board of Variance approved the relaxation of Bylaw 800.4 (1) and in their letter of March 4, 1977 to Mr. Kouwenhoven advising of their approval, the Board stated:

"This relaxation is, of course, allowed subject to your full compliance with all other applicable Municipal regulations."

Mr. Kouwenhoven re-applied for a Building Permit and was informed that a permit would not be issued until he had made payment to the Engineering Department for the removal of the sidewalk crossing access to his property. This removal of a sidewalk crossing is standard procedure where the legal parking area that the crossing is designed to serve is removed. On March 28, Mr. Kouwenhoven delivered a letter to the Engineering Department and subsequently was given a Building Permit.

On March 29, Mr. Kouwenhoven delivered a letter to the Engineering Department requesting retention of the sidewalk crossing. In our reply of April 5, we quoted the Board of Variance statement previously quoted in this report and added that:

"As your request would permit a violation of Section 800.6 (1) of the Burnaby Zoning Bylaw, pertaining to front yard parking, we must deny your request as it contravenes the Board of Variance ruling."

In his letter of April 6 to Council, Mr. Kouwenhoven stated that "...we did not know, nor were we advised, that we would no longer be permitted to park on our driveway." Mr. Kouwenhoven was verbally informed of this by the Building Department, the Clerk's Department and the Engineering Department, all prior to his acquiring the Building Permit.

In view of Mr. Kouwenhoven's prior knowledge of the requirement for the removal of the sidewalk crossing and that retention of the crossing would permit a violation of Section 800.6 (1) of the Burnaby Zoning Bylaw, which would subsequently contravene the Board of Variance ruling, we feel that his request for relaxation of Bylaw 800.6 (1) should be denied.

Mr. Kouwenhoven, in his presentation before the Council, at the meeting of April 18 stated that his vehicle had been struck twice while parked on Linden Avenue. A check of R.C.M.P. accident files indicated that neither of these accidents had been reported. He also stated that he currently has two cars, one a company car which he has acquired since his original application to the Board of Variance.

RECOMMENDATIONS:

1. THAT Mr. Kouwenhoven's request for relaxation of Bylaw 800.6 (1) be denied.
2. THAT Council instruct the Municipal Engineer to remove the sidewalk crossing at Mr. Kouwenhoven's expense.

EEO
MUNICIPAL ENGINEER

DE/cj
cc: () Traffic Supervisor
() Secretary, Board of Variance
() Chief Building Inspector
() Director of Planning