

ITEM 9
MANAGER'S REPORT NO. 73
COUNCIL MEETING 1979 10 29

RE: LETTER FROM MR. T. GORDON AND MRS. IVY IRENE WILLEY
4033 EAST 1ST AVENUE, BURNABY, B.C. V5C 3W5
VEHICULAR ACCESS TO PROPERTY AT 4033 - 1ST AVENUE

Appearing on the agenda for the 1979 October 29 meeting of Council is a letter requesting permission for full frontage vehicular access to a property on First Avenue.

The subject request was denied by the Board of Variance on 1979 October 11 (see attached excerpt from the minutes of the meeting pertaining to this particular matter). As noted in Section 709(4) of the Municipal Act (a copy of which is attached), "An appeal lies to a judge of the County Court from a decision of the Board under clauses (a) and (b) of subsection (1), but all other decisions of the Board are final and binding". In this case, the decision of the Board is in fact final and binding.

RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. T. Gordon and Mrs. Ivy Irene Willey, 4033 East 1st Avenue, Burnaby, B.C. V5C 3W5.

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TO: MUNICIPAL MANAGER 79 10 23
FROM: MUNICIPAL ENGINEER
SUBJECT: 4033 EAST FIRST AVENUE

RECOMMENDATION:

1. THAT this report be received for information purposes.

REPORT

Reference the letter from Mr. & Mrs. P.G. Willey dated 79 10 18 appealing a decision of the Board of Variance.

It is our understanding that under Section 709(4) of the Municipal Act the decision of the Board of Variance as it relates to this particular subject is final and binding.

For the information of Council we are attaching our submission to the Board of Variance regarding vehicle access and parking.


MUNICIPAL ENGINEER

HB/ch
Att.
c.c. () Traffic Supervisor

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Minutes - Board of Variance
Meeting on 1979 October 11.

"Mr. Wiley addressed the Members of the Board and advised that the present building is a legally non-conforming structure. His intentions with respect to this structure are to pay off the existing mortgage on the property and hopefully, within the next five years, put an addition on the building.

With respect to the front yard area which is paved, Mr. Wiley advised that it was paved prior to him purchasing the property some 1.5 years ago.

Mr. Wiley made reference to a continual traffic congestion between the hours of 7:00 - 20:00 h.

Mr. Wiley felt that all the residents in the area would benefit should his appeal be allowed and further stated that the people who work on site with Mr. Wiley would utilize the front paved parking space as well.

The Local Improvement works in front of Mr. Wiley's property is being held in abeyance pending a decision by the Board of Variance.

Mr. Wiley's appeal was subsequently denied by the Board of Variance."

NOTE:

This excerpt from the minutes for the meeting of the Board of Variance have not been adopted as of this time. This excerpt is taken from the draft minutes which will be referred to the Board for adoption on November 01.

Duties of Board.

709. (1) The Board of Variance shall hear and determine any appeal

- (a) by a person who is aggrieved by a decision of any official charged with the enforcement of a zoning by-law or a by-law under section 714 (i) respecting mobile-home parks in so far as that decision relates to an interpretation of the by-law or by-laws or any portion thereof;
- (b) with respect to matters mentioned in subsection (4) of section 705; (This subsection is shown below)
- (c) by a person who alleges that enforcement of a zoning by-law with respect to the siting, shape, or size of a building or structure, or the siting within a mobile home park under a by-law pursuant to section 714 (i), would cause him undue hardship; in which case the Board may, to the extent necessary to give effect to its determination, authorize such minor variance from the applicable provisions of the by-law as, in its opinion,
 - (i) is desirable for the appropriate development of the site;
 - (ii) maintains the general intent and purpose of the by-law;
 - (iii) does not substantially affect adjoining sites; and
 - (iv) does not vary the permitted uses or densities of land use prescribed by the applicable by-law,
 and such variance applies to the person and subsequent owners of the building, structure, or mobile home park; and
- (d) with respect to matters mentioned in subsection (3) of section 705 and subsection (7) of section 711.

(2) Notification of the appeal shall be given by the Board to the owners and occupiers of all real property located adjacent to the property with respect to which the appeal is being heard, and public notice of the hearing shall be given if the matter is deemed by the Board to be of sufficient importance.

(3) The decision in writing of all or of a majority of the members of the Board is the decision of the Board.

(3a) Where the Board of Variance,

- (a) after a hearing under subsection (1) (c), exempts a person from a provision in a zoning by-law; or
- (b) after hearing a matter under subsection (1) (d), allows an application made under section 705 (3);

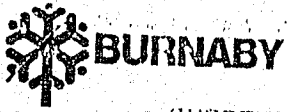
the Board of Variance may order that, unless the construction of the building, structure, or mobile-home park is completed within a time fixed in the order, the exemption or allowance, as the case may be, terminates and the relevant zoning by-law applies.

(4) An appeal lies to a Judge of the County Court from a decision of the Board under clauses (a) and (b) of subsection (1), but all other decisions of the Board are final and binding. 1957, c. 42, s. 706; 1958, c. 32, s. 311; 1960, c. 37, s. 30; 1961, c. 43, s. 44; 1962, c. 41, s. 30; 1968, c. 33, s. 171; 1974, c. 56, s. 24; 1977, c. 57, s. 18.

705(4)

Damaged or destroyed structures.

(4) Where any building or structure the use of which does not conform to the provisions of an applicable zoning by-law is damaged or destroyed to the extent of seventy-five per centum or more of its value above its foundations, as determined by the building inspector, whose decision shall be subject to review by the Board of Variance, it shall not be repaired or reconstructed, except for a conforming use in accordance with the zoning by-law.



TO: SECRETARY, BOARD
OF VARIANCE

INTER-OFFICE COMMUNICATION
DEPARTMENT:

DATE: 79 10 10

FROM: MUNICIPAL ENGINEER

DEPARTMENT:

OUR FILE #

SUBJECT: 4033 EAST FIRST AVENUE
LOT 15, BLOCK 32, D.L. 117 E 1 & 2, PLAN 1227

YOUR FILE #

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On the 1979 October 11 agenda of the Board of Variance is a submission from a Mr. P.G. Willey (Item No. 3) requesting the provision of a full frontage vehicular access to the captioned property. This request was the result of our refusal to allow such access as it is not our policy to permit access across the full width of a property and because such access in this case would violate a number of existing statutes.

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As noted on our Sketch #1 full vehicular access to the front yard area would have vehicles extending into the street right-of-way, obstructing the boulevard area and any future sidewalk, both of which are a violation of the Provincial Motor Vehicle Act and the Burnaby Street and Traffic Bylaw.

In response to a claim by Mr. Willey to this Department that he needed the front yard area for personnel parking for the house #4033, exclusive of the auto body shop at #4035, we conducted spot vehicle parking checks. In checks conducted over a period of 16 days we found that there was a minimum of three vehicles parked in the front yard at all times while 70% of the checks found more than three vehicles. As a check of license numbers showed only one vehicle being registered to 4033 E. First Avenue we must assume that the other vehicles are generated by the auto body shop at 4035 E. First Avenue.

Should the Board rule in favour of front yard parking for the one vehicle that is registered to 4033 E. First Avenue then access can be gained through the proposed driveway and the vehicle parked as shown on Sketch #2, thus keeping it within the subject property.

The above is for the information of the Board of Variance.

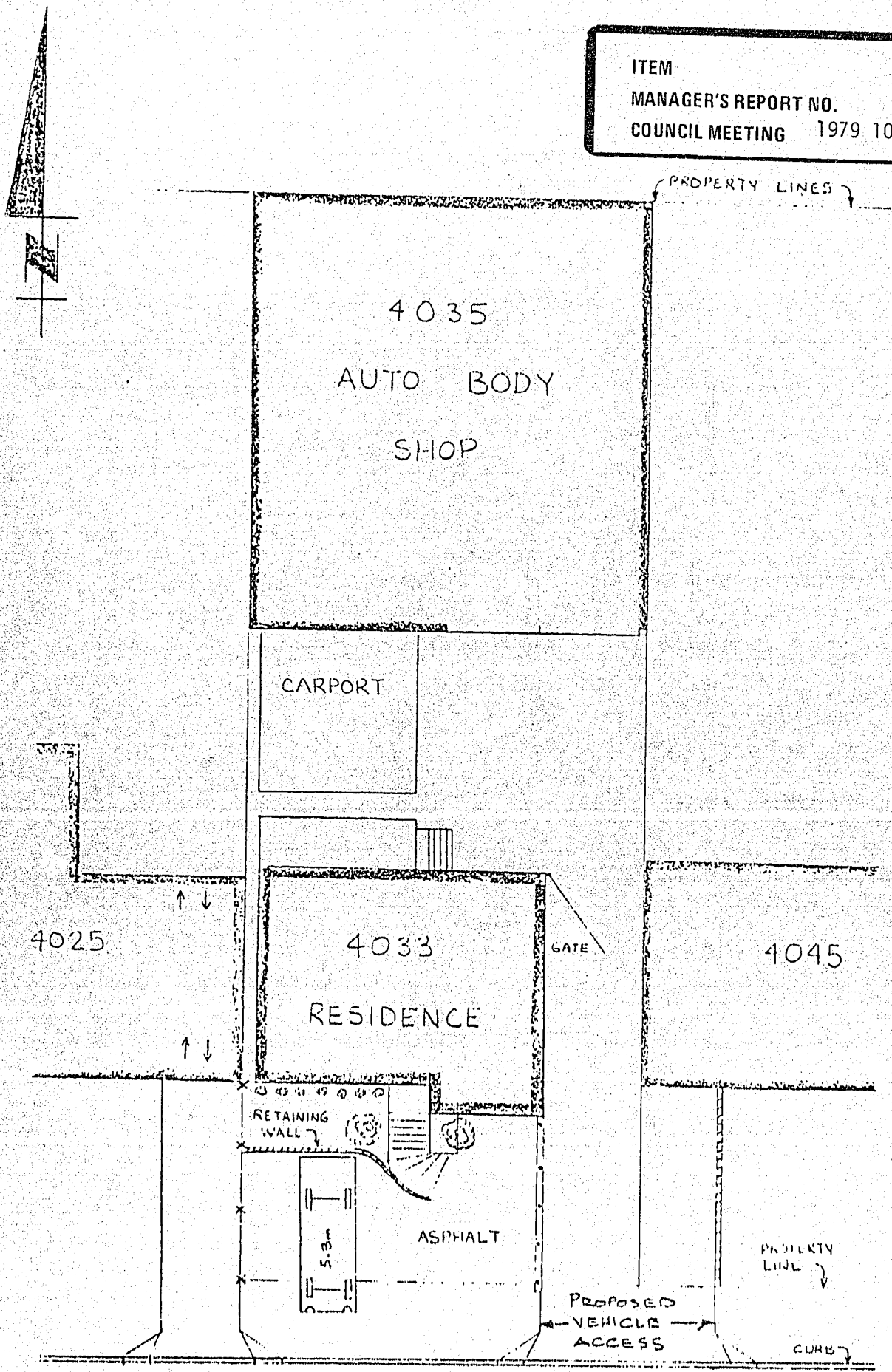
MUNICIPAL ENGINEER

HB/ch

Att.

c.c. () Traffic Supervisor

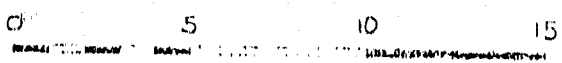
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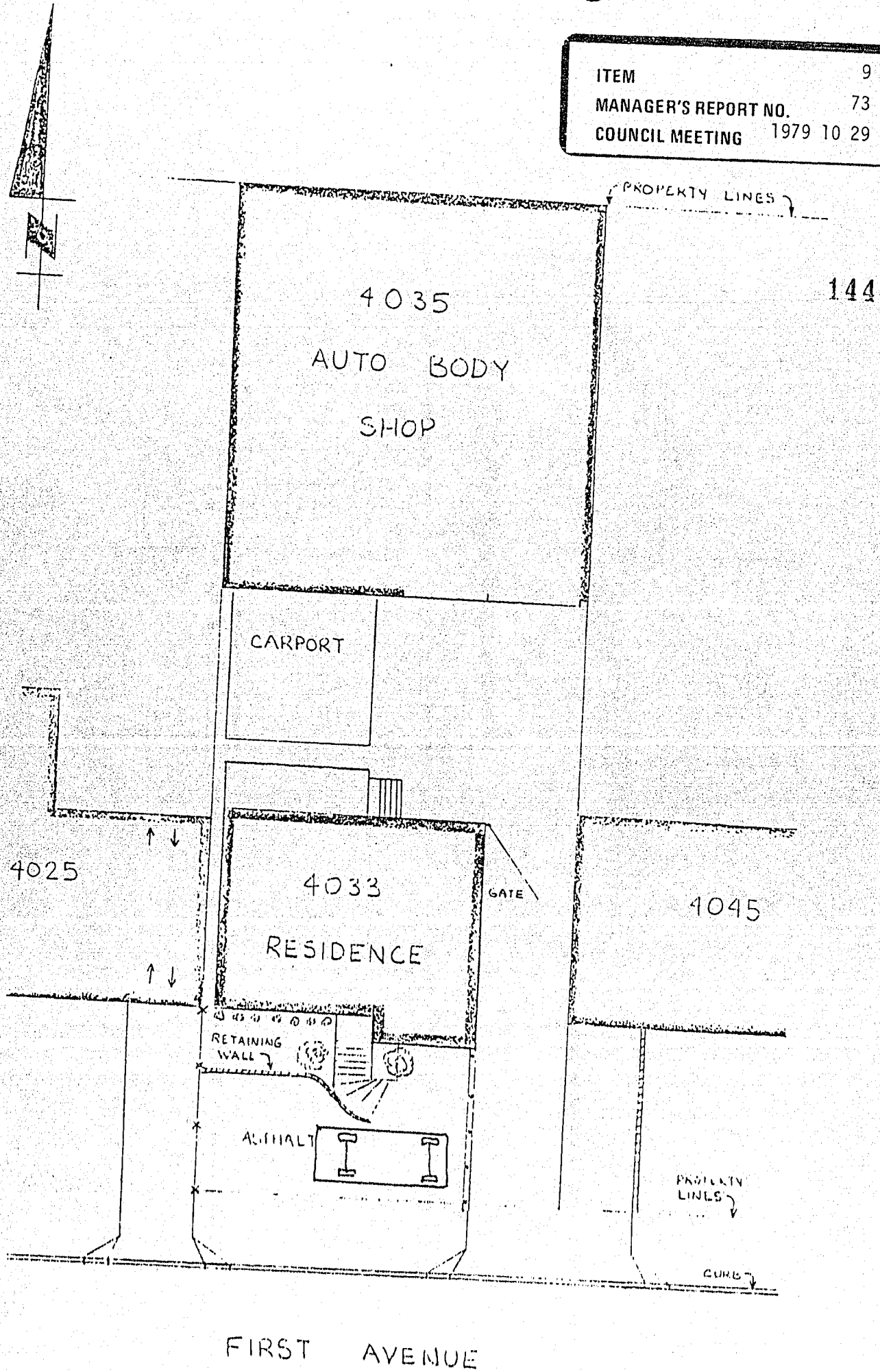


SCALE 1:200

TRAFFIC DIV.
DWG. J.A.T.

SKETCH # 1

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SKETCH # 2.