

RE: DELEGATION TO 1982 JANUARY 25 MEETING OF COUNCIL (ITEM 3a)
MR. STEVE ZESWICK, 7397 KINGSWAY, BURNABY

INTRODUCTION

Mr. Steve Zeswick, during his appearance before Council on 1982 January 25, expressed concerns involving Lavigne's Engine Rebuilders Ltd., a nonconforming commercial establishment that adjoins his residential property on Kingsway. (see attached sketch). This report addresses the specific matters that he mentioned on that occasion.

BACKGROUND INFORMATION

Since 1949, Lavigne's Engine Rebuilders Ltd. have operated a machine shop for rebuilding engines at 7405 Kingsway. This property has been zoned residential R5 since the adoption of the Zoning By-Law in 1965. Operation of the machine shop is deemed to be legal non-conforming because it was existing at the time of adoption of the by-law. In this regard the Municipal Act reads as follows:

Section 722(2) A lawful use of premises existing at the time of the adoption of a zoning by-law, although the use does not conform to the by-law, may be continued; but if the non-conforming use is discontinued for a period of 30 days, any future use of the premises shall conform, subject to this section, to the zoning by-law

- (3) A lawful use of a building or structure existing at time of the adoption of the zoning by-law, although the use does not conform to the zoning by-law, may be extended throughout the building or structure, but no structural alterations except those required by statute or by-law or those allowed by the Board of Variance shall be made in or to it.

COMMENTS ON MR. ZESWICK'S COMPLAINTS

The attached report from the Chief Public Health Inspector contains information on the drainage of effluents from Lavigne's and other items of a related nature.

Following are comments from the Planning Department on Mr. Zeswick's request that the 6 foot chain link fence on the Lavigne property be removed:

"Section 6.14 of the Burnaby Zoning By-law permits a maximum fence height of 3.28 ft. in the required front yard. Fences to the rear of the required front yard are permitted to have a maximum height of 5.91 ft.

On 1973 June 19, the Chief Building Inspector notified Lavigne's Engine Rebuilders Ltd. of the overheight fence in the required front yard. Mr. Lavigne responded with a letter stating that the reason for the 6 foot fence was to keep children out of the property and also reduce thefts from customers' vehicles parked on the lot.

In July, 1973 Mr. Lavigne polled several neighbours and received four letters of support to keep the fence in its existing condition. Mr. Lavigne appealed the matter to the Board of Variance for the relaxation of Section 6.14(5)(a) of the Burnaby Zoning By-Law to permit the retention of the existing 6 foot fence. The Board allowed the appeal and made a suggestion that a suitable landscape strip be considered at the front of the property to soften the appearance of the metal link fence.

In reference to the existing gates and access located on the east property line of 7405 Kingsway, the Municipality has no authority to restrict access to the adjacent property at 7413 Kingsway or demand that the owner remove the gates and close off that portion of fence."

The reference in the last paragraph is included in this reply because Mr. Zeswick has on occasion requested that the gate be permanently closed. As noted, there is no authority to have Lavigne's secure the gate in a manner that prevents it from being opened and closed, or for that matter, to restrict movement to Lavigne's adjoining residential lot to the east via this access.

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Mr. Zeswick also alleges that he has been the subject of deliberate harassment by staff. No evidence has been given to support this claim and it is unequivocally denied by municipal employees who have, on many occasions over the years, been called upon to follow-up on complaints in this area. Staff's position is that all these site inspections and corresponding communication with property owners were necessary and always carried out in a proper and fitting manner.

Site inspections involving Mr. Zeswick's property have been carried out in connection with yard sales (the acquisition of goods for the purpose of selling them constitutes a business, the operation of which is not permitted on his property because it is zoned R5 and does not have legal nonconforming status). However, staff is unaware of any incident when an attempt was made to embarrass Mr. Zeswick before his customers as was indicated in his remarks to Council.

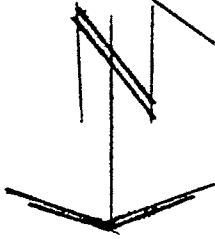
Mr. Zeswick, to the best of staff's knowledge, has not conducted any yard sales from his residence on Kingsway for several months. If this activity were conducted as a business in the future, however, appropriate follow-up action would of course have to be initiated.

In conclusion, occupancy of 7405 Kingsway by Lavigne's Engine Rebuilders Ltd. is permitted to continue subject to provisions of the Municipal Act as a legal non-conforming use. The property now conforms to all applicable bylaws and regulations but staff will monitor its use on a routine basis; if necessary, enforcement action as may be required will be carried out.

ACTING MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. Steve Zeswick, 7397 Kingsway, Burnaby, B.C. V3N 3B8 and Mr. A. Lavigne, 7405 Kingsway, Burnaby, B.C. V3N 3B8.

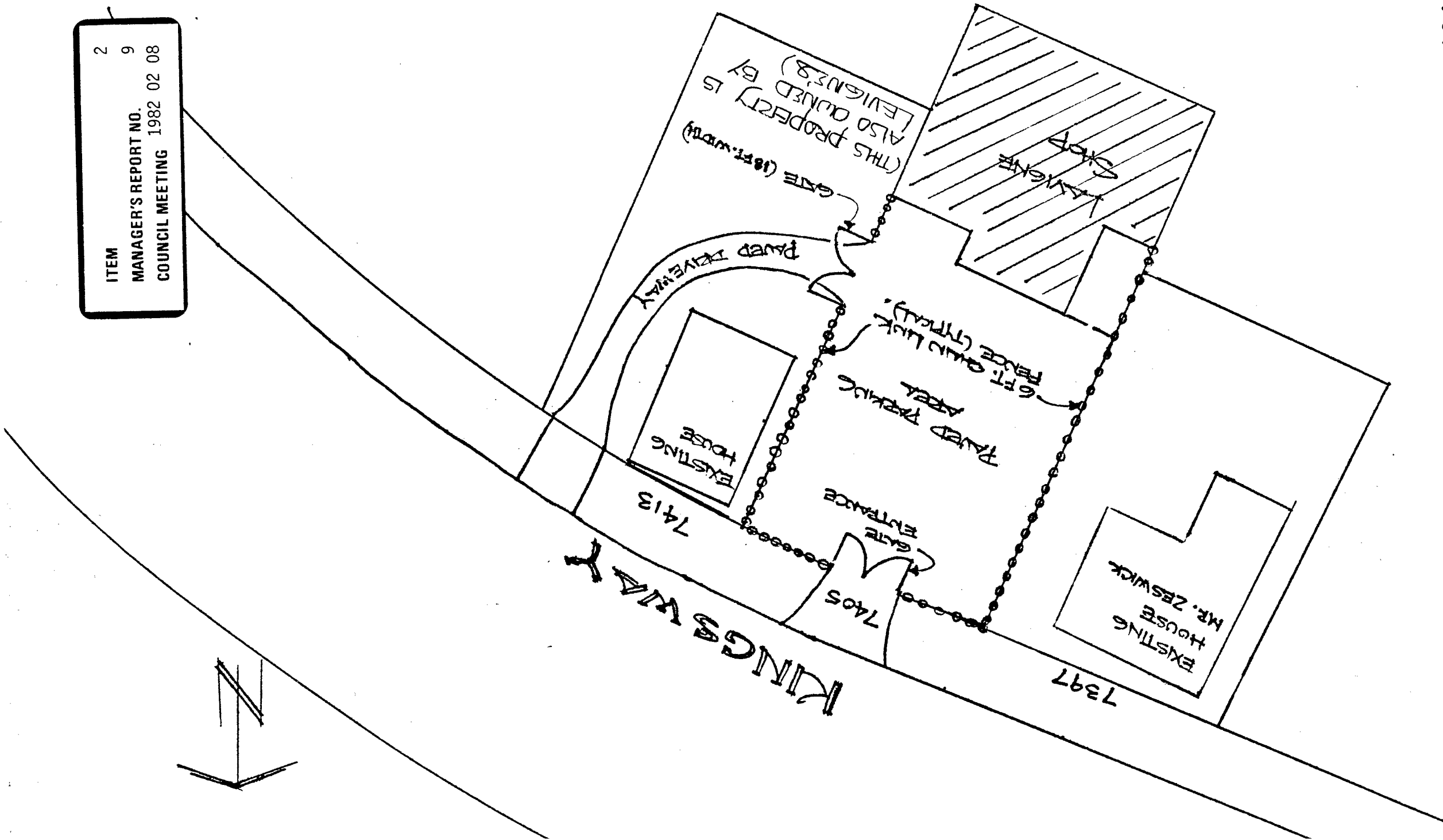
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DRAWING NOT TO SCALE



1982 February 02

Our File: 3-13-02

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TO: MUNICIPAL MANAGER

FROM: CHIEF PUBLIC HEALTH INSPECTOR

RE: DELEGATION TO 1982 JANUARY 25 MEETING OF COUNCIL
MR. S. ZESWICK, 7397 KINGSWAY, BURNABY, B.C.

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RECOMMENDATION:

1. THAT a copy of this report be forwarded to Mr. S. Zeswick, 7397 Kingsway, Burnaby, B.C., V3N 3B8.

SUMMARY:

The following report outlines this Department's action on complaints from Mr. S. Zeswick, 7397 Kingsway, concerning the operation of Lavigne's Engine Rebuilders, 7405 Kingsway. During 1981, Lavigne's Engine Rebuilders upgraded their effluent drainage system to conform to applicable regulations. A recent inspection of Lavigne's Engine Rebuilders resulted in a verbal notice being issued to correct unsatisfactory conditions pertaining to storage and maintenance. These unsatisfactory conditions have been corrected.

REPORT

In response to a delegation to the 1982 January 25 meeting of Council by Mr. S. Zeswick, 7397 Kingsway, Burnaby, this Department would submit the following report pertaining to effluent discharges and oil/ground contamination from Lavigne's Engine Rebuilders, 7405 Kingsway, Burnaby.

Further to complaints received from Mr. S. Zeswick, 7397 Kingsway, this Department conducted several inspections, which included tracing of effluents at Lavigne's Engine Rebuilders, 7405 Kingsway. The inspections resulted in the issuance of a notice to Lavigne's Engine Rebuilders, giving direction to correct unsatisfactory conditions.

1. Removal of oily engines and parts alongside the west property line (bordering the residence of Mr. S. Zeswick, 7397 Kingsway).
 2. Relocation of an above-ground waste oil storage tank on the west property line (bordering the residence of Mr. S. Zeswick, 7397 Kingsway). Oil spillage was noted occurring to the ground at this location which, during heavy precipitation, could have leached through the soil to the adjoining property of Mr. Zeswick.
 3. Notable amounts of oil and grease from the above-mentioned sources were being washed into a catchbasin which discharged to an open ditch on Britton Avenue.
 4. Effluent tracing tests revealed that the effluent from the caustic rinsing of engine parts was being discharged to an open ditch on Britton Avenue.
- The above-noted unsatisfactory conditions were attended to by Lavigne's Engine Rebuilders in various phases during 1981. A summary of the completed items is as follows:
1. Large bulk waste oil tank was relocated to the east side of the building, eliminating possible ground oil contamination to Mr. Zeswick's garden from this source.
 2. The engine and parts storage area was modified to meet our requirements. This included:
 - (a) Installation of a catchbasin/interceptor in this area, the discharge of which is directed to the sanitary sewer. Areas discharging to this catchbasin include the oily engine parts storage and interior automotive work bays.
 - (b) Asphalt curbing was placed to prevent storm drainage from the paved parking area from entering the sanitary sewer.
 - (c) A metal roof was constructed and positioned to eliminate rain water from entering sanitary sewer.

3. Contents of the caustic rinse tank are now held for special disposal at an approved location.
4. The rinse water from caustic engine and parts washing now discharges to the large interior sump. The sump is connected by an approved pump system to the sanitary sewer.

The unattached roof enclosure constructed in the late 1970's over the used engine parts storage area serves to reduce the impact of rainwater rinsing oil and grease from the engine parts storage area to the adjoining residential property (residence of Mr. S. Zeswick, 7397 Kingsway) and into the Burnaby storm sewer system. With the redirecting of the drainage from this area to the sanitary sewer after treatment, the metal roof enclosure is now required to exclude rainwater from entering the sanitary sewer, which would be a contravention of the Burnaby Sewer Bylaw #4247.

Insofar as the question of the legality of the roof enclosure structure is concerned, the Municipal Solicitor has advised that Section 722(3) of the Municipal Act permits alterations to legal non-conforming buildings if the alteration was required for conformance to statutes or bylaws or those allowed by the Board of Variance. The roof enclosure alteration was a requirement in order to have the drainage from Lavigne's Engine Rebuilders conform to applicable regulations, i.e. regulations pursuant to the Provincial Health Act, Sanitary Regulations - Preservation of Streams, and the Burnaby Sewer Bylaw No. 4247.

For Council's information, we have quoted Section 722(3) of the Municipal Act.

"A lawful use of a building or structure existing at the time of the adoption of the zoning bylaw, although the use does not conform to the zoning bylaw, may be extended throughout the building or structure, but no structural alterations except those required by statute or bylaw or those allowed by the Board of Variance shall be made in or to it."

The Deputy Chief Building Inspector advised that at the time of construction of the roof enclosure, staff were satisfied on the need and made the decision that the size and type of construction did not warrant application for a building permit. All required upgrading of the drainage system at Lavigne's Engine Rebuilders was conducted under permit and inspection by the Burnaby Building Department and fully complies with applicable regulations.

On 1982 January 27, the undersigned conducted an inspection of Lavigne's Engine Rebuilders, 7405 Kingsway, and direction was given to the management to immediately attend to the following unsatisfactory conditions by 1982 January 31:

1. Removal of all engine parts from the west property line (adjoining Mr. Zeswick's residence). This included an old radiator, a storage container for engine parts and miscellaneous materials.
2. Cleaning of waste oil which was spilled onto the ground at the waste oil storage container site (east property line).
3. Removal of all old lumber and unused parts from the east property line.

Inspection of the effluent containment and disposal systems revealed that they were functioning properly. The management of Lavigne's Engine Rebuilders agreed to immediately attend to correcting the above-noted unsatisfactory conditions.

On 1982 February 01, a reinspection of Lavigne's Engine Rebuilders revealed that all above-noted unsatisfactory conditions were attended to.

As the nature of the operation of Lavigne's Engine Rebuilders is one that generates trade wastes, this Department will continue routine inspections and notices will be issued should unsatisfactory conditions be found.

George V. Harvie

G.V. Harvie, C.P.H.I.(C)
CHIEF PUBLIC HEALTH INSPECTOR

GVH:1a

cc: Chief Building Inspector
Chief Licence Inspector
Municipal Solicitor

