

ITEM	21
MANAGER'S REPORT NO.	33
COUNCIL MEETING	90/05/07

RE: DELEGATION HEARD AT THE APRIL 30 COUNCIL MEETING (ITEM NO. 1)
SINGLE FAMILY DWELLING RENOVATION PROJECTS AT 4085 & 4075 MCGILL STREET

MUNICIPAL MANAGER'S RECOMMENDATION:

1. THAT the recommendation of the Director Planning & Building Inspection be adopted.

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TO: MUNICIPAL MANAGER 1990 MAY 03
 FROM: DIRECTOR PLANNING & BUILDING INSPECTION
 SUBJECT: DELEGATION HEARD 1990 APRIL 30
 SINGLE FAMILY DWELLING RENOVATION PROJECTS
 4085 AND 4075 MCGILL STREET

PURPOSE To provide additional information and a response to the questions raised by a delegation at the 1990 April 30 meeting of Council.
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RECOMMENDATION:

1. THAT a copy of this report be sent to Mr. W. Midmore, 4066 McGill Street, Burnaby, B.C. V5C 1M5, and the B.C. Assessment Authority, Ste. 301 - 4911 Canada Way, Burnaby, B.C., V5G 1M1.

R E P O R T

At the 1990 April 30 meeting of Council, Mr. W. Midmore appeared as a delegation in connection with renovations and additions to two houses in the 4000-block McGill Street, both of which involved appeals previously heard by the Board of Variance. At the same meeting, Council received an information report dealing with the Board's process and specifics of the two appeals.

The major concerns expressed by Mr. Midmore relate to the impact on other properties with respect to view obstruction, and his presentation included comments and questions related to legal non-conformity, the issuance of permits, and the Board of Variance appeals. Staff advised Council that a report would be submitted responding to these matters.

As the questions involve two separate properties, each having its own specific circumstances and history, this report will provide background information and comments as well as a response to Mr. Midmore's questions corresponding to each one in turn.

A. 4085 MCGILL STREET (see attached Sketch #1)

BACKGROUND

This property, prior to 1989, was occupied by a single family dwelling having a main living level above a basement, which constitutes a two-storey building. In late 1988 an application for a building permit was submitted, proposing the removal of the pitched roof and replacement by an additional storey and new roof. The proposal, while well within the 29.53 foot height regulation, would have produced a three-storey building which exceeds the 2-1/2 storey limit in this residential district. For this reason the applicant was informed that the permit could not be issued, whereupon he proceeded to appeal to the Board of Variance.

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The Board on 1989 January 05 heard the appeal and received a comment from the Planning & Building Inspection Department expressing opposition to the appeal, as quoted in the report received 1990 April 30.

The decision of the Board was to grant the variance requested, and a building permit was subsequently issued and the addition constructed.

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Question

"Why was the building at 4085 McGill allowed to be increased in height when we were assured it would not?"

Mr. Midmore has stated that he and his wife had been told on various occasions that the height of the building would not be increased.

From a review of the construction plans, which were on file in the Building Division at the time of the appeal and upon which both the rejection of the permit application and the Department's subsequent comments to the Board were based, it is obvious that an increase in the building height would have been incurred, as a result of the additional storey. It would have been equally evident that the proposed building height (25' 6") would not exceed the maximum permitted height (29.53').

We have taken the liberty of contacting Mrs. Midmore to obtain clarification and to assist in following up on the questions, and learned that she sought and received information from the Chairman of the Board and subsequently from a member of the Clerk's office. The staff member recalls the conversation, but his understanding and recollection of the matter is that the question was not whether the height would increase, but rather whether the appellant would be exceeding the allowable height under the Zoning Bylaw. After checking with the Building Division staff, the answer was given that the building would not exceed the permitted height. This answer was correct, but appears to be the answer to a question different from the one the Midmore's believed was being put.

B. 4075 MCGILL STREET

This property contains a single-family dwelling situated at the rear of the site and an 18' x 30' studio in front, immediately behind the 20 foot front yard setback line. The existing residence is an older dwelling, situated partly within the required rear yard setback and partly within the permitted "envelope" defined by the respective setback boundaries. The portion that is within the required rear yard is legally non-conforming with respect to siting, and is therefore subject to the provision of the Municipal Act, Section 970.(9) that permits repair, extension, or alterations to such buildings and structures, but only to the extent that the repair, extension, or alteration would involve no further contravention than that which previously existed.

An application was made in 1989 for a building permit to extensively renovate the building, including conversion of the top floor from a half-storey (under a rather steeply sloping gable roof) to a full storey (under a lower-pitched cottage roof). The following comments apply:

1. The greater part of the house is in the area that conforms to the setback requirements; horizontal expansion as well as conversion to create the second storey is permitted in this area, and was approved.

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2. The reconfiguration of the roof and half-storey involved the southerly portion of the building that is primarily in the conforming area, and the ridge of the roof and any other building portions that affect the view from the south (the Midmore's property) are situated within the conforming portion of the lot and dwelling, and conform in all respects to the height and bulk regulations of the bylaw. The height of the ridge is 25' 6", or approximately one foot higher than the ridge of the original roof, but well within the maximum permitted height of 29.53 feet. As a result, no variance was required or sought with respect to building height, and the permit was issued accordingly.
3. The appeal to the Board of Variance in connection with 4075 McGill was to authorize the reconfiguration of two small second floor areas north of the rear yard setback line (in the north-west and north-east corners of the second storey) that were formerly under the steeply-pitched roof, to permit them to be developed to a standard ceiling height under the new lower-pitched roof. These areas are situated to the north of the authorized second storey south of the setback line and therefore do not affect views from the front of the property.
4. The renovation did not involve any further horizontal extension into the rear yard or produce any increase in the building footprint within the required rear yard setback area (in fact a slight reduction results from the removal of a small projection at the first floor level).
5. As was stated in the comments submitted to the Board of Variance, the overall height of the building is lower, given the existing siting, than would have been the case if the building were situated entirely in conformance with the bylaw, at a position farther south and as a result at a higher elevation on the property.

The Board of Variance heard the appeal and granted the minor variance requested.

Question

"Why are building permits issued and why is work able to begin before the Board of Variance has met?"

Response

Building permits are issued when an application, after checking, is considered to conform to the requirements of the Building Code and relevant bylaws. In such instances there is no involvement of the Board of Variance. In this instance, the floor plans were checked carefully and staff ensured that there was no further extension of the building footprint into the required rear yard, and did not interpret the upper floor reconfiguration as a further contravention; hence the permit was issued. It was subsequently, after staff were asked by a neighbour to review the matter, that the volume increase in the two areas of the second floor mentioned above was appreciated and the owner filed his appeal for relaxation to the Board of Variance.

Question

"Why are there still monstrous view blockers going up in our area?"

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Response

The construction of new dwellings that are large by comparison with older, existing houses in established neighbourhoods is not a local or limited phenomenon, and similar concerns have been expressed in virtually every area in the region. New construction is regulated by the zoning bylaw, and Burnaby substantially reduced the permitted building height and bulk limits by amending its Zoning Bylaw in 1987. Applications for building permits that conform to the current regulations are approved.

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Council has recognized the concerns that exist, especially with respect to view obstruction issues, and requested a staff review of the options available to effect greater control in this regard. A staff report on view obstruction and building bulk was submitted in February and is presently under consideration by the Housing & Civic Development Committee of Council.

Staff have informed Mrs. Midmore of Council's concern in this area, and of the status of the review.

Question

"Why was the stop work order requested by Mr. O'Connell not issued?"

Response

When staff reviewed the design, at Mr. O'Connell's request, and the two areas at second floor level were noted, the Building Inspector advised the owner of the problem immediately, and the owner took steps to place his appeal before the Board. In consideration of the stage of construction at that time, the exposure of the existing first floor spaces to the elements in a season when wet weather would threaten damage to the building, and the fact that the vast majority of the project conformed in all respects to the bylaws, the decision was made to allow the work to proceed until the appeal could be considered by the Board of Variance. It was made clear to both the appellant and the Board that this decision was not in any way meant to compromise the eventual decision of the Board.

Question

"Why can the Board of Variance ignore the objections put before it?"

Response

The Board of Variance solicits comments and receives input at its hearings as outlined in the Clerk's report. Having received this input, the Board deliberates on the matter at hand and renders its decision based on what it considers to be the merits of the case, guided by the requirements of the Municipal Act. The comments and opinions that are received by the Board are frequently of a divergent or even a conflicting nature and the Board has the responsibility to reach a conclusion, which may not satisfy the interests of all participants.

Question

"Does the assessment for Municipal taxes go down where a person's view is affected?"

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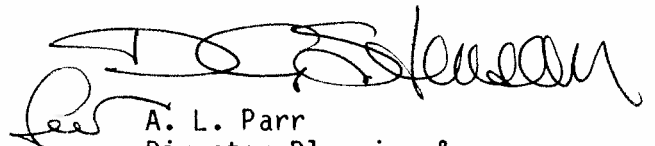
Response

Staff have contacted the B.C. Assessment Authority in response to this question, and are advised that the assessor considers recent market sales in an area when he is determining land values. It is recognized that the presence of a view generally influences market value, and hence the assessment for Municipal tax purposes is affected.

When an owner receives the property assessment notice, and considers the assessed value to not be appropriate, he should make any enquiry directly to the Assessment Authority.

Staff have brought Mr. Midmore's question to the attention of the local assessment office, who indicates that it will be looking into the matter raised by Mr. Midmore specifically.

This is for the information of Council.


A. L. Parr
Director Planning &
Building Inspection

ALP
DGS:lf

cc: Municipal Clerk

Attachment

TRINITY ST.

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15.24	15.24	15.24	15.24	15.24	15.2				
37.19 (0444)	4006	4014	4028	4030	4046	4052	4080	4086	4094
			3		5		7		9
					Blk. 28				(0443)
15.24	15.24	15.24	15.24	15.24	15.24	15.24	15.24		37.19

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15.24	15.24	15.24	15.24	15.24	15.24	15.24	15.24	13.61	13.61
37.19 (0414)	PLAN								
18		16		14					10
4005	4013	4045	4045	4047	4065	4075	4085		4095
15.24	15.24	15.24	15.24	15.24	15.24	15.24	13.61		13.61

MCGILL ST.

4075 McGill ↑
 4085 MCGILL ↑
 4066 McGill ↓

15.24	15.24	15.24	15.24	15.24	15.24	15.24	13.56	13.56	
37.19 (0388)	4004	4014	4046	4050	4054	4060	4066	4086	4096
1		3		5		7			9
				Blk. 27					(0389)
15.24	15.24	15.24	15.24	15.24	15.24	15.24	15.24		37.19

6.10

15.24	15.24	15.24	15.24	15.24	15.24	15.24	15.24	13.38	13.38
37.19 (0310)	PLAN								
18		16		14					10
(4005)	4013	4027	4035	4045	4055	4075	4091		4093
15.24	15.24	15.24	15.24	15.24	15.24	15.24	13.38		13.38

ETON ST.

15.24	15.24	15.24	15.24	15.24	15.24	15.24	13.34	13.34	
37.19 (0292)	4004	4014	4026	4036	4046	4060	4066	4086	4094
1		3		5		7			9
	PLAN			Blk. 21					(0265)
15.24	15.24	15.24	15.24	15.24	15.24	15.24	13.34		37.19

MACDONALD AVE. N 5304

GILMORE AVE. N.
 5304

Date: 1990 MAY

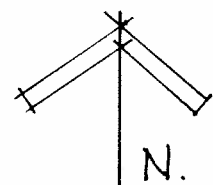
Scale: 1:1000

Drawn By:



THE CORPORATION
BURNABY
 Planning &
 Building Inspection
 Department

LOCATION SKETCH



SKETCH # 1.