

ITEM 17
MANAGER'S REPORT NO. 6
COUNCIL MEETING 92/01/27

TO: MUNICIPAL MANAGER 1992 JANUARY 22

FROM: DIRECTOR PLANNING
AND BUILDING

SUBJECT: 8405 THIRTEENTH AVENUE, BURNABY
LOT 1, BLOCK 1, DISTRICT LOT 25, PLAN 1465

PURPOSE: TO CLARIFY THE EVENTS SURROUNDING THE APPROVAL OF A GARAGE
AT 8411 THIRTEENTH AVENUE

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RECOMMENDATION

1. THAT a copy of this report be provided to the registered owners of the property:

Tung-Kin Louie &
Sheung-Chu Louie
10379 - 133A Street
Surrey, B.C.
V3T 4A1

SUMMARY

The garage at 8411 Thirteenth Avenue was built under permit issued in 1978. The side yard setback and roof eave dimension for the garage, as per the building permit and approved plans, were both 2 feet. Re-inspection and measurement on 1992 January 10 confirmed the distance from the wall of the garage to the side fascia board to be 2'1". It is possible that the gutters overhang the property line by a few inches. However, this cannot be proven without a legal survey of the property.

At the time the final approval for the garage was granted, Mr. Louie, the delegate who recently appeared before Council, did not own the adjacent property. A Mr. Lam was the registered owner of 8405 Thirteenth Avenue and it was he who placed the complaint regarding the overhang in 1982. Further, the person named and accused by Mr. Louie of accepting a bribe is not on record as ever having worked for the Building Department.

Given the period of time that has elapsed since the alleged occurrence, the passage of the inspector who was involved with the final approval of the garage, and the scant information provided by Mr. Louie in connection with his allegation, it is impossible at this point to give credit or substantiation to his statement. The public should be assured that the Corporation of the District of Burnaby is satisfied with the integrity of the employees involved in this instance.

BACKGROUND

At the regular Council meeting of 1992 January 06, Mr. Tung Louie, co-owner of 8405 Thirteenth Avenue, appeared as a delegate to contest a Council order against his property. At this same meeting, Mr. Louie raised the issue of the neighbour's garage overhanging his property and the alleged bribery of a municipal official during the construction of the garage. After hearing Mr. Louie's presentation, Council passed the following motion:

1. THAT municipal staff prepare a report in response to the delegation's concerns regarding the dilapidated sump and the construction of a garage which encroaches into the side yard of 8405 - 13th Avenue and further, that the report provide a chronology of events surrounding approval of the garage construction.

This report will clarify the issue of the encroachment of the garage and events leading up to its approval. A companion report addresses the dilapidated sump.

On 1977 June 22, Building Permit No. B42579 was issued for the construction of a single-family dwelling and detached double garage at 8411 Thirteenth Avenue, Burnaby. The west side yard setback for the principal dwelling was established at 5 feet, and 2 feet for the garage. On 1978 September 05, Building Permit No. B45180 was issued to reduce the size of the garage from 709 square feet to 520 square feet. Setbacks, however, remained the same. On 1979 January 03, the main building was complete and the certificate of occupancy was issued.

Field notes for this same date indicate that the garage itself was not yet finished, although its foundations and siting had already been approved. Re-inspection on 1979 July 11 revealed a few outstanding requirements, including exterior stucco, gutters and rain water leaders. The permit for this construction was finalised on 1980 November 12.

During this process, several Building Inspectors attended the premises to inspect the garage, none with the surname put forward by Mr. Louie. Indeed, records confirm that no one with the surname "Sincclair" has ever been employed by the Building Department. The inspector who gave final approval for the garage had an exemplary record of employment with the Corporation and is now deceased. At no time was there ever any suggestion that would have impugned his honesty and integrity.

On 1982 October 05, the Building Department received a complaint from a Mr. Lam, then owner of 8405 Thirteenth Avenue. Mr. Lam alleged that the foundation wall of the garage at 8411 Thirteenth was 1 foot from the side property line and that its roof protruded onto his lot. Field notes recorded 2 days later on 1982 October 07, indicated that the garage appeared to be 2 feet from the property line and that the overhang and eaves could be approximately 5 or 6 inches over the abutting property. Mr. Lam was informed by the Building Department that without a survey, the property line and any encroachment could not be confirmed.

At the time this complaint was made, 8405 Thirteenth Avenue was owned by Mr. Lam, not Mr. Louie, the current owner. Mr. Lam purchased the property on 1980 April 26 - after the building permit for the garage at 8411 Thirteenth Avenue had already been issued and approved.

Sometime after this garage had been constructed and approved, a carport was added without the required permit. The owners of 8411 Thirteenth Avenue submitted an application to the Board of Variance on 1982 November 30 as the entire garage structure now exceeded the maximum allowable lot coverage and width for an accessory building. The Board of Variance allowed the appeal on 1983 January 07. Although the Louies had purchased 8405 Thirteenth Avenue in early January (1983 January 05), no comments from either them, nor the Lams, were received during the Board of Variance hearing.

It must be stressed that this variance was only for a carport addition and did not affect the main garage structure. Side yard setbacks for the garage never required variance. Under the current Zoning Bylaw No. 4742, no side yard setback is required for an accessory building that is situated in the rear 9.0 metres of a lot and not less than 21.5 metres from the street [section 6.6 (2)(d)].

On 1983 January 18, Building Permit No. B53753 was issued to record this addition to the garage. The permit was complete and approved on 1983 January 20.

REPORT

The above chronology of the garage at 8411 Thirteenth Avenue has been extracted from a thorough review of departmental records. A summary of the events is presented below.

Chronology

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- 1977 June 22 - building permit issued for dwelling and garage at 8411-13th
- 1979 January 03 - occupancy certificate for dwelling issued
- 1980 March 12 - permit for garage finalized
- 1980 April 26 - 8405-13th bought by Mr. Lam
- 1982 October 05 - Mr. Lam complained about garage overhanging his property
- 1982 October 07 - Building Department informed Mr. Lam that overhang could not be confirmed without a survey
- 1982 November 30 - application submitted to Board of Variance for carport addition to garage at 8411-13th Ave.
- 1983 January 05 - Louies purchased 8405-13th Avenue
- 1983 January 07 - variance granted to exceed accessory building coverage and width
- 1983 January 18 - building permit issued for carport addition
- 1983 January 20 - building permit complete and approved
- 1991 November 25 - Council declared sump at 8405-13th Avenue a nuisance
- 1991 December 18 - Owners of 8405-13th Ave. (Louies) in default of council order
- 1992 January 06 - Mr. Louie appeared before Council to contest order and raise issue of garage overhang and alleged bribery

On 1992 January 10 and 20, the property was re-inspected by Building Department staff. The distance from the garage wall to the side fascia board is 2'1" and 2'5" to the edge of the gutters. It is approximately 2'8" to the edge of the gable-end fascia board. The survey pin marking the property line is still in place, but only a visual estimation from it to the garage roof was possible. The gutters may encroach onto the adjacent lot, but, as was concluded in 1982, this cannot be confirmed without a legal survey of the property.

Photographs are available with the Municipal Clerk.


While minor aerial overhang encroachments are not condoned by the Municipality, we note that they are not uncommon in connection with garages, sheds and other small accessory buildings. The Municipality does not have the resources to attempt to resolve such matters between property owners if they occur. In this particular instance the owner of the property was informed in 1982 that without a survey, an encroachment could not be confirmed.

If the present property owner (Mr. Louie) wishes to pursue this civil matter, it would be necessary for him to obtain a proper legal survey and proceed as he feels appropriate. In his verbal submission to Council on 1992 January 06, Mr. Louie alleged that an inspector (a Mr. Sinclair) had accepted a payment from the owner of the garage. However, no further particulars have been presented to substantiate the allegation.

The allegation of bribery of a municipal official is taken very seriously by the Corporation. A review of municipal records confirms that no Inspector by the name given has ever worked for the Burnaby Building Department. Furthermore, events surrounding the construction of the garage at 8411 Thirteenth Avenue were in no way unusual or suspect.

Without proper evidence in connection with Mr. Louie's claim, it is not possible to support the allegation that has been made concerning actions that took place in the early 1980's. But it is a fact that the Municipality has always insisted on the highest standards of integrity from its employees and would not tolerate any activity inconsistent with those standards. At no time was the inspector who gave final approval to the garage ever accused of any improper conduct, nor was there ever any reason to call his character or integrity into question.


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A.L. PARR, DIRECTOR
PLANNING AND BUILDING

