

Kuebler, David (CI-StPaul)

From: Kuebler, David (CI-StPaul)
Sent: Monday, August 11, 2014 9:50 AM
To: Magner, Steve (CI-StPaul); Smith, Ed (CI-StPaul); Saunders-Pearce, Wes (CI-StPaul)
Subject: RE: 1776 Yorkshire Avenue
Attachments: Chapter_134._Projections_and_Encroachments.pdf; DenialLetter.pdf

Steve, Ed and Wes:

Ordinance 134, which governs encroachments, states that private use of the public ROW can be used by an adjacent property owner provided the use for which the encroachment permit is being requested cannot reasonably be accomplished on private property and that the area of projection cannot be vacated. I'm confident that the ROW for Yorkshire will not be vacated.

The first encroachment request, as attached, was denied based on the fact that options to discharge on private property had not been explored to the satisfaction of ROW. It would seem to me that certain options as provided for in Wes's email would be reasonable to implement given that the work to implement the installation in the boulevard would also be costly.

If you have any questions please contact me.

Thanks,
David

David Kuebler, P.E.
ROW Management Section
Traffic and Lighting Division
St. Paul Public Works Department
1000 City Hall Annex, 25 West 4th street
St. Paul, MN 55102
Office: 651.266.6217
david.kuebler@ci.stpaul.mn.us

From: Magner, Steve (CI-StPaul)
Sent: Monday, August 11, 2014 8:02 AM
To: Smith, Ed (CI-StPaul)
Cc: Saunders-Pearce, Wes (CI-StPaul); Kuebler, David (CI-StPaul)
Subject: RE: 1776 Yorkshire Avenue

To all, Has PW made a final decision on allowing the run off to go out to the street ?



Steve Magner
Code Enforcement Manager
Department of Safety and Inspection
375 Jackson Street, Suite 220
Saint Paul, MN 55101
P: 651-266-1928
steve.magner@ci.stpaul.mn.us



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From: Smith, Ed (CI-StPaul)
Sent: Monday, August 11, 2014 7:59 AM
To: Magner, Steve (CI-StPaul)
Cc: Saunders-Pearce, Wes (CI-StPaul); Kuebler, David (CI-StPaul)
Subject: RE: 1776 Yorkshire Avenue

Steve,

The PO left a message on Friday, August 8th. He has had 4 contractors come out to the property and none of them could come up with a feasible plan to drain the water, other than to run piping out to the street.

Ed

From: Magner, Steve (CI-StPaul)
Sent: Monday, August 11, 2014 7:46 AM
To: Smith, Ed (CI-StPaul)
Subject: FW: 1776 Yorkshire Avenue

fyi



Steve Magner
Code Enforcement Manager
Department of Safety and Inspection
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From: Saunders-Pearce, Wes (CI-StPaul)
Sent: Friday, August 08, 2014 2:48 PM
To: Magner, Steve (CI-StPaul)
Cc: Kuebler, David (CI-StPaul)
Subject: FW: 1776 Yorkshire Avenue

Steve

I drafted options on how sump drainage can be resolved at 1776 Yorkshire. It would seem the best alternative for the P/O is to revisit the conversation about a catch basin in the rear yard. I'm sure there will be many reasons why this solution cannot be done (cost, inability to negotiate with his neighbor, etc.).

My thought is to ask the P/O if the contractors considered this alternative. If not, the P/O did not fully evaluate alternatives and needs to get a bid for a catch basin and pipe in the rear yard draining to the west. Then for the P/O to approach his neighbor.

This is uncharted territory for me – I've not had such a protracted dialogue on this type of issue. Suggestions are welcome.

Kindly,
Wes

From: Saunders-Pearce, Wes (CI-StPaul)
Sent: Wednesday, August 06, 2014 11:18 AM
To: Kantner, Libby (CI-StPaul); Kuebler, David (CI-StPaul)
Subject: RE: 1776 Yorkshire Avenue

Libby-

Today I spoke with both Ed Smith (Code Enforcement) and David Kuebler. I understand that Code Enforcement issued an excessive consumption fine to the property owner on Monday (8/4). I'm not certain if it was received prior to the property owner sending the email below to David Kuebler.

Code Enforcement will return to the property on August 18. If there is an identified solution and clear plan to advance with corrective action, the fine can be rescinded.

It appears that of the three contractors, one was silent, one recommended discussions with a waterproofing or landscape company, and one recommended going to the street. So it appears their next option could be to contact a waterproofing or landscape company to explore further.

That being said, at this point I will compile a list of potential options. Some are options we discussed on July 18 with the property but don't seem to be captured in the responses from contractors. Some are options that were available during home construction and may warrant revisiting. And I will try to capture other options as well. I will complete that task this week. I plan confer with staff internally about these options early next week. At this point I'm uncertain if (or how) these options would be shared with the property owner. But ideally there could be some preferred alternative that the property owner can execute. The critical aspect is to help the property understand available options without going as far as determining a solution on behalf of the property owner.

Libby, I would be happy to meet with you further at your convenience if you wish to discuss anything in more detail.

Kindly,
Wes

From: Kantner, Libby (CI-StPaul)
Sent: Wednesday, August 06, 2014 10:19 AM
To: Kuebler, David (CI-StPaul); Saunders-Pearce, Wes (CI-StPaul)
Subject: RE: 1776 Yorkshire Avenue

Thanks for passing this along. What is the next option for them?

Libby Kantner
Legislative Aide to
Councilmember Chris Tolbert
Ward 3, St. Paul
(651) 266-8631
Libby.kantner@ci.stpaul.mn.us

From: Kuebler, David (CI-StPaul)
Sent: Tuesday, August 05, 2014 4:53 PM
To: Saunders-Pearce, Wes (CI-StPaul)
Cc: Kantner, Libby (CI-StPaul)
Subject: Fwd: 1776 Yorkshire Avenue

I just received this.

David Kuebler, P.E.
ROW Management Section
Traffic & Lighting Division
St. Paul Public Works Department
Office: 651.266.6217

Sent from my iPhone

Begin forwarded message:

From: Gennady Lyubeznik <gennady@umn.edu>
Date: August 5, 2014, 4:41:22 PM CDT
To: "Kuebler, David (CI-StPaul)" <david.kuebler@ci.stpaul.mn.us>
Subject: 1776 Yorkshire Avenue

Dear Mr. Kuebler,

Thank you for coming out to inspect our property on Wednesday, July 16. We did as you suggested: contacted house drainage specialists. We picked three from the list of "City of Saint Paul Licensed House Sewer Contractors" (<http://www.stpaul.gov/DocumentCenter/View/70425>):

1. Ryan Plumbing and Heating Company.
2. Roto Rooter Services.
3. Curella Company.

All three came out to inspect our property. All three said they did not see any way to solve this problem on our property. Ryan Plumbing and Heating refused to provide their opinion in writing. The other two sent me something in writing.

Mr. Tony Curella of the Curella Company sent the following on August 4:

"Dear Mr Lyubeznik,

After examining your property for a solution on where to pump your water from your sump pump it is my opinion the only possible solution is to pipe the water directly into the storm sewer main in the street directly in front of your house. All other options would negatively effect your neighbors on each side of you or cause a water ice hazard for people in the right of way.

Regards"

Mr. Paul Teale of Roto Rooter Services sent us the following on August 1:

"To Whom It May Concern:

Roto-Rooter was called out to the address of 1776 Yorkshire Avenue, St. Paul, MN 55166 on July 31 2014. The reason we ere called out was an issue with a drain tile line carrying discharge from the sump pump inside the residence, then discharging out the side of the hill and onto the sidewalk. I suggested to the home owner to explore options with waterproofing companies and landscape companies before exploring having to find a way to route the sump pump drainage underneath the sidewalk and into the street or storm sewer.

Paul Teale
Plumbing Manager
Roto-Rooter"

Well, where do we go from here? There must be some reasonable end to this extraordinary situation.

Sincerely,

Gennady and Vera Lyubeznik
1776 Yorkshire Avenue, Saint Paul, MN 55116.



PART II - LEGISLATIVE CODE
Title XII - STREETS, SIDEWALKS, BRIDGES, OTHER PUBLIC WAYS

Chapter 134. Projections and Encroachments

Chapter 134. Projections and Encroachments

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Sec. 134.11. Permit expiration.

Sec. 134.12. Public improvements; removal or relocation.

Sec. 134.13. Permit not relinquishment of city's rights.

Sec. 134.14. Violation; penalty.

Sec. 134.01. Purpose.

[The purpose of this chapter is:]

- (1) To allow use of the public right-of-way by adjacent property owners for purposes that cannot be reasonably satisfied on private property and where it is determined by the director of the department of public works that the area of projection or encroachment cannot be vacated under Chapter 130 of the Legislative Code.
- (2) To protect the health, safety and welfare of the public.
- (3) To protect nearby property owners from hardship or damage.
- (4) To protect other public interests as determined by the director.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.02. Permission required.

No person shall construct and maintain any projection or encroachment within the public right-of-way except with the written permission of the director of the department of public works.

(C.F. No. 94-242, § 1, 3-23-94)

PART II - LEGISLATIVE CODE
Title XII - STREETS, SIDEWALKS, BRIDGES, OTHER PUBLIC WAYS

Chapter 134. Projections and Encroachments

Sec. 134.03. Projection and encroachment defined.

Projection and encroachment is defined as any above or below grade protrusion beyond the property line which extends into, upon, over, under or otherwise occupies any public street, alley, sidewalk, boulevard or right-of-way. Projection and encroachment shall include, but not be limited to, the following: steam lines, conduits, lighting standards, areaways, tunnels, trapdoors, retaining walls, parking bays and nonstandard walks, but shall exclude awnings, business signs and building projections regulated in sections 33.08 and 66.202.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.04. Public works director to issue permit.

The director is authorized to grant permission to owners of abutting property to construct and maintain a projection or encroachment subject to the following conditions, restrictions and payment of fees set forth in this chapter.

(C.F. No. 94-242, § 1, 3-23-94; C.F. No. 06-823, § 1, 9-27-06)

Sec. 134.05. Permit application and fees.

Application for permits shall be submitted on forms approved by the director and shall include the following:

- (a) The location, nature, size and purpose of the proposed improvement.
- (b) Plans and specifications as required by the director.
- (c) The appropriate fees as established by council resolution.
- (d) The application shall be signed by the owner of the abutting property.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.06. Regulations and general conditions.

The director is authorized to enact reasonable rules and regulations, which shall as a minimum include the following:

- (a) All work shall be performed by licensed contractors and in accordance with plans and specifications approved by the director.
- (b) Payment of permit fees, as determined by council resolution, and payment of all additional costs of inspection incurred by the department.
- (c) During construction, the work area shall be guarded by day with suitable barriers and by night with flashing yellow lights to prevent injury or damage to persons or property.
- (d) The permittee shall assume full responsibility for all damages to persons or property arising out of the construction, repair or maintenance of the projection or encroachment.
- (e) All work shall be performed in accordance with all applicable laws or regulations, including obtaining required building permits.
- (f) Materials, methods of construction and location shall be subject to the approval of the director.

(C.F. No. 94-242, § 1, 3-23-94)

PART II - LEGISLATIVE CODE
Title XII - STREETS, SIDEWALKS, BRIDGES, OTHER PUBLIC WAYS

Chapter 134. Projections and Encroachments

Sec. 134.07. Indemnity and hold harmless.

The city, its officers, agents and employees shall be held harmless, indemnified and defended by the owners, its successors or assigns from any and all claims, actions or suits of any character brought as a result of injuries or damages received or sustained by any person, persons or property on account of the construction or maintenance of the projection or encroachment.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.08. Preexisting projections or encroachments without valid permits.

All projections or encroachments existing as of the adoption date of this ordinance [March 23, 1994,] which exist without a valid permit from the city shall either be removed and the right-of-way restored at the sole expense of the owner of the adjacent property, or the owner shall make application for a permit in the same manner as if the projection or encroachment were to be newly installed.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.09. Maintenance of the projection or encroachment.

The property owner shall maintain the projection or encroachment in a safe condition and shall, at no cost to the city, repair any damage which may occur during the normal course of city maintenance and/or construction of public facilities within or adjacent to the right-of-way.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.10. Permit revocation.

Any permit may be revoked by the director, upon reasonable written notice, for failure to properly maintain the projection or encroachment in a safe and aesthetic condition, comply with any applicable law or with the conditions of the permit, or where it has been determined by the director that the projection or encroachment may constitute a hazard to the safety or welfare of the public. The notice shall specify the reason(s) for recommending revocation, and in the case of defects or deficiencies, provide a reasonable time to correct them. If the defects or deficiencies are not corrected within a reasonable time, the director shall request that the city council revoke the permit. At the conclusion of the hearing, the city council shall determine whether the permit shall be revoked and the projection or encroachment should be removed and the public right-of-way restored at the expense of the adjacent owner.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.11. Permit expiration.

Any permit issued hereunder shall be in effect for no longer than the life of the building or structure served by the same. Permits shall expire upon completion of demolition of the abutting building, structure or premises. The permittee or its successor in interest shall, concurrently with the demolition of the abutting premises, demolish, fill and seal to the satisfaction of the department of public works any opening serving such premises upon securing a permit therefor from the department of public works. All public right-of-way or property upon or under which such opening is located shall be restored to a condition acceptable to and as required by the department of public works.

(C.F. No. 94-242, § 1, 3-23-94)

PART II - LEGISLATIVE CODE
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Chapter 134. Projections and Encroachments

Sec. 134.12. Public improvements; removal or relocation.

In the event it shall become necessary during the term of the permit to remove or relocate the physical property of the permittee located within or upon any of the streets or public rights-of-way because of interference or use by the city or as a result of any public improvement undertaken by or on behalf of the city, the permittee shall, when so advised by the department, remove and relocate its facilities without cost to the city and shall place the street or right-of-way in the same condition as existed prior to construction of the projection or encroachment.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.13. Permit not relinquishment of city's rights.

Any permission granted for a projection or encroachment shall not constitute a vacation or abandonment of the rights of the city to the street or right-of-way.

(C.F. No. 94-242, § 1, 3-23-94)

Sec. 134.14. Violation; penalty.

Violation of any of the provisions of this chapter shall be deemed a misdemeanor punishable in accordance with the provisions of section 1.05 of this Code.

(C.F. No. 94-242, § 1, 3-23-94)