

FILE NO. 72595

November 27, 1940

Mr. J. A. Clarke  
Buildings Engineer  
Bureau of Buildings  
Municipal Office Building  
Baltimore, Maryland

ATTENTION: MR. J. M. RUSSELL, BUILDING CONSTRUCTION  
ENGINEER

Dear Sir:

Your letter of November 14th, 1940, addressed to the City Solicitor, pertaining to the application of Simon Needle to rebuild garage, which was destroyed by fire, located at 1618 Milliman Street, has been referred to me for attention.

It is my understanding that Mr. Needle contends that the wall between 1616 and 1618 Milliman Street and the wall between 1618 and 1620 Milliman Street are party walls and that he is entitled to use the said walls as such in the proposed rebuilding of said garage, while the owners of both 1616 and 1620 Milliman Street take the position that the aforesaid walls are not party walls and, therefore, Mr. Needle has no right or interest in said walls.

Paragraph 1 of Section 2 of Article 3 of the Baltimore City Code, 1927, provides that the Buildings Engineer shall receive applications, examine plans and grant permits for the erection, construction, alteration, repair and removal of buildings, and apparently Mr. Needle has filed an application and other papers in connection therewith for the purpose of securing a permit.

It is stated in Volume 3 of McQuillin on Municipal Corporations, at pages 303, 304 and 305, respectively, in reference to the issuance of building permits:

"The salutary rule is generally applied that the granting or withholding of a building permit is not a matter of arbitrary discretion. If the applicant complies with the valid building laws of the state or ordinances of the city, he is entitled to his permit as a matter of right, regardless of the opinion or action of the issuing officials. . . . The acting officer has no right to question the good faith of the applicant, so that he desires to use the building to be erected for some purpose forbidden by the law, e. g., for a garage. Nor can he determine legal questions, for example, the question of title