

Committee of Adjustment / Land Severance Committee

DECISION of COMMITTEE WITH REASONS

[The Planning Act, R.S.O. 1970, chapter 349, section 42 (9) and (11)]

(a) Consent or minor variance. re. Application for (a) **Minor Variance**

(b) Description of property. in respect of (b) **Second Street & Fifth Avenue**

which is located on Lot No. **26** **Block** **14** or Reg'd Plan No. **222**

(c) City, town, village, township. in the (c) **Town** of **Orangeville**

(d) Delete where not applicable. We the undersigned concur in the following decision and reasons for decision of the (d) Committee of Adjustment/~~Land Severance Committee~~ for the (e) **Town of Orangeville**

(e) Name of municipality. made on the (f) **28th of February** 19 **74**

(f) Date of decision.

DECISION: **Denied.**

This decision has been made subject to the following conditions:

CONDITIONS (g):

(g) State conditions to be applied before granting of consent

REASONS (h): **As per the attached statement.**

(h) State reasons for decision

Signature of member of committee.

Signature of member of committee.

Signature of member of committee.

Signature of member of committee.

Signature of member of committee.

Signature of member of committee.

CERTIFICATION

[The Planning Act, R.S.O. 1970, chapter 349, section 42 (11)]

I **Robert B. Lackey**

(i) Delete where not applicable.

Secretary-Treasurer of the (i) Committee of Adjustment/~~Land Severance Committee~~ for the

Town of Orangeville

in the County of **Dufferin**

Name of Municipality

certify that the above is a true copy of the decision of the Committee with respect to the application recorded therein.

Dated this **Seventh** day of **March** 19 **74**.

Robert B. Lackey
Secretary-Treasurer of the **Committee of Adjustment**
for the Municipality of the

Last day of appeal - **March 28th, 1974.**

Corporation of the **Town of Orangeville.**

NOTICE OF LAST DAY FOR APPEALING TO THE MUNICIPAL BOARD

The applicant, the Minister or any other person who has an interest in the matter may appeal to the Municipal Board against the decision of the committee by serving personally on or sending by registered mail to the secretary-treasurer of the committee notice of appeal accompanied by payment to the secretary-treasurer of the fee prescribed by the Municipal Board under *The Ontario Municipal Board Act* as payable on an appeal from a committee of adjustment to the Board, within twenty-one days after the sending of this notice.

SEE OVER FOR NOTICE AND EXTRACTS FROM THE PLANNING ACT.

REASONS FOR DECISION

This is an application by Sandlo Construction Limited for a minor variance for Lot 26, Block 14, Registered Plan 222 of the Town of Orangeville.

The hearing was set for December 12th, 1973, but due to the unavoidable absence of two of the members was adjourned until January 9th, 1974, and for the same reason was again adjourned until February 13th, 1974. The representative of the Company, Mr. Joe DeFaveri and his solicitor Mr. ~~SP~~.

Porter were present at this time and upon being sworn stated their reasons for asking for the variance. Letters of opposition from the Planning Board and the Town Council were read and are Exhibit No. 1 to this application. Mr. John Davis, Chairman of the Planning Board upon oath listed six complaints of the Planning Board against this application. Mr. Gordon Bredin of the Town Council was present but did not give evidence. Mr. John Vandendam, Town Building Inspector gave evidence in opposition to the application. The hearing was adjourned until February 28th, 1974, to enable the Committee to arrive at a decision.

The Committee has asked for and received all pertinent documents relating to this building and finds as follows:-

1. A building permit was issued on March 26th, 1973, being Permit No. 1090, for the erection of a single family dwelling house on Lot No. 26, Plan No. 75 (222) located on Second Street on the corner of Fifth Avenue in the Town of Orangeville, Exhibit No. 2.
2. A site plan was filed with the application for the Building Permit which in all respects conformed with the By-Law. Exhibit No. 3.
3. A plan of Survey dated July 26th, 1973 was filed showing the location of the dwelling house erected on the said lot shown as Part 2 which was not approved by the Building Inspector for non-compliance. Exhibit No. 4.
4. A copy of a letter on the letterhead of Peter J. Williams, Ontario Land Surveyor, was filed, in which, over the signature of Joe DeFaveri, it is stated that the said Joe DeFaveri takes the responsibility that the house staked on Part 2 of the plan of survey conforms with the Town of Orangeville By-Laws. Exhibit No. 5.

The Committee after reviewing all the evidence adduced and Exhibits filed find as follows:-

1. The Building Permit was for a single family dwelling on the said lot which said lot fronts on Second Street. On viewing the dwelling erected thereon we find that instead of fronting on Second Street this dwelling has it's main and predominant entrance fronting on Fifth Avenue, indeed the application is for a minor variance for the set-back of the building which is 18.26 ft. at the westerly end and 18.23 ft. at the easterly end instead of the required 20 ft. from the street line of Fifth Avenue. This clearly indicates that this dwelling house is fronting on Fifth Avenue instead of Second Street as the Building Permit called for and therefore is in violation of the By-Law. (See Exhibit No.3).

See Holden V Ryan (1912) 3 O.W.N. 1585 - In this case it was stated that "In order to comply with building restrictions requiring every house erected upon certain land to have its "front" on a certain street, it is necessary that the substantial and predominant front of the building face the street named. The plans for an apartment building proposed to be erected on a corner lot provided that there should be an entrance to one of the apartments

on the street named in the building restrictions, but that the main entrance for all the other apartments should be on the cross street. Held, this was in contravention of the building restrictions".

2. When questioned at the hearing regarding the error in the set-back Mr. Joe DeFaveri stated "the surveyor let me down". We disregard this statement completely as evidenced by Exhibit No. 5.

3. The Building Permit was issued on the site plan filed which shows a house which conforms to the By-Law (Exhibit No. 3). We find, however, that the house erected is not the same as the house indicated in Exhibit No. 3 but is of different shape and not conforming to the By-Law. (Exhibit No. 4).

4. Having found that this dwelling house is fronting on Fifth Avenue instead of Second Street, contrary to the building permit issued, we further find that the building is contrary to the By-Law in that it is 6.75 ft. from the rear lot line on the westerly end and 6.73 ft. on the easterly end whereas the By-Law requires 15 ft. The solicitor for the applicant argued that the applicant was considering the

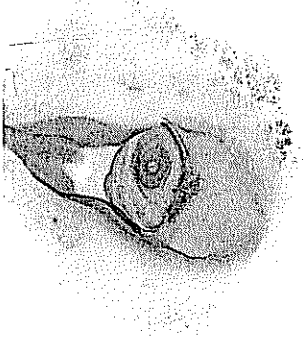
westerly end of the lot as the rear lot line. This would have been so if the house was fronting on Second Street, which it is not. This argument the Committee rejects completely. (See Words and Phrases Legally Defined (Sanagan & Drynans) Vol.11 P.618 under "Fronting".)

5. On considering the side of the house on Second Street we see by Exhibit No. 4, and confirming our finding by viewing the premises, we find that a veranda has been erected under which is said to be a fruit cellar or cold storage room and a door from this side of the house gives entrance onto this veranda. The distance from the street line on Second Street to the house is 15.22 ft. at the northerly end and 15.20 ft. on the southerly end. (See Exhibit No. 4). This was one of the points complained of by the Planning Board in that on this corner lot more space was needed for snow removal, in this the Committee agrees. As the easterly end of this house should have been the front, as the building permit requires, the By-Law is again contravened as a 20 ft. set back is required from the street line. In this regard it is noted by Exhibit No. 4 that the houses to the south of this house, and built by the same Company, comply with the By-Law with the front building lines being over 20 ft. from the street line of Second Street whereas the house in question is 5ft. closer. Whether or not

this veranda addition was an effort by the builder to convey the impression that this was the front of the house the Committee cannot say but if it was then the set back as above stated is contrary to the By-Law.

The Committee, therefore, for the reasons above stated has no hesitation whatsoever in refusing this application and is of the opinion that there has been a flagrant disregard for the By-Law.

DATED at Orangeville this 28th day of February, 1974.





A 74293

Ontario Municipal Board
IN THE MATTER OF Section 42 of
The Planning Act (R.S.O. 1970,
c. 349) as amended,

- and -

IN THE MATTER OF an appeal by
Sandlo Construction Limited
from a decision of the Committee
of Adjustment of the Town of
Orangeville

B E F O R E :

F.G. BLAKE,
Vice-Chairman

- and -

H.H. LANCASTER,
Member

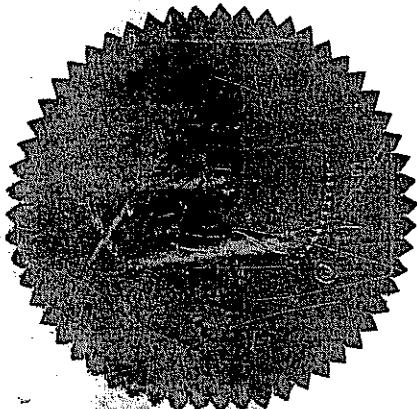
Friday, the 1st day

of November, 1974

UPON APPEAL from a decision of the Committee of Adjustment
dismissing an application for a variance from the
provisions of By-law 9-66 of the Town of Orangeville, as
amended to permit the maintenance of a single family
dwelling house having a front yard setback of 18.26 feet at
the westerly end and setback of 18.23 feet at the easterly
end, whereas the said by-law requires a minimum front
yard setback of 20 feet, the lands in question being
composed of Lot 26, Block 14, according to Registered Plan
222;

THE BOARD ORDERS, that this appeal is hereby dismissed.


K.C. ANDREWS
SECRETARY



Case No.	A 74-2
File No.	8