

ISSUE DATE:

**May 3, 2005**

DECISION/ORDER NO:

**1132**



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL041149

Robert Starr has appealed to the Ontario Municipal Board under subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from a decision of the Committee of Adjustment of the Town of Orangeville which approved an application with conditions numbered A-24/04 for variance from the provisions of By-law 22-90, as amended, respecting 71, 81 Centennial Road, 165 C Line  
O.M.B. File No. V040592

**APPEARANCES:**

**Parties**

Robert Starr

Town of Orangeville

**Counsel\*/Agent**

P. Boxem

W. Stutz\*

J. Self (student-at-law)

**DECISION DELIVERED BY J. CHEE-HING AND ORDER OF THE BOARD**

**CONTEXT:**

Robert Starr (applicant and appellant) sought minor variances to By-Law 22-90 (ZBL) to permit parking in the front and exterior side yards within required landscaped areas for the purpose of increasing the number of parking spaces on the property located at 71, 81, 161 C Line (subject property) in the Town of Orangeville (Town). The Committee of Adjustment (Committee) approved the variance applications with conditions. The Committee's conditions being that no parking spaces will be allowed on the existing landscaping in the southwest corner of the subject property and on the southeast corner with the exception of one additional parking spot. The net effect being that 9 of the 13 parking spaces requested were approved by the Committee.

The applicant was not satisfied with the conditions imposed by the Committee and subsequently launched an appeal to the Board.

*[Faint, illegible stamp or signature]*

The subject property is located on the northeast corner of C Line and Centennial Road in the Orangeville Industrial Park. Three buildings are located on the site and are surrounded by other industrial properties. The subject property is located in a General Industrial (M1) Zone and is designated as Employment Area under the Town's Official Plan (OP) (Exhibit 5).

The variances sought are as follows:

1. To increase the number of parking spaces by 13 by permitting parking in the front yard within the minimum 6 metre required landscape area and permitting parking in the exterior side yard within the minimum 3 metre required landscape area.

An agent, Peter Boxem of R J Burnside and Associates Ltd, represented the applicant. The Town was represented by counsel (Mr. W. Stutz) and a staff planner (Ms. Hiedi Murray).

#### **FINDINGS OF THE BOARD:**

Having carefully considered all of the evidence presented at the hearing, the Board dismisses the appeal and pursuant to subsection 45(18) of the *Planning Act*, authorizes a variance to the ZBL for 9 additional parking spaces instead of the 13 parking spaces requested by the applicant and subject to the same conditions as set forth in the Committee's decision respecting this variance application. The reasons follow.

Ms. Hiedi Murray, planner for the Town, testified that the site is located in a General Industrial (M1) zone and the use of the subject property is consistent with the zoning and OP designation. The subject property is part of the Orangeville Industrial Park and the surrounding industrial properties are all appropriately landscaped. It was her testimony that landscaping is an important feature of the industrial park. A site plan for the parking area west of 81 Centennial Road was approved in 1998 with approved landscaping and parking spaces for 49 vehicles (Exhibit 5). The ZBL requires a total of 37 parking spaces for the subject property. The applicant is seeking 13 additional

spaces, which will result in a total of 62 spaces in these areas of the site, which are 25 more than what the ZBL permits.

As it currently stands the existing parking situation which is legal non-complying in the front and exterior side yards as it predates the ZBL has resulted in minimal landscaping by current standards. The proposal now before the Board will further exacerbate the existing landscaping situation. Ms. Murray further testified that while she is sympathetic to the applicant's proposal and supports the creation of additional spaces to accommodate the growing demand for employment there should be some landscaping in the southwest and southeast corners. Ms. Hiedi was the author of the staff planning report, which recommended that 9 of the 13 additional parking spaces be approved but that the previously mentioned landscaped areas in the approved site plan remain intact. She further testified that the length of the parallel parking spaces proposed in the southwest corner does not meet the minimum requirements of the Town (Exhibit 8).

The OP encourages a high quality of urban design in employment areas and towards that end, the Town passed B/L 122-2001 which added provisions to the M1 Zone to implement the urban design requirements to improve the appearance of industrial properties and employment areas. It was her professional opinion that eliminating most of the landscaping in front of the property would be inconsistent with the intent of the OP and the provisions of the ZBL.

Peter Boxem, agent for the applicant submitted that the Committee's decision to approve the variances with conditions indicates that the statutory planning tests under subsection 45(12) have been met. It was his submission that the OP supports the expansion of existing industrial areas by accommodating new or expanding industries. The site is severely constrained in terms of where the landscaping can be located and the revised site plan propose moving the landscaping requirements to the areas of the property fronting on C Line. Mr. Boxem further submitted that the revised parking proposal would enhance the flow of vehicular traffic on the site by enabling traffic to move around the perimeter of #81 Centennial Road; increase safety on the site as a result of improved parking layout; and enable better snow removal during the winter season (Exhibit 4). It was his submission that the loss of 4 parking spaces would result

in the loss of 12 additional jobs, which is a situation that would be contrary to the goal of generating employment within the Town.

Counsel for the Town submitted that the Committee did not make the finding that the variances requested met the statutory planning tests but rather they considered the requisite tests and approved the variances subject to the conditions for which the applicant is seeking relief from. It was counsel's further submission that the access, safety and snow-clearing issues mentioned by the applicant are site planning issues, which can and should be addressed by the applicant during the site plan approval process and that an additional 4 parking spaces would not adversely impact on the applicant's ability to do so. The Town was more than accommodating in approving 9 more parking spaces, which would now result in a total of 95 spaces for the subject property, which is significantly (58) more than the 37 parking spaces required under the ZBL. It was the Town's position that the applicant should look at optimizing his current parking requirements or consider moving to a more appropriate site. It was counsel's submission that the testimony of the Town's planner was uncontradicted.

The Board prefers the evidence of the Town's planner and finds that the variances do not meet the general intent and purpose of the Town's Official Plan and Zoning By-Law with respect to the landscaping requirements and as such are not minor and not appropriate for the development of the subject property. The Town's has been quite accommodating and flexible in allowing an additional 9 parking spaces, which would impact on an already spartan landscaping situation. The Board finds that while the generation of employment is an important goal it must be viewed within the context of other OP policies such as encouraging a high quality of urban design in employment areas. The Board notes that a site plan will have to be submitted to the Town for approval for the 9 additional spaces.

**THE BOARD ORDERS** that the appeal is dismissed and pursuant to subsection 45(18) of the *Planning Act*, authorizes a variance to the subject ZBL to permit 9 additional parking spaces instead of the 13 parking spaces requested by the applicant subject to the same conditions as set forth in the Committee's decision as follows:

1. No parking spaces will be allowed on the existing landscaping in the southwest corner of the subject property and on the southeast corner with the exception of one additional parking spot.

So Orders the Board.

  
CHEE-HING  
MEMBER



COMMITTEE OF ADJUSTMENT

DECISION OF COMMITTEE WITH REASONS  
RE APPLICATION FOR MINOR VARIANCE

Planning Act, R.S.O. 1990, c. P.13, ss. 45(8)

APPROVAL AUTHORITY: THE CORPORATION OF THE TOWN OF ORANGEVILLE

RE AN APPLICATION BY: Robert Starr

LOCATION OF PROPERTY: Part of Block D, Registered Plan 116, designated as  
Part 1, Reference Plan 7R-2422  
71, 81 Centennial Road, 165 C Line

PURPOSE OF APPLICATION: The applicant is requesting a minor variance to permit parking in the front yard within the minimum 6 metre required landscape area and to permit parking in the exterior side yard within the minimum 3 metre required landscape area. The property contains three buildings which are used for industrial purposes.

WE, the undersigned, in making the decision upon this application have considered whether or not the variance requested was minor and desirable for the appropriate development and use of the land and that the general intent and purpose of the zoning by-law and the official plan will be maintained, or in the case of a change in a use of property which is lawfully non-conforming under the by-law as to whether or not this application has met the requirements of Section 45(1) of the Planning Act,


CONCUR in the following decisions and reasons for decisions made on the 3<sup>rd</sup> day of November, 2004.


THE REQUEST IS HEREBY **APPROVED WITH CONDITIONS**


THIS DECISION:


IF **APPROVED:** IS SUBJECT TO THE CONDITIONS AND FOR THE REASONS SET OUT ON PAGE TWO OF THE NOTICE OF DECISION OF THE COMMITTEE OF ADJUSTMENT.


IF **REFUSED:** IS FOR THE REASONS SET OUT ON PAGE TWO OF THE NOTICE OF DECISION OF THE COMMITTEE OF ADJUSTMENT.

  
Signature of Member

  
Signature of Member

  
Signature of Member

  
Signature of Member

  
Signature of Member

**CERTIFICATION**  
Planning Act, 1990, R.S.O. c. P.13, ss. 45(10)

I, Susan Lankheit, Secretary-Treasurer of the Committee of Adjustment certify that this is a true copy of the decision of the committee given on **November 3, 2004** with respect to the application recorded therein.

  
Susan Lankheit, Secretary-Treasurer  
Committee of Adjustment

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**THIS DECISION OR ANY CONDITION IS SUBJECT TO APPEAL TO THE ONTARIO MUNICIPAL BOARD BY FILING WITH THE SECRETARY-TREASURER OF THE COMMITTEE OF ADJUSTMENT A WRITTEN NOTIFICATION, GIVING REASONS FOR THE APPEAL, ACCOMPANIED BY A CHEQUE IN THE AMOUNT OF \$125.00 PAYABLE TO THE MINISTER OF FINANCE.**

Only individuals, corporations and public bodies may appeal decisions in respect of applications for minor variance to the Ontario Municipal Board. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group on its behalf.

**DATE DECISION MAILED:** NOVEMBER 5, 2004

**LAST DAY FOR APPEALING THIS DECISION:** NOVEMBER 23, 2004

**(Appeals must be received no later than 4:30 p.m. on the above date)**

**CONDITIONS:**

That the request for a minor variance to permit parking in the front yard within the minimum 6 metre required landscape area and to permit parking in the exterior side yard within the minimum 3 metre landscape area be approved, with the exception of the area containing the existing landscaping in the southwest corner of the property, and the existing landscaping in the southeast corner of the property with the exception of one additional parking spot to the east side of the centre driveway at 71 Centennial Road.

**REASONS FOR DECISION:** The variance as approved is considered minor in nature. It is the opinion of the Committee of Adjustment that the general intent and purpose of the Official Plan and Zoning By-law are maintained and the proposal is desirable for the appropriate development or use of the land, building or structure.