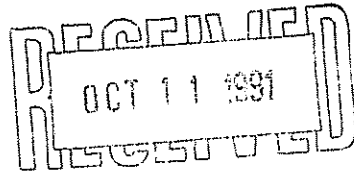


DB #	89	FOLIO #	147
ORDER ISSUE DATE			
OCT - 9 1991			
OB #	C40-2	FOLIO #	150



C 900910
V 900678
V 900679

Ontario

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF Section 52(7) of
the Planning Act, 1983

AND IN THE MATTER OF an appeal by
Joanne Bleasdale, Brenda Stephenson,
Dick Urekar and others from a
decision of the Committee of
Adjustment of the Town of
Orangeville whereby the Committee
granted, upon conditions an
application numbered B19/90 by Linda
Balde and Harold Balde, lands being
composed of Part of Lots 8, 9 and
10, Plan 217

AND IN THE MATTER OF Section 44(12)
of the Planning Act, 1983

AND IN THE MATTER OF an appeal by
Joanne Bleasdale, Brenda Stephenson,
Dick Urekar and others from a
decision of the Committee of
Adjustment of the Town of
Orangeville whereby the Committee
granted an application numbered
A-26-90 by Linda Balde and Harold
Balde for a variance from the
provisions of By-law 22-90, premises
known municipally as 21 Wellington
Street

AND IN THE MATTER OF an appeal by
Joanne Bleasdale, Brenda Stephenson,
Dick Urekar and others from a
decision of the Committee of
Adjustment of the Town of
Orangeville whereby the Committee
granted an application numbered
A-27-90 by Linda Balde and Harold
Balde for a variance from the
provisions of By-law 22-90, for
permission to extend or enlarge a
legal non-conforming use

C O U N S E L :

L. A. Hastings	- for	Linda and Harold Balde
H. H. Wright	- for	Ken Norris and Joanne Bleasdale

DECISION OF THE BOARD delivered by S.R. COLE
and ORDER OF THE BOARD

The applicants are the owners of an "L"-shaped lot which fronts
on Wellington Street and has its flankage on Parson Street. The

overall area of the lot is 1,043 square metres (11,227 square feet). It is proposed to sever and develop the north-south arm of the "L" which would have its frontage on Parson Street. That lot would have a frontage of 12.09 metres (39.76 feet) and a depth of 45.26 metres (148.5 feet) yielding an area of 547 square metres (5,888 square feet). The lot to be retained, on which exists a century home that is currently used as a duplex, will continue to have a Wellington Street frontage of 148.8 metres (48.6 feet) and a depth of 33.51 metres (110 feet) along Parson Street. The area of the retained lot will be 496 square metres (5,339 square feet).

The property is designated Residential by the Official Plan and is zoned R2-Residential Second Density.

Two variances are required in order for the applicants to achieve their goal. Firstly, the by-law requires a lot to have a minimum frontage of 15 metres whereas the proposed lot will have a frontage of 12.09 metres. Secondly, the by-law requires a minimum rear yard depth of 4.5 metres, subject to an encroachment therein of 0.6 metres resulting in an effective rear yard setback of 3.9 metres. The lot to be retained will have a rear yard of 3.04 metres in depth.

In relation to the latter variance the Board was satisfied that it is not necessary if the applicants were to move the 1 metre deep stairs leading from the ground floor patio at the rear of the dwelling from their current location on the east side of the patio to the south side of the patio. If the steps were to be so moved there would be a rear yard set back of 4.04 metres created versus the effective setback of 3.9 metres required. The applicants, on their own initiative, volunteered to relocate the stairs as described.

The principal concern of the appellants is to the creation of a new lot. That such a lot will have a smaller frontage than prescribed serves to increase their concern.

More specifically they voiced concerns in four distinct areas, namely:

a reduction in the amount of parking currently available on the subject site;

a loss of two mature trees in the rear of the lot to be created;

an obstruction of light, a loss of view and a concurrent loss in privacy; and

the construction of a home on an undersized lot which would be out of keeping with the character of the neighbourhood.

As to the first issue, the by-law requires 3 parking spaces for the duplex use and 1 parking space for the residence to be built. The Town's planner indicated that there is a more than adequate supply of parking. The applicant indicated that 3 spaces will be available on the retained lot and from 1-4 spaces are available on the lot to be severed depending on the site layout and the use of tandem parking. The planner called by the appellants, other than saying that the subject site currently has 5-6 parking spaces, made no reference to the question of parking.

It appears to the Board that the neighbours' concern about parking relates to the fact that Parson Street is a relatively narrow road that does not enjoy on-street parking during the winter months and that on-street parking is not permitted on Wellington Street at any time. These restrictions lead to an overflow parking problem which seemingly has been alleviated to some extent by persons other than the applicants and their tenant parking on the subject property.

The appellants have no obligation to continue to be the overflow value for the parking problems. They can and will provide enough parking to meet the by-law standard with respect to both lots. The Board therefore finds that the neighbours' concern in this regard is unfounded insofar as it is not one based upon sound planning grounds.

As to the loss of trees, neither planner voiced concern over this matter. In any event, the applicants have retained a landscape consultant whose unrefuted conclusion is that if several simple and common sense steps are followed both before and during construction, there is no reason to fear the loss of the two mature trees in the rear portion of the lot to be created. One tree, a spruce, located near the south-west corner of the new lot, i.e. in the front yard, will have to be moved prior to construction in order to save it and this the applicants have undertaken to do.

The applicants have accepted the imposition of a form of site plan control over the new lot. Usually, within the town, site plan control does not apply to low density residential development such as that proposed. By agreeing to be made subject to a form of site plan control, the question of the saving of the trees is no longer an issue. Similarly the provision of adequate parking can be ensured.

As to a loss of view, a diminution of light and a loss in privacy, the Board, without going into the questionable rights of neighbours in these regards, is satisfied that a form of site plan control will considerably obviate, if not totally eliminate, these perceived apprehensions.

The final concern as to the maintenance of the character of the neighbourhood was addressed not only by the one neighbour who testified, but also by a member of the Local Architectural Conservation Advisory Committee (LACAC) and by the appellants' planner.

There is no disagreement amongst any of the witnesses that the overriding characteristic of the neighbourhood is the age of the majority of its homes. While there are several newer bungalow-type homes, and several older homes whose external appearance is not in keeping with the historical aspect of the area, nevertheless the area is one marked by stability and on-going renovations.

LACAC is in the process of working toward having this part of the Town designated as a Heritage Conservation District. As of the spring of this year, LACAC through its planner had only begun to prepare the details that will have to be addressed by a consultant in a future study to consider whether such designation is appropriate. No consultant had yet been retained. The representative of LACAC indicated the Committee's willingness to work together with the applicants and the Town, if invited to do so, so as to ensure the continuing character of the neighbourhood. Whether it will be so invited is for the Town and the applicants to jointly determine.

The appellants' planner tied in the retention of the character of the area with the existence of lots having a minimum frontage of 15 metres (50 feet) by a depth of 46 metres (150 feet). The proposed lot falls short of his "typical" frontage by 3 metres (10 feet). When one examines his property map of the area it is to be noted that there is no typical lot frontage along Parson Street. Of the seven interior lots on the north side of Parson Street, where the dwelling to be built will be located, only one lot exceeds 15 metres, one has only 10 metres of frontage and the remaining five have slightly less than 15 metres of frontage. Of the seven interior lots on the south side of Parson Street only two exceed 15 metres with the remaining five ranging from 13.2 to 15 metres. In view of these variations in frontages, the Board cannot see how a lot having a frontage of 12.09 metres will result in the instability of the streetscape and thus be a negative influence as was urged upon us to find.

Section H7 of the Official Plan sets out the consent policies for land conveyances. The Town's planner stated and the Board agrees with him that the criteria of the Plan in this regard are satisfied by the application at hand. Firstly, both lots will have frontage on an existing public road of a reasonable standard of construction (Section H7.2). Secondly, the consent has the effect of infilling in an existing urbanized area (Section H7.3). Thirdly, that the size of the lot created is appropriate for the proposed residential use considering the public services available to it. (Section H7.4).

While Section H7.4 also refers to the lot size conforming to the zoning by-law, the Board accepts the Town's planner's view that the variance needed with respect to the frontage of the lot to be conveyed is minor and justifiable given its juxtaposition with respect to other lots on Parson Street which in his view will not be adversely impacted by the proper development of the lot.

The Board, having regard for the matters set out in Section 50(4) of the Planning Act, is satisfied that the application for consent to convey fulfils the principles of good planning and thus dismisses the appeals against the decision of the Committee of Adjustments in that regard. In hereby granting the application for consent to convey, the Board accepts the conditions imposed by the Committee as its own subject to the addition of the following conditions:

"That the applicants enter into an agreement with the Town of Orangeville pertaining to the siting of the house on the lot; the provision and maintenance of on-site parking facilities; the retention and relocation of existing trees as per the report of Whitfield Landscaping and Construction; and the relocation of the existing patio stairs to the south side of the patio, all to the satisfaction of the Town."

In view of the imposition of the condition pertaining to the relocation of the patio stairs, the application for a variance to the rear yard setback of the retained lot is no longer required and

accordingly, the Board allows the appeal (*Board's File No. V 900679*) in that regard and dismisses that application.

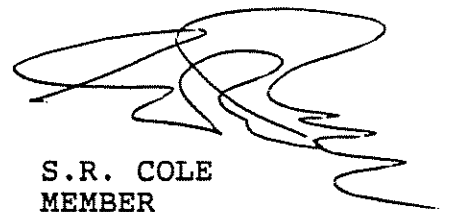
As to the variance sought with respect to the frontage of the lot to be created, the Board is satisfied for the reasons aforesaid that such an application is minor, maintains the intent and purpose of the Official Plan and the zoning by-law and is desirable for the appropriate development and use of the land to be conveyed. Accordingly, the Board dismisses the appeal with respect to this application (*Board's File No. V 900678*) and grants a variance from By-law 22-90 to permit the lot to be conveyed to have a frontage of not less than 12.09 metres.

The Board so orders.

DATED at TORONTO this 9th day of October, 1991.

"A.J.L.Chapman"

A.J.L. CHAPMAN
VICE-CHAIRMAN



S.R. COLE
MEMBER

NOTICE — The last day for appealing this decision is Sept. 14, 1990

Committee of Adjustment

DECISION OF COMMITTEE WITH REASONS RE APPLICATION FOR MINOR VARIANCE

Planning Act, 1983, c. 1, ss. 44 (8)

(a) Name of committee (a) Committee of Adjustment for the Corporation of the Town of Orangeville

(b) Name of applicant RE AN APPLICATION BY (b) Linda & Harold Balde

(c) Brief description LOCATION OF PROPERTY (c) Lot 10, Plan 217, Town of Orangeville, 21 Wellington St.

(d) As set out in application PURPOSE OF APPLICATION (d) Permission to extend or enlarge a legal non-conforming use by permitting a rear yard requirement of 3.04 metres (10.00 ft.) instead of the required 4.5 metres (14.76 ft.)

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 44 (2) of the *Planning Act*,

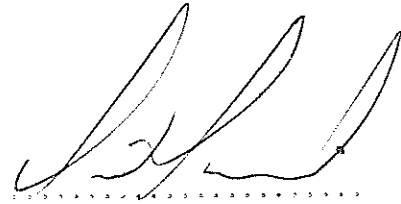
(e) of decision CONCUR in the following decisions and reasons for decisions made on the (e) 15 day of Aug. 1990

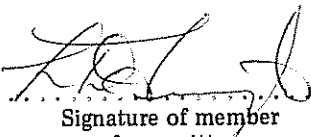
DECISION:

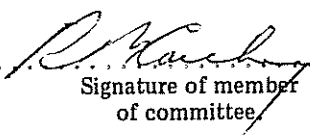
THAT the application by Harold and Linda Balde, 21 Wellington Street, Orangeville, for permission to extend or enlarge a legal non-conforming use on property described as Lot 10, Plan 217, Town of Orangeville, to permit a rear yard of 3.04 metres on property located at 21 Wellington Street, **BE GRANTED.**

(f) State conditions to be satisfied before granting of consent CONDITIONS — This decision has been made subject to the following conditions: (f)
None

(g) State reasons for decision REASONS FOR DECISION: (g)
The Committee felt that the request was in keeping with the area which already contains a number of older homes existing in legally non-conforming situations.


Signature of member of committee.


Signature of member of committee.

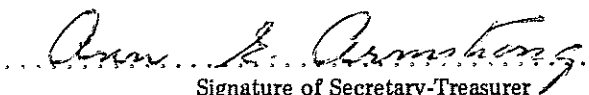

Signature of member of committee.

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Signature of member of committee. Signature of member of committee. Signature of member of committee.

CERTIFICATION
Planning Act, 1983, c. 1, ss. 44 (10)

I, Ann E. Armstrong

(h) Name of committee Secretary-Treasurer of the (h) Committee of Adjustment for the Corporation of the Town of Orangeville certify that the above is a true copy of the decision of the committee with respect to the application recorded therein.

Dated this 17 day of August 1990 
Signature of Secretary-Treasurer

WELLINGTON

SUBMISSION No. 27/90

STREET

$N 16^{\circ} 19' 30'' W$ (M)

48.57' (M)

48.51' (D)

181004E1

23.50'

21.09'

22.00'

3.15'

STONE
BRICK
2 STOREY

2

21.43'

FRAME 2 STOREY
FRAMF PORCH

4.35'

FRAME
CONC
BLOCK
1 STOREY
PORCH

20.83'

1.1'

0.2' S

Basement
Entrance

Cont
Stairs

PLAN

LOT

INST

MF112532

LOT

IB

N 66°

25' 40" E

109.89' (M A M)

LANE CLOSED

INST MF116231

149.54' (M)

$N 16^{\circ} 21' 30'' W$ 99.95' (M)

99.99' (D)

100.00' (D)

BF 10' N
0.4'E

148.50' (PL)

IB

37.95' (D)

39.69' (M)

BF

IB

H/O 0.7' N

INST

9

BR.F.M

8

$N 16^{\circ} 19' 30'' W$ (M)

148.50'

(D, PL & M)

LOT II

INST

MF 112373

217

PARSON STREET

LOT

10

19.71' (PL)

10.71' (M)

N: 2

N: 3

N: 4

N: 7

N: 9