

ISSUE DATE:

Oct. 06, 2008



PL080844

Ontario  
Ontario Municipal Board  
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Adring Norm
Applicant:	Peggy Drummond
Subject:	Minor Variance
Variance from By-law No.:	14.3
Property Address/Description:	38-40 South Maloney St
Municipality:	Municipality of Marmora and Lake
OMB Case No.:	PL080844
OMB File No.:	PL080844
Municipal No.:	A-MV2008-01

**APPEARANCES:**

**Parties**

**Counsel**

Peggy Drummond

Norm Arding

Township of Marmora and Lake

R. Ketcheson

**MEMORANDUM OF ORAL DECISION DELIVERED BY M. A. SILLS  
ON SEPTEMBER 24, 2008 AND ORDER OF THE BOARD**

This matter relates to an appeal by Norm Arding (the "Appellant") against the decision by the Marmora and Lake Committee of Adjustment which authorized minor variances, for property owned by Peggy Drummond (the "Applicant"), and municipally known as 38 – 40 South Maloney Street.

The subject property was formerly occupied by a 4-unit apartment complex which was destroyed by fire in January 2007. The former building has now been demolished and the Applicant proposes to construct four new free-hold townhouses in its' place. These town home units will be approximately 25 feet wide by 60-67 feet in length and

will contain a full basement and a single car garage. In order to proceed, the Applicant requires relief from Zoning By-law No. 2003-11 as follows:

1. to permit a lot frontage of 120 feet where the minimum lot frontage required is 196.9 feet
2. to permit a front yard setback of 25 feet where the minimum setback of 32.8 feet is required (deleted)
3. to permit a rear yard setback of 25 feet where the minimum setback of 32.8 feet is required (deleted)
4. to permit a lot coverage of 45% where the maximum lot coverage permitted is 30%

The municipality advised the Board that a recent discovery of By-law No. 2006-10, which is a By-law to amend By-law 2003-11, results in no front yard or rear yard setback relief being required. Accordingly, the application has been amended to reflect the deletion of variance 2 and 3. Since the amendment is minor, the Board finds that no notice is required and the hearing can proceed.

**The Planning Evidence:**

Mr. John Walsh, a municipal planner for the County of Hastings, gave expert evidence in support of the application.

The planner told the Board that the subject lands are currently zoned MR (Multiple Residential), which permits townhouses, and designated Urban in the County of Hastings Official Plan. The subject property, which is currently vacant, is located within an established settlement area.

It was the evidence of the planner that the proposed development conforms to the general intent of the OP which permits townhouse units in Urban Residential areas. He said this area consists of low-density residential development and South Maloney Street if fully built-out with the exception of the subject property and one other vacant

site. He contends that the proposed housing form is under-represented in this community and this development will provide an infilling opportunity which enhances the housing stock, while making good use of existing infrastructure. It is his opinion that this proposal is consistent with infilling and intensification policies of the Provincial Policy Statement, and promotes the development of a mix of housing types.

Mr. Walsh testified that the built form of the proposed townhouses is compatible with the general residential character of this area. He said the marginal degree of increased building mass being requested is mitigated by the lower building height (one-storey). The former apartment complex was a one-and-a-half story building while most of the residential dwellings in this neighbourhood are one-storey structures. It is Mr. Walsh's opinion that the proposal represents a preferred form of intensification and provides a supply of housing form that is needed in the community.

Mr. Walsh contends that the proposed development is a permitted use which conforms to the general intent of the zoning by-law. He said the required parking provisions are met and the front, rear and side yard depths and width are similar to those of adjacent properties. He testified there are no impacts to neighbouring properties, the variances are minor, and the proposal represents good land use planning.

The planner opined that he is satisfied the proposal satisfies the provisions set out in section 45(1) of the *Planning Act*, subject to a condition that the Applicant submits a drainage report to the satisfaction of the Council of the Municipality of Marmora and Lakes.

**Concerns of the Appellant:**

The Appellant resides at 25 South Maloney Street which is directly across the road from the subject property. Mr. Arding was not represented by counsel and did not call any professional witnesses.

Mr. Arding outlined a number of concerns resulting from the proposed development including increased on-street parking, reduced water pressure,

inconsistent street numbering and increased noise. He told the Board that South Maloney Street is a narrow road with deep side ditches which already experiences difficulties with respect to vehicle travel and snow ploughing during the winter months. He is concerned that the proposed townhouses will not be able to provide the required two parking spaces per unit, forcing the occupants to park on the public road allowance. He contends the water pressure on this street is already inadequate and the proposed development will put further pressure on this system. And finally, he is concerned that the street numbering for the new townhouse units will not be consistent with the rest of the homes on the street.

**Analysis and Disposition:**

The Board accepts and relies on the uncontradicted professional planning evidence of Mr. Walsh to find that the variances are both minor and appropriate, and comply with the general intent and purpose of the Official Plan and Zoning By-law as required under section 45(1) of the *Planning Act*.

The proposed townhouses will fill a vacant property previously occupied by a residential complex, located within an essentially fully developed neighbourhood. This proposal encourages infill development that compliments the residential nature of this area and makes efficient use of existing infrastructure.

The Board found the concerns of the Appellant to be for the most part, both irrelevant and unsubstantiated. The planner told the Board the proposal meets the parking requirements of the zoning by-law, and there is no reason to believe that the new residential units will contribute to increased on-street parking any more than the existing homes would. There was no evidence presented to support Mr. Arding's contention that the water pressure would be significantly altered by the additional development, and there is no reason to expect that noise levels in the neighbourhood would be increased by the future occupants of the four townhouses. The issue related to the municipal street numbering is not a matter which is within the purview of this Board Member.

The Board is satisfied that the proposed development represents good land use planning and will not create any adverse impacts for the neighbours or the neighbourhood.

THE BOARD having been asked to consider an application which has been amended from the original application, and the Board having determined as provided for in subsection 45(18.1.1) of the *Planning Act* that no further notice is required;

THE BOARD ORDERS that the appeal is dismissed and the variances, to By-law 2003-11, as amended are authorized subject to the following condition:

1. that the Applicant provide a stormwater management report to the satisfaction of the Municipality of Marmora and Lake.

The Board so Orders.

“M. A. Sills”

M. A. SILLS  
MEMBER