

ISSUE DATE:

**July 27, 2009**



PL090073

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

IN THE MATTER OF subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Contractors Consulting Services Limited  
Subject: Consent  
Property Address/Description: 293 Fiddlers Green Road  
Municipality: City of Hamilton  
OMB Case No.: PL090073  
OMB File No.: PL090073  
Municipal No. B-114/08

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

Applicant and Appellant: Contractors Consulting Services Limited  
Subject: Minor Variance  
Variance from By-law No.: 87-57  
Property Address/Description: 293 Fiddlers Green Road  
Municipality: City of Hamilton  
OMB Case No.: PL090073  
OMB File No.: PL090316  
Municipal No. A-35/09

**APPEARANCES:**

**Parties**

Contractors Consulting Services Limited

City of Hamilton

**Counsel**

N. Smith

M. Kovacevic

**Participants**

Murray Smith

Michael Carlton

**DECISION DELIVERED BY M. A. SILLS AND ORDER OF THE BOARD**

This is an appeal by Contracting Consulting Services Limited (Applicant/Appellant) from a decision of the Committee of Adjustment for the City of Hamilton (COA) which refused an application for Consent to Sever the lands located at 293 Fiddlers Green Road within the former Town of Ancaster, now the City of Hamilton. An application for an associated variance from Zoning By-law No. 87-57 was also denied, and subsequently appealed. The appeals have been consolidated for the purposes of this hearing.

The subject property has a frontage of 30.48 metres and a lot depth of 68.56 metres for a total lot area of approximately 2090.2 square metres. The Applicant proposes to sever an "L" shaped parcel of land having a frontage of 12.08 metres, a lot depth of 68.58 metres and a lot area of 1395 square metres, for the purpose of constructing a new single family residential dwelling. The retained land parcel, which contains an existing single family dwelling, is proposed to have a frontage of 18.4 metres, a lot depth of 37.78 metres and a lot area of 695 square metres. The subject lands were created as Lot 2 through Registered Plan No. 831, known as the Maple Lane Survey, which was established in the 1950's. In order to facilitate the severance and permit development of the proposed retained parcel, the Applicant requires approval for the following minor variance:

- to permit a lot frontage of 12 metres where a minimum lot frontage of 18 metres is required

Fiddlers Green Road is an arterial roadway equipped with sidewalks/bike paths, which exits onto Highway 403 to the south and connects to Wilson Street, also an arterial road, to the north. The west side of the road was developed through a separate plan of subdivision and contains curbs and gutters. The east side of this road consists of a semi-rural cross section with open ditches and no sidewalks. The lotting pattern and fabric in this area is comprised of predominately rectangular shaped lots. The subject property forms part of a six parcel formation of equal sized lots abutting each other; one on either side of the subject parcel, with the remaining three lots presenting a mirror image pattern onto Mapledene Drive to the rear. While the area consists of mostly single detached homes, there are some medium density and commercial developments in the neighbourhood including a Retirement Home/Residential Care

Facility and a seventeen unit residential townhouse. The severance application was first before the COA in October 2008 at which time it was deferred to permit an opportunity for the Ward Councillor's office to attempt to set up a neighbourhood meeting to discuss the concerns of local residents. However, the Applicant was advised the area residents indicated they did not wish to meet as their position remained the same and they were prepared to await the committee decision.

At the request of the parties, this Member was escorted by counsels Smith and Kovacevic on a site visit and neighbourhood tour.

At the commencement of the proceedings Mr. Murray Smith and Mr. Michael Carleton requested, and were granted, Participant status.

Mr. Smith, the abutting property owner to the south, made a submission to the Board with respect to the concerns of local residents who signed the petition opposing the severance application. He testified that the Maple Lane Survey neighbourhood is characterized by single family homes, almost all with a similar orientation to the street. He said these properties have generous frontages and contain mature trees which provide shade and privacy and serve as windbreaks. The Board was referred to a petition signed by 90 local residents opposed to the severance application. Their specific concerns can be summarized as loss of privacy, drainage, increased density, deficiencies with respect to Zoning By-law standards and pending negative impacts on the streetscape and the character of the neighbourhood.

Mr. Smith said the development proposal is not in keeping with the existing character of this neighbourhood which consists of properties with large frontages, mature trees and a country-like setting close to the amenities of town. He submitted that severing this lot and placing an additional single family residence on the site will minimize privacy, reduce the enjoyment of rear yard amenity space for the occupants of abutting properties, and double the intensity of the lot. Mr. Smith submitted that "the more people you put in an area, the more the risk of crime". He told the Board the proposed new dwelling will appear to be in his backyard and interfere with the passive recreation use of his rear amenity space.

The Board was provided with written submissions from Pino and Sherry Lauretani who reside at 292 Mapledene Drive, and Ms Beth Goodger who resides at 32

Ravina Crescent. The Lauretani's property is located directly behind the subject lands and their concerns include loss of privacy, water drainage onto their property, and the potential loss of mature trees on the boundary line separating the properties. Ms Goodger resides at 32 Ravina Crescent which is northwest of the subject site. Although her property is separated from the subject lands, she submitted the severance would result in significant impacts to adjoining neighbours and change the character of the neighbourhood.

Mr. Michael Carleton resides at 292 Fiddlers Green Road which is directly across the street from the subject property. He told the Board his main objection is that approval of this application would set a precedent with respect to lot severances and permit "a house behind a house" development scheme. He testified that he likes this neighbourhood as it is and he is concerned that the applicant may have already removed trees.

### Planning Evidence

The Board heard evidence from professional planners Mr. Stephen Fraser on behalf of the Applicant, and Mr. Alvin Chan on behalf of the City. Municipal planner Kate Mihaljevic appeared under summons by the Applicant. All three planners were qualified by the Board.

Ms Mihaljevic, who has been employed as a planner by the City of Hamilton since September 2008, prepared the planning reports dated October 16, November 20, and December 11, 2008. The content of the first two reports confirm Ms Mihaljevic's opinion that the subject development proposal "is consistent with the principles and policies of the Provincial Policy Statement (PPS) and conforms to the policies of the Hamilton-Wentworth OP. These reports further outline that the Town of Ancaster OP encourages intensification, "where appropriate, on the basis that new development will complement the established development considering, but not limited to, lot frontages, privacy and overview". She was of the opinion the proposed severance will ultimately allow the construction of a single family dwelling that will be in conflict with the intent of the Ancaster Official Plan. She submitted the proposed severance would result in a

retained parcel that would be smaller in size than any other lot in this neighbourhood and would be the only “L” shaped lot containing a family dwelling in this neighbourhood.

It is to be noted that the December planning report reflects a reversal in planning staff comments with respect to conformity with the Hamilton-Wentworth Regional OP. This report states that the subject lands are not located in a Municipal or Regional Centre, which are areas where mixed use and innovative housing is directed. It was the opinion of planning staff that as this area of Ancaster does not support the proposed severance, the development proposal does not represent the general intent of the land use policies of the Regional OP. In explanation of this change in opinion, Ms Mihalijevic testified that “she provided more detailed comments” in the December report “as a result of further details supplied by the Applicant”.

The Board was told that it is the City’s position that a minor variance for lot area is required for the retained parcel as a result of the requirement for road widening.

Mr. Stephen Fraser was retained by the Applicant in July 2008 for the purpose of exploring the potential for severing the subject property. He provided opinion evidence with respect to the proposal’s conformity with applicable municipal and provincial planning policies and recommended approval of the severance and minor variance.

Mr. Chan countered that the severance fails to satisfy the criteria of the residential intensification and lot creation policies of the former Town of Ancaster Official Plan, and is contrary to the criteria outlined in subsections 51(24) and 45(1) of the *Planning Act*. Accordingly, it is his opinion the applications should not be approved. In the alternative, the City is requesting that approval of the severance be subject to the conditions set out in Exhibit 7.

Both planners proffered opinion evidence with respect to their review of the proposal in accordance with municipal and provincial planning policies, including the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe, the Region of Hamilton-Wentworth Official Plan, the Town of Ancaster Official Plan, the Town of Ancaster Zoning By-law, and subsections 51(24) and 45(1) of the *Planning Act*.

It is to be noted that for the purpose of his review of the subject applications, Mr. Chan has defined the “Neighbourhood”/general area as all the properties within the boundary

lines of the Maple Lane Survey only. He submitted these lots are most representative of the large established single family dwelling lots with large rear yard amenity areas which make up the development pattern of this area. It was his opinion that the two other subdivisions on either side of Fiddlers Green Road should not be considered as they are of “a different character”.

#### Provincial Policy Statement (PPS)

The parties agree that the proposal represents intensification through an infill development and is consistent with the principles and policies of the PPS.

Mr. Fraser submitted that in accordance with Policy 1.1.3.1 to 1.1.3.8, the proposal promotes an opportunity for redevelopment, intensification and revitalization in an area with existing and planned infrastructure.

Mr. Chan argued that while the proposed severance and variance are consistent with the general policies under the “Settlement Areas” section, it is the local planning authorities who shall identify and promote opportunities for intensification (Policy 1.1.3.3). He submitted that notwithstanding that intensification is a prime goal and directive of the City of Hamilton, such development must be reviewed against several criteria including the appropriateness of the area for development (Policy 1.1.3.5) and it is the local planning documents and policies, in particular the municipal OP, which are the primary vehicle in implementing these policies (Policy 4.5). In this regard, it is the municipality who has the authority to establish intensification areas and provide direction on growth. He said the subject property is not located in an area identified in the City of Hamilton Growth Related Integrated Development Strategy (GRIDS).

#### Growth Plan for the Greater Golden Horseshoe (Growth Plan)

Mr. Fraser opined that facilitating and promoting intensification is the paramount theme in the Growth Plan and Policy 2.2.3.6 e) mandates municipalities to “recognise, urban growth centres, intensification corridors and major transit station areas as a key focus for development to accommodate *intensification*”. He said Fiddlers Green Road is

an arterial roadway with existing public transit and bike lanes and “Arterials” are classified as being intensification corridors in the Growth Plan. Mr. Fraser then referred the Board to Policy 2.2.3.3.6 g) which recognises that the scale and type of development must be appropriate. In this regard, he contended that the proposed “flag” shaped lot scenario is identical to the adjacent lands located at 280 Fiddlers Green Road which is almost directly across the street from the subject property. This property contains a 17-unit townhouse with a single vehicular driveway entrance off of Fiddlers Green Road. Mr. Fraser contended the driveway frontage of this property is of a size similar to that which is being proposed for the subject property. He opined the proposed single detached lot/dwelling is of a scale consistent with the surrounding area. It was his opinion that the proposal supports the Growth Plan as it directs new growth to a built up area, it optimizes the use of existing infrastructure to support new growth which is compatible with the neighbourhood, and it promotes use of existing public transit services along an intensification corridor.

Mr. Chan submitted that while the Growth Plan clearly promotes intensification, it leaves the implementation of this requirement to individual municipalities. It was his opinion that in this instance, the criteria established by the former Town of Ancaster Official Plan have not been met. He said if the envisioned density for this area is to change, it should be done by City Council only after a comprehensive review of its growth strategy is established in the Official Plan. Mr. Chan does not agree that all arterial roads are intensification corridors; rather, he contended that intensification corridors have to be identified by the municipality and the subject property is not within the area which has been targeted for intensification.

#### Region of Hamilton-Wentworth Official Plan (OP)

The subject lands are designated “Urban Area” in the Regional OP; lands so designated are intended to accommodate 96% of the new residential housing in the Region to the year 2020.

Mr. Fraser submitted that Policy 3.1.1 acknowledges that a compact higher density urban form is the preferable form of development. He said that the OP permits severances only where municipal services are available (Policy 8.1.1) and requires that

severed parcels on arterial roads can accommodate a driveway that has safe site distances (Policy 8.2.3), both of which he said are achieved through this severance application. In response to City planning staff's position with respect to intensification within "Municipal" and/or "Regional Centres", Mr. Fraser argued that Policy 3.1.2.3 f) sets out that these areas are not the only locations in the urban boundary for residential growth. He submitted the Urban Area policy framework of the Regional OP is to encourage and accommodate infill development on vacant/under-utilized land where services exist and where viable transit options are available within the urban boundary. He opined the subject consent application meets all of these criteria.

Mr. Chan submitted that similar to the PPS, the Hamilton-Wentworth OP is a regionally based planning document which provides broad level planning policies in governing the "Urban Area". Section C-3 of this Plan states that the Region shall utilize the Area Municipal Official Plan to better define urban areas by incorporating municipal-wide growth management strategies consistent with the Regional OP. In this regard, it was his opinion that the Hamilton-Wentworth defers to the Town of Ancaster OP as the implementation vehicle whereby policies and strategies regarding residential lot creation are to be provided.

#### Town of Ancaster Official Plan (OP)

The subject lands are designated "Residential" on Schedule "B" of the former Town of Ancaster OP, which permits single-detached residential dwellings.

Mr. Fraser told the Board there are specific OP policies which allow for certain conditions to be imposed on consent applications that are reasonable and relevant. Specifically, Policy 7.7.1.4 ii) allows for approval of a zoning by-law amendment or minor variance to implement a severance. Mr. Fraser submitted that the very inclusion of this subsection emphasizes how common it is that a variance is needed to implement a severance and the applicable policies of the OP. He opined that approval of the severance and minor variance applications will not change the functionality of the property as it exists today. The existing dwelling has a driveway which recently received an access permit from the City and the proposed severed property also has an existing driveway that previously provided access to the existing home. He opined the



subject severance and minor variance applications maintain the general intent of, and conform to the OP; the proposal is an ideal form of intensification as the retained and severed single detached lots are currently a permitted use, the subject lands have access to municipal services, the lots intended are infill development of a size that is generally in keeping with the neighbourhood, and, with the exception of the requirement for approval of one minor variance for lot frontage, the proposed development meets the area requirements and other regulations of the existing Zoning By-law.

Mr. Chan concurred that the "Residential" designation permits both the retained existing residential use and the proposed residential use on the severed parcel. However, he told the Board that Development Engineering staff identified conflicts with Policy 3.3.5 which effectively only permits new development to occur once an adequate storm sewer outlet is available. Mr. Chan argued the proposed lots do not satisfy the criteria for lot creation (Policy 4.4.14), particularly subsections (iii), (v) and (vi). He said that while all the existing lots within the Maple Lane Survey exceed the minimum lot frontage standard of the Zoning By-law, the proposed severed lot will require a reduction, which will result in the severed parcel having the smallest frontage of any home within the neighbourhood. He said the Zoning By-law provides minimum lot frontage performance standards in order to ensure that the fronts of dwellings are oriented towards the street and have a reasonable degree of street presence. He argued the proposed severed parcel would have no connection with the street or public realm as the legal street frontage in this lot pattern would be the existing driveway. He said if the proposed severed parcel was developed, it would establish a dwelling in the rear yards of adjoining parcels and result in a "house behind a house" relationship, which is out of character with the homes in the local area. He submitted that properties in this neighbourhood have an average frontage of 27.15 metres with the smallest existing lot frontage being 21.5 metres and the largest frontage being 58.3 metres. The approval of the severance would further result in the retained parcel being the smallest lot in a neighbourhood made up of properties with an average lot size of 1349.49 square metres. Likewise, the current proposal would result in the retained parcel having a lot coverage of 23% which is well beyond the current largest in this neighbourhood at 19%. He contended the proposed severance would constitute a major change to the lotting pattern in this area which consists of backyard to backyard development. The proposal would introduce a development pattern whereby a home is placed in an existing rear

yard. Mr. Chan told the Board this neighbourhood is a well defined plan of subdivision that has remained intact over the years. The introduction of this lot shape and form of residential intensification could be applied to a minimum of ten other lots within this area and effectively destabilize this neighbourhood. Based on the foregoing, it was his opinion that the proposal also fails the "Residential Intensification" criteria (Policy Section 4.4.10). While Mr. Chan conceded that there are two other "L" shaped properties in the vicinity of the subject lands, he said these are unique developments in that they undertook some form of a fully comprehensive development planning application. Lastly, Mr. Chan submitted the building envelope of the home proposed for the severed parcel has the potential to raise several setback, privacy and overview issues.

#### Town of Ancaster Zoning By-law

The subject lands are zoned Existing Residential "ER" Zone in Zoning By-law 87-57 and each lot has zoning standards requiring a minimum lot area of 695 square metres and minimum lot frontage of 18 metres.

Mr. Fraser submitted the 12.0 metre frontage for the proposed severed lot will function as an access driveway only and this driveway currently exists. He opined this reduced lot frontage will have no impact on the neighbouring streetscape as the property lines are invisible from the street and the proposed new dwelling will be set back away from Fiddlers Green Road. Mr. Fraser does not agree with the City's position that the required dedication of land for road widening will result in the necessity for approval of a minor variance with respect to lot area of the retained parcel. In support of his contention in this regard, Mr. Fraser referred the Board to subsection 7.3 of the Ancaster Zoning By-law.

Mr. Fraser said, as is typically the case, the design for the proposed new home will not be completed until after approval of the required severance. He contended that as site plan approval will be required, setbacks, lot coverage, building height and massing, can and will be effectively dealt with during this process. In response to Mr. Chan's evidence respecting the potential lot coverage of the severed parcel, Mr. Fraser

testified the maximum build out of the subject property would result in a 31.1% lot coverage which is well below the maximum 35% permitted.

Mr. Chan submitted the Existing Residential “ER” Zone was implemented in order to recognize the existing built form. He said the proposed severed parcel is deficient with regards to lot frontage, and may, if built to the limits of current yard provisions, exceed the maximum permissible lot coverage of 35%. Additionally, Mr. Chan told the Board that as the retained lot has not accounted for the required road widening, it is the City’s position that a variance permitting a reduction in lot area for the retained parcel would be required. He further submitted that although it appears the proposed front yard setback will comply, further details are required to confirm such.

Subsection 51(24) of the *Planning Act*

It was Mr. Fraser’s professional planning opinion that the proposed severance, subject to conditions, has regard to the relevant criteria in subsection 51(24) of the *Planning Act*, which in this instance is 51(24) (b), (c), (d), (e), (f), (g), (i) and (j). He said the conditions of severance approval proposed to be imposed on this application assist in ensuring regard will be given to the applicable provisions outlined in this section of the *Planning Act*. Specifically with respect to subsection (f) Mr. Fraser submits that the dimension and shape of the lot is not new to the area. He submitted that existing “flag shaped” lots, with much more intense land uses, within close proximity to the subject lands have functioned well within the neighbourhood. He opined that the shape of the lot, albeit unique, maintains regard for the public health, safety, convenience, accessibility and welfare of present and future inhabitants of the former Town of Ancaster.

Mr. Chan is of the opinion that the proposal is contrary to the criteria for the subdivision of land, in particular sub-policies (b), (c), (d) and (f) as follows:

- (b) the proposal is premature as the Applicant did not account for the required road widening which will result in a lot that does not comply with the minimum lot area. He said the proposal is not in keeping with the character of the neighbourhood and is not in the

public interest. Approval of the severance would result in a different development pattern which is not in keeping with the character of the neighbourhood and could have undue impacts on adjoining parcels.

- (c) the proposal fails to meet the applicable lot creation and residential intensification policies of the Regional and local OP's.
- (d) the inclusion of an "L" shaped lot could destabilize the neighbourhood whereby a minimum of 10 additional lots are capable of a similar form of severance.

The proposal could create privacy and overview issues and there are significant engineering concerns with respect to the severed parcel. It also fails to meet the residential intensification criteria of the local OP which is provided to help guide this form of development to suitable locations.

- (f) the proposal is not in keeping with the lot frontages, lot areas, and lot shapes or the development pattern of other properties within the general area and would likely impact the enjoyment of rear yards of adjoining parcels.

Subsection 45(1) of the *Planning Act*

It was Mr. Fraser's opinion the proposed variance will not result in any adverse impacts on adjacent uses as the driveway already exists, the existing mature trees will act as a privacy barrier and the proposed dwelling can meet all setback regulations of the zoning by-law with the exception of a slight variance in frontage for the proposed severed lot. He opined the proposed variance is minor in nature, it maintains the general intent and purpose of the Official Plans and Zoning By-law. The proposed development is an appropriate use of the land in that it will permit the development of a single-detached dwelling which is a permitted use and a desirable development of the property.

It is Mr. Chan's opinion that the requested variance fails all four criteria set out in subsection 45(1) of the *Planning Act*. The proposal is contrary to the lot creation and residential intensification policies of the Town of Ancaster Official Plan, and the proposed frontage is inconsistent with the intent and purpose of the Town of Ancaster Zoning By-law. He opined that as a result of the conflicts with the existing character of the neighbourhood and the potential for adverse impacts to neighbouring properties, the variance is not minor in nature and the proposed development is not a desirable development of the property nor does it represent good planning.

### Disposition

The Board has reviewed the case law submitted and given careful consideration to the *viva voce* and documentary evidence of local residents and professional planners, and the arguments of counsel.

Mr. Fraser and Mr. Chan undertook an extensive review of several municipal and provincial planning documents and proffered substantial opinion evidence in support of their respective positions; both planners presented arguments worthy of consideration. However, having considered all of the evidence, the Board finds the proposed lots are not consistent with the development pattern of the existing neighbourhood, the proposal does not respect the existing character of the neighbourhood and the proposed development does represent appropriate land use planning.

The planners agreed that the proposal fundamentally supports and encourages the planning objectives and principles of the Provincial Policy Statement and the Growth Plan; there is no doubt that the proposal represents intensification through an infill development within an urbanized area. However, the Board cannot make a determination of the planning merits of the application based solely on the proposal's endorsement of, and compliance with, the planning directives set out in the Provincial Policy Statement and the Growth Plan. In order to give regard to all the applicable criteria set out in subsection 51(24) of the *Planning Act*, it is incumbent on this Member to conduct a thorough review of the correlative relationship between Provincial planning directives and the planning policies/documents of the local municipality. On the evidence presented, the Board finds the size and configuration of the proposed lots fail

to achieve a fit with the pattern of development in the existing neighbourhood and undermines local Official Plan policies related to the character of the local area. Consequently, the Board is not satisfied that the proposal meets the requirements of the lot creation policy, nor does it give proper regard to the criteria set out in subsection 51(24) of the *Planning Act*.

Specifically, the Board considered the provisions for consent as set out in the Lot Creation policy, subsections (v) and (vi), of the Ancaster Official Plan, which states:

- *4.4.14 The subdivision of land, in the area designated Residential by this Plan, shall be predominately by means of a Registered Plan of Subdivision in accordance with the Planning Act. However, the creation of new Residential lots by means of “metes and bounds” conveyances, through the Consent of the Regional Land Division Committee may be considered provided:*

(v) *The proposed lots are of a shape consistent with the existing lots in the general area*

(vi) *The proposed lots are of a size consistent with the existing lots in the general area and in accordance with the appropriate regulations of the Zoning By-law*

During the course of his evidence, Mr. Chan placed much emphasis on the overriding authority of the Town of Ancaster Official Plan, particularly with regard to the residential intensification and lot creation policies. He argued that as the subject lands are not within an area targeted for intensification purposes, permission to divide the property should not be granted. He proffered evidence in support of his contention that the proposed lots are inconsistent with the shape, size, and frontage of other lots in the general area and are incompatible with the character of the neighbourhood. Mr. Fraser on the other hand, submitted that there are other “L” shaped lots in the vicinity of the subject lands, one of which contains a lot frontage similar to that which is being proposed by the subject application. Although, I do not accept Mr. Chan’s notion that the local area can be defined by only and entirely, by the properties contained within the Maple Lane Survey, in reviewing the map found at Tab G (Exhibit 2), it is not difficult to see that the size and configuration of the proposed lots represent a substantial

departure from the existing lotting pattern for single family residential properties. In particular, unlike the established pattern of development, the reduced frontage of the severed lot would result in a home having very limited, if any street presence. It is worthy of note that after viewing the actual property during the site visit, the Board has no doubt that the proposed severed lot would be of a size able to accommodate the construction of a new home which could meet the setback, lot coverage, height, and massing standards of the existing Zoning By-law. And while local residents, particularly adjoining neighbours Mr. Smith (south) and Mr. and Mrs. Lauretani (rear), had concerns with respect to potential loss of privacy and water run-off, there was no conclusive evidence before the Board to support that these impacts would occur as a result of the proposed severance and minor variance. In fact, the Board heard the Applicant could legally tear down the existing home and construct a new dwelling, as-of-right, on the exact probable building envelope proposed for the severed parcel. The Board agrees with Mr. Fraser that municipalities and local residents must adapt and accept change in order to deal with population growth and implement the guiding principles of Provincial planning policies. The Board does not accept Mr. Chan's contention that only those areas specifically identified by the municipality are to be considered for intensification purposes. The directives of the Growth Plan cannot be interpreted so rigidly as to exclude infilling/intensification or redevelopment in areas that have not been "targeted" for such by municipal planning authorities. Other opportunities for intensification can and should be considered where the area can accommodate such redevelopment, provided it is consistent with the character of the neighbourhood. However, in this instance the proposal fails to respect the character of this neighbourhood. The proposed lot frontage (severed parcel), lot configuration (severed parcel), and lot area (retained parcel) all contribute to introducing land parcels which would not be consistent with other single family residential properties in the local area. Mr. Chan submitted the "local area" consisted of only the properties within the Maple Lane Survey only, while Mr. Fraser used a much broader planning area. The Board found that neither of these scenarios presented an appropriate cross-section for the purpose of defining "the neighbourhood". The subject property is part of a subdivision which was developed in the 1950's as a rural residential area, while the adjoining subdivisions to the north and west were developed as urban residential areas. The subject lands are located at a point where the "country" essentially meets the "City". This presents a bit of a unique situation whereby the size and configuration of the lots on the east side of Fiddlers

Green Road are somewhat larger than the lots on the west side of the street. The Board finds that the neighbourhood is more appropriately defined as all the properties within a two block radius of the subject lands. As stated previously, it is evident that the proposed retained parcel would be the smallest lot in this neighbourhood while the severed parcel would have the smallest frontage. The change in character resulting from the severance of this lot is intensified by the fact the property is situated within a uniform six block pattern. The Board further finds that the proposed severance would serve to destabilize this older, low density neighbourhood by creating a new lot configuration and dwelling siting that are out of step with the established lot fabric of the neighbourhood. In conclusion, the Board finds the severance application fails to meet the requirements of subsection (v) and (vi) of the lot creation policy set out in the Ancaster Official Plan and does not give proper regard to subsection 51(24) (f) of the *Planning Act*. For the reasons previously stated, the requested variance does not meet the criteria set out in subsection 45(1) of the *Planning Act*.

THE BOARD ORDERS the appeals are dismissed, provisional consent is not to be given and the variance is not to be authorized.

So Orders the Board.

“M. A. Sills”

M. A. SILLS  
MEMBER