

ISSUE DATE:

Apr. 1, 2011



PL100600

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Roxanne Widdicombe
Subject: By-law No. 2010-66
Municipality: City of Niagara Falls
OMB Case No.: PL100600
OMB File No.: PL100600

APPEARANCES:

Parties

City of Niagara Falls

Kevin Novak

Roxanne Widdicombe

Counsel

Ken Beaman

DECISION DELIVERED BY J. E. SNIEZEK AND ORDER OF THE BOARD

The City of Niagara Falls (the "City") proposed to rezone the manse of the Main Street Baptist Church from Institutional to R2 Residential in order to sell the former manse as a detached dwelling. Ms Roxanne Widdicombe appealed the rezoning to R2 that permits single detached, semi detached and duplex dwellings.

As part of a settlement reached with Ms Widdicombe, the City now proposes to rezone the manse as R1E. The amended By-law No. 2010-66 is attached to the Minutes of Settlement (Exhibit 1). Mr. Herlovitch, the Director of Planning, Building and Development for the City, testified that the revised by-law conforms to the Official Plan and represents good planning.

The Board finds that the revised by-law represents good planning based upon the uncontested testimony of Mr. Herlovitch and the appeal is allowed in part.

THE BOARD ORDERS that the appeal against By-law No. 2010-66 of the City of Niagara Falls is allowed in part, and the Board directs the Municipality to amend the by-law in accordance with Schedule A to the Minutes of Settlement and attached hereto as Attachment "1" to this Order. In all other respects, the Board Orders the appeal is dismissed.

So Orders the Board.

"J. E. Sniezek"

J. E. SNIEZEK
MEMBER

ATTACHMENT "1"

SCHEDULE "A" TO THE MINUTES OF SETTLEMENT

CITY OF NIAGARA FALLS

By-law No. 2010-66

A by-law to amend By-law No. 79-200, to recognize the existing dwelling on the Lands.

THE COUNCIL OF THE CORPORATION OF THE CITY OF NIAGARA FALLS ENACTS AS FOLLOWS:

1. The Lands that are the subject of and affected by the provisions of this by-law are described in Schedule 1 of this by-law and shall be referred to in this by-law as the "Lands". Schedule 1 is a part of this by-law.
2. The purpose of this by-law is to amend the provisions of By-law No. 79-200, to permit the use of the Lands in a manner that would otherwise be prohibited by that by-law. In the case of any conflict between a specific provision of this by-law and any existing provision of By-law No. 79-200, the provisions of this by-law are to prevail.
3. Notwithstanding any provisions of By-law No. 79-200 to the contrary, the following uses and regulations shall be permitted uses and regulations governing the permitted uses on and of the Lands.
4. The permitted uses of the Lands shall be the uses permitted in a R1E zone.
5. The regulations governing the permitted uses shall be the regulations specified for an R1E use.
6. All other applicable regulations set out in By-law No. 79-200 shall continue to apply to govern the permitted uses on the Lands, with all necessary changes in detail.
7. No person shall use the Lands for a use that is not a permitted use.
8. No person shall use the Lands in a manner that is contrary to the regulations.
9. The provisions of this By-law shall be shown on Sheet C5 of Schedule "A" of By-law No. 79-200 by redesignating the Lands from I to R1E.

Passed this tenth day of May, 2010.

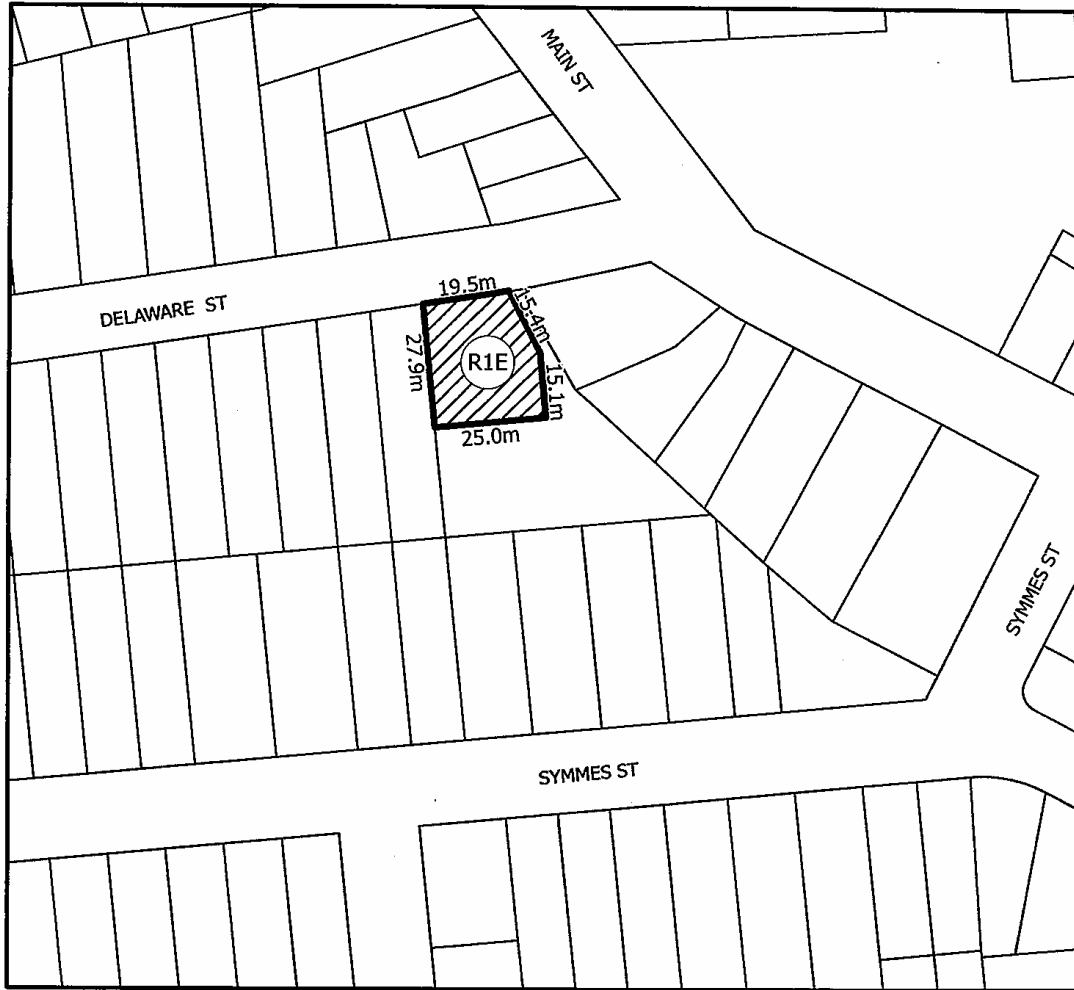
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DEAN IORFIDA, CITY CLERK

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R. T. (TED) SALCI, MAYOR

First Reading: May 10, 2010
Second Reading: May 10, 2010
Third Reading: May 10, 2010

SCHEDULE 1 TO BY-LAW No. 2010-66

Subject Land



Amending Zoning By-law No. 79-200

Description: Part of Lots 57 & 58, Plan 272

Applicant: Main Street Baptist Church

Assessment #: 272507000401700



1:NTS

AM-2009-028