

**CONSERVATION REVIEW BOARD**

**RE: THE CORPORATION OF THE TOWN OF MARKHAM – INTENTION TO DESIGNATE THE PROPERTY KNOWN AS 6278 19<sup>TH</sup> AVENUE, MARKHAM, ONTARIO (John Ramer House and Barn)**

**Stuart Henderson, Chair  
Stuart Kidd, Member**

**APRIL 16, 2008**

This hearing was convened under s. 29(8) of the Ontario Heritage Act, R.S.O. 1990, Chapter O.18, amended to 2006 (“Act”), for the purpose of reporting to the Council of the Town of Markham, Ontario (“Town”), whether, in the opinion of the Conservation Review Board, on the basis of the evidence it heard, the property known as 6278 19<sup>th</sup> Avenue, Markham, (John Ramer House and Barn) should be protected by bylaw under s.29 of the Act.

The current legal description provided for the property is “Pt. Lot 31, Con. 8, Markham as in MA45464; Whitchurch - Stouffville (PIN 03726-0123 LT)” and the current owners are Arbor Memorial Services Inc. and Memorial Gardens Canada Limited (Objector). It was revealed after the hearing that the property description provided in evidence from the Land Registry office is incorrect, although confirmed as being within the jurisdiction of the Town of Markham. This property contains a stone house and frame barn, both of which are unoccupied.

The Board held two Pre-Hearing Conferences on this matter on January 25 and September 28, 2007, with the purpose of either reaching a settlement or the simplification of issues in preparation for a Hearing. There was no agreement between the parties on these matters, thus a Hearing was scheduled.

Notice of this hearing was placed by the Board in the November 22, 2007 edition of the *Markham Economist*. An affidavit prepared by the Board’s Administrative Clerk regarding this publication was filed as Exhibit 1.

The hearing commenced at 10am on December 5, 2007, originally scheduled for two days. The Parties and Board Members met for a site visit at 10am on December 6, 2007 and the hearing reconvened at 11am that day, however the end of day arrived before all submissions could be made to the Board. In this way, the Hearing was scheduled to reconvene on Wednesday April 16, 2008 at 10am and all submissions were entered by the end of that day.

### **Counsel in Order of Appearance**

- Ms. Carolyn Stobo, Solicitor, Town of Markham
- Mr. Thomas Barlow, Solicitor for Objector/Owner
- Mr. J. Inglis, Solicitor for Objector/Owner

### **Witnesses In Order of Appearance**

- Mr. Peter Wokral, Heritage Planner, Town of Markham
- Mr. Lorne Smith, Official Historian, Town of Markham
- Mr. Michal Larkin, Planner for Objector/Owner
- Mr. Wayne Morgan, Heritage Planner, for Objector/Owner
- Mr. George Duncan, Town of Markham

### **Members of the Public In Order of Appearance**

None.

### **Jurisdiction of the Board**

All parties were reminded that the jurisdiction of the Board is to hear evidence within the framework of the Ontario Heritage Act, specifically the application of the criteria outlined in Ontario Regulation 9/06 or equivalent criteria typically applied by the Town of Markham to determine the cultural heritage value or interest of a property.

It was outlined that the Board does not address issues of demolition or selective demolition, as these are the jurisdiction of Council and, on appeal, the Ontario Municipal Board.

The Board does not address issues of the costs of physical maintenance or repairs, the current physical state of a structure or any future use of a structure, as these are outside the matter of cultural heritage value or interest.

The Board does not address any planning applications or issues that are under the jurisdiction of the Planning Act. These are issues between the applicant and the municipality.

Evidence on any of these matters will only be heard if it gives context to the discussion of cultural heritage value or interest and any heritage attributes or features that may support that value or interest.

### **Procedural Matter**

At the commencement of the hearing Mr. Barlow, on behalf of the owners, requested that consideration of the barn be deferred until another time and in a separate hearing. He suggested that the Ontario Heritage Act and Regulations inferred looking at a single property, which he interpreted to be one building and that it would be unusual to look at two buildings together. In this regard, he tabled the document titled "Book of Documents" and another titled "Book of Case Law and Statute", both of Memorial Gardens Canada Limited, which were accepted as Exhibit 2 and Exhibit 3 respectively. He then referred to an April 18, 2006 report to the Development Services Committee of

the Town of Markham from the Director of Planning & Urban Design and the Commissioner of Development Services in Exhibit 2, tab 5, on page 4. The second last paragraph on that page indicated that typically the Town does not designate barns. Mr. Barlow also noted that dealing with both buildings in one hearing was not indicated as a requirement during the pre-hearing conference and that since that time the owners have developed plans for the property as a cemetery, including the area occupied by the barn.

Ms. Stobo objected on behalf of the Town. She stated she was unaware of any new development plans and restated the Town's sense of urgency given that the owners had demolished the one-storey building attached to the main house without a permit or any form of approval. She indicated that the evidence to be presented by the Town would show that both of the buildings have tremendous associative value.

The Board advised that it often considers the designation of multiple buildings on a single property within one hearing, given that designation is not structure-specific, but rather real property-specific. The Objector's reasons to separate the hearing process into distinct hearings for the house and barn were in part deemed by the Board to be planning issues outside of the Board's scope, and more specifically not in line with the spirit of the Act. The Board decided that submissions on both the house and barn would be heard within the same hearing process.

### **Background**

The subject house and barn on the property are vacant. The two buildings are positioned on the northwest bank of a small stream that transects the property diagonally from the northeast to the southwest approximately through the mid point of the length of the 100-acre parcel of land. The property fronts on the north side of 19<sup>th</sup> Avenue and on the east side of Highway #48. It is located to the immediate northeast of the small hamlet of Dickson Hill and about 1 km southwest of the growing community of Stouffville. The owners plan to develop the property as a cemetery.

### **Case for the Town of Markham**

Ms. Stobo tabled the "Book of Documents" of the Corporation of the Town of Markham, which was entered as Exhibit 4.

### **Witness – Peter Wokral**

Mr. Wokral was sworn as a Witness having heritage planning training and relevant local experience. His CV was entered as Exhibit 5 and his Witness Statement as Exhibit 6. He was then referred to Exhibit 4, tab 13, where he outlined the heritage conservation policies of the Town, and then to tab 9 of that Exhibit which indicated that the subject house had been identified in the Markham Inventory of Heritage Buildings in 1982. Mr. Wokral's testimony then turned to tab 13, page 53, item g., which indicated how the Town shall endeavour to prevent the demolition of buildings of architectural and/or historical significance. He pointed out that the Town placed particular importance on those buildings still in their original locations, as noted on page 54 of that tab in sub item iii). Ms. Stobo asked and Mr. Wokral confirmed how the

Town would also endeavour to allow for alternate uses of such properties while protecting their heritage significance.

Ms. Stobo tabled and the Board accepted a series of photographs from the photo-board displayed during the hearing as Exhibit 7, extracts from a document titled "Canadian German Folklore" as Exhibit 8, and photographs of area heritage dwellings as Exhibit 9.

A document titled "Heritage Markham Extract" dated May 22, 2003 at Exhibit 4, tab 8 was referred to as a request from the Heritage Markham Committee to the Manager, Heritage Planning, Town of Markham, for a report with respect to the heritage significance of the subject property. One month later, Heritage Markham recommended the designation of the subject property (with the barn and the house), as shown in the document titled "Heritage Markham Extract" dated June 23, 2003 at tab 7. The staff report on the subject house follows the first page at tab 7. That report indicates the importance of both buildings and how the Ramer family came to Markham in 1809. The Ramers are shown to have occupied a log house on the property in 1851, which is no longer standing.

The Council resolution dated April 25, 2006 at Exhibit 4, tab 4, states the intent to seek a heritage designation that would include the house and barn. Mr. Wokral indicated how the subject barn would be the first one designated in Markham.

The subject barn was noted by Mr. Wokral to be a Pennsylvania German style bank barn; a style stated to have its roots in Swiss and German architectural style and form. Suggested to be typical of the type, the barn was noted to be set into the embankment overlooking the stream in such a way as to take advantage of the grade differential. Livestock and equipment could access the lower foundation level from the south side, and a grade level ramp gave access to the upper frame floor level of the barn from the northerly face above the bank. The frame portion of the barn was noted to include an overshoot or cantilevered second-level section facing the warmth of the southern sunny exposure. This southern exposure and the cantilevered overhang provided farm animals with shelter from precipitation and prevailing winds during winter, as well as shade in the summer months. It was brought to the Board's attention that the date of 1869 and the initials J. R. for John Ramer had been carved into the westerly gable face of the barn. Mr. Wokral testified that this is the only bank barn surviving on its original location in Markham.

The John Ramer house was said to have been built in 1853 and two distinct architectural features were noted. The original structure was built of stone. The half storey addition was built of frame with wood cladding under the eaves and brick facing on the gable ends. Mr. Wokral indicated that the general style was Georgian. He stated that the combination of materials show the two construction styles and reflect the growth of the family during their occupancy. The house was noted to be a bank house as well, being set into the hill such that the lowest level was accessed at grade from the south, and there was use of the upward slope to access the main floor by the stairs on the north side. The Witness indicated how there would have been solar gain

benefits in the orientation of the house as well, given the southern exposure of the two and a half storeys. He noted there was some protection from the north winds with the placement of the house on the slope of the hill. He emphasized bank style design similarities between the house and barn. The Witness suggested that the upper addition might have been for younger family members, leaving the lower level (without stairs) for older family members. The house also carried the initials J. R. and has an 1890 date in the brick gable end of the upper floor addition.

Mr. Wokral suggested that the two buildings have particular design value that is rare yet representative of area farmers and their culture. The Witness suggested the buildings have significant historic and interpretive value. He added that the Town encourages alternate uses of designated buildings while respecting the heritage attributes.

Mr. Wokral was referred to Exhibit 4, tab 6, being the Heritage Building Evaluation Scoresheet for the subject buildings. He indicated how the scoring was conducted by a local committee of four people. He noted how the buildings were rated as Group 1 buildings, being the highest group rating in the Town's heritage evaluation system.

#### **Cross-examination of the Witness**

Mr. Barlow questioned the Witness whether there are any other Ramer family buildings designated for heritage purposes within the jurisdiction and where they are located. The Witness confirmed that there are designated Ramer family properties at 5958 16th Ave., 18 David Dome Circle, 9404 Highway 48, 304 Main St. N., 3234 Springdale, and 819 Fir Oak Ave. The Witness noted that all are properties with significant architectural, historical, and associative value.

The Witness confirmed that the verandah on the house had been totally removed and that there are no photographs indicating its original size and structure. Mr. Wokral did note that both the verandah and the cantilevered overhang of the barn were intended to have weather protective benefits. He reiterated how the house was of a Georgian style as reflected in its square, plain, unadorned appearance with no significant projections to the building and having 6/6-pane window sash. He further advised that the Town had asked Memorial Gardens to maintain the window frames but that they had later closed the openings with cement block. He was not sure if the window frames were original. Mr. Barlow questioned the validity of Mr. Wokral's reference to a "gross doddy" feature in the half storey addition at the third level of the house. Mr. Barlow indicated that gross doddy additions were typically a horizontal addition to a farmhouse. The Witness maintained that the upper floor addition could have allowed space for the growing family, while keeping the lower first level at grade for the grandparents.

Mr. Barlow referred the Witness to Exhibit 4, tab 6, page 1, being the heritage evaluation score sheet for the subject buildings. The Witness confirmed that there was only one sheet used to evaluate both the house and the barn buildings. He added that the interior elements had not been evaluated. The Witness advised that the Evaluation

Committee had not gone inside and only looked through one of the open windows of the house.

Mr. Barlow then referred the Witness to Exhibit 2, Tab 18, being the "Master List of Potential Built Heritage Resources in the Town of Markham". The document was prepared by the Heritage Section of the Development Services Commission on September 30, 1998. Mr. Barlow asked the Witness if there are any designated properties in the jurisdiction with two or more buildings, or any like this being considered for designation. Mr. Wokral confirmed that there are no individual designated properties with more than one building and that no barn had been designated. He added that he was working on a report looking at up to 12 barns which might be considered as additions to the heritage register. The Witness advised that the report should be presented late in the coming winter.

Mr. Barlow asked if the Witness was familiar with the Francy Barn, which had been relocated from Markham in 1987 to Riverdale Zoo in Toronto; as well as the barn at Black Creek Village, both of which were area examples of Pennsylvania German barns. The Witness confirmed his awareness of both barns. Mr. Barlow closed adding that there was no significant link between the barn and the house in design or structure other than their mutual proximity.

#### **Re-examination of the Witness**

Ms. Stobo asked and the Witness confirmed that the subject barn is the only remaining Pennsylvania German bank barn in Markham, that the barn has a cantilevered overhang of the lower level, that the barn is still in its original location, and that it is in relatively good condition.

#### **Witness – Lorne Smith**

Mr. Smith was sworn as a Witness with an awareness of local history. Ms. Stobo tabled his CV as Exhibit 10 a. and his Witness Statement as Exhibit 10 b. Mr. Smith advised that he has significant heritage and agricultural background, that he knows the area quite well, and is familiar with many of the old area families, especially the Pennsylvania Germans that are descended from those having arrived in the area as early as 1807. Ms. Stobo asked that the Witness be accepted as a Witness with local historical expertise. Mr. Barlow stated that he had no objection and the Witness was accepted accordingly.

Mr. Smith's Witness Statement was noted to indicate how the cantilevered upper floor of the barn overshooting the lower level was a unique style and form to this immigrant group, according to Pennsylvania German families in the area. He indicated that it was unique because it had been built into the hill, as opposed to typical barns that had a sloped built-up ramp to the upper frame barn floor. He advised that many of the overshoot projections had been closed in during later times with the growth in dairy farming, but that this barn was unique having been left in its original condition. The Witness suggested that the necessary repairs to the exterior of the barn were not significant and could be easily completed.

Mr. Smith noted the significance of the subject farm buildings being located on a tributary stream of the Rouge River. He noted how the stream flowed to the immediate south of both buildings. The Witness suggested the original size of the farm to be standard and typical of area farms. He noted the significant contribution of the Pennsylvania Germans to the area. They were experienced farmers, strong in faith and character, who provided significant support to their communities. The Witness noted how Pennsylvania German families were typically large and that their generations usually spread out within the area and developed various local businesses.

#### **Cross-examination of the Witness**

Mr. Inglis questioned Mr. Smith on the extent of his research. The Witness noted this to include two particular books on the history of the area, searching through land title information, books on Markham Township, and the knowledge he had gathered from friends and acquaintances in the area. Mr. Smith advised he is also actively involved with cemeteries in the area through his church.

#### **Re-examination of the Witness**

Ms. Stobo asked and the Witness confirmed that the inscribed date on the barn was 1869. As well, Mr. Smith confirmed there had been a sawmill on the property alongside the stream. He suggested the sawmill had perhaps declined as agricultural uses came to dominate the area.

#### **This concluded the case for the municipality.**

### **Case for the Objector**

#### **Witness – Michael Larkin**

Mr. Larkin was sworn as a Witness for the Objector. He indicated his background and relationship to the Objector is that of a land-use planner. The Witness stated that he has worked as a consultant over the last 15 years for Memorial Gardens, taking properties to the final stage of development approval as cemeteries. Mr. Larkin was accepted as a qualified landuse planner.

The Witness advised that he had been involved with the development of the subject property since 2000 and that he had met with municipal staff two or three times prior to 2002. Mr. Larkin indicated that the prospects for re-use of the subject house and barn were not good given the poor condition. He added that the buildings were not reasonably suited for reuse within the general cemetery plan. The Witness continued with evidence regarding planning issues, building condition, and reuse issues, which he was advised exceeded the scope of the Board.

#### **Cross-examination of the Witness**

Ms. Stobo asked if the Witness thought it normal for a company to buy a property first and then seek the necessary development approvals after-the-fact. Mr. Larkin replied that long-term planning processes often necessitated that order of steps.

Mr. Larkin was asked if he had thought about the potential heritage aspects of the property initially. He replied that he did learn that both buildings were on the Master List of Potential Built Heritage Resources in the Town of Markham, shown in Exhibit 2, tab 18, prior to the owner's purchase of the subject property. He also advised that he knew the Town would be willing to meet to discuss the potential reuse of the house and barn as part of the development process. When questioned, he indicated he did not recall having a meeting with the Town on that topic. He did not meet with the Town before the second pre-hearing conference to explore reuse of the buildings as part of the development plan for the property. He did meet with the Town to discuss various planning issues.

Ms. Stobo stated her objection to a part of Mr. Larkin's testimony that directly referred to structural reports dated November 28, 2007. These were prepared for the owner by Construction Control Inc. and reported on the structural conditions of the house and the barn. She noted how the reports were brought into evidence by Mr. Larkin's testimony without having been submitted to the Town until a few days prior to the hearing. She added that she felt the conditions of the building should not be relevant to the hearing. Mr. Barlow replied that the owner would withdraw both of the reports. Ms. Stobo replied that an adjournment would be appropriate in light of this new information regarding the state of the buildings and the Town not being given sufficient time to consider this in advance of the hearing. Mr. Barlow replied that the Town had given evidence regarding potential reuse of the buildings in its testimony, therefore the Objector had only responded with information regarding the structural evaluation.

The Chair stated the issue to be one of fairness. He indicated that, since Mr. Larkin had exceeded his expertise and brought in structural information almost verbatim from the reports, in balance and fairness to the Town it deserved the opportunity of rebuttal. The Chair also noted that the demolition permit application submitted to the Town by the Objector should be held pending the outcome of the hearing, to which Mr. Barlow concurred. The Chair then directed that the hearing continue.

Ms. Stobo asked and the Witness confirmed that the property measured approximately 100 acres and that during his examination in chief he had reviewed and used some of the information from the Construction Control Inc. report in his concluding evidence. The Witness was asked to review his concluding remarks on the building condition. Mr. Larkin restated that his evidence indicated heat and water damage in the house, which included expansion of the window frames and damage to the wooden floors resulting from rain coming in the roof. He agreed that he had not quantified any of the damage and that his comments were only from his recollections. The Witness did indicate having observed wood rot in both buildings, although he could not be specific about the locations. He added that he had noted foundation shifting, although he had not done any measurements. Ms. Stobo asked Mr. Larkin whether the barn could be reused and he agreed that parts of it could but that the basement was quite low for the tractors typically used in cemetery operations.

The Board entered the two reports from Mr. Barlow from Construction Control Inc. dated November 28, 2007 on the house and barn as Exhibits 13 and 14 respectively,

however did note that they would not figure into the final decision of the Board as they substantially represented information that is outside of the scope of the Board. The large Master Plan for the development of the cemetery was accepted from Mr. Barlow as Exhibit 15 as a point of information.

Mr. Larkin confirmed to Ms. Stobo that he had no engineering experience, had performed no tests, and conducted no evaluations of the joists or supporting structures. When asked why he had not met with the Town regarding the heritage aspects of the buildings, Mr. Larkin gave no particular reason. When asked, the Witness also confirmed that his evidence was not relevant to any heritage value of the buildings.

### **Re-examination of the Witness**

Mr. Barlow asked the Witness if he thought there would have been any benefit to him having met with the Town on topics other than the planning issues. Mr. Larkin suggested there would have been little value.

### **Witness – Wayne Morgan**

Mr. Morgan was affirmed and Mr. Barlow referred the Witness to Exhibit 2, tab 1, being Mr. Morgan's CV. Mr. Barlow offered Mr. Morgan as an experienced heritage planner. Ms. Stobo stated that the Town accepted Mr. Morgan as an expert witness.

Mr. Morgan described his experience with the City of Toronto in the management and designation of heritage properties, arrangement of heritage easements, and letters of credit. His CV indicated significant heritage and planning experience as a municipal employee, volunteer, and consultant. The CV also indicated experience with provincial tribunals.

Mr. Barlow referred the Witness to the aerial photographs of the subject property at Exhibit 2, tab 3. The photos showed the subject property and the nearby community of Dickson Hill as well as the town of Stouffville on the first photo. The house and barn on the property were evident on the second air photo near the stream. The third photo showed a close-up air photo with both buildings, the driveway from 19<sup>th</sup> Avenue between the buildings, and the location of the former millrace off of the creek were all noted by the Witness to be apparent. The millrace was indicated to have likely fed one of the mills on the property. No date of operation was given. The third photo also showed a one-storey attachment to the west end of the house, which had been recently removed.

Mr. Barlow tabled a page with two colour photos titled "6278 19th Ave. - Structures not included in the designation" and a colour photo of the northeast elevation of the subject house showing the former one storey addition. These documents were accepted as Exhibits 16 and 17 respectively.

Mr. Morgan noted that the northeast elevation photograph of the house at Exhibit 17 shows the frame one-storey addition, which had since been removed. The Witness advised that during his interior inspection of the one storey addition, he concluded that it had been some form of garage and machine repair shop with a concrete floor.

The Witness statement at Exhibit 2, tab 1, indicates that Mr. Morgan was retained by the Owner in June 2006 to evaluate the heritage values of the subject house and barn structures, although he advised that his work primarily involved evaluating the heritage value of the house. He testified having acted in that capacity until November 2007, and also reviewed staff reports on the subject property relative to the criteria of Regulation 9/06 of the Ontario Heritage Act. The Witness summarized Exhibit 2, that the house does not have design, physical, historical, or contextual value. His evaluation did not include the barn since his client was looking at adaptive reuse of that building at the time and did not want to consider it for demolition.

Mr. Barlow tabled a single page showing four colour photographs of the Francy barn, which was identified as a bank barn that had been relocated from Markham to Toronto in 1975. The document was accepted as Exhibit 18. The Witness confirmed that barn to have been a bank barn that was allowed to be relocated. Mr. Morgan also referred to the existence of another bank barn in the Town of Vaughan.

Mr. Barlow referred the Witness to a report co-signed by the Director of Planning and Urban Design and the Commissioner of Development Services of the Town addressed to the Development Services Committee of Council dated 18 April 2006 at Exhibit 2, tab 5. Mr. Morgan referred the Board to page 4 of that report. The second last paragraph of the report indicated that typically barns are difficult to integrate into plans of subdivision because of their size and the need for an open area around them.

Regarding the age of the house, the Witness indicated that he had relied on the title abstracts, selections of which were shown in Exhibit 2, tab 8. The title information showed the property being purchased by the Ramer family in 1825 and finally being sold by Joseph Ramer in 1910. The Census information for 1851 and 1861 under tab 9 was shown to indicate how John Ramer and family occupied a log one-storey house in 1851, but at the time of the 1861 Census the same family occupied a stone, two-storey house on the subject property. The Witness therefore suggested that the subject house was built between 1851 and 1861.

The Witness then referred to the genealogical information at Exhibit 2, tab 6, which showed John Ramer being the third generation of the family who had first occupied a log house and subsequently built the stone house on the subject property. Mr. Morgan indicated that the stone house was the subject building, having been built likely in the 1850s. Exhibit 2, tab 7, page 7 near the bottom was noted by the Witness to indicate that Joseph Ramer (1856 – 1918) inherited the farm from his father and that it included a ten-room house, an apple cider mill, a sawmill, a gristmill, and stables. He suggested the mills to have been operated by waterpower from the stream along the south side of the barn and house. Mr. Morgan again brought the Board's attention to the excavated trench shown on the air photos that led toward the barn from a point upstream and which was likely the millrace for powering these operations.

Mr. Morgan suggested that, while John Ramer and family lived on the subject property, they made no significant contribution to the founding of the community of Mountjoy,

other than being an area farm family. He noted how Pennsylvania Germans had arrived in the area in the early 19th century and, while they left a significant impact on this area, the subject house and barn had no particular relevance to the formation of that community. The Witness referred to Exhibit 2, tab 4, being an 1878 map titled "Historical Atlas of York County", which showed farm properties and improvements in the area. The ownership of the subject lands was noted as Ramer and a sawmill is located on the property.

In conclusion regarding the history of the house, Mr. Morgan suggested that it was built between 1851 and 1861. He indicated that neither John, who presumably built the stone house, nor his son Joseph, made any significant contribution to the area or to the founding of Mountjoy. They lived and built their buildings in the late stages of the Pennsylvania German settlement of the area, as opposed to the first arrival of Pennsylvania Germans in the early 1800s. Mr Morgan added that Pennsylvania Germans left many other important buildings in the area. He also noted how the sawmill, the gristmill, the cider mill, and the log house were no longer on the property and that the Ramer family had left the property in 1910.

The Witness was then asked to give evidence on the architectural features of the house and began by referencing Exhibit 2, tab 13, being a photo of the north elevation. Mr. Morgan pointed out how the placement of the upper windows was not symmetrical with those on the lower level, and that the main entrance door and stair were not centred on that wall of the house. The partial upper storey under the eaves is frame sided with flat butt-jointed boards, which is inconsistent with the stone of the original house. The windows have flat, red brick arches above them and concrete sills below. He suggested the sills reflect alterations much later than the original construction. The Witness suggested the earliest general use of concrete was around 1910.

On the same exhibit, Mr. Morgan brought the Board's attention to a hole in the exterior stone wall on each side of the upper part of the stairway, which he felt indicated some other original structure than the stairs that are there currently. He indicated how the steps had been built in flagstone, and that flagstone was not used in the 19th century or typical for the area. He noted how the chimneys shown in the exhibit had been added after the original construction. During the ownership by the current owner, there had never been any original doors or windows in the main entrance or sidelights flanking the door. The northeast elevation photograph in Exhibit 2, tab 13 b, was suggested to give a better indication of how the steps were not original and how the placement of windows on the north and east facades of the house is not symmetrical. It was obvious from this photograph that the tall chimney on the northeast corner of the house had been surface constructed to the exterior wall after the date of the original construction and after the upper floor addition.

The photograph noted previously as well as one of the southeast house elevation at tab 13 c shows a horizontal stringcourse of brick in the lower part the gable end of the upper floor addition. Below the stringcourse, Mr. Morgan noted the butt ends of wood joists, which he suggested represented the roof joists of a verandah along the full side of the house. He added how this photograph reflected the lack of symmetry in the

placement of windows in the third floor addition compared to the four windows in the east wall of the original stonework. The photo at tab 13 d shows the date of 1890 and the initials J. R., indicating either John or Joseph, both of whom had lived in the subject house. The date and initials were set into a circle of brick in the brickwork of the gable end of the upper floor addition.

The Witness then referred to Exhibit 2, tab 13 e, noting how the south facing gable in the upper, half storey addition displays a gable door that does not align with the two doors below in the original stone structure. Mr. Morgan again noted how concrete sills had replaced original wood under all of the windows and doors in the original stone structure as well as in the two windows of the third floor east end gable of the upper floor addition. The Witness referred the Board to Exhibit 2, tab 13 f, which he suggested was the earliest photo of the property, being a 1982 vintage. He noted how that photograph included no verandah and that at that time all the window sashes were still in place. Mr. Barlow interceded that the actual vintage of the photograph was 1991, which was consistent with another exhibit photograph on display.

The photo at Exhibit 2, tab 13 g, was noted as the full west elevation of the house after the one-storey addition had been removed. Mr. Morgan again noted that the upper windows did not align with those below, there was continued use of concrete replacement window sills, and that the chimney built on that end exterior wall face had blocked an original doorway at the base of the original stone wall. He advised that he found a form of crude heating system in the lower level that utilized a round tank that had been inserted through the original stone wall and which was still exposed to the exterior. The photo at tab 13 h was stated to be a typical window showing a concrete sill and some concrete patching along the sides of the wooden window framing.

The photo at Exhibit 2, tab 13 i was stated to be the last remaining window showing a 6/1 window configuration typical to the first and second floors. He noted that the muntin bars in the windows are of a broad profile versus the typical style of that era, which was knife-edged. He noted how the windows lacked mortise and tenon joints, which he felt suggested the windows were replacements.

Exhibit 2, tab 13 j, was noted to be an interior photograph of the kitchen. Mr. Morgan pointed to the foundation wall having merely been covered with plaster without any framing and very little baseboard. The plaster was obviously deteriorated and falling off the wall. Exhibit 2, tab 13 k, shows a phone wire running diagonally across the original exterior stone face of the house. The wire was bricked in behind the brick chimney, indicating that the chimney had been added much later than the third floor addition. Mr. Morgan summarized that the Town was wrong to categorize this as a Georgian structure. It lacks symmetry and there is no consistency in the addition of space and features to the original house.

The Witness then referred the Board to Exhibit 2, tab 11, Ontario *Architecture A Guide to Styles and Building Terms from 1784 to the present* by John Blumenson. Paragraph 1, page 5, of the Guide deals with the Georgian style. The style was characterized by uncluttered designs based on adherence to conventional rules of

symmetry in proportion, which the Witness referred to as significantly lacking in the subject house. He then referred to page 37 dealing with the Gothic Revival style. He noted that while the third floor addition of the subject dwelling carried a gable roof over a door, it lacked any of the picturesque detailing in the bargeboard and trim that was typical of the Gothic Revival style. He also noted that Gothic windows usually have arches or peaks, which are not apparent in the door ?? in the gable of the third floor addition.

The Witness then referred the Board to Exhibit 2, tab 12, being an extract from a National Historic Sites publication dealing with Gothic Revival in Canadian architecture. The second last paragraph on page 11 of that document referred to Gothic Revival in Ontario usually involving a 1 1/2 storey house with a square plan and three bays on the main façade with a pavilion roof. The Witness indicated that the subject house is not consistent with this style either and that it lacks the detailing also referred to in the exhibit.

The Witness then referred the Board to Exhibit 2, tab 10, being a document titled "1793 Markham 1900". Page 31 of that document shows a photograph of the Peter Ramer house built in 1837, and described as a typical Pennsylvania German farmhouse. Mr. Morgan noted the particular symmetry of the openings in the exterior walls of that house as well as the central position of the chimney. He drew the Board's attention to the differences with the openings and chimney location in the subject house. Page 32 at that tab referred to an early Ramer homestead "gross doddy" addition that was constructed as a typical horizontal addition to the original main house in the photo. Mr. Morgan recalled the Town's reference to the vertical addition being an example of a "gross doddy", but that in his experience and travels including to the Pennsylvania German communities around Elmira, Ontario, he has only seen horizontal side additions to a main farmhouse built for this purpose.

Mr. Morgan referred to the third floor addition as unsympathetic to the original two-storey stone structure, given the lack of symmetry and inconsistent building materials used (horizontal boards under the eaves and brick gable ends). In his opinion, the house lacks architectural integrity. The two-storey verandahs on the south and east faces of the house have been removed and there is no documentation of how these features appeared. He indicated this is an important missing piece of information about the heritage value of the original structure.

Mr. Morgan also mentioned that there was only one door left in the south facing gable of the third floor addition. He added that nothing was known about the original roof of the two-storey stone structure before the addition of the upper half storey.

Mr. Morgan advised that nothing was known about the builder or the designer of the house and that the craftsmanship displayed in the original building and the addition, when compared to other structures of similar age in this area, is poor. He referred to Exhibit 2, tab 14 a, showing a colour photo of a similar vintage house from the area, which is also of Pennsylvania German origin. This example displays a much better quality of design, construction, and craftsmanship than the subject house. A photo of

another Pennsylvania German house in the area, the Weedman house, is shown at tab 14 b. It was constructed of squared stone above and below its verandah roof, unlike the subject house, and displayed significant symmetry, unlike the subject house.

The house in the photo at tab 14 c is located on Elgin Mills Road and was built by Joseph Barkley in 1862. Mr. Morgan noted how that house displays both symmetry and good quality construction in the original stone structure. Another example of symmetry and good craftsmanship in the area was noted by the Witness to be the David Burke house at 10531 Reeser Rd in Markham shown at tab d. Mr. Morgan summarized from these photographs that quality craftsmanship was available in the area during the time of the construction of the subject house, yet it was not evident in the construction of the subject house.

The Witness reiterated how the interior plaster applied to the exterior stone wall was a very simple construction that was both low-tech and low quality. Referring to the topic of bank buildings given in evidence by the Town, Mr. Morgan stated that such buildings are merely built into the sides of hills and are not uncommon. The Witness referred the Board back to the photograph of the northeast elevation of the subject house at tab 13 b. In particular, he noted the existence of the seven step stairs leading to the top of the landing and the door threshold to the second level. Mr. Morgan suggested that this minimized the importance suggested by the Town of the house being set into the bank to utilize the grade differential to any significant extent. As well, he noted the house would have little protection from cold north winds, contrary to the suggestions by the Town.

Regarding grade differential, the Witness referred the Board's attention to a house in Markham at 7134 Major MacKenzie Drive. Mr. Barlow tabled two single page colour photographs taken in December 2007. One was from the south being the front or street side view and the other was of the north or rear face of this house. The photographs were accepted as Exhibits 19a and 19b respectively. The house was noted to be a raised storey and a half building. The Witness referred to this house as a good example of a house on the heritage list that effectively utilizes the grade for entrances at different levels. He then referred the Board to Exhibit 20, being a north and west elevation photograph taken in December of 2007 of a house at 81 Dickson Hill Road. The house is listed in the Markham Heritage Inventory. The Witness noted how the house effectively employed grade to achieve a level entrance to each of the main and lower levels. Mr. Morgan noted that this house is located in the small hamlet of Dickson Hill close to the subject house. The Witness summarized that the Ramer house was therefore not a unique example of the utilization of grade for entering different levels of the house.

Regarding architecture, the Witness summarized that the house was not representative of either Gothic Revival or Georgian styling. He indicated that it is not a good example of Pennsylvania German style or form either, noting that the 1890 addition to the third floor was not sympathetic to the original design or to the construction of the original two-storey stone structure below. The Witness indicated that the house lacks heritage integrity and has lost a number of features including the original verandah, sills, and

window sashes. He added that it is not associated with a particular builder or designer of any significance and it displays poor craftsmanship. Mr. Morgan stated that it is not associated with any advances in building technology and that while it occupied a slight rise in land, the slope had only a minor impact on the building. In sum, he suggested it was neither a unique or well-built structure.

Regarding the contextual value, the Witness suggested that the house and barn are not landmarks or focal points; they do not provide a particular view or vista, and are not obvious from any far distance. He noted how most of the buildings originally on the property were gone including the cider mill, gristmill, sawmill, and log house. The Witness suggested there might have been another barn as well. With most of the buildings removed, significant features of the house missing including the verandah and the original roof, Mr. Morgan contends that there is little left to provide interpretation and show a full life picture of the evolution of this property. He noted that the buildings do fit into the rural landscape but that they are not unique or historically beneficial.

Mr. Barlow then asked the Witness to refer to the general scoring methodology for heritage buildings utilized by the Town as reflected in Exhibit 2, tab 17, and the specific scoring of the subject buildings shown in Exhibit 4, tab 6. Mr. Morgan first noted how the use of bonus points in a heritage evaluation was unusual and inappropriate. He indicated how in the Markham system the historic value of a property could achieve 120 points out of 100 and 110 points out of 100 in architectural value.

Mr. Morgan referred to Exhibit 2, tab 17, page 6, noting that Markham's scoring system gives the most points for the earliest date of construction and is not common today among designating authorities. He advised that this places an unusual priority on the 19th century and unfairly disadvantages important themes or style examples and other periods. The Witness suggested the evaluation should be specific to a period of development such as within the Pennsylvania German migration to the area, that is, whether the building reflected an early, mid, or later construction date within that period. In this regard and given the physical condition, the Witness did not support the designation value given to the subject buildings by the Evaluation Committee.

Mr. Morgan referred to his personal experience with heritage properties in Toronto and Mr. Barlow proposed to enter a Toronto evaluation sheet for comparison purposes. Ms. Stobo objected that the information was irrelevant and only given to the Town two days previous to the hearing. It was noted that both systems were said to be based on the Parks Canada system from 1981. The Board accepted as Exhibit 21, the "Criteria for Heritage Properties" for the City of Toronto, with the second page being Mr. Morgan's evaluation of the subject buildings. The Witness reviewed his evaluation of the subject buildings using the Toronto based system. The evaluation was noted to focus on the building style, construction, ownership, and the overall significance of the buildings. Mr. Morgan's summary evaluation of the subject buildings fell short of achieving a Category C, being a Neighbourhood Heritage Property. A Category A in that system would be the highest being considered a Landmark Heritage Property.

In conclusion, Mr. Morgan referred to the evaluation criteria contained in the Ontario Heritage Act (Regulation 9/06) included in Exhibit 2 at tab 15. He indicated that the subject buildings were not rare, they were not representative of any particular style, and were not an early example of the construction, form, or style of the Pennsylvania Germans that migrated to this area. He indicated that the house was not Georgian or Gothic Revival in style and was not an early example from the first migration wave of Pennsylvania Germans to the area occurring between 1808 and 1865. The Witness stated that there were many other and better examples of stone houses in the area including the immediate area. Other than the original stone structure of the first and second floors, he suggested that the house lacks heritage integrity due to the missing verandahs, stairs, and other features on the south, east, and north facades. The Witness added that the window sashes and sills, as well as the original roof and doors were missing. Overall, the building displayed poor craftsmanship, lacks artistic merit, and the lack of symmetry in the third floor addition detracts from the original stone construction. The house displays no technical or scientific merit in its simple and poor quality rubblestone construction.

Mr. Morgan testified that the buildings have no association with any particular event or significant personal accomplishment and he believed that the buildings were not significantly associated with the Pennsylvania German community.

The Witness suggested the buildings lack contextual value since they are only part of the existing rural area and provide no significant characteristics in that regard. They are not particularly linked to their surroundings and they do not form a landmark.

### **Continuance**

At approximately 4:00pm, the Board suggested that the hearing be continued at another mutually satisfactory date. The Board and the Parties agreed that one full day would satisfy the needs of the hearing. The agreed date was April 16, 2008 at 10:00am.

### **Procedural Matter**

In advance of commencing the cross-examination of Mr. Morgan at the continuance on April 16, 2008, Mr. Barlow raised a question regarding the status of an inventory report on barns in Markham, which he suggested had not been completed. The Board allowed this question and Mr. Barlow advised that Mr. Morgan, during his investigations since the first part of hearing in December 2007, had found information relevant to the subject barn on his clients' property.

Ms. Stobo objected suggesting that this would involve new evidence about barns. The Board ruled that the information should be allowed to provide any additional overall understanding about barns in the community. Ms. Stobo responded that she would need Town heritage staff member Mr. George Duncan to be allowed to attend the hearing to respond to Mr. Morgan's evidence on this investigation into the status of barns in the community. The Chair allowed a recess, after which Ms. Stobo confirmed Mr. Duncan's availability.

Mr. Morgan then referred to another barn in the community that was apparently a Pennsylvania German type, and which the municipality had allowed to be demolished. Mr. Barlow provided a copy of the Heritage Markham Extract report dated November 21, 2007 on this demolition permit for 10224 Highway 48, which was accepted as Exhibit 22. The suggestion was that the Town had allowed another example of the same type of barn to be demolished and should not consider the subject barn differently.

### **Cross-examination of the Witness**

Ms. Stobo asked Mr. Morgan how far he had been from the barn at 10224 Highway 48 when he made his observations. The Witness advised that he was perhaps 200m from the structure where he observed from the road. Ms. Stobo questioned Mr. Morgan's suggestion that the barn was a Pennsylvania bank barn. The Witness advised that the ownership records from 1853 and 1878 were both names of Pennsylvania German origin but that he did not know who built the barn or about the alterations to the structure, including the attachments that were obvious in Exhibit 22. He suggested that the second and third photographs in Exhibit 22 displayed concrete block construction under what appeared to be the original overhang, which was stated to be typical of Pennsylvania German bank barns. Ms. Stobo asked the Witness if he thought it was possible that this was not an overhang. The Witness reaffirmed his opinion based on observed comparisons to the Ramer barn. Mr. Morgan also confirmed that the concrete block was not visible from his viewpoint during his inspection but that he based his opinions on those photographs taken by others. Ms. Stobo referenced Mr. Smith's contention that there were no other bank barns in the community; however, the Witness reiterated his opinion that the barn to be demolished was probably a bank barn.

Ms. Stobo then asked the Witness about the Ramer's migration in the context of the overall Pennsylvania German migration to the Markham area. The Witness reiterated that since the Ramer family did not come with the first wave of Pennsylvania German immigrants and that the significance of their buildings accordingly have lesser value than any buildings built by that first immigrant wave. Ms. Stobo queried whether the Witness thought the Ramer's stone house was not important and significant on its own, in that it had replaced the original log house of the family. The Witness responded that the significance would be limited to the family and could not be extended to the community. He added that the quality of materials and craftsmanship further reduced its community importance.

The Witness was asked whether the characteristics of the house were not typical of Pennsylvania German construction of the era. Mr. Morgan reiterated his evidence that the building was a poor example of the style and influence of the early Pennsylvania German immigrants, used poor materials in construction, its lack of symmetry and many alterations included the removal of certain significant original features. The Witness added that the Town's Witness reference to this house having an example of a gross doddy was incorrect. His investigations had never revealed this feature as a vertical addition to a dwelling. Typically a gross doddy was horizontal, given the needs of the elderly members of the family who usually occupied those additions. The

Witness did agree with Ms. Stobo that it was possible that the subject house exemplified a vertical gross doddy, but that in his experience and travels in the province there was no evidence to support that presumption. He added that the evidence suggesting that the house displayed Georgian styling on the north side and a Gothic Revival style dormer door on the south side was incorrect. The Witness suggested that the characteristics of the house appeared to be more likely constructed with convenience in mind than by any general design intention.

The Witness described the house as a practical and economical structure with a third floor addition that was unrelated to the style and structure of the first and second floors. He added that the end result was not a good building or an example of a structure worthy of heritage preservation. Mr. Morgan reiterated his evidence regarding removal and alteration of significant features and added that, without documentary evidence to show the original features, the heritage merits were lost and could not be restored with research and conjecture.

Ms. Stobo presented the Board with a document titled "Riverdale Farm -- What's on the farm?" This is a document about the Francy barn, which was relocated from Markham to the Riverdale area of Toronto. The Board accepted this document as Exhibit 23. Ms. Stobo then asked the Witness about the relationship of the Francy barn and the farmhouse that had been designed and built to associate with the barn on the Riverdale site. The Witness replied that the house was actually referred to as the "Napier Simpson House", being the architect that designed the house. Ms. Stobo then asked the Witness that if that barn could be moved and reconstructed and subsequently a house designed and built to associate with it, all of which was added to the Toronto heritage inventory, would that not be comparable with restoring certain features on the subject house on the same basis. Mr. Morgan replied that in the case of the Francy barn and house, the proponents at the time only wanted to establish a farm situation that included both the relocated barn and an associated house. The Witness did agree with Ms. Stobo's assertion that there is additional heritage value in buildings left in their original locations.

Ms. Stobo asked the Witness that if the subject barn were the sole example of a Pennsylvania German bank barn in Markham, would it not be significant and worthy of preservation. Mr. Morgan agreed, adding that reproductions such as the Napier Simpson House or reproductions of features lost from the Ramer house were not representative of heritage value today.

Ms. Stobo asked the Witness to elaborate on the features of the Ramer house that were considered to be compromising and unsympathetic alterations. The Witness reiterated his evidence regarding lost features, alterations, and additions.

Ms. Stobo then tabled a copy of the Venice Charter, which the Board accepted as Exhibit 24. She referred to the sections on restoration and the means of identifying appropriate building features. The Witness responded that the Charter primarily dealt with monuments and did not advocate restoration where there was insufficient information about the original features. Ms Stobo replied that the third floor addition to

the house was unique in style, and that this perhaps made it valuable. The Witness disagreed.

Ms. Stobo then referred the Witness to Exhibits 19a and 19b, being the photographs of the south and the north elevations of the stone house at 7134 Major Mackenzie Dr. East. She noted that the historic house in those Exhibits displayed a lack of symmetry in the relationship of the main floor window openings and the dormer. The Witness agreed that the upper dormer window shown in Exhibit 19 might have been added after the original construction. Ms. Stobo asked if this example displayed the same lack of symmetry that the Witness used to disclaim the heritage merits of the subject house. The Witness indicated that he did not know.

The Board was advised that the house in the photographs of Exhibit 19 is a federal property and, as such, cannot be designated as a heritage property under the Ontario Heritage Act.

Ms. Stobo then referred to Mr. Morgan's evidence dealing with his heritage evaluation of the subject house using the Toronto scoring method. She suggested his system was quite similar to the scoring method used by Markham, other than the numeric values assigned to each of the categories. The Witness replied that there is also a basic conceptual difference. The Markham evaluation system, shown in Exhibit 2, tab 17, gives significant value based on broad chronologic date ranges. The Toronto system emphasizes the relative timing of the construction of a building to the theme and style of a movement occurring an area. He used the example of the first wave of Pennsylvania German immigrants moving into the Markham area being of more significance than others that came much later in the migration movement. The Witness suggested that generally the focus on the importance of 19<sup>th</sup> century structures might be at the cost of significant heritage structures built in the 20<sup>th</sup> century.

#### **Re-examination of the Witness**

Mr. Barlow declined.

#### **Procedural Matter**

Ms. Stobo requested that the Board allow the Town to present reply evidence regarding Mr. Morgan's testimony on the 10224 Highway 48 barn demolition permit, and references to the status of a barn inventory suggested to be in progress by the Town. In particular, she asked that Town staff member, Mr. George Duncan, be allowed to respond to these references. The Board agreed.

#### **Reply Evidence for the Town of Markham**

##### **Witness – George Duncan**

Mr. Duncan was sworn as a witness. Regarding the demolition of the barn noted in the report document tabled as Exhibit 22, Mr. Duncan advised that he and Mr. Wokral, as municipal staff, had been asked by the owner of that property to examine the buildings in advance of the report being prepared. During their visit, they found the barn to have experienced various additions and alterations. The Witness added that the barn was

not a bank barn as Mr. Morgan suggested, since the ground was relatively flat without any embankment involved in the setting of the building. The flat grade was noted in the photographs within Exhibit 22.

The Witness also reported that the concrete block foundation under part of the barn was a replacement of the original barn foundation; not an infilling of an overhang as interpreted by Mr. Morgan from the photographs. Mr. Duncan also noted that the exterior wall face of the barn atop the concrete foundation was not a southerly orientation either, which would have been the orientation of a true bank barn. It was noted that the demolition report excluded the related farmhouse on the property, which has been listed on the Markham Inventory of Heritage Buildings. The report had recommended and Heritage Markham agreed that the barn could be demolished. Mr. Duncan restated that the subject barn at the Ramer property is the only known bank barn in the municipality.

### **Cross Examination of the Witness**

Mr. Barlow asked Mr. Duncan the construction date of the barn that was to be demolished. Mr. Duncan advised that, although there was no definitive date displayed or documented, that it was probably built in the 1880s. Mr. Duncan was then questioned about the loss in relationship between the house and the barn to be demolished, as noted in Exhibit 22. Mr. Duncan replied that the barn noted in Exhibit 22 was not of a quality or heritage value worthy of preserving.

### **This concluded the case for the Objector.**

### **Summation of the Case for the City**

Ms. Stobo stated how the subject house and barn buildings were important for the following reasons:

- the subject barn is the only remaining Pennsylvania German bank barn left in Markham,
- the buildings represent a complete package of Pennsylvania German architecture,
- the barn is the same type as the Francy barn, shown in photos in Exhibit 18, that had been moved from Markham in 1977 to the Riverdale Farm site in Toronto,
- the municipal staff, the Heritage Markham committee, and the City Council agree on the importance of the structures,
- the local heritage evaluation committee and their evaluation ranked the buildings as important; including that the Ramer family was part of the general movement of Pennsylvania German immigrants,
- the local evaluation system is the preferred and adopted local system, which uses a committee of people as part of the process
- while the building features may not be significant, the buildings are still in their original location and construction condition, which is a vernacular type of house that is relevant to local heritage,
- the deterioration in both buildings can be addressed,

- the municipality is still willing to consider adaptive reuse of the subject buildings, and
- any missing building features can be addressed by research including from international sources and assessments.

With these points, Ms. Stobo closed the case for the municipality.

### **Summation of the Case for the Objector**

Mr. Barlow provided an Outline document giving his full summation and highlighted the main points to keep within suggested time limits. The document was accepted as Exhibit 25 during the hearing, however, it was noted after the hearing that the number 25 had already been assigned. Accordingly, this document was renumbered as Exhibit 26.

Mr. Barlow summarized his main points of objection to the designation to be:

- the condition of the buildings is poor and much of the building features have been removed with no record of their style and construction,
- reconstruction of any such missing features would be entirely speculative,
- Mr. Larkin's evidence indicated there was no suitable reuse of either building for the intended cemetery purposes,
- the scoring methodology employed by Mr. Morgan in his evaluation of the heritage value of the subject house and barn is a more relevant and balanced system to weigh heritage considerations and is used in other jurisdictions,
- case law referenced in Exhibit 26 from previous Conservation Review Board hearings supports their position, in particular where the Board had made other decisions against designation where buildings lacked historical, architectural or contextual significance and where a building had been altered or features removed to an extent that rendered the building not worthy of designation and where a building did not contribute significantly to understanding and appreciation of area heritage, which Mr. Barlow stated is the case with the two subject buildings.
- Exhibit 26:
- The subject house;
  - Architectural Style and Design;
    - Not unique or early example of a style or construction method
    - Not Georgian or Gothic style
    - Not a good example of Pennsylvania German building style
    - No significance to the setting of the house into the bank
    - There are better heritage examples of houses that utilize grade differentials to access two floor levels in the jurisdiction
  - Construction method;
    - Uncoordinated materials and methods of construction
    - Simple, undressed, rough stone exterior of main two floors
    - Not an early representation of construction of the Pennsylvania German settlers; built in 3<sup>rd</sup> generation of main migration
  - Craftsmanship and Artistic Merit;
    - Not unique design

- Lacks symmetry
    - Poor craftsmanship
    - There are better examples of stone construction in Markham
  - Technical Merit, third floor addition and lost features;
    - Not associated with any advances in building technical
    - No technical merit
    - Poor condition of repair
    - Unsympathetic upper floor addition
    - Many lost features
  - Other considerations;
    - No direct associations with a theme, event, belief, person, activity, organization or institution of significance
    - No typical “gross doddy” addition feature attached
    - No significance to the date of construction,
    - Later date of construction than early Pennsylvania German settlers
    - lack of physical and architectural integrity
    - Common materials and poor construction methods
    - Rise in land not significant
    - Not representative of Pennsylvania German style
    - Unsympathetic addition of upper floor
    - Not unique design, construction or setting into bank
- The Subject Barn;
  - There is no completed barn inventory to compare this one against. Such an assessment should be done in the municipality before designation is considered for the subject barn
  - Such a study could find better examples
  - He suggests adjournment of the hearing regarding the barn until such an inventory can be done, during which time the barn would be protected by the Intention to Designate
  - Exhibit 26 focuses finding of facts to be difficulties in reuse, the poor visibility of the barn and house from the public road and the suggested incomplete barn inventory and the existence of other cantilevered barns in Markham, except their overhangs are closed in with walls.
- The Markham Scoring System;
  - Town overly dependent on a flawed scoring system
  - A scoring system is only an aid to identify heritage merit, not determinative of it
- Witness credibility and weight;
  - Suggests Morgan more credible than Wokral and Smith witnesses
  - Suggests Larkin expertise and site experience more weight & preferred over Wokral and Smith
- General conclusions of Mr. Morgan:
  - House lacks heritage value that would merit designation
  - Premature to determine heritage value, lack of barn inventory

- Barn has serious deficiencies that prevent or inhibit its reuse, integration into subdivisions and the parties had engaged in development discussions, contrary to the Town's evidence
- Heritage Value of the John Ramer House;
  - No linkage between the two buildings to necessitate evaluation as one unit
- The buildings are not significantly linked to their surroundings; they are only farm buildings in a rural setting.
- The buildings do not constitute a landmark.
- The potential for reuse of the barn is very difficult.
- There is no particularly noteworthy linkage between the house and the barn
- Town's investigation of other barns;
  - Smith indicated other cantilevered barns exist in the Town but the overhangs are hidden or enclosed with walls.
  - A barn inventory was being prepared and would have relevance to the subject barn.
  - Heritage Markham allowed a barn that was likely of Pennsylvania German construction to be demolished since the early part of the subject hearing.
  - Current policy of the Town is to not protect barns.

**The hearing ended at 2:00 p.m. on Wednesday, 16 April 2008.**

## **Findings of the Board**

### **Identification of Issues**

#### **1. General Issues**

- a). Deferral of barn: The Board decided that any recommendation would reflect the spirit of the Act in its treatment of designation of real property, not individual structures. In this way, arguments were made and a decision will encompass the property as a whole, including both the house and barn structures.
- b). Barns not typically designated for heritage purposes: Mr. Barlow provided evidence indicating how local heritage policies provided that typically barns are not designated by the Town. The Board finds that the policy statement should not be construed to exclude such consideration, especially when the superseding Act allows for such consideration.
- c). Process inconsistencies: During evidence on behalf of the Objector, a few examples were revealed where the representatives of the owner lacked consideration of the municipality's policies or approvals process including;

- the owners had demolished the one-storey building attached to the main house without a permit or any form of approval,
- the Town had asked Memorial Gardens to maintain the window frames but they subsequently removed the window sashes and filled them with concrete block,
- Mr. Larkin agreed that he did find out that both buildings were on the Master List of Potential Built Heritage Resources in the Town of Markham, shown in Exhibit 2, tab 18, prior to the purchase by the owner,
- Mr. Larkin also advised that he knew the Town would be willing to meet to discuss the potential reuse of the house and barn buildings as part of the development process before his client's purchase of the property,
- when asked why he had not met with the Town regarding the heritage aspects of the buildings, Mr. Larkin gave no particular reason.

While these are not directly within the scope of the Board's mandate, they do provide further context to the weight of the Objector's case.

- d). Evidence beyond the scope of the Board: The Board was very lenient in hearing evidence from the Objector in documents and testimony on topics that exceed the purview of the Board, including;
- In cross-examination, Mr. Larkin himself agreed that his evidence was not relevant to any heritage value of the buildings. Specifically, his evidence on the prospects for reuse of either building for the intended cemetery purposes was not of CRB concern. In contrast however, he did testify that he chose not to explore those possibilities with the municipality who had expressed that it was supportive of alternate reuses.
  - Other attention on behalf of the objectors to planning and development issues, structural issues and the physical condition of buildings was also beyond the scope of the Board. The Towns' replies to such evidence also exceeded the Board's consideration.
  - The physical condition of the buildings is also an issue that exceeds the scope of the Board.

While the Board was lenient in allowing the Parties to provide some out-of-scope argument to assess its potential to help provide context or perspective to relevant argument, it is the Board's decision that none of this evidence will directly weigh into the Board's recommendation.

- Town of Markham Heritage Evaluation System: The Board was very lenient in hearing much evidence from the Objector critical of the Town's heritage evaluation system. As is clearly outlined in the Act, the Board makes their recommendation on the relative weight of argument as it pertains to Ontario Regulation 9/06. Any discussion about specifics of the Town's rating system is not relevant to the Board in making a final recommendation, particularly because the Town's system meets the minimum requirements of Regulation 9/06.

## **2. Design or Physical Value**

The subject buildings are not considered to exemplify a particular style, material or construction method. The Town suggested the house to have both Georgian and Gothic Revival styles. The Board accepts the assertion of the Objector that the form displays more of a simple construction form of convenience than adoption of a sophisticated style in advance of construction. The evidence given on behalf of the Town suggesting the house design to exemplify a vertical "gross doddy" was not convincing, compared with Mr. Morgan's documentary evidence, area examples of gross doddy horizontal additions and his explanations of the beneficial reasons for the horizontal form of such an addition to a family home. While the house is not considered unique, the Board does find the evidence from the Town that this is the last known bank barn left in its original location in the jurisdiction to be more convincing than the evidence by the Objector. As well, it is accepted that this style of barn is associated with Pennsylvania Germans that migrated to the area. The relationship of the two buildings in this original setting is also considered of merit and adds to their interdependent heritage values.

When Mr. Morgan was asked whether the subject barn would be significant and worthy of preservation if it was the sole example of a Pennsylvania German bank barn in Markham, he agreed. As well, Mr. Morgan's evidence from Exhibit 22 suggesting that the Town had approved the demolition of another bank barn, thereby diminishing the value of the subject barn, was shown to be an incorrect interpretation during the reply evidence from Mr. Duncan. In particular, Mr. Duncan noted that the barn referred to in Exhibit 22 was on flat ground; not a bank, the explanation of the concrete infill as an addition supporting the former overhang of that barn was countered and explained to be a replacement foundation and that barn did not face south, which would have been the orientation of a true bank barn. Mr. Morgan's evidence was revealed in cross-examination to have come from a roadside view at a distance of perhaps 200m. that could not see the subject façade of that barn. Mr. Morgan indicated that his opinion had been based on an interpretation of photos that had been attached to the Town's report in Exhibit 22. His interpretation was therefore, considered incorrect by the Board.

The evidence on behalf of the Objector made numerous references to poor craftsmanship and poor materials used in the construction of the house. It is accepted by the Board that the materials and construction were simple, functional and lacking in a significant design by anyone of community importance. However, the two subject

buildings do reflect the growth of a rural Pennsylvania German family in the house and its progression of its additions together with a unique style of barn in the jurisdiction. The evidence of the scope of related commercial operations on the property was also of interest. The simplicity of the construction of the subject house is not considered a detriment to the considered heritage value of the two existing buildings on their original site. The Board finds that designating examples of houses of simple construction to be as important as designating more stylish dwellings.

In addition, the Board finds that architectural design significance is not a sole prerequisite in determining heritage value. Simple forms and materials can reflect the basic lifestyles and situation of a group of people that had a significant affect on the area. In the same regard, contrary to the evidence of the Objector, symmetry is not a requirement in determining heritage value. The variance in style between the original stone house and the brick/frame upper floor addition to the house reflects the simple growth of the family using a form of convenience that is a reflection of the family dynamic.

There are house features such as the verandah, original roof, the front stairs, the chimneys, roof and window attributes that have been lost over time without documentation about their size and shape. As stated by the Objector, the mere restoration of such features without supporting knowledge would not add heritage value to the house.

### **3. Historical or Associative Value**

There was no evidence to suggest that the subject Ramer family were significant community leaders or associated with any area event, organization or theme that would be significant to the community. However, their scope of farm and mill operations would have undoubtedly placed them in a position of community importance.

### **4. Contextual Value**

As stated on behalf of the Objector, the buildings are not considered to be a landmark in the community. However, there is a strong sense of heritage context in the relationship of the two buildings on their original site, the setting of the two buildings into the bank overlooking the same stream that was stated to have powered a grist mill, a cider mill and a saw mill on the property. Based on the air photos in Exhibit 2, tab 3, Mr Morgan interpreted the location of the former millrace from the stream serving those mills.

Both parties gave evidence that the subject Ramer family were not significant people such as community leaders. However, their multiple mill operations at this location would have made this property and family an integral component in the supply and development of the community. The combined importance of the farm and mill businesses on the subject property to the area residents and businesses of the time

would have significantly exceeded that of most area farms. As well, the rural setting has not been impacted by urban type development.

Contrary to the evidence on behalf of the Objector in Exhibit 22, the subject buildings set into the north bank above the stream are quite visible from the road. The benefits to livestock of the southerly oriented and cantilevered bank barn can be appreciated in a closer view from the same direction. The buildings and their relative setting within their physical surroundings makes their simple functionality appreciated.

In this regard, the buildings, setting, geography and history of commercial operations provide a strong sense of heritage context.

### **Board Recommendation**

Based on the evidence heard, the Board is of the opinion that the proposed statement of cultural heritage value or interest and description of heritage attributes (Reasons for Designation) has credibility. For this reason, the Board recommends that the Council of the Town of Markham proceed with the designation of the property known as known as 6278 19<sup>th</sup> Avenue, Markham (John Ramer House and Barn) under s.29 of the Ontario Heritage Act, R.S.O. 1990, c.O.18, as amended 2006.

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**Stuart Henderson, Chair**

May 5, 2008

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**Stuart Kidd, Member**

May 5, 2008

## Schedule 1

### Exhibits List

- Exhibit 1. Affidavit of notice of hearing – The Markham Economist and Sun, Markham, Ontario, 22 November 2007 (3 Pages) Tabled by the Board
- Exhibit 2. Book of Documents, Memorial Gardens Canada Ltd., 19 Tabs, Tabled by Mr. Barlow
- Exhibit 3. Book of Case Law and Statute, Memorial Gardens Canada Ltd., Eight Tabs, tabled by Mr. Barlow
- Exhibit 4. Book of documents, the Corporation of the Town of Markham, 14 tabs, tabled by Ms. Stobo
- Exhibit 5. CV of Peter V. Wokral, (3 pages), tabled by Ms. Stobo
- Exhibit 6. Witness Statement, Peter Wokral, Heritage Planner, (9 pages), tabled by Ms. Stobo
- Exhibit 7. Photographs from photo Board, (16 pages), tabled by Ms. Stobo
- Exhibit 8. Extracts from document titled "Canadian German Folklore", tabled by Ms. Stobo
- Exhibit 9. Photographs of area heritage homes, (7 pages), tabled by Ms. Stobo
- Exhibit 10.
  - a. CV of Lorne Smith, (two pages), tabled by Ms. Stobo
  - b. Witness statement, Lorne Smith, (two pages), tabled by Ms. Stobo
- Exhibit 11. Extracts from book titled "The Barn", (12 pages), tabled by Ms. Stobo
- Exhibit 12. Extracts from book titled "The Old Barn Book), (seven pages), tabled by Ms. Stobo
- Exhibit 13. Letter dated the 28 November 2007 to Memorial Garden Canada Limited, (three pages), regarding a visual inspection of the subject house, from Izzy Katzenberg, Construction Control Inc., tabled by Ms. Stobo
- Exhibit 14. Letter dated the 28 November 2007 to Memorial Garden Canada Limited, (three pages), regarding a visual inspection of the subject barn, from Izzy Katzenberg, Construction Control Inc., tabled by Ms. Stobo
- Exhibit 15. Master Site Plan of proposed "Dickson's Hill" cemetery by Larkin & Associates Planning Consultants Inc., dated 20 Oct. 2007, tabled by Mr. Barlow
- Exhibit 16. Photos titled "6278 19th Ave., Structures not included in the designation", tabled by Mr. Barlow
- Exhibit 17. Photo of northeast elevation of subject house with former addition, (1 page), tabled by Mr. Barlow
- Exhibit 18. Four photos of Francy barn, (one page), tabled by Mr. Barlow
- Exhibit 19.
  - a. Photo of south elevation of house at 7134 Major Mackenzie Dr. East, dated December 2007, (one page), tabled by Mr. Barlow
  - b. Photo of north elevation of house at 7134 Major Mackenzie Dr. East, dated December 2007, (one page), tabled by Mr. Barlow//

- Exhibit 20. Photo of north & west elevation of house at 81 Dickson Hill Road, dated December 2007, (one page), tabled by Mr. Barlow
- Exhibit 21. Document titled "Criteria for Heritage Properties", (two pages), tabled by Mr. Barlow
- Exhibit 22. Heritage Markham Extract dated 21 Nov. 2007 to R. Hutcheson, Manager of Heritage Planning & T. Cabral, Applications Administrator regarding a demolition permit for a barn at 10224 Highway 48, 8 pages, tabled by Mr. Barlow
- Exhibit 23. "Riverdale Farm – What's on the farm?", an extract from the Parks & Recreation Department, City of Toronto, web site & related information, 5 pages, tabled by Mr. Barlow
- Exhibit 24. "The Venice Charter", 2 pages, tabled by Ms. Stobo
- Exhibit 25. "External Full" description of an 1860-1875 quilt stated to have been made by Mrs. Ramer and on display in the Ontario Museum, 2 pages, tabled by Ms. Stobo
- Exhibit 26. Outline of the Objector/Owner's case summation, 33 pages, tabled by Mr. Barlow

## **Schedule 2**

### **ONTARIO HERITAGE ACT**

#### **REGULATION 9/06**

*No Amendments*

### **CRITERIA FOR DETERMINING CULTURAL HERITAGE VALUE OR INTEREST**

#### **Criteria**

1. (1) The criteria set out in subsection (2) are prescribed for the purposes of clause 29 (1) (a) of the Act. O. Reg. 9/06, s. 1 (1).

(2) A property may be designated under section 29 of the Act if it meets one or more of the following criteria for determining whether it is of cultural heritage value or interest:

1. The property has design value or physical value because it,
  - i. is a rare, unique, representative or early example of a style, type, expression, material or construction method,
  - ii. displays a high degree of craftsmanship or artistic merit, or
  - iii. demonstrates a high degree of technical or scientific achievement.
  
2. The property has historical value or associative value because it,
  - i. has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community,
  - ii. yields, or has the potential to yield, information that contributes to an understanding of a community or culture, or
  - iii. demonstrates or reflects the work or ideas of an architect, artist, builder, designer or theorist who is significant to a community.
  
3. The property has contextual value because it,
  - i. is important in defining, maintaining or supporting the character of an area,
  - ii. is physically, functionally, visually or historically linked to its surroundings, or
  - iii. is a landmark. O. Reg. 9/06, s. 1 (2).

#### **Transition**

2. This Regulation does not apply in respect of a property if notice of intention to designate it was given under subsection 29 (1.1) of the Act on or before January 24, 2006. O. Reg. 9/06, s. 2.