

**Conservation  
Review Board**

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**Commission des  
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**RE: THE TOWN OF NIAGARA-ON-THE-LAKE – INTENTION TO DESIGNATE  
97 MELROSE DRIVE (IRONWOOD), TOWN OF NIAGARA-ON-THE-LAKE**

Stuart Henderson, Vice-Chairman  
Blake Millar, Member  
Lorraine Petzold, Member

October 19, 1999

A Hearing of the Conservation Review Board was held on Thursday, July 8th, 1999, at the Municipal Building, the Town of Niagara-on-the-Lake, pursuant to Section 29(8) of the Ontario Heritage Act, R.S.O. 1990, Ch.0.18 for the purpose of reporting to the Council of the Town of Niagara-on-the-Lake whether, in the opinion of the Board, the property at 97 Melrose Drive (Ironwood), hereinafter referred to as the “subject property” should be designated by By-Law, under the Act, two objections having been raised by owners of lands abutting the subject property.

For the Town of Niagara-on-the-Lake:

Callum Shedden, Solicitor  
John Perry, Planner  
Peter Stokes, Consulting Restoration Architect  
John Morley, owner

The Objectors:

Robert Witherell, P.Eng.  
W.H. Robins

The Board, in accordance with its custom, had the opportunity to view the property on the day of the Hearing.

## THE CASE FOR THE TOWN OF NIAGARA-ON-THE-LAKE

Mr. Shedden filed a certified copy of the deed of the subject property in the names of John Arthur Morley and Victoria Louise Morley.

Mr. John Perry, Town Planner, was called by the Town. Mr. Perry stated that the Town Planning Department had no objection to the designation and that the use of the subject property was low density residential use, which included the balance of the subdivision to the West and South. There is a woodlot to the East. Mr. Perry outlined the procedure taken by the Town in the consideration of properties for designation. He stated that goal #6 was emphasised: “voluntary designation of historic buildings and structures”. Mr. Perry reviewed the photographs of the subject property.

Mr. Robins, objector, cross-examined Mr. Perry on the status, use and size of the private right-of-way which gives access to 97 Melrose Drive, and the properties known as 93 and 89 Melrose Drive. Mr. Perry concurred that the right-of-way was 21 feet in width, was a private access laneway and stated that in his opinion persons would not visit the site after designation.

Mr. Peter Stokes, Consulting Restoration Architect was called by the Town. The Board accepted that Mr. Stokes be considered as an expert witness. Mr. Stokes testified that LACAC had investigated the subject property and had prepared a report recommending its designation. He stated the criteria as set out in Exhibit 6, Section 3, “Criteria for Designation”, had been followed in determining the recommendation by LACAC summarized as follows:

- a) the property was associated with the Secord family, and the building had been constructed by the manager of Queenston Quarries;
- b) the building is a mid 20<sup>th</sup> century single storey, ranch style bungalow, designed by a local architectural firm;
- c) the building is a typical subdivision type found in the Bevan Heights subdivision, of which it forms a part;
- d) the building is a noteworthy example of 1966 ranch style bungalow;
- e) the front façade and chimney of the building are of limestone from the area;
- f) the building is intact from 1966, with only minor modifications, comfortable, with simple expression and very restrained;
- g) the material, form, scale, disposition of front entrance and discreet design, qualify the building.

On questioning by Mr. Shedden, Mr. Stokes stated that all criteria must be met under the said Section 3 for the property to be recommended.

On cross-examination by Mr. Robins, Mr. Stokes agreed that the design and style had originated in California and was not exclusive to Ontario. Mr. Stokes also agreed that other than the limestone façade and chimney, the balance of the house was constructed from modern contemporary materials. He also agreed that the James Secord family who were granted the property in the early 1800's, owned it for only 15 years, never lived on the property and that there was no connection of the property to the Laura Secord family.

On questioning by the Board regarding whether the architectural firm could be considered as "significant architects", he stated that they were not, but rather good at what they did.

John Morley, owner of the property, testified as to the landscaping that had been added to the property, stating it represented the Carolinian environment with 125 trees on site including ironwood. The foundation plantings are not characteristic of the area.

Mr. Robins cross-examined Mr. Morley on the status of the right-of-way as well as the type of landscaping and vegetation in the surrounding area, as well as the ability of the Niagara Escarpment Commission's responsibility of protecting the environment in the area. Mr. Shedden acknowledged during this cross examination, that the Town accepted that Robins and Witherell were owners of legal rights in the property obtained by grant.

## **THE CASE FOR THE OBJECTOR**

Mr. Witherell presented his objections to the application citing the condition and status of the private right-of-way and the concerns that he had with the use of the right-of-way if the application was approved. He also objected to the application on the grounds that in his opinion it did not qualify as an historic property.

Mr. Robins presented his objections to the application citing similar concerns as Mr. Witherell regarding the right-of-way. He also explained why he was of the opinion that the property being only 33 years old, not unique to the area, not constructed of native materials and not connected to an historic personage or event, did not meet the criteria for designation. He also pointed out that the landscaping was similar to other parcels in the area.

## **SUMMARY**

### **Objectors:**

Mr. Robins presented the summation for the objectors. He challenged the appropriateness of the proposed designation both on architectural and historic grounds. He stated that the design was not native to Ontario, and that the only native materials

used were on the façade of one side of the building. He stated that the generally accepted meaning of heritage means values of the past and stated that in his opinion, this designation would be debasing the heritage concept. On historic grounds, he reminded the tribunal that the Secord connection was tenuous and shortlived, only 15 years in the early 1800's.

### **Municipality:**

Mr. Shedden in presenting his summation reaffirmed that designation would only take place if the owners volunteered the property. He stated that in the opinion of the Town all criteria had been met and had been testified to by Mr. Perry and Mr. Stokes. He stated that the Act does not set time limits on how old a property must be to qualify. He also stated that the status of the private right-of-way was not relevant to the application.

### **FINDINGS**

The property at 97 Melrose Drive is owned by John and Victoria Morley. It was agreed by Mr. Shedden that both objectors, Mr. Robins and Mr. Witherell are owners of legal rights to the property, obtained by grant. It is noted therefore, that of the owners of rights to the property only one has volunteered the property for designation and the two other owners have objected. The Town's position as stated to the Board, was that designation is not considered unless the owner/owners volunteer.

Mr. Stokes testified that all criteria must be met in order for the property to qualify for designation.

The Board noted that the historic personage of Secord was not acceptable and no information was offered regarding any other historic personage or event linked to the property.

The Board also noted that the materials used in the construction were "ordinary" materials available for building construction and the only native materials was the limestone used as a façade on one side of the building and for the chimney which protrudes from the centre of the roof.

The Board also noted that according to Mr. Stokes testimony the building could not be considered the workmanship of a significant architect.

In this instance, a persuasive case was not made to the Board for designation of the property at 97 Melrose Drive. Insufficient historical or architectural evidence was presented to the Board to warrant designation of the property.

**RECOMMENDATIONS**

**The Board recommends based on the evidence heard and presented to it, that the property at 97 Melrose Drive, not be designated under the Ontario Heritage Act.**

(Signed)

Stuart W. Henderson  
Vice-Chairman

Blake Millar  
Member

Lorraine Petzold  
Member

EXHIBITS

97 Melrose Drive, Town of Niagara-on-the-Lake (8 July, 1999)

1. Certified copy of the deed of the property
2. Curriculum vitae – John Perry, Planner
3. Location Map of property
4. Land Use Plan, Schedule D, Niagara Escarpment Development Control Map
5. Boundaries of Niagara Escarpment Plan - sketch
6. Official Plan of Niagara-on-the-Lake
7. Photographs of subject property
8. Letter from the Ministry of Environment to Witherell
9. Curriculum Vitae – Peter Stokes
10. Sketch of subject property