

11 Stanley, Mimico, Soldier houses hearing, December 20 2018

WITNESS STATEMENT 11 Stanley Avenue, Toronto MV8 1M9

A proposal for (2) 3 storey detached houses on a 50 feet wide lot

TLAB, 18 13549 S53 06 et al. Hearing Date: 20 December 2018

Evidence of David Godley 401 Lake Promenade, Toronto, ON, M8W 1C3

A composite trying to capture all I said and a bit more more

Recommendation: Refusal.

Preliminary comments. (Russell Cheeseman was the lawyer, TJ Cierciura (TJ)The Planner and Ted Yao TLAB Adjudicator-the same group involved in 70 36th recent TLAB hearing)

- A)** The proposal is similar to 70 36th street except the impact on the next door house is far more serious in this case.
- B)** No urban design evidence has been presented. The impacts are hidden because there is no street façade view of the proposal in relation to the next door properties, no 3D birds eye view and no urban design analysis of the built fabric and open spaces (the existing contexts). This should be done at the beginning of the process as with the arborists report. This means that there is no urban design input by the time it reaches decision makers or for City Planning to make urban design comments. Consequently the application was not complete and is premature as the essence of the application is urban design, the third dimension of planning.
- C)** The proposal is for 2 soldier houses, narrow lots, (25 feet frontage), 3 storeys to the street with front façade garage on the lowest floor and generally much higher densities than houses in the broad area (TJ's study area) and this section of Stanley Street. Soldier houses are at the opposite end of the detached house spectrum from the character of the neighbourhood and street. Any reasonable person walking

past or driving will see the proposal does not fit and in that it is inharmonious and insensitive and certainly not gradual.

- D) Soldier houses are a style that are being built across the City because they optimize the owner's investment. They are the flavour of the decade. In mid 2018 there were 29 TLAB appeals for soldier houses in 15 Wards. The old Ward 6 including Mimico led the way with 7. The cookie cutter houses are therefore diluting character rather than reinforcing it. Soldier houses make neighbourhoods more similar. On this point alone the proposal should be refused - it does not conform to the character reinforcement policies of the OP mentioned many times throughout the document.
- E) The witnesses from 18 Stanley are not concerned about the use and would not mind semis or triplex if the massing were consistent with the street. The witness from Central Avenue is prepared to sacrifice market value of a division into 3 lots to ensure the ambience of Mimico is kept. This shows there is no NIMBY element. If RC had received urban design advice at the beginning of the process I doubt he could have found an urban designer to support the proposal and we would not be here now.

Main Presentation

1) Provincial Policies do not mandate higher densities in “Neighbourhoods” Designated Areas, including 11 Stanley Street.

Provincial policies must be considered but are irrelevant for density as they are implemented through the Official Plan whose policies deter intensification in neighbourhoods; that is unless they reflect and reinforce the distinctive or defining character. As Jeffrey Cantos (a City expert on Official Plan matters) stated to the TLAB briefing session Feb 2017, “neighbourhoods are not intended for intensification”. I support the notion that “neighbourhoods designation does not support intensification – rather it allows gradual change that respects the area’s character.” Chair of TLAB Ian Lord supported this in exact words in a general interview in the Novae Res Urbis edition of August 24 2018. Approval by the Province of OPA 320 (A legal document since LPAT’s December 7 2018) clarifying the “Neighbourhoods” policies attests to Provincial support for the City strategy. The newly in force OPA 320 now has prevailing in front of all subsections except a) h) and i) and includes a new subsection on garages and driveways.

2) **The general intent of the OP is the basis for decisions.** Key points including robust urban design policies are (*my comments in italics*) :

Section 1. Making Choices (Vision)

Introduction “The Plan’s land use designations covering about 75% of the City’s geographic area will strengthen the existing character of our neighbourhoods... “

Last para page 1.1

“The vision of the plan is about creating an attractive and safe city that evokes pride, passion and a sense of belonging – a city where people of all ages can enjoy a good quality of life. para 2 p 1.2

A City with ...- beautiful architecture and excellent urban design that astonish and inspire. Last para p 1.2

Section 2.3. “It encourages decision making that is long range, democratic, participatory and respectful of all stakeholders.” Para 2 p 2.20

Section 1.2,

Toronto’s future as a city of leaders and stewards is one where

- individuals and communities actively participate in decisions affecting them
- people are inspired to become involved in positive change
- the private sector marshals its resources to help implement objectives.

It is the community who prepares policy and the development industry that implements it. Recently it has been the development industry that has been dictating policy contrary to OP aims.

- people are engaged and invested in city living and civic life para 2 p 1.5

People should shape their own neighbourhood where there are no overriding City wide policies and at this level there are not. In fact quite the reverse. It is City wide policy to conserve neighbourhood policy especially as the occupants see it.

2 Shaping the City (Strategy)

Introduction “The principles that follow are for steering of growth and change to some parts of the City, while protecting our neighbourhoods and green spaces from development pressures, are the first layer of a sound planning process for shaping the city’s future”. para3 p2.1

2.1 “Our view of the quality of urban life tends to be based on local conditions in our own neighbourhood” para 6 p 2.1

2.2 “...the approach to managing change in Toronto’s neighbourhoods and green space system, emphasises maintenance and enhancement of assets. Para 3 p2.3

2.3 “These areas can expect little change.” P2.20

2.3.1.

Healthy Neighbourhoods

“They are also an important asset in attracting new business to the City and new workers for growing businesses.”

“By focusing most new residential development in the Centres, along the Avenues, and in other strategic locations, we can preserve the shape and feel of our neighbourhoods. However, these neighbourhoods will not stay frozen in time.. A cornerstone policy is to ensure that new development in our neighbourhoods respects the existing physical character of the area, reinforcing the stability of the neighbourhood.” Para 2,3 p 22

This is the underlying vision and strategy for the whole OP.

Policy

“Neighbourhoods and apartment neighbourhoods are considered to be physically stable areas. Development within Neighbourhoods and Apartment Neighbourhoods will be consistent with the objectives and will respect and reinforce the existing physical character of buildings, streetscapes and open spaces in these areas.” Para 6 p2.23

Long Branch is now unstable with about 100 soldier houses and a threat to the 50 feet lots in Long Branch which represent the majority. A precedent will be set for both Stanley Street and the study area with potential to change the character of the neighbourhood further. Mimico’s distinctive character will change to a suburban type model of tall thin long houses dominated by garages from its traditional form if other applications are based on precedent..

3 Building a successful city Introduction (Urban Design)

“All applications for development will be evaluated against the policies and criteria on this Chapter to ensure that we make the best possible development choices.” Para 2.23

“City-building involves balancing social, economic and environmental

needs and priorities. para3 p3.1 Good urban design is not just an aesthetic overlay, but an essential ingredient of city-building. Good urban design is good business and good social policy. para 5 p3.1

This Plan demands that both the public and private sectors commit to high quality architecture, landscape architecture and urban design, consistent with energy efficiency standards. “ last para p3.6

3.1.1 Policy “Quality architectural, landscape and urban design and construction will be promoted by...c) ensuring new development enhances the quality of the public realm” para4 p3.2

3.1.2 Developments must be conceived not only in terms of the individual building site and program, but also in terms of how that site, building and its façades fit within the existing and/or planned context of the neighbourhood and the City. Each new building should promote and achieve the overall objective.”

Last para. P3.6

Policies

1. “New development will be located and organized to fit with its existing and/or planned context

b) consolidating and minimizing the width of driveways and curb cuts across the public sidewalk; *this is not done*

d) preserving existing mature trees wherever possible and incorporating them into landscaping designs. Para1 p 3.7

This was the prime reason the split was refused for 15 Stanley which has been appealed on legal grounds to the Divisional court by Fromage. That proposal was similar to this one.

4. New development will be massed to define the edges of streets, parks and open spaces at good proportion. para 2 p3.7

Existing and Planned Contexts - Sidebar

“The existing context of any given area refers to what is there now. The planned context refers to what is intended in the future. In this case, in determining an application, Council will have due regard for the existing and planned contexts P3.7

3.1.2.3 Policy

“New development will be massed and its exterior façade will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks, open spaces and properties by:

- a) massing new buildings to frame adjacent streets and open spaces in a way that respects the existing and/or planned street proportion;
- b) incorporating exterior design elements, their form, scale, proportion, pattern and materials, and their sustainable design, to influence the character, scale and appearance of the development
- d) providing adequate light and privacy
- e) adequately limiting any resulting shadowing of, and uncomfortable wind conditions on, neighbouring streets, properties and open spaces, having regard for the varied nature of such areas; and
- f) minimizing any additional shadowing and uncomfortable wind conditions on neighbouring parks as necessary to preserve their utility.”

Last para p3.7

3.4 Introduction

Protecting Toronto’s natural environment and urban forest should not be compromised by growth, insensitivity to the needs of the environment, or neglect. Para3 p3.33

3.4.1 Policies “To support strong communities, a competitive economy and a high quality of life, public and private city building activities and changes to the built environment, including public works, will be environmentally friendly, based on...

- d) preserving and enhancing the urban forest by
 - ii) increased tree canopy coverage and diversity, especially long-lived native and large shade trees. Parea1 p3.34

(The City’s adopted policy is to increase the tree canopy from 25 to 40% in the document every tree counts)

The environmental policies and the City evidence of destruction of trees was enough by itself to turn down the severance application for the nest door property 15 Stanley and the tree impact on 11 Stanley is greater.

4 Land Use Designations

The distinctive character and contextual stability of neighbourhoods are to be preserved.

Physical changes to our established neighbourhoods must be sensitive, gradual and generally “fit” the existing physical character. A key objective of this Plan is that new development respect and reinforce the general physical patterns in a Neighbourhood. Last para p4.4

4.1.5

“Development in established Neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- b) size and configuration of lots
- c) heights, massing, scale, and dwelling type of nearby residential property (this is also urban Design)
- f) prevailing patterns of rear and side yard setbacks and landscaped open space

No change will be made through rezoning, minor variance, consent or other public action that are out of keeping with the physical character of the neighbourhood.” Para 2 p4.4

All these policies are transgressed by the proposal

I was directly involved in the creation of OPA 320 and am aware of the aims of the 2006 approved OP.

The proposal is contrary to all these policies of the OP. It is the proposal that should be evaluated because that is what the separate severance and variances permit. Incremental change to the Planning Act separated these two interlinked types of applications. The Official Plan from 2006 had good policies but were circumvented leading to clarifications and reinforcement in OPA 320.

- 3) **The distinctive character of the neighbourhood is quantified by the 3 lens approach as detailed by the Long Branch Character Guidelines.** The Guidelines were prepared by SvN consultants, experts in Urban Design. They were unanimously approved by the City on January 31st 2018. The quantifying process is common to all neighbourhoods. The broad character of the Mimico neighbourhood is one lens and the study boundary can be seen as the wider area. The following are the predominant defining features 1 and 2 storey housing, much lower density than permitted, lot frontages greater than 25 feet, recessed or rear garages or no garage at all, grade related entrances, large sloping roofs and a good tree canopy, none of which are observed. The eclectic nature of the surrounding area and outlier individual houses are often cited as precedents for development. However Ian Lord in his decision on 9 38th St states eclectic nature is not of relevance. TJ's evidence that any style of housing is permitted is incorrect. Block and Nearby Houses are the other 2 lenses. The closer a street property is to the proposal, the more weight it should be given in determining its design. The nearby properties are of prime importance within the block and the next door street properties are critical for urban design harmony. This is because they are seen in direct juxtaposition with the proposal. Properties well away from the proposal on the block can only be seen at an oblique angle with the proposal.
- 4) **Soldier houses are incompatible.** Soldier houses are 3 storey to the street, narrow lots, relatively high density eg 0.70 and with garages dominating the front ground floor facade. They are generic invaders found all over the City that are inserted into widely differing locations to optimise the owner's aims. They stand out as incongruous "sore thumbs" in the Mimico study area. The proposal increases density from 0.60 to 0.97 because the basement floor is counted. But this means the basement floor is further out of the ground than normal and this increases massing. There would be an increase in density even if the basement was not counted.
- 5) **Demand should not be accommodated wherever possible.** Demand is to be resisted according to the OP to ensure that quality of life is retained or enhanced. Planning is essentially an intervention in market forces to benefit the whole community. Citizens are the clients of the planning system and are supposed to shape their own neighbourhood according to the OP. Builders are supposed to implement policy rather than dictate policy. (p 2.1 OP)
- 6) **There is no shortage of land for development.** All planned development can be accommodated within the Avenues like Lake Shore Blvd. according to Jennifer Keesmaat, former Chief Planner. Designations within the downtown, port lands (which are as large as the downtown) and Centres allow for any additional need. Toronto is half the density of London, UK and New York. Mimico has been host to massive new development to the east leaving scope for neighbourhood conservation. BILD is a pressure group for the development industry and TJ is on its Board.
- 7) **The building envelope of setbacks and heights cannot be filled in with higher densities without impact.** Zoning already often creates severe impacts on neighbours as it is a blunt instrument. It is like doing an

appendectomy with a knife and fork. It may work well in standard subdivisions but for varying configuration of lots it often does not work well. The impact on 9 Stanley is a case in point where the lot of 9 Stanley is significantly shorter than 11 Stanley. TJ's notion that all zoning produces development that conforms to the OP is bogus as is his assertion that anything approved by COA or an appeal body conforms to the OP. TJ therefore has not considered configuration of lots fully or he would have noted this and taken precautions to minimize impact such as designing a detached house on the 50 feet lot. An affordable second suite could be included in a larger house and made accessible to the disabled which with so many stairs the proposal is not. Densities (0.60) for soldier houses create severe impacts even within the building envelope. This is mentioned in a Long Branch hearing (PL160520, 30 36th St) although the aspect of urban design was not considered for the severance.) Impacts can be severe under current zoning. However it is the proposal generated from the applications which is to be judged.

- 8) **Instability.** While the low density residential areas are relatively stable the threat of further splits of 50 feet wide lots, based on an approval here, may lead to instability. There are a small number of soldier houses already in the study area, 109 Superior is a case in point. These do not fit harmoniously and are not part of the distinctive/defining character of Mimico. The City are already concerned about the potential desecration of Mimico's character having authorised a Mimico Character Guideline Study
- 9) **Numerical size of variance matters.** The Divisional Court and City say that size (as well as impact) must be small; this is critical in relation to density as well as the reduction of the frontage from 35 feet to 25 feet. A reduction by one third could never be considered small in general English such as reduction of pay or reduction in body size. The 364 Lake Promenade OMB PL110395 decision confirms this. The Toronto website definition of minor was "Small changes or exceptions to existing land use or development restrictions contained in the zoning bylaw are called minor variances." The word "Adjustment" defines the Committee's role. A further recent clarification is included in the Blue Brochure "Getting to know the City of Toronto, Committee of Adjustment" produced by the Planning Department which states "Whenever your project or development largely complies with the rules in the Zoning Bylaw but does not quite, you need to have to apply to a minor variance. Example. The maximum permitted height for the building is 10m. The altered building is proposed to have a height of 10.5m." Doubling of density cannot be seen as small or minor especially in relation to doubling salary, or doubling weight for example although there is the consideration of the basement being counted. Planning decisions are to determine the public interest and decisions need to be in line with City policies. The North Barrie case had nothing to do with size being relevant. Rather it related to how it is addressed in decisions. However not giving reasons for "minor" seems to avoid due process since the minor test is key for variances and any decision must be justified for due process. In other words De Gasperis rules. The variance system has been undermined by putting increasingly large changes through a now heavily

overused opaque system because of its complexity. The system is over-extended leading to poor planning by people who are working against City policy. TLAB accepted numeric considerations are relevant in the decision on 666 Greenwood Avenue and others. Variances are intended to give flexibility where lot configuration or other variance matters do not quite fit due to an unusual situation. 10% used to be the guide for half a century.

- 10) **The zoning and severance should be considered together.** Building designs are created through Section 53 and 45 of the Planning Act. It is the urban design impact to which everyone relates as mentioned in the OP. The circulated site maps are helpful but the facades bring the buildings to life. Rarely are these elevations related to the next door properties and even more rarely are bird's eye views shown, both of which are needed for full analysis. Without this material and an evaluation of how the proposal fits in with urban design the application is premature. Even if the existing bylaw allows negative impacts it is the proposal that must be considered in relation to legal and planning parameters.
- 11) **The zoning bylaw reflects a much higher density than the existing houses.** This is especially so in the street. **See urban design analysis sent separately**
- 12) **The proposal is not a modest form of intensification but goes against the grain of the aesthetic texture of Mimico.** The higher the density the greater the massing and scale, the more dramatic the impact in terms of light, privacy, views and large blank walls. The impact on 9 Stanley is severe with a blank wall over 25 feet long and 30 feet high looming over the deck and rear yard. Since the property at 9 Stanley is considerably shorter than at 11, nearly the whole back yard will be deprived of sunshine, natural light and sky views and views of foliage since 11 Stanley is to the south. The blank wall will severely over power 9 Stanley significantly reducing the aesthetics from the rooms of the house and rear yard. Such matters impact well being. A detached house on the property at a density within the zoning bylaw is the appropriate and desirable use.
- 13) **Land Use development planners are not necessarily experts in Urban Design** Urban design is the third dimension of planning and what you see on the ground. Land Use planners specialize in land density, and lot configuration, and are usually not trained in urban design; urban design is an option for OPPI membership. A third of the OP is devoted to Urban Design. The urban design policies of the OP are being clarified and strengthened because the policies have essentially been ignored at the neighbourhood level and have been largely ignored by staff (other than for tree preservation) and decision makers at the neighbourhood level. All sides of the land use issue agree on detached housing and I have already addressed density and lot configuration.

- 14) **CONCLUSION** The proposal does not conform to the general intent of the vision, strategic, urban design or neighbourhoods policy of the OP. In fact it is diametrically opposite. The urban design policies have not been addressed by the applicant. The lot configuration is incompatible with surrounding lots being the lowest frontage in the street and density is highest on the street. These facts preclude respect and reinforcement of character (mentioned a dozen times in the OP) according to OMB decisions PL150665 151 Airdrie Road and PL151145 284 Hounslow Road. The proposal does not comply with the general intent of the zoning bylaw. Variances are major rather than minor both in impact and numerically. Approval would mean an undesirable precedent has been created. The severance is similar to 15 Stanley Street which was turned down by TLAB on planning grounds. The proposal and supporting severance and variances are undesirable and should be refused.
- 15) **SUMMARY** The proposal is equivalent to a square peg being forced into a round hole (the site and the policies). If the hole had been inspected and analysed at the beginning of the process no reasonable person would have proceeded with the applications.

David Godley 31 December 2018