

9 38th Street, A Proposal for Long Narrow Houses on 25 feet lots.

Files B11/16, A95, 96/16 EYK

Committee of Adjustment meeting March 9 2017

Summary of Comments supporting Refusal

- 1) Provincial Policies are not relevant.
- 2) What the OMB might do is not a consideration.
- 3) “Neighbourhoods” (the OP designation) are not areas for intensification.
- 4) The issues are exclusively urban design.
- 5) The proposal detracts from many urban design objectives, particularly on the rhythm of the street and severe impacts on adjacent properties.
- 6) The proposal shows little attempt to attempt to fit into the neighbourhood harmoniously and appears to be a way to maximise profit. Long blank overwhelming sidewalls are a feature because side yards are reduced, a sure sign of overdevelopment.
- 7) The proposal is a precedent for more soldier houses not only in this locality but throughout the neighbourhood. All OMB approvals have been made on precedent. The cumulative impact is already major.
- 8) The general intent of the Official Plan is ignored including Section 2 on shaping the neighbourhood, 3.1.2.3 on urban design, and 4.1.5 on respecting and reinforcing the character of the neighbourhood.(OP Extracts below)
- 9) The general intent of the zoning being low density, low profile housing in wider lots is not observed.
- 10) Minor means minor and not an exaggeration, which games the system.
- 11) No information has been provided for character evaluation nor has any analysis been done. The application is premature without these evaluations. The application is not complete.
- 12) The public interest does not include the applicant’s wishes especially those for expanded profit.
- 13) The expected Planning Department position is refusal.
- 14) The three magnificent trees at the front of the property alone make it an unsuitable site for splitting. OP Tree policies would be breached.
- 15) The most important criterion is how the neighbourhood and particularly people most affected wish to shape their neighbourhood. The proposed development is inappropriate and undesirable.

Conclusion and Recommendation:

There are no reasons to approve the proposal other than increase the profits of the applicant which would be considered ultra vires. It is recommended that the applications be refused.

Proposal

It is proposed to divide a 50 feet frontage lot into two 25 feet lots and build 2 two storey detached houses on both lots with a density of 0.56. The southern house has a flat roof and the northern house has a more traditional design.

Impacted owners

The Long Branch neighbourhood is up in arms with the lack of planning and instability caused. Its citizens have been abused by the OMB. A number of nearby residents has been conversing with me.

Long Branch

Long Branch is the epicentre for severances so its character is being desecrated faster than anywhere else in Toronto and probably Canada. This not only means that the appearance is deteriorating but that the economy is suffering. This is well outlined in the Official Plan. Distinctive neighbourhoods are an attraction to those investing in the Region.

No Intensification in Neighbourhoods

That is why the Official Plan directs intensification to other areas of the City which has an abundance of development land. As the Chief Planner says, all planned population can be accommodated within the Avenues designation with plenty to spare. Jeffrey Cantos, (of The Strategic Division of the Planning Department) in his presentation to the Toronto Local Appeal Board stated on February 23 2017 “Neighbourhoods are not for intensification.”

Minor is not Major or even something in between.

Minor a decade ago was a maximum of 10 to 20%, 5 years ago it was 50%, recently it was 100% and now it is up to 200% in some Planning Department recommendations. The Department has been pushed to support higher

densities because otherwise the processing would grind to a halt. Planners would be forever at the OMB.

Small size of variance, as well as impact, is a legal requirement to be judged as to what is eligible for being considered by the Committee of Adjustment. The Toronto definition of minor is “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. As mentioned earlier the Committee of Adjustment is appointed to ensure the City’s interest by representatives of the citizens of Toronto rather than impose their own views of planning.

Department Comments

In this case I expect Planning to recommend refusal and Urban Forestry to object as three large trees are in jeopardy.

Provincial Policy

The Provincial Policy Statements are implemented through the Official Plan and are considered by everyone except certain development planners as irrelevant. So they are not part of the planning and legal framework in this instance.

Planning and Legal Framework

If the Planning and Legal Framework is not followed and the decision is appealed from the OMB, the Divisional Court will strike the proposal down. Unfortunately no one in Long Branch can afford to do so. For the Committee of Adjustment, the Integrity Commissioner is the route for those not following City policy or the public interest.

Context

Context is critical therefore in administrative terms but also in terms of urban design and the surrounding properties. The OP clarified by the OPA 320 identifies a micro-neighbourhood as well as a broader area for analysis. The draft Urban Design Guidelines for Long Branch clarify further by putting emphasis on the two abutting street houses to ensure street rhythm. This is

classic urban design practice as well as common sense. The issues on this application are entirely urban design as land use is not an issue. No information has been provided on context but the prevailing, predominant, most frequently occurring lot frontages are around 50 feet wide. No lot is lower than the proposed which fails an OMB test Appendix 2. No context is provided for massing or number of storeys. The two bungalows either side would suffer increased overlook, overshadowing and overwhelming appearance because of over development. (See map below)

Conclusion

The COA has always been good at listening to the concerns of people affected. The Committee of Adjustment may not always agree with the residents but up to recently have had a fairly good record. Since Toronto amalgamation the COA have provided some of the only local democracy available. When the COA have deferred matters to a community meeting this is even better because everyone gets to have their say in a non threatening environment. Usually some improvements are made to a proposal. Some provide complete agreement. How citizens want to see their neighbourhood develop is the most important criteria. The OP is set up so citizens should shape their neighbourhood without yielding to the pressures of development (explicitly stated). The zoning has recently been updated and reflects the current OP vision. Minor variances have four tests but with flexibility to allow other considerations. Public input is part of the fifth test. (Need and hardship can be included as well.) **David Godley March 1st 2017.**

Appendix 1

The most important OP sections which need to be referenced are:

Section 1.1, 2. Making Choices

A vibrant and modern city with “beauty” is one of four basic visions. A principle is “beautiful architecture and excellent urban design that astonish and inspire.” A statement on beauty is that “all successful cities astonish with their human made and natural beauty. People choose to live and businesses choose to invest in beautiful cities.”

2 Shaping the City

“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”. As Jeffrey Cantos (who works for the City on Official Plan matters) stated to the TLAB briefing session recently, **“neighbourhoods are not intended for intensification”**. The Chief Planner Jennifer Keesmaat is on record as saying all expected development can be accommodated in “The Avenues” with plenty of land left over in the Downtown, Waterfront, Mixed Use Areas and various Centres. This vision not only supports an excellent quality of life in neighbourhoods but is an economic strategy as well. I have highlighted the myth about density being a reason to approve severances cum variances.

3 Building a Successful City

3.1.2.3 Policy “New development will be massed and its exterior façade will be designed to fit harmoniously into its existing and planned context, and will limit impacts on neighbouring uses, 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.” Further policies mention privacy, views, light, shadowing, wind protection and trees.

3.4.1 d preserving and enhancing the urban forest by

- i) providing suitable growing environment for trees;
- ii) increased tree canopy coverage and diversity, especially pf long-lived native and large shade trees.

NB Mr. Beauregard , Manager of Urban Forestry regards inten=sification to be a major threat to the tree canopy. Long Branch has already lost over 30 beautiful trees to development both legally and illegally.

4. Land Use Designations

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

Development criteria in Neighbourhoods

“while communities experience constant social and demographic change, the general physical character of Toronto’s residential neighbourhood endures. 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.

4.1.5

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

- a) patterns of streets, blocks and lanes, parks and public building sites
- b) size and configuration of lots
- c) heights, massing, scale and dwelling of nearby residential properties**
- d) prevailing building type(s)
- e) setbacks of the buildings from the streets
- f) prevailing patterns of rear and side yard setbacks and landscaped open space
- g) continuation of special landscape or built form features that contribute to the unique physical character of the neighbourhood and
- h) conservation of heritage buildings, structures and landscapes

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.”

I have highlighted the key 4.1.5c which should cover both buildings along the street and well as buildings to the rear which may be affected by light views privacy etc. OP Amendment 320 is adopted by City council and approved by the Province but appealed to the Municipal Board. Words in bold have been added. The OPA clarified and reinforced the policies in the original OP of 2006.

OPA 320

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

- a) patterns of streets, blocks and lanes, parks and public building sites;
- b) **prevailing** size and configuration of lots;
- c) **prevailing** heights, massing, scale, **density** and dwelling type of nearby residential properties;

- d) prevailing building type(s);
- e) **prevailing location, design and elevations relative to the grade of driveways and garages;**
- f) **prevailing** setbacks of buildings from the street or streets;
- g) **prevailing** patterns of rear and side yard setbacks and landscaped open space;
- h) continuation of special landscape or built form features that contribute to the unique physical character of a **geographic** neighbourhood; and
- i) conservation of heritage buildings, structures and landscapes.

A geographic neighbourhood for the purposes of this policy will be delineated by considering the context within the Neighbourhood in proximity to the development site, including: zoning; prevailing dwelling type and scale; lot size and configuration; street pattern; pedestrian connectivity; and natural and human made dividing features

The physical character of the geographic neighbourhood includes both the physical characteristics of the entire geographic area and the physical characteristics of the properties which face the same street as the development site in the same block and the block opposite the development site. A proposed development within a Neighbourhood will be materially consistent with the prevailing physical character of both properties which face the same street as the development site in the same block and the block opposite the development site and the entire geographic neighbourhood within which it is to be located.”

Appendix 2

(23) Extract from OMB file PL151145, 284 Hounslow Avenue, To.

I also cannot overlook the 15 m frontage requirement of the existing bylaw. Although some approvals have permitted frontages of less than 15 m, none have countenanced 9.14 m. Approval of the relief sought would, in my view, give rise to a significant risk that lots similar in size to the subject property will be eliminated going forward and that such elimination would, as a result, potentially lead to a transformational shift in the character of the area.

(17) Extract from OMB file PL150665, 151 Airdrie Road, Toronto

A compelling case was not made by the planner why the subject property should have the status of the tallest home in the neighbourhood. The Board was not persuaded that the building height is not discernable to a passerby, or why the Applicant merits another increment in height above that earlier granted by the COA. The Board is also mindful that the approval of variances must rely on Official Plan policy as one of four tests. In this respect, returning to the policy referred in paragraph 9 of this decision, “No change” will be made by variance (or by other means) which are out of keeping with the physical character of the neighbourhood”.

In the Board’s opinion, approval of the variance which permits the tallest house in the neighbourhood is not compliant with that policy. A policy which begins with the word: “No” cannot be ignored in association with an application which would establish a new benchmark for residential building height. When measured against this policy, the case for compatibility cannot be made.