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## Committee of Adjustment Process.

### SUMMARY

The process has not worked properly for a decade and frequent attempts to improve it have failed. Initially it was the OMB at fault but now it is the actions of the Etobicoke York Committee of Adjustment panel and Local Planning Department.

The panel members do not take into account the Planning and Legal framework and seem to work on the basis that development is good unless there is major opposition. The Planning Department are contributing with weak comments from a narrow perspective. Their main aim appears to be avoiding being involved in TLAB hearings.

### CITY INITIATIVES

City Hall has taken steps unsuccessfully to curb the lawlessness of planning neighbourhood. The City is to be congratulated for setting up TLAB which so far has produced insightful decisions under the leadership of Ian Lord. OPA 320 has also clarified the intent of the original and sophisticated OP. Urban Forestry has been doing an excellent job trying to protect the tree canopy. The Administrative COA staff is efficient. The Long Branch Character Guidelines initiated by the Planning Department and Councillor Mark Grimes (after 2 hours of venting at a community meeting in May 2015) were adopted by Council in January 2018. They bring an urban design perspective previously neglected.

### WIDESPREAD CONCERN

I have a diverse knowledge of planning and urban design and have been involved in the Long Branch issues for the past decade. (Resume, Appendix 1 and urban design experience Appendix 2). I am writing to you out of deep concern about the wellbeing of my neighbourhood, Long Branch, as well as other neighbourhoods throughout the City. I am not alone in my concern as Councillor Mark Grimes has been at the forefront of our efforts to put the severance/variance process on the right footing. There is a strong Neighbourhood Association which has spent many

years in total, trying to remedy the situation. Mostly the results have been frustrated although TLAB offers new hope. In a survey last year by Iain Davies, 70% of the low density residents felt redevelopment was a major issue in South Long Branch. There are groups all over the City with the same basic concerns.

## NEIGHBOURHOOD IMPACT

It would be reasonable to say that changes in Long Branch are undermining its sense of place, its character, its relations among neighbours and its unique personality. Over 100 tall, thin, long (about double permitted density) modern suburban houses have been approved. These are colloquially known as soldier houses. They stand out like sore thumbs in the street scene against a backdrop of traditional and cottage-historic houses on low density, low profile, tree lined streets. This unique aesthetic integrity was intact until around a decade ago. Approximately one mature tree is lost for each severance. Since Long Branch is full of 50 feet wide lots the major areas have been destabilised and remain threatened. Long Branch has more severances as a neighbourhood than any of the old wards. This means Long Branch has taken the brunt of developer's strongly motivated will to optimise investment. The multiple planning mistakes will probably last a century so it is well past time for the crisis to be stopped.

## LEGAL OBLIGATIONS

The Committee of Adjustment's blatant disregard for the law raises the question of whether the members are competent or suffer from a form of institutional bias. Their decisions generally are so completely at odds with the most fundamental aspects of the relevant principles, one wonders if the Committee is even aware of their mandate to conserve Toronto's diverse neighbourhoods and honour the heavy investment the City have in creating environmental policies. The Committee transgresses the Municipal Act by never giving reasons for decisions other than stating tests or criteria and they "huddle" during public hearings. The contempt for residents is palpable. Committee members appear impervious to logic and thus speculation is that honesty is not total. Partly because there has never been formal urban design (third dimension) input into the process, Long Branch qualities have been eroded at odds with City policy and legislation. Essentially municipal bodies appear to not be fulfilling their statutory obligations or following the City's vision for which they are paid.

## LOCAL PLANNING

To make matters worse the Planning Department often produces inconsistent reports that suffer the same weaknesses. The Division is strongly at odds with others within the Planning Department notably the Official Plan group on its interpretation. Take the recent case of 65 40<sup>th</sup> Street as an example. This was the first application to be considered directly under the Long Branch Guidelines. Planning reports in general have never addressed detailed policies of the OP or therefore its general intent, Long Branch Character Guidelines which are relevant as the intent of the OP, impacts on street scene or next door neighbours, urban designs analysis for the block or nearby dwellings, size of variances, general intent of the zoning bylaw, loss of trees, other relevant decisions, precedent etc. A summary of my comments are in Appendix 3. While it is acknowledged the Department are dealing with much more complex issues in great number, there is a fee system which is supposed to cover the costs of processing applications to the Committee of Adjustment. They also have not applied the Guidelines to new development on wider lots for example at 82 27<sup>th</sup> there was scope to save a tree and have less of an impact on the street scene by diminishing garage impact.

## INFORMATION FLOW

Another major hurdle to sound planning is that the information required for urban design analysis is not received at the beginning of the process and the ones submitted shortly before a hearing are unmeasurable. Planning accept them or does not. This excludes the public from the process. For the system to become effective it requires applicants to review documents before they design proposals. The opposite is happening where an outlandish proposal is submitted and slightly modified when the relevant documents are taken into account. An awful application simply becomes a bad one. Full information should be submitted, as with TLAB hearings. Impacts are hidden due to lack of bird's eye views and showing the street façade in context with neighbouring street properties. No thorough study as outlined in the Long Branch Guidelines has ever been done. These are critical pieces of information required for a full application.

## WEAK PLANNING REPORTS

The Chief Planner has aired his views on planning staff being too close to applicants. On several occasions planning has compromised public input by acting unilaterally. At the same hearing on January 24 2019 as 65 40<sup>th</sup> Street, 90 Ash was deferred. Planning had written a report saying no objection. A summary of my comments are in Appendix 4. This is a severance into narrow lots and double density proposal clearly at odds with the Long Branch Guidelines by any rational standard and by

extended logic the OP. Urban design is the essence of this issue, as with all soldier houses, yet there is no mention made of Urban Design OP policies (Section 3), which take up one third of the document. No reference is made to the Vision or Strategy outlined in Section 1 and 2. The comment is also at odds with comments planning used to make even from a narrow viewpoint.

## SAVING TREES AND AFFORDABLE HOUSING

Urban Forestry is taking a firm stand on protecting trees. Planning seems oblivious of the fact that the tree canopy is being lost when it is supposed to be increased from about 25% to 40% according to City policy. Consequently the Committee of Adjustment seems to expect that trees will be saved by adding a condition. Neither body follows the contention of the neighbourhood and TLAB (11 and 15 Stanley Street) that saving trees must be part of the criteria for severance or variance approval. Another aspect which receives no attention is the loss of affordable housing. Two large and expensive homes are constructed without reference to scale, massing and impacts that are well over \$1m while the existing houses torn down are suitable for renovation possibly with a second suite. Much more affordable housing is created. Cost of housing is undermining the livability of the City which has social consequences such as ill health and inequality which will need to be expensively addressed in the future.

## URBAN DESIGN QUANTIFICATION

Appendix 5, attached, shows an objective urban design evaluation - it identifies each component of the defining features of the applications from the Long Branch Character Guidelines. Consequently biased justification reports must be substituted to reference all defining features in order to achieve accountability. Planning have not ensured that urban design analysis or arborists reports are part of a complete application.

## MINOR VARIANCE

There are systemic flaws in the process at the local level. This has evolved over time, when for 50 years the rule of thumb of 10% was used to indicate what is minor. Density was not even intended for variances. Double density and higher is routinely approved sometimes with Planning support. The 10% figure has increased exponentially in defiance of the English language and the De Gasperis Divisional

Court case, as used by TLAB. This requires that both size and impact are to be used in deciding whether a matter is minor. City Planning has declined to develop a definition of "Minor" which for the public is the most confusing part of the process and one that has been distorted well beyond a legal meaning

## NEW PROCESS

Despite the apparent ease to discern inappropriate development in neighbourhoods it is actually a highly complex and multi layered issue which only allows a handful of individuals to understand what is happening. The controversial items should be dealt with as the zoning amendment process with community meetings and full information at the outset. This will enable the public, for whom the policies are prepared, to gain more comprehension and provide a basis for rational comments. Planning are extending a crisis both in terms of credibility and impacts contrary to assurances of Community Council when adopting the Long Branch Character Guidelines.

## OTHER DATA

More data is found on the Development website under Committee of Adjustment and TLAB especially for the 4 refusals by TLAB in the old ward 6, 9 38<sup>th</sup>, 38 36<sup>th</sup> and 11 and 15 Stanley. Some previous concerns are recorded on the website "preservedstories" edited by a Long Branch resident who has now been driven out of the neighbourhood due to lack of integrity in the planning process. TLAB has approved no severance and variance applications in the old ward 6 although there are many applications going through the hearing process, which takes 3 to 7 days.

## THE WAY FORWARD

If an exerted effort is made by Planning to nip the whole issue in the bud it will deter future applications and be a massive saving of staff time in dealing with inappropriate proposals. This would take the onus of protecting neighbourhoods away from ill resourced residents who are already under huge strain trying to legitimise good planning at hearings and defending City policy. Residents are helping each other at great cost to themselves and Long Branch is now the go to place for other groups with local planning difficulties. Northern Ireland surgeons became experts at repairing knee caps. The community feels like that!

## PLANNING ACHIEVEMENTS

While the Planning Department has skilled individuals it is clear that comprehensive planning at the neighbourhood level has lost its way. It has taken several initiatives in order to bring some rationale to the Committee of Adjustment process. They have achieved much and have been willing participants in meetings with the community. If the Committee of Adjustment had been worthy, Planning would not have been put in a position of having limited resources and weakening reports because no one would be appealing Committee of Adjustment refusals.

## CONCLUSION

The Planning Act emphasises fairness and the OP encourages residents to shape their own neighbourhood while keeping City wide objectives in mind. In a society that claims to honour the rule of law, it is time for the City to examine the CAO's record of discharging their statutory obligations. Should the City find evidence of deviance, as I am sure the City would undoubtedly do – I hope that a response will find ways that protect the City's significant physical attributes. At the moment the process is allowing every neighbourhood to start to look like every other with soldier houses as the common denominator. It is therefore impossible to say neighbourhoods are being respected or reinforced. For the sake of residents of Long Branch and the entire City we should be approving policy-based development that in the words of the OP creates a better economic and more balanced social environment.

I would like City Council members to be aware of the points in this letter so that any nominating committee can strike a knowledgeable group to consider applications. Those selected should be willing to promote the best interests of the City within the planning and legal framework.

Please send me an acknowledgement and let me know how you would like to proceed.

Yours truly, David Godley

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### **PLANNING EXPERIENCE**

**(APPENDIX 1)**

Planning evidence to the OMB on 40+ occasions.

2001-06 Toronto City Committee of Adjustment Member

1997-01 Planner Town of Dundas & New City of Hamilton

1995-97 Planner, Local Planning, City of Hamilton

1991-95 Manager, Plans Admin, Hamilton-Wentworth

1977-91 Manager, Local Planning Policy, City of Hamilton

1974-77 Planner, Plans Admin, Ontario Housing Ministry

1970-74 Senior Planner, Urban Design, Rotherham, UK

1967-70 Planner, Policy and Control, Doncaster, UK

### **EDUCATION**

1970-72 MA, Urban Planning, Sheffield University, UK

1963-66 Surveyors Diploma, Reading University, UK

### **COMMUNITY SERVICE**

2011-2018 Planning Aid Consultant

1991-2011 Lakeshore Planning Council

1985-1991 Hamilton Social Planning Council Board

1979-1985 Hamilton Community Information Services Board

1969-1971 Doncaster Civic Trust, UK, Planning Committee

### **PROFESSIONAL MEMBERSHIP**

Royal Town Planning Institute, UK (Retired)

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Urban design and Neighbourhood Character, Selected Experience.

### Recent

Evidence Prepared for OMB on Neighbourhood character using Visual Framework as Basis (2018) 11 Stanley, 15 Stanley, 24 33<sup>rd</sup>, 38 36<sup>th</sup>, 9 38<sup>th</sup>(2017) 22 33<sup>rd</sup> St (2014) 6 Shamrock, 82 27<sup>th</sup> St.(2013) 2 27<sup>th</sup> Street, Toronto (2012) 168 Lake Promenade, Toronto (2010) 51 Lakeshore Drive,

### Town of Dundas

Park Street, Dundas (Severances, Variances and Site Plans)

The new houses are so well integrated you cannot tell them from century homes.

### City of Hamilton

Planning Advisor to LACAC. Led the study which resulted in the first Heritage district designation in Hamilton and sixth in Ontario.

### Borough of Rotherham

2 years as an Urban Design planner.

### University of Sheffield

Urban Design and Architectural Courses

Thesis on Urban Conservation, enhancing community character.

### Borough of Doncaster

1 year Development Control in which aesthetics were key.

Planner for heritage files.

### Civic Trust, Doncaster.

2 years on the Planning Committee reviewing planning applications from the conservation viewpoint.

Visited 100 countries where my main interest is architecturally blending old and new buildings

An appropriate use is a detached house with a second suite. The 4 refusals at TLAB for severances and no approvals in Ward 3 are based on similar principles which are transgressed by the proposal. That is 9 38<sup>th</sup>, 38 36<sup>th</sup>, 11 and 15 Stanley.

**Principle 1 TLAB state according to the OP neighbourhoods are not for intensification.**

**Principle 2 Where density is to be increased a proposal still must reinforce and respect the neighbourhood character**

**Principle 3 The existence of atypical properties does not mean anything that is atypical is permitted. This is the failure of the OMB which only worked on precedent.**

**Principle 4 Urban Design is not properly taken into account as a factor in decisions.**

**Principle 5 Urban Design including trees should be dealt with by the applicant prior to the submission of an application for review by staff and public. No urban design analysis relating to the OP or Long Branch Character Guidelines to which the proposal is subject were done. The garages alone deaden the street and are reason for refusal. The loss of the front yard tree is reason alone to refuse the application**

**Principle 6 Planting small trees whether on the property or elsewhere is not adequate mitigation for loss of mature trees. About 50 trees have already been lost unnecessarily in Long Branch due to severances. Tree issues should be a framework for approval not dealt with through a condition which loses trees.**

**Principle 7 Rear facades should generally line up to avoid overlooking, overshadowing, overpowering nearby properties and obstructing views including skyviews. This is a policy of the OP 4.1.5f**

**Principle 8 Approval acts as a precedent and is a destabilising factor. Long Branch is already destabilised due to the large number of severances over the last 8 years. More severances have been approved in the small neighbourhood of Long Branch than any old Ward which are much larger.**

The Planning Department neither object to or support the applications. The comments are from a very limited perspective and do not address the OP, OPA 320, Long Branch Character Guidelines, Urban Design trees, minor in size or impacts or intent of zoning. The message is they have not the staff to attend a TLAB hearing. No person can honestly say that nearly doubling density is a minor or small adjustment. TLAB and residents start from the premise that planning is good. Everyone else starts from the premise that development is good. That is why Long Branch character has been ruined over the last few years despite the City acting to stop this by setting up TLAB etc.

David Godley (TLAB designated Local Expert) 401 Lake Promenade, Toronto, M8W 1C3

90 Ash, Severance and variances for soldier houses. COA 24 January 2019

A great site for a detached house with second unit for affordability.

#### **APPENDIX 4**

- 1) No reasonable person can honestly say that roughly doubling density is small or minor adjustment as prescribed by law.
- 2) The intent of the zoning bylaw is clear – very low density to reflect traditional layout. Long Branch has 0.35 density whereas Mimico has 0.60 density.
- 3) Long Branch’s defining character is very low density, wide lots, 1 and 2 storey, generous setbacks including rear wall and side yards and no front façade garages. The proposal is the opposite in character and therefore is not sensitive or harmonious. The Official Plan is ignored.
- 4) Soldier houses are found all over the City and are a product of maximising the owner’s interests. They are a blemish on the character of Long Branch. They are suburban in character rather than traditional. Saying soldier houses already exist to justify more is a false argument according to TLAB.
- 5) The Planning Depts. comments are highly misleading because they only look at a small fraction of relevant matters leaving the COA to fill in the blanks particularly on Urban Design, the essence of the issue.
- 6) The general public, the Councillor and Urban Forestry object
- 7) Forestry Comments need to be used as a criteria for deciding applications as stated in the 15 Stanley decision by TLAB. If they are simply used as conditions Long Branch loses trees currently about 1 mature tree a severance. As a major City adopted report points out in its title, “Every tree counts”. All trees are to be preserved if possible. The proposal therefore should be refused on trees alone.
- 8) Long Branch has been destabilised by 110 soldier houses, nearly all reducing the quality of life for residents and removing the legal protection built into the zoning bylaw for the community. Long Branch has had more severances in the last 8 years than any other old ward,
- 9) The OMB and COA are responsible for the ongoing destruction of character because they take little notice of the legal and planning framework such as the Planning Act and Official Plan. The OMB has been disbanded in disgrace.
- 10) I am asking COA members to refuse these applications and respond to the original intent of the OP as interpreted by TLAB.