

Dear Chris Murray,

Issues at the Etobicoke York Committee of Adjustment

I have been involved with the Committee of Adjustment for Etobicoke York for 20 years and have seen it degenerate. The City take has taken measures to rectify the situation such as OPA 320, setting up TLAB and adopting the Long Branch Character Guidelines. However the Committee continue to ignore the planning and legal requirements and vote on conviction in certain circumstances as shown by 95 James Street on September 12 2019.

I have launched a professional standards review on two planners after being frustrated for 5 years with the Committee.

I would much prefer for City staff to sort out the imbroglio which also involves inadequate comment from the Planning Department.

So I am addressing these concerns to you.

A copy of my letter and attachments cover the issues (see below)

I would also like to know why someone like me with planning and urban design skills was not granted an interview when I applied to the Committee.

Urban Design skills are not evident in the committee members. There seems to be some manipulation at play and would like an answer please.

I will be away from Sept 17 to Oct 3 2019 which should give plenty of time for review of the material.

Yours truly,

David Godley

401 Lake Promenade

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September 14 2019

----- Forwarded Message -----

**Subject:**Professional standards complaint

**Date:**Sat, 14 Sep 2019 10:34:25 -0400

**From:**David Godley <[mhairig@pathcom.com](mailto:mhairig@pathcom.com)>

**To:**Brian Brophey <[b.brophey@ontarioplanners.ca](mailto:b.brophey@ontarioplanners.ca)>

Dear Brian,

First of all I would like to explain that the Committee of Adjustment in Etobicoke York is, in my view, somewhat of a farce because a majority of committee members vote on conviction rather than planning or legal matters. In any case all decisions are unlawful because, uniquely in cities, Toronto provides no reasons for decisions beyond citing the 4 tests. It was hoped a new set of members would remedy the situation. That recently has been left to TLAB and citizens to correct at enormous cost.

Farce was the case in the first meeting of the new Committee of Adjustment on September 12 2019 with 95 James Street. The committee acted in an unfortunate way. In complete contrast to another application on the same agenda majority members Clark, McCloskey and Taylor were inconsistent. In refusing a house at 3 Twyford with an increase in density from 0.45 to 0.52, they approved 95 James from density 0.35 to 0.64 taking with it 2 trees one of which is one of the largest trees in Long Branch. Majority members continue to exclude tree preservation as part of planning and insist, by condition, it be dealt with a separate process. This is wrong.

Urban Forestry objected, Planning and the Councillor recommended deferral in a minimalist report, Long Branch residents objected, yet the Committee approved giving rise to the feeling among those in Long Branch that their neighbourhood is viewed as a dump. The Committee were swayed by a submission from the development planner that the zone allowed plexes at 0.60 density although he failed to explain the lot and lots all around were too small to support this density. It was felt by residents that the development planner had intimated that a plex could be built on the subject site. No recording of the meeting

was made, as required. The majority of members therefore added another layer of unlawful pandering to the development community. This to an outsider looks suspicious.

Planning muddy the waters by incomplete reports that are often more hinder than help. I am a qualified planner with far more planning experience than those writing reports and attach my comments (which cover all the planning points) for 17 Garden Place and is an example of what Planning should be doing. The thing is that variances and severances have grown like topsy and instead of what was done in the early 2000s when adjustments were truly minor, a roughly double density approval has become standard. This means that proposals that should have the same rigorous appraisal as zoning changes go through without proper analysis and public input with the natural corollary that good planning is aborted and citizens are angry. This has been happening for several years with a volatile meeting convened by the local Councillor at my request in May 2015. The weak planning comments are a more recent phenomenon. Long Branch is at the centre of the issue but the same is happening in other parts of the City.

The last TLAB hearings I have attended have resulted in 5 refusals and 4 of these were where I gave evidence against approval without support from Planning at the hearing against a development planner. It appears the reason planning are so evasive is that they do not want to get tied up with long TLAB hearings. It is the Bay Street lawyers and the development oriented planners (one was even on the Executive of BILD) that have been generated a profitable industry for themselves which has led to the downfall of the process that forced the Government to abolish the OMB and the City to set up TLAB. Unfortunately the Planning Department are undermining City Council and sound planning by submitting inappropriate reports. One way to address this is through professional standards as the issue has not been dealt with satisfactorily by the City. However I will be submitting this to the chief officer.

I would point out that Committee of Adjustment staff are doing an admirable job and Urban forestry a superb one despite putting huge pressure on their staff by attending TLAB hearings.

I wish to initiate a formal complaint about 2 OPPI members of the Toronto Planning Department.

The complaint is generated by concerns about reports signed by these members to the Committee of Adjustment . The reports address severances and variances for 77 35th Street and 90 Ash Crescent in Long Branch, Toronto (attached).

My concern is that OPPI members are 1) supplying incomplete and misleading advice 2) are not fully trained or competent in Urban Design, the third dimension of Planning involving aesthetics and 3) that biased opinions are offered based on misunderstanding of their function of planning.

CIP's definition of Planning includes urban design:

*"What is Planning. Planning means the scientific, aesthetic, and orderly disposition of land, resources, facilities and services with a view to securing the physical, economic and social efficiency, health and well-being of urban and rural communities."*

As the OPPI standards state:

"a planner must strive to provide full clear and accurate information on planning issues to clients, citizens and Government decision makers." "It also poses the questions to planners. Do I have sufficient information and resources; do I have sufficient training and experience; am I professionally objective."

My view is that these reports do not meet these professional standards.

## 1 Urban Design Policies

The planners did not include comment on the Official Plan (see attached OP), the recently approved OPA 320, (see attached) and only a passing comment on the Long Branch Character Guidelines (LBCG - see website for full information). The LBCG identify the defining features which are to be respected and reinforced but no analysis is done on these aspects at the broad, block or nearby level. The OPA and LBCG were prepared in order to elaborate on the general intent of the original OP which was being misinterpreted. All documents are relevant to each case.

LBCG Page 1. "The objective of the Guidelines is to identify the neighbourhood's key character-defining qualities, and to ensure that future developments are undertaken in a manner which is contextually-sensitive and responsive to the broader neighbourhood character. In order to accomplish this, the Guidelines incorporate a design methodology which evaluates future development at three concentric scales, including: 1. The property in relation to adjacent properties; 2. The property in relation to the street and block segment; 3. The property in relation to the broader neighbourhood context." The last is given as part of the adopted document but is unused by Planning up to now.

The defined character of Long Branch from the Guidelines is attached. No mention is made in the reports of style of roof, garage placement, mature trees, generous sideyards, porosity of between buildings, consistent rear yard setbacks, wide lot widths, impacts on neighbours including privacy, views or light. From the OP no analysis is done on the configuration of lots, prevailing massing/density, dwelling type, yard set backs or trees (Urban Forestry had not supported any of the applications), privacy, views or light. An example character evaluation is attached for 77 35th. The guidelines were an attempt to stop the abuse of City policy and the law by Committee of Adjustment members and the OMB. Fortunately TLAB have the intellect and insight to make sound decisions rather than base decisions on precedent as the OMB did in all its Long Branch approvals.

Planning do not ask for urban design evaluation material (based on the prescribed method to be submitted) as part of a complete application thus handicapping those agencies and the public commenting).

The impacts are hidden because there is no street façade view of the proposal in relation to the next door properties, no 3D bird's eye view and no adequate urban design analysis of the built fabric and open spaces to justify the proposal at the neighbourhood, block and nearby housing levels (the existing contexts in the OP).

In conclusion no valid urban design input appears to have been considered and none presented. This is where the applications which generate the proposal are primarily urban design oriented. It appears that most planners have

little training or insight into urban design issues or its analysis. Although there is a local Urban Design team it is not consulted.

## 2 OP Designation Policies

There is no comment on the the single fundamental strategy on which the OP is based – to direct density away from neighbourhoods in order to respect and reinforcement neighbourhood character and to create a positive climate for business. "Chair Ian Lord is quoted in the Novae Res Urbis edition of August 24 2018 "neighbourhoods designation does not support intensification – rather it allows gradual change that respects the area's character." Neither report mentions the critical "respect and reinforce" character refrain mentioned a dozen times in the OP and the comments appear to run against all the cited OP policies listed in the attachment.

## 3 Public Interest

The public's role in shaping the neighbourhood is outlined in the OP. Planners who have a balanced

view include public comment as part of the formula for deciding good planning but only passing mention is given and no reference to the strong opposition and the destruction of the character of Long Branch. Long Branch is already the fastest changing low rise neighbourhood in the City. In a survey a year ago 70% of South Long Branch residents felt that overdevelopment was a major issue.

Developers are essential to implement policy so policies must be realistic. However the development sector do not form part of the public interest except as individuals. The stakeholder group are the electors who are represented by politicians. The local politician has represented the general view by objecting. Those who are most impacted by a proposal are the main group to whose issues need to be addressed. In the past hundreds of people have had their protection in the zoning bylaw removed without compensation and rights transferred to builders for additional profit. Because each group of people affected is usually new to the complex process, the Long Branch neighbourhood, particularly the Long Branch Neighbourhood Association, has been involved. The stake for the neighbourhood is also great because one approval sets up a domino effect so that many approvals stem from it. The OMB and COA created a system where character is determined by the development sector, undermining the intent of City Council. There appears to be a widespread misunderstanding



among planners about whom their client is. Concern is widely expressed about the Planning Department being too cosy with developers (including Planning staff), specifically those planners dealing with applications. The public feel they are outsiders yet they are the client. It was recognised widely in the City of Hamilton that the builder/developer is not the client of the planning process. Consequently builders/developers with direct interests were not on advisory committees but naturally would be part of any process for coming up with policy.

Community planners tend to appear to make deals with the applicants behind closed doors on significant matters and have views widely differing from other Planning Sections.

It therefore appears there is bias towards applicants and development in general, obviating objectivity.

#### 4 Planning Act Tests

Minor. No justification of minor is proffered (attachments "What is minor" and "Blue Brochure" recently published by Planning).

This is despite the De Gasperis ruling that variances need to be minor in size as well as impact (as laid down in the Superior Court ruling) and used by TLAB. Quantitative matters have been

ignored in the reports as have qualitative matters of impact.

Without these facets appropriateness and desirability cannot be assessed.

## 5 General Intent of Zoning Bylaw

The intent of the zoning bylaw is generally low density especially for smaller lots, lower than all other neighbourhoods in Lakeshore because of Long Branch's historical cottage character. It is listed as a potential heritage district in the OP in the Site and Area Specific Policy 305.

## 6 Precedent

No comment is made about the precedent approvals will create. In Long Branch recent approvals for similar proposals have only been made on precedent which has destabilised the whole neighbourhood. Precedent has been interpreted as occurring in the neighbourhood by the Ontario Municipal Board and the Committee of Adjustment. OPA 320 corrected this development oriented interpretation of precedent by defining prevailing as the most frequently occurring, but the report on 77 35th perpetuates this error by

citing a single land use on Marina as a justification. Relatively high density approvals for 25 feet wide lots mean that, using the same criteria, can be justified for most 25 feet wide lots in the neighbourhood, a severe threat to stability.

## 7 Conclusion

As a planner with 50 years of experience I find the subject comments are out of line with what is expected from a professional planner.

(Attached are some of my qualifications)

Please let me know if this material provides enough evidence to begin formal proceedings.

Yours truly,

David Godley

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