

65 Fortieth St, Toronto. Severance & variances appeals.

TLAB Appeal: 19 114833 S53 03,19 114888&90 S45 03,

WITNESS STATEMENT, 65 Fortieth St, Toronto, M8W 3M8

A proposal for (2) 2 storey detached houses on a 25 feet wide lots from the required 40 feet, density 0.35 to 0.65, lot reductions from 370 s m to 271 s m and interior side yards reduction from 3 feet & 2 feet.

Hearing Dates: 21 and 22 October 2019.

INTRODUCTION David Godley, 401 Lake Promenade, Toronto, M8W 1C3.

I am giving evidence as a local area expert as designated in TLAB hearings on 11 and 15 Stanley Avenue in Mimico. In the 15 Stanley case, the chair, after noting my qualifications and experience with professional planning credentials recognized me as a person of knowledge in local matters. "He was permitted to give opinion evidence to be a matter of weight determined by the Board." I have broad and extensive planning knowledge and specialised in urban design which is fundamental to the applications.

On 11 Stanley the decision states "I also allowed Mr. Godley to give opinion evidence as a local expert, that is he could give limited opinion evidence subject to weight. Mr. Godley has a degree in town planning from the UK. He has worked as a planner for the City of Hamilton and been a member of the Toronto Committee of Adjustment"... "A person like Mr. Godley who has information to assist me; indeed in my experience, urban design is under-represented in the various viewpoints brought to the table."

I was also recognized as a local area expert at the 77 35th hearing. I have filled in TLAB Form 6, the acknowledgement of Expert's duty.

I attend hearings when there is no balancing evidence to an expert land use planner in order to give TLAB perspective. I was able to give background evidence on the historical development of planning in Long Branch as well as the Planning and Legal framework including urban design. To enable me to point out planning impacts I need to set the planning stage. Planning is defined by CIP "as 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." Urban Design, the third dimension and concerned with appearance is an essential ingredient of planning. This includes trees as being part of reaching a decision rather than adding a condition that permits be issued to an approval.

I initiated a community meeting in Long Branch in May 2015 held by the local councillor when the situation on lot splitting seemed to be getting out of hand. From this, the notion of Long Branch Character Guidelines emerged at the recommendation of the Planning Department. A comprehensive study with full public participation was carried out by SvN Urban Design Consultants. This was eventually adopted unanimously by the City in January 2018. This is the first severance/variance application to be submitted after the Guidelines were adopted. However little relevant urban design evidence has been submitted as the Planning Department does not have staff available to do this. I made a presentation to the Committee as posted. Recently Long Branch, a fifth as large as an old Ward had more severances applications than any other ward. I have attended 6 TLAB hearings up to present, all of which have been refused except one which is pending. I gave evidence at many OMB hearings for Long Branch proposals as well as in my work capacity in the Hamilton area. I was also involved at the local level in developing OPA 320. I was on the advisory committee for the Character Guidelines and attended all meetings and made submissions. My resume and urban design qualifications have been posted. I am a volunteer and not a member of the Long Branch Neighbourhood Association.

Recommendation: Refusal.

The proposal does not conform to Section 51 of the Planning Act in relation to:

- a) The Public Interest,
- b) The Official Plan and OPA 320 (as amplified by the Long Branch Character Guidelines),
- c) Lot Configuration,
- d) The general intent of Zoning (restriction on land)
- e) Conservation of natural resources (including trees)
- f) Prematurity (data has not been provided that justifies the proposal. It is the proponent's case to prove. A façade of the proposal in scale with the abutting properties has been submitted but no birds eye view which would show 3 dimensionally the impact on neighbours.)
- g) affordable housing and its nature

and under Section 45 of the Planning Act:

- h) Minor in size and impact,
- i) General intent of Zoning
- j) General intent of the Official Plan and
- k) Desirability and Appropriateness

ESSENCE OF TESTIMONY

- A)** PROVINCIAL DOCUMENTS. The Provincial Statements and Policies (Greater Golden Horseshoe) that are basically irrelevant. I am aware these documents have to be considered. They are general and do not necessarily apply to developments like 65 40th. This is also the view of the Planning Department. The hearing officer for 164 Lake Promenade refused to hear evidence on the Provincial Policies. The only exception would be strong policies on saving trees as outlined in TLAB decision for 15 Stanley. Since the OP is consistent or conforms to Provincial documents, it is the OP which has primacy. I would point out that “sense of place” is a Provincial Interest in Section 2 of the Planning Act subsection r(ii)
- B)** NEED. There is no need to vary the zoning because a detached house with second suite can be built. The public interest is about intervention in the market and demand/development pressures is not a factor according to the OP. There is a need for affordable housing which is being destroyed and replaced by more expensive housing. Enough approvals have been given to last the City 20 years with many more proposals in the pipeline and abundant land for development and redevelopment. Second suites etc. provide opportunities for gentle density additions. LBNA will provide references
- C)** PLANNING COMMENTS. Planning have not commented on the Urban Design Guidelines, trees, impacts on neighbours, minor in size or general intent of the Official Plan policies and zoning or carried out lot surveys on dwelling type, frontages, densities, front façade garages, size, set backs, heights and configuration of lots. It appears planner’s time is not well spent attending often lengthy TLAB hearings. There is a City Planner shortage for this type of application because they logically give priority to larger projects. The information report is now typical of Planning comments the Committee of Adjustment receive for major applications– a fairly recent change. In other parts of the city the Planning Department simply avoids comment on contentious issues.
- D)** PLANNER’S OBLIGATIONS. The evidence given by the CIP member Franco Romano appears to be misleading. For a start the member appears to be representing himself as an urban design expert with apparently little comprehension or qualification of either aesthetics or urban design analysis. Land Use Planning needs to be supplemented by urban design expertise. Any comments from a professional planner must be based on the public interest whereas the planner appears to be

basing his opinions on demand and development perspectives. As the OPPI standards say "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." "a planner must strive to provide full clear and accurate information on planning issues to clients, citizens and Government decision makers."

E) PROCESS. The general intent of the 2006 OP was reinforced by OPA 320 which is a non determinative document in this case and the Long Branch Character Guidelines. The Guidelines apply to the whole of Long Branch Neighbourhood which is the most geographically defined in the City with the lake to the south, the Etobicoke Creek to the west, The CN main line to the north and institutional uses to the east of 22nd and 23rd Street. The underpinning strategy for the OP is that good urban design creates a quality urban environment which is an economic boost. Neighbourhoods like Long Branch have a strong character which has been eroded over the last 5 years. Approval of these applications will continue the formerly broken process based on precedent and undo TLAB's innovations which introduced a comprehensive approach, gave weight to the public's point of view and used logic to determine good planning.

F) PREVAILING CHARACTER All implementation ie zoning changes, severances and variances must conform to the OP under the Planning Act. The vision of the OP demands excellence in urban design and involvement of those affected changing the neighbourhood. No analysis has been presented on prevailing (which means the most frequently occurring according to OPA 320) configuration of lots, massing, density, front façade garages, rear yards and side yards given in evidence by the appellant. However the lot size and lot frontage clearly show that none of these matters is the most frequently occurring. It should be noted that in terms of numbers narrow lots are approaching a tipping point which would mean someone could start a new justification for splits. However the wide lots in terms of overall frontage have more than double the frontage of narrow lots. So the impact on the street making up the qualitative prevailing character is more than twice the narrow lots. It is incorrect to say there is no prevailing character as it is clearly set out by Urban Design consultants, SvN in the LBCG.

G) SHAPING THE NEIGHBOURHOOD. Planners who have a balanced view include public comment as part of the formula for deciding good planning. Planning is not a top down process but a two way process reflecting the Planning Act's defining public input into various processes and emphasising fairness. There is strong opposition and the marring of character especially the introduction

of double density houses and loss of trees. 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.

H) STAKEHOLDERS. Developers are essential to implement policy so policies must be realistic. However the development sector do not form part of the public interest. The development sector implements policy. 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 such people have had their protection in the zoning bylaw removed without compensation and rights transferred to builders which adds value to their portfolio. Because each group of people affected are usually new to the complex process and its opaque machinations, the Long Branch neighbourhood has been involved, including me. The stake for the neighbourhood is also great because one approval sets up a domino effect so that many approvals stem from it. There are already additional applications for similar houses at a 0.75 from 0.35 density. A decision on this application especially citing density concerns will influence the determination of 95 and 97 40th Street. A planning system was created where character is determined by the development sector, undermining the intent of City Council. That is until TLAB was set up. There is a widespread misunderstanding among planners generally about whom they serve. Often deals or understandings are made between applicants and planners without public input. It was recognised widely in Hamilton that the builder/developer is not the client of the planning process. Advisory committees of representatives were set up to address most City Planning issues, a notion spread by the success of its application in Neighbourhoods.

I) INTENSIFICATION IN NEIGHBOURHOODS The single fundamental strategy on which the OP is based – to direct density away from neighbourhoods in order to enhance neighbourhood character. City planner Jeffrey Cantos put it plainly to the first business meeting of TLAB. “Neighbourhoods are not 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.

J) INTENT OF ZONING AND MINOR. The proposal is in an RM zone which allows detached houses up to 0.35 density. Other uses such

as plexes up to 4 units, and semi-detached houses are permitted at various densities, frontages and lots sizes. Both lots are proposed to be 0.65 density. Other significant proposed changes to the zoning bylaw are frontage reduced from 40 feet (12 m) to 25 feet (7.6m) , interior sideyards reduced from 3 feet to 2 feet, and a reduction in area from 370 sq m to 271 sq m. (Only detached houses are permitted according to the zoning.) This represents an increase in density representing 177% of what is permitted, lot size about 80% of what is permitted, a frontage of 65% of what is permitted and reduction of sideyards to 66% of what is permitted. To almost double the mass through these applications is not in alignment with good planning principles, or the legal tests or criteria and is unfair to neighbours. Individually and combined the variances are major in accordance with the De Gasperis definition which uses the English Dictionary in relation to size as confirmed by "The blue brochure" a public document issued by the Planning Department in about April 2019 to explain "Minor" to the public. The one example given for minor is if you increase the height from 10m to 10.5m. A 75% body loss or gain in weight, as a parallel to density, for example, could not seriously be viewed as minor. In the OMB 364 Lake Promenade PL110395 decision which was refused cited that a reduction in frontage from 12m to 9.33m was not minor. The intent of the zoning bylaw is generally low density, lower than all other neighbourhoods in Lakeshore because of its unique and historical cottage personality. It is also designated a potential heritage area in Official Plan Special Policy area 305. Generally smaller lots have smaller houses in keeping with the bylaw. Minor in size matters. Originally density was not permitted and was intended to allow development where lots were unusual in shape. In around 2000 to 2010, a 10 percent increase for density was the informal guideline relating to minor. Since then, despite the De Gasperis ruling that variances need to be minor in size as well as impact (as laid down in the Superior Court) quantitative matters have been ignored. Approved densities gradually increased in the last 10 years until double density was a standard approval in Etobicoke York. That is until recently when TLAB started applying it as in (666 Poplar). The TLAB Hearing Officer stated in her earlier decision (10 Robinhood Drive) that only qualitative matters were considered minor. I raised the issue with Chair of TLAB Ian Lord. Apparently the staff trainer for TLAB had this wrong saying quantitative matters were immaterial. The proposal does nothing to bring the lot closer to the zoning standard known as the restricted area zoning ordinance. The proposal represents overdevelopment on an undersized lot. Rather than gentle development, I would characterize it as aggressive development. The intent of the zoning bylaw is to allow a detached house on such a lot and a second suite

is permitted as of right. I submitted a paper on what is minor that was posted.

K) URBAN DESIGN. Little relevant urban design evidence has been presented throughout the process. There has been inadequate urban design analysis of the built fabric to justify the proposal at the overall neighbourhood, block and nearby housing levels (the existing contexts as listed in OPA 320 and LBCG). The study area is irrelevant since streets nearby and at right angles often have different characters. They cannot be seen in relationship to the proposal. There may be a block of semis but if they cannot be seen in context with development they do not affect the desired nature for development. In addition the 100 or so soldier houses (usually splits with narrow frontages and 2 storeys over at roughly double density with front façade garage) were approved mistakenly on precedent even if only one or two soldier houses existed. They are at the opposite end of the spectrum in terms of the prevailing detached houses and are not part of the character to be conserved. Urban Design analysis should be done at the beginning of the process as with the arborists report so that a design can reflect policy. No analysis has been done on the Official Plan or Urban Design Guidelines defined character which should form the basis of all proposals of this nature prior to submission of the application. This also means that there is almost no urban design for consideration by the Planning Department or the Committee of Adjustment. No explanation is given as to why such analysis is not undertaken. This indicates inadequate and premature applications.

L) URBAN DESIGN GUIDELINES Long Branch Urban Design Guidelines Approved by Council 31 January 2018

A motion of City Council was unanimously approved – “That City Council request that the Long Branch Neighbourhood Character Guidelines adopted by Council be used by home builders, the community, City staff, committees and appeal bodies to provide direction in their decision making as they develop plans, review applications for redevelopment and/or enhance the public realm in the Long Branch Neighbourhood.” The LBCG amplify the OP Policies which were often misinterpreted. For the overall neighbourhood, block and nearby buildings, the proposal is contrary to 10 out of 16 features for the broad and 12 out of 18 criteria for the nearby and block features. (65 40th character evaluation). For example the Guidelines are not followed on garage space, recessed or rear yard garages, consistent rear yard setbacks, porosity between buildings

and wide lots (over 9m). Any claim that the Guidelines are generally followed is not rationalised and is false. To fully respect and reinforce the neighbourhood character all urban design defined character features need to be followed. 68 Ash is a good example of where this has been achieved. The City specifically directed staff to apply the LBCG on all applications. In any case it is the proposal which is being reviewed, a combination of severance and zoning adjustment applications. That is why building design drawings are submitted. Otherwise it would be practically impossible to evaluate applications. I will go through the details later when I look at LBCG.

M) GARAGES. The proposal includes front façade garages which is directly contrary to the LBCG and the OP at the geographic area level, the block level and the nearby level, using the analysis prescribed by these two documents. The major difference between suburban and traditional houses is the prominence of garages. Front façade and prominent garages are suburban while the traditional character, the predominant character in Long Branch, as defined by the LBCG has garages set back, in the rear yard or having only parking space. This means that at the front yard setback there will be space for a driveway down the side of a house reflecting the LBCG's generous side yard setbacks defined character.

N) Urban Design Analysis. The established lenses for analysis are the geographic area, the block and the nearby houses within the block. To quote page 1 "The objective of the Guidelines is to identify the neighbourhood's key character-defining qualities, and to ensure that future developments are designed in a manner which is contextually-sensitive and responsive to the neighbourhood character in keeping with policy 4.1.5 of the City's Official Plan. In order to accomplish this objective, 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.

O) Diluting neighbourhood character. The domino effect of precedent has undermined good planning. Pro development planners (and lawyers) are well resourced through the profits that can be made by builders from severances/variances. The approvals were in clear contravention of Official City Policy, as I

know from working with a lawyer directly involved. He was Chair of Coalition of Residential Ratepayers and holds that position today. This is why I attended many hearings of the unjust pro-development OMB. To include the recent splits into soldier houses, 3 storey, roughly double density, front façade garages as the desirable character to be conserved is based on lack of knowledge of urban design. They have major impacts on the street scene, and the adjacent properties including overshadowing, overpowering and overlooking next door properties as well as blocking views and reducing the tree canopy. These are generic formulaic houses that are found in great numbers across the City, usually on 25 feet wide lots. They are therefore diluting character not only in Long Branch but across the City. It is therefore inconceivable that an urban design analysis should give these credit. I was summarised in the 70 36th Street decision as saying look alike houses of severed lots flattened the diversity of Toronto neighbourhoods.

P) PRECEDENT. All soldier houses in Long Branch neighbourhood were approved on the basis of precedent based on evidence that the area has no defined character. TLAB ruled that this was incorrect in the 9 38th decision and each proposal must be looked at individually with character analysis taking account of majority features including preservation of trees. TLAB ruled that just because set back and height provisions were met, it does not mean there are no impacts. In the 70 36th decision it was explained that all disaggregated measures must be weighed including density and frontage. Several cases have indicated a new standard in the application does not reinforce the character of the area. In this case a new form of housing and higher density would mean that the OP policies are not followed.

(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.

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

[19] The 8.5 metre height limit has existed in Leaside for a long period of time, and the new By-law for the City, No. 569-2013 has

seen fit to carry this standard forward as a City-wide standard in low density zonings. The longevity of this standard suggests to this tribunal that consistency in height control has considerable importance as a land use control tool, which should not be easily varied. 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."

25) Extract from the case of 37 Stafford TLAB. "In my view, statistical considerations are here to stay, as above cited. However, there is no policy support to which I was directed that creates or states a principle that land division can be encouraged for the purpose of moving an established lot fabric closer to that of its neighbours, let alone some of them. In the present circumstance, the study area includes the juxtaposition of several zone categories with different performance standards for lots, creating the potential for diversity and the variety identified. Such a principal for evolution, if accepted, would invite interminable rationales for potential severances based on the proximity of properties that developed under different zone standards. In my view, only an expressed policy addressing this consideration could overcome the existing policy of respecting and reinforcing existing conditions. I do not accept this consideration as a planning principle of relevance in this circumstance."

Q) IMPACT ON NEIGHBOURS. Impact will result from the proposal. Development planners argue that there is no impact from overlook,

long high walls, blocking views, overshadowing and microclimate change arise if there are no variances for setbacks or heights. Essentially this is saying you can fill in the whole of the building envelope with impunity. Extra density is sometimes attempted to be justified through the total use of the building envelope, a circular argument. It also ignores the frontage and density factors. The 70 36th decision debunked the myth. Quoting from 70 36th TLAB decision "Disaggregating and isolating each of the variables: height, FSI, and lot frontage, overlooks the reality that the development comes as a package of all these elements. Thus the decision maker is required to consider all the parameters enumerated..." "Compartmentalising these various parameters also minimizes what cannot be assessed numerically, such as massing and scale. The plans show two houses each 9.5m high, 16.4m long, sufficient front and rear yard setbacks, adequate driveway width, adequate number of parking spaces and 0.9m from the neighbours. Except for the last number, no variance is sought, so Mr. Cieciora posits that any comment about impacts is beyond criticism. This overlooks the premise that for the project to work, one needs a severance, which is a benefit that involves consideration of the whole proposal and subjects the owner to independent assessment of the combined impact" This has misled hearing officers in the past. TLAB Chair Ted Yao puts this notion to rest succinctly. This means that you cannot fill in the building envelope fully without impacts and this was never the intent because frontage and density area key controls.

R)Trees. The OP states "New development will be located and organized to fit with its existing and/or planned context...d) preserving existing mature trees wherever possible and incorporating them into landscaping designs. A large healthy mature fir is to be destroyed. It dominates the street. This is a clear policy which is diametrically opposite to the proposal. There is no need to destroy trees unless they are dead, dying or dangerous. None of these apply. A proposal for a detached house would be about half the size of the proposal at two storeys and would be able to save the City tree. The destruction of the tree through the proposal to sever and develop at much increased density is enough to refuse the application. Arborists reports and the Long Branch Guidelines Analysis should be completed prior to the design and submission of the application

Trees are a critical aspect of planning. The large fir tree in front of the property should be retained in any development. More data is being given by arborists. Replantings will not compensate for the loss of a significant tree according to City arborists.

S) OVERALL SUMMARY. The proposed new houses represent overdevelopment on undersized lots with consequent unacceptable and inappropriate impact on the street scene, the next door neighbours and the whole neighbourhood of Long Branch. The fundamental problem is that applicants design the houses first and then try to make minimal concessions to the Official Plan and Long Branch Guidelines, almost always unsuccessfully, as in this case. The intent of the Guidelines was to be a starting point of design. Future conflicts would be overcome if the correct procedure is followed. The only argument that the development planner has put forward is that applications like this have been approved before. As a precedent it has a destabilisation effect on the neighbourhood which has been destabilized already by the COA and the OMB. All 50 foot lots are threats to their neighbours. Significant people have left the neighbourhood because of the impacts of approvals and perceived fairness corruption of the process.. Using precedent as a justification simply makes a bad situation worse. Any lot with around 50 feet frontage could be split in this zone altering the character of the neighbourhood over time. The proposal has major public interest issues and is major in nature. A zoning bylaw is the correct process so that a well thought out proposal can be submitted to a neutral community meeting prior to a comprehensive report by Planning and a decision by an elected group.

T) **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 sentence p 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.

Section 1.2

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 lower page 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 character 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". Upper p2.1 *Community need is the basis of planning, not demand*

2.1 "Our view of the quality of urban life tends to be based on local conditions in our own neighbourhood" lower page 2.1

2.2 "...the approach to managing change in Toronto's neighbourhoods and green space system, emphasises maintenance and enhancement of assets.

Second to last para p2.3

2.3 "These stable areas can expect little change." P2.26 (*Neighbourhoods*)

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." Last para 2,3 p 2.26

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

Policy

"Neighbourhoods are low rise and low density residential areas that 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." Policy 1 p2.28

Long Branch is changing to a suburban style from a traditional style despite Official Plan policies against this and strong neighbourhood opposition; around 70% of South Long Branch residents believe redevelopment is a major issue according to a survey by Iain Davies in the fall of 2018. Less tree cover, garage front façade garages and greater massing are all eroding the unique character. The approval of these applications destabilises Long Branch which has a majority of 50 feet or over wide lots and gives a signal to the development industry that any wide lot is game for redevelopment with 2 houses. A precedent will be set especially as this is the first application to be subject to the Long Branch Character Guidelines (see analysis and policies to follow) and being the highest density on 40th Street

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 page3.1

"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. Last para p3.1

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" last para 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."

Second to last para. p3.6

Policies p3.6

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

d) preserving existing mature trees wherever possible and incorporating them into landscaping designs. Para1 p 3.7
(a private fir tree several times the height of the existing house would be destroyed. This was described by the applicant's agent as a small tree at the COA hearing.)

2b) consolidating and minimizing the width of driveways and curb cuts across the public sidewalk; page 3.7 *this is not done*

4. New development will be massed to define the edges of streets, parks and open spaces at good proportion. last sentence 3.7

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

Sidebar 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.”

Lower 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. Long Branch has about average cover but is losing ground.)

The environmental policies and the City evidence of destruction of trees was enough by itself to turn down the severance applications at 15 Stanley and the same is true here

4 Land Use Designations

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 p4.3

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

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. The Official Plan from 2006 had sophisticated policies but were circumvented leading to clarifications and reinforcement in OPA 320, a composite of which is part of the material to follow.

U) OPA 320, approved by LPAT 7 Dec 2018 after adoption by City 2015 and approval by Province 2016.

I was involved in the development of the OPA whose main aim was to amplify the intent of the parent OP from 2006. Because limited examples of incompatible development were being cited as reasons to approve additional incompatible proposals the word prevailing was added as well as additional criteria. So now Section 4.1.5 reads

- b) **prevailing** size and configuration of lots
- c) **prevailing** heights, massing, **density** and dwelling type of nearby properties
- e) **prevailing location, design and elevations relative to the grade of driveways and garages**

V) Long Branch Character Guidelines
Key matters to which the proposal fails to meet the Guidelines are:

Page 27 - **Long Branch Character Defining Conditions**

b. Hipped or gabled roofs, front porches, ground-related first floor, prominent and grade-related entrance and window placement, and recessed or rear garages, to establish a strong street interface.

d. Consistent and generous side yard setbacks and rhythm of dwelling units, maintaining porosity between buildings, rear yard access for pedestrians and vehicles, and landscaping between buildings and adjacent open spaces.

e. Consistent and moderate rear yard setbacks and building depths, maintaining appropriate height transitions, privacy, sky view access, private amenity space, landscaping and mature trees.

f. 9.0m to 15.24m lot frontage and 35.0m to 45.0m lot depths, with exceptions where dictated through variations in the street and block.

Note: Tree preservation guidelines are separate page 76 and are supportive of retaining trees.

W) Urban Design Analysis Map and Guidelines.

65 Fortieth Street, Toronto, Files B16, A127,137/18 EYK

URBAN DESIGN ANALYSIS

31 January 2018 - Long Branch Urban Design Guidelines Approved Unanimously by Council

Motions (City Council) 1 - Motion to Amend Item (Additional) moved by Councillor Mark Grimes (Carried)

"That City Council request that the Long Branch Neighbourhood Character Guidelines adopted by Council be used by home builders, the community, City staff, committees and appeal bodies to provide direction in their decision making as they develop plans, review applications for redevelopment and/or enhance the public realm in the Long Branch Neighbourhood."

CHARACTER EVALUATION

Reference - Long Branch Neighbourhood Character Guidelines (Page 34)

- 1) The property in relationship to the NEARBY properties (*the micro-neighbourhood under OP policy 4.1.5*)
- 2) The property on relation to the STREET and BLOCK segment (*the block under the OP and OPA 320*)
- 3) The property in relation to the BROADER NEIGHBOURHOOD context (*the distinctive character to be conserved through respect and reinforcement and listed in the Long Branch Character Guidelines*)

1) NEARBY AND 2) STREET AND BLOCK Predominant and Prevailing harmony

Pattern of Street/Width of Lot NO,	
Size and Configuration of Lots NO	
Zoning Heights YES	Massing NO
Density NO	Scale NO
Dwelling Type YES	Grade Elevation/Accessiblity YES
Garage Pattern NO	Sideyards/Landscaping NO
Rear Yard NO	Front Yard/Landscaping NO
Storeys/Elevation YES	Height/Elevation YES
Verandah/Elevation YES	Heritage N/A

Trees NO

In order to reinforce the character of the NEARBY and STREET AND BLOCK in accordance with the Official Plan, the proposal will need to meet all the criteria. In order to respect the character no element should exceed any of the characteristic in the block (as stated in Toronto OMB decisions 284 Hounslow Ave, PL151145 and 151 Airdrie Road PL15665. The existing character is a separate matter than what is allowed in the zoning which is the proposed character as specified in the Official Plan.

3) BROADER NEIGHBOURHOOD

Page 27 - Long Branch Character Defining Conditions

The positive distinctive qualities mentioned in the Official Plan that new development needs to be sensitive to and harmonious with in order to conserve the character of the neighbourhood.

- A. Historic Long Branch houses dating back to original "villa" lots and corner lots of distinctive character. N/A
- B. Hipped or gabled roofs, YES
 - a. front porches, NO
 - b. ground-related first floor, YES
 - c. prominent and grade-related entrance and window placement, YES
 - d. recessed or rear garages, NO.
- C. Consistent and generous front yard setbacks with exceptions where dictated through variations in the street and block network (i.e. Arcadian Circle), maintaining landscaping, mature trees, and accent planting while allowing for projections and recesses to articulate the primary façade, and minimizing the width of curb cuts in order to maintain the continuity of the pedestrian realm.
NO on trees and curb cuts
- D. Consistent and generous side yard setbacks and rhythm of dwelling units, NO
 - a. maintaining porosity between buildings, NO
 - b. rear yard access for pedestrians and vehicles, and landscaping between buildings and adjacent open spaces.NO
- E. Consistent and moderate rear yard setbacks and building depths, NO
 - a. maintaining appropriate height transitions, YES
 - b. privacy, NO
 - c. sky view access, NO
 - d. private amenity space, landscaping and mature trees. NO
- F. 9.0m to 15.24m lot frontage and 35.0m to 45.0m lot depths, with exceptions where dictated through variations in the street and block network. NO

Continued page 3

G. 1 to 2 storey building heights YES

a. with massing, articulation and fenestration strategies which are complementary to the existing context. NO

H. Prominent and unobstructed views and access to the Lake Ontario shoreline, Long Branch Park, Marie Curtis Park, and other open spaces. N/A

I. Distinct elements including estate residential dwellings along Lake Promenade, isolated apartment blocks, employment areas north of Lake Shore Boulevard, and commercial developments along Lake Shore Boulevard. N/A

J. High quality materials, including brick or wood siding. YES

CONCLUSION

The SEVERANCE and VARIANCES are contrary to the Long Branch Character Guidelines and the Official Plan. The main reason is the loss of a dominant street tree and nearly double density massing which severely impacts the street scene and next door neighbours due to the elongated forms. The proposal along with the severance makes little effort to blend with the streetscape or the historic and traditional nature of Long Branch. The property is modern suburban in nature mainly because of the front façade garages and overdevelopment. The massing on the front building line almost entirely with built form including two garages is directly in conflict with the Guidelines. According to the Guidelines trees are part of the character and should be protected. One 52 cm healthy privately owned large White Fir would be lost. The Official Plan indicates no severances should not be approved where trees are lost where the existing zoning would keep them.

(* See Page 29, Figure 36 and Page 33, Figure 41, Long Branch Neighbourhood Character Guidelines)

X) FINAL CONCLUSION

The applications do not conform with the OP, OPA 320 and the Long Branch Character Guidelines, do not meet the criteria and tests in the Planning Act and do not represent sound planning