



May 23, 2019

Public Appointments Secretariat
City Clerk's Office
12th floor, West Tower, City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Attention: Cathrine Regan

Re: May 23 2019 Agenda Item – NA1.2 Committee of Adjustment Selection of Candidates for Interviews

Dear Members of the Nominating Panel for Committee of Adjustment

The Long Branch Neighbourhood Association (LBNA) is concerned with how Consent and Variance applications are being addressed by the Etobicoke York COA and respectfully request that the Nominating Panel please ensure that new Committee of Adjustment (COA) Members being considered have respect for the City's Official Plan policies, an understanding that they are a statement of Council's vision and that of its residents on how the City and its Neighbourhoods should evolve and a clear testament to the interrelationship of the elements that contribute to that vision. COA Members need to be knowledgeable on issues related to Forestry concerns and the Environment in addition to Land Use planning matters.

In our experience with the COA, we have reasonable apprehension of bias because, over the past 5 years, they have approved nearly 75% of consent-and-minor-variance applications before them for the neighbourhood of Long Branch. This is higher than any other COA panel in the City.

According to a May 9, 2018 report from the General Manager, Parks, Forestry and Recreation to the Etobicoke York Community Council, COA applications involved a higher proportion of severances in former Ward 6 (where Long Branch is) than that received in the Etobicoke York District. Urban Forestry requested denial of COA application more frequently in former Ward 6 than the rest of the district (43% vs 26%). City-wide data shows that where Urban Forestry requested the application be denied, the COA panel in Etobicoke York district had the lowest rate of denial as compared with other districts. (13% vs 20% in Scarborough, 25% in North York and 29% in Toronto and East York)

City Council has since amended the criteria of COA body panels to include knowledge of, and/or background in urban forestry and environmental planning. (PE25.1 March 26, 2018 City Council Adopted)

We would like to remind this Nominating Panel that the COA operates independently of City staff and elected members. They are required to interpret the merits of Planning Reports when provided and are required to make Decisions when they are not. The COA is required to determine what is a minor variance with no clear direction from City. In Long Branch, they often receive applications with variances that are 2 to 3 times what the bylaws allow. They are required to consider both Planning and Urban Forestry Reports for an application as these are being created independent of each other. New COA members need to have the courage to refuse such applications and respect the current bylaws and the Official plan. New members must be prepared to study, understand and implement other tools and policy documents approved by Council such as the Long Branch Neighbourhood Character Guidelines and the City of Toronto Strategic Forestry Management Plan which support and clarify the Policies of the Official Plan. Such documents need to be fully utilized as tools in their decision making.

Unfortunately, in Etobicoke York, such documents are routinely disregarded by some members of the COA either because of lack of understanding, lack of training or level of workload.

With the City's limited resources, we urge you to select members who can work and learn outside of the limited annual training they are given. COA members should have advanced critical thinking skills and recognize that variances are an exception and should never be granted routinely. They should also recognize that every exception to a bylaw chips away at its validity. COA members must recognize that their position is to respect the in force policies and bylaws that are routinely reviewed by City Staff and approved by elected members of Council.

New members need to be naturally curious on the workings of the application process. They need to be acutely aware that the City often works in silos and it is their burden to put all the information together to decide if an application meets the four tests of the Planning Act. This includes Citizen input. Often Citizens study and follow applications more closely than the paid members of the City – because it impacts them directly. Citizens talk to the siloed departments that often don't talk to each other and have a more fulsome understanding of the impact of applications. In Long Branch, citizens have worked on becoming very savvy on the application process, important documents and have sat through numerous hearings at the COA, OMB and now TLAB level. We speak to elected members as well as residents in other neighbourhoods. We are “in the know” on recent decisions and share our findings with staff and COA Panels and are prepared to discuss these issues truthfully and logically.

Unfortunately, this new knowledge is often dismissed during Public hearings and COA members seem to endure our presentations while watching the clock.

The new COA members should have enough expertise to recognize valuable input when it is put forth by Citizens and be open minded and respectful enough to consider the value of this input without prejudice. New COA members need to be confident enough to hold Applicants' Agents to task when they are offered an opportunity to rebut community concerns. In our experience, Applicants' Agents have been allowed to skate away from properly addressing community concerns by COA members. A truly objective COA member should be prepared to hold Agents to task and reconsider their decision in a Public Hearing upon receiving public input, otherwise, what is the point of such Hearings?

COA appointees must recognize that the COA Public Hearing Forum is not an appropriate stream for consent applications with numerous variances and forestry concerns, but it is the process in place. Often the "5 minute" presentation time is insufficient to present all resident concerns, therefore residents need to appear en mass to scratch the surface of the issues on hand leading to presentations of 45 minutes or more. Panel members must recognize this challenging environment and be able to exhibit patience and respect to all participating members in the Public Hearing while still listening and adjudicating without prejudice. In our experience in presenting last on the agenda at COA meetings, members are tired and sometimes verging on being hostile to residents.

In this environment we have seen members approve inappropriate applications not using the information in front of them such as reports from the city, or the 4 tests, but base decisions on the number of revisions to the application - calling it a "Herculian effort" when changes were rendered less than 24 hours before the hearing. In this situation information provided at the hearing was incomplete and not disseminated to the impacted residents. Such an application should have been deferred as requested by the residents.

In this unchecked forum, we recognize that COA candidates need to be extraordinary in skills and character. They need to be planners with an appreciation of urban design; urban forestry and environmental planning experts, with a unique curiosity about the subtleties of the application process and be able to piece together the numerous reports and evidence put in front of them. They need to be aware and accepting of changes in policy and demonstrate an ability to learn and adapt. They need to be respectful and accepting of laymen presenting expert level presentations in condensed timeframes and ask questions to better understand the content submitted in letters and supporting material. The independent nature of the COA separates them from City Council and allows them to operate without repercussions or justification of their decisions. They appear to have been left to their own devices to interpret city policies with minimal direction and training. New COA members should be required to stick more closely to policy and bylaws.

Most importantly, they should measure their success not by approvals, but rather by absence of Appeals. Appeals in a well-run COA application process should be rare and when they occur, the outcomes should be predictable.

We encourage you to please consider these concerns when appointing the new members of the COA for Etobicoke York for this coming term.

Sincerely,

A handwritten signature in grey ink, appearing to be 'Christine Mercado', with a stylized, cursive script.

Christine Mercado, Chair
Long Branch Neighbourhood Association|
Email: longbranchnato@gmail.com

