

DECISION AND ORDER

Decision Issue Date Friday, July 12, 2019

PROCEEDING COMMENCED UNDER Section 53, subsection 53(19), and Section 45(12), subsection 45(1) of the Planning Act, R.S.O. 1990, c. P.13, as amended (the "Act")

Appellant(s): CITY OF TORONTO

Applicant: RUBINOFF DESIGN GROUP

Property Address/Description: 37 STAFFORD RD

Committee of Adjustment Case File: 18 226508 NNY 23 CO, 18 226510 NNY 23 MV, 18 226514 NNY 23 MV

TLAB Case File Number: 18 271219 S53 18 TLAB, 18 271224 S45 18 TLAB, 18 271225 S45 18 TLAB

Hearing date: Tuesday, June 11, 2019

DECISION DELIVERED BY Ian James LORD

APPEARANCES

| Name | Role | Representative |
|-----------------------|----------------|-----------------|
| Rubinoff Design Group | Applicant | |
| Ali Reza Rahmanian | Owner/Party | Matthew Di Vona |
| City of Toronto | Appellant | Ben Baena |
| Franco Romano | Expert Witness | |
| Eno Udoh-Orok | Expert Witness | |

INTRODUCTION

This is an appeal by the City of Toronto (City) from a decision of the North York Panel of the City's Committee of Adjustment (COA) approving a severance of the lot at

37 Stafford Road (subject property) and granting variance permissions to each of the two proposed lots so created (Applications).

The Applicant and the City (Appellant) were represented by counsel and each provided land use planning opinion evidence in respect of their positions on the appeals. No other Parties or Participants offered additional evidence.

At the outset, I indicated that the site had been visited and the pre-filed materials had been generally read, but that matters of interest to the Parties needed to be brought forward as part of the specific evidentiary record.

BACKGROUND

The subject property is located on the east side of Stafford Road, a residential street between Churchill Avenue to the north and Catalda Court running easterly, one property to the south. The subject property is located in rough proximity to a 'T' intersection with Farrell Avenue, running west on the opposite side of the street from the subject property, some two blocks, towards Bathurst Street. Finch Avenue, also a major arterial, is located six or more blocks to the north and Senlac Road is located some four blocks to the east. Stafford Road terminates to the north bending onto Bathurst Street; it continues one block southward but beyond Eilerslie Avenue effectively terminates, somewhat circuitously, on Betty Ann Drive. Both Eilerslie and Horsham, to the north are significant collector streets; Senlac Road is also described as a major north/south arterial running between Finch Avenue West in the north and Sheppard Avenue West, in the south.

Stafford Road is not improved with sidewalks.

The subject property has been the subject of two applications for severance and associated variances. The first was refused at the COA as recently as January 11, 2018; the second was approved on December 6, 2018 and is the subject of these appeals.

There were no revisions to the Applications to that considered by the COA, on the appeals.

The Appeals were considered over two Hearing days, June 11 and 12, 2019.

MATTERS IN ISSUE

The Applicant supports the approvals given as being representative of good community planning. The City Appellant opposes the COA approval principally on the basis that the severance and resulting variances would constitute a division of land inconsistent with the general character of the area, inclusive of the proposed construction of two defined detached residences.

JURISDICTION

Provincial Policy – S. 3

A decision of the Toronto Local Appeal Body ('TLAB') must be consistent with the 2014 Provincial Policy Statement ('PPS') and conform to the Growth Plan for the Greater Golden Horseshoe for the subject area ('Growth Plan').

Consent – S. 53

TLAB must be satisfied that a plan of subdivision is not necessary for the orderly development of the municipality pursuant to s. 53(1) of the Act and that the application for consent to sever meets the criteria set out in s. 51(24) of the Act. These criteria require that " regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2 of the Planning Act;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;

(g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;

(h) conservation of natural resources and flood control;

(i) the adequacy of utilities and municipal services;

(j) the adequacy of school sites;

(k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;

(l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and

(m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).

Minor Variance – S. 45(1)

In considering the applications for variances from the Zoning By-laws, the TLAB Panel must be satisfied that the applications meet all of the four tests under s. 45(1) of the Act. The tests are whether the variances:

- maintain the general intent and purpose of the Official Plan;
- maintain the general intent and purpose of the Zoning By-laws;
- are desirable for the appropriate development or use of the land; and
- are minor.

EVIDENCE

The Applicant called Franco Romano, without challenge, to provide professional land use planning expert opinion evidence. Mr. Romano is a Registered Professional Planner with extensive experience in public and private service, including in the former City of North York. He has appeared and been qualified on many occasions before Ontario tribunals, including the Toronto Local Appeal Body (TLAB). I qualified him to provide expert opinion evidence on land use planning matters. His Witness Statement and Document Book were admitted as **Exhibits 1 and 2**, respectively. Also filed by him on behalf of the Applicant as **Exhibit 3** were components including: streetscape and site plans dated February 8, 2019 (**3a**); and elevation drawings dated February 11, 2019 (**3b**).

Mr. Romano accepted his retainer on January 29, 2019; he did not participate in the COA decisions on the Applications.

In argument, Mr. Di Vona submitted a TLAB Decision and Order issued January 22, 2019 by Member Burton in respect of 319 Horsham Avenue (*319 Horsham Avenue*) in which it is apparent that Mr. Romano was the planner of record in that matter for that applicant.

On the subject Appeals, Mr. Romano provided a thorough area description and context aptly documented in Exhibit 1 and associated area photographs. In the vicinity of the subject property he noted that Stafford Road was single loaded on its east side, with properties on Farrell Avenue offering flankage (side) yards. The subject property is improved with a substantial residence and benefits from two driveways, one to an integral garage and one, on the south limit, providing side and rear yard access.

He noted that while the zoning By-law requires a 15 m frontage and 550 square meters lot area, the subject property has some 20.2 m frontage and a lot area near 800 square meters. A newly redeveloped property immediately to the north has a frontage of 12.2 m with a double integral garage in a built form design configuration not unlike that proposed by Exhibit 3. That property was for sale at the time of the site visit.

Mr. Romano was of the opinion in his oral evidence that a significant number of all single detached residential properties in the vicinity were 'undersized relative to their respective zoning by-laws' (Exhibit 1, par.16, 27). He expressed this as a significant and prevailing characteristic of the neighbourhood that was being emulated in the Applications, in a complementary but with a differentiated design manner.

These aspects of design included sloped rooves, gables, fenestration and windows incorporated within the roof lines. He opined that the height variance sought under the old North York By-law was a calculation based issue and that the overall height sought complied with the new City By-law 569-2013, with only modest variances to account for eave intrusions by windows in a typology common to the regeneration activity of replacement buildings occurring in the neighbourhood.

In his Witness Statement and evidence, Mr. Romano provided comprehensive descriptions, opinion evidence and research, including a detailed review and opinion on the severance and variances sought, including those areas where they were not required (Exhibit 1, par.26).

Mr. Romano projected support for the Applications from a variety of perspectives:

1. they would produce a lot size and built form moving 'closer' to properties to the north and across the street;
2. the lot fabric, both numerically and by perception, would have a 'closer' alignment to the immediate context;

3. the proposed lot frontage, built form and lot area would be more compliant with the buildings, lot frontage and area requirements of the R6 zoning across the street, on Farrell Avenue;
4. redevelopment in the Yonge Street corridor and on Finch Avenue has caused a reduction in the supply of ground oriented housing which the Applications help to remedy;
5. in his view, independent of the size of study areas including the application of the more immediate area supported in OPA 320, it is common to find lots undersized relative to their applicable zoning;
6. graphics of lot frontages (Exhibit 1, p. 32) and lot areas demonstrate variety and a non-homogeneous environment;
7. the Applications would move the subject property into a category of lot frontage and lot size that is more prevalent than the existing condition:

“if the site today respects and reinforces the existing neighbourhood, then the proposal, moving into lot size and area categories that are better represented in the neighbourhood, also can be seen to respect and reinforce the existing neighbourhood character ...better than the current configuration”.

8. The North York Study and Staff Report of September 19, 1991 (Exhibit 1, page 96 ff) that supported neighbourhood zone categories R4, R6 and R7 should have, on the criteria employed, rezoned the subject property R6 (12 m frontage; 370 square meters minimum lot area), on the small block rezoning criteria employed.

On these considerations, by a detailed review of provincial policy and the City Official Plan framework (including OPA 320), both in evidence and the Witness Statement, the planner concluded consistency with the Provincial Policy Statement and conformity of the Applications with Growth Plan and Official Plan policies.

He was of the opinion that a plan of subdivision was not required. He felt that the Applications resulted in a development and built form that respected and reinforced the street and neighbourhood in a manner that was compatible and conformed with its physical characteristics. In his view, the two existing driveways constituted a unique feature and that the proposed lots ‘are large enough to provide a detached building with all the elements necessary to respect and reinforce neighbourhood character’. He opined that the variances requested, similar for each lot, were minor and desirable individually and collectively and, indeed, reflected substantial zoning compliance with By-law 569-2013.

He said the resultant approvals would yield a prevailing pattern of rectangular lots with a low rise, built form. In this regard, he examined his view of the purpose and intent of each zoning by-law regulation sought to be varied and concluded satisfactory compliance, individually and collectively. This analysis included his consideration of side yards, rear deck relief, side main wall height, lot area and frontage, coverage (32.05% v. 30%) and incorporated consideration of the applicable tests of minor,

desirable. He found no undue or unacceptable adverse impacts in the Applications and that their resultant built form was appropriate and contributory to the redevelopment for the subject property.

In reviewing each of the applicable consent considerations above listed, he concluded: "The proposed severance and variances do not exactly replicate development but they do have a physical character that is compatible and respects and reinforces the physical character of the neighbourhood, at a local and broader area level. It results in a modest, gentle form of intensification and its undersized resultant condition is less different than the current condition."

In cross examination by Mr. Baena, Mr. Romano agreed that provincial policy and the Growth Plan must be read in their entirety and the duty lies with the local municipality in its Official Plan as the 'most important vehicle' to identify locations for intensification. He expanded that agreement by suggesting intensification is 'permitted and encouraged' in every land use designation, including 'Neighbourhoods', where housing is permitted.

In questioning, he eschewed numerical measures as an opinion foundation; he said no determinative value criteria is set or directed by Official Plan policy in respect of 'prevailing' or other policy criteria. He re-asserted that the variety in study area lot sizes and frontages made the OPA 320 study of the 'immediate area' not applicable and not 'helpful' and that it is the 'totality' of physical character elements that are required to be examined in formulating opinion analysis and advice.

He agreed the proposal would be the only lots on Stafford Road with a 10.1 m frontage and that lots of a similar frontage were not 'prevailing' on his measure of 5.5% of study area comparables. He countered, however, by suggesting that in his study area of 1105 zoned lots, some 37.5% are less than the required 15 m frontage required by zoning and constituted a component of prevailing character and planned context.

He acknowledged that there may be more of a pattern of smaller lots east of Senlac Avenue in his larger study area.

He suggested that the Staff Report on small lot rezoning, which failed to recommend the subject site be rezoned R6, was an 'oversight'.

The Appellant called Eno Udoh-Orok, a staff planner, to provide expert testimony of a land use planning nature on the appeals. She provided her Witness Statement and City Document References as Exhibits 4 and 5, respectively. She has been an RPP since 2012, joined the North York Division of City Planning in October of 2018 and had worked previously as a planner and urban designer on relevant matters in Richmond Hill, Waterloo, London and Brampton.

Mr. Di Vona ascertained that this was her first appearance giving testimony before a tribunal although she had prepared and attended other sittings in a support capacity. She confirmed that while she had not participated before the COA, the

preparation and opinions expressed in her Witness Statement were her own work and that she had been free to disagree with any earlier City staff position.

I accepted the witness as qualified to provide expert testimony on land use planning matters.

Without limiting or acknowledging these were her only considerations, Ms. Udoh-Orok concentrated on two of the consent criteria, above listed, being sections 51(24) c) and f).

Her points of emphasis were that:

c) the proposed lot frontages do not reflect Official Plan policy or adjacent plans in that: '98.8% of lots within her study area are greater than the frontage proposed of approximately 10.1 m and some 85% are consistent with their zoning standard'.

f) the shape of the proposed lots, in terms of frontage and area are not desirable in reference to the area character.

Using statistics and graphic representation she said that of 1054 lots within her study area, approximately 9 have substandard frontages; 10 such lots are within her 1070 lot study area making the 'overwhelming' number greater than the Applications propose. Of the smaller lots identified, she said none are near. (Exhibit 4, par 43, 55, 90)

This planner chose a study area bounded principally by physical features; York Cemetery and Bathurst Street, the east side of Senlac Avenue, south of Finch Avenue.

She had substantial agreement with some general descriptions of the physical elements of the neighbourhood: single detached dwellings; redevelopment of existing lots; integral garages in new development; mature landscaping. She reviewed comparative lots on Stafford, Churchill, Terrace, Horsham and other streets opining that 10 m lots do not reflect, respect or reinforce neighbourhood physical attributes, provide 'no room for meaningful landscaping' and are not located close to the subject property, apart from those on Farrell Avenue, which themselves comply with their different zone category.

In her analysis of 1070 lots, the majority reflect their zone frontage requirements (915); only 14% do not. She re-asserted that 98.8% of the lots within her study area demonstrate a greater frontage than the proposed; she considered this a basis to conclude the proposal would not respect and reinforce the character of the area measured on frontage:

"The proposal is not materially consistent with the prevailing physical character of properties in the broader and immediate context (Exhibit 4, par. 74)."

Focused on Stafford Road, she advised of the existence of seven renovated or newly constructed residences built without frontage reductions or severances. She

addressed Mr. Romano's comparative description of nearby properties at No. 2 and 6 Farrell Avenue by exposing that each had contributed land additions to create three severed lots all consistent with their R6 zoning and are built larger than the units proposed.

She opined that the creation of 10 m lots foreshadowed the possibility of creating additional 10 m frontages inconsistent with area character (See: Exhibit 4, par. 91,104). She stated they would be the smallest single detached lots created by consent on Stafford or in the immediate area.

As to lot area, she advised that 12 of 107, from a different perspective, lots in all zones are equal to or smaller (1.1%) than those proposed and that none are located in the area of the subject property. She advised that to create further smaller lots would be inconsistent with reinforcing the existing physical character of the area, contrary to the Official Plan.

She suggested that Mr. Romano had used an inconsistent measurement of lot frontage applicable to curved streets but that her method was consistent with by-law definition terminology.

In Ms. Udoh-Orok's view, the Applications while generally consistent with the Provincial Policy Statement and the Growth Plan respecting the form of intensification promoted, that neither are land use designations and it is the 'Neighbourhoods' policies of the City Official Plan that govern as to location and degree of support for intensification. She felt the approval of the Applications inconsistent with the historical physical stability and character of the neighbourhood and that such could threaten destabilization and streetscape retention. She reached this conclusion both on the wording of section 4.1 of the Official Plan, as well as the 'assisted' intention of OPA 320, considering the importance of the 'immediate context'.

In her opinion: "the proposal is not characteristic of the road, the block or the opposite properties. (It) does not respect and reinforce the existing physical character; similar sized lots are in the minority, located elsewhere and are not reflective of area character in spacing; the lot area averages are not consistent and constitute, both in frontage and area requests, significant reductions that would yield the smallest single detached residences created by consent on Stafford and the immediately surrounding area. They would be experienced on a walk as having no opportunity for landscaped open space, eliminate breaks in the streetscape and do not contribute to the sense of experience." (paraphrased)

Ms. Udoh-Orok provided opinion evidence on the variances. In discussing the Official Plan conformity aspect, she referenced the criteria of section 4.1.5. and identifying of the 8 criteria listed the most relevant offended by the Applications being: the size and configuration of the lots and the prevailing pattern of landscaped open space. She felt frontage and spacing were major contributors to the abundance of landscaping, independent of lot size.

She said the Applications could not carry this pattern, the driveway would be widened with some risk to City trees and the streetscape will be altered - all to the disadvantage of 'fit' and the tests of 'respect and reinforce'.

She identified 30 properties in proximity where she suggested land additions or splits could occur (Exhibit 5, page 29; mapped and shaded yellow).

She felt the 'immediate context', as described in OPA 320, to be of greater relevance and the consequential effect on landscaped open space to be inconsistent and not in conformity to the Official Plan and OPA 320 (Exhibit 4, par. 85). On similar grounds, she was of the opinion that the Applications were not desirable or minor but were 'directly contrary' to the Official Plan, a departure from area character and a precedent that could change the experience of area character.

In cross-examination, Ms. Udoh-Orok acknowledged conformity with specific provincial policies. She further elaborated of the aspects of physical character and the 'experiential learning' of physical attributes.

She disagreed that several acknowledged error corrections from her study area statistics could alter or distort her opinions maintaining that the majority of study area properties 'overwhelmingly' exceed the proposal.

She acknowledged that OPA 320 was not fully in force on the date of the Applications and that the Official Plan expresses no overt preference for larger lots but does reference 'more frequently occurring' terminology. Further, that policy 4.1.5 expressly directs consideration be given to zoning as a relevant consideration.

Mr. Di Vona recalled Mr. Romano in reply. He was asked to address the concern for 'precedent'. In so doing, the planner confined his response largely to his interpretation of the reference as pertaining to Stafford Road. He said this was not a defined 'character area' and that only one, the subject property, on the street could be eligible, not 30, for severance.

He suggested that no lot 'splitting' was apparent and that each application would be dealt with on its own merit.

In the Argument phase, Mr. Di Vona noted the Applications had been approved by the COA and there were no neighbours in opposition and that there were letters of support, in the record. He stated the existing lot was anomalous and unique in that it exceeded the R4 zone standards, had two driveways and that the Applications would be (more) compliant if it had been zoned to the R6 standards applicable across the street.

He asserted the site was underutilized, already offered two driveways and the Applications should be viewed, on the evidence of Mr. Romano, as moving to a more consistent relationship with the variety of area norms for lot frontage and size.

He suggested the City lot study was in error on some six examples and, as such, was fundamentally flawed. He urged preference for Mr. Romano's numbers: 5.5% of lots have a 10.1m frontage, or smaller v. 3.8% of the time the lots are 20m or larger.

He argued that the distinction between lot frontages of 2 to 5 m would not be noticeable given the lack of area homogeneity. Further, that the City provided 'no evidence' of what the risk of destabilization looks like or its practical reality and expressed only general built form objections.

On the evidence of Mr. Romano, he urged a finding of Official Plan conformity, including OPA 320, and provincial policy consistency. He said that on the test of 'prevailing', smaller lots appear more frequently than large lots. Despite this representation, he said there was no policy support for large lots and that planning 'isn't a numbers game'.

Finally he argued that the City presented no evidence related to massing and built form and that only Mr. Romano dealt with those aspects concluding, as should be accepted, that the Applications, on approval, will 'respect and reinforce (the neighbourhood) better than the existing condition'. Namely, that the Applications continued the 'slow and gradual' evolution of the neighbourhood in a sensitive replenishment of lost housing. He asked dismissal of the appeal and that the consent and variances be allowed subject to the conditions of the COA and Mr. Romano's recommendation that construction proceed in substantial compliance with the plans, Exhibit 3.

Mr. Di Vona also tendered the decision in *319 Horsham Avenue* which allowed the creation, by severance and variances, of lots 9 m in frontage a short distance away. He did not speak to this disposition beyond one or two references but urged its relevance.

Mr. Baena made submissions on behalf of the City. He referenced the provincial and Official Plan policy support supplied by Ms. Udoh-Orok asking the appeal be allowed because the lot frontage and area proposed does not fit as being appropriate on a lot study and area character assessment basis?.

On data, he disputed Mr. Romano's inclusion of study area lots east to Beecroft, as inclusive of a large number of remote smaller lots. He challenged the planner's calculation of frontages, consequent map colours and percentages; he urged that data be considered in light of area descriptions of existing conditions.

In this regard, he said the overwhelming conclusion is that the proposed lot frontages and area are inconsistent with area character with exceptions being historic or compliant with own zoning. The proposed frontages and lot areas have no precedent. He suggested that unlike Ms. Udoh-Orok, Mr. Romano could not or was unable to identify the immediate context, a point to which Mr. Di Vona took exception, in the context of the intention expressed by Council's adoption of OPA 320.

With respect to 319 *Horsham Avenue*, he suggested that the creation of two lots from an RD4 zone on a street peripheral to the subject property study area resulted from a different circumstance and evidentiary base.

He said there was no Official Plan policy supportive of replacing housing stock in the same area.

ANALYSIS, FINDINGS, REASONS

The appeals challenge the Applicants desire to sever the property and build two detached dwellings with attributes of built form acknowledged as existing in redevelopments of neighbourhood properties.

Clearly the zoning standards of 15 m frontage and 550 square meters of lot area are offended by the Applications at 10.1 m and approximately 400 square meters, respectively.

At issue is whether these distinctions, in conjunction with the associated ten variances attendant each lot constitute good community planning resulting from the application and direction of the relevant statutory considerations listed above.

In support of the Applications, I accept the rather fundamental proposition of Mr. Romano that a plan of subdivision is not required and that, if allowed, two dwelling units of modest scale could be built on the severed parcels.

The task of the TLAB is not one of a test of feasibility. Rather, it is the application of policy direction and evidence to the attributes of the site and its surroundings, variously defined.

I accept the agreement of the planners that the Applications are consistent with and conform to provincial policy objectives, expressed as applicable generally across the province. The planners also agree that the City Official Plan is the relevant guide for detailed evaluation of the criteria and tests raised in section 51(24) and 45(1) of the *Planning Act*. Both planners incorporated in their evidence to the TLAB reference to OPA 320 as a relevant document for consideration. Although argument differed on the scope of that relevance having regard to the meaning and measurement of the term 'prevailing', both planners asserted compliance with this recent policy thrust of the City directed to include a more refined approach in assessing and describing area character attributes.

I am also content that the planning advice received confirmed that it is the obligation of the TLAB to consider the subject property Applications on their own merit, with due regard to all relevant considerations including the 'larger considerations of administrative policy'. This consideration means that the subject property be considered in its context, that all relevant factors of similarity and differences in neighbourhood definition be considered and a decision made that best tracks the policy

objectives in place and applicable to the 'Neighbourhoods' designation, as prescribed and intended by the City Official Plan. At the core, the Appeals invite an assessment of whether the Applications are appropriate on all relevant considerations.

In my view, that 'Neighbourhoods' designation has at its centre the intention to recognize stability and the desirability of the preservation and enhancement of City neighbourhoods. The Official Plan presents criteria, notably in section 4.1.5, for development in neighbourhoods and requires that zoning standards set numerical standards to ensure physical compatibility with the established physical character. It is in this way that the Plan seeks to encourage that the stability of the City 'Neighbourhoods' can be preserved.

There can be little doubt that the policy language referenced by the planners in Chapters 2, 3 and 4 have as their goal the protection of the general physical character of these neighbourhoods, the encouragement of stability, and the evaluation and direction of change by a host of planning permissions that is to be 'sensitive', 'gradual' and guided by perceptions of the appropriateness of 'fit'. No changes are to be allowed to the contrary.

I accept that the delineation of evaluation criteria in Official Plan policy section 4.1.5, preceded by the word "including", are indicia of the broad scope of relevant considerations in forming the assessment of compatibility, not being essential sameness and neither having prescience over another. I agree with the planners that OPA 320 is intended to amplify and refine but not re-write these criteria and considerations. Further, that this more recent expression and re-affirmation of the Official Plan policy goals is to be considered confirmatory and complimentary to applicable policy, but not determinative of this particular application commenced prior to its final approval.

In this matter, the definition of a study area to help define essential physical character attributes caused some ambivalence. Mr. Romano would incorporate lands as far east as Beecroft Avenue; Ms. Udoh-Orok disagreed but added that a true neighbourhood required schools and she willingly extended her eastern boundary east of Senlac Avenue to include the two institutional properties. Mr. Romano provided smaller compartments of his larger study area and included similar statistical measures to the general conclusion that the size of the study area produced more or less similar descriptive results.

I accept that a walkable study area of in excess of one thousand detached residences, centered approximately on the subject property and guided by distinct land uses and major boundaries such as parks and arterials, constitutes a sufficient basis in this circumstance to assess the attributes of physical character.

I accept and find that in this case the neighbourhood can be appropriately described as developed by substantial, aging, single-detached residences, planned subdivisions, prestigious housing with varying built form typologies, relatively large frontages and areas, differing zoning regulatory permissions, mature landscaping.

Further, that it is experiencing significant regeneration through redevelopment, not generally through severances but attendant new construction.

It is from this base that consistency and conformity of the Applications needs to be addressed.

Both planners asserted the relevance of statistical attributes of their respective study area assessments. Mr. Romano rejected the suggestion that the Official Plan or OPA 320 necessitated a reliance on mathematical measures. The City argued the language of both documents directed assessment measures of a numerical character to assert prevalence, predominant or prevailing characteristics.

The entry into of numerical and mathematical assessments of neighbourhood descriptive characteristics is a debate that remains open. The English language has its limitations and few vehicles are at hand to assess measures of a qualitative and quantitative measure, absent the use of statistics. That said, statisticians acknowledge that statistics do not 'prove' anything; they are but descriptive aids to evaluation. For the purposes of the TLAB in this proceeding, the agreed propensity to employ statistical measures by both professional witnesses is proof that the use and relevance of such descriptors is intended to persuade, and not be discarded. Even so, it is useful to be reminded, as Mr. Romano pointed out, that no single measure is determinative of all the relevant considerations needed to evaluate the Applications, including their similarities and differences, the resulting built form and the policy direction "to respect and reinforce the existing physical character of the neighbourhood" (Official Plan, Chapter 4).

Having accepted a definition of area character, I find it appropriate to address the Applicant's support propositions to the effect that the proposal, as approved by the COA, complies, fits, respects and reinforces all relevant considerations. The Appellant presents a focused opinion of non-compliance. Rather than dwell on assessment areas of agreement or non-dispute, none of which on the opinion evidence would demand refusal of the project, it is appropriate to evaluate the essential rationales for their disagreement in the context of the statutory directions.

In my view, as above stated, the thrust of the City Official Plan is to respect and reinforce the existing physical character of a neighbourhood. While this does not prevent change, it puts a policy brake on change in terms of the factors and criteria identified under 'Jurisdiction', above.

It is true that redevelopment and rejuvenation of properties in Neighbourhoods is encouraged. It is also true that 'intensification' can play a role in Neighbourhood regeneration. While intensification actions can include lot severances, I was not directed to any policy support in the City Official Plan, or OPA 320, that speaks to the encouragement of intensification through lot severances. Intensification can take many forms from benign renovation, through to and including second suites, additions, enlargements and expansions into previously unused space. In the neighbourhood of the subject property, intensification was described to have taken the form of

renovations, enlargements and new construction, as exemplified by the neighbouring property at 39 Stafford Road.

Clearly, the City has identified intensification areas designed to accommodate new dwellings in multiple forms or typologies. These policy support areas, on the admission of all, do not target the City 'Neighbourhoods' for the accommodation of needed dwelling units. Moreover, the severance of land in Ontario is subject to the express statutory regime and policy basis set by the Province, including the above listed criteria in section 51(24) of the *Planning Act*. The variance power, in section 45 (1) does not encapsulate land division; variances must work, if at all, in harmony with land division where both are engaged.

It is for that reason I give greater weight and consideration to the land division criteria in determining the merits of that aspect of the Applications. Regrettably, land division is not the subject of substantial policy direction in an urban setting, either by the province or the City. But fundamental to land division is the universal statutory prohibition that makes lot additions, lot severances and lot consolidations 'subject to approval'.

The COA granted the severance, on the second application, without reasons. Need is not a prerequisite of severance approval but suitable compliance with the listed conditions and criteria are.

I have conflicting qualified opinion evidence that the provisions of section 51(24) c) and f) are not met. In this regard, I must assess the subject property from the perspective of those criteria and the City policy applicable to 'Neighbourhoods', which is invited into the land division analysis by virtue of section 51(24) c), Official Plan conformity.

The subject property is an existing lot of record; its lot characteristics have endured many decades and by definition it is 'existing' as part of the physical neighbourhood. Those characteristics are sought to be changed by the application to sever; conformity is challenged. Despite this, the TLAB jurisdiction is not governed by the agreement of the Parties or the voluntary identification by the Parties of limited areas of dispute. Both the public interest and the statutory directions by obligation rest with the TLAB's consideration.

It has been said that land use planning in Ontario is policy led. The City Official Plan policies called to my attention, as stated, broadly support Neighbourhoods as areas of investment and regeneration. As stated, land division is neither expressly encouraged nor prohibited by the Official Plan in the City's 'Neighbourhoods'. Since change and approvals in Neighbourhoods are juxtaposed against respecting and reinforcing the existing physical character, the issue becomes whether the severance is supportable on the planning opinions advanced by the Applicant over the contrary application of opinion expressed by the City.

In framing the issue in this way, I hasten to add that neither Party in this case carries greater weight than the other; both advocated independent views of the best long term interests of the subject property in the context in which it is located.

In this regard as well, I have listed above several propositions advanced by Mr. Romano that require consideration. In so doing, I use the same paragraph references delineated above applicable to his evidence:

Mr. Romano projected support for the Applications from a variety of perspectives:

- 1. they would produce a lot size and built form moving 'closer' to properties to the north and across the street;**
- 2. the lot fabric, both numerically and by perception, would have a 'closer' alignment to the immediate context;**

With respect to Item 1, above, I was directed to no policy or generally accepted planning principle supportive of the proposition expressed, in the case of a severance. Namely, that seeking similarity in lot dimensions or other characteristics to nearby properties by moving 'closer' to their attributes is a rationale for change by way of lot division. Carried to any degree of conclusion, such a proposition invites disharmony, even chaos, to the concept of 'gradual' and 'sensitive' evolution.

Even if the rationale is accepted as a benign consequence of a severance being granted in this circumstance, it fails to establish a public interest or policy justification. I do not accept this consideration as a planning principle of relevance in this circumstance. On the agreed evidence of the planners, the study areas reflect a variety of lot sizes and dimensions; the subject property sits as one building block in that continuum. There is no policy basis in this statement to support change.

By the same consideration, Item 2 invites a numerical or statistical analysis comparison eschewed by Mr. Romano elsewhere in his evidence but supported by the City. 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 principle 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.

3. the proposed lot frontage, built form and lot area would be compliant with the buildings, lot frontage and area requirements of the R6 zoning across the street, on Farrell Avenue;

Item 3, above, suggests that there is merit in the Applications because of their proposed similarity to the R6 zoning across the street. Again, this could be a consequence of an approval. Were this to be a generally accepted rationale for land division, it would tend to upset the carefully crafted provincial planning process designed to put in place lot division in conjunction with use and regulatory permissions. That process has already occurred. While there may be circumstances with time or happenstance that suggest a reconsideration is warranted because of changed use characteristics or other development, such is not the case or rationale projected here. Nowhere is proximity to a different zone category espoused as a policy foundation for land division in the context of a stable residential neighbourhood. While it may well be that the proximity of different zone categories can influence some types of planning approval or applicable standards, it is not within the list of relevant considerations attendant land division. Rather, the test is conformity to the 'Neighbourhoods' Official Plan goals and whether the 'dimensions and shape of the proposed lots' are appropriate on their own relevant criteria. I do not accept this proximity consideration as a planning principle of relevance in this circumstance. As well, the R6 zone category would not accommodate the Applications.

4. redevelopment in the Yonge Street corridor and on Finch Avenue has caused a reduction in the supply of ground oriented housing which the Applications help to remedy;

Item 4, above, introduces a support base related to a severance approval in the circumstance and premise that one additional detached residential dwelling would result. I was provided with opinion advice by Mr. Romano, that the larger census area and tract or the neighbourhood profile identified as 'Willowdale West' (Exhibit 1, page 65ff), broadly aggregating statistical information, has lost grade related housing. This was described as being due to improvements in road infrastructure as far to the east of the subject property as Beecroft Avenue and Yonge Street. Further, that policy language that exists in the Official Plan to encourage grade related housing across the City.

Mr. Romano suggested that 'Neighbourhoods' were candidate sites to produce grade related housing, although it was unclear as to whether the policy or his opinion was specific to grade related single detached dwelling units of a residential house form. Assuming he was so focused, there was no evidence of the current status of a City wide deficit of comparables nor any reference, as the City pointed out in argument, that there was any connection between the loss of such units and the encouragement of their replacement either in proximity, the same neighbourhood, census tract or other geographic area. I was pointed to no policy language that supported severances in the 'Neighbourhoods' designation for this purpose.

I acknowledge that this consequence of a severance may be seen to have been commented on favourably in *319 Horsham Avenue*. 'Replenishment' is addressed in Exhibit 1 at paragraph 30. I do not see the consequential effect of a severance as a support basis for the severance decision itself; at best it is an extraneous consideration. To accept the addition of a lot via severance in a 'Neighbourhoods' designation to balance a loss elsewhere, as a basis for the application, could open an avenue that could serve to destabilize the integrity of the existing physical character of an area. A more express statutory or policy direction and a more detailed evidentiary base would be required to elevate this proposition to a relevant consideration in this circumstance.

5. in his view, independent of the size of study areas including the application of the more immediate area supported in OPA 320, it is common to find lots undersized relative to their applicable zoning;

Item 5, above, is a proposition stated several times by Mr. Romano both as a factual conclusion and as a rationale supportive of the Applications. It is an interesting observation and one expressed in a different form by Ms. Udoh-Orok, who suggested from her analysis that a very high percentage of lots in her study area met or exceeded the zone performance standards of the zone within which they were located. As I understand the information of the Applicant, there is a character component of the study area, however defined, by which existing built form, whether lot size or improvements on lots, do not comply with their applicable zone standards. For example, the property adjacent and to the north of the subject property is developed with a 12.5 m frontage, whereas the zoning provision is 15 m.

If I accept that this condition is common, it suggests that applicable zoning is overly restrictive to the reality of the developed properties. This can mean, at least, one or two things: the zoning is not reflective of reality, or the zoning has deliberately created as a protective impediment to development. In my view, the former is the prerogative of Council and the latter is a matter to be addressed by Council through rezoning or the COA, on an application for relief basis.

As with the above considerations, I do not see this information as germane to or a planning principal relevant to the consideration of a severance. There is no policy reference that suggests that higher zoning standards than existing built form experienced are an encouragement to land division. If anything, the opposite can be true wherein protective zoning is prohibited to be varied, by Official Plan policy, if the 'Neighbourhoods' policies and criteria of respecting and reinforcing the existing physical character of the area are to be given effect.

In any event, the Applications do nothing to support existing zoning. They erode the lot frontage and lot size standards of the R4 zone category and to a degree neither established as existing by precedent in proximity or nearby, in any numerical or other significance.

I was not directed to any generally accepted planning principle that over-zoned lots (lots with more restrictive regulations than existing development) constituted a reality which could be employed as an element of lot creation. The concept is novel, but it is not a leap or factual connection that I am prepared to make as a support base for or against the Applications.

- 6. graphics of lot frontages (Exhibit 1, p. 32) and lot area demonstrate variety and a non-homogeneous environment;**
- 7. the Applications would move the subject property into a category of lot frontage and lot size that is more prevalent than the existing condition...**

Items 6 and 7, above, are again factual consequences employed by the Applicant's planner in support of the Applications. It is expectantly true that specific statistical measures, here 'lot frontage' and 'lot area' received close statistical scrutiny, can have blurred results: the larger the study area, the greater and more diversified the resultant range of examples.

The TLAB routinely sees this with information supplied not only for these aspects but all manner of variance comparables: height; setbacks, side, rear and front; coverage; gross floor area, to name an additional few. The proposition can be that the greater the range, the less the homogeneity; the measures are often parsed into 'categories' or ranges with associated study area unit counts. On the two measures indicated, these statistics were presented in map graphic and tabular forms. These categories and geographic distributions can be helpful and, as here, are customarily the subject of challenge. The Applicant challenged the City study area, data errors and the absence of lot area mapping. The City challenged the Applicant's expansive study area, the categories or ranges chosen for summary percentages and comment, and, in cross, the failure to address the 'immediate area' of OPA 320.

I accept that on some measures, especially lot frontage and size, the existing physical neighbourhood is non-homogenous. I also accept that Ms. Udoh-Orok sought to describe the 'on the ground' reality of the physical characteristics of the neighbourhood as a matter of experiential learning. Her description of neighbourhood character, above defined, resonated with a greater adherence to reality than? the statistical measures might direct, although several of them taken alone could well be considered compelling. That description is one of an established residential neighbourhood experiencing mature regeneration through individual redevelopment decisions, often with variance approvals on own lots. There are, to be sure, rarer instances of lot assemblies and lot severance based on lot additions; there is the instance of a TLAB enabled severance at *319 Horsham Avenue* and TLAB severance refusal, closer to the subject property, on Churchill Avenue.

As indicia to lot characteristics, compliant with their zone category, nearby assembled properties on Farrell Avenue demonstrate similarity on the measure of lot frontage at 10 m, with the Applications.

It was Mr. Romano's opinion that the proposal would simply transform what is one of the widest lots in the area into two of the narrowest lots, but still within the neighbourhood range and into greater populated categories that he defined.

I consider it a matter of difference and distinction to suggest that non-homogeneity can be compartmentalized into discrete measures, e.g., lot frontage, and then again be described in category ranges, to draw the opinion expressed in Item 7 or give it any relevance.

Again, I was directed to no principle, policy or jurisprudence that accepts a rationale in support of a severance is the movement, either into or out of a discretionary range. Here, the existing lot of record, at 20m frontage and 800 square meters of area was said to be one of a very few lots in the largest lot range in the neighbourhood. Further, that its severance would put the newly created parcels into a smaller lot range, comprised of more numerous lots. This movement between somewhat arbitrary ranges was advanced as a credible merit to the severance application (and variance) permission sought. Again, while it may be a consequence, the merit of the movement is entirely absent a land use planning support base or rationale for lot division.

I think it incumbent on the planning profession to address conformity with Official Plan policies and deal with actual diversity and actual frontages as character attributes.

The suggestion that movement into a better represented range is somehow laudatory is, in my view, entirely illusory. Taken to its extreme, all lots figuratively and as far as possible should migrate to one descriptive dimension. This suggestion is anathema to the Official Plan as currently in force to protect existing physical character distinctions; no support policy exists granting commendation for similarity through land division. None encapsulate this aspect as a support rationale to assess a consent or variance application. In this regard, I will address *319 Horsham Avenue* later in these reasons.

I reject the interplay and movement within ranges consequential to a severance approval as a planning policy objective, or goal of merit. If anything, it tends to shroud in a mystique the assessment of whether the land division can occur without offending Official Plan policies applicable to neighbourhood stability, including measures of streetscape, impact, compatibility and like considerations engaged by the joint 'Jurisdiction' analysis.

8. The North York Study and Staff Report that supported neighbourhood zone categories R4, R6 and R7 should have, on the criteria employed, rezoned the subject property R6 (12 m frontage; 370 square meters minimum lot area) on the small block rezoning criteria employed.

I would rather have had Mr. Romano not state this comment or opinion as it is gratuitous or tends to suggest advocacy, on the part of the planner, for the interests of the client, over a mandatory independent planning opinion analysis. Mr. Romano

reviewed study area zoning, including direct reference to an earlier (1991) North York Planning Staff Report examining relevant zone categories, including the relevant study area to the Applications. He made the objective conclusion that, on the criteria employed by municipal Staff, he would have expected that the subject property be zoned to the lesser R6 zoning standards, not R4 as Council concluded. However, in his direct evidence and at paragraph 27 of Exhibit 1, he went beyond his opinion to conclude that Staff (and Council) should have rezoned the subject property R6. This action was never done, not then nor in the comprehensive rezoning By-law 569- 2013, by the City.

I place no weight on this issue as to what Council might have done or the planner's opinion as to what it should have done in 1991 and thereafter. The Applications and their consideration engage current policy and zoning; I have dealt with the proximity of the R6 zoning on Farrell Avenue properties in previous consideration. The opinion adds nothing to the assessments required.

In reviewing these eight areas of opinion evidence by Mr. Romano, I do not mean to detract from the comprehensive assessment he has made on other matters of consideration. Rather, in his evidence I was looking to hear any additional or distinguishing characteristics of the subject property or the Applications rationale. Namely, those that might harness an Official Plan policy or that suggest the subject property possesses character distinction attributes that warrant its severance approval, in this case effectively through several zone regulatory standards/categories.

Zoning, on the evidence of both planners, is designed to ensure Official Plan conformity, consistency, stability and other principles of good community planning.

I have found those explanations or rationale lacking in the several points advanced above.

Despite this, and recognizing that the statutory right to make applications requires a fulsome evaluation, it is necessary to turn to other aspects of the evidence, including the Decision and Order of my colleague Ms. Burton, on the one decision called to my attention by the Applicant, *319 Horsham Avenue*.

The property at 319 Horsham is in excess of four blocks to the northeast from the subject property but within each of the planners' study areas. Horsham Avenue, unlike Stafford Road, as indicated is a through collector street, like Ellerslie, running between Bathurst Street and Senlac Road.

In many respects, the applications in *319 Horsham Avenue* parallel those for the subject property: severance; zoning; lot frontage; lot area; required variances; evidentiary numerical assessments and opinions on both sides of the issues. The COA refused the approvals and the TLAB granted the same, on appeal, over City opposition. Like here, that opposition centered on the reduced frontage (less than 10 m) and lot area (less than 400 square meters). Horsham Avenue does not have a sidewalk, at least adjacent the property.

Mr. Romano gave evidence for the owner Appellant and raised many of the considerations listed as 1-8, above.

The Member on several occasions references a distinction of location. At page 5 of 26 she states:

“Even when considering an area from Wynn (Road) to Senlac along on Horsham itself (about 71 lots), 36.6% of existing lots are smaller than the required 15 m. and are 9.8 m or narrower. They range from 9.1 m to 30.4 m. Three of the narrowest are in close proximity to the subject property. Two of those were created by lot addition then consent (272-278 Horsham).” (See also: *319 Horsham Avenue*, page 14; 16; 17 (2x))

The scale, number and proximity circumstances differ giving rise to the potential, as ascribed to Mr. Romano in that case, at page 9: “Neighbourhoods can have more than one prevailing physical character, in whole or in part.”

I agree with the Member’s acceptance that the applicable criteria for ‘fit’ is not directed to be evaluated based on the prevailing size and configuration of lots but rather as “character in toto” (page 16); however, in the matter before me, the advance of OPA 320 does indicate an intention to consider character attributes in ascending distances from the subject property and that prevalence is not precluded from the consideration of arithmetic or numerical comparisons.

I also agree with the Member’s acceptance that it is what is built on the ground in the neighbourhood that becomes the test of Official Plan compliance, and not the zoning category across the street (page 17).

At page 18 of *319 Horsham Avenue* the Member states that “there is no preference for larger lots in the OP.” While this may be literally true, I think it misses catching the intent and purpose of the City Official Plan which does express, in multiple locations, that respect be maintained for the existing physical character of the neighbourhood.

In my view, the Official Plan sets afoot a policy directive that the identified City ‘Neighbourhoods’ are to be cherished and that identifiable componentry is to be ascertained and not changed without a fulsome consideration of many components and criteria, from streetscape to the ‘size and configuration of lots’. This would include lots large and small and the role they play in maintaining neighbourhood character. Not every lot that exceeds zoning regulatory standards, as here, is automatically eligible for lot division. Site specific and area considerations become relevant and are mandated, including area character attributes, streetscape, impact on features and functions - as well as the prospect, if applicable, of undue adverse impact within the ambit of the variance tests.

I am entirely in alignment with the principle expressed by the Member at page 19 of her Decision in *319 Horsham Avenue* that the essential decision is whether the

Applications are appropriate to accommodate the lot division and variances necessary at the location.

I do distinguish the Member's Decision both in respect of the repeated reliance on the proportion and proximity of smaller frontages and, second, the acceptance of former Ontario Municipal Board jurisprudence that the term 'respect and reinforce' only requires the 'compatibility' of new development with existing character attributes.

In my view, such an attribution that Official Plan policy 4.1.5 rests on 'compatibility' is too broad a gloss on the intent and purpose of the extensive neighbourhood protection ideals and goals of the Official Plan and its policies. Indeed, if 'compatibility' were elevated to the predominant standard, there would be no need to define multiple other criteria for assessment and consideration. The Official Plan policies would be reduced to a discretionary decision resolving opinions on the degree of compatibility. Reduced to an extreme, I would be very hesitant to support an interpretation that would permit ungovernable discretion, especially one that would allow design preference, as an example, to creep into and dominate decision making.

It appears also in *319 Horsham Avenue* that OPA 320 was agreed to be not relevant. In the present case, both planners introduced and spoke to OPA 320. I took it to be relevant to the Parties, but not a determinative policy document.

While I generally accept the Member's concluding paragraph of summarized principles, as varied above, I find that the area character assessment for *319 Horsham Avenue* does not constitute a proximate TLAB determination that would influence a similar result.

I find that the subject property contributes to the streetscape in its current condition and that there is no compelling rationale provided that motivates its change. I find the proposed reduction to 10 m frontages and less than 400 square metres of lot area to not be a minor change to the configuration of lots or the applicable zoning. They do not conform with Official Plan policies in respect of permissible development in 'Neighbourhoods'. Not only would two narrower houses dominant this streetscape opposite its intersection with Farrell Avenue, but they would introduce to this somewhat confined street, a lot pattern, spacing, configuration, landscaping and built form, while having some design attributes of redeveloped properties, that is distinctly different in scale, setting, proportion and presentation. The lots are simply too narrow; to be sure there are some narrow and some large lots, but the diversity of the physical form is overwhelmingly more generous. There is no reason to believe that two frontages of 10 m would not be noticed, especially in the position of the subject property.

The effect of narrow lots on the resulting built form and setbacks would contribute to a redevelopment that is uncharacteristic of the neighbourhood. On setbacks, area standards were observed as generous, not the standard of being 'adequate', supported by Mr. Romano (Exhibit 1, par. 34).

The change would be neither sensitive, gradual nor constitute a fit, contrary to elements of the Official Plan assessment criteria. Conformity has not been demonstrated in the principle opinions that I am prepared to accept.

I accept Ms. Udoh-Orok's 'on the ground' characterization of mature landscaping potential as a contributory component of that character; such is not assisted or reinforced by proximate new driveways, reduced setbacks and increased coverage.

While the subject property exceeds zoning specifications, no on-site assessment was presented, let alone the identification of compelling attributes that might warrant consideration supportive of lot division. Redevelopment as may become necessary can occur.

The City raised the specter of precedent. Neither the City nor the Applicant addressed this element in sufficient detail to warrant a conclusion as to its weight.

There is, in the City, now no question that severances can subsequently be used to justify further severances; once a lot is divided and construction occurs, the product becomes part of the existing physical pattern of development. Change, where warranted through severances is not bad planning; such change is consistent with the 'stable, not static' recognition of the 'Neighbourhoods' designation. The speed of change and its potential is the identified concern of precedent. In the subject neighbourhood, narrow, small lots are rare and very few applications have been made and fewer approved, in recent years.

Planning is the need, ability and desire to address the future. In the context of the City Official Plan calling for the protection and gradual, sensitive evolution of its Neighbourhoods, the issue of precedent should be in the minds of the planners and should be addressed. Precedent that threatens the essential objectives of respecting and reinforcing the existing physical character of City Neighbourhoods is a relevant land use planning consideration given the expressed policies of the Official Plan. If it is not addressed by an Applicant, with primary carriage of justification for the relief sought, once raised it becomes an evidentiary building block. The City planner suggested some 30 properties in her study area might be eligible candidates fueling a potential change to physical character. I put no stock in the actual number especially due to its late arrival, albeit justified as a simple count of yellow mapped properties already disclosed in evidence (Exhibit 4, page 29); however, the reply response by the planner's addressing Stafford Road alone was unhelpful.


In my view, on the evidence Stafford Road and its environs possesses a character that the change proposed by the Applications fails to respect and reinforce. The over-sized components for zoning purposes of the subject property do not present a compelling basis in themselves supportive of the change proposed.

I am not aware of any planning provisions that require or mandate the division of existing lots of record where their size and configuration exceed by some standard, applicable zoning. Such lots are indeed eligible candidates for relief, where relief is

appropriate in all the circumstances. I find that this is not the case in this circumstance; the proposed lots are incompatible with the existing physical character of this neighbourhood. The frontages would be the narrowest contrary to the intent and purpose of the Official Plan and zoning by law; they represent an unfamiliar development that would not fit the built environment.

DECISION AND ORDER

The appeals are allowed; the Decision of the Committee of Adjustment is set aside. The Applications for consent and variances are refused.

X 

Ian Lord

Panel Chair, Toronto Local Appeal Body

Signed by: Ian Lord