

# Seneca Heights Woodbridge



16<sup>th</sup> Century Indigenous  
Archaeological Village

160 Monsheen



City of Vaughan

**Consent Application B014/21**

160 Monsheen Drive Lot Severance

Deputation of

**Douglas Peng**

**10 Tayok Drive, Woodbridge ON**

(Opposing Application)

July 28, 2022

# Residents Objection Letter

---

A large number of Seneca Heights residents (40 signatures) respectfully disagree with the Development Planning Department's interpretation of Policy 9.1.2.3 a-b as set out in its email correspondence dated July 22, 2022

These residents have submitted an objection letter for inclusion into the public record of file B014/21. The residents strongly believe their objection letter has significant merit and should be given utmost consideration by the committee

My Deputation is a summary of this objection letter

## Improper Recommendation

*Development Planning's recommendation is improper because Policy 9.1.2.3 is the most directly applicable policy for this severance, and yet they gave it no weight*

The amendments made to Policy 9.1.2.3a-b by OPA 15 in 2018 was specifically to strengthen the protection of established large lots neighbourhoods like Seneca Heights including how severances are to be handled

In their July 22 email, the Development Planning Department recognizes its recommendation would breach this Policy and hence tries to justify its dismissal.

# Policy 9.1.2.3

*Amendment of Policy 9.1.2.3 was adopted specifically to bring clarity to the VOP regarding severances of large lot neighbourhoods such as Seneca Heights*

## Executive Summary Final Report Oct 2016

The key challenges identified through the policy review and the proposed solutions to address them are summarized below.

Key Challenge	Summary of Proposed Solutions
1 Lack of clarity about which areas of the city constitute “older, established neighbourhoods” as described in the VOP 2010 and how the policies that apply to them should be interpreted, specifically the policy regarding severances and new subdivisions within these neighbourhoods.	<div>2</div> <ul style="list-style-type: none"><li>• Amend Policy 9.1.2.3 regarding “older, established neighbourhoods” to clarify that it applies to the city’s “large-lot neighbourhoods” (i.e., those with frontage greater than 20 metres/65 feet), which include both older subdivisions and “newer” estate lot subdivisions.</li><li>• Add a new schedule to the VOP 2010 that identifies the large-lot neighbourhoods to which Policy 9.1.2.3 applies.</li><li>3 Clarify Policy 9.1.2.3 to recognize that severances and new subdivisions in large-lot neighbourhoods may be appropriate, provided the new lots are not narrower or smaller than adjacent lots.</li></ul>

# Should vs Shall

*By citing "should", Development Planning circumvents the intent and spirit of policy 9.1.2.3 that specifically protects large lot neighbourhoods like Seneca Heights*

"They (Development Planning) arrived at this conclusion because the word 'should' rather than 'shall' is used across policies 9.1.2.3(a-c). The use of the word 'should' allows staff the flexibility to examine other factors when assessing conformity and compatibility whereas the word 'shall' would restrict the application of those policies to the exact wording in place."

July 22, 2022 Email from Development Planning

# Flexibility doesn't mean ignore

*LPAT CASE LAW: "Flexibility is not whether the policy can be overlooked, but whether the application sufficiently satisfies the policy to be considered in conformity with it"*

"They (Development Planning) arrived at this conclusion because the word 'should' rather than 'shall' is used across policies 9.1.2.3(a-c). The use of the word 'should' allows staff the flexibility to examine other factors when assessing conformity and compatibility whereas the word 'shall' would restrict the application of those policies to the exact wording in place."

July 22, 2022 Email from Development Planning

# By-laws vs VOP Policies

*By-laws do not supersede VOP guiding policies. The Ontario government website explicitly states “all bylaws, including zoning and related by-laws, must conform with the official plan” under [Citizen’s Guide to Land Use Planning](#)*

“The Zoning By-law is applicable law that implements the guiding policies of an Official Plan. Therefore zone category requirements carry substantial weight when assessing conformity and compatibility in contrast to an Official Plan’s guiding policies.”

# Breach of Trust

*The purpose, intent and spirit of Policy 9.1.2.3 a-b is to provide a framework to protect the character of established neighbourhood such as Seneca Heights. Ignoring this policy from the first ever severance in over 65 years undermines the VOP and defeats the intention of such provisions.*

*Residents should be able to rely on the City to properly interpret and apply policies to reach an objective recommendation. However, the City's take-away message is quite the opposite*

*"We know we should, but we choose not to"*

*"We are willing to circumvent our own policies to achieve our desired recommendation"*

# Generally Consistent means Inconsistent

*In the revised staff report dated Oct. 28: "Although the proposed severed and retained lands are smaller in lot frontage and lot area than adjacent lots, the proposal is **generally consistent** with Policy 9.1.2.3 (a-b)"*

The word "generally" is defined as: ...without regard to particulars or exceptions

Policy 9.1.2.3b reads: Lot area: The area of new lots should be **consistent** with the size of adjoining lots

"**Generally consistent**" does not meet the more restrictive "**consistent**" test of OPA 15, Policy 9.1.2.3 a-b.

Oct 28, 2021 Revised Staff Report by Nancy Tuckett, Director of Development Planning

# Burden of Proof

*Legal Doctrine assumes the validity of the status quo and hence places a heavier burden of proof upon the party seeking change*

*"Applicant uses term 'adjacent' instead of the new language 'adjoining' in their presentation & report"*

*"Applicant indicated it is not appropriate to apply Policy 9.1.2.3b and yet the preamble to policy 9.1.2.3 indicates that it shall be applied to large lot neighbourhoods such as Seneca Heights"*

# Burden of Proof

*The Applicant proposal for change has not made a stronger case than the residents of Seneca Heights defending the status quo*

"The applicant compared lots that are not a part of Seneca Heights (e.g., Forest Circle, Laterna subdivision on Arrowhead, and the 1980s extension of Wigwoss built 25 years after Seneca Heights"

"In Comparison, the residents of Seneca Heights have raised legitimate concerns, presented facts backed with hard data, and policy rationale that this consent application does not comply with VOP Policy 9.1.2.3 a-b regarding "respect and reinforce" the character of the neighbourhood."

# Conclusion

---

My deputation focused on how Development Planning evaded Policy 9.1.2.3a-b in order to grant its recommendation and that Policy 9.1.2.3a-b is not optional and must be considered in order to be compliant with both the VOP and OPA Section 51(24).

What I didn't discuss is how clear Policy 9.1.2.3 makes this severance application impossible because my neighbour David Rembacz has already covered this issue and the Planning Development Department has effectively admitted in their July 22 email that if they shall comply with this policy, they could not possibly recommend this consent application.



## ii) Why Seneca Homes have no basements

---

- Requested by Member Kerwin to Applicant for reason to adjourn (see [COA Hearing - October 28, 2021 - OneDrive \(sharepoint.com\)](#) video position 1:38 with reference to “why slab homes”).
- Applicant failed to provide an answer on the original July 7, 2022 Committee of Adjustment notes. See [01 - 6.1 - COAREP B014 21 160MONSHEENDR Final.pdf](#) and requested an adjournment on the day of.
- Why should the Committee approve an application when one of the two requests for adjournment has not been fulfilled on time?