

From: [REDACTED]
To: [Committee of Adjustment](#)
Subject: [External] 160 Monsheen severance
Date: Friday, July 22, 2022 1:56:37 PM

To whom it may concern,

It has come to my attention there is an application for severance of the property at 160 Monsheen Drive.

I am vehemently against this application for various reasons the most important being that the planning division

is not adhering to policy 9.1.2.3 a and b (frontage, lot size) requirements.

There are other issues including the fact that according to historical documents there was a sizable

Iroquois encampment that encroached on 160 Monsheen Drive. Having lived in Seneca Heights for over 60 years I know the neighbourhood from its early beginnings.

I know for a fact that pottery fragments and the bones of deceased aboriginal people were uncovered at or near 160 Monsheen Drive in the mid 1950s.

According to the Heritage act that deals with the remains of indigenous people, there are special provisions in the law that put constraints on any development

including a severance. I am not sure to what extent this has been taken into consideration.

Lastly, 160 Monsheen lies just outside of the area designated as a special zone by the Toronto Regional Conservation Authority which is concerned with land erosion.

The demarcation line can be amended if changes in erosion occur over time but I know from my own experience that landslides have occurred along the ravine

including one that took place only two houses down from 160 Monsheen Drive, towards Islington Avenue, about 50 years ago.. The soil is made of clay and silt and is the remains of the glaciation period.

Clay is known to be unstable. What is important is not to remove trees especially

larger ones where the roots form an extensive underground network. Typically roots extend slightly

beyond the trees' canopy so for an old tree it is quite large. Trees act to stabilize the soil as well as absorb water.

Putting two large structures on an existing property means all of the water from both roofs has no place to go other than onto a small plot of land where it can not be absorbed if there is a

large rainfall event in a short period of time. At the back of 160 Monsheen Drive there is a gully that is carved into the ravine. The path that water takes underground with trees removed and

new structures put up will influence the path that drainage will take below ground level. That water will seep through the clay on the ravine embankment and gully. Has anyone done

a study to see what impact this will have on the neighbours property in terms of ground settling and cracking of foundations, aside from a potential landslide or severe erosion?

I know at least 4 houses on Monsheen Drive, neighbouring the ravine, where foundations have dropped and extensive repairs had to be made. This happened after major changes

were made to the terrain in the immediate vicinity of these houses including changes to the ground water level as more land was drained because of land development.

Viewing the professional and academic literature, it is clear that consultants hired to assess the risk of a landslide or erosion hazards generally have little information to work with and

usually their recommendations are based on their own personal biases. What is clear from experience is that ravines with clay, and gullies in ravines are more likely to have erosion issues and potentially

a landslide event may occur. A predictable risk assessment plan would require historical and ongoing data about drainage above and below ground level and also soil core samples taken at many locations.

This would be prohibitively expensive and so it is hardly ever done.

In closing, I just want to remind the adjudicators of the following rules:

BURDEN OF PROOF

Legal Doctrine assumes the validity of the status quo and accordingly places a heavier burden of proof upon the party seeking a change. This means that a developer requesting a change such as a severance, must demonstrate a stronger case than the persons objecting. At the hearing, the developer must make out a prima facie case that the relief sought satisfies good planning principles which raises a presumption in his favour. This will be more easily done if the developer has adduced professional evidence. The burden of proof then shifts to the objector who must adduce evidence to rebut this presumption. If at the conclusion of the hearing the scales are evenly balanced, the developer must fail. For the proponent to succeed his case must be stronger than yours and if you feel that it is no better, or worse, you may discretely remind the Committee members of their obligation in this respect.

EVIDENCE

An objector cannot go before the Committee with a few unsupported catch phrases. Community sentiment and unsupported opposition are not considered unless fully supported. All arguments must be backed up with hard evidence. Vague, general statements, wishes and anecdotal observations will not succeed against expert witnesses, consultants Reports, Studies, plans, photos, computer and actual modelling, visual aids and other professional planning evidence. This is what is meant by "hard evidence". When faced with this type of professional evidence, often long in the making, the objector will unfortunately have no choice but to compete at the same level. Unlike traditional Courts, most of the work of planning tribunals involves not questions of pure fact, but rather of opinion.

Professional opinion is what the experts provide to Tribunal members who rarely have any training or special knowledge of planning and this is why it is so often said that experts rule these tribunals. Although not always achieved, the acknowledged governing factor in deciding these cases is the application of good planning principles and ordinary ratepayers, while politely listened to, will normally be considered unqualified to give opinions on planning matters. If the objector has not retained an expert to establish rebuttal evidence, the rules of evidence dictate that the opinion of the developer's expert must be accepted. Consultants may be retained by objectors to provide expert evidence, however, consideration should also be given to subpoenaing a city planning official if he has raised concerns in his Report and his evidence will buttress your case.

Yours sincerely,

Francis Dawson