

EVERYDAY ENGAGEMENT

**INCLUSIVE PLANNING LESSONS FROM THE LOCAL PLANNING APPEAL
SUPPORT CENTRE**

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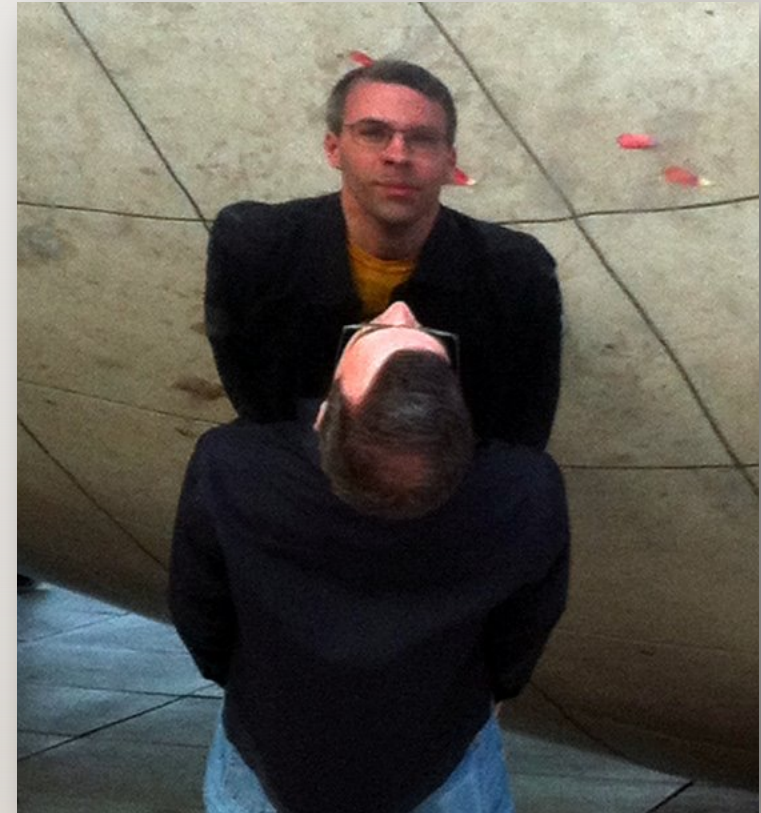


OUTLINE

- Me
- Some Questions
- Context: Planning Appeals in Ontario c. 2017
- Intro to the Local Planning Appeal Support Centre
- Standard Operating Procedures
- Case Studies
- Lessons Learned
- Applying the Model
- Questions and Sharing

ME

- Art School Drop-out
- Custom Picture Framer / Hotel Housekeeper
- Graduated from Ryerson / Toronto Metropolitan University in 2010
- 5-6 years with Ontario Ministry of Municipal Affairs and Housing in northern Ontario
- Development consultant ~1.5 years
- Local Planning Appeal Support Centre ~1.5 years
- 3 years and counting at WSP in Toronto



SOME QUESTIONS

- Public Sector or Private Sector?
- Do you take calls from the public?
- Does your jurisdiction have an appeals process?
- Can you think of an example of a development project that had very strong, but uninformed opposition?



PLANNING APPEALS IN ONTARIO C. 2017

- **Municipalities** can zone, adopt official plans, approve plans of subdivision, amendments to OP and zoning, minor variances, consents, etc.
- Up until 2017 planning decisions could be appealed by just about **anyone** for just about any reason.
- For a reasonably small fee, you could have your "day in court" and try to stop a development you opposed.
- **Appellants** who could not demonstrate **Council's** decision went against the policies would probably lose, but not after delaying development for months, or even years.
- By 2017 there was a critical mass of opposition to the planning appeal system in Ontario.

PLANNING APPEALS IN ONTARIO C. 2017

- The **Ontario government** passed new legislation to address concerns regarding the planning appeal system
 - Appeals could be dismissed without a hearing if there was no policy basis for the appeal.
 - Only **applicants** could appeal certain types of decisions.
 - **Appellants** had to provide their full case, including evidence and witness statements, in writing prior to a hearing.
 - Most appeals would not have an in-person hearing.
 - Appeals would be required to be resolved within a certain timeframe.
- The government also created the **Local Planning Appeal Support Centre** to assist the public in navigating the appeals system.
- The **LPASC** opened on April 3, 2018

THE LOCAL PLANNING APPEAL SUPPORT CENTRE

The stated purpose of the **Support Centre** was:

- To establish and administer a cost-effective and efficient system for providing support services to eligible **individuals** with respect to matters governed by the *Planning Act* that are under the jurisdiction of the Local Planning Appeal Tribunal
- To establish policies and priorities for support services based on its financial resources, and provide services that include:
 - information on land use planning
 - guidance on Tribunal procedures
 - advice or representation
 - other services prescribed by regulations

Staff included:

- an executive director
- an administrator coordinator
- a manager / registrar
- two planners
- two lawyers
- a communications lead
- an administrative assistant

THE LOCAL PLANNING APPEAL SUPPORT CENTRE

- We interpreted our mandate to include:
 - Education, Guidance and Advisory Services
- We provided general information about the planning and appeals process through our website, speaking engagements, and in response to public inquiries.
- We also assessed requests for assistance, and where appropriate, provided planning advice and legal representation in support of eligible appeals.



STANDARD OPERATING PROCEDURES

1. Receive an inquiry by email or phone
2. Review the information provided and return the call/email
3. If there is an opportunity to appeal, then determine if the reasons for appeal have merit
4. If yes, then work with the **appellant** to prepare their notice of appeal and other required documents
5. Seek opportunities for settlement and/or prepare for a hearing
6. Represent the **appellant** and provide expert planning evidence in support of the appeal



ELIGIBILITY CRITERIA

1. The **patron** must have a legal right to appeal
2. The reasons for the appeal must be valid
3. The **patron** should demonstrate a need for free services
4. The **LPASC** must have ability to resource the appeal

To also be considered:

- Consider whether **technical experts** would be required
- What is the likelihood of success?



CASE STUDIES

- In the first 7 months of its operation, the **LPASC** served **460 patrons** from 155 different municipalities. Approximately 60% of calls resulted in some form of guidance, advice or representation.
- In the following two case studies I'll provide the details of a request for services we received and the reasons for the appeal.
- You decide if the patron is eligible for services
- Then I'll tell you the outcome

CASE STUDY I – MINOR VARIANCE

- Details of the application
 - Variance is to permit a setback of 0.70m whereas 6.00m is required
 - 0.70m reflects legal non-conforming setback of existing single-storey detached garage
 - Addition is 2 storeys high
- Reasons for the appeal
 - Too tall, and too close
 - Addition would be “looming” over backyard; it would “block out the sun”.



CASE STUDY I – MINOR VARIANCE

- Outcome
 - **Patron** was eligible for services
 - We provided **legal representation** and **expert planning witness** (me)
 - Last minute settlement
 - Second floor would be stepped back to replicate the setback of the existing house



CASE STUDY 2 – CUL DE SAC INFILL

- Details of the application
 - Zoning and Subdivision for development of 2 singles, 4 semis and 14 townhouses (condo)
- Reasons for the appeal
 - Too much traffic (congestion; safety)
 - Too little privacy
 - Want development to exit onto the Regional Road



CASE STUDY 2 – CUL DE SAC

- Outcome
 - We did not provide representation or planning support
 - We provided guidance as to the appeal process
 - Advised that experts would be required who support their position
 - They proceeded with their appeal
 - The appeal was dismissed



LESSONS LEARNED

- People want evidence that they have been heard and understood
- They want to understand what's going on and how to be involved
- They want information and guidance from an impartial, qualified source
- Even if the LPASC could not help them, they appreciated our services



LESSONS LEARNED – THE BENEFITS

- Correct misunderstandings that could become opposition;
- Work through the concerns to find better outcomes;
- One-on-one Planning 101;
- Scare off frivolous, prejudiced, or unsubstantiated opposition.



APPLYING THE MODEL

The **LPASC** model can be applied to any **planning authority**, even if there's no appeal option.

Key components of the LPASC:

- Independent and impartial;
- A mandate to help patrons and resolve conflicts;
- Established criteria for different levels of service;
- Resources available to represent and assist patrons*

*unlikely to ever happen again

APPLYING THE MODEL

What are some ways you think the **LPASC** model could be applied in your community?

- A dedicated **staff person** to respond to all inquiries / opponents;
- Give **planners** a mandate to respond to the public and resolve conflicts before they get out of hand;
- Contract a **third party** to respond to public inquiries and opposition;
- Train **Councillors** and their staff (if applicable) on how to respond to opposition

IN SUMMARY

- Opposition to Planning proposals can become explosive;
- Dedicating time to address individual opponents can act as a pressure-release valve and build trust;
- Educating individuals in the planning process can result in more constructive feedback;
- Any planning authority can provide this service with dedicated staff or appropriate allocation of resources.



QUESTIONS AND SHARING

Can you think of:

- Someone who took things too far due to a misunderstanding?
- Someone you wanted to help, but didn't have time?
- A common question that takes up a lot of time?

Thanks!

Matt Alexander

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