

WEDNESDAY, OCTOBER 19, 2016

Vol. 19 • No. 41

OMB Review

## RETHINKING POWERS

By Andrew Cohrs

Potential changes to the powers of the Ontario Municipal Board are receiving close scrutiny from municipal lawyers and local councillors in the Greater Toronto Area. Further limits on OMB appeals and to the scope of OMB reviews are seen as particularly contentious.

Aurora town councillor **Tom Mrakas**, who organized an Ontario-wide workshop for elected officials about OMB reform, told *NRU* that he is encouraged that the review includes an examination of the jurisdiction and operations of the OMB.

"I do believe there is an opportunity for meaningful and bold reforms... It's about the province making legalisation that allows councils to uphold their official plans," Mrakas told *NRU*. Noting the challenges faced by municipalities in making locally-appropriate land use decisions Mrakas asks: "What's the point of developing an official plan if we can't make a decision to uphold it without the fear of being appealed?"

But some lawyers have expressed concern that potential new limits on the authority of the OMB to override a municipal planning decision may not be in the public interest.

Several GTA lawyers told *NRU* that the OMB is an essential part of Ontario's land use framework.

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Sustainability means solving social issues too

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Global experts share regional transit strategies

## RECRUITING RIDERS

By Leah Wong

In the Greater Toronto and Hamilton Area—as in other densely-populated jurisdictions around the world—designing an affordable, sustainable and well-connected regional transportation network is no easy task.

Yesterday **Ryerson University's City Building Institute** convened a session that featured transportation experts from Paris, Montreal and Toronto who identified common challenges—especially on fare integration and fare equity for less affluent transit riders—for those responsible for managing a growing system for commuters.

In its pending review of the Big Move transportation plan for GTHA, **Metrolinx** officials are taking a close look at fare integration across the region. **Eve Wyatt**, applied research and corporate monitoring senior manager for Metrolinx, told participants that her agency has to balance what commuters pay in fares against the cost of running a financially-stable system.

"Our vision has three parts to it—increasing ridership and mobility, providing a sustainable financial model for the operation of services in the region and, from a customer's point of view, presenting a network of multi-modal

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## Your Expert Team

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## UPCOMING DATES

OCTOBER 19

**Georgina Council**, 9:00 a.m.

**Mississauga General Committee**, 9:00 a.m.

**Hamilton General Issues Committee**, 9:30 a.m.

**Vaughan Council**, 1:00 p.m.

OCTOBER 20

**York Region Council**, 9:00 a.m.

OCTOBER 24

**Markham Development Services Committee**, 9:00 a.m.

**Brock Planning Committee**, 10:00 a.m.

**Oshawa Development Services Committee**, 1:30 p.m.

**Scugog Council**, 6:30 p.m.

**Uxbridge Council**, 7:00 p.m.

**Barrie Council**, 7:00 p.m.

**Newmarket Council**, 7:00 p.m.

**Clarington Planning & Development Committee**, 7:00 p.m.

**Milton Council/Committee of the Whole**, 7:00 p.m.

**Mississauga Planning & Development Committee**, 7:00 p.m.

**Richmond Hill Council**, 7:30 p.m.

OCTOBER 25  
**Caledon Council**, 7:00 p.m.

**Aurora Council**, 7:00 p.m.

OCTOBER 26  
**Mississauga Council**, 9:00 a.m.

**Brampton Council**, 9:30 a.m.

Climate change action

# BALANCING ACT

By Leah Wong

As municipalities across the Greater Toronto and Hamilton Area adapt to climate change, they cannot ignore other urban challenges, warns author and climate change activist **Naomi Klein**.

Speaking Monday at a **University of Toronto** Daniel's Faculty of Architecture, Landscape and Design event, Klein said that in making the transition to renewal energy, municipalities must also address housing affordability and poverty in urban areas.

"Because we live in this time of overlapping crises we need to craft solutions that solve multiple problems at once," said Klein. "We need integrated, intersectional climate solutions that radically bring down emissions but also fight inequality at multiple fronts."

For example, Klein said that as government leaders make the shift to renewable energy they should also empower local communities to own and control their own renewable power projects instead of relying only on major corporations.

She noted that municipalities across GTHA are trying to balance demand for critical and costly infrastructure investment against a political unwillingness to raise taxes. Klein said that if Canada collected higher royalties from its natural resource industries, such as oil and gas, governments could boost funding for infrastructure.

"In Canada it is shocking the extent to which we give away our natural resources,"

said Klein. "We have some of the lowest royalties in the world for some of our oil and gas and mining... If we wanted to we could take a bigger piece of the wealth and pay for the leap to the new economy."

At the event, **Canadian Centre for Architecture** director **Mirko Zardini** called for increased coordination between governments and the building industry to promote effective implementation of green building practices. He cited one example of the construction of a zero emission building adjacent to a parking lot. While the building itself is sustainable, he said, the parking lot undermines the broader intent to reduce emissions.

Klein said architects have found ways to design buildings in more efficient and sustainable ways than in the past, but suggested more regulation is needed to make greener building techniques standard industry practice.

"It's possible to build this incredibly efficient building, but there's [the issue of] why isn't it happening everywhere? We've been stuck at this stage," said Klein. "It's not going to happen on its own."

Klein also cautioned that green building practices, if determined only by private market forces, could become a luxury item with a premium price tag. Setting sustainable design practices through legislation, she argued, would make a green-focused economy affordable for everyone. **[nrup]**

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CITY OF TORONTO • GREATER TORONTO

Metrolinx regional transportation plan review

# EDGING FORWARD

By Andrew Cohrs

Despite generally positive reactions, some GTA municipalities are flagging concerns about policy gaps and missing pieces of key infrastructure in Metrolinx's review of its regional transportation plan, known as The Big Move.

Released in August, Metrolinx's discussion paper explains how the agency will carry out a review of the existing regional transportation plan for the Greater Toronto and Hamilton Area, with several themes identified for stakeholders' consideration ahead of a pending update to the plan.

**The Region of Durham's** Commissioner of Planning and Economic Development **Brian Bridgeman** told *NRU* the update is a step in the right direction.

"We support [the review] process...we've identified some things that we would like [Metrolinx] to look at but fundamentally we think that the exercise is a good one and a right one."

Principal planner **Lindsay Edwards** with the **Region of Peel** agrees, telling *NRU* that the review has clarified and refined the goals and objectives of the RTP and that they align with Peel's council priorities.

"We are really pleased there is more focus on the relationship between land use and transportation...it was really positive to see that Metrolinx had acknowledged the influence that land use and transportation have on one another because we really need to better connect communities with better travel options and ultimately that is the end goal for us."

However, Edwards notes that the regional transportation plan (RTP) update will need to address and clarify several issues.

"The focus is really on the intensification areas that have already seen the investment and are planning for more growth... now that the growth plan is proposing density minimum of 80 jobs per hectares in greenfield areas we will need more clarification for how these areas are going to be serviced with transit."

Pointing to Peel's TransHelp program, Edwards says Metrolinx needs to address challenges, particularly on fare integration, faced by Peel and other accessible transit providers. She adds that the movement of goods is another critical component that needs to be acknowledged to ensure the success of transportation networks in Peel.

Edwards says the plan update must recognize "the complexity of goods movement and also its significance to

the GTHA economy. We are hoping they will aim to complete [related] outstanding projects."

Brakeman highlighted new infrastructure that would strengthen Durham's transportation network, notably the importance of including rapid transit along Simcoe Street as a key piece of their local transit system.

**We support [the review] process...we've identified some things that we would like [Metrolinx] to look at but fundamentally we think that the exercise is a good one and a right one.**

• Brian Bridgeman

"The importance for Durham, in general, is making sure that the right transportation infrastructure pieces are in the plan and so that they can be prioritized and developed overtime...we identified their ought to be some consideration for the emerging Seaton community...consideration for transportation needs for rural residents...improving local transit systems as a feeder for the regional express rail."

Both regions have endorsed and submitted reports to Metrolinx ahead of updating their own regional transportation master plans, both set to occur sometime in 2017. Metrolinx will be accepting feedback on the discussion paper until October 31. A draft RTP is scheduled to be released mid-2017.

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# RETHINKING POWERS

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**Ira Kagan** of Kagan Shastri LLP says sometimes the OMB is unfairly criticized by those who do not agree with its decisions. **Patrick Devine** of Devine Park LLP and **David Bronskill** of Goodmans LLP also see what they describe as disconnect between public perceptions of the OMB and what they see as the valuable work of the appeal body.

"So long as there is a perceived issue with the board and a resulting disconnect [with the public], its important role in reviewing land use planning matters is called into question," Bronskill told NRU. "We need to work collectively to address those perceived problems and [the] disconnect."

One controversial topic covered by the review is a possible move away from so-called "de novo" OMB appeal hearings, effectively giving more weight to municipal and provincial decisions.

With "de novo" hearings, the OMB examines a land-use proposal as if prior municipal decisions had not been made. By moving away from "de novo" hearings, the OMB would focus on whether or not a municipal decision is within a range of defensible outcomes and not if it is the "best" decision.

Kagan, Devine and Bronskill argue it is essential that OMB hearings continue to be heard "de novo."

Kagan says "it is not realistic to think that you could leave [a municipal hearing] with the understanding that your full case has been put in, that all your reasons have been heard and that you feel as though that was all that was necessary. That is one of the reasons hearings de novo at the OMB are so important."

Adds Bronskill: "You compare the scrutiny that the board gives to planning matters, where extensive evidence is heard both from expert and lay witnesses, including residents and its done without time limits whereas most statutory public meetings where these issues are canvassed, people have five minutes so I think board hearings allow greater scrutiny than the local planning process and I wouldn't want to see that opportunity go away."

But Mrakas insists there should be respect for local decision-making and, as a result, greater protection from appeals to the OMB.

"The biggest problem that most elected officials have identified is the fact that we spend countless resources developing official plans that are developed in coordination

and combination with provincial policies, including the growth plan...and the province approves those plans and yet when we have an application before us asking for amendment to those plans and we don't feel it betters the community... it can be appealed to the OMB and so that decision that we've made, one that's good for our community, is overturned," Mrakas states.

Bronskill counters, "Local interest is not always the public interest...it is an important factor but it's not always the only interest."

**Local interest is not always the public interest...it is an important factor but it's not always the only interest.**

• David Bronskill

Nevertheless Kagan, Bronskill and Devine are encouraged by proposed changes that will improve transparency, access, funding of the OMB, including a suggested increase to the number of board members and mediation opportunities.

"Overall, board reforms that enable greater mediation whether at the board or before council decisions are made will have a greater impact on the legitimacy of the planning process than figuring out the scope of review that the board should be doing of municipal planning decisions," Bronskill says.

The ministry of municipal affairs is seeking public feedback on the OMB review until December 19. [nru](#)

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# RECRUITING RIDERS

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services that people can use in the way that is most convenient," said Wyatt. She noted that discussions on fares are tied to considerations of what it would take, from a revenue perspective, to meet the agency's stated objectives.

In the greater Paris area, officials face a similar challenge to set fares at a level that encourage ridership while generating sufficient revenue to pay for running the regional transportation network. **Pierre Messulam**, deputy director of France's national state-owned railway company Transilien SNCF, told participants that if transit fares are set too high the transportation system could lose revenue if riders choose to drive their cars.

**Housing is cheaper farther away... If they travel [for long distances] it's because they can't afford to be housed closer to the jobs and that is a problem.**

• Pierre Messulam

In 2015, the Paris region's coordinating transportation agency eliminated its zone-based fare system and introduced a flat fee. It also started to offer a monthly transit pass for €70, (\$C100.80) which allows users to ride regional network of buses, regional express rail trains, the Paris Metro and commuter trains.

Creating a flat-fare was a political decision aimed at luring more people to choose transit and to address the growing income inequality across the region. Messulam said that a flat-fare system subsidizes transit for low-income workers who live far from their jobs.

"You have to [question] why people commute for such long distances—basically it's because they can't afford to do something else," said Messulam. "Housing is cheaper farther away... If they travel [for long distances] it's because they can't afford to be housed closer to the jobs and that is a problem."

The flat fare is not a model that could be easily replicated in the GTHA, say officials.

Wyatt said a flat fare is a difficult way to raise money while a system is also trying to boost ridership. The system works in Paris' because the Île-de-France transit system does not rely on fare box recovery as heavily as its Canadian counterparts. École d'Urbanisme de Paris professor **Marie-Hélène Massot**

said that transit users only cover about 28 per cent of operating costs. Comparatively, Metrolinx seeks to recover between 70 and 80 per cent of its operating costs from the fare box.

Greater Montreal, for example, chose to adopt a fare-based system when it developed an integrated regional transit system that will consolidate the region's public transit operators from 15 to four. **Agence Metropolitaine de Transport** strategic information and metropolitan affairs vice-president **Daniel Bergeron** noted that low income population in Greater Montreal is not concentrated in one area, so a flat fare would not address inequality issues identified elsewhere. His region has instead chosen to utilize targeted programs—including discounted senior and student fares—to encourage transit use. **nru**



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# GTA IN BRIEF

## DURHAM

### [Whitby subdivision proposed](#)

At its October 17 meeting, Whitby planning and development committee considered a preliminary report regarding zoning by-law amendment and draft plan of subdivision applications by **Country Lane Estates**. Country Lane proposes to build a 20-unit subdivision of single detached dwellings at 4275 Country Lane. The report recommends a community consultation be held and a final report prepared.

### [Heritage designation recommended for Spencer School](#)

At its October 17 meeting, **Whitby** planning and

development committee considered a staff report recommending council state its intention to designate the property at 7035 Country Lane under *Part IV, Section 29* of the *Ontario Heritage Act*. The property contains the Spencer School, a one-room schoolhouse building built in 1877.

### [Scugog considers coordinated review comments](#)

At its October 17 meeting, Scugog general purpose and administration committee considered a staff report recommending council endorse staff comments as the township's submission to the Ministry of Municipal Affairs and Housing regarding the coordinated land use planning review.

## HALTON

### [Heritage designation recommended for Charles Fothergill House](#)

At its October 12 meeting, **Burlington** development and infrastructure committee considered a staff report recommending council state its intention to designate the property at 1309 Appleby Line under *Part IV, Section 29* of the *Ontario Heritage Act*. The property contains the Charles Fothergill House and Farm, constructed in 1896.

### [Burlington to oppose development at OMB](#)

At its October 12 meeting, **Burlington** development and infrastructure committee considered a directions report recommending council authorize staff to attend the OMB hearing in opposition to official

plan and zoning by-law amendment applications by **ADI Development Group**.

ADI proposes to develop a 26-storey, 240-unit mixed-use tower at 374 and 380 Martha Street.

## PEEL

### [Caledon considers coordinated review comments](#)

At its October 18 meeting, Caledon planning and development committee considered a staff report recommending council endorse staff comments as the town's submission to the Ministry of Municipal Affairs and Housing regarding the coordinated land use planning review.

## YORK

### [Approval recommended for Seneca College King campus expansion](#)

At its October 17 meeting,

CONTINUED PAGE 7 ➤



7035 Country Lane, Town of Whitby

SOURCE: GOOGLE MAPS



Seneca College King Campus expansion by Montgomery Sisam Architects and MacLennan Jaunkalns Miller Architects

SOURCE: SENeca COLLEGE

# GTA IN BRIEF

CONTINUED FROM PAGE 6

King committee of the whole considered a final [report](#) recommending approval of a site plan application by **EllisDon Capital**, on behalf of owner **Seneca College**. Seneca proposes to build a three-storey academic and student activity building and a new 450-vehicle parking lot at 13990 Dufferin Street.

## [Newmarket rental apartment building proposed](#)

At its October 18 meeting, Newmarket committee of the whole considered a preliminary [report](#) regarding official plan and zoning by-law amendment applications by **2439107 Ontario**. 2439107 proposes to build a four-storey, 82-unit residential rental building at 751-757 Gorham Street. The report recommends a community consultation

be held and a final report prepared.

## [Newmarket townhouses proposed](#)

At its October 18 meeting, Newmarket committee of the whole considered a preliminary [report](#) regarding official plan and zoning by-law amendment applications by **711371 Ontario Corp. (Oxford Homes)**. Oxford proposes to build 27 townhouse condominium

units at 260 Eagle Street. The report recommends a community consultation be held and a final report prepared. [nru](#)

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# VAUGHAN DESIGN REVIEW PANEL AGENDA

*The Design Review Panel will consider the following item at its meeting Thursday, October 27 at 9 a.m. in committee room 244, Vaughan city hall.*

**New Mackenzie Vaughan Hospital**—The Panel will undertake its first review of the Mackenzie Vaughan Hospital, a proposed new hospital located on Major Mackenzie Drive between Jane Street and Highway 400 in Vaughan. The greenfield parcel of approximately 40 acres is located within the Vaughan Healthcare Centre Precinct, a Primary Centre in the 2010 Official Plan. The project consists of a 11-storey tower with a five-storey podium plus lower level for a total of approximately 1.2 million square feet (including the Central Utility Plant and Mechanical & Electrical floor). A portion of the building will be built as shelled space to accommodate capacity for flexibility and future growth. Presentations will be made by **Stuart Elgie** - Project Principal,



SOURCE: GOOGLE MAPS

157 Parkside Drive, City of Hamilton

**Eugene Chumakov** - Building Design Lead and **Gunta Mackars** - Landscape Architecture at Stantec Architecture Ltd. and **Moira Wilson**, Senior Urban Designer at the City of Vaughan. [nrw](#)

## Burlington staff shift

Over the last six months the City of Burlington's planning and building department has

implemented organizational changes that reflect the city's shift from a traditional suburb focused on growing out to an urban community focused on growing up. The addition of a mobility hubs team is

intended to address a city's transportation goal to give residents more choice in how they move around Burlington. Below is an updated contact list for the City of Burlington planning and building

department. Contact NRU if you want an updated copy of the 2016 Halton Region planning contact list.

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Tracey Burrows, Manager, By-law Enforcement & Licensing ext. 7628

Rosa Bustamante, Manager, Mobility Hubs ext. 7259

Tami Kitay, Manager, Development Planning ext. 7638

Angela Paparizo, Manager, Arts & Culture ext. 7352

Andrea Smith, Manager, Planning Policy ext. 7835

Jamie Tellier, Manager, Urban Design ext. 7892

Vacant, Special Downtown Area Business Coordinator

Adam Belovari, Culture Coordinator

Phillip Caldwell, Planner II, Mobility Hubs

Don Campbell, Senior Planner, Policy

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Amanda D'Angelo, CoA Clerk

Mark Dalrymple, Zoning Examiner

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Corina Rose, CSA Zoning/Grading/Drainage Certificates

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# GTA OMB NEWS

## Orono pool house legalized

In a September 28 decision, board member **Jyoti Zuidema** allowed an appeal, in part, by **Terrence Timmins** against the **Municipality of Clarington** committee of adjustment's refusal of his minor variance application. Timmins sought variances to legalize an existing pool house on his property at 7700 Brown Road.

The pool house, as constructed, was a three-storey accessory building equipped with plumbing facilities and washrooms. Prior to the hearing a settlement was reached between Timmins and the municipality resulting in changes to the requested variances. The variance seeking permission to use the pool house for human habitation was removed and the total floor area was reduced.



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Planner **Steven Edwards (GHD)** provided evidence on behalf of Timmins in support of the settlement, testifying that the amended proposal meets all four tests required under the *Planning Act*.

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# GTA OMB NEWS

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The board accepted Edwards's unchallenged evidence and allowed the appeal, in part, with the conditions outlined in the minutes of settlement.

Solicitors involved in this decision were **Lynda Townsend (WeirFoulds)** representing Terrence Timmins and municipal solicitor **Andrew Allison** representing the Municipality of Clarington. [See OMB Case No. PL151206.]

## Oakville home refused

In an October 3 decision, board member **Anne Milchberg** allowed an appeal by the **Town of Oakville** against the Oakville committee of adjustment's approval of a minor variance application by **Mohunnad Husameldin**. Husameldin sought variances to construct a two-storey single detached dwelling at 486 Pineland Avenue.

Town planner **Kate Mihaljevic** provided evidence on behalf of the town in support of the appeal. She testified that the proposed home was too large, out of scale with the neighbourhood and did not meet the requirements of the town's urban design guidelines. She concluded that the requested variances should be refused as the home would have negative adverse massing and scale impacts on the streetscape.

Architect **Furat Ilia (Noor Architects)** provided evidence on behalf of Husameldin in opposition to the appeal. He testified the proposed home was consistent with residential redevelopment taking place throughout the neighbourhood. He also said he had applied the town's urban design guidelines to break down the scale and massing of the dwelling.

The board accepted Mihaljevic's testimony and allowed the town's appeal, refusing the variances.

Town solicitor **Dennis Perlin** representing the Town of Oakville was involved in this decision. [See OMB Case No. PL160421.]

## Oakville variances settled

In an October 5 decision, board member **Justin Duncan** allowed an appeal, in part, by the **Town of Oakville** against the Oakville committee of adjustment's approval of a minor variance application by **Kanapathi** and **Mythili Lingham**. The Linghams sought variances to build an addition to their semi-detached residence at 2406 Susquehanna Court.

At the beginning of the hearing the parties advised the board they had reached a settlement resulting in a reduction in the requested total floor area from 224.27 m<sup>2</sup> to 212 m<sup>2</sup>.

Town planning manager **Charles McConnell** provided evidence on behalf of the town in support of the settlement. He testified the revised proposal reduces the width of the addition to align with existing walls and will confer no negative impacts on the adjacent property owners.

The board accepted McConnell's evidence and allowed the appeal, in part, subject to conditions requiring construction in accordance with plans contained in the settlement minutes and indicating expiration of the approval in two years should the development not proceed.

Town solicitor **Dennis Perlin** representing the Town of Oakville was involved in this decision. [See OMB Case No. PL160601.] **nru**

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# GTA PEOPLE

In a by-election held on Monday **Bob Kwapis** was elected Ward

5 councillor for the **Town of Newmarket**. He replaces former

councillor **Joe Sponga**, who resigned in June.