

# A concrete look at local governance



**ARCHITEXT**

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Columnist

Looking at the letters to the editor published in the Lake Report during the last couple of months, it seems there is a rising tide of acrimony being voiced by Niagara-on-the-Lake's citizens and directed at the town council and staff.

Almost without exception, the letter writers state they are not against development that is appropriate and sympathetic to their neighbourhood, but then go on to challenge overtures that, clearly, did not embrace consideration of the neighbours or compatibility with the cultural heritage landscape (established buildings, streetscapes, green spaces, trees, etc.) of Niagara-on-the-Lake.

Stated explicitly or by inference, many residents of this town ask why town staff and council do not appear to be respecting existing bylaws, the official plan and the position expressed by most voters.

And, this is a tide of opinion not limited just to Old Town but includes residents of Glendale, St. Davids, Queenston, Virgil and NOTL's rural environments.

To quote a recent letter to the editor ("Council steps up to vote down King St. condo," published Feb. 1, 2024), written by Bill French:

"The NOTL official plan was years in the making. It is a contract among the town, our represented officials and the residents."

"I'd like to ask all our town council to respect the wishes of our community and the integrity of our official plan in the future to preserve the quality of life that our residents deserve," the letter stated.



This infill development, largely spanning its lot and dwarfing the neighbouring homes in its height and massing, will dominate this section of the Victoria streetscape — something that could have been avoided had the neighbouring dwelling been designated, the urban design committee been consulted and a proper streetscape rendering been required. BRIAN MARSHALL

And, from another letter ("Kudos to council for rejecting King St. plan"), written by Erika Alexander in the same issue of this paper:

"Lord Mayor Gary Zalepa indicated that the tribunal's impending decision will lead to massive disappointment."

"I guess that could be interpreted to mean some town officials have already given up and should just roll over to allow the developer to control our community growth at the expense of our heritage, official plan, tourism industry and whatever pleases the developer," the letter stated.

In considering this issue, let's deal with town council's and town staff's contexts separately.

Stuck between a rock and a hard place, here are some of the realities the town council is facing.

Sitting at the lowest rung of the Canadian government hierarchy, your local representative body is subject to the direction and legislative underwritten by the whims of the three upper tiers.

Niagara-on-the-Lake has two representatives out of a total of 32 seats (including the chair) on the regional council.

St. Catharines controls eight of the 32 seats, Niagara Falls occupies four seats, followed by Welland with three seats, while NOTL, Fort Erie, Grimsby, Lincoln, Pelham, Port

Colborne, Thorold and West Lincoln are apportioned two seats each, leaving the final seat to Wainfleet.

So, as two of 32 votes, NOTL's representatives have a very small voice.

Then, on a provincial level, our local MPP is a member of the New Democratic Party, sitting in opposition to the ruling Conservative government.

While MPP Wayne Gates appears to be a vocal and active voice in representing this riding, as a member of the opposition, he has little influence on the direction of the provincial government agenda.

Moving up to the federal level, our MP, Tony Baldinelli, is a member of the Conservative Party, the official opposition — no matter how strong his representation may be, has no direct voice in the government's policy.

Insofar as the upper tiers of government "power equation" are concerned, NOTL has little or no direct ability to affect government policy — leaving our local representatives to wallow in the murky depths of relationship influence.

Furthermore, the province has the power and authority to "deal with" lower-tier governments who do not align themselves with provincial policy — as the recent, not-too-subtle "exploration of amalgamation" message conveyed.

And, coming closer to home, let's understand the financial constrictions imposed by legislation on our town council.

Denied by law, the lowest tier of Ontario's governance cannot exceed spending more than their revenues — they have to live within their means.

It is my understanding that town council has budgeted \$500,000 for 2024 legal expenses.

While that may sound like a lot, using simple math at \$400 per hour, that's only 1,250 hours.

And, of course, this calculation does not consider the plethora of additional charges, which reduce that number of hours.

Moreover, this budget must cover all the town's legal expenses — not just those associated with planning issues.

On those issues, I'd posit that the budget may be sufficient to fund between four and six properly researched, prepared and presented cases before the Ontario Land Tribunal.

To be clear, I am not suggesting that town council should abandon the defence of heritage, the official plan, bylaws, the cultural landscape, et al.

In fact, my stance is they should do so rigorously.

However, given the foregoing, town council is obliged to pick its battles wisely.

Preferably, battles that can set precedents that may be used for future decision-making around development applications — without the need for expensive legal wrangling.

Moving on to the question of town staff.

I have written in this column about the challenges town staff face in dealing with the "shell game" played by the provincial government vis-à-vis changes to the Planning Act (see my columns, "The Greenbelt and the games governments play," Oct. 26, 2023, and "Democracy in development? Maybe for the few," Dec. 7, 2023) so I will not bore you by "chewing my cabbage" one more time.

Simply put, few or no lower-tier municipal governments have the staff or financial wherewithal to ensure that local bylaws continually conform to provincial legislation.

Unfortunately, this forces planning staff to rely principally on the Planning Act versus local bylaws — or even provisions in an official plan — wherein these criteria are not in accordance with overriding provincial legislation.

Nobody, including (I suspect) the members of the town planning department, likes it, but that is the real playing field.

That said, having read several hundred staff

reports to council and its advisory committees, I fail to understand why the planning staff generally do not include in their reports any analysis of non-conforming bylaws or official provisions versus Planning Act criteria on a risk/benefit basis.

Nor do I understand why the town does not require a standardized set of plans for a development (including measured streetscapes for infills) which are then, according to a standard operating procedure, forwarded to the various advisory committees and council for consideration.

Consider the 2022 case of the infill development at 323 Victoria St. in Old Town.

A municipal heritage committee review was bypassed because none of the neighbouring historic dwellings were designated.

The urban design committee was, apparently, not consulted due to the "minor" nature of the infill.

The committee of adjustment, while refusing two of the applied-for minor variances (a seven-metre-wide driveway and covered lanai) and expressing some concern over the massing of the proposed building, lacked any visual reference — which a proper streetscape would have provided — and granted the application to have 38 per cent lot coverage.

Finally, it seems that too much of the town's business affecting our cultural landscapes is conducted behind closed doors.

How difficult would it be to have a page on the town website that lists planning applications at the date of submission, including with each entry a live link to the application, its current status and notes regarding all discussions between the applicant and town planner?

I suspect most town folk would find this type of transparency infinitely preferable to the current, seemingly last-minute publication occurring after the planner has deemed the application "complete."

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