



FRONTENAC



Building Better Communities and Conserving Watersheds Act, 2017



Planning Advisory Committee
April 9, 2018

Presentation Outline

- Ontario Municipal Board Review
- Bill 139 Milestones
- Bill 139 Highlights
- Areas of Change
- Local Planning Appeal Tribunal
- Implications for Frontenac

Information Session

- Information in this presentation is compiled from the Ministry of Municipal Affairs and Ministry of the Attorney General information sessions.

Ontario Municipal Board (OMB) Review

- Provincial review began in Spring 2016
- Recommend changes to improve OMB's role:
 - Too many decisions are appealed, hearings complex and costly
 - More respect and deference to local decisions
 - Increase mediation and reduce adversarial nature of hearings
 - Public and community groups need access to the process
- Public-wide consultation – County Council formally responded December 2016 ([Council Report 2016-141](#))

Bill 139 Milestones

- Introduction/First Reading – May 30, 2017
- Third Reading/Royal Assent – December 12, 2017
- Proclamation – April 3, 2018

Bill 139 Highlights

- Makes transformative changes to the land use planning and appeal system
- Repeals *Ontario Municipal Board Act* and replaces it with the *Local Planning Appeal Tribunal Act, 2017*
- Enacts the *Local Planning Appeal Support Centre Act, 2017* which establishes new independent agency
- Makes changes to the *Planning Act* and various other Acts

Bill 139 Highlights

- Planning Act changes:
 - More municipal control
 - Strong community voice for local decisions
 - Protect public interest
- Local Planning Appeal Tribunal Act, 2017
 - Establishes Local Planning Appeal Tribunal (LPAT)
 - Independent, dispute-resolution body
 - Governed by the Local Planning Appeal Tribunal Act
 - Reports through Environment and Land Tribunals Ontario
- Local Planning Appeal Support Centre Act, 2017
 - Establishes the Local Planning Appeal Support Centre (LPASC)
 - Independent agency
 - Mandate to administer cost-effective support services to eligible persons for matters governed by the Planning Act under jurisdiction of the LPAT

Key Areas of Change

- More Municipal Control
 - Two-year “time-out” – new secondary plans
 - No appeal of interim control bylaws when first passed
 - More authority for Local Appeal Bodies
 - Longer decision timelines
 - Protected Major Transit Station Area (PMTSA)
- Strong Community Voice
 - Consistency/Conformity standard
 - Requirement to send info back to approval authority
 - LPAT limited to matters that were part of Council decision
- Protecting Public Interest
 - No appeal of major Provincial decisions (including County O.P.)
 - Minister’s Zoning Orders
 - Climate change
 - Affordable housing

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Two-Year “Time-out” – New Secondary Plans

- Cannot apply to amend new secondary plans for two years, unless amendment is municipally-supported
 - Give municipalities more control over development in their communities
 - Facilitate implementation of local policies
 - Begins first day secondary plan comes into effects
 - Complements change introduced for two-year timeout for new OP and ZBs

No Appeal of Interim Control By-laws

- Allow municipalities to put a “pause” on development in a specific area to undertake a technical study
 - Province continued ability to appeal
 - Any extension is subject to appeal
 - Allow to redirect limited resources from responding to appeals to carry out planning studies

Longer Decision Timelines

- More time to assess planning matters and hear public input
- More time to negotiate solutions and potentially avoid appeals
 - Timelines extended by 30 days:
 - Official plans and official plan amendments – 210 days
 - Zoning by-law amendments and holding by-laws – 150 days

Consistency/Conformity Standard

- Restrict appeal grounds for official plans and zoning by-laws to only matters of consistency and/or conformity with provincial and/or municipal policies/plans
- Onus is on appellant to set out reasons why Council decision is inconsistent/does not conform with provincial policy and/or applicable official plan
- For non-decision or refusal, onus is on applicant to demonstrate how their proposal would be consistent and how existing OP policies and ZB provisions fall short

Opportunity to Reconsider

- Requirements to return matter to a municipality for a new decision when LPAT determines that municipal decision did not follow provincial/local policies
- Municipality has 90 days to issue a new decision (does not apply to municipally-initiated matters)
 - Reassess application, provide notice of a public meeting, hold meeting, issue new decision

Limited to Matters of Council Decision

- LPAT does not have the authority to approve or modify any part of an official plan that is already in effect and was not added, amended or revoked by the municipality when making their original decision.

No Appeal of Major Provincial Decisions

- No appeal of provincial decision to approve, modify or refuse new official plan or update
- Appeal if no provincial decision is made within the statutory timeframe
- Appeals on non-decisions are not based solely on consistency/conformity

Climate Change and Affordable Housing

- Climate Change
 - Must identify goals, objectives and actions to mitigate and adapt
- Affordable Housing
 - Plan for a range and mix of housing, including affordable housing

Planning Matter	Was a Decision Made?	Continued Ability to Appeal to Tribunal	Subject to Consistency/Conformity Review Standard	Ability to Appeal to LAB (currently only Toronto)	
New Official Plans and s. 26 Updates approved by Province	Decision	No	n/a	n/a	
	Non-decision	Yes	No		
Official Plan Amendments approved by Province	Decision	Yes	Yes		
	Non-decision	Yes	No		
Official Plans / Amendments not approved by Province	Decision	Yes*	Yes		
	Non-decision	Yes	No		
Privately-initiated Official Plan Amendments (s.22(7))	Municipal decision to refuse to adopt OPA	Yes	Yes		
	Non-decision	Yes	Yes		
Zoning By-laws / Community Planning Permit By-laws	Decision	Yes*	Yes		
	Non-decision	Yes	Yes		
Minister's Zoning Orders /Requests to amend or revoke	Decision or Non-decision	No	n/a		
Interim Control By-laws		No (unless extended beyond 1 year)	n/a		
Community Planning Permits		Yes	No** will benefit from procedural hearing improvements (e.g., hearing timelines)		Yes
Subdivisions/ Condominiums					Yes
Site Plans				Yes	
Consents				Yes	
Minor Variances		Yes			

Amended Planning Act Regulations

- Technical changes
- Changes revise what information is included in giving notice
- Changes to facilitate implementation of the new consistency/conformity standard
 - Revise information and material needed for an official plan/zoning amendment – whether an application conforms with the relevant plans

Local Planning Appeal Tribunal

Local Planning Appeal Tribunal Act, 2017

S.O. 2017, CHAPTER 23
SCHEDULE 1

Consolidation Period: From April 3, 2018 to the [e-Laws currency date](#).

No amendments.

CONTENTS [-]

	PART I
	INTERPRETATION
1.	Definitions
	PART II
	CONSTITUTION OF THE TRIBUNAL
2.	Ontario Municipal Board continued as the Tribunal
3.	Composition of Tribunal
4.	Quorum
5.	More than two members presiding
6.	Term of office
7.	Employees
8.	Protection from being called as witness
9.	Protection from personal liability
10.	Use of meeting facility

Local Planning Appeal Tribunal

- **Purpose:** Carry out a “check-and-balance function” with respect to municipal planning decision-making
- **Standard of Review:** Appellant must explain and demonstrate how the adopted or approved OP/OPA or ZB/ZBA is inconsistent with a PPS, fails to conform with or conflicts with a provincial plan, or fails to conform with an applicable upper-tier official plan.
- **Time Limits:** 12, 10 and 6 months (postpone and resume)
- **Mandatory Case Management Conference:** Appellant, approval authority and member of the LPAT
- **New Process:** Oral and written hearing, only LPAT may call a witness, limits (75min oral, 20pg document book)

Appeal Process

- New forms available, same \$300 administrative cost
- New submission requirements
- Schedule of hearings – no longer canvass for available dates
- Correspondence to advise the Municipal clerk and parties of Tribunals initial decision (may include further information)

New Rules - LPAT

- **Case Synopsis:** Focus on issues raised in the appeal, relevant policies referenced. Max 20 pages.
- **Responding to an Appeal:** File responding record if appellant's record is incomplete (within 20 days of receipt)
- **Case Management Conference:** Must notify if you wish to be involved 30 days in advance
- **Hearings:** Less adversarial

Local Planning Appeal Support Centre

Local Planning
Appeal Support Centre

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Welcome to Ontario's
**Local Planning
Appeal Support
Centre**

Who We Are

The Local Planning Appeal Support Centre helps people understand and navigate the land use planning and appeal process in Ontario.

Implications for Frontenac

- **Tighter Timelines:** No canvassing potential hearing dates, timelines for case synopsis and reply, timeframe to make new decision
- **Transition Guidelines:** Outstanding appeals under current system
- **Continued Participation in Hearings:** Minor variance appeal process similar
- **Modifying Appeal Notices:** Who can and when?
- **Modifying Applications:** Conformity/consistency test
- **Court Involvement:** Possibility?