
Terms of Reference Committee of Adjustment

1.0 Mandate

The Committee of Adjustment is an independent and autonomous quasi-judicial body made up of five citizen members appointed by City Council. The Committee performs its duties at “arm’s length” from City Council and operates under the authority of the Ontario *Planning Act*. The purpose of the Committee is to provide a forum for the expeditious consideration of consents for land severance and minor variances to the City’s zoning by-laws.

The Committee is authorized by the *Planning Act* to consider applications for:

Consents for Land Severance:

Section 54 of the *Planning Act*

- Consents to sever a piece of land to create a new parcel or parcels of land;

Minor Variances:

Sections 44 and 45 of the *Planning Act*

- Minor variances from the provisions of the Zoning By-law;
- Extensions, enlargements or variations of existing legal non-conforming uses under the Zoning By-law; and
- Determine whether a particular use conforms with the provisions of the Zoning By-law where the uses of land, buildings or structures permitted in the by-law are defined in general terms.

The Committee of Adjustment is also subject to the following statutes:

- *Municipal Act* – This Act requires Committee of Adjustment Decisions to be made openly, in public, and at the hearing, and also requires the Committee to have a procedural by-law; and
- *Municipal Conflict of Interest Act* – This Act sets a standard of good conduct for council and committee members, and defines situations when an individual council or committee member’s personal interest or the interest of their immediate family conflict with the broader municipal interest.
- *Statutory Powers Procedures Act* – This Act sets out minimum standards for conducting a hearing;

2.0 Goals, Objectives and Responsibilities

Consents for Land Severance:

Section 16.26 of the Pickering Official Plan allows a landowner to create up to three new lots through the consent/land division process. A landowner must make a request to Council to create more than three lots through the consent/land division process, otherwise an application for draft plan of subdivision is required.

For the Committee to approve this type of application, Section 51(24) of the *Planning Act* requires that the members have regard for:

- Consistency with the Provincial Policy Statement and Provincial Plans;
- Whether the application is premature or in the public interest;
- Whether the application conforms to the Region and City's Official Plans;
- The suitability of the land for the purposes for which it is to be divided;
- The dimensions and shapes of the proposed lots;
- The restrictions or proposed restrictions, if any, on the land proposed to be divided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- Conservation of natural resources and flood control;
- The adequacy of utilities and municipal services; and
- The area of land, if any, to be conveyed or dedicated for public purposes.

Minor Variances:

The Zoning By-law regulates how land and buildings are used and where buildings and structures can be located. Zoning By-laws also specify lot sizes and dimensions, parking requirements, building heights and other regulations necessary to ensure proper and orderly development. Sometimes it is not possible or desirable to meet all of the requirements of the Zoning By-law. In that case, a property owner may apply for approval of a minor variance. A minor variance provides relief from a specific Zoning By-law requirement.

The majority of minor variance applications typically dealt with by the Committee are requests for minor variances to the zoning by-law in which an applicant seeks relief from a specific requirement of the zoning by-law, such as a reduction in minimum yard width or an increase in maximum permitted building height.

For the Committee to approve this type of application, Section 45(1) of the *Planning Act* requires that the members must be satisfied that the application:

- Is considered to be a “minor” change from the Zoning requirements;
- Is desirable for the appropriate development or use of the land, building or structure;
- Maintains the general intent and purpose of the Official Plan; and
- Maintains the general intent and purpose of the Zoning By-law.

Mandate:

The Committee of Adjustment will accomplish its mandate by:

1. Reviewing the merits of the application, the documentation and evidence put forward, conducting site inspections and rendering decisions on the application, in accordance with the requirements of the *Planning Act*.
2. Complying with the applicable rules, regulations and policies for the Committee of Adjustment.

3.0 Composition

The Committee of Adjustment is composed of the following:

- 5 Citizen Appointments
- City Support Staff – Secretary-Treasurer
- City Support Staff – Assistant Secretary-Treasurer

4.0 Member Qualifications

It is desired that the Committee develop community-focused outcomes while rendering decisions in accordance with the provisions of the *Planning Act*.

Individuals should have a demonstrated commitment and interest in the community, and the committee membership should reflect a balanced representation from the areas of planning, construction and lay people.

5.0 Hearing Schedule

The Committee of Adjustment hearings are held the second Wednesday of each month to consider consent for severance and minor variance applications. Hearings can be conducted in person, electronically or hybrid. On average, there are between four to eight applications scheduled for each hearing. The Committee Members will be provided with an agenda the Friday before the hearing, which contains a summary of the applications and all comments received through circulation of the application.

Comments received after preparation of the agenda are shared with the Committee through the City's ShareFile platform. The agenda also includes a report from the City Development Department on each consent for land severance and/or minor variance application.

The Committee hearings are scheduled to start at 7:00 pm. The Secretary-Treasurer of the Committee of Adjustment or designate will attend the hearings to assist the Committee with interpretations or other technical details and the Assistant Secretary-Treasurer will be in attendance to take minutes. Committee of Adjustment hearings are also open to the public, and all applicants and any interested parties may attend the hearings to present comments or concerns.

Committee hearings are intended to be as informal and applicant-friendly as possible, however Rules of Procedure for the hearings are to be followed. As per Section 44(7) of the *Planning Act*, a Committee Member will be appointed to act as Chairperson for the hearings in order to provide a clear structure and process.

The Committee of Adjustment must make a decision on each application as it is heard at the hearing, either for approval, refusal, deferral to another hearing or tabled indefinitely. All discussions among Committee members, and between Committee members and the applicant/public on applications are to take place at the hearing.

The Committee may impose conditions that must be fulfilled as part of the approval of an application, or may approve an application with revisions, as long as those revisions result in a similar variance than what was originally applied for. In making a decision, the Committee must pass a resolution that clearly sets out the reasons for the decision. The City Development Department will provide a report providing a policy analysis and a recommendation on the application to assist the Committee in rendering decisions.

Minutes of the hearings and the mailing of decisions of the Committee are coordinated by the Assistant Secretary-Treasurer.

Each Committee of Adjustment decision is subject to a twenty-day appeal period during which the Committee's decision may be appealed to the Ontario Land Tribunal by applicants, City Council, the Province, and public bodies. The City Development Department keeps City Council informed of all Committee of Adjustment decisions and appeals.

6.0 Budget

Committee Members are paid in accordance with a City Council Resolution. Honorarium (Chair \$150.00 per attended hearing, Member \$140.00 per attended hearing, as per By-law 8004/23) and mileage (61 cents per kilometer) are paid on a bi-annual basis (January to June and July to December).

**Approved by Council Resolution #362/23
December 11, 2023**