

## **Committee of Adjustment**

### **Terms of Reference**

#### **Mandate**

The Committee of Adjustment (Committee) considers applications for minor variances from the Comprehensive Zoning By-law, as amended, and variances to any other by-law specified by Council that implements the Official Plan. It is the responsibility of the Secretary-Treasurer of Development Services to accept all applications for processing, upon submission by the applicant.

Applications to the Committee of Adjustment will be processed in accordance with the requirements of Section 45 of the *Planning Act*, applicable regulations (O. Reg 200/96 as amended), the *Statutory Powers Procedures Act* and the Committee of Adjustment procedure.

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

- a. Minor variances from the provisions of the Zoning By-law;
- b. Extensions, enlargements or variations of existing legal non-conforming uses under the Zoning By-law; and,
- c. 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.

#### **Goals/Purpose**

The goals and purpose of the Committee of Adjustment are to:

1. Hear presentations from property owners, applicants, or authorized agents,
2. Hear and consider public input; and,
3. Make informed decisions on the following *Planning Act* matters.

#### **Minor Variances**

The Zoning By-law regulates how land and buildings are used and where buildings and structures can be located. This by-law also specifies lot sizes and dimensions, parking requirements, building heights and other regulations necessary to ensure proper and orderly development.

In the case where it is not possible or desirable to meet all the requirements of the Zoning By-law, a property owner may apply for approval of a minor variance. A minor variance provides relief from a specific Zoning By-law requirement, excusing a property owner from meeting the exact requirements of the By-law.

Committees of Adjustment considering minor variance applications have no absolute tests to guide their assessment. Section 45(1) of the Planning Act, R.S.O. 1990, as amended, C. P. 13, states that the authorized variance from the zoning by-law should:

- a. be minor;
- b. be desirable for the appropriate development and use of the land, building or structure
- c. maintain the general intent and purpose of the Zoning By-Law; and
- d. maintain the general intent and purpose of the Official Plan.

### Legal Non-Conforming Uses

Legal Non-Conforming Uses are uses of property that met all of the requirements of the Zoning By-law (and any other requirements) when they were established but no longer conform because the zoning requirements have changed. To ease the hardship this change could place on a property owner, the Committee can consider applications for extensions or enlargements of buildings or uses that no longer conform with the Zoning By-law as well as applications for a change from one legal non-conforming use to another use.

For the Committee to approve these types of applications, Section 45(2) of the Planning Act requires that the members must be satisfied that:

- a. the non-conforming use was either officially permitted before the current Zoning By-law was approved or pre-date any Zoning By-laws enacted by the Municipality;
- b. the non-conforming use has continued, uninterrupted since that time;
- c. the extended or enlarged building or use is located entirely within the original property limits; and
- d. in the case of a change in use, that the proposed use is similar to or more compatible to the new uses permitted by the Zoning By-law.

### **Membership**

1. Two (2) members of Council;
2. Three (3) members of the Public.
3. A Chair and Vice-Chair will be elected by members at the first meeting annually.

### **Roles**

1. Members will review the merits of each application, the documentation and evidence put forward to render decisions on the application, in accordance with the requirements of the *Planning Act*.
2. Members will actively participate and provide their expertise.

3. Members will hear and consider public input provided through written or verbal correspondence provided.
4. The Chair will facilitate meetings, ensure participation by members, maintain decorum, and be the primary contact of the Committee.
5. The Secretary-Treasurer for Development Services will manage administrative functions, and provide procedural and legislative guidance to the committee.
6. Members are expected to attend learning sessions from time to time, to stay up to date with current planning processes and requirements.

### **Responsibilities of the Planning Committee**

1. It is the responsibility of all appointed members to comply and work with County procedures, by-laws and Provincial legislation, with guidance from staff:
  - a. Council's Code of Conduct
  - b. *Planning Act*
  - c. County Accountability and Transparency Policy
  - d. County Procedural By-law
  - e. Other applicable County by-laws and policies
  - f. *Municipal Act*
  - g. *Municipal Freedom of Information and Protection of Privacy Act*
  - h. *Municipal Conflict of Interest Act*
2. Members must be able to perceive issues on a municipal-wide basis.
3. Members must have transportation and be willing to make site visits prior to hearings.
4. Be able to attend one Committee of Adjustment meeting, per month.
5. Be able to attend Committee of the Whole meetings, as required.
6. Be willing to study to become familiar with policies of the County of Prince Edward Official Plan and Zoning By-laws, as well as Provincial Policies.
7. Be willing to complete the Ontario Association of Committees of Adjustment & Consent Authorities Primer on Planning online correspondence course.

### **Term**

Members of the committee who are not members of municipal council shall hold office for the term of council to which they have been appointed.

Members of the committee who are members of municipal council shall be appointed for a 4-year term.

Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his or her term, the council shall appoint another eligible person for the unexpired portion of the term.

### **Staff Support**

While the Secretary-Treasurer for Development Services provides procedural support, the entirety of Development Services will provide input and support to the Committee, as required.

Minutes are prepared by the Secretary-Treasurer and approved by the Committee of Adjustment.

### **Reporting Relationship to Council**

While the committee has no direct reporting function to Council, committee minutes and decisions will form part of the next applicable Council agenda.

Notices and decisions are prepared by the Secretary-Treasurer for Development Services and circulated in accordance with the *Planning Act*.

### **Finances**

No member shall receive remuneration for services.

A member is entitled to reimbursement for any reasonable out-of-pocket expenses that have been pre-approved by the CAO or Council.

### **Attendance**

If a Committee Member is absent for three consecutive meetings they have forfeited their membership, unless their absence has been approved by the Chair.

### **Meetings**

The Committee of Adjustment shall meet a maximum of twelve (12) times per year; however, more frequent meetings may occur at the discretion of the Chair. Meetings shall be governed by The County's Procedural By-law as may be amended from time to time. The committee will meet only when required for the decision on applications.

The meeting, agenda, and minutes will be available to the public, on the municipal website. Meetings may be held electronically. A member may participate electronically in open or closed meetings. Any such member shall be counted toward quorum of members present at any point in time and shall be able to vote, as permitted by the *Municipal Act*.