

TOWN OF AJAX

Committee of Adjustment

Terms of Reference

1. Mandate

The Committee of Adjustment has five members appointed by Council. The responsibilities of the Committee are established by Sections 34, 44, and 45 of the *Planning Act* and related Ontario *Regulations*. The Committee considers matters of zoning variance which are often of the utmost importance to individual applicants, but which are not of sufficient magnitude to warrant the formal consideration of Town Council.

The Committee of Adjustment may consider requests for minor relief from the provisions of the Town of Ajax Zoning By-law to any land, building or structure, provided the requests satisfy the four tests outlined in Section 45(1) of the *Planning Act*, which are:

- the request is minor in nature;
- the request is desirable for the appropriate development of the land, building, or structure;
- the request maintains the general intent of the Zoning By-law;
- the request maintains the general intent of the Official Plan.

The Committee may also consider requests to extend or enlarge the legal non-conforming use of any land building or structure.

The Committee of Adjustment shall:

- Hear presentations from property owner(s), applicants, or authorized agent(s);
- Make a decision based on the presentation by the property owner(s), authorized agent(s), and the staff report to the Committee of Adjustment.
- Approve, refuse, table, defer, or modify the recommendations of the staff report to the Committee of Adjustment.

2. Reporting & Functional Relationships

The Senior Development Planner of Planning & Development Services will act as the Secretary- Treasurer and staff resource person for the Committee of Adjustment.

Staff will provide a report to Council on its activities and decisions annually.

3. Committee Membership

The Committee of Adjustment shall consist of five (5) members of the public appointed by the Council of the Town of Ajax. The Town Clerk or Designate, and a Town Councillor shall recruit, interview and recommend five individuals for appointment to the Committee.

Three (3) members shall constitute a quorum. Section 1 of "Schedule A", Rules of Procedure, shall apply if no quorum is present.

Committee Members must have the ability to understand and apply the provisions of the Town's Official Plan and Zoning By-law and should be considered impartial with respect to their ability to fulfill their responsibilities.

Remuneration (\$65.00 per meeting for Committee members and \$70.00 per meeting for the Chair) shall be provided to the members in December of each year of the Committee.

The Term of the Committee of Adjustment is four years, corresponding with the Term of Council, plus an additional three months during the transition period. Members shall not be appointed for more than two consecutive terms. Members who have served a two-term limit for the Committee may choose to re-apply, however their application will only be considered if insufficient interest from new and qualified candidates is received.

A Chair will be elected by the Committee members and will serve for a one year term. A Vice- Chair will be chosen for the entire four year term to act on behalf of the Chair when they are not available. The Chair/Vice-Chair will ensure that decorum is maintained at each meeting and that "Schedule A", Rules of Procedure is observed at all times.

The appointment of a Committee member shall be rescinded if the member is absent from 3 consecutive meetings or absent for over 50% of the meetings in one year, unless excused by the Committee due to extenuating circumstances. Where a vacancy occurs for any reason, Council shall by resolution appoint a person qualified to be on the Committee for the remainder of the term.

4. Meeting Structure

The Committee will be called to order for a mandatory training session at the beginning of the term. Monthly meetings will be scheduled, however, it is understood that additional meetings may be called, if needed. Further, if no applications are received by the deadline for the scheduled meeting, the Committee of Adjustment meeting will be cancelled. The date and time of the meetings will be coordinated by the Secretary-Treasurer of the Committee of Adjustment and communicated directly to the committee members.

A Secretary-Treasurer of the Committee of Adjustment will be provided for by the Town of Ajax. An agenda shall be prepared for each Committee of Adjustment meeting and the Minutes of each meeting shall outline the general deliberations and specific actions and decisions that result. The Committee of Adjustment shall provide its decision in writing to all parties.

The decision of the Committee may be appealed to the Local Planning Appeal Tribunal (LPAT) by serving personally or sending by registered mail to the Secretary-Treasurer of the Committee of Adjustment, written notice of appeal accompanied by the requisite Appellant Form. This form is available at the LPAT website, www.elto.gov.on.ca. The appeal must be made within twenty days of the decision. The appeal must include the Tribunal's fee made payable to the Minister of Finance and the Town's fee made payable to the Town of Ajax. Please refer to the Tribunal website and Town of Ajax Planning Act Fees and Charges By-law for updated fees.

Failure to Attend by Applicant/Authorized Agent

Where an applicant or authorized agent has filed an application to the Committee of Adjustment and does not attend the meeting at the time and place appointed, the Committee of Adjustment shall determine whether or not the application can be heard or if the application is to be deferred/tabled until the next scheduled meeting with the Committee of Adjustment. If the application is deferred/tabled by the Committee of Adjustment, the applicant or authorized agent will be required to pay the requisite tabling fee in accordance with the Town of Ajax Planning Act Fees and Charges By-law as may be amended from time to time, to move the application to the next scheduled meeting of the Committee of Adjustment.

Public Access

All Committee of Adjustment meeting shall be fully accessible to the general public and the agenda shall be posted to the Town's website the day the committee members receive their agendas and the minutes shall be posted on the Town's website within five (5) business days (where possible) after the Committee of Adjustment meeting. The Committee of Adjustment shall render its decision on the matter in the presence of the public, the applicant, authorized agent, staff, and other interested parties

Confidentiality

Members of the Committee of Adjustment shall not permit any person, other than those who are legally entitled, to inspect or have access to information. If unsure, the Committee shall discuss this matter with the Town Clerk or Designate.

SCHEDULE "A" RULES OF PROCEDURES

1. Quorum

- 1.1 A quorum of Committee shall be 3 Members.
- 1.2 If a quorum is not present within 15 minutes after the time appointed for a meeting, the Secretary- Treasurer shall record the names of the Members present and the meeting shall stand adjourned until the date of the next scheduled regular meeting.
- 1.3 Members of Committee are encouraged to notify the Secretary-Treasurer when the Member is aware that he/she will be absent from any meeting of the Committee of Adjustment.

2. Meetings Open to the Public

- 2.1 All proceedings of the Committee of Adjustment shall be open to the public.

3. Conduct of Applicants, Authorized Agents, Members of the Public, or Other Interested Parties

- 3.1 Applicants, Authorized Agents, or Members of the Public, or Other Interested Parties shall not:
- a) Speak disrespectfully of any person;
 - b) Use offensive words;
 - c) Speak on any subject other than the subject for which they have received approval to address Committee;
 - d) Disobey the decision of the Chair or Committee;
 - e) Enter into cross debate with other persons present, Town staff, Members, or the Chair.
- 3.2 Persons desiring to make an application to the Committee of Adjustment shall submit a complete application to the Secretary-Treasurer of the Committee of Adjustment, by the prescribed deadline for the next scheduled Committee of Adjustment meeting.
- 3.3 Notwithstanding section 3.2, a person wishing to present information is not required to give written notice nor be listed on the agenda with respect to a matter before the Committee of Adjustment for which the public has been invited.
- 3.4 Individuals shall be permitted to speak on a matter only once and be limited to speak for no more than 10 minutes. A five minute extension to speak may be decided, without debate, by a majority of Committee Members present. Where there are numerous individuals taking the same position on a matter, they are encouraged not to repeat information presented by an earlier delegation.
- 3.5 The Chair can limit the number individuals speaking if he/she believes that the information being provided has already been presented to the Committee of Adjustment.
- 3.6 Members of the Committee of Adjustment shall be permitted to ask questions of applicants or authorized agents, but shall not make statements to nor enter into debate with such persons.

4. Order of Business

Agenda

- 4.1 The Secretary-Treasurer shall prepare and cause to be circulated for the use of the Members at the regular scheduled meetings of the Committee of Adjustment, an agenda listing the Order of Business, as follows:
- a. Call to Order
 - b. Adoption of Minutes from the previous Committee of Adjustment Meeting

- c. Outline of the General Mandate of the Committee of Adjustment
- d. Public Meeting/Hearing of Submitted Applications
- e. Other Business/New Business
- f. Adjournment

4.2 All business shall be taken up in the order in which it appears on the agenda unless otherwise decided by general consent of the Members present.

4.3 The agenda will be delivered to each Members residence no later than the Friday prior to the regular scheduled Committee of Adjustment meeting.

Call to Order

4.4 As soon after the hour fixed for the holding of the meeting of the Committee of Adjustment as a quorum is present, the Chair shall call the Members to order.

4.5 If the Chair does not attend a meeting of the Committee of Adjustment within five minutes after the time appointed, the Secretary-Treasurer shall call the Members to order and the Vice Chair shall preside until the arrival of the Chair.

4.6 If the Vice Chair is not present at the time when the Secretary-Treasurer calls the Members to order, the Members present shall appoint a Presiding Member who shall preside over the meeting.

4.7 The Chair shall advise all persons present that any and all electronic devices shall be turned off for the duration of the meeting.

Minutes

4.8 The Secretary-Treasurer shall cause minutes to be taken of each meeting of the Committee of Adjustment, which shall include:

- a) the place, date, and time of the meeting;
- b) the attendance of the Members; should a member enter after the commencement of a meeting or leave prior to adjournment, the time shall be noted;
- c) all other proceedings of the Committee of Adjustment without note or comment.

4.9 Minutes of the last regular meeting of the Committee of Adjustment shall be included in the agenda and may be adopted by the Committee of Adjustment without having been read at the meeting at which the question of their adoption is considered.

General Mandate

4.10 The Chair shall outline the general mandate of the Committee of Adjustment prior to proceeding with the first application on the agenda.

Public Meeting/Submitted Applications

4.11 The Chair will co-ordinate the meeting as it is outlined on the meeting Agenda. The format is outlined in Section 8 of this document. The Chair has the ability to deviate from the format as he/she deems necessary but shall always strive to have it

maintained as written.

Other / New Business

4.12 Items of business requiring the direction of the Committee of Adjustment will appear under this section of the agenda. These matters shall generally pertain to information items only.

5. Rules of Debate and Conduct

Conduct of Members of Committee

5.1 No Member shall:

- a) speak disrespectfully of the Reigning Sovereign, of any Member of the Royal Family, of the Governor-General of Canada, of the Lieutenant-Governor of any Province, of any Member of Senate or of any elected assembly;
- b) use offensive words or against the Committee, Council or any Member, or any officer or employee of the Town of Ajax;
- c) speak on any subject other than the subject in debate;
- d) disobey the Rules of Procedure or a decision of the Committee of Adjustment Chair on questions of order or procedure or upon the interpretation of the Rules of Procedure; and in case a Member persists in any such disobedience after having been called to order, the Chair shall forthwith order him or her to vacate the Chamber in which the meeting is being held, but if the Member apologizes he or she may, by majority vote of the Members of Committee, be permitted to retake his or her seat;
- e) speak in a manner that is discriminatory in nature based on an individual's race, ancestry, place of origin, ethnic origin, citizenship, creed, gender, sexual orientation, age, colour, marital status, family status, or disability.

Rules of Debate

- 5.2 The Chair shall preserve order and decorum and decide questions of order subject to an application to the Committee of Adjustment by any Member.
- 5.3 When two or more Members desire to speak, the Chair shall designate the Member who has the floor.
- 5.4 No Member shall be deemed to have precedence or seniority over any other Member.
- 5.5 Before speaking to a question or motion, a Member shall be acknowledged by the Chair and shall address the Chair.
- 5.6 When a Member is speaking, no other Member shall pass between that Member and the Chair or interrupt that Member except to raise a point of order.

- 5.7 A Member may require the question or motion under discussion to be read at any time during the debate but not so as to interrupt a Member who is speaking.
- 5.8 No Member, without leave of the Committee, shall speak to the same question, or reply, for longer than five minutes.
- 5.9 A Member may ask a question for the purpose of obtaining information relating to the matter under discussion and such question shall be stated concisely and asked only through the Chair.
- 5.10 When a Member has been recognized as the next speaker, before speaking the Member may ask a question of or through the Chair on the matter under discussion for the purpose of obtaining information, following which the Member may speak.

Points of Order

- 5.11 When a Member desires to call attention to a violation of the rules of procedure, the Member shall ask leave of the Chair to raise a point of order, and after leave is granted, shall state the point of order to the Chair succinctly and the Chair shall then decide upon the point of order and advise the Members of his/her decision.
- 5.12 Unless a Member immediately appeals the Chair's decision to the Committee, the decision of the Chair shall be final.
- 5.13 If a Member appeals to Committee on a point of order, Committee shall hear the reason for the appeal from the appellant and the reason for the decision from the Chair, and shall decide the question without debate. The decision of Committee under this section shall be final.

6. Motions

- 6.1 A motion presented to the Committee of Adjustment need not be in writing, but will require a seconder.
- 6.2 When a motion is presented and has been seconded, it shall be stated by the Chair/Member before debate.
- 6.3 After a motion is stated by the Chair/Member it shall be deemed to be in possession of the Committee of Adjustment, but with permission of the mover, may be withdrawn at any time before decision or amendment.
- 6.4 A motion in respect of a matter which is beyond the jurisdiction of the Committee of Adjustment shall not be in order.
- 6.5 A motion properly before the Committee of Adjustment for decision must receive disposition before any other motion can be received.

7. Voting

- 7.1 Every Member present at a meeting when a question is put shall vote thereon unless disqualified to vote on the question. All votes shall be by show of hands except where a recorded vote is requested by any Member.
- 7.2 If a Member does not vote when a question is put, he or she shall be deemed to have voted in the negative, except where the Member is disqualified from voting.
- 7.3 A Member not in their seat when the question is called by the Chair is not entitled to vote on that question.
- 7.4 Immediately preceding the taking of the vote, the Chair shall state the question in the form introduced.
- 7.5 The Chair shall announce the result of every vote.
- 7.6 If a Member disagrees with the announcement of the Chair that a question is carried or defeated, he/she may immediately after the declaration by the Chair, state their objection to the declaration and request that a recorded vote be taken on the question.

Recorded Vote

- 7.7 When a recorded vote is requested by a Member, or is otherwise required, the Secretary- Treasurer shall record the name and vote of every Member, on the question commencing with the Member who made the request and then all other Members, alphabetically, until all Members have voted. The Chair shall vote last.

Tied Vote

- 7.8 Any question on which there is an equality of votes shall be deemed to have been decided in the negative.

8. Hearing of Submitted Applications

- 8.1 The Chair will welcome all individuals present and call the first application on the meeting Agenda.
- 8.2 The Chair will explain the Mandate of the Committee of Adjustment and the format of the meeting.
- 8.3 The Chair will outline the submitted application and reiterate the request before the Committee of Adjustment.
- 8.4 The applicant or authorized agent will present their application to the Committee of Adjustment. The Committee of Adjustment will ask the applicant/authorized agent questions. The Committee of Adjustment will then ask if there are any other interested parties that wish to speak to the submitted application. The Committee of Adjustment can then ask questions of the any interested party. Then the Chair of the Committee of Adjustment will ask for a motion from the Committee on the submitted application and a motion will be brought forward, seconded and then voted on.
- 8.5 At any time the Committee can ask questions of staff or of any witnesses who have

already spoken to get clarification on an issue.

- 8.6 Once a decision is made by the Committee of Adjustment, the Chair will explain the appeal process should an individual not agree with a decision of the Committee of Adjustment, pursuant to the ***Planning Act***.
- 8.7 The Chair will orally notify the Applicant/Authorized Agent of the Committee's decision with regard to the application. The Chair will also notify the Applicant/Authorized Agent that the Committee's decision will be provided to them in writing.
- 8.8 The above process will continue until the Committee has heard all the applications listed on the Agenda for that meeting.