

## Draft Committee of Adjustment Terms of Reference



# Town of Whitby Committee of Adjustment Terms of Reference

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## 1.0 Enabling Legislation

### 1.1 Minor Variances

The authority for a municipality to appoint a Committee of Adjustment (CoA) is outlined in Section 44 of the Planning Act. The powers of the CoA are outlined in Section 45 of the Planning Act.

### 1.2 Consents

The authority for an upper-tier municipality to give a consent is outlined in Sections 51 and 53 of the Planning Act

The authority for an upper-tier municipality to delegate authority for the giving of consents to a lower-tier municipality is outlined in Section 54 (1) of the Planning Act.

The further delegation of authority for the giving of consents to a CoA is outlined in Section 54(2) of the Planning Act.

## 2.0 Responsibilities (Mandate)

- 2.1. The CoA is an independent quasi-judicial body appointed by the Council that considers applications from property owners. Council does not ratify and cannot appeal a decision of the CoA.

The CoA is responsible for considering the following types of applications:

- Minor Variances from the provisions of the Zoning By-laws.
- extension or enlargement of a building or structure that is considered to be a legal non-conforming use.
- permission for the use of any land, building or structure for a purpose that is similar to the purpose for which it was used on the day the Zoning By-law was passed.
- permission for the use of any land, building or structure that is more compatible with the uses permitted by the Zoning By-law than the purpose for which it was used on the day the Zoning By-law was passed.

- permission for the use of any land, building or structure where the uses of land, buildings or structures permitted by the Zoning By-law are defined in general terms.
- consent for matters such as severing a new lot from an existing lot, adding land to an existing lot, creating easements, and allowing mortgages or leases in excess of 21 years while having regard for the criteria outlined in subsection 51(24) of the Planning Act. While exercising the responsibilities outlined above, the CoA will abide any amendments to the Planning Act and other relevant Provincial Legislation and the Town's Official Plan.

2.2 In processing an application, the CoA shall:

- review the application and any supporting documents.
- review any related staff reports and written submissions.
- meet in a public forum and hear presentations by applicants and any other interested party.
- make a decision based on the reports, submissions, and public presentations to approve with or without conditions, refuse, or table the application.

### **3.0 Orientation and Training**

3.1 CoA members will meet (in person or in a virtual format) for a mandatory orientation session with planning staff at the beginning of the Committee's term. The CoA will also attend training sessions with planning staff as necessary throughout the remainder of the term.

### **4.0 Composition**

4.1 The CoA shall be comprised of five residents/property owners, appointed by Council, to hold office for the term of Council.

4.2 Where the CoA is composed of more than three members, three members constitute a quorum.

### **5.0 Term of Office**

5.1 The CoA members term of office shall be concurrent with the term of Council or until their successors are appointed.

### **6.0 Committee Chair**

6.1 The Chair shall be elected by a majority of CoA members for a one-year term at the first meeting of each calendar year. An individual shall only act as a Chair for a maximum of two consecutive years unless the CoA determines otherwise with the unanimous consent of its membership.

- 6.2 The Chair's role is to provide guidance and leadership to the CoA in the completion of its mandate. The Chair only votes to resolve any tie votes by CoA members.
- 6.3 The Chair shall ensure that decorum is maintained at each meeting and that the rules of procedure as per the current Town of Whitby Procedural By-law are observed.

## **7.0 Vice-Chair**

- 7.1 The Vice-Chair shall be elected by a majority of CoA members for a one-year term at the first meeting of each calendar year. An individual shall act as Vice-Chair for a maximum of two consecutive years unless there is unanimous consent of the CoA's membership.
- 7.2 The Vice-Chair acts in the Chair's absence and assumes the roles and responsibilities of the Chair.

## **8.0 Committee Members**

- 8.1 CoA members shall contribute time, knowledge, skill and expertise to the fulfillment of the CoA mandate; research issues relevant to their mandate as required; and attend regular meetings during the year.
- 8.2 CoA members must have the ability to understand and apply the provisions of the Town's Official Plan and Zoning By-laws and be impartial when fulfilling their responsibilities.
- 8.3 The appointment of a CoA member shall be rescinded should the member be absent from three consecutive meetings or absent from over 50% of the meetings in one year, unless excused by the CoA due to extenuating circumstances. The Town Clerk shall maintain the master record of member attendance.
- 8.4 Where a CoA member ceases to be a member before the expiration of their term, Council will appoint another person for the remainder of the term.

## **9.0 Town Staff**

- 9.1 The CoA is administered by the Planning Division of the Planning and Development Department, including a Secretary-Treasurer position. An agenda shall be prepared for each CoA meeting and the minutes of each meeting shall outline the general deliberations and specific actions and decisions that result. The CoA shall provide its decision on each application in writing as required by the Planning Act. Notice of the decision must be given within 10 days of the making of the decision on a Minor Variance application and within 15 days of the making of the decision on a Consent application. Notices of the decision will be provided to the applicant and to any interested parties.

- 9.2 The Secretary-Treasurer will provide support services to the CoA as follows:
- a) review all applications for processing.
  - b) distribute the meeting agenda.
  - c) prepare and distribute a public notice.
  - d) notify members of upcoming meetings.
  - e) attend each meeting to provide assistance and support.
  - f) record and circulate minutes.
  - g) issue decisions.
  - h) undertake administrative duties including correspondence, reports, providing assistance to applicants, answering questions from the public and CoA members.
  - i) maintain the Town of Whitby Committee of Adjustment Procedures and Guidelines Manual.

## **10.0 Reporting**

- 10.1 The Committee will not be required to submit a work plan or year end report to Council due to its quasi-judicial nature.

## **11.0 Meetings**

- 11.1 The CoA shall meet every third Thursday at 7:00 pm at the Town of Whitby Municipal Building, 575 Rossland Road East, Whitby and/or in a virtual format. However, additional meetings may be scheduled if needed. If no applications are received by the deadline for the scheduled meeting, the CoA meeting will be cancelled. The date and time of the meetings will be coordinated by the Secretary-Treasurer.
- 11.3 The CoA meeting schedule will be posted on the Town of Whitby website and at the Planning and Development Department. The meeting schedule will be updated on an annual basis.

## **12.0 Conflict of Interest**

- 12.1 CoA members may have a conflict of interest due to their decision-making powers. Members should be aware of any direct or perceived conflict of interest, which may serve to benefit them personally. If deemed necessary, members should not participate in a hearing where there is a perceived conflict. The Municipal Conflict of Interest Act applies to the CoA members.

## **13.0 Budget**

- 13.1 The Commissioner of Planning and Development shall be responsible for budgeting for the honorariums for the CoA members, which shall be submitted annually in accordance with established Town budget guidelines.

- 13.2 CoA members will be paid a per diem of \$125 per meeting. The Chair will be paid a per diem of \$150 per meeting. Per diems will be disbursed mid-year and at the end of each calendar year.

## **14.0 Committee Review**

- 14.1 The Planning and Development Department shall undertake a review every four years to coincide with the term of Council, or undertake a review when a change to legislation influences the responsibilities of the CoA.