

Report on the Appeals to the New Zoning By-law

Date:	March 8, 2011
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division and City Solicitor, Legal Services
Wards:	All
Reference Number:	Pg11009

SUMMARY

This report responds to the request of the Committee to provide information about the appeals of the new Zoning By-law No. 1156-2010, enacted on August 27, 2010. There are 694 appeals of the new Zoning By-law to the Ontario Municipal Board. The great majority of appeals deal with issues relating to a specific site or property. There are few appeals that are considered city-wide in nature and fewer still that truly challenge the entire new Zoning By-law. For many of the site specific appeals where staff are in agreement that a correction is in order, appellants are being offered the option of a 'housekeeping' by-law amendment or an amendment as part of a settlement of their appeal before the Board. With respect to those appeals that require more than corrections for their resolution, Legal Services and City Planning are optimistic that much can be achieved through negotiation. The aim is to take settlements to the Board as opposed to conducting a hearing on every issue.

Financial Impact

This report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

At its meeting held on January 27, 2011, the Planning and Growth Management Committee requested the Chief Planner and the City Solicitor to report to the March 24, 2011 meeting of the Committee on the number of appeals filed against the new Zoning By-law, a listing of the appeals, alternative dispute resolution strategies to avoid hearing

time at the Ontario Municipal Board, and timeframes for resolution of the appeals. Link to the Committee's decision:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.PG1.12>

ISSUE BACKGROUND

The new city-wide Zoning By-law, By-law No. 1156-2010, was enacted by City Council on August 27, 2010. The new Zoning By-law is intended to bring greater efficiencies and effectiveness to the manner in which zoning regulations are administered and enforced.

Until the new Zoning By-law is finally approved by the Board, the Chief Building Official will apply both the old and the new zoning by-laws to building permit applications. The new Zoning By-law, once approved by the OMB, will be in force as of the date of its enactment, except for portions of the Zoning By-law repealed or amended by the Board.

COMMENTS

Appeals of the New Zoning By-law

Six hundred and ninety-four (694) appeals of the new Zoning By-law No.1156-2010 were filed before the appeal deadline of September 30, 2010. A listing of each appeal, organized by the appellant or appellant's representative, was provided by the Ontario Municipal Board and is attached as Attachment 1 to this report.

The great majority of appeals deal with issues relating to a specific site or property. There are few appeals that are considered city-wide in nature and fewer still that truly challenge the entire new Zoning By-law. The City has received correspondence from the OMB that four appeals have been officially withdrawn and we anticipate that more will be settled and withdrawn over time.

Alternative Strategies for Resolving Disputes

The City Planning Division and Legal Services have summarized and categorized the issues raised in each appeal. As part of the preliminary analysis, appeals have been identified that involve properties which should have been left out of the new Zoning By-law, but were included inadvertently. City Planning staff are determining whether a site under appeal fits into one of the Transition Protocol criteria outlined in the Staff Report dated August 5, 2010 to the Planning and Growth Planning Committee, "Final Report and Statutory Public Meeting on the Draft Zoning By-law." If it does, the Zoning By-law map will be amended to identify the site as being "Not Part of this By-law," in which case Zoning By-law 1156-2010 will not apply. The site will continue to be governed by the current in force zoning by-laws. To be clear, it is intended to eventually incorporate all these sites into the new Zoning By-law.

Appellants for these sites will be contacted and asked whether they would prefer to have this correction enacted as part of 'housekeeping' amending by-laws that will be brought forward to this Committee in the Spring of 2011 or as part of a settlement of their appeal before the OMB. It is intended that other appeals identified as requiring simple corrections will also be dealt with in a similar expeditious manner.

With respect to those appeals that require more than corrections for their resolution, Legal Services and City Planning are optimistic that much can be achieved through negotiation. Based on the experience with site specific zoning proposals and with the new Official Plan appeals, face to face meetings are the most cost effective and efficient way to address particular issues raised in the appeals and avoid lengthy hearings. The aim is to take settlements to the Ontario Municipal Board as opposed to conducting a hearing on every issue.

Transition to the New Zoning By-law

Once the new Zoning By-law was passed on August 27, 2010, both the current "in force" zoning by-laws and the new Zoning By-law are applicable law for the purposes of obtaining a building permit. Applicants for minor variances or zoning amendments must frame their requests under both the in force and newly enacted zoning by-laws.

During this transition phase, the guiding principle for City Legal Services has been to assist applicants in securing the permissions required to obtain building permits under both by-laws. City lawyers have not opposed any required amendments to applications at the Committee of Adjustment or the Board in the context of the new Zoning By-law. These strategies ensure a smooth transition, avoided redundancy of duplicate hearings and the possibility of conflicting results.

Timing of the Appeals

It is anticipated that the first Pre-hearing Conference will be held sometime this Spring, after which the Board will establish a schedule for hearing the appeals. In the meantime, City Planning and Legal Services staff will continue to meet with appellants in an effort

to resolve issues through either amendments to the Zoning By-law or agreement on a settlement to be filed with the OMB. It should be noted that some settlements may be brought to City Council for approval.

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SIGNATURE

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ATTACHMENTS

Attachment 1 – List of Appeals to the Ontario Municipal Board

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