

## **Committee of Adjustment Continuous Improvement Initiatives**

<b>Date:</b>	February 5, 2015
<b>To:</b>	Planning and Growth Management Committee
<b>From:</b>	Chief Planner and Executive Director, City Planning Division
<b>Wards:</b>	All
<b>Reference Number:</b>	P:\2014\Cluster B\PLN\PGMC\PG15027

### **SUMMARY**

---

This report reviews the operation of the Committee of Adjustment and on-going work program actions intended to improve, among other matters, public awareness of Committee operations, public engagement and member training. The measures to further improve operations are proposed to be implemented in the 2014-2018 term.

### **RECOMMENDATIONS**

---

The Chief Planner and Executive Director, City Planning recommends that:

1. Planning and Growth Management Committee receive this report for information.

### **Financial Impact**

There are no financial impacts associated with the recommendations of this report. However, there will be financial impacts in future years if City Council chooses to

- (i) extend public notification to property owners beyond 60 metres of a subject property, and/or
- (ii) undertake audio/visual recordings of up to 100 Committee of Adjustment hearings annually.

In either case cost estimates would need to be assessed and reported on by the Chief Planner and the Chief Corporate Officer respectively.

## **DECISION HISTORY**

On June 19th, 2014, Planning and Growth Management Committee adopted Item PG34.22, "Towards a Functional Committee of Adjustment", with amendments.

Item PG34.22 reflects the June 5<sup>th</sup>, 2014 letter from Councillor Jaye Robinson requesting a report from City Planning on possible improvements to eight key aspects of the Committee of Adjustment process, including notice provisions as well as the training and ongoing professional development of Committee of Adjustment members.

Planning and Growth Management Committee also requested the City Manager to report back in the first quarter of 2015 on the feasibility and advisability of requiring relevant professional experience or education as a qualification for appointment to the Committee. City Council at its August 25, 26, 27<sup>th</sup> meeting amended the Public Appointments Policy to require consultation with the Chief Planner on the required skills and experience for a board during the staff screening process.

Council has commenced the civic appointments process for establishing a new Committee of Adjustment for the 2014-2018 term of Council and members should be operating in their assigned district Panels soon after the appointments and inauguration.

## **ISSUE BACKGROUND**

The public consultations held regarding establishing a local appeal body for the City of Toronto, together with letters and comments received from resident/ratepayer associations, Committee members and individual Councillors, has provided opportunity to again review existing practices and procedures of the Committee of Adjustment. Specifically, Planning and Growth Management Committee requested consideration and comments on eight key aspects of the minor variance process, with the goal of improving transparency, accountability and public engagement, as follows;

- a) Expand the public hearing notice area beyond 60 metres of the subject site;
- b) Extend the timeline for the delivery of the public hearing notice beyond ten days;
- c) Improve the manner, form and content of the public notice and sign;
- d) Explore alternative means to engage surrounding neighbours prior to the hearings;
- e) Improve the training and on-going professional development of Committee of Adjustment members;
- f) Require a city planner to be on hand during public hearings of the Committee to answer questions from Committee members and the public;
- g) Consider audio-visual recording or audio recording of Committee of Adjustment panels; and
- h) Develop a public participation strategy, including the development of a comprehensive guide, to ensure that the public is well informed about Committee of Adjustment processes as well as how to effectively engage in Committee hearings.

## **COMMENTS**

### **a) Expand Public Hearing Notice Area**

Planning Act regulations require that notice of a hearing on a minor variance application be given to the public. Municipalities are provided two options for providing notice: by prepaid first class mail to every owner of land within 60 metres, together with posting a notice visible from the street on the property; or notice may be given by publication in a newspaper that has sufficient general circulation. The Planning Act further permits that where a zoning by-law restricts the use of land to detached, semi-detached or duplex housing, the Committee may direct the area of notification for a minor variance application be reduced to 30 metres.

The City of Toronto Committee of Adjustment provides notice of a hearing by prepaid first class mail to each surrounding property owner within 60 metres, together with a sign posted on the property. In addition to employing an extended notification area, the City also provides notice of public hearings via the City Planning Division and City Clerks websites, electronic notification of hearings to Councillors, Resident Associations, community representatives or individuals who have requested notice, and applicable city divisions or agencies.

Section d) of this report discusses planned improvements to the City Planning Division website and the implementation of e-service initiatives in 2015. Both measures are intended to provide earlier notice of applications and information to facilitate public engagement at public hearings.

Given the nature of minor variance applications, the existing and recommended means to provide earlier notice of public hearings, staff are of the opinion that prepaid first class mail delivery to owners within 60 metres together with a sign posted on the site is appropriate for the City of Toronto.

In 2014, the Committee of Adjustment staff generated 3,879 Public Notices of Hearing city-wide with mail delivery to 253,443 property owners. First class postage of a notice costs the City about \$1.09 including HST plus labour. Mailing costs employing a 60 metre radius from a site were therefore \$276,253. If for example, notice was increased to 120 m, as required for a zoning bylaw amendment application, the mailing cost estimate would double. Extending the circulation of a Public Notice beyond 60 metres would need to be assessed and reported on at a future date, should Council choose to impose a greater distance.

### **b) Extend Timeline for Public Hearing Notice**

The Planning Act requires applications for minor variance to be heard by the Committee of Adjustment within 30 days of receipt and that notice be provided to the public at least 10 days prior to a hearing. It is now the Division's practice in all districts, to have public

notices at Metro Hall for mailing 20 days prior to the public hearing. On occasion, urgent applications or the need for an additional hearing to address a backlog of applications, may result in some applications being processed with less than twenty days notice, but always within the minimum notice requirement of the Planning Act.

### **c) Improve Content of Public Notice and Sign**

#### **Public Notice**

The Planning Act requires that notice of a hearing include the following: the date, time and location of the hearing and an explanation of the purpose and effect of the proposed minor variance. Also required are a description of the subject land or key map showing the location, when and where additional information regarding the application will be available to the public for inspection and, if it is known, an indication that the subject land is subject to another application under the Act.

In order to assist the public in better understanding a development proposal, staff include additional graphics such as a site plan, elevations and floor plans. Additional information is also provided on how a person may make their views known by attending the hearing or submitting comments, how the Committee considers an application, where to attend the offices to view a file and drawings, and which staff person to contact for assistance.

The content in a Committee public notice for the City of Toronto exceeds the statutory requirements of the Planning Act, however efforts continue toward minimizing jargon and providing the best available information regarding a proposal. The goal is to assist neighbours in understanding the nature of relief being requested and the potential impact the proposal may have on the enjoyment of their property. City Planning is currently reviewing the format and content of community planning application public notices and staff will include Committee notices in this review.

#### **Signs**

Planning Act regulations require certain information be provided on a sign, if notice of a hearing is provided by direct mail and posted signage. The sign must include date, time and location of hearing, an explanation of the purpose and effect of the minor variance, where additional information will be available to the public for inspection and how to obtain a copy of the written notice of hearing.

Committee of Adjustment signs are similar to building permit signs, being 11 x 17 inch card stock and are colour coded to differentiate variances and consents. The signs are to be placed on site in a location visible from the public street. Given the City provides mail delivery of notices to immediate neighbours, the sign serves as a secondary form of notification to pedestrians and the travelling public. Signs are produced by the City in a cost efficient manner and provided to applicants by Committee staff to ensure consistency, accuracy and proper formatting.

Most municipalities in Ontario require an 11x17 inch weather proof paper sign visible from the street. Staff consulted the municipalities of Ottawa, Mississauga, Brampton, Markham, Vaughan and Hamilton regarding signs. All provide notice to owners within 60 metres of a site and require similar signage with two exceptions. Markham and Mississauga contract sign production to the same private firm creating 32x24 inch corrugated plastic signs with Committee staff storing and handling stakes, tie wraps and flysheets for installation. Should Committee choose an alternate form of signage such as this, staff would need to explore further details of cost and manner of payment by the applicant, storage implications given our large application volumes and report back at a future date.

#### **d) Engaging neighbours prior to Public Hearings**

The general public engages in the Committee of Adjustment process most often when they have received a notice of hearing for an application which they believe would impact the enjoyment of their property. Between issuance of a notice and the hearing date, Customer Service and Committee of Adjustment staff routinely assist neighbours in understanding the role of Committee, the hearing process and how to engage effectively. There is no formal requirement for an applicant to consult or inform their neighbours of an application however staff strongly encourage it.

A Committee of Adjustment application may be in process for weeks, prior to scheduling and issuance of a public notice. In order to inform the public of an application at the earliest possible time and in turn, allow for more effective participation, the Division will implement e-service in 2015 for Committee of Adjustment submissions.

Electronic submission of applications will allow use of the existing Application Information Centre (AIC) on the City Planning Division website. The AIC site will give the public immediate access upon receipt by the City to information and the status of all active Committee applications. This tool supplements the current practice of posting all Committee schedules, agendas, notices and decisions on the City Planning Division website and will allow interested members of the public to monitor development activity in their neighborhoods. Going forward, the combination of e-service delivery and use of the AIC will facilitate the earliest public participation for those neighbours wishing to engage in the process prior to a public hearing.

In order to educate neighbours wishing to engage in Committee applications prior to hearings or to learn about Committee processes in general, staff have established a team to review the existing website content and identify and develop additional topics to improve neighbour participation. The team will focus on ensuring information is available on the Committee process, the required tests a Committee Panel must address to render a decision, hearing procedures and protocol, and suggestions for effective engagement.

### **e) Committee Member Training**

The competency of a Committee panel is largely determined by the criteria used in the selection process and by member training provided following appointment.

In addition to the general eligibility requirements set out in the Public Appointments Policy, the City requires that the members collectively bring the following skills and expertise to the committee: a strong interest in the complexities and challenges of city building, an understanding of the diverse neighbourhoods and communities across the city, have knowledge in one or more areas of law, planning, architecture, government, economic development, community development, land development, or citizen advocacy.

Additional qualifications also include demonstration of decision-making, communication, and mediation skills to facilitate an open and fair hearing process. The City also advertises that it seeks to have each panel comprising two members with adjudication experience and administrative public speaking and organizational skills to be able to chair public hearings and maintain order in conflict situations.

Planning and Growth Management Committee had also requested the City Manager to report on the feasibility and advisability of requiring relevant professional experience or education as a qualification for appointment to the Committee of Adjustment and that report is scheduled for the same meeting as this report.

Committee of Adjustment member training currently consists of the following:

- (i) the Inaugural Meeting of the Committee of Adjustment wherein training consists of presentations by City Planning, Legal Services, and the Integrity Commissioner on the legislative framework, expected roles and duties of committee chairs and members, together with other applicable legislation and city policies directly affecting the Committee;
- (ii) a Panel Members Manual (see Appendix A) for members to assist in understanding their role and fulfilling their duties. Staff are currently reviewing the material, in consultation with Legal Services and the Integrity Commissioner, to ensure all necessary updates and relevant information are included. Human Resources will also supply e-learning packages on Conflict of Interest, Fraud Prevention and Mission, Values and Ethics for each member;
- (iii) members are offered attendance to the Ontario Association of Committees of Adjustment and Consent Granting Authorities (OACA) annual 3 day conference and a one day fall seminar, wherein members can attend workshops to learn, network and talk with other members across the province concerning common topical issues and interests; and
- (iv) in-house training as required provided by the City Planning Division and others to address changes in legislation, official plan policies or other issues having direct impact

on the Committee. During this past term, training sessions were provided on the new Zoning By-law, trends identified during the review of variance applications by the Zoning Review Team and the issue of below grade garages.

Based on observation and comments from the general public during this past term, staff have identified a specific training need for members as it relates to being on a tribunal and conducting fair hearings.

Staff will explore both in-house and outside training opportunities with the Society of Ontario Adjudicators and Regulators (SOAR). SOAR provides week long training seminars presented by experienced adjudicators from Ontario agencies on skills practice, cultural sensitivity, ethics of adjudication and decision writing.

A more active, on-going program of member training will be implemented within the first year of commencement of hearings. This will allow the four Managers/Deputy Secretary Treasurers time to assess strengths and weaknesses of Panel composition, with the goal of identifying district specific and collective training requirements.

#### **f) City Planning staff at Committee hearings**

All Committee of Adjustment hearings are administered by a Deputy Secretary-Treasurer having the general knowledge and ability to respond to technical, administrative and legal questions from a Panel. All commenting agencies and divisions, including City Planning review all applications and provide written comments to the Committee of Adjustment as warranted. Planning staff write to recommend refusal, recommend conditions of approval or to help inform Committee members when applications are complex.

#### **g) Audio/Visual Recording of Committee hearings**

City Council at its meeting of July 12-14, 2011 requested the Chief Corporate Officer and Secretary -Treasurer of the Committee of Adjustment to initiate recording of all hearings of the Panels in public session, subject to equipment availability. This directive originated from a memo to Planning and Growth Management Committee from Councillor Milczyn.

In October, 2011, the Chief Corporate Officer informed the Councillor that due to Committee of Adjustment Panels holding up to 100 hearings comprising over 500 hours per year, in five Civic Centres and further that 30% of these locations do not have recording devices and camera equipment, it was not possible to equip the offices appropriately. Also, given the limited staff resources available at the time to attend all Standing Committees and other city events, the division did not have capacity to implement the directive.

The Chief Corporate Officer has re-visited the request and advised that staff resources and equipment have not increased in the past three years and therefore is not feasible to provide audio-visual recordings of Committee of Adjustment hearings at this time.

## **h) Public Participation Strategy**

As set out previously in this report, the City is currently providing notice of public hearings to owners within 60 metres of a subject site, whereas the Planning Act permits notice to be provided to those within 30 metres for applications involving detached, semi-detached or duplex housing types. Likewise, while notice is required to be provided a minimum 10 days prior to a hearing, it is the practice of the City Planning Division to forward public notices to the City's mail room for stuffing, stamping and posting 20 days before a hearing date. Committee meeting schedules, agendas, notices and decisions are all available on-line and the Committee of Adjustment website material advises the public how to participate in the application process.

There are further improvements which are being made in 2015. Electronic submission for Committee of Adjustment applications as mentioned in section d) above will allow earlier notification to the public by making detailed application information available on-line. Improvements to the web content and creation of a hard copy and digital Committee of Adjustment primer are also planned to be implemented in the 2014-2018 term.

The Division's "Growing Conversations" initiative continues to explore new engagement models and tools. These are intended to help engage new audiences such as youth and newcomers and improve the quality of public discourse.

## **i) Chief Planners Roundtable**

On October 20, 2014 the Chief Planner conducted a Roundtable meeting with 18 current Committee of Adjustment members. The purpose of the meeting was to review the functioning of the Committee of Adjustment, receive feedback on members' experience and specifically what could be improved.

Many of the concerns raised by members are reflected in the motion by Councillor Robinson. One issue raised by Panel members and not reflected in the Planning and Growth Management direction to staff concerns the scheduling of applications in high volume districts. Members suggested that consideration be given to, among other matters, scheduling additional public hearings in order to reduce the number of applications to be heard on any given agenda. Staff are currently reviewing all matters effecting scheduling of applications in order to determine what improvements can be made prior to the new Panels commencing holding hearings and what further initiatives may be considered thereafter.

## **CONCLUSION**

This report summarizes continuous improvement initiatives currently underway or planned, which collectively are intended to increase public awareness of Committee operations and provide for improved public engagement. The evaluation and improvement of content on the Committee of Adjustment website and creation of a

comprehensive primer for the public, are both planned to be implemented early in the 2014-2018 term.

Given a new term of appointments commencing in 2015, opportunity exists to ensure new members receive the training necessary to perform their duties in a professional and unbiased manner as expected by Council and the public. Additional training related specifically to running fair and efficient hearings is planned.

Lastly, an evaluation of means to improve the scheduling of applications in high volume districts will be undertaken in 2015.

The City of Toronto Committee of Adjustment is the largest in the province with the highest volumes and complexity of applications and is routinely consulted and observed by other municipalities. It is therefore the goal of City Planning, to be the leader in using new and enhanced public engagement methods and tools with the objective of ensuring effective public participation.

## **CONTACT**

Raymond David, Director  
Community Planning, East District  
City Planning Division  
Tel No. 416-396-7006  
Fax No. 416-396-4261  
E-mail: [rdavid@toronto.ca](mailto:rdavid@toronto.ca)

## **SIGNATURE**

Jennifer Keesmaat, MES, MCIP, RPP  
Chief Planner and Executive Director  
City Planning Division

**ATTACHMENT: Appendix A: 2014-2018 Committee of Adjustment Members  
Manual Table of Contents**

**COMMITTEE OF ADJUSTMENT MANUAL  
FOR MEMBERS  
2014 – 2018**

**Contents**

**Section 1: Introduction**

- Purpose of Manual
- District Offices & Contacts
- Website References

**Section 2: Committee of Adjustment Structure and Function**

- Committee Purpose and Authority
- Committee Structure
- Committee Chair Structure
- Committee Administration
- Appendices
  - 2.1 Municipal Nomination Bylaw
  - 2.2 Procedural Motions

**Section 3: Committee Responsibilities and Application Review**

- Committee Responsibilities and Duties
- Minor Variance, Legal Non-Conforming Use and Consent
- Application Process
- Application Review Process
- Appendices
  - 3.1 Application Requirements
  - 3.2 Sample Notice of Public Hearing
  - 3.3 Sample Agenda Item
  - 3.4 Sample Decision

**Section 4: Committee of Adjustment and Legal Services**

- Delegation of Authority, Themes, Legal Framework
- Common Law: Principals of Natural Justice; Principals of Fairness
- Statute Law: Planning Act; Statutory Powers of Procedure Act; Municipal Conflict of Interest Act
- Codes of Conduct for Members of Adjudicative Boards; Rules of Procedure for the Committee of Adjustment
- Summary

- Appendices
  - 4.1 Planning Act (Extracts), Sections 44-45; 50-51; 53-57
  - 4.2 Minor Variance Regulations (O. Reg. 200/96)
  - 4.3 Consent Regulations (O. Reg. 197/96)
  - 4.4 Statutory Powers and Procedures Act
  - 4.5 Municipal Conflict of Interest Act
  - 4.6 Code of Conduct for Members of Adjudicative Boards

### **Section 5: Inaugural Session**

- Power Point Presentation
- Minutes

### **Section 6: District Panel Information**