



June 18 2018

10th floor, West Tower, City Hall  
100 Queen Street West  
Toronto, ON M5H 2N2  
Attention: Josephine Archbold  
By email: [exc@toronto.ca](mailto:exc@toronto.ca)

EX35.7 Report Back on Committee of Adjustment Mediation Pilot Program

Dear Mayor Tory and Members of Executive Committee,

FoNTRA is in support of the staff recommendation that the Committee of Adjustment Mediation program should not be continued. Several of our member resident associations participated in the program, but did not find it helpful. The mediation program was a well-intentioned but artificial effort to attempt to achieve resolution of issues that left out many of those opposed.

The reasons for this failure may relate to a misunderstanding of the role of the Committee of Adjustment, and a need for the Committees to do the job that they were established to do – to assess minor variances on the basis of the four tests under the Planning Act. As noted by the Chair of Planning and Growth Management Committee at its last meeting the Committees of Adjustment need to uphold the zoning by-laws, but are not doing so, treating them as guidelines, not as laws.

The consequences of the Committees' failure to properly apply the tests, especially the one concerning the Official Plan, and maintaining neighbourhood character (and the lack of staff advice in this regard) are a rash of demolitions, replacement monster houses, and a loss of neighbourhood character, particularly in the "established neighbourhoods".

At the same time we believe there is a place for prior discussion that could lead to a more favourable outcome from the resident perspective. "Day of hearing" mediation is simply too late. In our opinion, better results would come from circulating the notice of hearing earlier, with prior posting of a staff report, rather than the minimal obligatory number of days notice. Neighbours are typically surprised and dismayed about the short notice before a hearing date. With a longer notice period neighbours may be more inclined to talk with the applicant. Currently changes to the application are usually as a result of negotiation between the applicant and staff, not between the applicant and the residents. Usually neighbours and other residents are not

aware of these changes until the meeting, and are again surprised. Such a pre-hearing process would likely reduce the number of contested CofA applications – and improve the power balance towards the residents.

This report at Committee is also an opportunity to bring to your attention to such specific matters as

(1) our request to eliminate use of waivers (see attached); the City should restore confidence in the process by requiring all applications to receive zoning review prior to the public notice distribution.

(2) the unfairness of the current procedures whereby residents sit and wait for all the items where there is no "opposition" present. Residents attend with their concerns about a specifically scheduled application and have to wait for all the unopposed applications to be considered. This may suit the development industry but is unfair to residents who are attending for a single application

(3) the need for neighborhood character preservation guidelines approved by council to provide a stronger context for staff reports and references on neighbourhood character. We ask: where is the template that was to be delivered, based on two neighbourhood case studies?

**FoNTRA recommends:**

**That staff report back to City Council on recommended improvements to the Committee of Adjustment and related processes to address planning issues related to residential infill.**

Yours truly,

Geoff Kettel  
Co-Chair, FoNTRA

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Cc: Michael Mizzi, Director, Committee of Adjustment and Zoning

Attachment: Waiver elimination

**The Federation of North Toronto Residents' Associations (FoNTRA)** is a non-profit, volunteer organization comprised of over 30 member organizations. Its members, all residents' associations, include at least 170,000 Toronto residents within their boundaries. The residents' associations that make up FoNTRA believe that Ontario and Toronto can and should achieve better development. Its central issue is not *whether* Toronto will grow, but *how*. FoNTRA believes that sustainable urban regions are characterized by environmental balance, fiscal viability, infrastructure investment and social renewal.



January 22, 2018

Will Johnston,  
Acting Chief Building Official & Executive Director, Toronto Building  
City of Toronto  
Toronto City Hall  
100 Queen St. W., 12<sup>th</sup> fl. E.  
TORONTO ON M5H 2N2

**RE: Request for a Feasibility Study to Eliminate the Waiver Process (Minor Variances)**

Dear Mr. Johnston:

The Federation of North Toronto Residents' Associations ("FoNTRA") hereby requests that Toronto Building conduct a feasibility study for the elimination of the Use of Waivers in the identification of minor variances to the zoning by-laws for residential and commercial applications to the Committee of Adjustment (CofA).

The Waiver process started some years ago as an interim measure when a large backlog was created (and every application had to be redone) following the enactment of the consolidated By-law 569-2013.

We believe that all applications to the Committee of Adjustment should be accompanied by a Preliminary Project Review (PPR) or Zoning Certificate (ZC) prepared by Toronto Building so that an accurate all-inclusive list of variances is available before the application is submitted to the CofA.

Currently the option for the applicant to take responsibility for identifying the applicable Zoning By-law requirements continues to exist, despite the original reason for the provision no longer being applicable. The applicant provides a list of all required variances to the Zoning By-law required by the proposal, and completes a waiver form.

The reality is that missing variances or variance errors by applicants regularly occur and if discovered need to be corrected at the building permit stage. This process at a minimum wastes staff and residents time and increases the City's approval costs, and at worst a non-conforming, illegal building may get built, which can have a negative impact on the neighbourhood. Missed or incorrect variances cause delay, or the Committee just approves the incorrect variances that then may or may not be

picked up at the building permit stage. We have encountered problem situations where the Zoning Examiner did **not** detect a variance that should have been recognized before the Building Permit was issued. When discovered, it is too late to remedy the structure. Additional “missed” variances (likely already constructed) that are returned to the CofA to deal with are generally “rubber stamped” by the Committee.

Statistics from Open Data on the incidence of Waivers across the four CofA panels for 2010 to 2017 (see attached) show the number and percentage of Waiver applications by CofA Panel compared to applications processed with PPRs. The number of Waivers has generally decreased, but 21% of the applications were still processed under Waiver in 2017.

The Waiver process is often used by applicants to avoid having to wait for review by the Zoning Examiner, which gets them through the process more quickly. Sometimes the applicant will submit for the PPR and apply to the CofA at the same time hoping the PPR will catch up before the application is released to the public and they can just make minor adjustments before the application is heard – it keeps the application in the line.

FoNTRA and its member associations have been asking for a review with a view to elimination of the Waiver process since March, 2016. We understand that it is within the mandate of Toronto Building to initiate such a review. With the End to End Review of Development Review Process underway, now would seem to be a most appropriate time.

Thank you for your consideration of our request.

Yours truly,

Geoff Kettel  
Co-Chair, FoNTRA

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Cc: Michael Mizzi, Secretary-Treasurer, Committee of Adjustment  
Gregg Lintern, Acting Chief Planner & Executive Director, Planning  
Joe Nanos, Director, Community Planning, North District,  
Diane Damiano, Deputy Chief Building Official, and Director, North District  
Michael Kolm, Chief Transformation Officer  
Councillor David Shiner, Chair, PGMC  
South Armour Heights Residents' Association  
Old Orchard Grove Residents' Association

## Lytton Park Residents' Organization

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