



Addressing the Committee of Adjustment COVID-19 related Application Backlog

Date: September 4, 2020

To: Planning and Housing Committee

From: Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

As a result of COVID-19 related restrictions, 18 scheduled Committee of Adjustment public hearings, from March 25, 2020 through to May 28, 2020 were cancelled. The backlog resulting from these cancelled hearings was approximately 700 Committee of Adjustment applications. Since that time, Committee of Adjustment operations were substantially adjusted to allow for virtual public hearings, which commenced on June 3, 2020.

A backlog remains; however, measures have been taken to substantially reduce it. As per Council's direction, this report describes these measures, including an additional recommendation to continue the cross-appointment of members between districts in order to increase the capacity of the Committee of Adjustment to clear the backlog.

RECOMMENDATIONS

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

1. City Council resolve that, notwithstanding Section 4-2 of the Toronto Municipal Code Chapter 4, Adjustment, Committee of, and By-law 1134-2019, all members appointed to the Committee of Adjustment shall be deemed to be cross-appointed to all Districts and Panels for those hearings until the end of November 14, 2022, and until their successors are appointed.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

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DECISION HISTORY

At its meeting on June 29 and 30, 2020, through item MM22.21, City Council directed the Chief Planner and Executive Director, City Planning to report to City Council, through the Planning and Housing Committee in September 2020, on increasing the capacity of the Committee of Adjustment to support clearing the backlog of applications caused by the COVID-19 service disruptions.

See: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.MM22.21>

COMMENTS

Background

As a result of COVID-19 related restrictions, 18 scheduled Committee of Adjustment public hearings, from March 25, 2020 through to May 28, 2020 were cancelled. The backlog resulting from these cancelled hearings was approximately 700 Committee of Adjustment applications. At the same time, there were significant COVID-19 related service disruptions to Committee of Adjustment application intake and processing.

A revised operational plan for the Committee of Adjustment was developed for holding virtual public hearings. At a video conference held on May 29, 2020, 30 Committee of Adjustment panel members unanimously approved revised Rules of Procedure to accommodate virtual hearings.

In conjunction with a full resumption of City Planning and Toronto Building services, albeit adjusted, on June 1, 2020, the first virtual public hearing of the Committee of Adjustment occurred on June 3, 2020.

By the end of August, the Committee of Adjustment will have held 30 virtual public hearings and dealt with 806 applications. A substantial portion of the backlog directly related to the cancelled meetings has been addressed, but a significant backlog remains as new applications were submitted during this same time period and continue to be received.

Addressing the Backlog

City Planning has been directed by Council to consult with staff and Committee of Adjustment chairs on a plan to clear the application backlog by the end of 2020.

Based on the last three years (2017-2019), the Committee of Adjustment has received on average 4010 applications per year. Based on data for 2020 thus far, it is expected that the number of applications that the Committee of Adjustment will receive will be

less than the last three-year average. This reduced application volume will itself lessen the backlog pressure over the course of the remainder of this year.

Periodic consultation with individual panel chairs has occurred during the last months to discuss how to manage the application backlog, and a Webex video conference with Committee of Adjustment panel chairs occurred on August 24, 2020 to discuss the subject of this report.

Staff have considered a number of ideas to address the backlog. The following have been or will be implemented:

Meeting Frequency

An increase in the frequency of meetings to increase the number of applications heard, including some separate morning and afternoon hearings on the same day for the Toronto and East York district. Based on the last three years, the Committee of Adjustment held on average eight hearings per month. For June, July and August of 2020, since virtual public hearings of the Committee of Adjustment commenced, the average is 10.

Agenda Size

With each passing month, since the first virtual public hearing, staff have scheduled more applications per hearing. In June, on average, 21 applications were heard per hearing; 26 per hearing in July; and 33 per hearing in August. With experience using the Webex video conference platform, staff and members have been able to schedule more applications per hearing. The steady increase in applications scheduled per hearing has reduced the number of applications in the queue.

A range of between 35 and 40 agenda items per hearing is contemplated for the fall, for some if not most hearings. Larger agendas tend to include more complex applications, which have more speakers. It is, therefore, expected that these hearings will be substantially longer, also increasing the chance for technology interface issues.

Application Redistribution

In October and November, staff propose to redistribute some applications from the Toronto and East York district, which currently has the biggest backlog of applications, to other districts for processing and hearings. It is expected that an added 150 applications will be heard in the fall through this redistribution.

In order to facilitate the redistribution of applications between districts, the cross-appointment of members needs to continue post-emergency. On April 30, 2020, City Council approved the cross-appointment of members for the duration of the emergency period (CC20.1). In order to continue processing the backlog, and for administrative

flexibility, the cross-appointment of members between districts should continue notwithstanding the end of the emergency period.

Committee Room Availability

The resumption of Committee of Adjustment hearings coupled with meetings of City Council and its committees and boards has created a need for more meeting rooms that are equipped with appropriate information technology, audio-visual infrastructure, and secure livestream functions. There are five meeting rooms that can accommodate the livestream and in-room requirements of Committee of Adjustment panels and City Council and its committees and boards with appropriate physical distancing. In order to run successful hearings, Committee of Adjustment panel chairs and a small number of City Planning and Technology Services staff are required to be co-located in a livestream enabled committee room or Civic Chamber when meetings are held.

Committee of Adjustment, the City Clerk's Office, and Technology Services staff have worked closely to find sufficient meeting room space for the current needs of the Committee of Adjustment. With meetings being held virtually, however, there is a risk of technical failures and network stability, which could impact the ability to meet the demands of the application review process.

Capacity Issues

To support the clearing of the application backlog created by the COVID-19 service disruptions to Committee of Adjustment application processing and hearings by the end of 2020, City Council directed the Chief Planner and Executive Director, City Planning to report to City Council on increasing the capacity of the Committee of Adjustment by:

- a. increasing the staff complement for processing and/or reviewing applications; and
- b. appointing additional Committee of Adjustment members in order to create either additional panels or expand existing panels, enabling them to meet more frequently.

Staff are not recommending an increase in the size of the staff complement for processing and/or reviewing applications; however, staff did recently request and receive permission to fill vacancies within the existing Committee of Adjustment complement, including an expedited hiring process, notwithstanding the current hiring slow-down. Hiring processes are in progress. In addition, filling vacancies for commenting partners, in particular Community Planning, will ensure better circulation review timelines. City Planning is prioritizing business case approval for current vacancies accordingly.

Staff are not recommending the appointment of additional panel members. The number of panel members was increased by City Council, at its April 16 and 17, 2019 meeting (PH4.5), from 30 to 35, which is a sufficient number to support additional meetings.

While no additional members are required, as discussed earlier, cross-appointing existing members to all districts and panels gives staff additional flexibility in staffing hearings. At its April 30, 2020 meeting, City Council adopted a resolution that, during the declared emergency, all members appointed to the Committee of Adjustment shall be deemed to be cross-appointed to all districts and panels for hearings during this period (CC20.1). An extension of this cross-appointment beyond the declared emergency would give the Committee of Adjustment additional flexibility in staffing and running additional hearings. In addition, running hearings with three or four panel members instead of five members assists in scheduling more hearings.

As noted above, some hearings scheduled for October and November for Toronto and East York applications are proposed to be heard by panel members from other districts. In addition, for the time-being, the Committee of Adjustment will continue to schedule many hearings with four rather than five members per panel, to allow for more hearings without overburdening panel members.

Conclusion

Committee of Adjustment public hearings will continue to be virtual until in-person hearings are permitted and feasible again. As described in this report, measures implemented to address the backlog in applications at the Committee of Adjustment, created in large part by the suspension of services due to COVID-19 this past spring, are expected to substantially reduce and stabilize the current backlog by the end of 2020.

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SIGNATURE

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