SAVE our BENNINGTON

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May 3, 2021

City Clerk's Office
City Hall
100 Queen Street West,
13th floor, West Tower
Toronto, Ontario
M5H 2N2

Subject: Input on 2021.PH22.7 on May 5, 2021 – Committee of Adjustment Review

To The City Clerk:

I am writing on behalf of Save Our Bennington to express our community concerns over ongoing issues with the Committee of Adjustment and with the virtual hearing format that is currently being used. I would ask that you kindly please add these comments to the Agenda for the May 5, 2021 City Council meeting on item 2021.PH22.7 – Update on Committee of Adjustment Virtual Public Hearings.

In the way of background, Save Our Bennington is a non-profit incorporated residents' group which is dedicated to preserving the character of our neighbourhood with regard to reviewing developments that directly affect all property owners. The organization was formally incorporated in 2013 and, since that time, we have had numerous dealings with the Committee of Adjustment. We welcome and encourage new development and regeneration in our neighbourhood but wish to ensure that any such development is in keeping with the intention of the bylaws and the unique characteristics of Bennington Heights. To this end, we rely heavily on the Committee of Adjustment to provide a timely, informed, and fair review of any variances being requested. Unfortunately, in our opinion, this has not always been the case, and our concerns have expanded since the time COA commenced virtual hearings.

The following represents a list of our concerns and our suggestions as to how the Committee of Adjustment could be improved to ensure the transparent, fair and informed process that should be everyone's overriding goal:

1. *Provide The Community With Ample Lead Time.*

- The extent of public notice given to affected neighbouring properties is not sufficient. As an example, a COA application had a "Mail on or before date of November 24" but required written notice to be submitted on November 27th. If mailed on the 24th, some households might not even receive the notice until after the 27th. This is unacceptable and irresponsible. It leaves the community no time at all to investigate the application and to write and submit an informed decision. The applicant has months to prepare and sets the timing for their convenience. The community and affected property owners should have a minimum of two weeks (and ideally three weeks).

2. *Community Comments Deadline Should Follow Submission Of Staff Reports.*

- We strongly believe that comments from communities and affected property owners should follow ***after*** the cut-off date for submission of Staff Reports/Internal City Departments/etc. It is very helpful to be able to read these reports prior to submitting a letter of concern/support in order to give a more informed point of view. The City has experts – paid for by the residents - and their thoughts and analyses should be part of the decision making process for the community.

3. *Neighbours Should Have Equal Access To Informed City Staff.*

- The COA applicant has easy access to informed city staff. Take for example, zoning and city planning. The "average" citizen really doesn't know there are people in these departments that can help. The public notice that is sent out only provides a contact person for the COA group and these staff people, while consistently helpful, cannot offer any advice in terms of interpreting the meaning of the bylaws. Even if the COA applicant fee has to be raised to cover the extra costs, somehow it doesn't seem fair to deny neighbours access to the expertise of these other departments. The public variance notice should lead people to contacts in these departments to even the playing field.

4. *It Should Be Mandatory For Applicants To Submit To A Zoning Review.*

- Incredibly, the COA applicant currently has the option of NOT participating in a Zoning Review. They simply submit their own list of variances and go directly to the Committee Of Adjustment. We know from experience this often leads to error and affected homeowners are reviewing incorrect information, and some

misinformed applicants have to go to the COA twice for missed variances. This increases the burden on the building department who must then identify problems with the variances, and so on. Communities cannot make informed decisions if they are not given accurate information. A Zoning Review should be mandatory.

5. *Ensure That Participants In The Virtual Meeting Are Heard.*

- Our community (and we are not alone in this) was unable to participate in one recent Virtual Meeting. For some reason our microphone wasn't working and panel members were not able to include our comments in their decision-making process. There needs to be some simple solution to ensure that peoples' concerns are heard. We would suggest:

    a) *Test each registrant's microphone and be sure it is working (note that people must sign up 1/2 hour early so there is time to do this).*
    b) *If the registrant can't be heard, someone in the meeting should call the registrant and sort the matter out (registrants must provide a contact number when they sign up).*
    c) *The panel should proceed to the next application to try to rectify the situation and only when the problem is resolved should they go back to the problem application.*
    d) *Provide registrants with an emergency number of someone participating in the meeting that you could call if things go wrong.*

6. *We Wonder If The Virtual Meeting Format Is Even Fair To All Parties?*

- Next, and this is not a quantifiable concern, we do wonder whether the virtual hearing process is even fair. Older individuals may be unfamiliar with the virtual meeting technology, may feel intimidated by it, or may not have access to computers. Whatever the reason, it seems that fewer people are taking part in the process. We also have a very bad feeling that fewer panel members are preparing in advance and as a result the average panel is just "green lighting" all of the applications. Few – if any – questions are asked and more than frequently there is no reference to written submissions. This was not the case when the hearings were held in public. Clearly, this is supposed to be a neutral panel of members who side with neither the developer nor the neighbours. They are supposed to weigh the evidence, interpret the bylaws and ensure that Toronto's neighbourhoods remain stable. We don't think that is happening now. Many large and impactful variances are being passed today without discussion or questions.

7. *Increased Training Should Be Required for Panel Members.*

- COA Panel members might benefit from "formal training" and from on-going discussions with City experts, community groups, developers and architects. We wonder whether the panel always understands the impact of their decisions on neighbourhood character and stability when they approve some substantial variance requests. In many cases, panel members do not even seem to know where the neighbourhood is located or have visited it. Even though precedent isn't supposed to be taken into consideration, it is a focal discussion point with most applications. This means the approval of any variance within a neighbourhood prompts new development to push for the same or even more. One decision to change an FSI from .68 to .71 means there is a precedent for the next development proposal to request .72 and sound reasonable. Over time, the variance requests get incrementally larger and larger.

8. *Should The Applicant Be Required To Provide Their "Facts" Prior To The Hearing?*

- As noted elsewhere, in many instances, applicants cite other variances that have been recently granted in the neighbourhood. Whether intentional or otherwise, in some instances these comparisons are incorrect or misleading. This means that unless neighbours or community groups attend the COA Hearing, the errors are not caught and corrected, and the panel makes an uninformed decision. Just as the public submits letters of support/concern and they can be reviewed by the applicant in advance of the hearing, shouldn't the same procedure apply to the applicant. Shouldn't they be required to submit their rationale for being granted a variance and shouldn't that rationale be available to the community? If not, at a minimum, there should be a fact checker who attends each meeting and verifies any precedent setting numbers that are quoted.

9. *More Detailed Documention Of COA Decisions Would Be Helpful.*

- Finally, we would like to see greater documentation in the final COA decision notices. For example, if a higher roof were permitted only because of unusual elevation circumstances or because of a single, simple skylight, it would be very helpful if this were part of the documentation. Without these additional comments, developers simply look to see that a particular height has already been granted and expect that their total roof can be raised to the same height without special or unique circumstances. We have already experienced this problem several times. Most recently a developer quoted an unusually high FSI but had no appreciation that this variance was caused by extremely unique

elevation issues whereby the basement area had to be included in the count (although the first two floors were actually within the bylaw).

Thank you for providing Save Our Bennington with an opportunity to express our opinions and concerns. Any steps taken to improve the Committee Of Adjustment process would be greatly appreciated.

Kind regards,

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Director
Save Our Bennington

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Save Our Bennington (saveourbennington@gmail.com)

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