

Committee of Adjustment Third Party Review Recommendations - Implementation Update

Date: March 15, 2024

To: Planning and Housing Committee

From: Interim Chief Planner and Executive Director, City Planning

Wards: All

SUMMARY

City Planning staff have embarked on a multi-year, transformational work program focused on improving the ability of stakeholders to participate in the Committee of Adjustment process and public hearings. This work program was presented to the Planning and Housing Committee in February 2023 and staff committed to providing a status update on this work in 2024. Staff are methodically working through recommendations made by KPMG on how to improve participation in Committee of Adjustment hearings within a framework of improving the customer service experience, while upholding the principals of natural justice and fairness and fulfilling the Committee's statutory obligations.

RECOMMENDATIONS

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

1. the Chief Planner and Executive Director, City Planning, report back to the Planning and Housing Committee in Q1 2025 on the status and results of the implementation plan contained in this report.

FINANCIAL IMPACT

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

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the information as presented in the Financial Impact Section.

DECISION HISTORY

At its May 2021 meeting, through item 2022.PH22.7, City Council directed the Chief Planner and Executive Director, City Planning, in consultation with the City Solicitor, the Chief Building Official and Executive Director, Toronto Building, and the Ombudsman, to report to the Planning and Housing Committee on a consultant review of the Committee of Adjustment.

<https://secure.toronto.ca/council/agenda-item.do?item=2021.PH22.7>

In February 2023, through item 2023.PH2.5, the Chief Planner and Executive Director, City Planning, reported on a KPMG-led review of how to improve participation in Committee of Adjustment public hearings. City Planning supported the review's recommendations and outlined a multi-year work plan to move forward with the numerous improvement opportunities identified by KPMG. The Planning and Housing Committee requested the Chief Planner and Executive Director, City Planning to report back to the Planning and Housing Committee on the status and results of the implementation plan, as well as other items related to Committee of Adjustment operations, in the first quarter of 2024.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH2.5>

COMMENTS

In February 2023, the Planning and Housing Committee considered a report from the Chief Planner and Executive Director, City Planning on a KPMG-led review of how to improve participation in Committee of Adjustment (CoA) public hearings (Public Hearing Review).

In that report, staff laid out a multi-year implementation plan for the recommendations and committed to providing a status update to the Planning and Housing Committee on the results of this work. Staff expected to deliver certain initiatives in 2023, with other improvements coming in 2024-2025.

Staff are in the midst of this multi-year transformational work program, which is grounded in improving participation in Committee of Adjustment public hearings. Based on KPMG's recommendations, as well as a commitment to improving the customer service experience and upholding the principals of natural justice and fairness, staff are methodically implementing improvements to the Committee review, decision-making and implementation processes. Staff are working on large-scale transformational changes as well as smaller, incremental improvements to enhance the user experience for all of the CoA's stakeholders. This includes applicants, members of the public, panel members, City staff and other agencies and public bodies involved in development review and approval.

As staff move forward with implementing specific KPMG recommendations, they will continue to consult and collaborate with these stakeholders. Staff are developing a comprehensive engagement plan to ensure that the wide range of interested and

impacted user groups are involved with, and informed of, the service delivery changes that are underway.

Staff have taken the KPMG recommendations, considered them in the wider context of legislative and organizational changes, stakeholder expectations and priorities, and have created a structured work program for implementing long-desired service improvements.

This report sets out the status of this workplan, as well as other matters as directed by the Planning and Housing Committee.

KPMG Recommendations - Completed

Based on direction from the Planning and Housing Committee, City Planning staff undertook a variety of improvement initiatives recommended by KPMG over the course of 2023. The work program items listed below have been completed.

a. Address the Technical Challenges of the Virtual Public Hearing Process (KPMG Recommendation 9)

The work on this recommendation is fundamentally complete. Staff continue to monitor hearings to identify technical challenges to hearings and opportunities to reduce or mitigate challenges. As technology continues to evolve, an approach of continuous improvement is relevant.

Hybrid Hearings

In July 2023 the CoA launched a new hybrid in-person/virtual hearing model. With this new model, applicants and the public have the choice to participate in a hearing in person or virtually. This gives participants the choice of what level of engagement they want to have with technology during a hearing. While still reliant on digital technology, the hybrid hearing model reduces technical challenges for participants through in-person participation.

Increased Speaker Microphone and Sharing Permissions

KPMG recommended that CoA staff explore the possibility of allowing participants to have screen-sharing permissions for hearings in person and online. Allowing participants access to screen-share would mean that instead of CoA staff operating the display of submitted materials at a hearing, that participants would control the computer and display of shared materials.

Staff have assessed the possibility of making this change but do not recommend it. Allowing participants access to control the screen would lead to operational inefficiencies and challenges to verify consistency between materials that have been formally submitted to the public record and those displayed during the hearing. If a participant can show their screen, the presentation and diagrams displayed by a participant during a hearing could differ from the materials previously submitted to the Committee and posted to the Applicant Information Centre (AIC). This could lead to a

discrepancy between the materials in the official public record and what is presented to the Committee and the public during the hearing itself.

Further, CoA staff are trained on how to run the hearing efficiently and have Technology Services staff support to manage technology issues that arise. Not all participants have the same level of technological competence and would not have access to City Technology Services staff while they are participating virtually. This could lead to more inefficiencies and delays during a hearing.

Piloting Virtual Break-out Rooms to Applicants

In 2023, staff explored the possibility of providing virtual break-out rooms to applicants to facilitate in-hearing mediation. Through this exploration, and within a hybrid-hearing model, staff have identified challenges in facilitating a mediation space. With some participants attending in person and some attending via Webex, it is impossible to provide a virtual break-out room that will allow all interested participants an opportunity to join in the discussion. Staff are unable to provide an effective mediation space as long as participants are not all attending a hearing in the same manner.

On-line Speaker Registration

Staff have developed an on-line hearing registration portal and will launch it in Q2 2024. Through this on-line portal, applicants and members of the public will be able to register to speak at a hearing. On-line registration will provide a better user experience for the public, allow for easier communication with participants, decrease the administrative burden staff, and reduce the risk of administrative error. Individuals who do not have computer or internet access will still be able to call to register, and the public can still attend a hearing in person without registering in advance.

In-Hearing Agendas

The on-line platform used for Committee of Adjustment hearings does not enable an active agenda monitor. Staff have explored options for implementing in-hearing agendas at the Committee of Adjustment, including using the Toronto Meeting Management Information System (TMMIS) or procuring an external agenda meeting management software. Staff will await the comprehensive CoA service delivery model review, currently underway, which should conclude in mid-2024, before proceeding further with this work.

Technical Resource

KPMG recommended that CoA staff explore having a dedicated technical resource to support participants during virtual hearings. Staff have explored this option and have determined it is not possible with existing resources within the current organizational structure. Staff will continue to explore how more robust technical support can be provided to participants and will reassess the possibility of a dedicated participant technical resource after the CoA service delivery model review is complete.

b. Development of Panelist Training and Professional Development Program (KPMG Recommendation 11)

Prior to the start of the 2023-2026 CoA term, staff developed a comprehensive training and professional development program, which is delivered to members through the course of their term. The program is designed to ensure panel members have the necessary core knowledge and skills and to remain apprised of updates to the City's policies and priorities, as well as legislative and regulatory changes. It is also designed to maintain ongoing dialogue and engagement with members and to engage in broader conversations about planning, adjudication and city building.

Through this program, staff provide panel members with both in-person and virtual training sessions and written updates and resources. Panel members received three separate training sessions over the first month of their appointment and are expected to attend quarterly half-day training sessions throughout their term. The quarterly sessions are complemented by a program of "lunch and learn" sessions.

KPMG Recommendations - Underway

Work on some KPMG recommendations started in 2023 and will continue into 2024. These projects are described below.

a. Commencement of Service Delivery Model Review (KPMG Recommendation 15)

In the Public Hearing Review, KPMG recommended that the City conduct a comprehensive review of the CoA's service delivery model to address broader challenges impacting the performance of the CoA. These challenges include performance against service standards, consistency of practices and procedures, and unbalanced workloads across geographies. The review is also necessary to ensure that the CoA's service delivery model adapts to and is coordinated with the City Planning Program Review, the creation of the Development and Growth Service Area and recent legislative changes to the development review and approvals process.

In the fall of 2023, City Planning retained KPMG to conduct this comprehensive review. It commenced in December 2023 and is expected to be completed in Q3 2024.

b. Stakeholder Engagement Sessions (KPMG Recommendation 4)

KPMG recommended that the CoA should engage with applicants and members of the public outside of the public hearing process and suggested a number of specific engagement activities. City Planning staff hosted an engagement session with applicants and members of the public in January 2024, during which City Planning staff welcomed a wide range of applicants and interested members of the public to an in-person session at Metro Hall. Staff provided an update on the KPMG recommendations and other CoA transformation initiatives, requested feedback on the hybrid hearing format, and gathered other feedback and answered questions from attendees. This type of engagement session will be held annually.

Following the completion of the CoA Service Delivery Model Review, staff will organize a training session for applicants, consultants, and members of the public as well as a drop-in session with commenting partners as recommended by KPMG.

c. Improve Existing and Develop New Public-Facing Communications and Resources to Enhance Participation (KPMG Recommendation 2)

Staff have commenced a multi-stage project to review and revise public-facing communications.

Public Notice Revisions

The City Planning Division has retained a planning communications consultant to provide services to revise the Notice of Hearing and Notice of Decision templates in plain language. Revisions to the Notice of Hearing and Notice of Decision documents will be completed by the end of Q2 2024.

Timestamped Links to Items on CoA YouTube Stream

As mentioned above, staff are reviewing public-facing communications including the Notice of Decision template in 2024. Within this review, staff will explore whether a specific timestamped link to the YouTube stream of an item can be added to the Notice of Decision. Staff will also look at including YouTube stream timestamp links on the CoA agenda documents posted on the CoA webpage for more streamlined access to information.

Website Redesign

Staff have been working on a redesign of the Committee of Adjustment website focused on plain-language and the ability for the general public to navigate technical information and find application status information easier.

In Q4 of 2024, staff will create a Frequently-Asked-Questions document to be available on the updated website. In 2025, staff will create a plain-language video overview of the public hearing process.

d. Standardize Hearing Practices to Improve Transparency and Predictability (KPMG Recommendation 10)

Staff are working to standardize hearing practices across districts by determining and documenting best practices, and communicating these to panel members and the staff that administer the hearings. This work is on-going.

e. Establish KPIs to Enable Continuous Improvement (KPMG Recommendation 14)

Staff are currently developing a comprehensive data collection program. Staff have completed inventorying existing available CoA data and performance measures and are now working with internal partners to create a new data collection and monitoring program.

An update on the data collection program will be available at the end of Q4 2024.

KPMG Recommendations - Starting in 2024

The work program to implement the KPMG recommendations will span several years, with many initiatives getting underway in 2024. Some of these projects will be completed in 2024, while more complex ones will conclude in 2025.

a. Purpose Statement (KPMG Recommendation 1)

In Q2 and Q3 2024, City Planning staff will work with stakeholders to develop a clear purpose statement of what the Committee of Adjustment is and does to further a shared understanding of this tribunal. Once complete, this purpose statement will be incorporated into public-facing communications.

b. Develop and Promote an Effective Participation Guide to Empower Applicants and Members of the Public (KPMG Recommendation 3)

In addition to revising existing public-facing communications, a planning communications consultant will work with staff in 2024 to develop a handbook on how to participate in a hearing effectively. The public hearing handbook will be a step-by-step guide for applicants and members of the public and will replace pre-existing information on the current CoA website.

c. Support Equitable Tenant Participation in the Public Hearing Process (KPMG Recommendation 5)

Beginning in Q3 2024, staff will explore the feasibility of KPMG's recommendations on how to better support tenants in the public hearings process.

d. Application Materials Refresh and Rationalization (KPMG Recommendation 6)

Starting in Q2 2024, staff will evaluate all current Committee of Adjustment application requirements, including tree protection related materials. Staff will determine which requirements should be maintained, modified, or discontinued, and what new materials should be required. Staff will also specifically consider requiring a one-page summary letter, contextual drawings, and a rationale for why the variances are required, as recommended by KPMG. As part of this project, City Planning staff, in consultation with Toronto Building staff, will also consider whether to eliminate the option of a zoning waiver and instead require a zoning review for every application, in accordance with Recommendation 4 from item PH30.7, adopted by City Council on February 2 and 3, 2022.

In conducting this rationalization exercise, staff will consult with applicants, members of the public, panel members and staff in other divisions involved in development review. Staff will also develop terms of reference for the updated application requirements.

e. Evaluate Opportunities to Provide more Detailed Reasons for CoA decisions (KPMG Recommendation 7)

Staff will consider options for providing more detailed reasons for CoA decisions and the feasibility for implementation.

f. Consider Eliminating Substantive Revisions to Applications after Public Notice (KPMG Recommendation 8)

Commencing in Q4 2024, staff will work with applicants, the public, staff and panel members to identify and evaluate options for practices in dealing with revisions to applications after public notice has been distributed.

g. Implement Guidance Directions to Increase Consistency within and across Panels (KPMG Recommendation 12)

Guidance directions are a tool to inform and support Committee members with information. These will be one outcome of standardized hearing practices across the four districts, as noted earlier in this report. No guidance directions have been issued to-date, but staff have provided intensive group training and guidance to the newly appointed CoA panel members to increase consistency in decision making and hearing practices within and across panels. Staff will implement this recommendation as the need arises.

h. Implement Commenting Guidelines to Improve Consistency and Enable more Effective Participation (KPMG Recommendation 13)

Commencing in Q2 2024, staff will work with internal and external commenting partners to develop commenting guidelines, comment and report templates, as well as establish new commenting timelines and deadlines.

Responses to 2023.PH2.5 Planning and Housing Committee Requests

Through item 2023.PH2.5, staff were asked to advance and report back on a number of service changes related to the Committee of Adjustment. The section below provides responses and updates to those requests.

a. Explore Options for Application Streaming

The Planning and Housing Committee requested that the Chief Planner and Executive Director, City Planning consider options for streaming Committee of Adjustment applications.

Staff are collecting data in order to identify and evaluate options for application streaming and will work with interested stakeholders in 2024 to move this work forward. Application streaming will also be considered in the KPMG-led Service Delivery Model Review.

This initiative will build on the preliminary work completed by City Planning in 2019 on options for application streaming. That initial analysis and proposed work plan was reported on through item 2019.PH11.14, which was adopted by City Council in December 2019.

b. Improving Format and Content of the Public Notice Sign

As requested through 2023.PH2.5 recommendation 2, staff were asked to explore options for improving the format and content of the public notice sign to improve visibility and readability.

Staff considered this request but do not recommend any further changes to the CoA public notice signs at this time. The public notice signs were recently updated to make them more visible and understandable to residents resulting in a completely redesigned sign format rolled out across the city in July 2021. The old signs were printed on a tabloid size neon-coloured piece of paper, while the newly designed ones are printed on larger, durable weather-proof material with large, blueprint on a white background. The new style is consistent with other City of Toronto development review notices and was developed in consultation with the City Planning Graphics and Visualization staff and the Toronto Planning Review Panel.

c. Changes to Committee of Adjustment Panel Member Qualifications

As requested through 2023.PH2.5 recommendation 4.a, staff inquired about the feasibility of changing the required qualifications needed for the members appointed to the Committee of Adjustment. The selection of committee members is done in accordance with the City's Public Appointments Policy, and through support from the City Clerk's Office, the Tribunals Nominating Panel is responsible for reviewing applications, selecting candidates, conducting interviews, and recommending individuals to City Council for appointment. The CoA has specific qualifications in addition to the general eligibility requirements required for all City boards.

These requirements currently include:

- 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, urban forestry and environmental planning, or citizen advocacy.
- demonstrate decision-making, communication, and mediation skills to facilitate an open and fair hearing process.
- each panel should have at least 2 members with adjudication experience and administrative public speaking and organizational skills to be able to chair public hearings and maintain order in conflict situations.

Requiring additional qualification requirements would limit the prospective applicant pool and could exclude individuals with diverse lived experiences who may not meet additional qualifications.

Rather than adding knowledge of the *Planning Act* and related planning legislation, guidelines, and principles as a formal requirement for panel member qualification, staff recommend this material be conveyed to panel members through training and other channels once appointed. This approach allows for a more diverse applicant pool with a broader skill set while still ensuring panel members have this core knowledge of how to operate in a quasi-judicial hearing. Further, providing panel members with information on Planning legislation, policies and guidelines through training as opposed to requiring this knowledge upfront better ensures panel members have up-to-date information in this dynamic and ever-changing area. The training program for CoA members incorporates substantial content related to the *Planning Act* provisions that govern the Committee of Adjustment and its decision-making.

Additionally, in 2015 the City Manager responded to a request of the Planning and Growth Management Committee to report back on feasibility and advisability of requiring relevant professional experience or education as a qualification for appointment to the Committee of Adjustment. Through item 2015.PG2.5, the City Manager conducted a detailed examination of this question and recommended against making this change.

For these reasons, CoA staff will not advise City Council to add additional required qualifications for members appointed to the Committee of Adjustment.

d. Geographical Organization of the Committee of Adjustment

The Committee of Adjustment is structured in separate panels that geographically align with the boundaries of the four Community Councils. Staff have instructed KPMG to consider whether the CoA should remain geographically organized as part of the CoA Service Delivery Model Review and will report back on the results once the review is completed.

e. Enabling and Improving Communication Between Applicants and Residents

Staff were asked to consider two changes to enhance communication between applicants and residents:

- whether and how the City could help enable communication between applicants and residents, for example, provide a mechanism to allow relevant stakeholders to be contacted directly by applicants prior to Committee of Adjustment hearings in order to help facilitate informal means of resolving matters; and
- requesting panel members to inquire whether applicants have attempted to consult with interested parties when an application is substantively amended after public notice has been distributed, along with other strategies to improve dialogue between applicants and neighbours.

Staff have been asked to encourage communication between applicants and interested parties several times previously by various Committees and have investigated this issue thoroughly. In 2018, through item EX35.7, Executive Committee asked the Chief Planner to review the Committee of Adjustment and related processes to enhance

dialogue between applicants and the public, looking at opportunities to further improve communication and strategies for enhancing informal engagement of residents. City Planning staff completed a comprehensive review of this issue and reported on it through item PH11.14 in 2019. Based on that review, the CoA application form was updated to encourage applicants to consult with their neighbours in advance of the hearing. Further, panel members already often enquire if applicants have consulted with their neighbours during items where neighbours express concerns and compliment those applicants who have done so.

Staff are not recommending conducting further work on these matters.

f. Training Panel Members on allowance of three units as-of-right and EHON changes to Zoning By-law

As requested by the Planning and Housing Committee, City Planning staff provided panel members with training on the changes to the *Planning Act* which now permit up to three residential units as-of-right on residential lands, as well as other changes to the Zoning By-law that were a result of Expanding Housing Options in Neighbourhoods (EHON) program, such as the new regulations for multiplexes. Staff will continue to provide updates on EHON and other relevant changes to the Zoning By-law to the panel members as regulations change through the training and professional development program described earlier in this report.

Conclusion

Staff will continue to work on the process improvements recommended by KPMG and requested by the Planning and Housing Committee and will report back to the Planning and Housing Committee in Q1 2025 on the status and results of the implementation efforts.

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