



COMMITTEE OF ADJUSTMENT

TERMS OF REFERENCE

1. Role

The Committee of Adjustment, (hereafter referred to as the Committee) is a delegated Committee of Norfolk County Council. The purpose of the Committee is to consider minor variances and consent applications under sections 45 (1) and 54 (5) respectively of the Planning Act, R.S.O. 1990, as amended.

2. Mandate

The Committee of Adjustment is a quasi-judicial body, operating independently from Council, which must comply with rules of procedures as prescribed in the Planning Act, R.S.O. 1990, as amended and several regulations thereunder. The Committee of Adjustment is guided by applicable legislation, provincial policy, the Official Plan and appropriate zoning by-laws and codes.

The Committee of Adjustment is empowered to exercise their authority under Sections 44, 45 and 53 of the Planning Act R.S.O. 1990.

Section 44 (1), authorizes the municipality to appoint a Committee of Adjustment provided the municipality has passed a by-law under Section 34, the Council of the Municipality may by by-law constitute and appoint a Committee of Adjustment for the Municipality composed of such persons not fewer than three.

Section 45 (1) of the Planning Act, R.S.O. 1990, as amended identifies the powers of Committee, including the power to authorize such minor variances in respect of the land, building or structure or the use thereof, provided it is the opinion of the committee that the variance is desirable for the appropriate development or use of the land, building or structure, and that the general intent and purpose of the by-law and of the official plan are maintained.

Section 54 (5), authorizes the Council of a single tier municipality to delegate authority to give consent under Section 53 to a Committee of Adjustment pursuant to Subsection 45 (2).

Committee of Adjustment members consider minor variances from the Zoning By-law and determine the viability of applications for consent (land division). These decisions are made by:

- Reviewing, in the case of minor variances, the four tests as laid out in the Planning Act as:
 - Being minor in nature;
 - Being desirable for the appropriate development of use of the land, building or structure;
 - Maintaining the general intent and purpose of the zoning by-law; and
 - Maintaining the general intent and purpose of the official plan;
- Having regard, in the case of consents, to matters under Section 51 (24) of the Planning Act;
- Reviewing Council decisions and by adhering to the Official Plan policies and any other applicable municipal or provincial policy; and
- Being consistent with the Provincial Policy Statement and matters of provincial interest.

The Committee of Adjustment members also sit as the County's Appointed members on the Drainage Court of Revision.

3. Committee Composition

The Committee of Adjustment is composed of a minimum of five (5) appointed representatives, preferably with balanced representation across County wards and urban/rural areas.

Appointments to the Committee of Adjustment shall be based upon the following criteria:

- Resident of Norfolk County / presence and longevity in the community;
- Distribution of residency: while not all Wards may be represented, the membership should be fairly well balanced in terms of place of residency throughout the County;
- Demonstrated background and knowledge related to the function of the Committee of Adjustment;
- Knowledge and understanding of the land use planning process including minor variance and consent process;
- Balance between rural, urban and lakeshore interests;
- Balance between age, gender and ethnicity is preferable as part of the Committee as a whole;
- Ensuring a balance between experience and new membership;
- Be objective, possess relevant education component or equivalent experience and have strong analytical skills in order to fully consider all information provided;
- Excellent communication skills;

- Reason for wanting to serve on the Committee;
- Be available and able to conduct site inspections on subject properties when necessary;
- Be organized, available and committed to attend all Committee meetings; and
- Ability to commit the time for servicing on the Committee.
- Access to reliable internet with video ability. This includes ability to attend online meetings with video capability when necessary.

The Committee members shall have a four-year term of membership to coincide with Norfolk County Council.

A Committee of Adjustment member should not serve more than two consecutive terms (a total of eight years) on the Committee of Adjustment.

The Committee of Adjustment at its inaugural meetings shall appoint from its members a Chair and when the Chair is absent through illness or otherwise, the Committee shall appoint another member as Acting Chair.

In consideration of appointing a Chair, the expectation is that the Chair is in attendance for more than fifty percent of the scheduled meetings, with the exception of unanticipated absences due to extenuating circumstances.

4. Meetings

Rules of Procedure/Order

Three members shall be deemed to constitute Quorum as per *Section 44 (5)* of the Planning Act.

In the event that a quorum is not present within fifteen (15) minutes after the appointed time of the meeting, the meeting will stand adjourned.

If quorum is not met, the meeting may be rescheduled or cancelled.

In the absence of the Chair, the Vice-Chair shall conduct the meeting. If neither is present, the Committee shall appoint an Acting Chair from amongst those members present.

The Committee shall observe the Rules and Procedures and Rules of Conduct that govern Committees of Council.

All meetings of the Committee of Adjustment, pursuant to *Section 238(2)* of the *Municipal Act, R.S.O. 2001, c. 25*, as amended, shall be called by the Chair of the Committee.

In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a meeting.

The Chair will ask if any Member of the Committee wishes to declare a pecuniary interest. This must be noted in the meeting minutes.

Motions shall require a Mover and a Seconder.

Schedule/Location of Meetings

The Committee will establish a meeting schedule, setting out the time and place for meetings at the beginning of each year. All meetings will be held within Norfolk County.

All meetings of the Committee shall be heard in Norfolk County Council Chambers unless alternate public meeting room arrangements have been made. Committee meetings may also be scheduled and heard virtually through an online conferencing system such as Microsoft Teams.

The location (either online or in person) for the Committee of Adjustment meetings shall be identified on the Notice of Hearing for Minor Variance and Consent applications that is circulated by the Secretary-Treasurer or designate of the Committee. Should alternate arrangements be required after the Notice of Hearing has been issued and time does not allow for re-notification by mail, a sign shall be posted at the original meeting room location indicating the alternate meeting room arrangement.

All meetings will be scheduled on the third Wednesday of each month. The meetings will begin at a time confirmed by the Secretary Treasurer, daytime business hours or 5:00 PM and close no later than 8:00 PM, unless a time extension is approved by the Committee.

Members of the public are able to attend in person or virtually on-line, phone-in attendance is not permitted unless due to special circumstances. If an accommodation is required, please advise the Secretary Treasurer for assistance.

Committee Meetings are to be held at the County Administration Building, an approved County owned-facility or a combination of in-person and virtual.

Adequate provision for accessibility shall be made by the Chair of the Committee and relevant staff to ensure that meeting locations, agenda and minute formats, communications and conduct of meetings be accessible, to ensure maximum participation and quality customer service.

Meeting Structure

Agendas and minutes for Committee meetings should include the following components:

- a) The meeting shall be called to order by the Chair. The meeting shall commence at the time given in the Notice of Hearing and will continue until a motion is passed to adjourn the meeting.
- b) The Chair shall ask the Committee of Adjustment Members to declare any pecuniary interests that they may have in applications before the Committee, and the provisions of the Municipal Conflict of Interest Act shall apply. If an interest is declared, it is suggested that the member leave the meeting room for the duration of the hearing of the application and until a motion is carried.
- c) Decisions are to be made by those members present at all hearings regarding the application. The Secretary-Treasurer will inform members of the Committee via the meeting agenda whether the Committee member was absent when the application was first heard. This rule does not apply if the application was deferred at the applicant/agent's request provided no formal discussion took place.
- d) All meetings shall be open to the public and no person shall be excluded except for improper conduct, except as indicated in part (e) hereunder.
- e) Meetings shall be closed only in the manner and circumstances identified by the Municipal Act.
- f) As indicated on the notice of hearing, the Committee can choose to defer an application if the applicant and/or agent are absent from the meeting.
- g) The Chair shall also call for any requests for deferral of an application or for any request for withdrawal of an application.
- h) All requests for deferrals of the hearing of an application to a later meeting as noted above must be for reasonable cause.

- i) The Chair of the meeting shall ask the applicant, authorized agent or the applicant's representative to introduce themselves.
- j) The Chair of the meeting shall invite anyone else having an interest/concern, with respect to the application to come forward and introduce themselves.
- k) The Planner will present the application to the Committee of Adjustment, including the Staff recommendation.
- l) The Committee shall give the applicant, authorized agent or the applicant's representative opportunity to respond to any comments received from commenting agencies or interested parties.
- m) The Committee members, through the Chair, may ask questions of the applicant, agent, Planning staff, or those parties expressing an interest or concern.
- n) After having considered the issues raised by the applicant, authorized agent, applicant's representative, any respondents and the evidence heard at the meeting by the Committee, the Chair shall ask the members of the Committee for a motion with respect to the disposition of the application.
- o) The Chair of the meeting upon receipt of a motion from the Committee member shall ask for a seconder to the motion. The Chair of the meeting shall call for a vote by the Committee on the motion and the Chair shall announce whether the motion is carried or defeated. A defeated motion is not a decision. A new motion should then be presented until one is carried by a majority of the members. The chair shall announce at the meeting, the decision of the Committee.
- p) Committee members may ask the Secretary-Treasurer for any assistance they require related to the matters at hand.
- q) Committee members concurring with the decision of the Committee shall sign the decision at the meeting. Should the Committee's decision differ from the recommendation made by Staff, Committee shall provide their written reason on the decision.
- r) The conduct of the meetings and members, with respect to matters not specifically addressed, shall be in accordance with the Statutory Powers Procedure Act R.S.O. 1990, C S. 22 as amended, the Municipal Conflict of Interest Act R.S.O. 1990, C.M 50 as amended and The Municipal Act 2001, S.O. as amended.

In addition to the above, the date, time, location of the meeting and a list of members present shall be recorded.

Additional Meeting Components

An orientation session will be held at the first meeting of the Committee each year.

Committee meeting minutes shall be made available to the public.

All meetings shall be open to the public except as allowed through section 239 of the *Municipal Act, 2001*.

If a member has any pecuniary interest, direct or indirect, the member shall disclose the pecuniary interest and shall not take part in the discussion of the matter, nor vote on the matter.

5. Roles and Responsibilities

At its inaugural meeting each year, the Committee will be responsible for electing a Chair and Vice-Chair from amongst the members of the Committee.

Committee Members:

- Attend Meetings (provide notification of absences to Secretary-Treasurer).
- Be prepared for meetings by reviewing material provided by the Secretary-Treasurer.
- Site photographs and geographic information system (GIS) mapping shall be available for all applicable sites.
- During the meeting, members listen to the planning evidence being presented by Norfolk County Planning staff, the agent/applicant's presentation and also have the opportunity to ask questions should any outstanding information still remain.
- Once all the information is presented, each member votes on the proposal.

Chair and Vice-Chair of the Committee:

- Manage the meeting and follow meeting procedures as outlined in the County's Procedural By-law

- Moderate discussions but do not participate in debate until the end of discussion
- The Chair has the same voting rights as other members and votes like all other members
- Direct the discussion in a fair and efficient manner
- Keep the meeting on track and on schedule
- Meet with the Meeting Clerk and Staff Liaison prior to the meeting to plan the agenda
- Represent the Committee in official capacities such as speaking at Council

Disclosure of pecuniary interest

If a Committee of Adjustment member has a pecuniary interest, direct or indirect, in any matter in which the Committee is concerned and is, or will be present at a meeting at any time at which the matter is the subject of consideration, the member:

- a) Shall, before any consideration of the matter, at the meeting verbally disclose the interest and its general nature.
- b) Shall not, at any time take part in the discussion of, or vote on, any question in respect to the matter; and
- c) Shall leave the meeting and remain absent from it at any time during consideration of the matter.

If a Member is not present and has any pecuniary interest, he/she shall disclose his/her interest at the next meeting in attendance.

Remuneration paid to Committee Members:

The members of the Committee of Adjustment for The Corporation of Norfolk County so appointed shall receive remuneration as the Council may provide for the exercise of their respective duties and responsibilities.

Mileage for site inspections shall be paid to each member of the Committee of Adjustment as determined annually by Council, however mileage to and from regular scheduled meetings is not eligible.

Committee of Adjustment packages shall be provided electronically. In instances where a paper package is requested or provided, there shall be no reimbursement for any mileage associated to the pickup of Committee packages. Committee packages will not be couriered except in special circumstances as deemed appropriate by the secretary treasurer.

Voting of Committee Members:

Every Committee of Adjustment member, including the Chair, who is present at a Committee Meeting when a question is put shall vote thereon, except where he/she is disqualified to vote by reason of a pecuniary interest or is absent from the meeting when the question is put.

Every Committee member who is not disqualified from voting by reasons of a declared pecuniary interest shall be deemed to be voting against the motion if he/she declines or abstains from voting.

Provision for Accessibility and Diversity

Adequate provision shall be made by the Chair of the Committee of Adjustment and relevant staff to ensure that meeting locations, agenda and minute formats, communications and conduct of meetings be accessible, to ensure maximum participation and quality customer service. Reference may be made to the provisions of the Ontarians with Disabilities Act, and similar legislation, policies and guidelines.

Notice

The notice of an application to be considered at a meeting shall be given in a manner that the Committee of Adjustment deems appropriate, in accordance with the provisions of the Planning Act, as amended, and any regulations passed there under, together with the Notice requirements contained in the conditions of delegation of the consent granting authority from the Corporation of Norfolk County.

Application Information

A planning staff report including a recommendation for approval, approval with conditions, refusal or deferral shall be authored by a Planner or delegated staff and provided from the Secretary-Treasurer prior to the hearing to the Committee members, applicants, authorized agents, applicants representatives and anyone having an interest in an application. If the recommendation is subject to conditions, recommended conditions are to be included in the report. Committee members will receive his/her copy of the report in their applicable electronic agenda packages.

Deferrals

1. Committee may pass a motion to defer an application for any of the following reasons:

- a) At the request of the applicant and/or agent; or
 - b) At the recommendation of Planning Staff; or
 - c) For other reasons as Committee deems necessary.
2. All requests for deferrals of the hearing of an application to a later meeting as noted above must be for reasonable cause.
 3. A motion to defer an application must be carried by a majority of the members.
 4. Deferral fees, as passed by Norfolk County Council By-law, shall apply.
 5. The Secretary-Treasurer will consult with Planning Staff to determine if a fee shall apply to each individual deferred application.
 6. A deferral letter will be mailed to the applicant and/or authorized agent informing them of the deferral policy and the prescribed fee.

Once the applicant/agent has addressed the reason(s) for the deferral and resolved all outstanding issues, a request must be submitted to the Secretary-Treasurer to place their application on an upcoming agenda for Committee of Adjustment.

Such request must be submitted in writing to the attention of the Secretary-Treasurer and accompanied by the applicable fee as outlined in the deferral letter.

Requests and fees must be received by the Secretary-Treasurer a minimum of three weeks in advance of the Committee meeting.

Planning staff will do their best to accommodate the request but depending on the length of the Committee Agenda, may not always be able to reschedule the additional hearing on the meeting date requested.

Applications will generally be deferred for a maximum of six months. A reminder letter will be mailed to the applicant and/or authorized agent notifying them of the rescheduled date of the hearing of their application. Payment of the prescribed fee will apply.

All changes to the Terms of Reference require Council approval.