

## **Committee of Adjustment**

### **Roles and Responsibilities of Guelph City Council under the *Ontario Planning Act***

#### **Introduction**

The ***Ontario Planning Act*** sets out the ground rules for land use planning in Ontario, describes how land use may be controlled, and who may control them. The *Ontario Planning Act* provides for the following overall planning decisions and tools:

1. Official Plan
2. Official Plan Amendment
3. Zoning By-laws
4. Zoning Change
- 5. Minor Variance**
6. Plan of Subdivision
7. Plan of Condominium
- 8. Land severance/consent**
9. Site Plans
10. Demolition Control By-law
11. Community Improvement Plans

#### **Legislative framework for the Committee of Adjustment**

The Ontario Planning Act grants authority to local municipalities to establish a *Committee of Adjustment*. A Committee of Adjustment is delegated approval authority for minor variances and land severances/consent. A Committee of Adjustment is considered a Local Board.

Guelph City Council established a Committee of Adjustment in 1983 and appoints citizens to the *Committee of Adjustment*.

The Ontario Planning Act grants authority to *Committees of Adjustment* to make decisions on:

- minor variances from the Zoning By-law
- permission to alter or change a lawful non-conforming use of land
- consent (consent means "approval") to sever land (divide a parcel of land into more than one lot)

**Minor variance:** If a proposed change doesn't conform exactly to the zoning by-law, but follows its general intent, a minor variance can be sought. A minor variance does not change a zoning by-law but rather excuses the applicant from a specific requirement of the by-law and allows the applicant to obtain a building permit.

- consent to register a mortgage over part of a property
- consent to register a lease over part of a lot for more than 21 years
- validation of land title when there has been an error in the description of land

The Official Plan contains policies with respect to the role of the Committee of Adjustment.

Council has approved a by-law to establish the Committee of Adjustment as well as a Code of Conduct for members and Committee Terms of Reference.

The Committee of Adjustment also approves a Procedural By-law to provide rules for governing its proceedings.

The Committee of Adjustment at all times must ensure that the intent and purpose of both the City of Guelph’s Zoning By-law and the Official Plan are maintained, and that the proposal is appropriate for the development and use of the subject land or building. In addition, for minor variances it must be shown that the variance is minor in nature.

**Consent:** A land severance is the authorized separation of a piece of land to form a new lot or a new parcel of land. This is commonly known as “consent”. It is required, if you want to sell, mortgage, charge or enter into any agreement (at least 21 years) for a portion of your land. In addition to the division of land, rights-of-ways, easements and any change to existing property boundaries also require land severance approval.

Anyone not satisfied with a decision of the Committee of Adjustment can appeal it to the Ontario Municipal Board. The City of Guelph can also appeal a decision of the Committee of Adjustment to the OMB.

If a decision of the Committee of Adjustment is appealed to the OMB by the applicant or a third party, the City of Guelph can determine whether to participate or not.

Once appealed, the OMB is considered a new hearing on the matter.

## Responsibilities of Council with respect to the Committee of Adjustment

With respect to the Committee of Adjustment, members of Council have the responsibility to:

### Right and Best Practice for Council in executing their responsibilities

Responsibility	Suggestions
Delegate authority by establishing the committee	<ul style="list-style-type: none"> <li>• Approve the by-law establishing the committee</li> </ul>
Appoint members	<ul style="list-style-type: none"> <li>• Conduct interviews of candidates for the Committee of Adjustment when considering appointments</li> </ul>
Orient and train committee members	<ul style="list-style-type: none"> <li>• Ensure an effective orientation and training program is in place</li> </ul>

<p>Ensure the committee meets its legislative and regulatory mandate</p>	<ul style="list-style-type: none"> <li>• Ensure the committee has sufficient resources and operates in a manner that is consistent with the values and principles of the City</li> <li>• Ensure all stakeholders, who may have an interest in an application before the Committee of Adjustment, are provided information</li> <li>• Ensure all stakeholders, who may have an interest in an application before the Committee of Adjustment, are provided an opportunity for input</li> <li>• Ensure the rights of all stakeholders, including the applicant, in the Committee of Adjustment process are protected</li> </ul>
<p>Promote accountability and transparency</p>	<ul style="list-style-type: none"> <li>• Establish a code of conduct and terms of reference for the committee</li> </ul>
<p>Understand your legislated authority under the Planning Act and that of the Committee of Adjustments and its members</p>	<ul style="list-style-type: none"> <li>• Read this orientation guide</li> <li>• Read the relevant sections of the Ontario Planning Act</li> <li>• Speak to staff if you have a question about your legislated authority with respect to the Committee of Adjustment</li> <li>• Ask questions about how the Committee of Adjustment fulfills its mandate</li> </ul>
<p>Respect the delegated approval authority of the Committee of Adjustment and its members</p>	<ul style="list-style-type: none"> <li>• Don't attend a Committee of Adjustment meeting to advocate on behalf of an applicant or stakeholder</li> <li>• Protect your role on Council should a decision of the Committee of Adjustment be appealed to the OMB.</li> <li>• Don't use your political position to pressure or influence the members of the Committee of Adjustment</li> </ul>
<p>Respect the role of the professional staff that support the Committee of Adjustment</p>	<ul style="list-style-type: none"> <li>• Don't use your political position to pressure or influence planning staff on behalf of an applicant or stakeholder</li> <li>• Don't meet with staff to advocate on behalf of an applicant or stakeholder involved with the Committee of Adjustment</li> <li>• Direct constituent questions and/or information requests regarding the Committee of Adjustment to the Secretary for the Committee of Adjustment or information on the City's website.</li> </ul>
<p>Ensure accountability by monitoring performance</p>	<ul style="list-style-type: none"> <li>• Establish indicators to measure the performance of the Committee of Adjustment</li> <li>• Receive an annual report from the Committee of Adjustment on its activities and performance</li> </ul>