



Committee of Adjustment

Terms of Reference

Approved by Council on August 9, 2006

# The Terms of Reference

*Committee:* Committee of Adjustment

## 1. Enabling Legislation

### **VARIANCES**

Section 44 (1) of the Planning Act states:

44(1). If a municipality has passed a by-law under section 34 or a predecessor of such section, 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, as the council considers advisable. R.S.O. 1990, c. P.13, s. 44 (1).

### **CONSENTS**

Section 54 (1) of the Planning Act states:

#### **Delegation of authority to give consents**

The council of an upper-tier municipality may by by-law delegate to the council of a lower-tier municipality the authority for the giving of consents under section 53 in respect of land situate in the lower-tier municipality. 2002, c. 17, Sched. B, s. 21 (1).

#### **Delegation**

The council of a county may by by-law delegate to a municipal planning authority the authority for the giving of consents under section 53 in respect of land in a municipal planning area. 1994, c. 23, s. 33 (2).

#### **Further delegation**

Where authority is delegated to a council under subsection (1), such council may, in turn, by by-law, delegate the authority or any part of such authority, to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a committee of adjustment. R.S.O. 1990, c. P.13, s. 54 (2).

**Term of office**

The members of the committee who are not members of a municipal council shall hold office for the term of the council that appointed them and the members of the committee who are members of a municipal council (if any) shall be appointed annually pursuant to Section 44(3) of the *Planning Act*.

Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his or her term, the council shall appoint another eligible person for the unexpired portion of the term.

Town of Oakville Committee of Adjustment is composed of five Oakville residents who are appointed by Council.

The Oakville Committee of Adjustment is established by Council resolution or By-law .

## 2. Mandate

This Committee considers applications for minor variances from the Zoning By-law, applications for land division (consent to sever land), and variances to the fence by-law and any other specified by Council that implements the Official Plan. It is the responsibility of the Secretary-Treasurer and Deputy Secretary-Treasurer to accept all applications for processing, upon submission by the applicant.

Applications to the Committee of Adjustment will be processed in accordance with the requirements of Sections 45 and 53 of the *Planning Act*, applicable regulations (O.Reg. 200/96 and 197/96 as amended) the *Statutory Powers Procedures Act* and Committee of Adjustment procedure.

The Committee is authorized by the *Planning Act* to consider applications for:

- Minor variances from the provisions of the Zoning By-law
- Extensions, enlargements or variations of existing legal non-conforming uses under the Zoning By-law
- Land division (severing a new lot from an existing lot, adding land to an existing lot, easements, mortgages or leases in excess of 21 years)
- Minor variances from the provisions of the fence by-law
- Determine whether a particular use conforms with the provisions of the Zoning By-law where the uses of land, buildings or structures permitted in the by-law are defined in general terms

## Minor Variances

The Zoning By-law regulates how land and buildings are used and where buildings and structures can be located. This by-law also specifies lot sizes and dimensions, parking requirements, building heights and other regulations necessary to ensure proper and orderly development.

However, sometimes it is not possible or desirable to meet all of the requirements of the Zoning By-law. In that case, a property owner may apply for approval of a minor variance. A minor variance provides relief from a specific Zoning By-law requirement, excusing a property owner from meeting the exact requirements of the by-law.

For the Committee to approve this type of application, Section 45(1) of the *Planning Act* requires that the members must be satisfied that the application:

- Is considered to be a “minor” change from the Zoning requirements;
- Is desirable for the appropriate development or use of the land, building or structure;
- Maintains the general intent and purpose of the Official Plan; and
- Maintains the general intent and purpose of the Zoning By-law.

## Legal Non-Conforming Uses

Legal Non-Conforming Uses are uses of property that met all of the requirements of the Zoning By-law (and any other requirements) when they were established but no longer comply because the zoning requirements have changed. To ease the hardship this change could place on a property owner, the Committee can consider applications for extensions or enlargements of buildings or uses that no longer comply with the Zoning By-law as well as applications for a change from one legal non-conforming use to another use.

For the Committee to approve these types of applications, Section 45(2) of the *Planning Act* requires that the members must be satisfied that:

- The non-conforming use was officially permitted before the current Zoning By-law was approved;
- The non-conforming use has continued, uninterrupted since that time;
- The extended or enlarged building or use is located entirely within the original property limits; and
- In the case of a change in use, that the proposed use is similar to or more compatible to the new uses permitted by the Zoning By-law.

## Fence By-law

For the purposes of Committee of Adjustment the fence by-law is a by-law designated by Council that implement the Official Plan. Section 45(3) of the *Planning Act* applies with necessary modifications for the application of the four tests requirement

**Land Division**

Normally, new lots are created through approval of an application for a plan of subdivision. However, when only a small number of new lots are created and no new road is required, a full subdivision application may not be necessary. In this case, an application for “consent” to sever may be appropriate.

In evaluating applications for consent, the *Planning Act* requires that the Committee must consider:

- Conformity with the lot creation policies of the Official Plan;
- The availability of access to and frontage on a municipal road;
- The appropriateness of the size and configuration of the proposed lot for the land use;
- The adequacy of water and wastewater services;
- The location and characteristics of the property;
- The conservation and protection of natural resources and farmland; and
- The impact upon the current and future use of surrounding properties.

Applications are processed in accordance with The Planning Act, Town policies and procedures

**Alignment with Corporate Goals**

This mandate meets with the following Corporate goals:

UPDATE – ie. Principled Land Use Planning  
Quality of Life  
Community Character  
Service Delivery Excellence

**Deliverables**

The Committee of Adjustment will accomplish its mandate by:

1. Reviewing the merits of the application, the documentation and evidence put forward and rendering decisions on the application, in accordance with the requirements of the Planning Act.
2. Complying with the applicable rules, regulations and policies for the Committee of Adjustment

**Timeframe****Term of office**

The members of the committee who are not members of a municipal council shall hold office for the term of the council that appointed them and the members of the committee who are members of a municipal council (if any) shall be appointed annually.

Members of the committee shall hold office until their successors are appointed, and are eligible for reappointment, and, where a member ceases to be a member before the expiration of his or her term, the council shall appoint another eligible person for the unexpired portion of the term.

The members of the Committee of Adjustment are not subject to any limit to the number of terms which they can be appointed.

### 3. Type of Committee

- Standing Committee
- Council Sub-Committee
- Statutory Committee
- Citizen Advisory Committee
- Task Force
- Working Group
- Special Purpose Body
- External Committee

See **Committee Terms of Reference Definitions** of each type of committee.

## 4. Membership and Roles and Responsibilities

### 1. Composition

The Committee of Adjustment is composed of the following:

<b>Role</b>	<b>Member Name</b>
<b>Committee Chair</b>	1
<b>Committee Member(s)</b>	4
<b>Support Staff</b>	Secretary-Treasurer Deputy Secretary-Treasurer
<b>Departmental Representatives</b>	Planning Services Representative
<b>External Resources</b>	

### 2. Qualifications

It is desired that the Committee develop community-focused outcomes while rendering decisions in accordance with the provisions of the Planning Act. Individuals should have a demonstrated commitment and interest in the community, and the committee membership should reflect a balanced representation from the areas of planning, construction and lay people

## 5. Meeting Schedule

The Committee meets approximately twice each month to hear applications. These meetings are open to the public and anyone may attend to speak to the Committee about a particular application. The Committee members listen to submissions and discuss any issues or concerns regarding applications, prior to the Committee making a decision. In some cases, the Committee's approval comes with attached conditions.



## 6. Reporting Requirements and Method

### Specific Requirements

Notices and decisions are prepared by the Secretary Treasurer and circulated in accordance with the *Planning Act*. and copies are forwarded to Council.

Minutes are prepared and approved by the Committee.

## 7. Budget and Resources

This Committee's budget forms part of the Building Services Department Budget

### Resource Budget

The following Town of Oakville staff resources will be required for the successful operation of this Committee:

Staff Resource	Time Commitment (FTE equivalent) per meeting
Staff Secretary-Treasurer	FTE 35 hours
Staff Deputy Secretary-Treasurer	FTE 35 hours
Staff	FTE
Total	FTE 70 hours

## 8. Code of Conduct

All employees and volunteers will be guided by the Town of Oakville's Workplace Harassment, Discrimination Prevention Policy and Conflict Resolution Policy.

The policy supports a positive and respectful workplace that is free from personal harassment and workplace conflict.

Workplace conflict occurs when two or more parties have interests to some degree that are or can be perceived as being at odds which disrupts the cohesive relationships necessary for a productive and harmonious workplace.

Personal harassment is any unwelcome behavior; conduct or communications directed at an individual that is offensive to that individual. It is persistent and creates an intimidating, offensive or embarrassing work environment.

All staff and volunteers will refrain from personal harassment and workplace conflict behavior, including offensive remarks or other actions that create intimidating, hostile or humiliating working conditions under this policy.

**Conflict of interest** Committee Members are subject to *The Municipal Conflict of Interest Act*. Sections 5 and 6 of the *Act* state:

### **When present at meeting at which matter considered**

Where a member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the council or local board at which the matter is the subject of consideration, the member,

- (a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
- (b) shall not take part in the discussion of, or vote on any question in respect of the matter; and
- (c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question.

### **Where member to leave closed meeting**

Where the meeting referred to in subsection (1) is not open to the public, in addition to complying with the requirements of that subsection, the member shall forthwith leave the meeting or the part of the meeting during which the matter is under consideration.

### **When absent from meeting at which matter considered**

Where the interest of a member has not been disclosed as required by subsection (1) by reason of the member's absence from the meeting referred to therein, the member shall disclose the interest and otherwise comply with subsection (1) at the first meeting of the council or local board,

as the case may be, attended by the member after the meeting referred to in subsection (1).  
R.S.O. 1990, c. M.50, s. 5.

RECORD OF DISCLOSURE

**Disclosure to be recorded in minutes**

Every declaration of interest and the general nature thereof made under section 5 shall, where the meeting is open to the public, be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the committee or local board, as the case may be.

**Idem**

Every declaration of interest made under section 5, but not the general nature of that interest, shall, where the meeting is not open to the public, be recorded in the minutes of the next meeting that is open to the public. R.S.O. 1990, c. M.50, s. 6.

Committee members may have pecuniary conflict of interest as they have decision-making ability. Members should be cognizant of any conflict of interest or perceived conflict in terms of issues, which may serve to benefit them personally. Members shall not use their status on committees for personal or political gain.

Committee members shall have regard for the Corporate Policy addressing the use of corporate resources during an election year.

## 9. Completion Criteria

If a municipality has passed a by-law under section 34 or a predecessor of such section, 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, as the council considers advisable. The Committee is established by the desire of Council.

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## **Committee Terms of Reference Definitions**

### **1.0 PRINCIPLES**

#### **1.1 *Enabling Legislation***

Enabling legislation refers to the municipal or provincial law that governs the formation of a committee. The purpose of the committee is often defined by the legislation and/or Council resolution authorizing the creation of the committee.

#### **1.2 *Types of Committees***

##### **1.2.1. *Citizen Advisory Committees:***

These committees provide advice and recommendations to Council as requested on areas within their mandates with no authority for decision-making or independent actions. Council appoints the citizen members.

##### **1.2.2. *Council Sub-Committees:***

These sub-committees consist of Council members only, with defined scope. Council may delegate authority for decision-making on a specific project/issue.

##### **1.2.3. *Statutory Committees:***

Statutory Committees are required by Provincial legislation and perform functions as specified in the relevant legislation.

##### **1.2.4. *Task Forces:***

This type of committee's mandate is short term in nature and is established to consider a particular problem or issue. Its life span is predetermined and its mandate is more defined and very specific.

##### **1.2.5. *Working Group:***

Often a sub-committee of an existing committee, a working group is created by Council to assist in the research or review of a given item and to report back on its findings.

**1.2.6. Special Purpose Bodies:**

These groups are generally established by legislation or other means but their members are appointed by Council. They have authority to address their responsibilities as determined by the enabling legislation. In addressing their responsibilities, such groups are reliant upon funding from the Town and other sources. Generally, Special Purpose Bodies have been established to access grant monies and donations.

**1.3 Mandate:**

The mandate statement describes the committee's purpose or why it exists. The mandate shall align with Council's strategic goals and objectives.

**1.4 Committee Membership Composition:**

This section defines any specific requirements for community membership.

For example:

- Council
- The Oakville community at large
- Geographic areas of Town (if appropriate)
- Community Groups
- The Business Community
- Agencies
- School Boards

**1.5 Qualifications:**

This section defines the skills; competencies or knowledge committee members need to contribute effectively to the accomplishment of the committee's objectives. Qualifications will vary from committee to committee and from time to time depending on the needs of the committee when new members are appointed.

**1.6 Size:**

Generally, committees have a membership of five to eight members. In some cases, due to scope, additional members may be warranted. The size should allow the workload of the committee to be shared and determines quorum (50% + 1) will be met. Generally, the maximum committee size should be no greater than 15 members.

**1.7 Roles and responsibilities of Committee Members:****1.7.1. Committee Chair:**

The Chair shall be elected by a majority of committee members for a one-year term at the first meeting of each calendar year. An individual shall only act as Chair for a maximum of two consecutive years unless the committee determines otherwise with the unanimous consent of its membership.

The Chair's role is to provide guidance and leadership to the committee in the completion of its mandate.

The Chair shall ensure that decorum is maintained at each meeting and that rules of procedure and conduct are observed.

Presenting committee recommendations to the appropriate standing committee of Council is also a responsibility of the Chair

See also Rules of Procedure for Citizens' Advisory Committees for additional responsibilities of the Chair

**1.7.2. Vice Chair:**

The Vice Chair shall be elected by a majority of committee members for a one-year term at the first meeting of each calendar year.

An individual shall act as Vice Chair for a maximum of two consecutive years.

The Vice Chair acts in the Chair's absence and assumes the roles and responsibilities of the Chair

**1.7.3. Councillors:**

Members of Council are appointed to Committees to fulfill the following responsibilities:

- Act as a liaison between Council and the Committee
- Respond to Committee members' questions
- Interpret Council's directions to the committee
- Provide updates on Committee activities to Council
- Provide updates on Council activities to the Committee

**1.7.4. Committee members:**

Committee members shall:

- Contribute time, knowledge, skill and expertise to the fulfillment of the committee's mandate
- Research issues relevant to their committee's mandate as required
- Work with staff to implement Council's decisions relevant to their committee's mandate
- Commit to attending regular meetings during the year.

A member forgoes his/her place on the committee if:

- Three meetings in a row are missed
  - 50% of all meetings in a year are not attended
- unless excused by the Committee due to extenuating circumstances.

Please refer to Council Policy Statements Regarding Citizen Appointments

**1.7.5. Non-voting positions:****1.7.5.1 Administrative Support Staff:**

The administrative support staff shall:

- Distribute the agenda
- Notify members of upcoming meetings
- Address administrative duties including correspondence, reports, presentations etc.
- Record and circulate minutes
- Follow up on committee issues

**1.7.5.2 Departmental Representatives:**

- Departmental representatives shall act as subject matter experts and provide information to assist committees in reaching decisions
- Departmental representatives shall not be eligible to vote on any matter in the mandate of the committee, unless otherwise specified

**1.7.5.3 External Resources:**

These members are representatives from outside bodies with special knowledge and expertise to assist committees in their consultations and decisions making.

These are non-voting positions, unless otherwise specified.



**1.8 Reporting and making recommendations to Council:**

All minutes or reports of meetings shall be circulated to Council for information or recommended action after each meeting.

Each committee will provide an annual report at year-end to the appropriate standing committee of Council, or to a Special Committee meeting convened for that purpose, to communicate its activities in the preceding year and to set goals for the coming year. Reports in an election year will cover a shorter period of time due to fewer meetings.

Each committee will make recommendations to Council through its standing committees in response to a request from either staff or Council in the area of the Committee's mandate.

Committees may make recommendations on issues within their mandates that warrant Council's consideration.

**Deliverables**

Committee mandates and achievements shall be included in annual reports to the appropriate standing committee of Council for review.

**2.0. PROCEDURES:****2.1. Selection and Orientation:**

All committee members are selected by Council based upon the Committee recruitment process and review of applications by Council's Striking Committee.

The Clerk's Department will provide an annual committee orientation session for all selected candidates.

**2.2. Meetings:**

The number of meetings shall be sufficient to address the mandate of the committee.

Normally meetings are held once per month during the year. Committees shall confirm a regular meeting schedule at the commencement of each year agreeable to all members.

Established meeting dates and times shall not be changed unless circumstances warrant special consideration. Meetings shall commence no later than 7:30pm and shall conclude no later than 11pm.

Repeated (three or more) cancellations of meetings shall result in a review and report to Council for evaluation as to the Committee's mandate and functionality.

Some committees may determine that meetings shall not be held during July, August and possibly December to recognize holiday schedules as they relate to quorum requirements.

**2.3. Code of Conduct for Committee Members, Councillors, Staff:**

All employees and volunteers will be guided by the Town of Oakville's Workplace Harassment, Discrimination Prevention Policy and Conflict Resolution Policy and Code of Conduct.

These policies support a positive and respectful workplace that is free from personal harassment and workplace conflict.

Workplace conflict occurs when two or more parties have interests to some degree that are or can be perceived as being at odds which disrupts the cohesive relationships necessary for a productive and harmonious workplace.

Personal harassment is any unwelcome behaviour, conduct or communications directed at an individual that is offensive to that individual. It is persistent and creates an intimidating, offensive or embarrassing work environment.

All staff and volunteers will refrain from personal harassment and workplace conflict behaviour, including offensive remarks or other actions that create intimidating, hostile or humiliating working conditions under this policy.

**2.4. Conflict of interest:**

Committee members are deemed not to have pecuniary conflict of interest in that they have no decision making ability. However members should be cognizant of any perceived conflict in terms of issues which may serve to benefit them personally. Members shall not use their status on committees for personal or political gain.

Committees shall have regard for the Corporate Policy addressing the use of corporate resources during an election year.

**2.5. Benefits to the Town:**

The benefits of encouraging volunteers to assist as committee members include:

- Facilitating citizen participation in Town activities
- Stakeholder engagement
- Access to citizen knowledge and expertise which augments Council debate and decision making
- Access to community values and connections through individual viewpoints

**2.6. Benefits to members:**

The benefits to citizen volunteers while serving on committees include:

- Opportunities to contribute and give back to the community
- Opportunities to meet other citizens and increase a sense of community
- A sense of achievement when the committee accomplishes its goals and objectives

**2.7. Budget:**

Committees are not given a budget, however under special circumstances Council may approve one time expenditures to help committees achieve their goals and objectives. Any financial requirement, if applicable, should be identified prior to the approval of the annual operating budget by Council.

**2.8. Completion Date:**

To be set by Council in consultation with staff and existing committees based upon the annual review of their mandates and achievements.

For new committees, a sunset date shall be considered and set if the committee's work is expected to be completed.