

**TERMS OF REFERENCE
TOWNSHIP OF WELLESLEY
COMMITTEE OF ADJUSTMENT
PURPOSE**

This document shall constitute the terms of the reference for the Township of Wellesley Committee of Adjustment.

Committee of Adjustment is a quasi-judicial body with authority delegated to it by the Township of Wellesley, under the provisions of the Ontario Planning Act, to hold public hearings to make decisions on applications for:

- Minor variances and alterations in legal non-conforming uses
- Consents (severances)
- Fence variances

OPERATION

The Committee of Adjustment considers and may authorize minor variances from the zoning by-law, review and permit extensions and enlargements to legal non-conforming uses and can grant consent for severances. These decisions are made considering the following:

1. Applications for Minor Variances where a requirement of a Zoning Bylaw cannot be met under Sections 44 and 45 of the *Planning Act*;
 - a) Consider the following “four tests” :
 - Whether the variance is minor
 - Whether the variance is desirable for the appropriate development or use of the land
 - Whether the general intent and purpose of the Zoning By-law is maintained
 - Whether the general intent and purpose of the Official Plan is maintained.
2. Applications for permission, which deal with the enlargement or extension of a building or structure that is legally non-conforming or for a change in non-conforming use:
 - a) Extension of a non-conforming use does not need to comply with the four tests.
3. Applications for Consent to Sever a property or for any agreement, mortgage or lease that extends for more than 21 years under Section 53 of the *Planning Act*:
 - a) Must have regard to the same matters as for a Plan of Subdivision when considering an Application for Consent; Committee may impose conditions to the approval of a severance.
4. Applications for Validation of Title and Power of Sale;

5. Having regard to Provincial Policy Statements (PPS) (*the Planning Report will highlight issues or concerns regarding the PPS*);
6. Following the Statutory Powers Procedure Act (*this Act governs how the committee operates, conducts votes etc.*).

A 'notice of the decision' is circulated following the meeting and all Committee of Adjustment decisions made under the Planning Act are subject to appeal to the OMB. The Committee must also satisfy requirements concerning notice, public hearings, notice of decisions and recording of proceedings.

HEARINGS

The goal of the Committee of Adjustment is to provide for and conduct a fair hearing by:

- Allowing anyone wishing to speak to an application an opportunity to do so.
- Giving due diligence to the consideration of each application.
- Openly having all discussions about each application and making all decisions in public at the hearing.
- Making rational decisions with appropriate, well-thought-out conditions.
- Clearly stating the reasons for their decisions.

MEETING SCHEDULE & LOCATION

- Committee of Adjustment public hearings are scheduled to be held during regular Council meetings, unless directed by Council.

ORGANIZATION

Membership, Appointment, Term of Office, Quorum, Voting

- Committee of Adjustment is composed of all members of Council.
- Committee Members elect a chair and vice-chair.
- Three members constitute a quorum for consent, minor variance, legal nonconforming use and fence variance applications. Section 44(5) of the Planning Act states "that where a Committee is composed of three members, two members constitute a quorum, and where a Committee is composed of more than three members, three members constitute a quorum."
- Voting is by simple majority on the application. A tie vote means the application is refused.

QUALIFICATIONS

- An understanding of planning framework and planning instruments, including Township Official Plan, zoning by-laws and other by-laws for controlling development and planning policies in the Province of Ontario, including the Planning Act, policy statements, implementation guidelines and Provincial plans.
- Organized, available and committed to conduct site inspections of all subject properties and attend all Committee meetings and training sessions.
- Objective and have an open mind in order to fully consider the evidence

provided.

- Access to a computer and an e-mail address in order to receive and respond to Committee communications and information, including hearing and application notices and agenda packages.

DUTIES AND RESPONSIBILITIES

Chair

- Presides at all Committee of Adjustment hearings and meetings and exercises authority and performs duties as required.
- Provides guidance and leadership to the committee in the completion of its mandate.
- Ensures that decorum is maintained at each hearing and meeting and that rules of procedure and conduct are observed.

Vice Chair

- Acts in the Chair's absence and assumes the roles and responsibilities of the Chair.

All Members

- Review applications sent to them in advance of the hearing.
- Visit the site of each application prior to the hearing.
- Attend Committee of Adjustment hearings, consider applicant, agency and public comments, make decisions in public regarding applications and sign the decisions.
- Contribute time, knowledge, skill and expertise to the fulfillment of the Committee mandate.
- Are cognizant of any conflict of interest or perceived conflict in terms of issues that may serve to benefit them personally.
- Act to protect the privacy of individuals with respect to personal information contained in application forms and information circulated to the Committee and to ensure that personal information is used solely for the processing of the application.

Administrative Support Staff

Secretary-Treasurer (non-voting position)

- Responsible for all Committee of Adjustment administrative duties.
- Review all applications for processing
- Distribute the agenda
- Distribute a public notice
- Record and circulate the minutes
- Issue decisions
- Follow up on any questions and/or concerns from the Committee members and public.

Planner (non-voting position)

- Act as subject matter expert and provide information to assist the Committee of Adjustment in reaching decision.