



Township of Brock

Committee of Adjustment Terms of Reference

Number: ToR-CofA-2022
Reference: Council Resolution #C-2022-047
Date Approved: December 12, 2022
Date Revised: November 27, 2023

1. Enabling Legislation: The Planning Act

- 1.1 Section 44 – the Council of a municipality may constitute and appoint a Committee of Adjustment.
- 1.2 Section 45 – a Committee of Adjustment is empowered to grant minor variances from the Township’s Zoning By-law, and to dispense other forms of permissions, such as expanding or changing a legal non-conforming use.
- 1.3 Section 54 - The authority for the granting of consents under Section 53 with respect to land situated in the Township of Brock (i.e. to sell, sever or mortgage a portion of land; to enter into an agreement or lease for a period of 21 years or more, etc). The requirement for this consent is to ensure development occurs in a controlled and consistent manner, and that proper servicing is in place.

The Regional Municipality of Durham has delegated to Council the authority for giving consents under Section 53 of the Planning Act. Section 54 of the Planning Act, Council may in turn by Bylaw delegate the authority to grant consents to a Committee of Adjustment.

2. Mandate and Responsibilities

- 2.1 The Committee of Adjustment is established to consider and make decisions on applications for the following:
 - 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); and
 - Interpret generalized terms in the Zoning By-law.

- 2.2 In the case of minor variances and permissions under Section 45(1) and (2) of the Planning Act, the Committee must consider the applications in light of the requirements as laid in the Planning Act.
- 2.3 In the case of consents, the Committee must have regard to the matters under Section 51(24) of the Planning Act.
- 2.4 The Committee of Adjustment upon application for a variance or permission shall:
 - a) Hear presentations from property owner(s), applicants, authorized agent(s), and other interested persons including the Township or agencies;
 - b) Make a decision based on the presentations made to it including any Township staff report;
 - c) Approve with or without modifications or conditions, refuse, or table, the application.
- 2.5 Notwithstanding this policy, the Committee of Adjustment will abide any amendments to the Planning Act and Provincial regulation.

3. Term

- 3.1 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 shall be appointed annually. R.S.O. 1990, c. P.13, s. 44 (3).
- 3.2 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. R.S.O. 1990, c. P.13, s. 44 (4).

4. Composition

- 4.1 The Committee shall be comprised of five (5) residents/property owners of the Township of Brock.

5. Staff Support

- 5.1 A Secretary-Treasurer of the Committee of Adjustment will be provided for by the Township of Brock. An agenda shall be prepared for each Committee of Adjustment meeting and the Minutes of each meeting shall outline the general deliberations and specific actions and decisions that result. The Committee of Adjustment shall provide its decision on each application as required by the Planning Act. Notice of the decision must be given within 10 days of the making of the decision and will be provided to the applicant and any interested parties.

5.2 The Secretary-Treasurer will provide support services to the Committee as follows:

- a) Review all applications for processing.
- b) Distribute the electronic agenda and record minutes for each meeting.
- c) Distribute public notice as required by the *Planning Act*.
- d) Notify members of upcoming meetings & maintain a yearly schedule.
- e) Undertake administrative duties including correspondence, providing assistance to applicants, answering questions from the public.
- f) Operate and conduct livestreaming of each virtual/hybrid meeting.
- g) Issue decisions and other related notices for each application.
- h) Follow up on any questions and/or concerns from Committee members.
- i) Request and forward remuneration to the Committee members.
- j) Follow up on any conditions applied to an application and for consent applications, facilitate the associated stamping of the deed where required.

5.3 Township Planner will provide the members a report with information on each application and will provide advice to members and applicants where permissible.

6. Membership Selection Process & Qualifications

- 6.1 At the beginning of each Council term, the Township of Brock shall place an advertisement within the newspaper and on its website requesting expressions of interest from individuals who are residents of the Township of Brock.
- 6.2 Applicants shall be required to submit a written expression of interest outlining their reasons for applying and whether they have any related experience.
- 6.3 Council may also receive applications for membership and may appoint members to the Committee of Adjustment at any time throughout its term.
- 6.4 Upon receipt of applications, staff shall prepare and forward to Council for consideration during a closed session, for review of all candidates' qualifications and appointment by by-law.
- 6.5 All persons appointed to the Committee of Adjustment shall attend a mandatory Advisory Board and Committee Training prior to their first meeting.
- 6.6 All members appointed to the Committee of Adjustment shall be required to adhere to the established by-laws, policies, and procedures of the Corporation of the Township of Brock.

6.7 The following qualifications should be considered for appointing members to the Committee of Adjustment:

- a) Ability to attend evening meetings either in-person or virtually.
- b) Must have the ability to understand and apply the provisions of the Township's Official Plan and Zoning By-laws.
- c) Be impartial when fulfilling responsibilities.
- d) Ability to conduct site visits across the Township of Brock.
- e) Keen interest in the growth and development of the Township of Brock.
- f) Have experience or knowledge with land use planning, architectural design, construction, engineering, or planning law, is preferred.

7. Chair/Vice-Chair

- 7.1 A Chair, whose responsibility will be to chair the meetings in accordance with the Township's procedural by-law, shall be selected by the Committee at the start of each Council term and two years thereafter (each Chair shall be appointed for a two year period).
- 7.2 A Vice-Chair shall also be selected for the same term as the Chair and shall act as Chair when the Chair is absent or unable to fulfill his/her duties.

8. Meeting Frequency & Attendance

- 8.1 The hearing of applications is conducted once a month. However, it is understood that additional meetings may be scheduled if needed. If no applications are received by the deadline for the scheduled meeting, the Committee of Adjustment meeting will be cancelled. The date and time of the meetings will be coordinated by the Secretary-Treasurer and communicated directly to the Committee members.
- 8.2 The Committee shall meet electronically or at the Township of Brock Municipal Building, 1 Cameron Street East, Cannington. 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 making a decision. In some cases, conditions may be attached to the Committee's approval.
- 8.3 Committee members are expected to attend all meetings. Should a member be unable to attend a meeting, the member shall advise the Chair and Secretary-Treasurer, at least one business day prior to the meeting. This will assist the Chair in determining if there will be a quorum.
- 8.4 If a member is absent from three (3) consecutive regularly scheduled committee meetings (without notice), the committee may pass a resolution declaring a vacancy and requesting Council to appoint a replacement member.

8.5 All meetings of the Committee shall be open to members of the public and shall be livestreamed and recorded. The minutes of the meeting shall be the official record.

8.6 The Committee of Adjustment meeting schedule will be posted on the Township of Brock website and will be updated on an annual basis.

9. Quorum

9.1 A quorum shall consist of a simple majority of appointed voting-members.

9.2 If there is no quorum after fifteen (15) minutes of the scheduled start time, the meeting will be cancelled and/or rescheduled.

10. Budget

10.1 The Director of Development Services shall be responsible for budgeting for the honorariums for the Committee of Adjustment, which shall be submitted annually in accordance with established Township budget guidelines.

10.2 Committee members shall receive a remuneration of \$60 for attending each hearing. Mileage is paid at the Township's current rate and only applies when members conduct a site inspection for applications submitted.

11. Conflict of Interest

11.1 A conflict of interest may arise for Committee members when their personal business interests' conflict with the duties and decisions of the Committee. Municipal conflict of interest requirements as defined by the *Municipal Conflict of Interest Act* will apply to the Committee.

11.2 Members who have declared an interest on any matter may not move, participate in the discussion, or vote on the matter nor attempt to influence others on the matter.