

Committee of Adjustment  
Terms of Reference

### **1. Name**

The committee will be called the “Committee of Adjustment”.

### **2. Purpose/Mandate**

The Committee of Adjustment is a statutory tribunal with authority delegated to it by the Council of the Township of Woolwich under the provisions of the Ontario Planning Act to hold public hearings to make decisions on applications submitted to the Township of Woolwich Engineering and Planning Services Department for minor variances, alterations in legal non-conforming uses and consents for severances.

The Committee operates independently from Council and its decisions may be appealed to the Ontario Municipal Board.

The Committee of Adjustment may:

- Authorize minor variance from the provisions of the Zoning By-Law for land, buildings or structures or their use.
- Permit the enlargement or extension of an existing legal non-conforming building or structure.
- Permit the use of land, building or structure for a purpose that is similar to the existing legal non-conforming use or is more compatible with the uses permitted by the Zoning By-Law.
- Give consent to convey or divide land when a plan of subdivision is not necessary, mortgage or charge land or grant an interest in land for 21 years or more, for example by easement, right-of-way, lease, or agreements.
- Permit the use of land, building or structure for any purpose that conforms with the uses defined in general terms in the Zoning By-Law.

The Committee of Adjustment shall also serve as the Sign Variance Committee of the Township, in accordance with Sign By-law 89-2013, as amended. The Committee of Adjustment is appointed as Council’s designate for the purpose of making decisions on any applications for minor variances from the provisions of the Sign By-law, and its decisions may be appealed to Council of the Township of Woolwich.

### **3. Operation**

The Committee of Adjustment is a quasi-judicial body, somewhat court-like in its operation, charged with observance and protection of applicable planning law and also with protecting the

rights of the individuals affected by the decisions made. The common law principles of natural justice require the Committee of Adjustment to ensure that individuals affected by their decisions have their equivalent of “a day in court”. The Committee must also satisfy legal requirements concerning notice, public hearings, calling of witnesses, notices of decisions and recording of proceedings. The Committee of Adjustment is governed by procedures detailed in the Planning Act, and also by the Municipal Act, the Statutory Powers Procedure Act, the Municipal Conflict of Interest Act and the Municipal Freedom of Information and Protection of Privacy Act.

The Committee of Adjustment is guided by planning policies and controls established by the Council of the Township of Woolwich through the Official Plan, Zoning By-law and other by-laws for controlling development, the Regional Official Policies Plan of the Region of Waterloo and planning policies and legislation of the Province of Ontario, including the Planning Act, statements of Provincial interest as defined in policy statements, implementation guidelines and Provincial plans.

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.

Committee of Adjustment hearings are attended by Committee of Adjustment members, Township Planning Staff, the Secretary-Treasurer, applicants and/or their representatives and any member of the public who wishes to speak regarding an application or observe the proceedings.

#### **4. Committee Composition**

The Committee of Adjustment is composed of 5 members.

At the beginning of each term, the members of the Committee of Adjustment will appoint a chair. When the chair is absent the Committee will appoint another member as acting chair. The members may rotate through the position of chair during the appointed term.

Three members constitute a quorum.

Voting is by simple majority on the application, a tie vote means the application is refused.

### Qualifications

- A demonstrated commitment to, and interest in the community;
- An understanding of the planning framework and planning instruments, including Township of Woolwich Official Plan, Zoning By-law and other by-laws for controlling development and planning policies of the Region of Waterloo and the Province of Ontario, including the Planning Act, policy statements, implementation guidelines and Provincial plans;
- Resident of the Township of Woolwich;
- Organized, available and committed to conduct site inspections of subject properties and attend all Committee meetings;
- 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 with large text and graphics files.

### Remuneration

\$75.00 per hearing attended, consisting of \$55.00 honorarium plus \$20.00 travel allowance for site visits.

The Mayor, as an ex-officio member, may attend any meeting of the committee.

## **5. Meeting Frequency**

The Committee of Adjustment shall meet once a month. The date and time of regular meetings will be established for the following twelve months at the first meeting in the new year. For ease of planning, every attempt will be made to hold the regular meetings on a consistent day. Additional meetings may be held through a special meeting request to the Secretary-Treasurer and dependent on availability of Committee members.

## **6. Term of Office**

Applications for Committee of Adjustment appointments are requested at the beginning of the term of Council and five members are appointed by resolution of Township Council for the term of Council and may continue to serve up to six months after a new term of Council until new members are appointed.

Members of the Committee are eligible for reappointment, and where a member ceases to be a member before the expiration of their term, Council will appoint another eligible person for the unexpired portion of the term.

## 7. Meeting Procedures

Meeting minutes will be prepared by the staff support person and approved by Committee of Adjustment at the following meeting. Meeting minutes will be provided to Council for information as soon as possible following approval by Committee of Adjustment.

### 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 meeting and that rules of procedure and conduct are observed.

#### *All Members*

- Review applications sent to them in advance of the meeting;
- Visit the site of each application prior to the meeting;
- Attend the Committee of Adjustment hearings, consider applicant, agency and public comments and make decisions in public regarding applications;
- Contribute time, knowledge, skill and expertise to the fulfillment of the Committee's mandate.

### Code of Conduct

#### *Municipal Act, Planning Act, Statutory Powers Procedure Act*

Committee of Adjustment decisions will be made at a public hearing. All information pertaining to an application will be presented at the hearing and all discussion on the specifics of an application will take place at the hearing.

Closed session meetings may only be held in accordance with Section 239 of the Municipal Act.

#### *Municipal Conflict of Interest Act*

Committee of Adjustment 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.

Where a Member, either on their 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 Committee of Adjustment hearing at which the matter is considered, the Member:

- Shall, prior to any consideration of the matter at the hearing, disclose the interest and the general nature thereof;

- Shall not take part in the discussion of, or vote on any question in respect of the matter;
- Shall not attempt in any way whether before, during or after the hearing to influence the voting on any such question.

Where the interest of a Member has not been disclosed by reason of the Member's absence from the hearing, the Member shall disclose the interest, and comply with the requirements listed above, at the first Committee hearing attended by the Member after the hearing at which the matter was considered.

Every declaration of interest and the general nature thereof shall be recorded in the minutes of the meeting by the Secretary of the Committee.

#### Municipal Freedom of Information and Protection of Privacy Act

Committee of Adjustment Members will 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 purposes of processing the application.

#### Township of Woolwich Respect in the Workplace

The Township is committed to providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization. It is the Township's goal to provide a healthy and safe work environment that is free from any form of harassment or violence. All Committee of Adjustment members and employees will refrain from personal harassment and conflict behavior, including offensive remarks or other actions that create intimidating, hostile or humiliating working conditions.

#### Administrative Support Staff

##### *Secretary-Treasurer (non-voting position)*

- Responsible for all Committee of Adjustment administrative duties.

##### *Departmental Representatives / Planners (non-voting position)*

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

#### Public Hearing Process

- Call to Order
- Chair welcomes those in attendance, introduces Committee members and staff and provides an explanation of procedures:

- Everyone present will be given an opportunity to comment on the applications being heard;
- Comments and questions are to be addressed through the chair;
- Decision notice will be sent to the applicant or agent and any person who files a written request;
- Reminder of appeal period in accordance with The Planning Act;
- Pecuniary Interest of Committee of Adjustment members declared as applicable
- Discussion and Decisions on the applications presented including addressing requests for Withdrawal or Adjournment.
- Adoption of Minutes of Previous Hearing
- Adjournment of the meeting and next Committee of Adjustment Hearing Date announced

### 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, the Planning Act requires that the Members must be satisfied that the application meets all of the following four tests:

- Is considered to be a minor change from the Zoning requirements (an evaluation of impact rather than a numerical value)
- 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 Bylaw as well as applications for a change from one legal non-conforming use to another use.

For the Committee to approve this type of application, 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
- 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.

#### Consent / Severance (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.

For the Committee to approve this type of application, the Planning Act requires that the Members have regard to the following:

- Suitability of the land for the purposes for which it is to be subdivided, number, width, location, grades, elevations and adequacy of proposed roads and roads linking proposed roads with the established road system
- Dimensions and shapes of the proposed lots, restrictions or proposed restrictions on the land to be subdivided or the buildings and structures to be erected and restrictions on adjoining land
- Whether the proposal is premature or in the public interest and whether it conforms to Township and Region Official Plans
- Effect on health, safety, convenience, accessibility of persons with disabilities and welfare of present and future inhabitants of the municipality
- Conservation of natural resources and flood control in accordance with Grand River Conservation Authority requirements, adequacy of utilities, municipal services and school sites, area of land to be dedicated for public purposes, extent to which the proposal optimizes available supply, means of supplying, efficient use and conservation of energy, interrelationship between the proposal and site plan control matters relating to any development, if the land is located within a designated site plan control area.

Any application approval may be subject to such terms and conditions as the Committee considers advisable.

#### Accounting

The Committee of Adjustment budget forms part of the Engineering and Planning Services Department Budget. All financial commitments of the Committee, including provision for

## Committee of Adjustment – Terms of Reference

Committee Members to attend training, workshops and conferences, are processed through the Engineering and Planning Services Department in accordance with Township policies.

Any requests to reduce the amount of, or waive the requirement for, the payment of an application fee must be submitted for consideration of Township Council to determine if they are satisfied that it would be unreasonable to require payment in accordance with the Township of Woolwich Fees and Charges By-law.