



TO: Ward 16 Residents

**FROM: Linda McCarthy, Committee of Adjustment Consultant
 to Councillor Karen Stintz**

SUBJECT: Guide to the North York Committee Of Adjustment

Introduction:

The land use planning process in Ontario is regulated by the Province through legislation called The Planning Act. As it stands today, the Act grants the City of Toronto the ability to regulate land use through the Official Plan and Zoning By-laws. Key points in the Official Plan include protecting the physical character of Toronto's low-rise neighbourhoods, emphasizing environmentally sustainable development, design policies to guide the physical form of development and public realm improvements, seeks to ensure the social and environmental infrastructure is in place to serve Toronto's present and future residents and preserves our natural areas; landscaping, tree protection and individual lot storm water management as set out in the City's Green Development Standards.

Zoning By-laws are passed by Toronto City Council to establish certain regulations and development standards in specific zones related to specific uses. The Planning Act provides provisions to amend Zoning By-laws in site-specific areas, subject to Toronto City Council approval.

In instances where the Applicant's plan does not conform to the Zoning By-laws but the variation is considered minor, the Applicant must appear before the Committee of Adjustment for relief. Section 45 of the Planning Act cites the procedures and evaluation criteria that Committees of Adjustment must follow in making a decision.

Each Application is processed in accordance with the regulations and provisions of the Planning Act of Ontario. The Panel Members render their Decision as follows:

For Minor Variance/Permission: (Section 45 of the Planning Act) based on the following four prescribed tests:

1. The variance(s) is minor;
2. The proposal is appropriate to the land and buildings in the area;
3. The proposal maintains the general intent of Zoning Code and By-laws;
4. The proposal maintains the general intent of the Official Plan.

For Consent: (Section 51 of the Planning Act/Subdivision of Land) the criteria include:

1. The health, safety, convenience, accessibility for person with disabilities and welfare of the present and future inhabitants of the municipality;
2. Whether the proposed land division is premature or in the public interest;
3. Whether the proposed land division conforms to the official plan and adjacent plans of subdivision, if any;
4. The suitability of the land for the purposes for which it is to be subdivided;
5. The suitability of the dimensions and shapes of the proposed lots;
6. The adequacy of roads, vehicular access, parking and loading facilities;
7. The adequacy of utilities and municipal services;
8. The conservation of natural resources and flood control.

The Committee of Adjustment is a quasi judicial body, where members are appointed by Toronto City Council and have the related knowledge and expertise afforded to them by their experience.

Once appointed, Committee members are autonomous from Councillors and staff in their decision making. The purpose of this is to ensure that decisions are made on their planning merits. Applications are circulated to various City departments with an interest in the Application. Should there be any concerns regarding the Application, the Department submits a report to the Committee for review and consideration.

Ten to fifteen days before the Hearing, a Notice of Public Hearing is circulated via mail to all property owners within 60 metres (approximately 200 feet) of the subject property in order to provide an opportunity for area residents to express their opinions to the Committee by mail, fax or in person as set out in the Notice. In addition, this notice is supplemented by the requirement for the Applicant to clearly post the City's Notice of Hearing sign on the subject property a minimum of ten days before the Hearing. Failure to do so may result in deferral.

Just prior to the Hearing, the members of the Panel and their support team of Committee of Adjustment planners and the Manager and Deputy Secretary-Treasurer meet to review the Applications, the findings of their site inspections, departmental reports and any received correspondence and petitions. If you are forwarding any correspondence (i.e. letters, petitions, photographs) you wish considered by the Panel prior to the Hearing, it must be delivered to the Committee of Adjustment in advance of the day of the Hearing via mail, facsimile or in person at the North York Civic Centre as set out in the Hearing Notice. If you would like to receive a copy of the Decision, include the request in your correspondence and ensure that you have provided a complete mailing address.

The Hearing:

The North York Committee of Adjustment Hearings normally convene at 10:00 AM. They meet bi-weekly, to make decisions on Applications for 11 Wards. There are frequently more than 30 Applications on the Agenda per Hearing.

The members of the North York Panel including their appointed Chair, along with the Manager/Deputy Secretary-Treasurer and Minutes Secretary sit at the front. Each Application is

called at or close to the time stated in the Notice and/or Agenda. The Chair invites each Applicant/Agent, and members of the public who wish to speak to the Application, to come forward and take a place at the table facing the Panel. Microphones are located at the table and the speaker's podium. If the Hearing is held in the North York Council Chambers, the parties may use the speaker's podium. If the Hearing is held in the Committee Room where there is no podium, the Applicant/Agent usually sits in the centre, with others to the left or right. If you wish to speak or make your presence known when an application is called, ensure that you leave the audience area and come forward so that the Chair of the Panel sees and acknowledges you.

The Chair of the Panel will ask the Applicant/Agent if there are any changes to the originally published variance request(s) made after initial submission. This might happen as a result of last minute design changes made in response to concerns of area residents or planning staff/reports.

The Chair then asks if anyone else wishes to speak to the application; to identify themselves (name and address) and present their views in support or opposition to the Application. Groups in support or opposition might want to choose one speaker to present the views of the group. Please note that the Panel can only rule on the variances listed in the Notice and you will only have one opportunity to make your deputation. Petitions and any correspondence received prior to the Hearing from the Community have already been reviewed. Any additional exhibits can be submitted at the Hearing. It is helpful to provide 5 copies so that each Panel member has their own copy. As such this information will become part of the public record. All presentations /conversations should be directed to the Chair of the Committee; not the Applicant or other parties.

The members of the Panel may direct questions to the parties and suggest modifications to the requested variances. Variances may be modified or withdrawn by the Applicant to address concerns raised. Once satisfied that they have heard from all the parties, the Panel will "go into committee" to arrive at a Decision. No further submissions or comments can be raised by the parties.

The Panel may:

- approve the Application in total;
- modify or refuse some of the variances;
- refuse the Application;
- defer the Application possibly to allow the parties time to negotiate a resolution.

Once a decision is made by the Committee, it is Final and a Notice of Decision is mailed to all parties who requested a written copy of that decision. (Decision Request Forms/Cards are available for completion at the Hearing. You may also send a request letter to the Committee at the address on the Hearing Notice). This Notice of Decision outlines the appeal process and the last day (within the 20 calendar days of the Hearing for Minor Variance/Permissions and 20 calendar days from the date Consent decisions are mailed (usually 28 days)) to appeal the Committee's decision. The Planning Act provides through Section 45 (12), an appeal right for either the proponent of a development or any party that does not agree with the Committee's decision to the Ontario Municipal Board (OMB).

Comments:

Under the current Provincial Act, notices are only required to be circulated 10-15 days before the Hearing. We know this is a very short time frame therefore it is important that you review the Application as soon as possible after receipt, take the opportunity to review the full Application materials at the North York Civic Centre, contact the staff person referred to in the Notice with any questions you have and submit any correspondence to the Committee as soon as possible. The Committee of Adjustment and Councillor Stintz recommend that if possible, the applicant and neighbours meet prior to the Hearing to discuss any concerns the parties might have and negotiate a possible resolution of those concerns.

On behalf of Councillor Stintz' office I am available to assist you in forming your presentation and materials however the Committee of Adjustment members are autonomous from Councillors and staff in making their final decision.

If you wish, copies of your correspondence to the Committee of Adjustment can be forwarded to me via facsimile (call first 416-483-6749) or emailed to llmccarthy_assoc@sympatico.ca. I can be reached directly at 416-483-6749. If it is too late to mail it or you do not have access to a facsimile machine, you can forward it to me via email and I will fax it to the Committee of Adjustment.

Note: A wealth of planning information is available by browsing the City of Toronto's website www.toronto.ca/planning.