

Instructions to the City of Ottawa's Committee of Adjustment

Recommendations from the FCA's Committee of Adjustment Working Group to the new City Council as it re-establishes its Committee of Adjustment

Background:

The Federation of Citizens Associations (FCA) is an umbrella organization comprising of 70 citizen groups across the City of Ottawa. At its monthly meetings over the past 4 years community association members have raised concerns over the procedure and conduct of the City of Ottawa's Committee of Adjustment – a quasi-legal tribunal established by the City of Ottawa under the Planning Act to hear applications for minor variances to the Zoning Bylaw, severances & consents, permissions re. non-conforming uses, and validations of title and power-of-sale. The City's Committee of Adjustment provides notice of applications through signage and a limited mailing list, circulates applications to City staff for comment, makes application details available to the public, holds public hearings where interested parties may address the Committee panel, considers the merits of the application within the parameters of 4 legislated tests (conformity with the City's Official Plan, conformity to the intent of the City's Zoning bylaw, whether the application is good planning, and whether the application is minor), and renders a decision, which can be appealed by a participating party to the Ontario Land Tribunal, which then holds a "de novo" hearing on the application.

In response to concerns raised by FCA community groups regarding the City's Committee of Adjustment, the FCA sponsored two workshops: one in June 2022 on Best Practices at the Committee of Adjustment, where we heard from the Secretary-Treasurer of the Committee of Adjustment on the Committee's responsibilities, from a member of the Committee of Adjustment on how applications are assessed in view of the 4 tests, and from a panel of community members with experience at Committee of Adjustment hearings on what works, what doesn't in bringing forward community concerns at a Committee of Adjustment hearing regarding an application for a minor variance.

The second FCA workshop was held in October 2022 to develop recommendations for the newly-elected Ottawa City Council in re-establishing its Committee of Adjustment, to provide instructions/guidance for the Committee of Adjustment as it discharges its responsibilities. What follows are the workshop findings for the FCA to consider and transmit to the new City Council.

Workshop Findings:

Recommendations from the FCA Workshop on the Committee of Adjustment can be grouped into two parts: the first dealing directly with the Committee of Adjustment as it discharges its responsibilities, and the second with enhancing the role of the City's Planning Department as it participates in the Committee of Adjustment process.

Committee of Adjustment:

1. The Committee of Adjustment, when determining conformity of an application with the City's Official Plan, should include the relevant approved Secondary Plan as part of this process.
2. The Committee of Adjustment should provide written guidance on how it assesses whether an application is minor under the legislated 4 tests.
3. The Committee of Adjustment should adhere to the City's Infill Guidelines when assessing applications for minor variances for good and desirable planning under the legislated 4 tests.
4. The Committee of Adjustment, when assessing an application as good and desirable planning under the legislated 4 tests, should consider the impact of the application on the surrounding neighbourhood character, particularly when identified by the local community association.
5. The Committee of Adjustment should require that any amended or additional application documentation be completed and filed with the Committee of Adjustment at least a week before the hearing, so that all interested parties have access to the file documentation. When additional information is received all interested parties registered with the Committee of Adjustment should be informed. The Committee of Adjustment should not permit revised documentation from the applicant to be presented at a scheduled hearing. When there are revisions or additions to the documentation occurring less than a week before the hearing, the hearing be postponed to provide the required notice to interested parties.
6. The Committee of Adjustment, at its hearings, when seeking a response from the applicant as a result of interventions made by hearing participants, should provide the opportunity for rebuttal.
7. The Committee of Adjustment database should be user-friendly and searchable by address of application, type of application, type of relief sought – for example, by setbacks, by height, (where applicable) by heritage characteristic, (where applicable) by

trees, and by decision. Standard language should be used to support this feature to ensure consistency. As well, the QR code on the Committee of Adjustment hearing notice sign provided at the site of the application should link directly to the application file.

City of Ottawa:

1. The City of Ottawa should delegate a planner to assist community groups and residents with navigating the Committee of Adjustment process, including interpreting City policies (eg the Official Plan, Zoning Bylaw, Infill Guidelines, Tree Bylaw, etc.) and interpreting the documents filed by the applicant.
2. City Planning staff, when assessing an application filed with the Committee of Adjustment, should affirm whether or not each individual test (of the legislated 4 tests), in their opinion, has or has not been met, and provide a rationale for that opinion. This should also include the relevant Secondary Plan policies.
3. City Planning staff, when assessing an application filed with the Committee of Adjustment, should affirm whether or not the application conforms with the City's Infill Guidelines, and provide a rationale for that opinion.
4. When a Committee of Adjustment decision that has City Planning staff concurrence is appealed to the Ontario Land Tribunal, City Planning staff attend the OLT hearing to give evidence regarding their concurrence regarding the application.
5. When the Committee of Adjustment has approved an application (that is not appealed), the City's Bylaw Enforcement should ensure that the approved application is adhered to.

Conclusion:

It is important to note that community associations do not oppose *every* Committee of Adjustment application, indeed, from time to time they support a *good* application. However, a clear, understandable, complete and transparent process that provides equitable opportunity to present to the Committee of Adjustment on applications before it would help make the process for assessing minor variances more acceptable to the neighbours and community involved as well as fair to the applicant. We all know infill is going to happen – it has been happening in Ottawa for decades – but we want it done right. We believe that City Council has the opportunity to provide guidance/instructions to improve the Committee of Adjustment process, to the benefit of all involved.