



Terms of Reference

Committee of Adjustment

1. Name

The name shall be the Committee of Adjustment (COA).

2. Definitions

In these Terms of Reference, unless the context requires otherwise:

“Act” means the Planning Act, RSO 1990, as amended or superseded.

“Chair” means the Chair of the Committee of Adjustment elected by Members of the Committee at a General Meeting of the Committee.

“Meeting Chair” means a member of the Committee responsible for the conduct of a meeting to consider an application.

“Committee” means the persons appointed by the Council of the Town of Grimsby to the Committee of Adjustment pursuant to the provisions of the Act.

“Council” means the Council of the Town of Grimsby.

“Meeting” means any Meeting of the Committee of Adjustment held in accordance with the provisions of this Procedural By-law.

“Member” means a Member of the Committee of Adjustment as appointed by Council.

“Motion” means a question or proposal to be considered by the Committee of Adjustment and which is moved and seconded and is subject to debate. When a Motion is adopted, it becomes a Resolution.

“Resolution” means a motion, moved by a Member and seconded by another Member, and is the formal expression of opinion, decision or intention by the Committee.

“Vice-Chair” means the Member appointed as Vice-Chair the Committee by Members.

“Secretary-Treasurer” means the Secretary-Treasurer of the Committee.

“Acting Secretary-Treasurer” means the Assistant Secretary-Treasurer of the Committee, and who is responsible for the duties of the Secretary-Treasurer in the absence of the Secretary-Treasurer.

“Municipality” means the Town of Grimsby.

3. Purpose & Mandate

Council has constituted a Committee of Adjustment by By-Law 23-19 adopted on March 6, 2023. The Committee is a statutory tribunal which operates independently from Council. Authority is delegated to the Committee to Council, under the provisions of the Planning Act, RSO 1990 c. P. 13, and the Building Code Act, RSO 1992 c. 23 to hold public hearings for the purposes of making decisions for Minor Variances, Consents, extensions and enlargements of legal non-conforming uses/buildings/structures, and Property Standard Order Appeals. The Committee is governed by procedures detailed in the Planning Act.

4. Authority

The Committee has, in accordance with the provisions of the Planning Act, the authority to do the following:

- a) Authorize minor variances from the provisions of a by-law, in respect of the land, building or structure (Subsection 45(1));
- b) Authorize the enlargement or extension of a building or structure (Subsection 45(2)(i));
- c) Authorize use of land, building or structure for a purpose that is similar to the purpose for which it was used on the day a by-law was passed or is more compatible with the uses permitted by by-law than the purpose for which it was used on the day the by-law was passed (Subsection 45(2)(ii));
- d) Authorize consents (Section 53);
- e) Issue a Certificate of Cancellation (Subsection 53(45));
- f) Issue a Certificate of Validation (Section 57).

5. Property Standards Committee

The Committee of Adjustment shall be appointed as the Property Standards Committee for the Town of Grimsby. Members of the Committee shall hold office for the Term of Council and shall hold office until members of Council appoint new members.

When a member ceases to be a member before the expiration of the term, Council shall appoint another person for the expired portion of the term.

A member of Council or an Employee of the Municipality is not eligible to be a member of the Committee, but a teacher employed by a Board of Education or School Board is not deemed to be an 'Employee' for the purpose of this section.

The Members of the Committee shall be paid such compensation as the Council may provide.

The Members of the Committee shall elect one of themselves as Chair, and when the Chair is absent through illness or otherwise, the Committee may appoint another member to act as Chair pro tempore and shall make provision for a Secretary for the Committee and any Member of the Committee may administer oaths.

The Secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the Committee and Section 74 of the Municipal Act applies mutatis mutandis to such documents.

A majority of the Committee constitutes a quorum and the Committee may adopt its own rules of procedure but before hearing an appeal under Sub-section 7.8.1 shall give notice or direct that notice be given of such hearing to such persons as the Committee considers should receive such notice.

6. Composition and Term

The Committee of Adjustment shall be composed of not fewer than five (5) members appointed by the Council. Members shall hold office for the term of Council (Subsection 44(1)), or until their successors are appointed (Subsection 44 (3)). Where a member ceases to be a Member before his or her term expires, Council shall appoint another eligible individual for the unexpired portion of the term (Subsection 44 (4)). Subject to quorum, a vacancy, absence, or member inability, in the membership does not impair the powers of the Committee or of the remaining Members (Subsection 44 (6)).

The members of the committee shall hold office for the term of the Council that appointed them (Section 44 (3)).

Member recruitment shall be completed in accordance with By-law 18-91.

7. Roles and Responsibilities

Election of the Chair and Vice-Chair

The Members shall elect one of themselves as Chair from among its voting members (Subsection 44 (7)). The Members shall elect one of themselves as Vice-Chair from among its voting Members. When the Chair and Vice-Chair are absent through illness or otherwise, the Committee may appoint another member to act as Acting Chair (Subsection 44 (7)).

The Chair and Vice-Chair shall hold the appointed position for the term of Council.

a) Chair

The Chair shall be counted in determining a quorum and shall be entitled to all the rights of a Member on the Committee, including voting. It is the duty of the Chair to carry out the following responsibilities:

- To open the Committee Meeting by taking the Chair and calling the meeting to order;
- To announce the business before the Committee in the order in which it is to be acted on;
- To recognize any Member who wishes to speak and to determine the order of the speakers;
- To put to vote all questions which are regularly moved or necessarily arise in the course of the proceedings to announce the results;
- To participate as active and voting member, encouraging active participation by all Members;
- To decline to put vote motions which contravene the provisions of the Town of Grimsby Simplified Procedures;
- To enforce the provisions of the Simplified Procedures;
- To enforce on all occasions, the observance of order and decorum among the Members;
- To call by name, any Member refusing to comply with the Simplified Procedures and to order the Member to vacate the place of Meeting;
- To rule on any points of order raised by Members; and
- To adjourn the Meeting when the business is concluded;

b) Vice-Chair

It is the duty of the Vice-Chair to carry out the duties of the Chair, when notice has been provided that he/she will be absent from the Committee meeting, or if he/she declares a conflict of pecuniary interest.

When in this capacity, the Vice-Chair may exercise all the rights, powers and authorities of the Chair.

c) Committee Members

It is the duty of Committee members to carry out the following responsibilities:

- To understand their role and expectations, including all applicable Town policies;
- To work in accordance to the Act;
- To apply and respect the rules of procedure;
- To attend all scheduled Committee meetings, sending regrets otherwise;
- To follow the agenda and stay focused on the topic at hand;
- Contribute their time, knowledge, skill, and expertise to fulfill the Committee's mandate;
- Review all applications in advance of the Meeting;
- Conduct site visits for each application in advance of the Meeting;
- Consider comments provided from applicant, commenting agencies, and members of the public;
- To respect confidential information; and
- To vote on business except when not permitted to by law.

d) Secretary-Treasurer

The Secretary-Treasurer shall keep on file the minutes and record of all applications and the decisions thereon and of all other official business of the Committee, and Section 253 of the Municipal Act, 2001 applies with necessary modifications to such documents (Subsection 44(10)). A copy of the minutes is to be circulated to the Director of Planning and Building Department, the Regional Planning and Development Department, if the Region has planning responsibilities, and the Committee of Adjustment, and others required to be notified pursuant to the regulations under the Act.

The Secretary-Treasurer shall perform all administrative duties related to the Committee of Adjustment, including, but not limited to, processing of all applications before and after decision, and forwarding appeals to Ontario Land Tribunal.

The Secretary-Treasurer may at any time and without prior notice to the parties correct a technical or typographical error, error of calculation or similar minor error made in the minutes or in a decision.

e) Staff

Planning Department staff will facilitate and coordinate the activities of Committee of Adjustment and provide guidance and advice on matters of governance, legislation and operational policies and procedures in conjunction to objectives set out in the Committee's Terms of Reference and related initiatives, as required. Planning Department will provide a Planning Report for each application brought forward to the Committee.

8. Agendas

The agenda for each Committee of Adjustment meeting will be posted to the Town's website no later than forty-eight (48) hours prior to the meeting.

9. Minutes and Reporting

Committee of Adjustment minutes will be provided to Council to be received for information.

10. Meetings

Meetings will take place monthly, and where possible, meetings will be scheduled at a consistent date and time

11. Calling of Meetings

All meetings of the Committee shall be called by the Secretary-Treasurer, or the Chair of the Committee.

12. Notice

- a) The Notice of Hearing to be considered at a meeting shall be given in a manner that the Committee deems appropriate in accordance with the provisions of the Act as amended by any regulations passed thereunder.
- b) The Secretary-Treasurer of the Committee shall send Notices of Hearing, Notices of Decision, and change of conditions by the Committee, notice of meeting cancellation and rescheduling to the Clerk of the Municipality and unless otherwise notified.

13. Cancellation of Meetings

In consultation with the Chair or Vice-Chair, the Secretary-Treasurer may cancel or reschedule a meeting if there are no applications to be heard at the scheduled meeting.

14. Location of Meetings

Meetings may be held electronically in accordance with the electronic participation rules outlined in Procedure By-law 20-65. In person attendees shall attend at Town Hall

15. Application Information/Draft Conditions

An application information packet shall be provided by the Secretary-Treasurer or designate, at the meeting, for the use of applicants, authorized agents, applicant's representatives, Committee Members, and anyone having an interest in an application. A copy of the proposed draft conditions shall be available at the meeting for the applicant or the authorized agent or the applicant's representative.

16. Meeting Procedures

In addition to complying with the requirements in the Terms of Reference, the Committee shall comply with such rules of procedure as are prescribed, if any (Subsection 44 (11) and Subsection 53(9)) or as may otherwise be required in accordance with the Act.

- a) The meeting shall be called to order by the Meeting Chair of the Meeting.
- b) The Secretary-Treasurer or designate shall call for any requests for deferral of an application or for any request for withdrawal of an application.
 - a. A request for deferral of an application to a later meeting date must be for reasonable cause. The Committee shall set a new date for the consideration of the deferred application and shall indicate any other requirements or conditions for deferral, such as re-notification, payment of a rescheduling fee, amendment, or additional required information

- c) The Secretary-Treasurer shall call each application in an order determined by the agenda or in an order determined by the Meeting Chair and/or the Committee.
- d) The Meeting Chair shall ask that the Secretary-Treasurer read all comments received from agencies, residents, and others who responded to the circulation of the Notice of Hearing. The Secretary-Treasurer, at the discretion of the Meeting Chair, shall read aloud letters received from any persons expressing an interest in the application. At the discretion of the Meeting Chair, the Secretary-Treasurer may summarize the nature of the interest(s)/concern(s) being expressed.
- e) The Meeting Chair shall ask the applicant, authorized agent, or the applicant's representative to introduce themselves and present the application. A time limit may be imposed at the discretion of the Meeting Chair.
- f) The Committee Members, through the Meeting Chair, may ask questions of the applicant, authorized agent, or applicant's representative at this time. Questions may be asked during the presentation, however, typically questions are put forward by the members of the Committee at the conclusion of the presentation.
- g) The Meeting Chair shall invite anyone else having an interest(s)/concern(s) with respect to the application to come forward, state their name and address, and advise the Committee of their position. The Committee Members, through the Meeting Chair, may ask questions of those parties expressing an interest(s)/concern(s).
- h) The Meeting Chair shall ask the Secretary-Treasurer to read the proposed draft conditions, and at the conclusion of the reading, the Meeting Chair shall ask the applicant, authorized agent, or applicant's representative whether or not he/she is able to indicate consent to the imposition of the conditions should the application be favourably considered.
- i) The Committee shall give the applicant, authorized agent, or applicant's representative the opportunity to respond to any comments received from commenting agencies or interested parties.
- j) The Committee Members, through the Meeting Chair, may ask additional questions at this time.
- k) After having considered the issues raised by the applicant, authorized agent, applicant's representative, any respondents and the evidence being heard at the meeting by the Committee, the Meeting Chair shall ask the Committee Members for a motion with respect to the disposition of the application. The Meeting Chair, upon receipt of a motion from a Committee Member, shall ask for a seconder to the motion. The Meeting Chair shall call for the vote on the motion openly and individually and the Meeting Chair shall announce, at the meeting, the decision of the Committee. The Meeting Chair shall cast a vote on the motion. A Committee

Member abstaining from the vote shall be deemed to have voted in the negative. In instance of a tie, the motion is defeated.

l) The Committee Members concurring in the decision of the Committee shall sign the decision at the Meeting.

17. Quorum

Quorum will be a simple majority of members.

Three (3) members shall constitute a quorum for the five (5) member Committee (Subsection 44 (4)).

If quorum is not achieved at the scheduled meeting fifteen (15) minutes after the scheduled commencement time, the meeting will stand adjourned until the next regular scheduled meeting. If quorum is lost during a meeting, the Chair will call for a recess for a period of fifteen (15) minutes, or until quorum is present. If quorum is not achieved after fifteen (15) minutes, the meeting will stand adjourned.

If quorum is not achieved or is lost, any business requiring a vote will be deferred to the next scheduled meeting.

Any meeting which has not achieved quorum will still publish a set of minutes which simply reflects Members' attendance and absence.

18. Conflict of Interest

Members are expected to follow the Municipal Conflict of Interest Act, R.S.O. 1990, c. M. 50, ("MCIA") as amended, and to undertake their responsibilities on an impartial and objective basis. Members will not participate in any decision or recommendation in which they or their immediate family has any financial interest except an interest in common with electors generally, as that is defined in the MCIA.

19. Code of Conduct

Committee of Adjustment members are required to act in accordance with the Town of Grimsby's Simplified Procedures, Code of Conduct, Municipal Conflict of Interests Act, and any other application legislation or policies and procedures established by the Town of Grimsby.

20. Remuneration

The Committee Member shall be paid such compensation as the Council may provide, if any (Subsection 44 (9)).

21. Review

The Terms of Reference will be reviewed, revised (if necessary) by the Committee once per term or as needed.