

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF NOVEMBER 29, 2022

Item 14, Report No. 38, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on November 29, 2022.

14. UPDATES TO COMMITTEE OF ADJUSTMENT PROCEDURE BY-LAW AND TERMS OF REFERENCE

The Committee of the Whole recommends approval of the recommendation contained in the report of the Deputy City Manager, Legal and Administrative Services & City Solicitor, dated November 22, 2022:

Recommendation

That a by-law be enacted to update procedures and implement a new Terms of Reference (as attached in Attachment #1) for the City of Vaughan Committee of Adjustment.

Committee of the Whole (1) Report

DATE: Tuesday, November 22, 2022

WARD(S): ALL

**TITLE: UPDATES TO COMMITTEE OF ADJUSTMENT PROCEDURE
BY-LAW AND TERMS OF REFERENCE**

FROM:

Wendy Law, Deputy City Manager, Legal and Administrative Services & City Solicitor

ACTION: DECISION

Purpose

To seek Committee approval for amendments to Committee of Adjustment Procedure By-law 069-2019 to allow for updates to facilitate electronic participation, Indigenous Land Acknowledgement, approval of items that do not require separate discussion; and to implement a new Terms of Reference for Committee Members.

Report Highlights

- The first electronic Committee of Adjustment meeting took place on June 11, 2020, during the COVID-19 pandemic, through the use of Microsoft Teams and the Council Chamber audio / visual system.
- On June 21, 2022, Council adopted an Indigenous Land Acknowledgement.
- Committee of Adjustment has conducted electronic meetings since June 2020 and is currently using a hybrid model to facilitate both electronic and in-person attendance.
- To expedite large agendas, the Committee has adopted a process to approve items not requiring separate discussion.
- The proposed Terms of Reference supplements Procedure By-law 069-2019 by providing further details on the mandate, enabling legislation, appointment/recruitment process, meetings, qualifications, member, chair and secretary treasurer responsibilities and guidelines regarding electronic participation and best practices.

Recommendation

1. That a by-law be enacted to update procedures and implement a new Terms of Reference (as attached in Attachment #1) for the City of Vaughan Committee of Adjustment.

Background

By-law 069-2019, approved by Council on May 14, 2019, established the principles and rules to be used for meetings of the Committee of Adjustment. The By-law improves the quality of public administration by providing a governance structure to guide staff and citizen appointees in the execution of their statutory duties. The by-law also reduces the likelihood of procedural errors and establishes a consistent process to be observed in all proceedings of the Committee. The amendments proposed in this report continue to build upon the governance model established by the procedure by-law.

Previous Reports/Authority

[PROCEDURAL BY-LAW FOR THE CITY OF VAUGHAN COMMITTEE OF ADJUSTMENT \(Authorized by Item No. 11 of Report No. 14 of the Committee of the Whole Adopted by Vaughan City Council on May 1, 2019\).](#)

[ELECTRONIC MEETINGS FOR STATUTORY AND AD HOC COMMITTEES \(Authorized by Item No. 3 of Report No. 16 of the Special Committee of the Whole Adopted by Vaughan City Council on April 8, 2020\).](#)

Committee of Adjustment has been established by Council pursuant to the *Planning Act*, R.S.O. 1990, c.P. 13 (the 'Planning Act'), as amended;

The *Municipal Act*, 2001, S.O. 2001, c. 25 requires that every municipality and local board shall pass a procedure by-law for governing the calling, place, and proceedings of Meetings;

Analysis

Electronic Meetings & Chair Participation

On April 8, 2020, Council approved an amendment to Procedure By-law 7-2011 (By-law 039-2020) to allow for electronic participation by Members of statutory, ad hoc and subcommittees, in response to *Bill 187, Municipal Emergency Act, 2020*, during the Novel Coronavirus (COVID-19) pandemic.

The first electronic Committee of Adjustment meeting took place on June 11, 2020, through the use of teleconference software and the Council Chamber audio / visual system. Internal procedures have also been established to effectively administer electronic meetings.

The Committee and staff now have significant experience with electronic meetings. There have now been over 40 electronic meetings, whereby members, staff, applicants and the public have become comfortable making use of the technology to conduct these meetings.

Since the reopening of City Hall to the public on May 1, 2022, meetings continue to operate using a hybrid model, whereby members, staff, applicants, and the public have the option of participating in-person or electronically. The use of hybrid meetings has proven to be effective by allowing flexibility to participate electronically when in-person attendance is not possible.

Since the inception of electronic meetings, the chair of the Committee has been physically present in order to effectively guide the meeting. If the chair was unable to physically attend the meeting, the Vice Chair or their substitute determined in accordance with Section 3.9 of the Procedure By-law would act as chair.

Indigenous Land Acknowledgement

On June 21, 2022, Council adopted the following Indigenous Land Acknowledgement:

“We respectfully acknowledge that the City of Vaughan is situated in the Territory and Treaty 13 lands of the Mississaugas of the Credit First Nation. We also recognize the traditional territory of the Huron-Wendat and the Haudenosaunee. The City of Vaughan is currently home to many First Nations, Métis and Inuit people today. As representatives of the people of the City of Vaughan, we are grateful to have the opportunity to work and live in this territory.”

The Committee of Adjustment has incorporated the above Acknowledgment, to be read by the chair at the start of every hearing as required by the City’s Procedure By-law

Approval of Items not Requiring Separate Discussion

To expedite agendas in a timely manner, at the commencement of the meeting, the Committee currently conducts an analysis of items that **do not** require discussion and approves these items in a single motion at the start of hearing.

Items that **do not** require separate discussion must meet the following criteria to be included in a single motion:

- a) A Zoning Review has been completed, based on the Applicant’s submission materials, confirming conformity with the Zoning By-law;
- b) Formal comments have been provided by Development Planning Department and Development Engineering Department recommending approval of the Application;
- c) Staff and agency comments received by the Committee recommend approval of the Application;
- d) The Application has not been previously adjourned by the Committee;

- e) There are no public written submissions in objection to the proposal; and
- f) There are no Member, staff, applicant or public requests to speak on the Application.

To capture all requests to speak on an application, the Chair confirms with the Secretary Treasurer that there are no Member, staff, applicant or public requests to speak. Public requests are captured through an established registration process whereby Members of the public participating in a meeting *electronically* are required to register by noon on the last business day prior to the scheduled hearing. This deadline is to ensure that those participating electronically receive the required call-in details prior to the meeting. Registration for in person attendance can be done in advance of the hearing or in person prior to the start of the hearing.

Before a motion can be made to approve items that **do not** require separate discussion, the Chair must first confirm all items that **do** require separate discussion with the Secretary Treasurer.

Terms of Reference

The intent of the Terms of Reference is to supplement Procedure By-law 069-2019, as amended by providing further details on the mandate, enabling legislation, appointment/recruitment process, meetings, qualifications, member, chair and secretary treasurer responsibilities and guidelines regarding electronic participation and best practices.

At the beginning of each term of Council, appointments are made to a number of Boards and Committees including the Committee of Adjustment. Currently, to be eligible for appointment to the Committee, an applicant must:

- 18 years of age or over;
- a Canadian Citizen;
- a resident of the City of Vaughan; and
- not be employed by the municipality.

Currently, there no recommended qualifications to be a member of the Committee.

The Committee, while operating as a Local Board, is considered a quasi-judicial body tasked with adjudicating a statutory process that involves the approval of minor development proposals within the City. Considering this, it is recommended that appointed members have a sound understanding of the process and legislation that governs their role, which includes the *Planning Act*, the *Statutory Powers and Procedure Act* (SPPA) and the *Municipal Conflict of Interest Act* (MCIA). Members should also be able to apply the Principles of Natural Justice, to ensure that an applicant receives a fair and unbiased hearing before a decision is made that will affect them.

It is further recommended that candidates demonstrate the following qualifications for Council consideration during the recruitment process, through the submission of an application form:

- a strong interest in the complexities and challenges of city building;
- an understanding of the diverse neighbourhoods and communities across the City;
- have knowledge in one or more areas of law, planning, architecture, government, economic development, community development, land development, urban forestry and environmental planning or citizen engagement and advocacy;
- demonstrate decision-making, communication and mediation skills to facilitate an open and fair hearing process whereby members are impartial when fulfilling responsibilities;
- adjudication experience and administrative public speaking and organizational skills to be able to chair public hearings and maintain order in conflict situations;
- access to a computer and an e-mail address to receive and respond to Committee communications and information, including hearing and application notices and agenda packages with large text and graphics files;
- ability to attend evening meetings; and
- ability to conduct site visits across the City of Vaughan.

Established Terms of Reference for the City of Toronto, City of Brampton, City of Oakville, Town of Newmarket, Town of Whitchurch Stouffville, Town of Whitby and Town of Ajax Committee of Adjustment were reviewed to gain insight on established practices for the appointment/recruitment process and member qualifications.

Financial Impact

There are no financial impacts associated with this report.

Broader Regional Impacts/Considerations

There are no regional impacts/considerations.

Conclusion

An amending by-law and Terms of Reference is being proposed to support local governance, compliance with applicable legislation and to promote consistency in the performance of statutory duties.

For more information, please contact: Christine Vigneault, Manager of Development Services & Secretary Treasurer to the Committee of Adjustment x 8332.

Attachments

1. Terms of Reference for the City of Vaughan Committee of Adjustment

Prepared by

Christine Vigneault, Manager of Development Services & Secretary Treasurer to the Committee of Adjustment

Approved by

A handwritten signature in black ink, appearing to read "Wendy Law".

Wendy Law,
Deputy City Manager, Legal and
Administrative Services & City Solicitor

Reviewed by

A handwritten signature in black ink, appearing to read "Nick Spensieri".

Nick Spensieri, City Manager

Committee of Adjustment - Terms of Reference

1.0 Mandate

The Committee of Adjustment (the 'Committee') is an administrative, statutory tribunal which operates independently and is autonomous from City Council.

It derives its jurisdiction and authority from the [Planning Act, R.S.O. 1990, c. P.13 \(the 'Planning Act'\)](#), which enables City Council to establish one. The Committee of Adjustment is enabled by the [Procedure By-law 069-2019](#) and is governed by the within Terms of Reference, which are approved by Council.

Specifically, the Committee of Adjustment is intended to hold public hearings for the purposes considering and making decisions with respect to:

- Minor Variances from the provisions of the Zoning By-law;
- Permissions, which include with enlargements or extensions of a structure that may be legally non-conforming, or a change in non-conforming use;
- Consents; and
- Validation of Title and Power of Sale.

The Committee of Adjustment and its application process is separate and distinct from other municipal development approval processes (i.e., Building Code). These processes may run concurrently.

2.0 Enabling Legislation: The Planning Act

Section 44: The Council of a municipality may constitute and appoint a Committee of Adjustment.

Section 45: A Committee of Adjustment is empowered to grant minor variances from the City of Vaughan's Zoning Bylaw, and to dispense other forms of permissions, such as expanding or changing a legal non-conforming use.

Section 54: The authority for the granting of consents under Section 53 with respect to land situated in the City of Vaughan (ie, 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 York 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 By-law delegate the authority to grant consents to a Committee of Adjustment.

3.0 Appointment Process/Recruitment

The appointment of Committee Members shall be held after the municipal election in accordance with the City's Corporate Policy for Council-Appointed Committees. One information session is to be held prior to the appointment process. This session shall provide the public and potential applicants with the information regarding the mandate and responsibilities of the Committee, the governance structure and the various roles on the Committee.

4.0 Recommended Term Limits

Members of the Committee of Adjustment are appointed for a four (4) year term that corresponds with the term of Council. Members of the Committee shall hold office until their successors are appointed or are eligible for reappointment.

To facilitate good governance and succession planning, it is recommended that a Member not exceed three (3) consecutive terms.

Where a member ceases to be a member before the expiration of their term, Council shall appoint another eligible person for the unexpired portion of the term.

5.0 Meetings

Meetings are governed by Part 3 of the Procedure By-law 069-2019. Members of the Committee shall be scheduled to attend meetings by the Secretary Treasurer. To facilitate quorum, no fewer than three members shall be in attendance at each meeting.

Frequency of meetings shall be held at the discretion of the Secretary Treasurer. An annual schedule of meetings shall be provided by January 1 each year, which may be amended as required to facilitate business requirements in accordance with applicable legislation.

6.0 Qualifications

Consideration shall be given to inclusion of the following qualifications during the appointment process:

- a strong interest in the complexities and challenges of city building;
- an understanding of the diverse neighbourhoods and communities across the City;
- knowledge in one or more areas of law, planning, architecture, government, economic development, community development, land development, urban forestry and environmental planning, or citizen engagement and advocacy;
- demonstrated decision-making, communication and mediation skills to facilitate an open and fair hearing process whereby members are impartial when fulfilling responsibilities;
- adjudication experience and administrative public speaking and organizational skills to be able to chair public hearings and maintain order in conflict situations;
- Access to a computer and an e-mail address to receive and respond to Committee communications and information, including hearing and application notices and agenda packages with large text and graphics files;
- Ability to attend evening meetings; and
- Ability to conduct site visits across the City of Vaughan.

7.0 Responsibilities of Members

The Members shall :

- Operate under the City's Procedural By-law; as well as other City policies and procedures where applicable;
- Adhere to the Municipal Conflict of Interest Act and clearly identify any items of pecuniary interest before they are discussed and refrain from discussing and voting on same;
- Perform duties in a manner that maintains and enhances public confidence in the integrity, objectivity and impartiality of the City;
- Be professional, courteous and respectful with other members, Council, administration and the general public. In doing so will not publicly criticize Elected Officials, administration or other members;
- Maintain confidentiality when necessary, and ensure personal information controlled by the City is used or disclosed in compliance with the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA);
- Strive to attend all scheduled meetings and advise in advance when unable to attend (to determine if there is going to be a quorum);
- Prepare for meetings by reading agendas and any background information supplied and by actively participating in the discussion and decision making process;
- Undertake any work assigned, including site visits and research, between meetings;
- Respect that actions taken and/or recommendations shall reflect the majority view of the committee.

8.0 Responsibilities of Chair

The responsibilities of the Chair shall include:

- Facilitate the meeting by identifying the order of proceedings and speakers according to the published agenda or as modified during the hearing;
- Maintain decorum and ensure fairness and accountability;
- Generally, refrain from participation in the discussion until all members have had an opportunity to speak to the matter;
- Refrain from making decisions. The Chair can only run a meeting in a fair and efficient manner when the will of the majority prevails after the minority has had a fair chance to present its point of view; and
- Represent the views of the committee and not personal views.
- Attend meetings in person to facilitate Hybrid meetings. In the event that the Chair cannot attend the meeting in person, the Vice Chair is to attend in person.

9.0 Responsibilities of the Secretary Treasurer

The responsibilities of the Secretary Treasurer shall include:

- Facilitate the Committee of Adjustment process by ensuring that all regulations under the Ontario Planning Act are adhered to;
- Prepare for the provision of notices of applications/decisions, minute taking, issuance of certificates and ensuring that all municipal procedural matters are complied with during Committee of Adjustment meetings;

- Provide guidance and advice and remain impartial during discussions of committee matters with all members;
- Prepare any necessary reports for Council's consideration; and
- Ensure that any recommendations proposed by the committee do not contradict the City's budget, by-laws or policies and procedures.

10 .0 Guidelines Regarding Electronic Participation & Best Practices

- Test technology and internet connection prior to the hearing;
- Ensure that background is professional and work appropriate;
- Speak to the camera not the screen;
- Dress appropriately;
- After joining the meeting, be aware that the Meeting is now in a public forum, govern discussion accordingly;
- Limit other household members from being visible on the screen during the Meeting;
- After speaking upon entry, remain on mute until the Meeting begins;
- Don't interrupt other people, where possible, please raise electronic hand to indicate when you want to speak on a matter;
- Don't multitask during the meeting, be present and focused on subject matter being discussed;
- Speak clearly; and
- Where possible, use a headset to block out background noise.