



## **South Huron Committee of Adjustment Terms of Reference**

### **1. Purpose of the Committee**

The Committee of Adjustment (COA) is a statutory tribunal with authority delegated to it by the Council of the Municipality of South Huron under the provisions of the Ontario Planning Act to hold public hearings to make decisions on minor variance applications submitted, pursuant to section 45 of the Planning Act.

The Committee operates independently from Council and its decisions may be appealed to the Local Planning Appeal Tribunal (LPAT).

### **2. Operation**

The Committee of Adjustment is a quasi-judicial body charged with observance and protection of applicable planning law and also with protecting the rights of the individuals affected by the decisions made. 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, the Municipal Freedom of Information and Protection of Privacy Act, the Provincial Policy Statement, the South Huron Official Plan, the Zoning by-law of the Municipality of South Huron and the Committee Terms of Reference.

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, 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.

### **3. Membership Composition, Term and Responsibilities**

The Committee of Adjustment will be composed of three voting members consisting of 3 members of Council.

The Council shall appoint all Committee members by By-law and the members of Council appointed to the Committee shall be appointed annually. Annually, the Committee shall elect a Chair and Vice-Chair from the appointees.



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There shall be no discussion amongst COA Members regarding an application prior to the hearing.

### **Quorum and Voting**

Two members constitute a quorum. Voting is by simple majority on the application, a tie vote means the application is refused.

### **Vacancy**

Subject to quorum, a vacancy in the membership or the absence or inability of a member to act does not impair the powers of the Committee or of the remaining Members of the Committee.

### **Chair**

The members shall elect one of themselves as Chair, who shall hold the position until a successor is elected. When the Chair is absent, the Committee shall appoint another Member to sit as acting Chair.

The COA Chair shall maintain decorum of hearings to ensure a fair hearing for all minor variance applications. Comments from COA Members, Applicant and Public shall be directed through the Chair and COA Members shall conduct themselves with professional integrity and respect.

### **Secretary-Treasurer**

The Secretary-Treasurer to the Committee is the Municipal Clerk or designate. The Planner assigned to South Huron will provide a planning report to the Committee for every minor variance application brought forward to the Committee.

The Secretary-Treasurer of the Committee or designate, as the case may be, with the assistance of the Planning staff, shall perform all administrative duties related to the referral of all Applications for Variance to the Committee, the processing of all Applications for Variance, both before and after decision, and the forwarding of appeals to the Local Planning Appeal Tribunal.

### **Site Visits**

Following an application by an applicant/agent, for any land, building or structure located within the Municipality of South Huron, but prior to the Hearing where the application shall be considered by the Committee, the Members may conduct individual site visits.

During site visits, Members shall not discuss with the applicant or other interested individuals, any of the merits of the application or any issue or matter in connection with the application to be decided by the Committee.

## **4. Meeting Schedule and Location**



## **South Huron Committee of Adjustment Terms of Reference**

The Committee shall meet at 5:00 p.m. on the first and third Monday of the month, as-needed to address minor variance applications pursuant to section 45 of the Planning Act. For ease of planning, every attempt will be made to hold the 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.

The Committee of Adjustment meetings take place in Council Chambers at the Municipality of South Huron, 322 Main Street S, Exeter ON.

### **5. 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.
- Adjournment of the meeting

The COA shall ensure that all stakeholders are provided with information and an opportunity for input.

### **6. Decisions**

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.

Reasons for approval or denial shall be included in the COA decisions, including how public input impacted the decision and the decisions shall include appropriate and enforceable conditions.



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The COA shall defer decisions when appropriate with reasons and a time frame for re-hearing of the application. No decision of the Committee on an application is valid unless it is concurred by the majority of the Members that heard the application, and the decision of the Committee shall be in writing and shall set out the reasons for the decision and the effect that any correspondence had on their decision and shall be signed by the Members who concur in the decision.

A copy of the Committee's written decision shall be prepared and issued in accordance with the provisions of the Planning Act.

### **7. Amendments to the Terms of Reference**

The non-statutory provisions of this Terms of Reference may be eliminated or amended in any way by Council at its full and final discretion. Amendments to the Terms of Reference may be proposed to Council from time to time, by members of the Committee for their endorsement requiring a majority of the voting membership.

The Clerk or designate is delegated the authority to make administrative changes to this Terms of Reference that may be required from time to time due to legislative changes or if, in the opinion of the Clerk, the amendments do not change the intent of the Terms of Reference.

### **8. Procedure of the Committee of Adjustment**

The hearings shall be conducted in accordance with the *Municipal Act*, *Planning Act*, *Statutory Powers Procedure Act*, Council's current Procedural By-law, and Robert's Rules of Order.

The hearing of every application shall be held in public.

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*.

### **9. 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;



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- 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.

### ***10. 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.