



# Staff Report

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## Planning and Development Services – Planning Division

**Report To:** Committee of the Whole  
**Meeting Date:** February 04, 2019  
**Report Number:** PDS.19.13  
**Subject:** Follow Up on Draft Procedural By-law for Committee of Adjustment  
**Prepared by:** Lori Carscadden – Secretary/Treasurer Committee of Adjustment

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### **A. Recommendations**

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THAT Council receive Staff Report PDS.19.13, entitled “Follow Up on Draft Procedural By-law for Committee of Adjustment”;

AND THAT Council direct staff to proceed with a Procedural By-law for the Committee of Adjustment.

### **B. Overview**

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This report is to bring forward a Procedural By-law for the Committee of Adjustment.

### **C. Background**

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On June 4, 2018 report #FAF.18.34 was before the Committee of the Whole regarding “Committee Composition for the 2018 to 2022 Term of Council, Public Appointments”. This report required direction from Council to advertise for applications for public appointment to Town Committees and Boards for the 2018 to 2022 Term of Council. The report further requested direction from Council to either dissolve a specific Committee or to expand on a Committee to include more responsibilities. One such consideration was to expand the mandate of the Committee of Adjustment to include hearing matters related to consent applications and sign by-law variance applications.

On June 18, 2018 Council passed a Resolution pertaining to Staff Report #FAF.18.34 in which they accepted the recommendations of said report and to expand the authority of the Committee of Adjustment “effective following the 2018 election to include consent applications, and sign by-law variance requests”.

Therefore, with the expansion of Committee responsibilities it is felt necessary for the Committee of Adjustment to have a “Procedural By-law” to adhere to.

## **D. Analysis**

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Since the June 18, 2018 Resolution passed by Council, staff prepared a draft Procedural By-law with input from Town staff and legal counsel. A Public Meeting was held on January 14, 2019, in order to allow members of the public and area stakeholders an opportunity to provide input on the draft Committee of Adjustment Procedural By-law.

No comments or concerns were received from either the public and/or stakeholders at the January 14, 2019 Public Meeting.

## **E. The Blue Mountains Strategic Plan**

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Goal #3: Support Healthy Lifestyles

Objective #1 Promote the Town as a Healthy Community

Goal #4: Promote a Culture of Organizational & Operational Excellence

Objective #1 To Be an Employer of Choice

Objective #2 Improve Internal Communications Across our Organization

Objective #3 To Consistently Deliver Excellent Customer Service

Objective #4 To Be a Financially Responsible Organization

Objective #5 Constantly Identify Opportunities to Improve Efficiencies and Effectiveness

## **F. Environmental Impacts**

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Not applicable

## **G. Financial Impact**

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Not applicable

## **H. In consultation with**

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Leo Longo, Town Legal Counsel

Nathan Westendorp, Director of Planning and Development Services

Travis Sandberg, Planner 1

Committee of Adjustment Members – Robert B. Waind, David Morgan, Bill Remus

## **I. Public Engagement**

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The topic of this Staff Report has been the subject of a Public Meeting which took place on January 14, 2019. No comments or concerns were received at this public meeting.

**J. Attachment(s)**

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Attachment #1 – Draft Procedural By-law

Respectfully submitted,

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Lori Carscadden  
Secretary/Treasurer – Committee of Adjustment

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Nathan Westendorp  
Director of Planning and Development Services

For more information, please contact:  
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# The Corporation of the Town of The Blue Mountains

## By-Law Number 20XX –

Being a By-law to provide rules for governing the Order and Procedure of the Committee of Adjustment of the Town of The Blue Mountains.

Whereas it is necessary and expedient that there should be rules governing the order and procedure of the Committee of Adjustment; and

And Whereas Section 238(2) of the Municipal Act, R.S.O. 2001 c.25, as amended, requires every municipality and every local board to pass a procedural by-law for governing the calling, place and proceedings of meetings;

Now Therefore Council of The Corporation of the Town of The Blue Mountains hereby enacts as follows:

### 1. Definitions

**1.1** For the purpose of this By-law, unless stated otherwise or the context or the context requires a different meaning:

- a) **“Acting Chair”** shall mean the Acting Chair of the Committee of Adjustment who is elected to sit in place of the Chair during the absence of the Chair and Vice Chair.
- b) **“Acting Secretary-Treasurer”** shall mean the Acting Secretary-Treasurer of the Committee of Adjustment who is responsible for the duties of the Secretary-Treasurer in the absence of the Secretary-Treasurer.
- c) **“Application”** shall mean an application made under the *Planning Act, R.S.O. 1990, c. P.13*, for minor variance or an application for consent s. 53(1), or an application for validation of title under s. 57.
- d) **“Chair”** shall mean the Chair of the Committee of Adjustment, Town of The Blue Mountains, elected by members of the Committee at a regular meeting of the Committee (s. 44(7)).
- e) **“Committee”** shall mean a group of not fewer than three individuals appointed to the Committee of Adjustment by by-law of the Council of The Corporation of the Town of The Blue Mountains, pursuant to the provisions of the *Planning Act*, (s. 44(1)).

- f) **“Council”** shall mean the Council of The Corporation of the Town of The Blue Mountains.
- g) **“Director”** shall mean the Director of Planning and Building Services.
- h) **“Meeting”** shall mean any Meeting of the Committee of Adjustment held in accordance with the provisions of this Procedural By-law.
- i) **“Member”** shall mean an individual appointed by By-law of the Council of The Corporation of the Town of The Blue Mountains to the Committee of Adjustment (Sec.44(1)).
- j) **“Motion”** shall mean 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.
- k) **“Municipal Act”** shall mean the *Municipal Act, 2001, S.O. 2001, c.25*, as amended.
- l) **“Municipality”** shall mean the Town of The Blue Mountains.
- m) **“Pecuniary Interest”** shall mean a direct or indirect pecuniary interest within the meaning of the *Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50*, as amended.
- n) **“Planning Act”** shall mean the *Planning Act, R.S.O. 1990, c. P. 13*, as amended.
- o) **“Point of Order”** shall mean a statement made by a Member during a Meeting drawing to the attention of the Chair a breach of the Rules of Procedure.
- p) **“Point of Privilege”** shall mean the raising of a question that concerns a Member, or all of the Members of the Committee of Adjustment, when a Member believes that his or her rights, immunities or integrity or the rights, immunities or integrity of the Committee of Adjustment as a whole have been impugned.
- q) **“Presiding Member”** shall mean the Chair of the Meeting.
- r) **“Quorum”** shall be as defined under #4 of this Procedural By-law.
- s) **“Resolution”** shall mean a formal expression of opinion, decision or intention by the Committee of Adjustment.

- t) **“Rules of Procedure”** shall mean the rules and requirements contained within this Procedural By-law.
- u) **“Secretary-Treasurer”** shall mean the Secretary-Treasurer of the Committee of Adjustment, of the Corporation of the Municipality of the Town of The Blue Mountains, appointed by members of the Committee of Adjustment at a regular meeting of the Committee (Sec.44(8)).
- v) **“Vice Chair”** means the Vice Chair of the Committee of Adjustment of the Town of The Blue Mountains who is elected by members of the Committee at a regular meeting of the Committee to sit in place of the Chair during the absence of the Chair.

## **2. Communication Devices**

- a) The use of cameras, electric lighting equipment, television cameras and any other device or mechanical, electronic or similar nature used for transcribing or recording proceedings by auditory or visual means by accredited and other representatives of any news media or members of the general public is permitted only with the approval of the Committee of Adjustment.
- b) All communication devices shall be switched to “silent” upon entering the location where any Committee of Adjustment Meeting is being held.

## **3. Calling of Meetings**

- a) All meetings of the Committee of Adjustment, pursuant to Section 238(1) of the *Municipal Act, 2001*, shall be called by the Secretary-Treasurer or the Chair of the Committee.
- b) In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a meeting. Notice is to be provided of the cancellation to all Committee members and notice be posted on the Municipalities website. As well, the Committee has the ability to cancel any meeting that coincides with the schedule of Council.

#### **4. Quorum**

- a) Where a Committee is composed of three members, two members shall constitute a quorum and where a Committee is composed of more than three members, three members shall be deemed to constitute a quorum.
- b) If no quorum is present fifteen (15) minutes after the time appointed for a meeting, the Chair of the meeting or the Secretary-Treasurer may discharge the members present and may cancel or reschedule the meeting, and notice for same shall be given.

#### **5. Chair**

- a) The Chair and Vice Chair of the Committee shall be elected by either Council if so desired or by the Committee members, from among those appointed by Council By-law.
- b) 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.
- c) Where the Chair is absent, through illness or otherwise, the Vice Chair will sit in the Chair's place for the meeting or portion thereof.
- d) Where the Chair and Vice Chair are both absent, through illness or otherwise, the Secretary-Treasurer shall call for the election of an Acting Chair for the meeting.
- e) An Acting Chair shall be appointed for each meeting or portion thereof in the Chair's and Vice Chair's absence.

#### **6. Location of Meetings**

- a) All meetings of the Committee shall be held in the Council Chambers, unless alternate public meeting room arrangements have been requested from the Municipal Clerk.
- b) The room assigned for the Committee meeting shall be identified on the Notice of Hearing for applications for Minor Variances and Consents that is circulated by the Secretary-Treasurer or designate of the Committee, as well as posted on the Municipal Website.

## **7. Notice**

- a) The Notice of an application to be considered at a meeting shall be given in a manner that the Committee of Adjustment deems is appropriate, in accordance with the provisions of the *Planning Act*, and any regulations passed thereunder, together with the Notice requirement contained in the conditions of delegation of the consent granting authority from the County of Grey and The Corporation of the Town of The Blue Mountains.
- b) Notice of application procedures with respect to applications for validation of title, and for change to conditions shall be the same procedures identified for consent applications.
- c) The Committee shall hold a public hearing on every application before a decision is made on the application.

## **8. Application Information**

- a) A staff report, including recommended conditions, shall be provided by the Secretary-Treasurer, the Acting Secretary-Treasurer or a Planning staff member prior to the hearing to the applicants, authorized agents, applicant's representatives and anyone having an interest in an application who has requested such information. Committee members shall receive a copy of all applicable agenda packages prior to the hearing, usually at the same time as the circulation of the Public Notice to required staff members and agencies. The staff report would be circulated to the Committee members and any interested party, on or before the Friday preceding the Committee meeting.
- b) All other correspondence pertinent to the application, received after the Agenda has been distributed to the Committee members, shall be circulated to the applicants, authorized agents or applicant's representatives and to the Committee members at the start of the Committee meeting.

## **9. Conduct of the Meeting**

- a) The Committee shall deal with the business matters of the Committee in the following order:



- Call to Order
  - Fire Evacuation Announcement
  - Approval of Agenda
  - Disclosure of Pecuniary Interest and the general nature thereof
  - Adoption of Previous Minutes
  - Business Arising from Previous Minutes
  - Public Meeting(s)
  - Other Business
  - Adjournment
- b) The meeting of the Committee shall be called to Order by the Chair of the meeting or the Secretary-Treasurer. The normal hour for the onset of the meeting is 4:00 p.m. and will continue until a Motion is passed to adjourn a meeting. Variations to this time can be amended at the request of the Committee.
- c) The Secretary-Treasurer shall prepare and cause to be delivered an agenda to each member of the Committee together with copies of each application at least seven (7) days prior to the meeting. The Secretary-Treasurer shall forward all correspondence received from commenting agencies two (2) days prior to the meeting, or as soon as possible thereafter. In addition, copies of each Public Notice will be circulated to each Town Department, required agencies and those property owners within the requirements of the *Planning Act*, being 60 metres of the lands subject to the application.
- d) The Chair shall ask the Members to declare any interest they may have in applications before the Committee, and the provisions of the *Municipal Conflict of Interest Act* shall apply.
- e) i) All meetings shall be open to the public, except as indicated in part ii) hereunder, and no person shall be excluded therefrom except from improper conduct;
- ii) Meetings shall be closed only in the manner and circumstances identified by s. 239(2) of the *Municipal Act, 2001*;
- f) i) A communication in writing from the applicant or agent requesting a deferral of the hearing or a request to close the file may be dealt with in the absence of the applicant or agent.

- ii) The Chair shall also call for any requests for deferral of an application or for any request for withdrawal of an application.
- iii) All requests for deferrals of the hearing of an application to a later meeting as noted above must be for a reasonable cause.
- iv) The Committee shall set a new meeting date for the consideration of the deferred application and shall indicate any other requirements or conditions for deferral, such as re-notification, amendment or additional required information.
- g) The Chair shall read aloud the Public Notice and ask the Secretary/Treasurer to confirm the circulation of the Notice and posting of the Public Notice on the subject property. The Secretary/Treasurer shall then read aloud and/or summarize any comments received from Town staff, agencies and the public.
- h) The Chair of the meeting shall invite anyone else having an interest/concern with respect to the application, to come forward and advise the Committee of their position.
- i) The Committee shall give the applicant, authorized agent or the applicant's representative, the opportunity to respond to any comments received from the commenting agencies or interested parties.
- j) The Committee members, through the Chair, may ask any questions of the applicant or agent or those parties expressing an interest or concern.
- k) The Chair of the meeting shall ask the Secretary-Treasurer to read the recommended conditions for approval, if any, following which the Chair shall ask the applicant, authorized agent or the applicant's representative whether he/she is able to indicate consent to the imposition of the conditions should the application be favourably considered.
- l) After having considered the issues raised by the applicant, authorized agent, applicant's representative, any respondents and the evidence and submissions heard at the meeting by the Committee, a Motion with respect to the disposition of the application will be asked for by the Chair of the meeting. The Chair of the meeting upon receipt of a Motion from a Committee member shall ask for a seconder to the Motion.
- m) The Chair shall call a vote by the Committee with a show of hands on the Motion and the Chair shall announce the decision of the Committee at the meeting. The

Chair shall announce whether the Motion is carried or defeated. A defeated Motion is not a decision. A new Motion should then be presented until one is carried by a majority of the members.

- n) Committee members concurring with the decision of the Committee shall sign the decision at the meeting.
- o) The Secretary-Treasurer will advise the applicant, authorized agent or applicant's representative of the options available following the decision of the Committee concerning signage removal, appeal period, date by which conditions must be satisfied, and/or appeal procedures.
- p) The conduct of the meetings and members, with respect to matters not specifically addressed herein, shall be in accordance with the *Statutory Powers Procedure Act* R.S.O. 1990, c. S.22 as amended, the *Municipal Conflict of Interest Act* R.S.O. 1990, c. M.50 as amended, Robert's Rules of Order, and the Town of The Blue Mountains Procedural By-law.
- q) The Chair of the meeting shall ask the Secretary-Treasurer to discuss any other business on the agenda.
- r) The Chair of the meeting, having completed the entire agenda shall adjourn the meeting. If the entire agenda is not complete then the Chair of the meeting may ask for a Motion and Seconder to adjourn the meeting.

## **10. Voting**

- a) All voting shall be made by a show of hands. All members of the Committee are entitled to vote and each member shall have one vote.
- b) A vote shall be taken at the direction of the Chair on each Motion duly moved and seconded. Voting shall continue on each Motion put forward by Committee members until a clear and deliberate decision is made by a majority vote on a Motion.
- c) With respect to applications before the Committee, when a question is put forth and a member who is present and not otherwise prevented by Statute from voting does not vote, his/her vote shall be recorded in the negative.
- d) An application shall be deemed as being denied as a result of a tie vote.

- e) Committee members concurring with the decision of the Committee shall sign the decision at the meeting.

#### **11. Declaration of Pecuniary Interest**

- a) If a member has a pecuniary interest in any matter and is or will be present at the meeting at any time at which the matter is the subject of consideration, the member,
  - Shall, before any consideration of the matter at the meeting, orally disclose the interest and its general nature;
  - Shall not, at any time, take part in the discussion of, or vote on, any question in respect of the matter;
  - Shall not, at any time, attempt, either on his/her own behalf or while acting for, by or through another person, to influence the voting on any such matter; and
  - Shall leave the room and remain absent from it at all times during consideration of the matter.

#### **12. Resignation and Dismissal**

- a) Committee of Adjustment members wishing to resign their appointment shall submit a letter of resignation to the Committee of Adjustment which shall be forwarded as soon as possible to the Clerk's Department.
- b) Council may, with or without the advice of the Committee of Adjustment, and with a supporting rationale, make changes to the Committee of Adjustment.
- c) If a member is absent for three (3) consecutive regular meetings the Committee may recommend to Council to have the member removed from the Committee, having consideration for the reasons, if any, provided by that member for being absent. Council shall have the final decision.

This By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this \_\_\_\_ day of \_\_\_\_\_, 2019

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Alar Soever - Mayor

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Corrina Giles - Clerk

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