

Town of Perth

Committee of Adjustment – Property Standards

Subject:	Terms of Reference	Effective:	December 7, 2010
Applies to:	Committee of Adjustment – Property Standards	Replaces:	By-law No. 2001-3372
Issued by:	Director of Planning	Approval:	By-law No. 2010-4106

A. **Background**

This Committee serves a multi-function purpose being: the consideration of applications under Section 45 of the *Planning Act*; applications for variances to the Sign By-law, as established under the *Municipal Act*, and consideration of appeals to orders under the Property Standards By-law, as established under the *Building Code Act*.

B. **Authority**

The Committee of Adjustment Committee is established by By-law passed under the *Planning Act*, Section 44. Pursuant to the *Planning Act*, Section 45, the Committee may consider applications for minor variance to the Town's Zoning By-law, may permit a change or extension of a legal non-conforming use and may be requested to interpret the Zoning By-law where a term is defined in a general manner. This does not include the authority to grant relief from application fees, as this has been reserved by and for Council.

The Property Standards Committee is established by By-law passed under Section 15.6 of the *Building Code Act*. The Property Standards Committee considers appeals to orders issued by an enforcement officer directing a property owner to comply with the Property Standards By-law as established under Section 15 of the Act.

Section 3.10 of Sign By-law 3257, established under the authority of the *Municipal Act*, provides that the Committee of Adjustment may consider appeals to orders to comply issued by an enforcement officer and empowers the committee to consider variances to the sign By-law.

Authority transfer is restricted to the scope described herein, unless an amendment is explicitly authorized by Council.

The Committee of Adjustment - Property Standards:

1. Shall not communicate externally on behalf of Council except as related to the scope;
2. Shall not authorize any expenditures outside their Council approved budget;

C. **Scope**

The Committee is a quasi-judicial authority responsible for considering Minor Variance and Sign Variance Applications and appeals in an unbiased manner on their merits and must

conduct hearings in a transparent, balanced and responsible manner.

With respect to the *Planning Act*, Section 45 the Committee must determine if requests for minor variance (relief or reduction of Zoning Standards) meet the four tests established under the *Act*. It has authority to determine if changes in non conforming use or enlargement of non-conforming structures represent appropriate changes consistent with good planning principals and is to make decisions that are consistent with the intent of the Official Plan and Zoning By-law and Provincial Policies.

With respect to Section 15 of the *Building Code Act* the Committee may alter or rescind property standards orders issued by municipal enforcement staff where the Committee determines that such action would be consistent with the Property Standards By-law, the Official Plan and/or an applicable policy statement.

With respect to the Sign By-law the Committee may alter or rescind orders and may authorize variances to the Sign By-law that in the opinion of the Committee are consistent with the general intent and purpose of the By-law and any specific tests established there-under. Issues of an administrative or staffing nature shall not generally form part of the scope.

D. Reports To

The Committee is an independent review panel and decisions of the Committee with respect to its authority under the *Planning Act* and under the *Building Code Act* are not subject to review or approval by Council.

However, Committee decisions under the *Planning Act* may be appealed to the Ontario Municipal Board and Property Standards decisions may be appealed to the Superior Court of Justice.

Committee decisions with respect to the Sign By-law may be appealed to Council through an application to amend the Sign By-law.

The Committee may make recommendations to Committee of the Whole with respect to the procedures and mandate of the Committee, revision of municipal By-laws, the Committee stipend, or the need for additional policies or practice guidelines.

E. Composition

1. Membership:

a. Qualifications:

Candidates shall be residents or property owners in the Town of Perth who qualify for membership as per Schedule 'A' of the Town's Procedure By-law, as amended from time to time. Preference will be given to persons demonstrating knowledge or experience with respect to procedural fairness, committee protocol, zoning, planning policy or legislative interpretation.

b. Voting Members:

Three (3) citizen members.

c. Non-Voting Members:

None.

- d. Absence:
Any citizen member who is absent from three (3) consecutive regular meetings without leave of absence or for two consecutive months, whichever period is longer, without satisfactory reason shall forthwith cease to be a member and the Recording Secretary/Technical Advisor shall advise the Clerk.
- e. Resignation of Citizen Members:
Any member wishing to resign shall provide their resignation in writing to the Chair and the Secretary-Treasurer and generally shall provide a minimum of four weeks notice. Upon receipt of a resignation the Secretary-Treasurer shall immediately provide a copy to the Clerk.
- f. Filling Vacancies:
Pursuant to the *Building Code Act*, Council is to fulfill a vacancy on the Property Standards Committee forthwith. Refer to the Procedure By-law for process.
- g. Term:
 - 1. Membership: See Procedure By-law, s. 4.4.2.
Note: Members of the Committee of Adjustment shall hold office until their successors have been appointed after a new Council has taken office.

Members must reapply to the Clerk for reappointment to the Committee of Adjustment after notice is posted requesting Committee Applications.

2. *Structure:*

- a. Chair:
A Chair and Vice-Chair shall be elected at the first meeting of the year. In the second Vice-Chair shall become the Chair and the third member shall become the Vice-Chair. This procedure will continue in the third and fourth year of the Committee term save and except that in the fourth year the Committee may choose to elect a Chair.

In the event a new member must be appointed to the Committee during the term of the Committee, the remaining two members of the Committee shall serve as the Chair and Vice-Chair for the balance of the term. In the event there is more than two years remaining in the term the new member may serve as the Chair or Vice-Chair in the final year of the term.

3. *Support Resources:*

- a. Technical Advisor: The Director of Planning and/or their designate shall be the Technical Advisor/Secretary-Treasurer,
- b. Recording Secretary: The Director of Planning shall be responsible for ensuring a staff member is available as a Recording Secretary for meetings.
- c. Attendance by the Technical Advisor/Secretary-Treasurer and Recording Secretary shall be mandatory for all meetings.

F. Procedures

All applicable Federal, Provincial and Municipal legislation, regulations and the Official Plan shall be adhered to. In undertaking its responsibilities under the *Building Code Act* the Committee may, subject to subsection 15.6(9) of the *Building Code Act*, adopt its own rules of procedure and any member may administer oaths 1997, c. 24, s. 224 (8). The procedures followed include, but are not limited to, the Town of Perth's:

1. Accountability and Transparency Policy
2. Procedure By-law
3. Sign By-law
4. Property Standard By-law
5. Procurement By-law

In addition to the above general provisions, the following shall apply:

- a) Consistent with the requirements of Section 15.6(6) of the *Building Code Act*, the initial meeting of the Committee shall include a motion to accept the Director of Planning, or such alternate and the Director may recommend, as the Secretary of the Committee.
- b) Meetings shall generally be scheduled on the second or fourth Thursday of the month but the Chairperson may call a special meeting at any time provided any required public notice procedures are followed and a minimum notice of 7 days is provided through posting the agenda (except where less notice is permitted);
- c) All sitting members eligible to vote, including the Chair, must vote.
- d) Solicit, document and consider public and agency input where legislatively required or deemed appropriate by the Committee.
- e) With respect to its Property Standards mandate, the *Building Code Act* (S. 15) provides that the Committee shall give notice or direct that notice be given of the hearing of an appeal to such persons as the committee considers advisable. 1997, c. 24, s. 224 (8).
- f) Notify applicant's of the meeting as legislated or required;
- g) Distribute the agenda as per Procedure By-law, s. 11.1.5 and send the agenda, with any associated reports attached, to the members in a timely fashion.
- h) The Secretary-Treasurer and/or the recording Secretary, when assigned, shall ensure that applicant's are sent written notice of Committee decisions as required by legislation, but in any event, within one week of the decision.
- i) The secretary shall keep on file the records of all official business of the committee with respect to its property standards mandate, including records of all applications and minutes of all decisions respecting those applications, and section 253 of the Municipal Act, 2001 or section 199 of the City of Toronto Act, 2006, as the case may be, applies with necessary modifications to the minutes and records. 2002, c. 17, Sched. F, Table; 2006, c. 32, Sched. C, s. 3 (3).

- j) All sitting members, including the Chair, must vote
- k) The Secretary-Treasurer, and/or the recording Secretary when assigned, shall distribute the minutes as per Procedure By-law, s. 15.2.2 and send draft minutes to members of the Council, through the Clerk, in a timely fashion after the minutes have been distributed to Committee members.
- l) In the event that a new meeting is not scheduled within 4 weeks after a committee meeting is held, the Secretary-Treasurer shall seek approval of the minutes from the attending members by obtaining their signatures on the final minutes. In the event that there are modifications of the minutes requested that the Secretary-Treasurer, in consultation with the Chairperson, determines warrant a meeting of the Committee, then a special meeting shall be called for the sole purpose of completing and approving the minutes.
- m) Provide the approved minutes, signed by the Chair and Recording Secretary, to the Clerk for the official records. With respect to the last meeting prior to an election, the minutes shall be approved as per the Procedure By-law.

G. Quorum

Ref. Procedure By-law, s. 10.2.

H. Remuneration and Expenses

- a) A meeting, at which an application or an appeal is considered, shall qualify the member attending for a full regular meeting.
- b) A meeting for administrative matters, such as an inaugural committee meeting or a meeting to approve minutes, or consider a technical report not directly related to an application or an appeal shall qualify the attending member to half of a regular meeting.
- c) In addition to a stipend, where a member attends a training seminar or workshop outside of the Town of Perth, the member may claim mileage in accordance with the Town's policies. To the greatest extent practicable, the Secretary-Treasurer will be responsible to arrange for car-pooling for out-of-town events. The Chief Administrative Officer (CAO) shall consider any expense claims of members who choose not to participate in shared transportation arrangements and may deny the claim, authorize payment of reasonable fuel expenses only, or may authorize full compensation.
- d) Members shall only be compensated for training, workshops and seminars approved or recommended by the Secretary-Treasurer in consultation with the Chief Administrative Officer. No compensation shall be paid for events not approved in writing in advance of the event.

- e) Commencing with the approval of this Terms of Reference, by By-law, the stipend for members of the Committee of Adjustment and Property Standards for each meeting attended shall be in accordance with this Policy. In the absence of the Chair, the Vice-Chair shall receive the Chair's stipend.

Position	Meeting type	Stipend
Member	Regular	\$ 25
	Inaugural	\$ 17
	Administrative	½ regular
Chair	Regular	\$ 30
	Inaugural	\$22
	Administrative	½ regular
Any member	Workshop less than 2 hrs	\$17
	Workshop more than 2 hrs	\$25