



## By-law 2014-170

### A By-law to Establish a Procedure for the Committee of Adjustment of the City of Markham

---

Whereas the Council of the Corporation of the City of Markham has passed By-law 2011-194 to constitute and appoint a Committee of Adjustment; and,

Whereas Section 238(2) of the *Municipal Act, 2001, S.O. 2001, c. 25* (the "*Municipal Act*"), as amended, requires every municipality and local board to adopt a procedure by-law for governing the calling, place and proceedings of hearings; and,

Whereas Section 239(1) and Section 239(5) of the *Municipal Act* requires all meetings to be open to the public and state that a meeting shall not be closed to the public during the taking of a vote; and,

Whereas the Committee of Adjustment for the City of Markham has been established pursuant to the *Planning Act, R.S.O. 1990, c.P. 13*, as amended; and,

Now therefore the Council of The Corporation of the City of Markham hereby enacts as follows:

#### 1. Application

- 1.1 The procedures contained in this By-law shall be observed in all proceedings of the Committee of Adjustment (the "Committee") and shall, subject to Section 1.2, be the procedures for the order and dispatch of business conducted by the Committee.
- 1.2 The Committee may also pass Committee policy directives respecting the conduct of business ("Policy Directives"), provided they are in accordance with the *Planning Act, R.S.O. 1990, c.P. 13*, as amended and the applicable regulations thereunder, (the "*Planning Act*"), and the provisions of this By-law.

#### 2. Calling of Hearings

- 2.1 All hearings of the Committee shall be called by the Secretary-Treasurer, and notice of any hearing shall be given by pre-paid mail as well as posting of a notice sign, in accordance with the *Planning Act*.
- 2.2 All agendas of hearings of the Committee shall be made available to the public at least five (5) calendar days prior to the scheduled meeting, and such agendas shall be made available through the City of Markham website.
- 2.3 A sign or signs, prepared by the City and providing notice of the public hearing, shall be placed on all properties subject to a Committee application in accordance with the *Planning Act* and section 2.4 if applicable.
- 2.4 In the case of a corner lot or such other lot with frontage on more than one public or private street, a notice sign as referred to in section 2.3 shall be erected on each street, in a location where it can be clearly seen from such street.

**3. Location of Hearings**

- 3.1 The location of all hearings of the Committee shall be identified on the notice of hearing referred to in section 2.1.

**4. Committee of Adjustment Administration**

- 4.1 The members of the Committee shall elect from among themselves both a Chair and a Vice-Chair.
- 4.2 In the absence of the Chair, the Vice-chair shall carry out the responsibilities of the Chair required by this By-law and the Policy Directives. In the absence of both the Chair and the Vice-chair, the members of the Committee present shall elect a Chair for the meeting.
- 4.3 The Committee shall appoint as Secretary-Treasurer and as Assistant Secretary-Treasurer the current employees of the City of Markham Planning and Urban Design Department so designated by the City.

**5. Quorum**

- 5.1 A minimum of three (3) members of the Committee shall be present to constitute a quorum.
- 5.2 Subject to subsection 5.1 above, the inability of a member to act due to a declared Conflict of Interest in accordance with section 9 does not impair the powers of the Committee or of the remaining members of the Committee.
- 5.3 If no quorum is present thirty (30) minutes after the time appointed for the meeting of the Committee, the Secretary-Treasurer shall record the names of the members of the Committee present and the meeting will stand adjourned until the next appointed time. If all those members of the Committee who are present remain until a quorum is present, then the meeting shall proceed.

**6. Conduct of Meetings**

- 6.1 The meeting Chair shall conduct meetings in accordance with this By-law, the Policy Directives, and the *Planning Act*.
- 6.2 The meeting Chair shall:
- a) Call the meeting to order;
  - b) Call for disclosures of Conflict of Interest in accordance with section 9;
  - c) Call for confirmation of Minutes of the previous Committee meeting;
  - d) Call for any requests for deferral of an application;
  - e) Direct the Secretary-Treasurer to call each application in the order in which it appears on the agenda, or in any other order, at the Committee's discretion.
- 6.3 The Chair shall ask the applicant, the authorized agent, or the owner's representative (the "Applicant") to identify their name and address and present the application. The Applicant shall be provided with a maximum of ten (10) minutes to present information respecting the application to the Committee. Any presentation beyond the maximum time period shall be at the discretion of the Chair.
- 6.4 The Chair will address the public and invite comments from the public with respect to the application being heard. The Committee may limit the length of a public submission to ensure that all members of the public may be heard. Members of the public shall confine their remarks to the subject application.

- 6.5 The Committee may ask questions of the Applicant at this time, during or after the presentation.
- 6.6 At any time, the Chair or Committee members may ask the Secretary-Treasurer to:
- a) Read aloud any comments received from agencies who responded to the circulation of the notice of the application;
  - b) Read aloud any comments received from persons expressing an interest in the application;
  - c) At the direction of the Chair, summarize the nature of the interest being expressed;
  - d) Read aloud any proposed conditions of approval. The Committee may delete from, add to or revise such proposed conditions.
- 6.7 Following public input, the Committee may give the Applicant an opportunity to respond to any comments received from commenting agencies or interested parties, and to provide a summary of the substance of the application (the "Applicant's Reply").
- 6.8 The Chair and Committee may ask additional questions at this time.
- 6.9 Following the Applicant's Reply, the Committee shall consider the issues raised by the application and the evidence heard by the Committee. The Chair shall:
- a) Ask whether the members of the Committee wish to conduct further discussions on the merits of the application;
  - b) Ask the members of the Committee for a motion to either approve or deny the application;
  - c) Upon a receipt of a motion from a member of the Committee, ask for a remaining member of the Committee to second the motion;
  - d) Permit discussions on the motion;
  - e) Call for a vote by the Committee on the motion in accordance with section 7.1; and
  - f) Announce the decision of the Committee, as determined in accordance with section 7.3.

Following satisfaction of the requirements of sections 6.9(a) to (f), the Chair may, in his or her sole discretion, summarize any dissenting decisions orally.

- 6.10 A request for deferral of a matter on the scheduled hearing date by the Applicant, City Staff or any commenting agency, must be for reasonable cause and must be made at the hearing. If granted, the Committee, in consultation with the Secretary-Treasurer, shall either:
- a) set a new meeting date at the meeting, in which case no further notice will be provided; or,
  - b) adjourn the hearing sine die, in which case notice of the new meeting date shall be provided to all persons who provide the Secretary-Treasurer with a written request for such notice.
- 6.11 A request for withdrawal of a matter on the scheduled hearing date by the Applicant shall be recorded by the Secretary-Treasurer, and the Committee will take no further action on the matter.

## **7. Voting**

- 7.1 Each member of the Committee, when requested by the Chair to vote in accordance with section 6.9(e) on a motion seconded in accordance with section 6.9(c), shall indicate by show of hands, or any other form of acknowledgement, his or her position on such motion.

- 7.2 In the event that the initial motion tabled in accordance with section 6.9(c) is defeated, the Chair shall ask the members of the Committee for a new motion, in accordance with the following:
- a) if the defeated motion was a motion to approve, the Chair shall request a motion to deny; or
  - b) if the defeated motion was a motion to deny, the Chair shall request a motion to approve; and
  - c) Sections 6.9 c) to f) shall apply to such new motions referred to in a) and b) above.

- 7.3 The majority decision of the Committee on a motion voted on under section 7.1 or 7.2 shall constitute the decision of the Committee, and shall be announced in accordance with section 6.9(f).

- 7.4 The Chair is entitled to all rights of a Committee member, including voting. The Chair is required to vote in the event that it is required in order to break a tie vote.

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

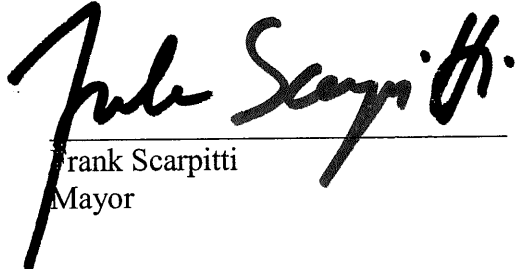
- 8.1 No decision of the Committee on an application is valid unless it is approved by the Committee in accordance with section 7, and the decision of the Committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decisions, and shall be signed by the members who concurred in the decision.
- 8.2 A copy of the Committee's written decision will be prepared and issued in accordance with the provisions of the *Planning Act*.
- 8.3 A copy of the Committee's written decision shall be sent to each Applicant, and any other person who requests a copy of the decision by providing a written request to the Secretary-Treasurer.

## **9. Conflict of Interest**

- 9.1 Any member of the Committee required to do so by the provisions of the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M. 50, as amended, shall disclose any direct or indirect pecuniary interest for themselves or a family member respecting any application(s) listed on the agenda referred to in section 2.2 (a "Conflict of Interest") and shall state the general nature of such interest, and it shall be recorded by the Secretary-Treasurer accordingly. Any member of the Committee who declares a Conflict of Interest shall leave the hearing room for the duration of the hearing of any application(s) for which he or she has declared a Conflict of Interest, and shall not be entitled to vote on the matter.

Read a first, second, and third time and passed on November 25, 2014.

  
Kimberley Kitteringham  
City Clerk

  
Frank Scarpitti  
Mayor