

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW 2022-87

A By-law to adopt the Terms of Reference for the
Town of Wasaga Beach Committee of Adjustment and to repeal by-law 2011-118

WHEREAS Section 8 of the *Municipal Act, 2001*, as amended, grants a municipality the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS Subsection 5(3) of the *Municipal Act, 2001*, requires that all municipal powers, including natural person powers, are exercised by by-law;

AND WHEREAS The Council of the Corporation of the Town of Wasaga Beach deems it expedient to revise the existing Terms of Reference for the Town of Wasaga Beach Committee of Adjustment to reflect the current practice;

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN
OF WASAGA BEACH HEREBY ENACTS AS FOLLOWS:**

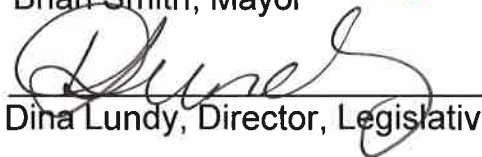
1. That Schedule "A" attached hereto forms part of this by-law, being the Terms of Reference for the Town of Wasaga Beach Committee of Adjustment.
2. That By-law 2011-118 is hereby repealed.
3. That this By-law shall come into force and effect on the final passage thereof.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
THIS 01ST DAY OF DECEMBER, 2022.**

THE CORPORATION OF THE TOWN OF WASAGA BEACH



Brian Smith, Mayor



Dina Lundy, Director, Legislative Services & Clerk

Schedule "A" to By-law 2022-87

THE CORPORATION OF THE TOWN OF WASAGA BEACH

COMMITTEE OF ADJUSTMENT

TERMS OF REFERENCE

Mandate

The Committee of Adjustment is a statutory body with authority delegated to it by the Town of Wasaga Beach Council, under the provisions of the *Ontario Planning Act*, to hold Public Meetings and to make decisions on such matters as: Minor Variances, Consents etc. The Committee operates independently from Council and presently its decisions may be appealed to the Ontario Land Tribunal.

The Committee of Adjustment is guided by planning policies and controls established by the Town of Wasaga Beach Council through the Official Plan, the Zoning By-law, and land-use planning documents for controlling development, such as: County of Simcoe Official Plan, and the Provincial Policy Statement and the Growth Plan.

The Committee is established by The Town of Wasaga Beach Council in accordance with these Terms of Reference. Members are guided by these Terms of Reference.

The goal of the Committee of Adjustment is to provide for and conduct a fair meeting by:

- Allowing anyone wishing to speak to on 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 meeting.
- Making decisions with appropriate, well-thought conditions.
- Clearly stating the reasons for their decisions.

The Committee must also satisfy requirements concerning statutory Notice, Public Meetings, taking into consideration comments from the public, and recording of proceedings.

Committee Organization/ Composition

The Committee is a quasi-judicial body, charged with the responsibility of making land-use decisions while taking into consideration the principles of applicable planning law.

Upon recommendation from the Mayor with input from Senior Town staff, the Committee members will be appointed by Town Council.

Council may, by resolution as and when required in order to maintain the requisite number and composition of members on the Committee, select and appoint new members to the Committee for the duration of the term.

The Committee will be composed of up to five (5) persons, and three (3) members shall constitute a quorum as per Section 44 of the *Planning Act*. Quorum shall be a majority of the appointed members of the Committee of Adjustment.

The Committee will be composed of persons who demonstrate the following qualifications:

- A commitment to and interest in the community.
- A basic understanding of the planning framework and applicable planning documents, including Provincial, Regional and Town land use planning policy and legislation.
- Resident or owner of property in the Town of Wasaga Beach.
- Organized, available and committed to conduct site inspections of subject properties and attend all Committee meetings.
- Objective, non-partisan and unbiased with an open mind in order to fully consider the evidence provided.
- Access to a computer and an e-mail address in order to receive and respond to Committee communications and information, including but not limited to meeting and application notices and agenda packages with large text and graphics files.

The term of the members of the Committee shall be four years coinciding with the term of the Council that has made the appointment.

Council may by resolution at any time and at its sole discretion remove any member from the Committee, as it deems advisable.

A Committee member may apply for a re-appointment for any number of consecutive or non-consecutive terms.

Resignations from the Committee must be in writing to the Secretary Treasurer and Director of Legislative Services, Clerk.

The advertising of vacancies and appointments will be in accordance with the policies and practices adopted by Council from time to time.

Committee Positions & Roles

The Committee of Adjustment makes decisions on application(s) under Section(s) 45, 53, and 57 of the *Planning Act*, more specifically the Committee may:

- Give consent to convey or divide land when a plan of subdivision is not necessary;
- Give consent to grant, assign, or exercise a power of appointment with respect to land, or mortgage or charge land, enter into an agreement of purchase and sale or otherwise grant an interest in land for period of 21 years or more (for example by easement, right-of-way, lease, or agreements);
- Give approval to the foreclosure of or exercise of a power of sale in a mortgage or charge and to issue of certificates of validation;
- Authorize a minor variance from the provisions of the Town Zoning By-law in respect of land, buildings or structures or their use;

- Permit the enlargement or extension of a legal non-conforming use of any land, building or structure;
- Permit the use of any land, building or structure for a purpose that is similar to a legal non-conforming use or is more compatible with the uses permitted by the Zoning By-law;
- Permit the use of any land, building or structure for any purpose that conforms with uses defined in general terms in the Zoning By-law;

Chair & Vice-Chair: These roles are in accordance with the Procedural By-law which may change from time to time. One member will be chosen by majority vote of the Committee at the first meeting of each New Year to be Chair and Vice-Chair for the meetings and oversee the business of the Committee for that year. The Chair or Vice-Chair are responsible for:

- Open the meeting by taking the Chair, calling the members to order as soon as the time fixed for holding the meeting occurs and a quorum is present;
- Ensure that all items of business listed on the agenda are addressed and that the *meeting* progresses with due efficiency;
- Receive and put to a vote in the proper manner, all Motions presented, and to announce the result;
- Decline to put to vote motions which infringe upon the rules of order or are beyond the jurisdiction of the assembly;
- Preserve and enforce the rules of order, and ensure all *members* abide by the rules of order when engaged in debate;
- Call by name any *member* persisting in a breach of the rules of order, thereby ordering such *member* to vacate the *meeting* place;
- Maintain on all occasions the observance of order and decorum among the *members* and *members* of the public;
- Where it is not possible to maintain order, adjourn the *meeting* without the necessity of any *Motion* being put, to a time named by the *Chair*;
- Expel or exclude any person who is guilty of improper conduct at a *meeting*;
- Ensure that decisions of the assembly are in conformity with the laws governing the activities of the assembly;
- Authenticate by signature when necessary all resolutions, *by-laws* and minutes; and,
- Adjourn the *meeting* without question when the business is concluded.

Acting-Chair: The Acting-chair is to be appointed in the instance where the Chair and Vice-Chair are not able to attend a scheduled meeting, and will resume the responsibilities of the Chair/Vice-Chair until the meeting is adjourned.

Secretary-Treasurer: A Secretary-Treasurer shall be appointed by a majority of the Committee membership, as a non-voting member. The role of Secretary Treasurer is administrative and duties include: routine administrative costs associated with the work of the Committee including remuneration, supplies, training and miscellaneous operating expense budget, training of Committee members, confirming the meeting date and location with the Clerk's Office, keep on file minutes and records of all applications and

the decisions thereon and of all other official business of the Committee, prepare the Agenda, and provide a copy of the minutes to the Town Clerk's office. The Secretary Treasurer or his/her designate shall be present at all meetings of the Committee of Adjustment. The Secretary Treasurer will be a staff member of the Planning Department.

Recording-Secretary: Preparing the draft minutes for review of the Secretary Treasurer, and assisting the Secretary Treasurer with secondary administrative duties.

All Members:

- Review agendas and reports sent to them in advance of the meeting.
- General training or memberships of professional organizations as may be required.
- Visit the site of each application prior to the meeting.
- Attend the Committee of Adjustment meetings.
- Contribute time, knowledge, skill and expertise to the fulfillment of the Committee's mandate.
- Are cognizant of any conflict of interest or perceived conflict in terms of issues that may serve to benefit them personally.
- If a member has any conflict of interest on any matter and is present at a meeting at which the matter is the subject of consideration, the member:
 - Should, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;
 - Should not take part in the discussion of any question in respect of the matter; and
 - Should not attempt in any way whether before, during or after the meeting to influence the discussion of the application.

Only members, appointed by Council, may vote on any issue.

Meetings

The Committee of Adjustment will meet monthly, with the specific dates and times for meetings to be determined by the Secretary Treasurer and approved by the Committee at its October meeting each year, and provided to the Town Clerk.

Additional meetings may be called by the Chair if there are urgent matters that need to be discussed. Meetings shall not conflict with regular meetings of the Development Committee, Committee of the Whole and regular meetings of Council.

Committee members are expected to attend all regularly scheduled meetings. In the event that a member is unable to attend a meeting, the member must contact the Secretary Treasurer in advance and advise him or her. If a member has been absent for three (3) consecutive regularly scheduled meetings and has failed to advise the Secretary Treasurer in advance, the member shall be deemed to have abandoned his or her appointment and the position shall be considered vacant.

If no quorum exists after 15 minutes past the time fixed for holding a meeting, the meeting shall be adjourned.

Agenda

The Agenda of the Committee of Adjustment shall contain the following items:

- Call To Order
- Land Acknowledgement
- Disclosure of Pecuniary Interest
- Minutes of Last Meeting
- Applications/Deputations/Presentations/Public Meetings
- Unfinished Business
- New Business
- Date of Next Meeting
- Adjournment

Public Meeting Process

- a) The meeting of the Committee is called to order by the Chair.
- b) The Chair and/or the Secretary-Treasurer may call for any requests for deferral of an application or for any request for withdrawal of an application.
 - i) A request for deferral of an application to a later meeting date must be for reasonable cause. The Committee may indicate any other requirements or conditions for deferral, such as re-notification, amendment or additional required information.
- c) The Chair may call each application in order determined by the agenda or in an order determined by the Chair of the meeting and/or the Committee. The Chair may ask the Secretary Treasurer to read the application Notice or item of Public Meeting.
- d) The Chair of the meeting may ask the applicant, authorized agent or the applicant's representative to introduce themselves and present the application.
- e) Committee members may, through the Chair, ask questions of the applicant, authorized agent, or applicant's representative at this time. Questions may be asked during the presentation; however, typically questions are put forward by members of the Committee at the conclusion of the presentation.
- f) The Chair of the meeting may ask the Secretary-Treasurer to read all comments received from agencies, residents and others who responded to the circulation of the Notice of an Application. The Secretary-Treasurer at the direction of the Chair may read aloud letters received from any persons expressing an interest in the application. At the discretion of the Chair the Secretary-Treasurer May summarize the nature of the interest(s)/concern(s) being expressed.
- g) The Chair of the meeting shall invite anyone else having an interest(s)/concern(s) with respect to application(s) to come forward and advise the Committee of their position(s). Such comments are directed to the Committee

through the Chair. The Committee members, through the Chair, may ask questions of those parties expressing an interest(s)/concern(s).

- h) The Committee, through the Chair, shall give the applicant, authorized agent or the applicant's representative the opportunity to respond to any comments received from commenting agencies or interested parties.
- i) The Committee members, through the Chair, may ask additional questions at this time.
- j) After having considered the issues raised by the applicant, authorized agent, applicant's representative, any respondents and the evidence heard at the meeting by the Committee, the Chair may ask the members of the Committee for a motion with respect to the disposition of the application. The Chair shall call for a vote by the Committee on the motion and the Chair shall announce, at the meeting, the decision of the Committee. The Committee members shall sign the decision at the meeting or the next business day following the meeting.
- k) All deliberations of the Committee shall be in open session and members of the public, including the applicant, authorized agent, applicant's representative and any respondents may be present during any such deliberations, with the exception of those items which may be discussed in closed session in accordance with Section 239 of the *Municipal Act*.

Management of Committee & Reporting

The Committee of Adjustment shall be subject to the provision of the Town's Procedural By-Law to Govern the Proceedings of Council and its Committee, as amended, and shall adhere to Town policies and procedures, the *Statutory Powers Procedure Act*, *Municipal Conflict of Interest Act* and *Planning Act*.

Unless otherwise directed by Council, the adopted minutes of all Committee meetings will be presented to the Development Committee, for information.

The Secretary Treasurer will report annually on Committee activities to the Council.

Web presence is supported through the Town's web site at www.wasagabeach.com, based on information provided by the Planning Department.

Requests for documentation, reports and support materials required by the Committee or outgoing correspondence will be directed to the Secretary Treasurer.

Finances

Routine administrative costs associated with the work of the Committee will be allocated from the Planning Department's annual budget.

The annual budget for the Committee of Adjustment forms part of the Planning Department and will be the responsibility of Planning Department management.

Members of the Committee of Adjustment shall be paid such compensation as Council may provide.

Remuneration

- a) As may be provided at the discretion of Council
- b) Travel allowance to be determined by a measurement of distance in kilometres in accordance with the Town's current rate for mileage reimbursement.

At the discretion of Planning Department Management, expenses incurred by Committee members while serving on Committee, may be reimbursed as per Town policy.

Confidentiality

The *Municipal Act* and *Conflict of Interest Act* shall bind the members of the Committee as it relates to confidentiality, conflict of interest, closed sessions, and any other requirement under the *Act*, which pertain to the conduct of officials.

Indemnities to Committee Members and Others

Committee members shall be covered by the municipality's general liability insurance policy as it relates to Committees of Council's activities.

Review and Update of the Terms of Reference

The Terms of Reference are established by Planning Department Management, and approved by Council.

Approved by Council this 01st day of December, 2022 by By-Law 2022-87