



## Planning and Development Committee Report

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**To:** To the Chair and Members of the Planning and Development Committee  
**From:** Dan Namisniak, Senior Planner  
Alyssa Seitz, Development Agreement Coordinator  
**Date:** April 4, 2023  
**Report #:** RPT-0144-23  
**Subject:** Committee of Adjustment  
**Purpose:** For Information and Direction

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### Recommendation

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That RPT-0144-23 be received; and

That the current County of Brant Committee of Adjustment structure continue (OPTION 1); and

That a by-law adopting the Terms of Reference for the County of Brant Committee of Adjustment be prepared and forwarded to Council for approval.

### Executive Summary

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At Council's request, the previous Chief Administration Officer confirmed that a report on the Committee of Adjustment structure would be forthcoming for Council to consider reporting options. This report provides Council with a summary and analysis of the responsibilities and structure of the current County of Brant Committee of Adjustment. The purpose of this report is to provide several alternative scenarios for reviewing and making decisions on matters currently dealt with by the County of Brant Committee of Adjustment. After careful consideration of five (5) options, planning staff recommend continuing with the current format of the County of Brant Committee of Adjustment (Option 1), including maintaining the appointment of members of the public. Should Council wish to proceed with Option 1, an amending By-Law and Terms of Reference has been prepared for review and approval (attached as Attachment #1).

### Strategic Plan Priority

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Strategic Priority 6 - Stable and Responsive Governance

### Impacts and Mitigation

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## Social Impacts

Reviewing internal procedures creates efficient process which assists in sustainable and managed growth throughout the County of Brant.

## Economic Impacts

Initiated by the Corporation, this report and recommendations have no current financial considerations, save and except remuneration which may continue to be paid to Committee of Adjustment members for exercise of their respective duties, responsibilities and mileage.

## **Background**

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### **What is the Committee of Adjustment?**

The Committee of Adjustment is a council appointment quasi-judicial body, operating independently of the Corporation of the County of Brant, which must comply with rules of procedures as prescribed in the *Planning Act, R.S.O. 1990*, as amended and several regulations thereunder. The Committee of Adjustment is guided by applicable legislation, Provincial Policy, the County of Brant Official Plan and Zoning By-Law.

The Committee of Adjustment is empowered to exercise authority under Sections 44 (Committee of Adjustment), 45 (Powers of Committee) and 53 (Consents) of the *Planning Act R.S. O. 1990*. Subsection 45(3) of the *Planning Act, 1990*, provides that the Council may empower the Committee of Adjustment to grant minor variances from the provisions of any By-Law of the Municipality that implements the Official Plan.

Subsection 54(5) of the *Planning Act, 1990*, provides that the Council may delegate consent granting authority or any part of such authority to a Committee of Adjustment.

While the *Planning Act* contains policies to delegate land division applications to staff for approval, it does not contain similar policies to permit the delegation of minor variances to staff.

The Committee of Adjustment is also responsible for hearing application for variances associated with the Sign By-Law 121-08, Fence By-Law 54-03 and appeals of Property Standards orders.

By-Law 16-99 was adopted (1999) to constitute the Committee of Adjustment under Subsection 44(1) of the *Planning Act*. The Committee has, since then, reviewed and made decisions based on the foregoing delegated authority. It should be noted that a County of Brant Committee of Adjustment Terms of Reference was never established.

### **Existing Committee Structure**

The County of Brant Committee of Adjustment is composed of seven (7) appointed representatives. Chosen Committee of Adjustment members usually demonstrate knowledge, skills and strengths within the disciplines of planning and construction.

Committee members collectively apply the provisions of the County's Official Plan and Zoning By-Law while remaining impartial and responsible for the betterment of the County of Brant community.

Appointments to the Committee of Adjustment are based upon potential Members meeting the following criteria:

- Resident of Brant County;
- Knowledge and understanding of the land use planning process including minor variance and consent process;
- Having a balanced perspective between rural and urban interests;
- Be objective, possess relevant education component or equivalent experience and have strong analytical skills in order to fully consider all information provided;
- Excellent communication skills;
- Be available and able to conduct site inspections on subject properties;
- Be organized, available and committed to attend all Committee meetings; and
- Ability to commit the time for servicing on the Committee.

County of Brant Committee of Adjustment members are appointed by Council for a four-year term which runs concurrently with the term of office of the Council of Brant County.

The Committee of Adjustment meets every third Thursday of the month in Council Chambers and offers a hybrid meeting style. The meetings start at 6:00 p.m. and typically run for two hours with the average meeting having 8 to 10 applications.

### Application Statistics

The chart below represents the Committee of Adjustment applications by type over the last 5 years.

TYPE	2019	2020	2021	2022	2023-MARCH
Severances	29	66	78	81	9
Minor Variances	41	25	42	38	7
Sign Variances	3	5	6	7	1
Fence Variances	1		0	3	
Property Standards Committee	3	3	1	2	1
<b>TOTAL</b>	<b>77</b>	<b>99</b>	<b>127</b>	<b>131</b>	<b>18</b>

### Report

#### Committee of Adjustments in Other Neighboring or Like Municipalities

The following chart represents examples from other neighbouring or like Municipalities for making decisions for applications made under Sections 44, 45 and 53 of the *Planning Act R.S. O. 1990*.

Location	Delegated Authority	Committee Structure
County of Brant	Committee of Adjustment	Appointed Public Members
City of Brantford	Committee of Adjustment	Appointed Public Members
Norfolk County	Committee of Adjustment	Appointed Public Members

County of Wellington	Committee of Adjustment (Variance Only)  Land Division Committee	Mix of Appointed Public Members & Members of Council  Council
Town of Prescott	Committee of Adjustment (Variance Only)  Land Division Delegated to Staff	Appointed Public Members Staff
Lambton County	Committee of Adjustment	Mix of Appointed Public Members & Members of Council
Bruce County	Committee of Adjustment  Land Division Delegated to Staff	Members of Council Staff
Haldimand County	Committee of Adjustment	Appointed Public Members
Oxford County	Committee of Adjustment (Variances Only)  Land Division Committee	Appointed Public Members for each lower tier  Appointed lay Members
Stormont, Dundas & Glengarry County	Committee of Adjustment  Land Division Delegated to Staff	Mix of Appointed Public Members & Members of Council Staff

The chart demonstrates a range of Committee structures and delegation scenarios involving appointed public members, Council, Members of Council or Staff.

In the scenario where a Land Division Committee is established, a Committee of Adjustment may only deal with Minor Variance Applications.

In consultation with those Municipalities where land division is delegated to Staff, those applications which are anticipated to be complex, contentious, or contested are referred to a Committee of Council or Council for decision. Furthermore, in consultation with the other municipalities, where they have taken an alternative approach to consent and minor variance applications (such as staff delegation, or reviewing those applications through Council), the over all number of applications is lower than that experienced in the County of Brant.

### Summary and Recommendations

Based on the examples provided as well as Count of Brant made options, , the following five (5) options can be considered.

Options	Delegated Authority	Committee Structure
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Option 1 (Current)	Committee of Adjustment (Variances and Land Division)	Appointed Public Members
Option 2	Committee of Adjustment (Variance Only) Land Division	Appointed Public Members  Members of Council
Option 3	Committee of Adjustment (Variance Only)  Land Division *Complex land division applications referred to Committee of Council (Planning and Development Committee)	Members of Council  Staff
Option 4	Committee of Adjustment (Variances)  Land Division	Appointed Public Member  Staff
Option 5	Variances and Land Division - Committee of Council (Planning and Development Committee)	Members of Council

It is noted that the current Committee of Adjustment has commitments for the remaining term of Council. If Council would prefer a different option for C of A functions, staff could assist by providing an additional report on that preferred option with more details including timing and implementation. Staff could also amend the attached Terms of Reference accordingly.

## Summary

Each option includes specific pros and cons. If Council is to undertake Committee of Adjustment and/or Land Division, additional time would be required to review (including site inspections) and make decisions at meetings. If staff were to take on land division delegations an internal process including resources would be needed to be reviewed. The Sign-By-law 121-08, Fence By-law 54-03 and appeals of Property Standards orders would also need to be reviewed in more detail.

Implementation timelines would also need to be reviewed for various options.

## Preferred Option: Option 1

Planning staff have considered the five (5) options and recommend Option 1.

For the past four years, the number of Committee of Adjustment related applications has steadily increased. In 2022, there were 131 applications. This trend is expected to continue

into 2023 and beyond. With an average of 10 applications per meeting, Committee of Adjustment meetings can take anywhere between one (1) hour, to three (3) hours to complete.

The Committee of Adjustment reviews applications for minor variance and consents. Consent applications can include but are not limited to minor boundary adjustments, the creation of one or more lots, and the establishment of an easement. The variety of application types ranges from simple minor variances (like a minor side yard setback), to a complex multi-lot severance application. With varying degrees of complexity, comes varying degrees of time allocation for each application.

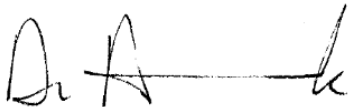
From a staff level, the preparation of Committee of Adjustment reports can be similar in size, scope, and complexity compared to a Planning and Development Committee report such as a Zoning By-Law Amendment which sometimes can take several days to write, review and prepare for presentation. Planning and Development Committee and Committee of Adjustment applications and reports have specific and different legislative timelines that are governed by the *Planning Act*. From a logistics perspective keeping these processes separated works well with the distinct processing including circulation and timelines.

Public engagement is another important component of Committee of Adjustment meetings. Currently, Committee of Adjustment meetings are held in a hybrid format like Planning and Development Committee meetings. During the current Committee of Adjustment meetings, the public has an opportunity to speak to an application. While public engagement is a vital part of the planning process, it adds time and complexity to each presentation, and the overall meeting length.

## Conclusion

With the above matters considered, it is planning staff's recommendation that the County of Brant continue with its current format of having a separate Committee of Adjustment meeting and that the Committee members continue to be appointed members of the public. This option will continue to constitute productive meetings and help with administering the *Planning Act* legislative timelines. Should Option 1 be the preferred option of Council, planning staff have prepared a draft amending By-Law for the Committee of Adjustment as well as a long overdue Terms of Reference for the operation of the Committee of Adjustment.

Prepared by:



**Dan Namisniak, BA, CPT, MCIP, RPP**

Senior Planner



**Alyssa Seitz**, BA, CPT  
Development Agreement Coordinator

**Attachments**

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- 1. Draft Amending By-Law – By-Law XX-23 and Committee of Adjustment Terms of Reference

**Reviewed by:** Mat Vaughan, BES, MPLAN, MCIP, RPP, CMM3, Director of Planning

**Submitted By:** Pamela Duesling, PhD, MCIP, RPP, Ec.D., CMM3, General Manager, Development Services

**Copied To**

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- 1. Alysha Dyjach, Director of Council Services, Clerk
- 2. Jyoti Zuidema, Solicitor and Corporate Counsel

**By-law and/or Agreement**

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By-Law Required	Yes
Agreement(s) or other documents to be signed by Mayor and /or Clerk	No