



April 21, 2021

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Dear Chair Ana Bailão and Members, Planning and Housing Committee

RE: PH 22.7 UPDATE ON COMMITTEE OF ADJUSTMENT VIRTUAL PUBLIC HEARINGS

We are the Cliffcrest Scarborough Village SW Residents Association (CSVSWRA), representing the two mentioned communities in Southwest Scarborough. We were invited by the Federation of North Toronto Residents' Associations (FoNTRA) to comment on our experiences with the **Scarborough Committee of Adjustment** virtual hearings.

This letter is written on behalf of the **CSVSWRA** and outlines the Association's recent experiences with the **Scarborough Committee of Adjustment (CoA)** and our recommendations to improve the efficacy of the CoA.

The concerns that follow relate to three main areas: **Toronto Building Department Application Oversight, Zoning Examiner, and Hearing Procedures.**

Toronto Building Department Application Oversight:

An impactful issue encountered is the presentation of incomplete applications, contrary to the requirements of the application checklist. For example, plans do not always include the interior details which are important in determining use (e.g., single-family) and nature of the dwelling in relation to Zoning By-laws.

Zoning Examiner:

It has been noted that on occasion the Zoning Examiner's review is not as thorough as would be desirable. It is important to ensure:

- plans are reviewed against every by-law constraint
- accurate application of maximum allowed GFA based on Lot Area and applicable maximums (Exception 14.162)

Hearing Procedure experiences:

1) There are instances when the Panel Chair appears to censor speakers selectively and also allows developers' agents to speak longer than the allocated 5 minutes. Often 'Representative Presentations' put forward opinion as fact, and can be misleading or false, with no documentation or evidence to support the claims. More credibility is

rendered to the developer as they have credentials, which on occasion, have no relationship to the discussed issue; whereas, the *community resident expertise* is not valued and/or dismissed. A substantial issue is that the applicant receives the opportunity to rebut the case presented by the opponents and can make dismissive or misleading claims without rebuttal from the opponents.

2) On occasion, the Chair or Panel Member has referenced “**precedents**” as a **consideration in assessing a variance**. For example, noting that there may be another house of similar scale on the street. Variances are not intended to create precedents. Referencing precedents that are variances themselves ignores the concept of prevailing **Community Characteristics** as stated in the **Official Plan**. If one house is given a variance and then that house is used to justify a variance for another development, this in effect results in a new standard which is the equivalent of “rezoning without consent.” At times it appears that CoA panel members are not clear in their interpretation of what it takes to meet the ‘four tests’ that each application is to be measured against. There is a material lack of consistency in decisions even between areas with similar community characteristics.

3) At the start of hearings the Panel Chair comments that no changes to the plans can be introduced during the hearing. In contradiction to this, during a recent hearing, the CSVSWRA representative was asked if an on-the-fly proposed change would be acceptable and presumably allow acceptance of the application with that change. The CSVSWRA response was that without revised plans to measure the impact on the other variances they could not provide a meaningful assessment. This is a fairly common occurrence that has been commented on by Panel Members as unacceptable. This practice creates ambiguity and a moving target that benefits the applicant by hampering the preparedness of application opponents.

4) On occasion, variances are not transcribed correctly into the Public Notices.

5) Interpretation of the **Community Planning Report** is often used as proof of support for an application even when it is not clearly stated as such. This supposition may not be challenged for veracity.

6) The public notices are very often ‘technically’ complex and not clearly understandable to the general public. The CoA process is intended to allow neighbours the opportunity to express concerns, which is difficult to prepare for if information is vague or cryptic. This leads to a system that inherently favours the developer.

7) During a recent hearing, a Panel Chair questioned a CoA participant and member of the CSVSWRA whether the Association is incorporated, and that member was **not** given the opportunity to respond and correct the inaccurate supposition. This undoubtedly diminished the Association’s ability to represent the community and affected the outcome of the decision. The inability to rebut inaccurate information either from the Panel, or the Applicant, puts opponents at a serious disadvantage to Applicants.

Recommendations:

Toronto Building

Applications and drawings should be returned to the Applicant to correct any, even minor deficiencies, to establish a higher expectation of accurate information.

Zoning Examiner

Examiners should endeavour to take more care in their review of the plans and the writing up of the Zoning Review. Having another Examiner review would be useful.

Hearing Procedure

- 1) The community and its representatives should have the ability to challenge/rebut the Appellants' presentations and identify potential inconsistencies. Ideally this would be a verbal statement, but current technology could also allow use of the chat function to alert the Committee to Applicant's closing statements that need to be investigated or questioned for veracity. The Panel Members should undertake the required site visits to familiarize themselves with the neighbourhood and reduce the possibility of being misled. If it is deemed necessary, Panel Members receive supplementary training to ensure that their evaluations of the applications are done effectively.
- 2) The Panel Chair and Panel need to remember to adhere to the contents of the Official Plan and consider **Community Characteristics** (consistent with the prevailing characteristics) as one of the 4 tests that need to be satisfied.
- 3) The Panel Chair needs to enforce consistent Rules, especially those that have been stated before proceedings start. There should be a clear set of CoA rules available to all participants to ensure that all are abided by.
- 4) The CoA needs to give greater attention to detail and have another Planner review the Public Notices before publishing.
- 5) Better statement of what the **Community Planning Report** means should be provided when the report is presented. If it does not explicitly state support or opposition to the application, it should not be able to be used as such.
- 6) There is a need for clarification in the hearing notice about what the hearing means and definition of terms or at least an embedded reference to an on-line document.
- 7) When the Panel Chair questions something brought forward by a presenter that can affect the outcome, the presenter should be given the opportunity to respond before the hearing resumes.

Thank you for the opportunity to present these concerns to the Committee of Adjustment.

Yours truly,



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Cliffcrest Scarborough Village SW Residents Association

cc: Councillor Gary Crawford, Ward 20
Councillor Paul Ainslie, Ward 24



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To learn more and register as a member visit our website

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