



Navigating the Committee of Adjustment Process



Adapted with permission from:



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Introduction

A **Public Hearing Notice** just arrived through your mail slot telling you that a neighbour has applied for approval to make changes to their property.



You feel a little overwhelmed. The technical language and diagrams presented in the Notice are difficult to understand. And you are struggling to figure out how the ‘minor variances’ requested will affect you, and your neighbourhood. They don’t seem minor at all!

You look again at the Notice – you have only five days to send in a submission. Yikes!

Where can you get some technical advice to help you understand the plans? Do you have time to prepare a written or oral submission? Who else should be involved? Can you take time off work to attend the hearing?

And....very importantly you like your neighbour and place a high value on your mutual relationship – this is a big reason why you love living in the CSVSWRA community! The Committee of Adjustment process seems so adversarial – confronting your fellow resident will be very uncomfortable.

Purpose of the Guide

The **Palmerston Area Residents Association (2020)** has produced this Guide to help simplify the challenge – by equipping residents to make their views known to the Committee of Adjustment in an effective and fair-minded way. The Cliffcrest Scarborough Village SW Residents Association has adapted it with permission to provide Ward-specific guidance.

This document is intended as a starting point -- it provides a general overview of the process. Further details and tips are available by following the links listed throughout the Guide.

Note that the Guide is not intended to provide legal or planning advice. If you think you might need to hire a planner, lawyer or other professional to help, contact CSVSWRA through our website at: [Cliffcrest Scarborough Village SW Residents Association /](#) and we may be able to make suggestions. (CSVSWRA does not endorse any service providers.)

CSVSWRA's role

Residents from the CSVSWRA neighbourhood and from other parts of the city report that there has been a trend over the last decade for Committee of Adjustment decisions to be adjudicated in favour of the developer. CSVSWRA's goal is to help 'level the playing field' – to equip ordinary residents to participate effectively in the review process.

What support can CSVSWRA provide?

Tools and resources for residents

Our main role with respect to the Committee of Adjustment review process is to support the participation of individual residents by providing useful tools and resources.

Intervention

CSVSWRA may become involved in individual cases when a negative impact on the neighbourhood is foreseen. This is determined by assessing whether, in our view, the application meets the 'four tests' for a minor variance. (The 'four tests' are described in Section 2 of this Guide.) CSVSWRA will oppose applications that do not meet these tests.

Generally, CSVSWRA will not intervene in property disputes, and will not advocate for owners looking to improve or build on their property.

If you feel that a proposed development will mean a loss for the community as a whole – perhaps the loss of a structure of historical importance or a development that clashes with the character of the neighbourhood. We want to hear from you, contact us at:

Call us at 647 245 327

General inquires to info@csvsw.ca

To learn more about the Association visit

<https://cliffcrestscarboroughvillagesw.ca/about-us>

Membership inquires to membership@csvsw.ca

To become a member visit

<https://cliffcrestscarboroughvillagesw.ca/become-member>

Advocating for change

CSVSWRA communicates with other residents' associations to advocate for improvements to the application review procedure. If you have questions, comments or concerns, let us know how CSVSWRA can advocate for a better process. We welcome volunteers who are interested in becoming involved. Contact us through our website at: [Cliffcrest Scarborough Village SW Residents Association](https://cliffcrestscarboroughvillagesw.ca)

CSVSWRA Catchment Area

Boundary of the Cliffcrest Scarborough Village SW Residents Association

(as of 03 December 2020)



What do all these terms mean?

Here is a list of common terms and abbreviations that are used in the planning process. The definitions are based on documents from the City of Toronto and on the experiences of residents consulted for the creation of this Guide. They are intended to be practical, rather than legal, in nature.

Agent

- Owners may be represented by an Agent at the Committee of Adjustment hearing. In many cases, the Agents are architects, planners or lawyers.

Application Information Centre

- Online resource listing of all new and existing applications for development in Toronto; available at: <https://www.toronto.ca/city-government/planning-development/application-information-centre/>

Applicant

- The Owner normally makes the application request to the Committee of Adjustment.
- In some cases, the architect or designer may file the application request, and will be listed as the Agent.

Building Code

- Building codes are produced at the provincial level and at the city level; they provide a set of construction standards for buildings.

Committee of Adjustment

- A tribunal of citizen members, appointed by Toronto City Council, who consider applications for minor variances to zoning by-laws; consents to sever land or create easements or rights of way; and expansion of existing legal non-conforming uses of properties.
- Reviews applications to ensure that the four 'tests' set out in Section 45(1) of the *Planning Act* are satisfied.

Owner

- The person (or incorporated entity) who owns the subject property.
- Note: the term Owner will be used in this document instead of the term Applicant or Agent.

Minor Variance

- This is a technical term that many residents find misleading – it doesn't necessarily mean that the changes being sought are minor in the eyes of neighbours, however this is the terminology used in the planning process

Public Hearing Notice

- A letter advising property owners within 60 metres of an Owner's address of their proposal requesting variances to the zoning by-laws

Toronto Local Appeal Body (TLAB)

- Tribunal that decides Committee of Adjustment appeals for minor variances and lot severances in the City of Toronto
- Replaced the Ontario Municipal Board (OMB) for minor variances and lot severances in 2017

Zoning By-law

- Regulates land use and the placement of buildings on a lot. Including, in part:
 - Land and building uses
 - Building size or density
 - Location of buildings and other structures on a lot
 - Minimum lot sizes and dimensions, parking requirements and building height

1. Where does the Committee of Adjustment fit within the Plan Review Process?

When an Owner decides to make changes to his or her property, the City of Toronto requires a [Plan Review Process](#) to be followed.

This process involves several stages:

1. Zoning Review
2. Building Code Review
3. Mechanical Plans Examination
4. Fire Prevention Examination

The **Committee of Adjustment** is involved only in the Zoning Review. Other departments are responsible for the other three reviews.

The **Zoning Examiner** will review the application to ensure that it complies with the zoning regulations and with any other [applicable law](#):

- Conservation Authorities Act
- Planning Act
- Environmental Protection Act
- Ontario Heritage Act

Zoning by-laws

The zoning by-laws set out rules governing land use and the placement of buildings on a lot. There are currently two city by-law documents that may apply to each application: the old [by-law 9396](#) and the new [by-law 569-2013](#). The new by-law is most relevant to current applications. The new by-law document has 353 pages for Part 1, and 1,055 pages for Part 2 (exceptions that apply to specific areas of the city). The zoning by-laws regulate many aspects of proposed development, including:

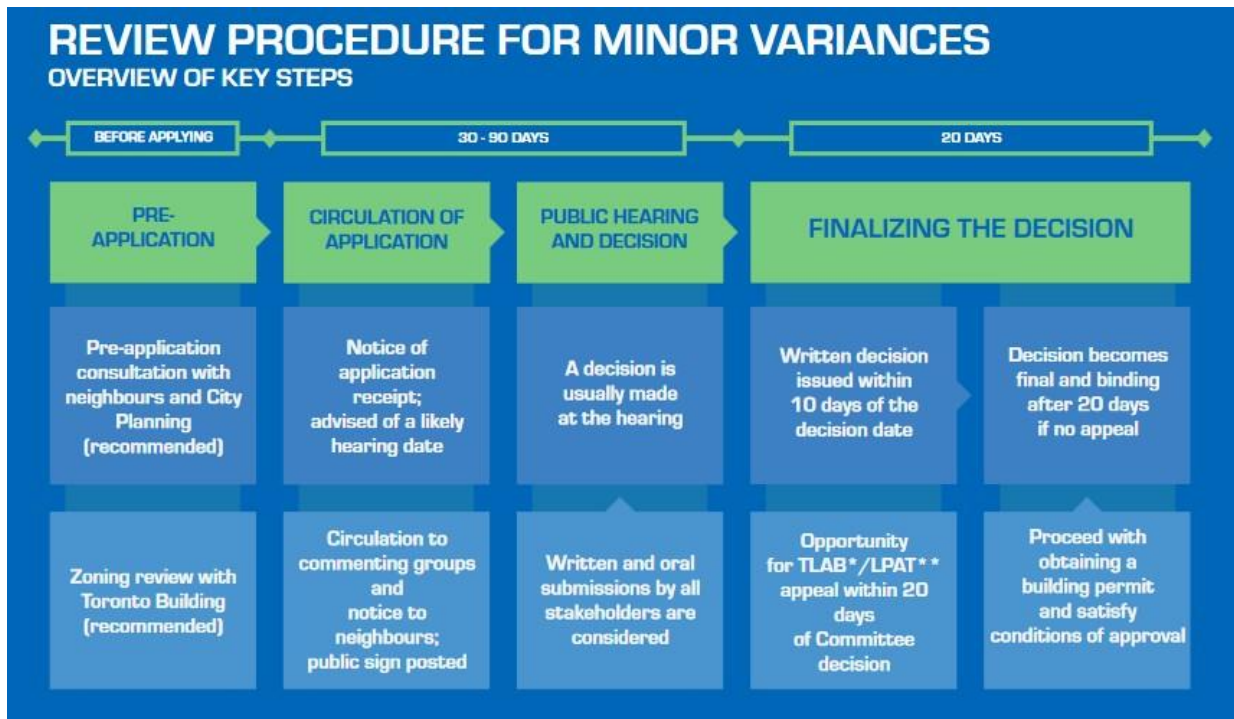
- Land and building uses
- Building size or density
- Location of buildings and other structures on a lot
- Minimum lot sizes and dimensions, parking requirements and building height

Zoning by-laws apply to the homeowner's property, excluding the street allowance governed by the City of Toronto. The street allowance is clearly marked on property surveys.

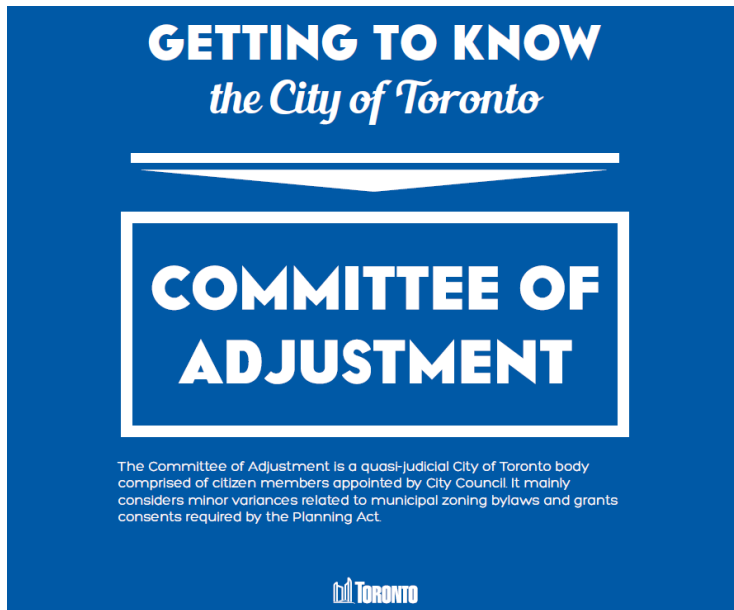
Changes to the building may include things like an addition, making structural changes, or converting space for a new use (creating an apartment, for example). Zoning by-laws also apply to changes to ‘hard’ landscaping elements (such as fencing, pathways and retaining walls) and ‘soft’ landscaping (altering lawns, gardens and other ground cover). Changes, such as paving over landscaping, can negatively impact the health of trees, the amount of overall green space and the ability of rainwater to absorb into the ground instead of running into already overloaded storm sewer systems.

If the Owner is unable to comply with the provisions of the zoning by-law, he or she may submit an application to the [Committee of Adjustment](#) to request an adjustment variance to the by-law. If the requested variance is approved, the Owner may submit a Building Permit application, subject to the terms established by the Committee of Adjustment.

The diagram below, taken from the Committee of Adjustment’s brochure, outlines the review process for minor variances.



2. What does the Committee of Adjustment do?



The City of Toronto has prepared an easy-to-read brochure "*Getting to Know the City of Toronto Committee of Adjustment*". This booklet, and a more technical document outlining the committee's rules and procedures, can be accessed through the [Committee of Adjustment website](#).

a) Role of the Committee of Adjustment

The Committee of Adjustment consists of citizen members, appointed by Toronto City Council, who consider applications for minor variances, permissions and consents. The CSVSWRA neighbourhood is served by Scarborough (SC) panel which meets, in-person or virtually, approximately every two weeks.

The mandate of the Committee is strictly defined. Its purpose is solely to review applications to ensure that the 'four tests' set out in Section 45(1) of the *Planning Act* are satisfied. All other matters (for example, parking permits, property line disputes, fencing, construction) are beyond its scope.

The four tests

A requested variance can be approved, if it is in accordance with the following:

- 1. The variance is minor**
 - The change must be minor in both size and impact
- 2. The change must be desirable and appropriate**
 - The change must be desirable for the appropriate development of the site itself and neighbouring lands
- 3. Meets the general intent of the zoning by-law**
 - The change must meet the general intent and purpose of the zoning by-law, such as trying to maintain appropriate relationships between buildings, allowing for green space or providing a certain level of parking
- 4. Meets the general intent of the Official Plan**
 - The change must fit in with the City's planning directions including respecting and reinforcing neighbourhood character
 - The Official Plan provides policy directions with respect to privacy and overlook conditions. While there are no by-laws specific to privacy and overlook, the Committee will work to address your concern.

To approve an application, the Committee of Adjustment must be satisfied that:

- The proposal does not substantially increase the usability of the property.
- The proposal does not adversely affect the surrounding properties or neighbourhood in general.
- Any change of use is either similar to the existing use or more closely related to the uses permitted in the Zoning By-law.

The Committee makes its decision at the public hearing, after reviewing all material filed with the application, letters received, deputations made at the hearing, the results of site inspections, and staff reports.

Tip: Making your submission relevant to the four tests

Submissions to the Committee of Adjustment **must address one or more of the ‘four tests’** that comprise its mandate. Matters outside these areas will not be considered by the Committee.

Here are some examples of impacts that have been considered by Committees of Adjustment in deciding that a requested variance is not acceptable:

- Reduced parking
- Excessive traffic generation (after construction is completed)
- Shadowing of surrounding properties (for example: blocking of morning sun compromises existing landscaping; negative effects on neighbour’s right to the enjoyment of their backyard)
- Significant reduction in amount of sunshine increases the potential for snow build-up, slow melt and roof rot
- Obstructed or unsightly view from neighbouring properties
- Reduced right of access to property and ability to clean and maintain gutters, venting, chimney, exterior walls
- Impaired ability of chimney to draft because its height is exceeded by that of the neighbouring chimney
- Elevated roof of the new build allowing water, snow and leaves to fall onto their neighbour’s roof and fill their gutters
- Structure is too long, too big and too intrusive to fit the character of the neighbourhood

Source: Geoff Kettel (Co-President of the Leaside Residents Association, Co-Chair of the Federation of North Toronto Residents’ Associations). A seismic shift at Committee of Adjustment? Leaside Life, March 1, 2015. <https://leaselife.com/a-seismic-shift-at-committee-of-adjustment/>

Tip: Find out which Committee members will be adjudicating the hearing

You may find it to your advantage to find out about the Committee Members who will adjudicate the hearing. Although all are ‘citizen members’, residents report that they are usually from professional backgrounds and can hold firm opinions about planning. In fact, the criteria for membership state that panelists must “*have knowledge in one or more areas of: law, planning, architecture, government, economic development, community development, land development, urban forestry and environmental planning, or citizen advocacy*”. Knowing their histories in advance may help you to tailor your letter or presentation.

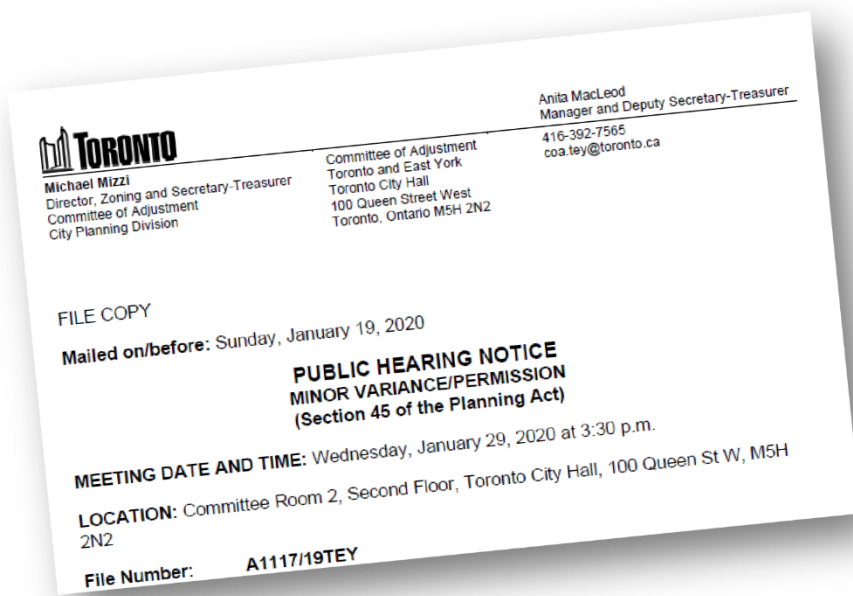
You can obtain a list of Committee members from the City’s website:

<https://secure.toronto.ca/pa/decisionBody/49.do>.

Although there are 5 members listed for Scarborough, only 4 will be present at a particular hearing. You may be able to obtain information on which members will be present from the technician named on the Public Hearing Notice.

If you feel that a particular Committee member has a conflict of interest related to your case, you may ask that the person be recused.

b) How will I be informed about an application for minor variance?



When a minor variance is requested, the City will mail a Public Hearing Notice to all owners of land within 60 metres of the subject property at least 10 days prior to the scheduled hearing date. The notice will also be provided to any party requesting a copy.

In addition, the City stipulates requirements for notices to be posted by the owner on the property at least 10 days before the hearing.

The Public Hearing Notice contains details of the proposal and identifies the variance(s) being requested. A site plan is included which illustrates the foundation of a new or extended dwelling situated within the boundaries of the lot plan.

Tip: Check regularly for new applications online

If you are concerned about possible future developments in your area, you can easily check online to see whether an application has been made. **Information is posted on the website far in advance of residents receiving a Public Hearing Notice.** Taking this step can mean that you have weeks, instead of days, to prepare your response.

To find out if there are any applications for minor variance near you or in your neighbourhood, and to see the documents submitted as part of the application, search the [Application Information Centre](#) on the City of Toronto website. This database provides information about all development applications, whether or not they require a variance.

3. How can I make my views known?

If you have concerns about the proposed development – either positive or negative – you can make your views known by presenting to the Committee of Adjustment at the hearing or by submitting a letter of support or objection prior to the hearing.

Tip: You have very little time to prepare!

The Public Hearing Notice is sent, by mail, as few as **10 days prior** to the hearing and may not be received until several days later.

Submissions must be received no later than 4:30 pm **five business days before** the hearing date.

So, you may have only a few days to prepare.

Deciding on your approach

Will you submit a letter? Attend the hearing? Get others involved? Launch a petition? Meet with the Owner before the hearing?

Your choice of approach will depend on many factors including: the time and expertise you have available; the importance to you of the proposed changes to the property; the possibility of negotiating with the Owner outside the Committee of Adjustment process; your ability to attend a hearing during working hours; and the willingness of your neighbours to participate.

Gathering support

If you feel an application is particularly egregious, having the support of your neighbours, CSVSWRA, the local Councillor, and the City Planning Department can be crucial. Here are some approaches to consider.

a) Get others involved. Speak with your neighbours to find out how they feel about the proposed development. If others are also concerned, build support by asking them to write letters, attend the hearing, or sign a petition. Suggestions are made throughout this Guide on how to do this.

b) Ask the City Planning Department for help. Having the department on your side can help your cause immeasurably but this support depends on a timely response, which has not always been the case. Contact the Application Technician listed on the Public Hearing Notice, who may be able to provide an assessment of the application and/or tell you whether Planning intends to oppose the application. They can also provide any studies that the City may have conducted that are relevant to the property. If

the technician undertakes to send information, be sure to follow up promptly since you have very little time to prepare your response.

c) Talk to CSVSWRA. Contact CSVSWRA through our website to find out whether the association will support your position by sending a letter of objection and/or by offering advice.

Ask the Councillor to intervene. A letter of objection from the Councillor signals the importance of the case to the Committee. The Councillor can also help to ensure that any commitments for support that the Planning Department undertakes on your behalf are followed through. Letters of support are provided at the Councillor's discretion and will be requested by the CSVSWRA when deemed appropriate.

Tip: Steps to take immediately

The following tips are adapted from the South Armour Heights Residents' Association (SAHRA):

- Read the Public Hearing Notice and visit the physical site so that you can visualize what the Owner is planning and how the proposal requires variance from the by-laws. Review whether the application meets the 4 tests adjudicated by the Committee of Adjustment.
- Read the CSVSWRA Guide thoroughly and, for further information, refer to documents from other residents' associations and from the City, listed throughout the Guide and in the Appendix.
- Review the application online on the Application Information Centre website or request a copy of the site plan, the proposed building elevations, and any other documents submitted to the Committee of Adjustment.
- Call the Committee of Adjustment planner involved with the application (name and contact information are on the Notice). Ask whether there are any staff reports on this application. Outline your concerns; perhaps the staff will have suggestions.
- Ask if there are any previous Committee of Adjustment decisions for that address and nearby. (Note that the [Research Request Portal](#) allows you to request a record of decisions over the past 10 years for the surrounding area within a 500 metre or one kilometre radius for a fee of \$150 or \$300 respectively, plus HST.)
- Contact the Owner and discuss the questions you want answered, including 'why' the Owner is asking for specific variances. You can explain how you think the requested variances might affect you. Find out whether the Owner is willing to accommodate your concerns and alter the application.
- Speak with your neighbours to find out if you share the same concerns and if they are willing to also challenge the application. Gather support.

You may ask your Councillor to assist you in getting more information and to give you their support in objecting.

- Prepare a concise letter of objection to the Committee of Adjustment. (See the Appendix of the CSVSWRA Guide for sample letters.) You must address the specific variances being sought and describe exactly how each could impact your property or the neighbourhood with reference to the 'four tests', and not just say that you don't want the variances granted. The more written or emailed objections the Committee of Adjustment receives, the more likely the Committee will be responsive to your concerns. Copy the CSVSWRA on any letters you and your neighbours write.
- It is always better to attend and speak, either individually or as a group, at the Committee of Adjustment hearing, in addition to sending your written comments. Each presenter will be given at most five minutes to speak, so plan accordingly. The Committee members may ask you questions

and you may respond to comments made by the Owner at the hearing.
Adapted from: South Armour Heights Residents' Association (SAHRA)
<https://sahratoronto.com/development/committee-of-adjustment/>

Tip: Creative ways to encourage neighbours to participate

A PARA resident found that asking neighbours to write individual letters of support or objection was a large request. These take time to research and compose, and are especially challenging for people whose first language is not English.

Instead, the resident asked neighbours to sign a petition. A copy of the petition was also left with the owner of a local business who invited his clients to sign it. The signed petitions were scanned and sent to the Committee of Adjustment.

Letters of objection or support

In preparing your arguments, it is critically important to keep in mind the Committee's mandate. Each point of support or objection should concisely address one of the **'four tests'** described earlier, using supporting facts. Any matters beyond this scope should be omitted.

The [Committee of Adjustment](#) **cannot** consider:

- Aspects of the proposal that do not require variances (example: If building height is not listed as a requested variance, then it is not a matter that the Committee can consider)
- Noise, pollution, property maintenance, construction and engineering concerns. (Please contact Toronto Building)
- Prosecution for illegal construction. The Committee is required to view these applications as if the **construction has not been started or completed**. (If you have a concern about illegal construction, contact the City at: <https://www.toronto.ca/services-payments/building-construction/complain-about-construction-issues/>)
- **Personal comments about neighbours, Owners or their agents.**

Letters to the Committee of Adjustment should be submitted via mail or email prior to the hearing. (The Committee's website states that they must be received a **minimum of a five business days before**). Be sure to quote the file numbers on the Public Hearing Notice you received from the City. This information should be placed at the top of your letter and included in the subject line if sent by email.

Also, bear in mind that if the Committee's decision goes against your wishes you will have an opportunity to appeal. (See the end of this Guide for details on the appeals process). The case you present to the Committee of Adjustment will form the basis of that appeal. So, if you feel strongly enough about the situation that you can foresee making an appeal (if necessary), spending extra time and attention on your presentation to the Committee of Adjustment will pay off later during the appeal process.

Tip: Check out the **sample letters** in the Appendix of this Guide.

Tip: Writing an effective letter

The Long Branch Residents' Association offers the following advice (with bolded highlights from PARA residents):

Bear in mind that Committee members read dozens of documents for each case they review. Your letter will get their attention if you 'put yourself in their shoes'.

1. **Frame your arguments around the 'four tests'**. Do not include concerns that fall outside the Committee's mandate.
2. **Focus on the impact of the proposed development** on you, your property, your immediate neighbours' properties, and/or the street or neighbourhood.
3. Describe how the **specific variances requested** in the application will affect the 'four tests'. Impacts on light, privacy and the character of the street, for example, are important concerns for residents.
4. Be as **clear and specific** as possible.
 - Illustrate your points with photographs or drawings
 - Provide measurements
 - Explain how your daily life will be affected

Maintain a **business-like tone**, presenting strong arguments while avoiding emotional language, and make your case as **concisely** as possible – **one or two pages** if possible.

Source: Preserved Stories (Long Branch community blog) <https://preservedstories.com/2016/06/09/how-to-prepare-a-5-minute-presentation-to-the-committee-of-adjustment/>

Preparing for your presentation at the hearing

Although the Owner makes the application to the Committee of Adjustment, he or she is often represented by an Agent at the hearing. Agents usually have a professional background and are experienced at making presentations and rebutting objections.

For residents this may be their first such presentation – and it can be intimidating. Everyone else seems to know what they're doing except me! The experience has been likened to showing up at a rink and being told to shoot a goal against an NHL team – without knowing how to skate.



Being prepared with a crisp, fact-based presentation that is delivered in a clear, succinct and compelling manner will increase your chances of being 'heard' by the Committee members.

Tips: Getting ready for the Committee of Adjustment hearing

The following has been adapted from a presentation shared by Al Kivi of the South Eglinton Ratepayers' & Residents' Association, with input from PARA residents (**bolded**).

“Everything I learned about planning ... I learned at the Committee of Adjustment”

Show up

- This is the Woody Allen rule – 80% of success in life is based on showing up
- **If you don't show up ... you surely lose**

Get an early start

- Normally residents get a short number of days to get organized for their first hearing
- **Watch for the early warning signs for development:**
 - House is sold ... could it be a target for renovation?
 - **Check the city website for applications**

Assume positive intent

- Owners and agents will often approach residents in advance of the hearing
- You should always assume positive intent
- Listen carefully, gather information and contact details
- Try to identify the true owner of the property

Trust and verify

- Listen carefully to the statements and promises made by the owner ... but trust and verify
- Sometimes promises are made simply to reduce the level of opposition at Committee of Adjustment hearings
- Get any promises in writing and verify with Committee of Adjustment staff to ensure they have been received before the hearing

Reach out

- Talk to all sources of information ... other residents, architects, city staff, councillor's office. Call the application technician for clarifications
- Some residents' associations have a special expertise as they have often been involved in similar cases

Learn your Planning A-B-C's

- The Committee of Adjustment is a planning tribunal ... and is focused only on planning matters
- **Become familiar with planning terminology and issues**
- Research past Committee of Adjustment decisions in the neighbourhood that involved similar concerns – what arguments influenced the Committee?
- **Be careful not to focus on construction issues** (these are handled by another department) ... and tread carefully with design issues (esthetic considerations are not within the Committee's mandate unless they significantly affect neighbourhood character)

Rally the street

- In every endeavour there is always strength in numbers ... it is also true at Committee of Adjustment hearings
- Poll your street early in the process. Not everyone will be on board
- **Participation at every level helps ... in testimony, attendance, letter writing, signing of petition**
- **Form letters do not carry much weight; do not use them**

Watch out for the bully

- Some owners and agents engage in bully tactics – don't be intimidated!

- These tactics can include ... misrepresenting the Committee of Adjustment process and key facts, demanding access rights, offering different versions of plans and minor variance lists
- My advice is ... walk away from these discussions. **Do not sign anything.**

Take a field trip

- We all learn in different ways. I learn best through experience
- **I recommend that residents take a field trip to a 'sample' Committee of Adjustment hearing in advance of their scheduled hearing**

Passion adds weight

- Tribunals are about providing evidence, to arrive with facts to allow for the adjudication applying planning tests
- **Some residents are naturally good at this process. The process favours those with strong presentation skills**
- **The secret sauce for residents is the passion that they can bring to the hearing ... developers do not have this same passion**

Source: South Eglinton Ratepayers' & Residents' Association (SERRA)

https://southeglinton.ca/tall_homes/getting-ready-for-your-first-committee-of-adjustment-hearing/

Attending the hearing

The following is a brief overview of the hearing process. For further details, please consult the [Committee of Adjustment website](#).

Planning to attend

The Committee of Adjustment generally meets at Scarborough Civic Centre, 150 Borough Drive. The schedules and agendas are available online.

Changes due to the COVID-19 pandemic

During the COVID-19 pandemic, **virtual public hearings** are now held and there is a guide for participants available online. Note that advance registration is required to participate in virtual hearings.

For further information, click here:

<https://www.toronto.ca/city-government/planning-development/committee-of-adjustment/>

The agenda

At the beginning of the hearing, the Chair will review the agenda to determine which applications will be contested and which applications will not. Applications that are not contested will be heard first by the Committee, followed by applications that are contested. These will be heard in order and it may take several hours for your case to come up for review.

Once your case is announced, you will be asked to identify yourself as an interested party and to sit in a specified area of the meeting room close to the Committee and staff.

Hearing an individual case

The Owner (or their agent) will speak first and will have five minutes to make his/her presentation and another five minutes to rebut comments made by interested parties.

Interested parties will be invited to speak after the Owner's initial presentation. Each speaker will be given **five minutes and one speaking slot** to address the committee. You will be asked to review the variance requests (keeping in mind the 'four tests' that the committee must apply) and explain how these variances will impact the enjoyment of your property and neighbourhood (positively or negatively).

Tip: In preparing your remarks, anticipate the Owner's response to your objections. **The Owner (or their agent) will have a chance to rebut your arguments, but you will not have an opportunity to respond.**

If possible, address the Owner's predicted reaction to your concerns by tightly framing your arguments and supporting them with strong facts. Acknowledge that this is an area of contention, so that the Committee is alerted that there may be differing viewpoints, and reinforce that you have paid careful attention to bringing forward relevant and unbiased information for the Committee to consider.

Attending another hearing as a 'field trip' in advance of your presentation will expose you to how others present their cases effectively.

In some cases, the Committee will ask that all parties pertaining to a specific case talk to each other outside the meeting room, to see if they can come to some agreement. Then you all return to the room and the process proceeds. As noted earlier, if promises are made, get them in writing and ensure that the Committee has a record of these agreements. However, don't feel rushed into making a decision on the spot and ask if a deferral is possible.

Tips: Making an impactful presentation

1. The **street/neighbourhood context** of the application is very important and it is advantageous to bring photographs so that you can illustrate your comments. There is an overhead projector in the room that displays printed images.
2. The Committee is an official tribunal that hears evidence and makes a decision. It is important to be **respectful** to the members of the Committee.
3. The Committee is only concerned with **planning matters** and will not listen to personal concerns you may have about the Owner or their behaviour. Do not raise issues such as property values.
4. **Attending and speaking at the hearing is important**, as the Committee seems to pay more attention to those who make the effort to appear in person. If a number of neighbours are objecting, it is suggested that you **choose several speakers** who will speak to different aspects of the proposal. Try not to repeat each other.

Source: Leaside Property Owners' Association. <https://lpoa.ca/committee-of-adjustment-guidelines/>

The decision

Once the Owner has completed their rebuttal, the Chair will bring the matter 'into committee' and no further comments will be permitted unless the Chair or a Committee Member asks a question.

The Chair will announce the Committee's decision immediately and will state conditions of approval, if imposed. If you speak at the hearing or wish to receive a copy of the written decision, complete the Decision Request Card (provided in the hearing room) and file it with the recording secretary. The decision can be appealed within 20 days.

Deferrals

Deferrals are not awarded automatically and requests are considered by the Committee at the public hearing. Justification for a deferral must be provided to the Committee.

3. Appealing a decision

Appeals of the Committee of Adjustment decisions will be dealt with by the [Toronto Local Appeal Body \(TLAB\)](#).

The TLAB is an independent quasi-judicial tribunal that decides most Committee of Adjustment appeals in the City of Toronto. It is made up of locally appointed members who will make decisions about local planning matters affecting Toronto neighbourhoods. Although membership is open to any citizen having the appropriate qualifications, at present nearly all of the members of the tribunal are either professional planners or lawyers.

Members of the tribunal and their backgrounds are listed on the City's website: <https://secure.toronto.ca/pa/decisionBody/381.do>

A \$300.00 appeal fee is due for each appeal filed.

To appeal or not?

If you feel that the Committee of Adjustment's decision was not fair, you may decide to appeal the case.

Residents consulted for this Guide were skeptical about the value of appealing decisions to TLAB. The considerable investment you will make in time, money and emotional energy may simply not be proportionate to the result you may get.

However, if after considering these downsides, you still feel strongly that the Committee's decision was wrong and feel you have sufficient grounds to appeal, here are a few factors to bear in mind.

Low odds of success

The track record of success for residents' appeals has not been encouraging:

- A review of decisions by a residents' association found that only about one in seven cases were overturned by TLAB
- An early review of TLAB showed that "most decisions of the TLAB have been decided in favor of the Owner with 39 out of 50 decisions approving the requested development permissions."¹

Costs

To increase their chances of success, residents are advised to enlist professional experts, such as lawyers, planners, or coaches, whose services can cost thousands of dollars. However, unlike the Owner, who often stands to gain monetarily from an appeal, residents have no way of recouping their costs. Many residents fundraise to help pay for these services.

Support from the City

In cases where a proposed project will have a widespread negative impact on neighbourhood character or otherwise set an undesirable precedent in the area, the City may become involved in opposing an application. This increases the chance of success.

The TLAB outcomes report prepared in 2018 cited above² noted that "*where residents alone have opposed an application (without support of the City), they have yet to find success at the TLAB. It is noteworthy, however, that no resident has called expert evidence in support of their position. It is also notable that where the City itself appeals approvals of the Committee of Adjustment, it has the highest success rate and settlement rate, with 4 out of 6 of such appeals resulting in settlement and only one such appeal resulting in a decision in favour of the applicant.*"

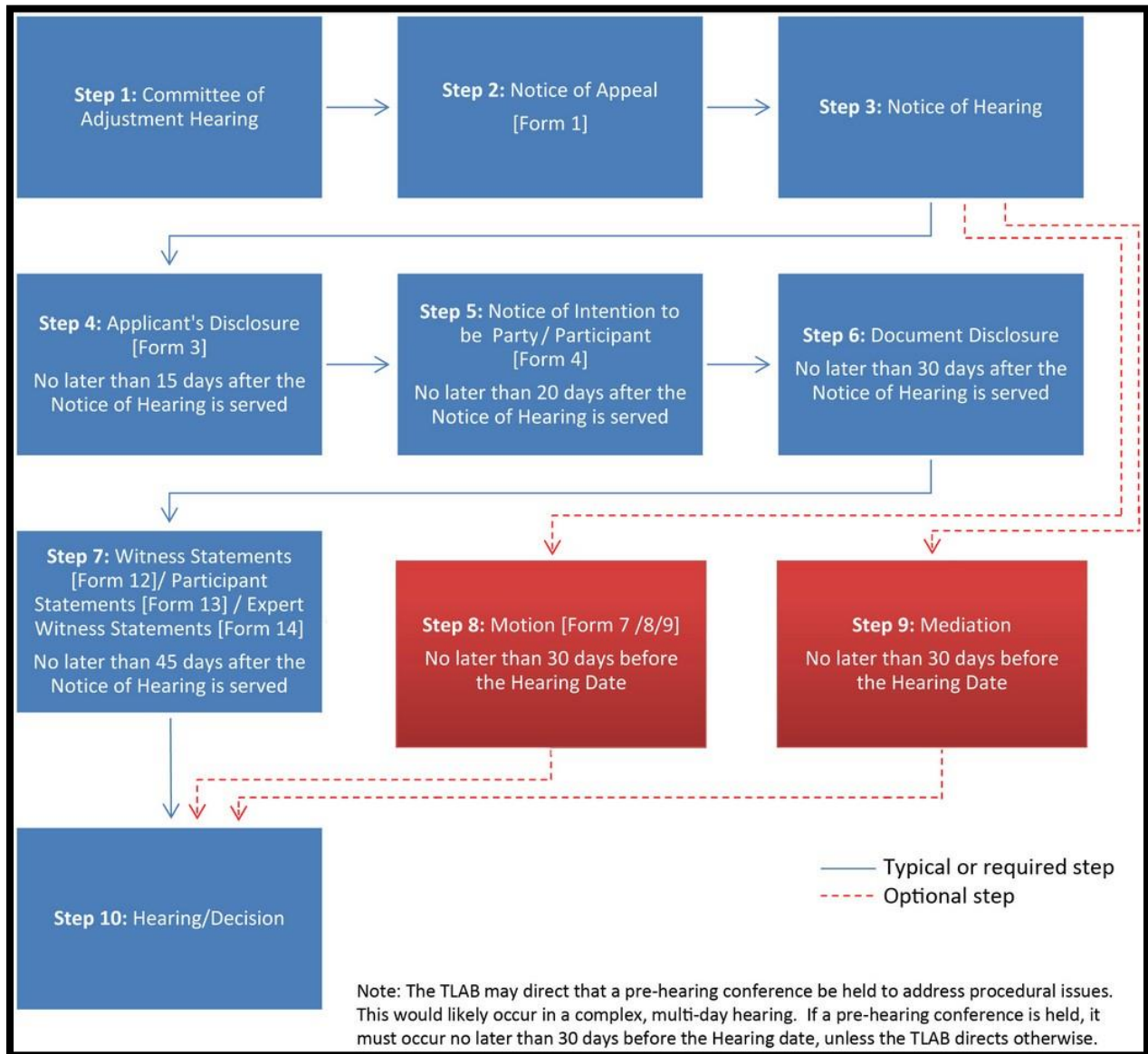
Overview of TLAB appeal process

Presenting your case to TLAB is a more complex and formal undertaking than that of the Committee of Adjustment. Its deliberations are focused on how the law applies in the case, and participants are often represented by lawyers. Your original written objection forms the basis of your case in the appeal process; to this must be added further evidence to support your arguments.

¹ Bisset L, Forristal A, Kehar R. Toronto Local Appeal Body to Date: The Perks and the Pitfalls. Available online: [205641_Toronto_Local_Appeal_Body_to_Date_-_The_Perks_and_the_Pitfalls_-_February_2018.pdf](#)

² Ibid.

Schematic of TLAB appeal process



Source: Wood Bull blog. <https://www.woodbull.ca/resources/wood-bull-blog/2017/10/03/tlab-hearings---some-insights-from-experience>

The ten-step process for a TLAB appeal is described in more detail below, together with some insights from former participants.

Review of the TLAB ten-step process

Step 1: The Committee of Adjustment Hearing

The Committee hearing is a valuable source of information. It gives you clues into who might appear before the TLAB and what position they may take. You will want to pay close attention to whether City staff and/or the City Councillor have any issues with the application. All of this information allows you to make strategic decisions on how to successfully seek approval of / oppose an application. If you did not participate in the Committee hearing, not to worry, you can still participate in any proceeding on the application before TLAB.

Step 2: Notice of Appeal

An appeal to the TLAB must be filed within 20 days from the date of the Committee's decision. There are some limited circumstances where an appeal should be made to the Ontario Municipal Board. The notice of appeal must set out your reasons for the appeal and cite the relevant sections of the City's Official Plan and Zoning By-law that are the subject of your appeal. There is an appeal fee - \$300 for each appeal. You may appeal your application if it's refused, or if you are opposing an application, you can appeal the Committee's decision on it. You need to file your appeal using TLAB Form 1.

Step 3: Notice of Hearing

The TLAB will issue this document. It provides your hearing date as well as the procedural deadlines for the rest of the filing requirements/ procedural steps. You will want to ensure you review these dates carefully. If you have not already done so, at this point you will want to seriously consider retaining a planner, lawyer and other expert consultants that may be required. Ideally, you will have already retained these experts by this step in the hearing process. There is no standardized timeline for when the Notice of Hearing is released. So far, it appears to occur within 30 days after a Notice of Appeal is filed. The Notice of Hearing together with all other documents filed with the TLAB for a particular matter are available on the City's website at this link: <https://www.toronto.ca/city-government/planning-development/committee-of-adjustment/appeals/toronto-local-appeal-body-schedule-hearings-decisions/>

Step 4: Applicant's Disclosure

The Applicant's Disclosure is due within 15 days after the Notice of Hearing is issued. As an applicant, this is your opportunity to revise your plans and the variances you seek. You will want to get a zoning certificate from the City's Zoning Examiner to support your revisions, so you will need to start early to make this filing deadline. It is also helpful to have had some preliminary discussions with those who might oppose your application, so you can consider revising it, hopefully to address their concerns. The revisions you make to the variances you seek need to be minor otherwise there are further requirements for providing notice of the revisions. The Applicant's Disclosure must be filed using TLAB Form 3.

Step 5: Notice of Intention to be a Party or Participant

If you are the appellant, you will automatically be a Party to the proceeding. If not, you will need to elect to be a Party or a Participant. This election needs to be filed within 20 days after the Notice of Hearing is issued using TLAB Form 4. A Party may fully participate in a proceeding, including filing motions, calling evidence, making arguments, cross-examining other witnesses, however a Party may be subject to a cost award. A Participant has a more limited role in a hearing. It includes being a witness, providing an oral and written statement to the TLAB and being questioned by the Parties. A Participant is not subject

to a cost award.

Step 6: Document Disclosure

Within 30 days after the Notice of Hearing is issued, if you are a Party you will need to file every document or relevant portion of a public document you intend to rely on or produce at the hearing. This can include documents that are original work prepared by witnesses. Your witnesses will need sufficient time to prepare these documents, and so it's important to retain them early on in the process.

Step 7: Witness Statements/ Participant Statements / Expert Witness Statements

These statements must be filed within 45 days after the Notice of Hearing is issued using TLAB Form 12 (Witness Statements), TLAB Form 13 (Participant Statements), and/or TLAB Form 14 (Expert Witness Statements). These statements provide an overview of the evidence your witness/expert witness or you as a Participant intend to provide the TLAB at the hearing. There are specific requirements for what must be included in these statements. A review of all statements filed with the TLAB will give you further insight into what evidence each Party and/or Participant intends to provide the TLAB, and therefore a better picture of your chances of success before the TLAB.

Step 8: Filing of Motions

You may need to file a motion to seek specific procedural relief from the TLAB including asking for the disclosure of documents, adjourning a hearing, filing a settlement, etc. The last day a motion can be heard is 30 days before the hearing. You will need to contact the TLAB's offices to obtain a date for when your motion can be heard. You will also need to file a motion record 15 days prior to your assigned motion hearing date that outlines your requested relief and includes an affidavit. There are other specific rules about the content of a motion record. A motion is filed using TLAB Form 7. Responses and replies to it are filed using TLAB Form 8 and TLAB Form 9.

Step 9: Mediation

Where the TLAB is of the opinion that there is good reason to believe that one or more of the issues in dispute may be resolved through mediation, it may direct the Parties and such other persons to attend non-binding mediation. So far, it does not appear to be common for the TLAB to direct parties to mediation. Mediation is confidential and typically anything said at the mediation cannot be repeated before a TLAB hearing. The last day mediation can be held is 30 days before the start of the hearing.

Step 10: Hearing/Decision

The hearing occurs in the assigned TLAB Hearing Room on the assigned date and time. This information is disclosed in the Notice of Hearing. A TLAB hearing is open to the public and so any one can attend. All evidence presented at the hearing is done digitally and so there rarely is a need for paper. The digital aspects of the hearing process pose new challenges for filing evidence, cross-examining witnesses, and making arguments. A hearing process typically should take no more than one day, however complicated cases may take longer. The TLAB will typically reserve its decision following the hearing and it says that it aims to release its written decisions within 30 days of the hearing date, however more complex cases may take longer.

Source: Wood Bull blog. <https://www.woodbull.ca/resources/wood-bull-blog/2017/11/09/tlab-hearings---10-steps-to-the-tlab-hearing-process>

Importance of starting early

Past participants in the TLAB appeal process emphasize the importance of **starting early**. The TLAB strictly adheres to the deadlines it has set out. Failing to, for example, disclose a document by the deadline could disallow it from being entered in evidence.

Nearly all of the supporting documents for the hearing must be disclosed no later than 30 days from the date the Notice of Hearing is served. Witness statements and/or participant statements are due no later than 45 days from the date the Notice of Hearing is served. This means that if you intend to participate in a TLAB hearing, as a Party or Participant, you have got to start thinking about what evidence you will present to TLAB very early in the process.

Ideally, key experts should be in place prior to filing your appeal. You will need to have already retained any expert witnesses you will call at the hearing and are advised to retain counsel early in the process.

In closing...

We'd like to hear from you!

We hope that this Guide has helped you to participate more effectively in the Committee of Adjustment review process. CSVSWRA's goal is to update the guide as the City's planning process evolves and as new challenges and opportunities emerge.

CSVSWRA is committed to good planning in the neighbourhood and to supporting our residents. The planning environment in Toronto is in a constant state of change. For example, planning bylaws may soon be loosened to allow for a greater variety of housing options to address the needs of the 'missing middle' of our growing population. CSVSWRA will continue to provide practical support and to advocate for the best interests of our community and our city.

We invite you to be part of this important work. Please let us know how the Guide can be improved! And share your expertise to help us level the playing field for residents. Send us your thoughts via the 'Contact Us' webpage at: <https://cliffcrestscarboroughvillagesw.ca/>

Appendix

Additional resources

<p>City of Toronto Planning & Development department</p> <ul style="list-style-type: none"> • Official Plan & Guidelines • Zoning by-laws • Committee of Adjustment • Application Information Centre (search under: Scarborough, Ward 20) • Planning for Heritage 	<p>https://www.toronto.ca/city-government/planning-development/</p>
<p>Application Information Centre (City of Toronto) Building Permit Status</p>	<p>http://app.toronto.ca/AIC/index.do http://app.toronto.ca/ApplicationStatus/setup.do?action=init</p>
<p>Planning department contacts</p>	<p>https://www.toronto.ca/wp-content/uploads/2017/12/8d6c-city_planning.pdf</p>
<p>Permits & Tree Protection</p>	<p>https://www.toronto.ca/services-payments/building-construction/tree-ravine-protection-permits/tree-protection/</p>
<p>Toronto Local Appeal Body (TLAB)</p> <ul style="list-style-type: none"> • Filing an appeal • Hearing schedule 	<p>https://www.toronto.ca/city-government/planning-development/committee-of-adjustment/appeals/</p>
<p>Councillor’s office (Gary Crawford – Ward 20) Councillor’s office (Paul Ainslie – Ward 24)</p>	<p>https://www.toronto.ca/city-government/council/members-of-councillor-crawford.ca/ http://paulainslie.com/Paul-Ainslie-Contact-my-Office.html</p>
<p>City of Toronto – Request Build Records If you want plans of a home you must ask for “Permit issued construction plans”. They must be stamped.</p>	<p>Request Building Re – City of Toronto</p>

<p>Request Building Records – City of Toronto Routine disclosure of building plans (viewing and copying) of wholly residential buildings submitted after December 31, 2006, is permitted between the 22nd day following the permit application date and three months following the closing of the relevant permit file by the building inspector, where no objection to disclosure has been received by Toronto Building. www.toronto.ca</p>	
<p>Urban Forestry - 311 Building - 311 Permitting 311 or www.toronto.ca</p>	
<p>Ministry of Labour If observe unsafe working conditions at a construction site</p>	<p>1-877-202-0008</p>
<p>Enbridge or Toronto Hydro</p>	<p>have general lines</p>
<p>Cliffcrest Scarborough Village SW Residents Association</p>	<p>https://cliffcrestscarboroughvillagesw.ca/</p>

Resources from other residents’ associations

1. Palmerston Area Residents Association. PARA’s Guide to Navigating the Committee of Adjustment. [PARA’s Guide to Navigating the Committee of Adjustment Now Available! – PARA \(palmerstonara.org\)](#)
2. Guildwood Village Community Association. *Guidelines and recommendations for Applicants or Opponents for minor variances/severances.* <https://urbanneighbourhoods.ca/wp-content/uploads/2019/02/urban-planning-primer-october-2018.pdf>
3. Frank G. Oakes, Glebe Community Association (Ottawa). *Guide for objecting to a minor variance and/or a land severance.* <https://glebeca.ca/wp-content/uploads/2016/04/Guide-for-Objecting-to-a-Minor-Variance.pdf>
4. Long Branch Neighbourhood Association. *How to prepare a five-minute presentation to the Committee of Adjustment.* <https://preservedstories.com/2016/06/09/how-to-prepare-a-5-minute-presentation-to-the-committee-of-adjustment/>

Sample letters

1. Sample letter of support

[Sender's name & address]

[Date]

[Name]

Application Technician Committee of Adjustment Scarborough

416-396-7012

[Email address]

Dear Mr Caradonna/Ms Darling,

I live at [address] and have received the Public Hearing Notice regarding the minor variances sought for the property at [Applicant's address].

I have reviewed the information attached to the notice regarding the minor variances. I have also discussed the application with the owner of the property.

In my opinion, the proposed variances would not negatively impact on our property or the surrounding neighbourhood, in fact, I think that it will make the house more in keeping with the esthetic of the neighbourhood. I am in support of the application.

Yours Truly,

[Name and signature]

2. Sample letter of objection

July 15, 2020

Letter of Objection RE: 11 Brooklawn Ave - Request for Minor Variances File Number: A0096/20SC
Legal Description: PLAN 2347 PT LOT 457 PT LOT 458

To the Committee of Adjustment members;

My wife and I would like to register our absolute objection to the proposed home construction and variances requested at 11 Brooklawn Ave. We have lived at x Brooklawn for 22 years and added an addition to our home roughly 13 years ago. We followed all the bylaws that existed at the time (with no variances) and kept our renovation within the boundaries of acceptability to the surrounding homes and neighborhood. We are not anti-development and we understand people's desire for homes that are larger than the original bungalows that exist on Brooklawn. However, the ever increasing size and scope that the developers are continually proposing is completely out of sync with the surrounding homes and character of the neighborhood.

The scale of this proposed home in terms of sheer height and square footage would be completely out of place in the neighborhood and in our opinion it does not conform to the intention of the Official Plan for Scarborough Southwest. The City of Toronto Official Plan clearly states that "development in established neighbourhoods will respect and reinforce the existing physical character of each geographic neighbourhood".

Zoning

The area is zoned for single family dwellings and this proposed home clearly has a separate basement entrance with a full kitchen, 2 bedrooms and 2 bathrooms in the basement, the ceiling height and windows are well above the grade and make it ready for a extra rental income and occupants as soon as it is finished by the developer and sold.

Height

This proposed home will tower above every other home in the neighborhood. To the best of my knowledge, there is not a single home in the block south of Barkdene Hills that has even requested a height variance. At 10m high (1m above bylaw) this home would stand above everything else in the neighborhood while the 8.66m sidewalls (1.66m above bylaw) would make it appear even taller from the street and would be completely out of character for the immediate neighborhood. It would be extremely imposing on all direct and close surrounding neighbors as well.

Square Footage / FSI

The maximum permitted floor space is 224.82 sq metres...and yet this proposal is asking for 327.2 sq metres, which again illustrates that this developer is asking for too much house. This proposal is asking for an increase of 102 sq metres floor space, or 46% over what is allowed, or 1.45 times the allowable. The size of this proposal shows no attempt to conform to the prevailing neighborhood. With a proposed FSI of .76 while the bylaw allows for .50 the scale of this home would completely overwhelm the community.

These variances are not at all minor and they are not in keeping with the City of Toronto Official Plan, therefore, we request that the Committee of Adjustment reject all of the Variances requested at 11 Brooklawn.

Thank you for your consideration. Signed,

3. Sample letter of objection

Sent by email

From: [Name of sender]
To: [Name of Application Technician]
Subject: [File number and street address]
Date: [Date and time sent]

To Whom It May Concern:

As the owners and occupants of [address], we are writing to state our objection to the proposed renovations being done on [Applicant's address] (the neighbouring house to our North).

Based on the plans that we have viewed, we have a number of concerns regarding the impact that this significant two storey renovation will have on our property, including the following:

- A severe reduction in the sunlight that currently reaches the rooms on the north and west facing side of our house (these include the master bedroom, bathroom, kitchen and dressing room).
- A significant impediment in the view to the north from our backyard (i.e. where once we saw sky, we will now see a wall).
- A substantial increase into the 'overhang' (i.e. neighbour's view) of what will now loom over our backyard.
- The reduction of the width of our already narrow shared drive that the new proposed footprint will leave in its wake.
- The impeding of our ability to use the above-mentioned shared drive during the renovation period due to the significant amount of manpower and equipment required to facilitate an extension of this size (this is our access point to our backyard and rear entrance as well as our garage where we store bicycles, gardening tools, lawnmower, snowblower, etc...).

In addition to the above, we are also concerned that allowing an extension the size of the proposed one will set a dangerous precedent, whereby the other surrounding houses (which currently have a footprint that is more or less uniform) could also file for similar-sized variances/extensions. If this were to happen, our house/property would in effect be boxed in with our view greatly reduced, and our once sunny rear and side exposures now in shadow.

We appreciate your time and attention to this matter.

Best,

[Names, addresses and phone numbers of senders]

4. Sample petition letter

Date: Tuesday, November 10, 2020

coa.sc@toronto.ca

150 Borough Drive

Toronto, ON, M1P 4N7

Attention: Brian Caradonna

Brian.Caradonna@toronto.ca

Letter of Objection

File Number: A0236/20SC

Property Address: _____

Legal Description: _____

To: Members of the Scarborough Committee of Adjustment

My name is _____. I own and reside at _____. I have lived at this address for the last ____ yrs.

It has come to my attention that the owner of 217 Oakridge Dr. has submitted a proposal to demolish the existing dwelling and construct a much larger home. I would like to express serious concerns with the proposed development application. I appreciate that this homeowner would like to improve this property. We are very happy when residents undertake improvements in our neighbourhood.

I have reviewed the drawings, proposal and application documents and am concerned that there are many variances generated by this application which will not benefit nor contribute to the prevailing character of this neighbourhood.

- This proposed home would be materially bigger than the existing houses in the neighbourhood and 86% larger than the allowable Gross Floor Area and Floor Space Index. Most of the homes in the immediate neighbourhood are bungalows with a few two-storey homes.
- There are no three-storey homes in our neighbourhood and this home would tower over immediately adjacent homes and 31% larger than the allowable height.
- There are an excess of platforms and balconies, including a full roof top recreational space that is 68 times the allowable space.

I have reviewed and **fully agree** with the “Report for Action” submitted by the City Planner that this development would not be keeping with the Official Plan developments outline. The proposed development does not fit into the prevailing character of the neighbourhood and the fabric of our community. Each of the 13 variances outlined in the Notice are quite significant and not minor.

This application does not satisfy the intent and purpose of the Official Plan nor the Zoning By-law. It will have a serious impact to the prevailing character of our neighbourhood.

I join with my neighbours and respectfully request the Scarborough Committee of Adjustment Members to refuse this application.

Thank you for your time and attention to this matter.

Sincerely,

Name and Signature _____

[Photo and petition attached]

