

- Committee of Adjustment -
OUNRA

Jane and John Doe who live on First Street want to do a major renovation on their house. Aside from the challenge of choosing and managing the contractor, there are any number of legal barriers to navigate. They will need to get a building permit from City Hall before the work can proceed legally. But the work might also require construction that violates zoning by-laws. This would be the case if, for example, they want to add a room that encroaches closer to the boundary line than is allowed in their part of the city or if they want to enlarge their driveway to more than 40% of the width of their front yard. In this case, they will also need to get prior permission from the City's Committee of Adjustment (CofA).

The CofA is an adjudicative body that the City is required to establish under the Province's Planning Act. The Act also requires that the City adopt an Official Plan and further define, through zoning by-laws, the character of its various neighbourhoods. Some areas, for example, will be mainly commercial; others will be mainly detached houses while still others can have a mixture of dwellings. These rules are intended to create orderly and responsible development in keeping with local values and aspirations.

All of this means that if any one of us wants to make changes to our property, we can do so only within the rules as defined by the Official Plan and the Zoning By-law. If we limit ourselves to what the rules explicitly allow, we only need to get a building permit. But if we push beyond the rules, we also have to make a submission to the CofA to be exempted from the rules by getting the Committee's approval for a 'variance'.

So, Jane and John Doe need to obtain a variance approval from the CofA. If the variance is really very minor, such as expanding the driveway to 41.5% of the property width, the CofA will probably grant the variance. On the other hand, if the Doe family wants to pave over 50% of their front yard, the variance will probably be denied because it is not minor.

As with most things in life, there is a troublesome grey zone between minor and not minor. It is the CofA's job to make decisions about matters in this grey zone. Formally, the CofA considers what are known as the 'four tests' in making its decision:

Is the variance minor?

Is the variance desirable for the appropriate development of the lands in question?

Is the general intent and purpose of the Zoning By-law maintained?

Is the general intent and purpose of the Official Plan maintained?

To help them decide, the Committee asks the City planners to submit a report showing the degree to which the proposal is consistent with good planning principles. The Committee also considers the views of the people who live near the applicant's property. The nearest neighbours are informed in writing of the proposed changes and, in

Guelph, the applicant must post formal notice of the application on the property for at least 10 days prior to the CofA hearing.

Submissions from the neighbours and any other interested parties are received in writing before the hearing and/or verbally at the hearing. Depending on the level of support for the change from the neighbours, the exact definition of an acceptable variance will likely vary from situation to situation. The feedback from the neighbourhood can help the Committee come to a decision, one way or the other. Decisions within this grey zone between minor and not minor very often depend on subjective perceptions and the particulars of each situation. Local impacts matter and the views of the neighbours can be helpful to the Committee.

Where does the Old University Neighbourhood Association come into all this? The general aim of the Association is to protect and maintain the viability of the neighbourhood by participating in community affairs and developments and by keeping the residents informed of important issues. A particular and critical role for the Association is insisting that all proposals for development in the neighbourhood are consistent with the City's Official Plan and the Zoning By-law. In short, the Association intervenes to ensure that all appropriate rules are being followed when changes to properties are being made.

The City Clerk's Office routinely informs the Executive Committee of the Association of all applications for variances for properties within the OUNRA area. The OUNRA Executive Committee reviews the details of the application and considers them in relation to the four tests that will be the focus on the CofA decision. The Executive routinely consults with the near neighbours who will be more strongly affected by the proposed changes to get a sense of the impact the changes are likely to have. When the application for the variance requires further clarification in order to be fully understood, the Executive also meets with the applicant.

Once the Executive Committee has all the relevant information in hand, it will decide whether or not to support the application. Where the application is clearly for a minor variance and when the near neighbours do not object, the Association will write a formal letter of support for the application and forward this to the CofA. When the Executive judges the application to be not-minor and especially if the neighbours are not happy with the proposal, the Association will oppose the application in writing and even appear before the CofA to make a verbal objection to the application.

The intention of the Executive Committee of the Association is to comment on each and every application for a variance that goes to the CofA from its neighbourhood. Through these actions, as well as others, our aim is to protect and enhance the livability of the Old University Neighbourhood.