

# Planning Primer: Committee of Adjustment

Presented by:

The Planning, Real Estate, and Economic  
Development Department

Fall 2023

# Agenda

1. What is the Committee of Adjustment?
2. Types of Applications
3. Application Process
4. Public Hearing
5. After the Hearing
6. Questions & Answers

# Committee of Adjustment Notice of hearing

## Applicant's Proposal

167 Gilmour Street  
Minor Variance Application

To permit the construction of a second storey front porch.

Wednesday, August 2, 2023  
1:00 p.m.

Ben Franklin Place, Main Floor Chamber, 101 Centrepointe Drive  
and by videoconference

## For more information



Committee of Adjustment  
City of Ottawa  
101 Centrepointe Drive, 4th floor  
Ottawa ON K2G 5K7  
613-580-2436  
Ottawa.ca/CommitteeofAdjustment  
cofa@ottawa.ca



# Comité de dérogation Avis d'audience

## Proposition du requérant

167, rue Gilmour  
Demande de dérogation mineure

Permettre la construction d'un porche de deux étages.

Mercredi 2 août 2023  
13 h

à la salle du Conseil (The Chamber), rez-de-chaussée, Place-Ben-Franklin, 101, promenade Centrepointe

## Pour en savoir plus



Comité de dérogation  
Ville d'Ottawa  
101, promenade Centrepointe, 4ème étage  
Ottawa ON K2G 5K7  
613-580-2436  
Ottawa.ca/ComitedeDerogation  
ceded@ottawata.ca

## NOTICE OF HEARING

Pursuant to the Ontario *Planning Act*

Minor Variance Application

Panel 1  
Wednesday, August 2, 2023  
1 p.m.

Ben Franklin Place, Main Floor Chamber, 101 Centrepointe Drive

and by videoconference

Owners within 60 metres of the property address below are receiving this notice in case they want to comment on the application(s) and/or participate at the hearing.

The hearing can also be viewed on the Committee of Adjustment [YouTube](#) page. *Simultaneous interpretation in both official languages, accessible formats and communication supports are available for any specific agenda item by contacting the Committee of Adjustment at least 72 hours before the hearing.*

**File Nos.:** D08-02-23/A-00156  
**Application:** Minor Variance under section 45 of the *Planning Act*  
**Applicant:** 1963981 Ontario Incorporated  
**Property Address:** 169 Gilmour Street  
**Ward:** 14 - Somerset  
**Legal Description:** Part 56 (North Gilmour Street Lots) Registered Plan 15558  
**Zoning:** R4 UD  
**Zoning By-law:** 2008-250

### APPLICANT'S PROPOSAL AND PURPOSE OF THE APPLICATION:

The Owner wants to renovate the existing detached dwelling to rebuild the front porch entry with a second level, add a wheelchair accessible ramp, new entry stairs and landscaping to the front yard.

### REQUESTED VARIANCES:

The Applicant requires the Committee's authorization for a Minor Variance from the Zoning By-law to permit a projection of 2.45 metres for a two-storey porch in the front yard, in a heritage overlay area whereas the By-law requires that projections are not permitted into the front yard in an area to which a heritage overlay overlaps, except in the case of a ramp used for handicap access.

# 1. What is the Committee of Adjustment?

# Committee of Adjustment

- A quasi-judicial administrative tribunal appointed by City Council.
- Independent and autonomous from the City Administration.
- Jurisdiction from the *Planning Act*, R.S.O. 1990, c.P.13
- Separate from other development approval processes.
- Considers and makes decisions on consent, minor variance, and permission applications.
- Decisions must:
  - Conform with **City's Official Plan**
  - Be consistent with the **Provincial Policy Statement**.

# Panels



## Panel 1

Wards: 12, 13, 14, 15, 17



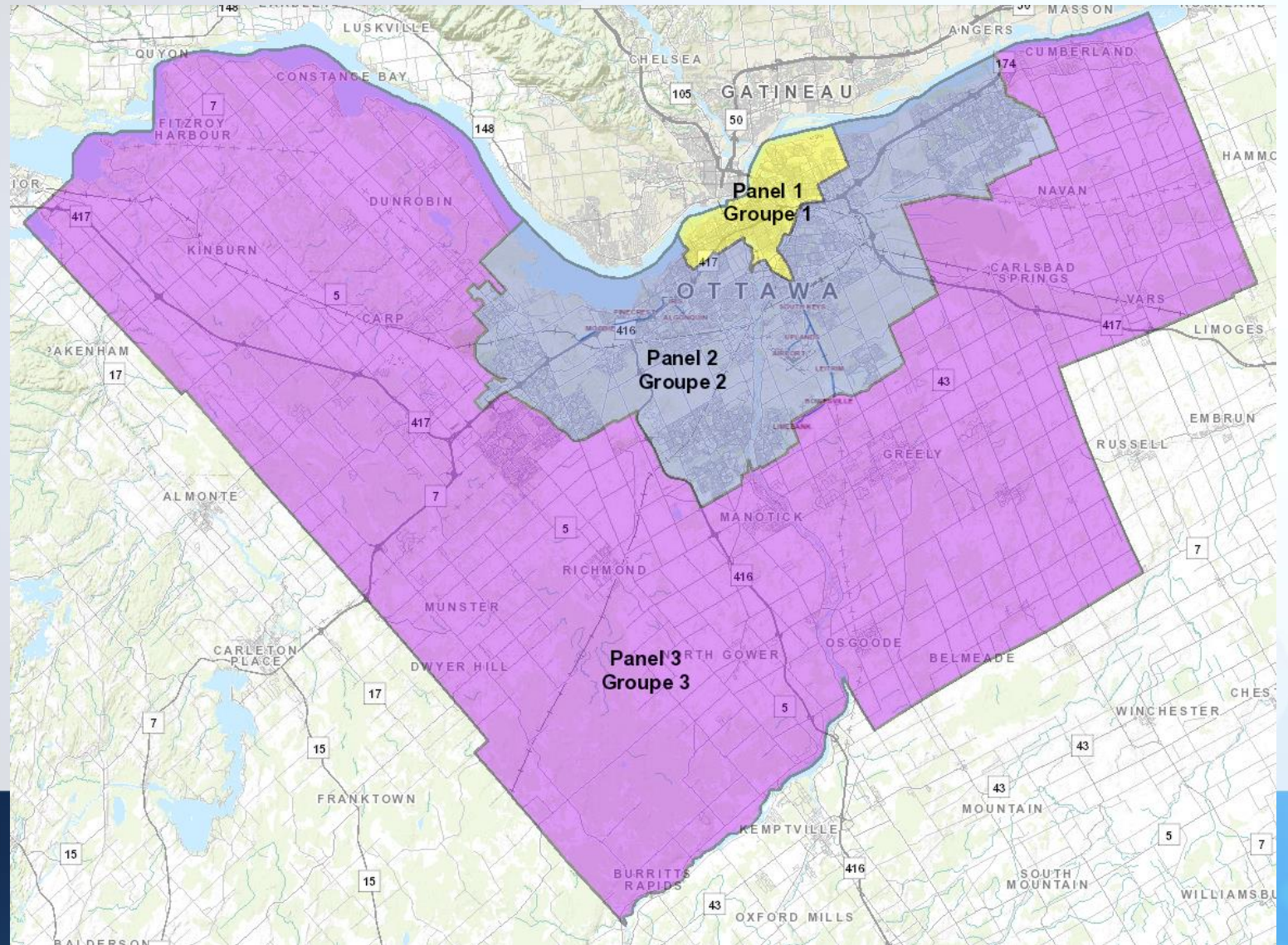
## Panel 2

Wards: Part of 1, 2, 3, 4, 7, 8, 9, 10, 11, 16, 18, Part of 19, 22, 23, 24



## Panel 3

Wards: Part of 1, 5, 6, Part of 19, 20, 21





Committee of Adjustment



Commenting Bodies

# Committee Staff

- Process applications:
  - Intake applications
  - Deem complete
  - Process fee payments
- Set and prepare agendas for public hearings
- Circulate applications
- Provide administrative support to the Committee of Adjustment
- Prepare written decisions
- Coordinate condition clearance & issue final certificate
- Process appeals to the Ontario Land Tribunal (OLT)



Committee Staff  
do not assess the merits of  
an application



# Committee Members

- Review application materials & comments prior to the public hearings
- Attend public hearings
- Respect the rules of procedure
- Deliberate on matters relevant to the applications
- Make decisions:
  - Grant
  - Refuse
  - Adjourn



Appointed by City Council  
for a 4-year term

# Planning Staff (PRED)

- Review & evaluate applications
- Consolidate comments from internal divisions (i.e., Forestry, Heritage, Engineering)
- Prepare comments to the Committee of Adjustment
- Answer questions posed by Committee Members

After the public hearing:

- Reviews materials to clear conditions (where applicable)
- Appeals:
  - Prepare policy extracts for the Committee of Adjustment
  - May be served with a subpoena
  - Where the City has an interest, staff will attend as a Party

## 2. Types of Applications

Minor Variance

Consent

Permission

# Zoning By-law

- Regulates the use of land by stating how land can be utilized
- Assigns zones with permitted uses and performance standards
- Options to deviate from the performance standards in the Zoning By-law can be done through a
  - Minor Variance application, or
  - Zoning By-law Amendment application



# Minor Variance

**What:** Proposed change from the requirements of the Zoning By-law

**Examples:**

- Reducing the rear yard setback to build an addition
- Creating a new lot that does not comply with the minimum lot size requirements
- Legalizing an existing deficiency

**Authority:** Section 45(1) of the *Planning Act*, R.S.O. 1990, c.P.13

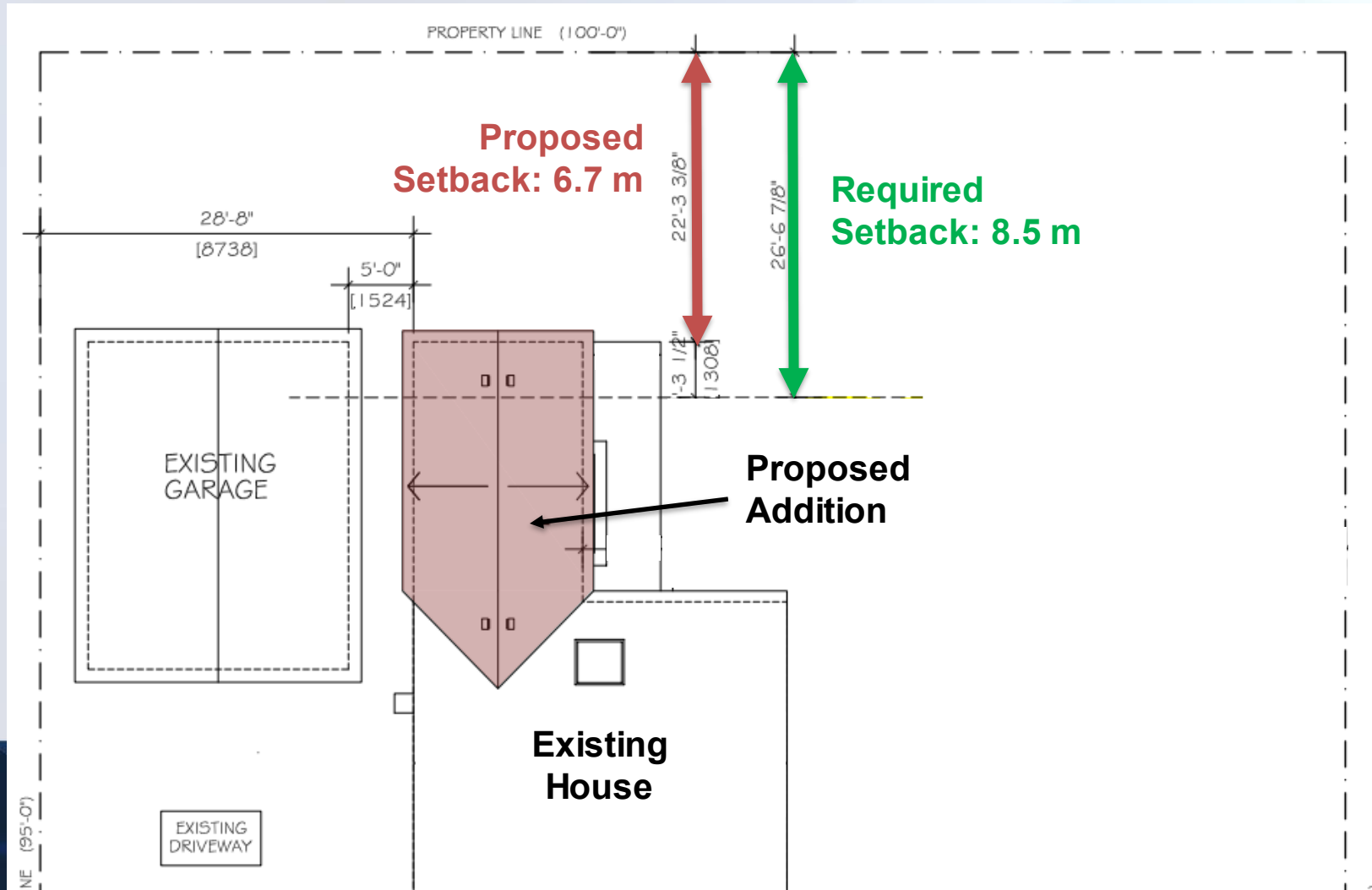
**Evaluation:** "**Four Tests**" outlined in Section 45(1) of the Planning Act

# Evaluation Criteria - “Four Tests”

Section 45(1) of the *Planning Act*, R.S.O. 1990, c.P.13

1. Is the application **desirable** for the appropriate development of the lands?
2. Does the application maintain the **general intent and purpose of the Zoning By-law**?
3. Does the application maintain the **general intent and purpose of the Official Plan**?
4. Is the application **minor**?

# Example: Reduced Rear Yard





# Consent

**What:** The most common types of consent applications are **severances** to divide land into 2 or more lots and **lot line adjustments**.

Other types include:

- Registration of easements
- Lease agreements exceeding 21 years

**Authority:** Section 53 of the *Planning Act*, R.S.O. 1990, c.P.13

**Evaluation:** Criteria under Section 51(24) of the *Planning Act*, R.S.O. 1990, c.P.13

# Evaluation Criteria

Section 51(24) of the Planning Act:

- a) The effect of development on matters of provincial interest
- b) Whether the application is premature or in the public interest
- c) Conformity to the Official Plan
- d) Suitability of the land for the purposes for which it is to be divided
- e) Highways
- f) Dimensions and shapes of the proposed lots
- g) Restrictions (if any) on the lands
- h) Conservation of natural resources
- i) Adequacy of utilities and municipal services
- j) Adequacy of schools
- k) Conveyance
- l) Extent to which the plan's design optimizes the available supply, efficient use of energy
- m) Interrelationship between the design and site plan control matters

# Conditions of Approval

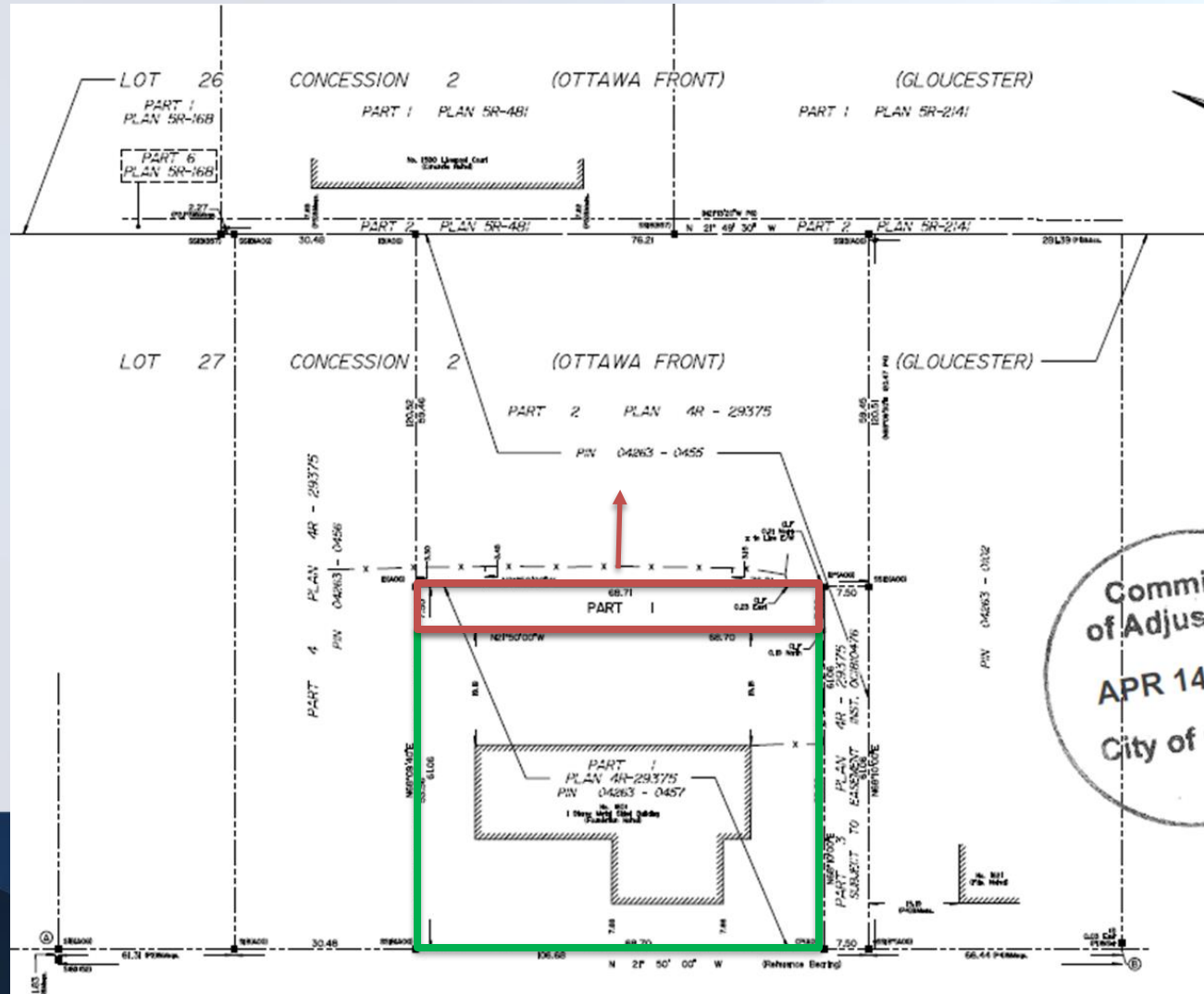
- **2 years** to fulfill conditions
  - Not cleared = **consent lapses**
  - Cleared = **certificate issued & lots registered**
- Examples:
  - Payment of Cash in Lieu of Parkland Dedication
  - Grading & Servicing Plans
  - Stormwater Management Brief
  - Tree Planting Plans
  - Road Widenings



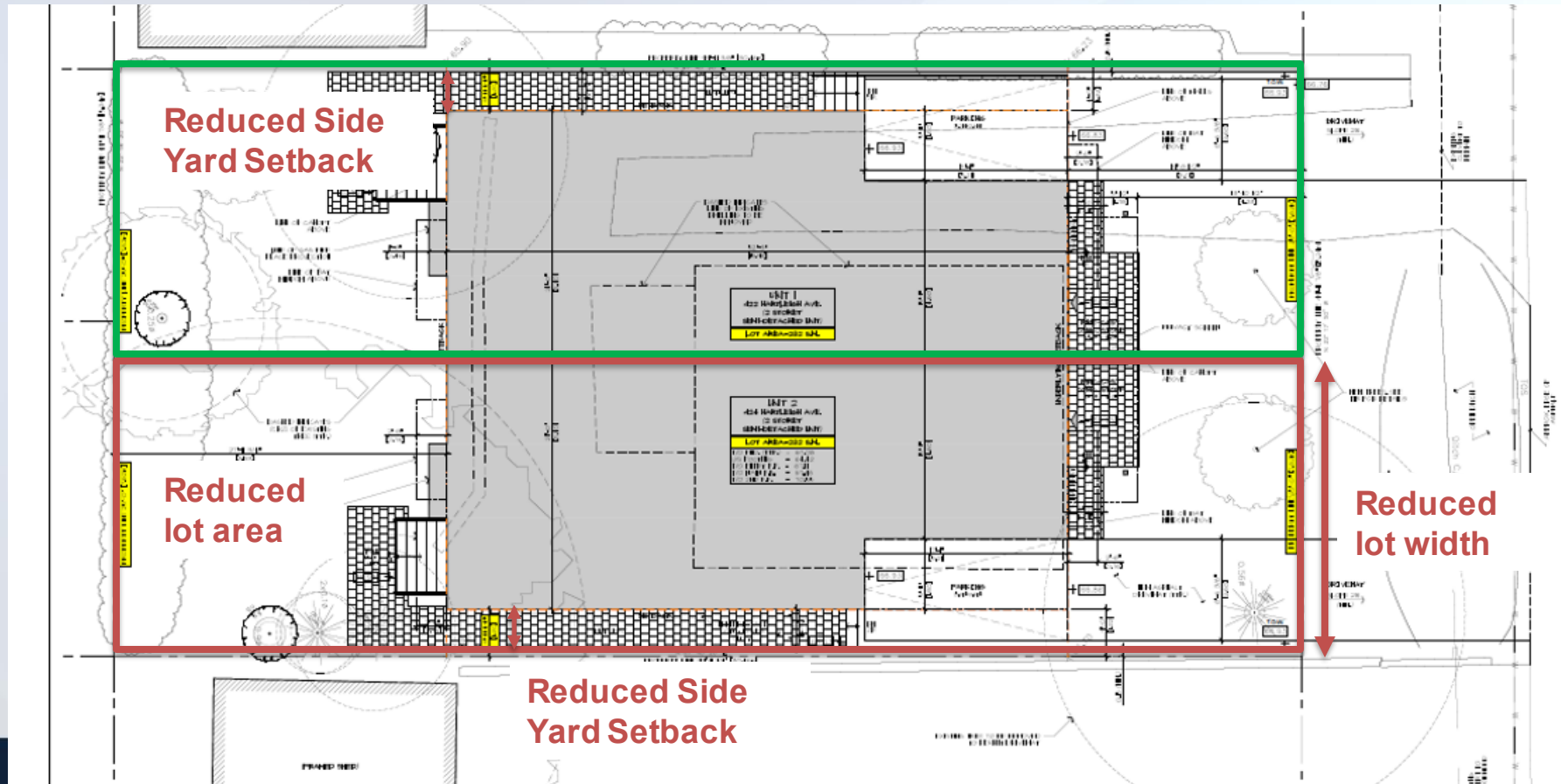
There is NO process to  
EXTEND the timeline



# Example: Lot Line Adjustment



# Example: Consent & Minor Variance



# Permission

- What:** Change from one legal non-conforming use to another, or proposal to expand a legal non-conforming use or non-complying building or structure.
- Authority:** Section 45(2) of the *Planning Act*, R.S.O. 1990, c.P.13
- Evaluation:** Case law establishes that the following should be considered:
- Continuous?
  - Desirable?
  - Undue adverse impacts?
  - Is the new use similar with the existing uses or more compatible with the uses in the Zoning By-law?

# Legal Non-Conforming Rights

- Legal non-**conforming** = **use**
- Legal non-**complying** = **performance standard** (i.e., setback, height)
- Section 34(9) of the *Planning Act*, R.S.O. 1990, c.P.13
  - Existing use lawfully established but no longer permitted in the Zoning By-law
  - Permitted to continue
  - May also change or expand subject to a **permission application**
- Key points:
  - Legal non-conforming right(s) are attached to a **property** not an owner
  - The City cannot prohibit the use



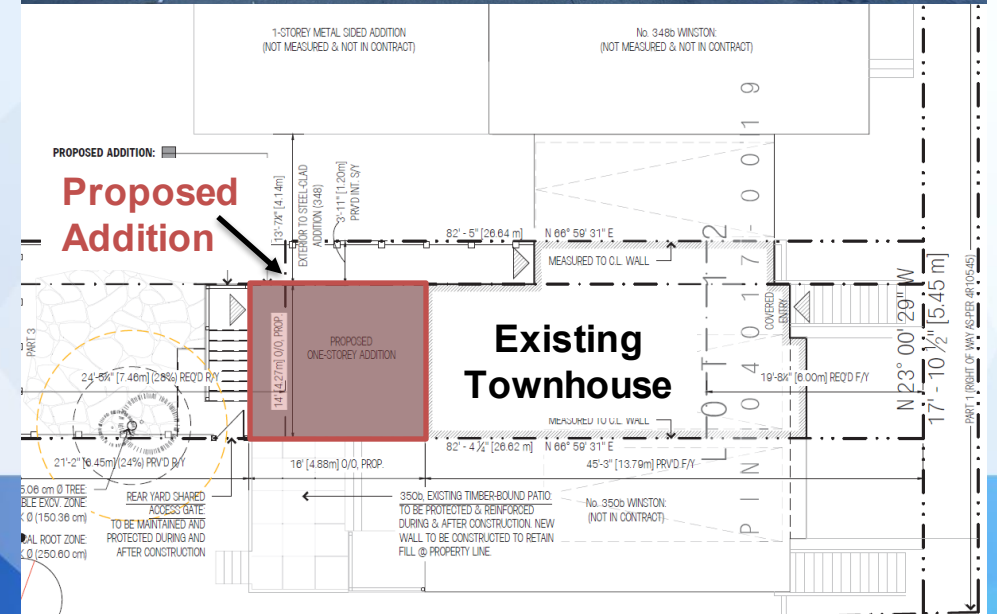
# Example: Change of Use

- Existing Use: Sales of office furniture
- Proposed use: Spa / Hair Salon
- Zone: Residential
- Permission required to **change from one legal non-conforming use to another** non-conforming use.
- Considerations:
  - Legally established?
  - Continuous?
  - Is the new use similar or more compatible than the existing use?



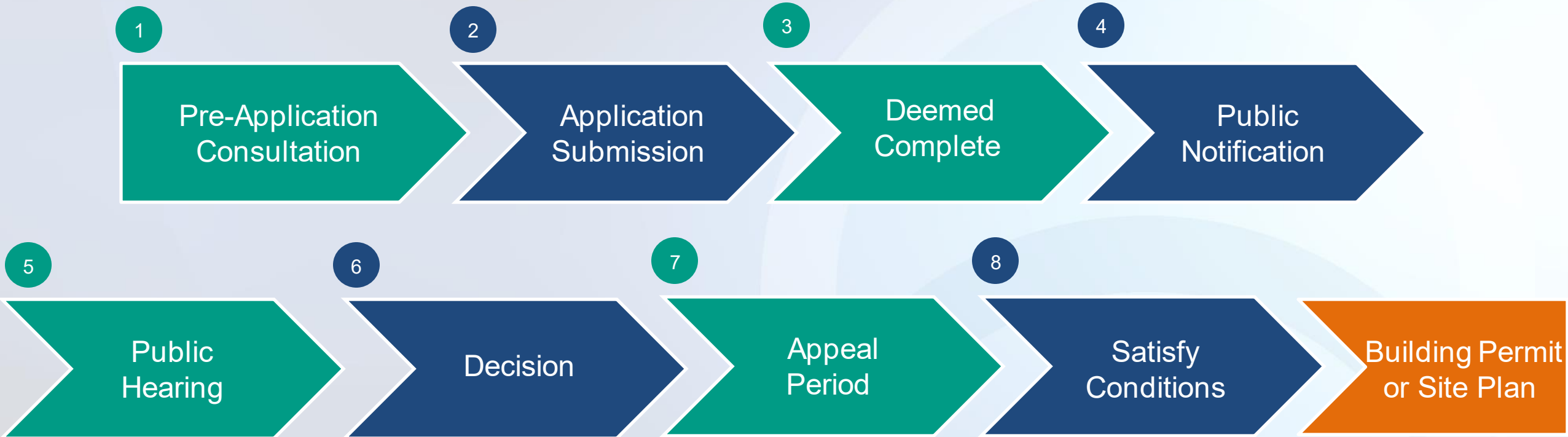
# Example: Expansion

- Proposal: Construct a rear yard addition of the existing townhouse.
- Zoning: Prohibits townhouse in R3S
- Permission required to **expand the legal non-conforming use.**
- Considerations:
  - Legally established?
  - Continuous?
  - Desirable for the development?
  - Impacts on adjacent properties and surrounding area?



# 3. Application Process

# Application Process



**ONLY** the **applicant**, **Minister** or a **specified person or public body** can appeal

# Public Notification

- Public Notification:
  - Sign posted on the property
  - Notification letters sent to property owners within 60 metres of the subject property
  - Agenda posted on the Committee of Adjustment website
- Committee of Adjustment staff will also circulate the following groups for comments:
  - City Planning
  - Ward Councillor
  - Conservation Authorities
  - Utilities
  - School Boards

## NOTICE OF HEARING

Pursuant to the Ontario *Planning Act*

### Minor Variance Application

Panel 1  
Wednesday, August 2, 2023  
1 p.m.

Ben Franklin Place, Main Floor Chamber, 101 Centrepointe Drive  
and by videoconference

Owners within 60 metres of the property address below are receiving this notice in case they want to comment on the application(s) and/or participate at the hearing.

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IF YOU DO NOT PARTICIPATE in the hearing, it may proceed in your absence, and you will not receive any further notice of the proceedings.

IF YOU WANT TO BE NOTIFIED OF THE DECISION following the hearing, and of any subsequent appeal to the Ontario Land Tribunal, submit a written request to the Committee.

FOR MORE INFORMATION about this matter, contact the Committee (see contact information below, including email address, telephone number, website and QR code).

#### ALL SUBMITTED INFORMATION BECOMES PUBLIC

In accordance with the *Planning Act*, the *Municipal Act* and the *Municipal Freedom of Information and Protection of Privacy Act*, a written submission to the Committee of Adjustment is considered public information and can be shared with any interested individual. Information you choose to disclose in your correspondence, including your personal information, will become part of the public record, and shared with Committee Members, the Applicant(s) or their agent, and any other interested individual.

#### HOW TO PARTICIPATE

**Submit written or oral comments before the hearing:** Email your comments to [cofa@ottawa.ca](mailto:cofa@ottawa.ca) at least 24 hours before the hearing to ensure they are received by the panel adjudicators. You may also call the Coordinator at 613-580-2436 to have your comments transcribed.

**Register to Speak at the hearing at least 24 hours before** by contacting the Committee Coordinator at 613-580-2436 or at [cofa@ottawa.ca](mailto:cofa@ottawa.ca). You will receive details on how to participate by videoconference. If you want to share a visual presentation, the Coordinator can provide details on how to do so. Presentations are limited to five minutes, and any exceptions are at the discretion of the Chair.

Hearings are governed by the Committee of Adjustment's [Rules of Practice and Procedure](#) accessible online.

#### COMMITTEE OF ADJUSTMENT

The Committee of Adjustment is the City of Ottawa's quasi-judicial tribunal created under the Ontario *Planning Act*. Each year, it holds hearings on hundreds of applications under the *Planning Act* in accordance with the Ontario *Statutory Powers Procedure Act*, including consents to sever land and minor variances from the zoning requirements.

DATED: July 18, 2023



Ce document est également offert en français.

Committee of Adjustment  
City of Ottawa  
101 Centrepointe Drive  
Ottawa ON K2G 5K7  
[Ottawa.ca/CommitteeofAdjustment](http://Ottawa.ca/CommitteeofAdjustment)  
[cofa@ottawa.ca](mailto:cofa@ottawa.ca)  
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Comité de dérogation  
Ville d'Ottawa  
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[cded@ottawa.ca](mailto:cded@ottawa.ca)  
613-580-2436

# Committee of Adjustment

## Notice of hearing

### Applicant's Proposal

**167 Gilmour Street**  
**Minor Variance Application**

To permit the construction of a second storey front porch.

**Wednesday, August 2, 2023**  
**1:00 p.m.**

Ben Franklin Place, Main Floor Chamber, 101 Centrepointe Drive and by videoconference

### For more information



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City of Ottawa  
101 Centrepointe Drive, 4th floor  
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# Comité de dérogation

## Avis d'audience

### Proposition du requérant

**167, rue Gilmour**  
**Demande de dérogation mineure**

Permettre la construction d'un porche de deux étages.

**Mercredi 2 août 2023**  
**13 h**


à la salle du Conseil (The Chamber), rez-de-chaussée, Place-Ben-Franklin, 101, promenade Centrepointe

### Pour en savoir plus



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[Ottawa.ca/Comitederogation](http://Ottawa.ca/Comitederogation)  
[ceded@ottawa.ca](mailto:ceded@ottawa.ca)

You can also learn more about our [organizational review](#), [2023 hearings calendar](#), [application fees](#), and [members' biographies](#).

To meet with Committee staff for assistance, you can [make an appointment](#) . Our office is located at Ben Franklin Place, 101 Centrepointe Drive, 4th floor.





Expand all

Collapse all

### - Next hearings




#### August 1, 2023:

- [Panel 3](#)  - (Coordinator: [Sarah Shuel](#) )
- [Panel 2](#)  - (Coordinator: [Maxime Lavoie](#) )

#### August 2, 2023:

- [Panel 1](#)  - (Coordinator: [Geoff Huson](#) )

Also Live-streamed on our [YouTube Channel](#)  with subtitles/closed captioning generally available 24 hours after the hearing (through YouTube's limited speech recognition technology and automatic translation offered in various languages).

To help balance the agendas and workload between the panels, applications usually assigned to one panel may be assigned to another. Please consult all three panel agendas.

[+ What we do](#)[+ Panels](#)[+ How to participate at a hearing](#)





Committee of Adjustment

Panel 1

Wednesday, August 02, 2023

1:00 PM

Ben Franklin Place, The Chamber, Main Floor, 101 CentrepoinTE Drive, and by electronic participation

The hearing can be viewed on the Committee of Adjustment [YouTube](#) page. For more information, visit [Ottawa.ca/CommitteeofAdjustment](https://ottawa.ca/CommitteeofAdjustment)

*Simultaneous interpretation in both official languages, accessible formats and communication supports are available for any specific agenda item by calling the Committee information number at least 72 hours in advance of the hearing.*

**Panel Members:**

**Chair:** Ann M. Tremblay

**Members:** John Blatherwick, Simon Coakeley, Arto Keklikian, Sharon Lécuyer

[CALL TO ORDER](#)

[OPENING REMARKS](#)

[DECLARATIONS OF INTEREST](#)

[CONFIRMATION OF MINUTES](#)

[ADJOURNMENT REQUESTS](#)

[HEARING OF APPLICATIONS](#)

1. [470 Mutual \(Ward 13 - Rideau-Rockcliffe\)](#)

1.2 D08-01-23/B-00169 - 00170 & 00173



3. [167 Gilmour \(Ward 14 - Somerset\)](#)

1. [167 Gilmour Notice.pdf](#)
2. [167 Gilmour Avis.pdf](#)
3. [167 Gilmour Circulation.pdf](#)
4. [167 Gilmour Cover Letter.pdf](#)
5. [167 Gilmour Plans.pdf](#)
6. [167 Gilmour TIR.pdf](#)

# City Planning Comments

- Receives application **10 days** before the public hearing
- Reviews application materials and consolidates comments
- Comments:
  - Concerns
  - No concerns
  - Requests an adjournment
  - Objections
- Recommend conditions of approval

# Adjournment Requests

- Applicant or an interested party **may request** an adjournment
- Examples:
  - Additional relief required
  - Missing information
  - Concerns not addressed
- The Committee of Adjustment **will consider** the request at the public hearing:
  - 1) Adjourned to a scheduled hearing date
  - 2) Adjourned “sine die” (i.e., without a hearing date)
  - 3) Adjournment denied & application(s) heard

# 4. Public Hearing

# Public Hearing

## Where:

- Ben Franklin Place, Main Floor Chamber, 101 Centrepont Drive
- Video conference (Zoom)
- Live streamed on YouTube

## Attendees:

- Committee Members
- Committee Staff
- Applicants
- City Staff
- Commenting Agencies
- Members of the Public



# Order of the Hearing

- 1 • Chair calls the hearing to order
- 2 • Chair announces hearing agenda
- 3 • Committee considers adjournment requests
- 4 • Applicant swears or attests to public notification requirements
- 5 • Applicant presentation (or waived)
- 6 • Committee asks questions to the applicant and/or City staff
- 7 • Registered speaker presentations and public comments
- 8 • Committee deliberates and makes decision (or reserves)

Repeated for each application on the agenda

# How to Participate

- Submit written comments to the Committee of Adjustment
- Attend public hearings virtually or in person
- Register to speak at the public hearing
- Verbal comments made at the hearing form part of the public record



Comments should relate to the subject of the application(s)

# Things to keep in mind

- City staff are a commenting agency
- The Committee of Adjustment may request presentations from applicants or commenting agencies
- 5-minute presentation limit
- During the hearings, all communication is directed through the Chair
- Any new documentation and/or submissions must be tabled with the Committee of Adjustment



# 5. After the Hearing

# Notice of Decision

- A written decision will be issued within 10 days of the hearing.
- **Contents:**
  - Summary of the proposal and request to the Committee of Adjustment
  - Oral and written submissions summary
  - Decision
  - Evidence and effect of submissions on decision
  - Appeal instructions

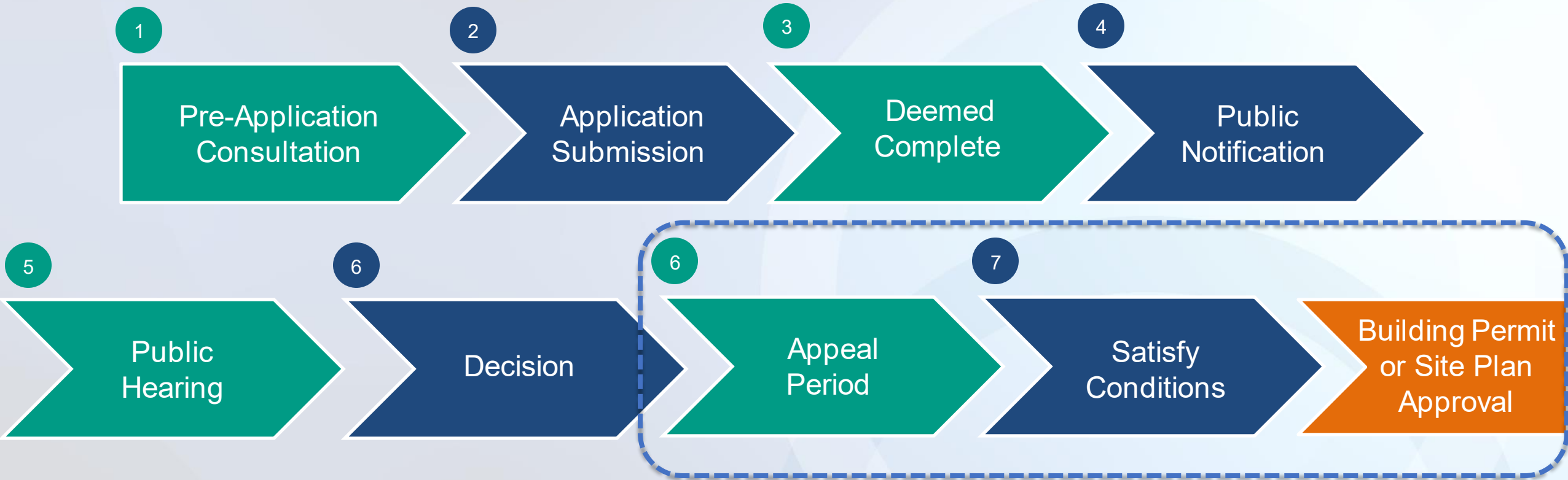
# Appeals

- Committee of Adjustment decisions can be appealed to the Ontario Land Tribunal (OLT) within 20 days of the notice of decision
- Bill 23 removed third-party appeal rights
- **Who can file an appeal?**
  - Applicant
  - Minister
  - **Specified person or public body**
- When a decision is appealed, the OLT will hold a hearing where all parties can present their respective cases.



"Specified Person" has a strict definition

# Application Process



**Thank You!**