

Ontario Divisional Court Again Confirms it can Judicially Review Committee of Adjustment Decisions – 2701836 Ontario Inc. v. Haldimand County, 2026 ONSC 805

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By Nikolas Koschany, Siraj Syed

In [November 2025, we wrote](#) about the Ontario Divisional Court’s split jurisprudence on whether municipal Committee of Adjustment (“CoA”) decisions constituted matters of public, or private, importance. In the recent case of *2701836 Ontario Inc. v. Haldimand County*, the Court has seemingly continued the judiciary’s trajectory of finding CoA decisions to be matters of private importance that may attract judicial review without the applicant needing to seek public interest standing.[\[1\]](#)

Background

In November 2023, Haldimand County’s CoA considered an application for four minor variances to facilitate the operation of a dog kennel (the “CoA Application”). The variances related only to the setbacks of the kennel building from the property’s lot lines and to other residential buildings, and not to the use of the land to allow for a kennel. Importantly, the CoA Application would have reduced the required distance between the kennel and a residential building on an adjacent property from 125m to just over 23m.

A planning report before the CoA, prepared by County staff, concluded that none of the four tests for a minor variance under section 45(1) of the *Planning Act* were satisfied, and recommended refusal of the CoA Application. The Committee also heard from three affected neighbours via written and oral submissions, two of whom opposed the CoA Application. One of the neighbours, who owned vacant land next to the lands subject to the CoA Application (the “Applicant”), submitted the reduction in setback distance would impact their ability to build freely on their lands, where they eventually planned to build a house.

Despite the report and the neighbours’ submissions, the CoA approved the CoA Application (the “CoA Decision”), noting only the following as “reasons”:

The operation has existed for a long period of time.[\[2\]](#)

The CoA’s written reasons and minutes made no reference to the statutory tests or the neighbours concerns, nor did they explain the basis for departing from the staff report. The minutes, to which the reasons were attached, noted an absence of “historical complaints” but also did not meaningfully address the written and oral submissions made by neighbouring landowners.

Application for Judicial Review

In *Haldimand*, the Applicant sought a judicial review to quash the CoA Decision on the basis that it was unreasonable, having failed to apply the proper statutory tests. The applicant further requested that the Court substitute its own decision in place of the CoA Decision.

The Court held that the Applicant had standing to bring the judicial review application, dismissing an argument from the Respondent that a circumscribed right of appeal in the *Planning Act* precluded judicial review.^[3] It further dismissed the argument that the Applicant's interest was speculative and not private in nature:

The applicant owns land next to the land in respect of which the variance is sought. The use the applicant may make of its land, in terms of where it will be permitted to construct a dwelling, is directly and significantly affected by the Committee's decision. [...] The fact that it has not yet committed to a particular residential dwelling in a particular spot on its land does not render its interest speculative. The applicant's ability to build freely on its land is directly affected by the Committee's decision. [4]

On the merits of the application, the Court found the COA Decision to be unreasonable. The Committee failed to demonstrate in any way that it applied the mandatory four tests for a minor variance:

[T]here is a complete absence of explanation for the Committee's decision. There is no way of knowing the basis for its decision, whether it applied the test, or what its reasons were for making a decision that departed in every aspect from the planning report. The only reason the Committee provided is that the kennel "has existed for a long period of time". There is no explanation of how this consideration is related to or factors into any part of the statutory test. The single reason provided is untethered from the statutory test the Committee is obliged to apply.[5]

The record, including the minutes, did not highlight the Committee's reasoning or explain its departure from the planning report. Nor did it indicate how public submissions were considered. In the absence of justified reasons, the decision could not stand. The Court quashed the decision and remitted the matter back to the CoA for a rehearing, declining to substitute its own determination.

Conclusion

At the time of writing, the CoA Application has not been rescheduled before the Haldimand CoA. Even with the Applicant's success on judicial review, the absence of any *de novo* appeal rights, and the Court's reluctance to substitute its own decision for that of the CoA, means the matter remains unresolved more than two years after it was first considered.

This delay underscores the broader consequence of the post-Bill 23 landscape: Committees of Adjustment have now effectively been elevated to decision-makers whose reasons must withstand judicial scrutiny, replacing the role historically played by first-instance appeal bodies like the Ontario Land Tribunal and the Toronto Local Appeal Body.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

^[1] [2026 ONSC 805](#) [*Haldimand*].

^[2] *Ibid* at para 10.

^[3] *Ibid* at para 13

^[4] *Ibid* at para 15.

^[5] *Ibid* at para 26.

For more information or inquiries:



Nikolas Koschany

Toronto
647.715.7174

Email:
nkoschany@weirfoulds.com

An Associate in the Municipal, Planning & Land Development Practice Group and Expropriation Practice Group at WeirFoulds LLP, Nikolas Koschany specializes in land use planning, expropriation, municipal, and administrative law.



Siraj Syed

Toronto
416.947.5037

Email:
ssyed@weirfoulds.com

Siraj Syed is an Associate in the Municipal, Planning & Land Development and Expropriation Practice Groups at WeirFoulds LLP.

WeirFoulds^{LLP}

www.weirfoulds.com

Toronto Office

4100 – 66 Wellington Street West
PO Box 35, TD Bank Tower
Toronto, ON M5K 1B7

Tel: 416.365.1110
Fax: 416.365.1876

Oakville Office

1320 Cornwall Rd., Suite 201
Oakville, ON L6J 7W5

Tel: 416.365.1110
Fax: 905.829.2035