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A guide to the minor variance process

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1. What is a Variance?

A variance is the relief from the regulations of a Zoning By-law.

The City of Kawartha Lakes has 19 zoning by-laws that regulate matters such as:

- how land may be used;
- where buildings and other structures can be located;
- the types of buildings that are permitted and how they may be used; and
- the lot sizes and dimensions, parking requirements, building heights and setbacks from the street and other lot lines.

A minor variance is required where a proposed use, building or structure does not conform exactly with the Zoning By-law, and/or any other By-law that implements the City's Official Plan. The same application form may be used to request the expansion of a non-conforming use, creation of similar uses, and/or creation of a use which conforms more to the current Zoning By-law than the present non-conforming use.

2. What is the process for a Minor Variance application?

Please see Figure 1.

Submit a Pre-Screening Application

Before you apply for a variance, it is recommended that you complete the pre-screening process. Pre-screening allows staff to assess the merits of the proposed variances and discuss your potential application with you. For more information please refer to the Pre-Screening Guide available on the City website.

Submit a Minor Variance Application

The application form and associated fees are available on the City's website. Through the pre-screening process, Planning Staff will provide feedback on how to fill out the application form. However, ultimately, applicants are responsible for accuracy of their Minor Variance application forms. If your application is incomplete or you do not provide all of the required information, the City may refuse to accept or to further consider your application.

The City also collects Conservation Authority and Sewage System review fees, where applicable.

The development process is a legal and public proceeding. As such you may wish to hire a professional to help you through the application and submission process. Feel free to ask Planning staff for a list of development consultants.

Notice of the Application

Once your application is complete, a public meeting date will be arranged.

Your application shall be circulated for comment to any City Departments/Divisions and external agencies (e.g. Conservation Authority) which may have an interest in the

application. The Building Division will be circulated where development is proposed on either partial or private services, which involves servicing by septic systems not subject to Ministry of Environment approval.

The Committee, through mail, is legislatively required to give notice of an application in advance of a public meeting to adjacent property owners of the subject property. As part of the legislative requirements, an advisory sign must be posted on the subject property ahead of the public meeting. The City shall make a sign available to the applicant. The applicant is responsible for posting the sign, placing it correctly, and submitting photographic evidence to the City demonstrating that they have complied with the posting requirements.

Any person or public body may submit opinions or concerns to the Committee. These comments are considered by the Committee prior to rendering its decision.

Staff prepare a Planning Report

Staff shall visit the subject property prior to writing a Committee of Adjustment Report with their recommendations. The applicant and the Committee receives a copy of the report prior to the public meeting. When the Staff consider a minor variance application, four tests are applied to determine if the variance(s) is/are minor and should be recommended for approval. The four tests are:

- Is it minor in nature?
- Is it appropriate and desirable for the use of the land?
- Is it in keeping with the general purpose and intent of the Official Plan?
- Is it in keeping with the general intent and purpose of the Zoning By-Law?

Committee Decision and Conditions of Approval

Although staff process minor variance applications and provide a recommendation to the Committee, final decision rests with the Committee of Adjustment. The committee typically meets once a month and hears between five and ten applications at a time. Staff will schedule your hearing with the Committee of Adjustment at the next available meeting.

A minor variance approval may have certain conditions attached such as requirements for landscaping, buffering, or any other condition the Committee feels is appropriate. As the circumstances for each variance are unique, the conditions for each variance will vary. However, most minor variances receive a condition requiring that the construction related to the minor variance application proceed in accordance with the dimensions and building footprint applied for and be completed within 24 months of the Notice of Decision.

3. Rights of appeal

A Notice of Decision will be sent to the applicant and any person or public body requesting, in writing, to be notified. When a Notice of Decision is given, a 20-day appeal period follows.

The Notice of Decision will notify you on how you should file your appeal. Appeals are filed with the City, and the Clerk is required to forward the appeal to the Local Planning Appeal

Tribunal (LPAT). You must submit your appeal within the legislated timelines, with the filing fee, completed appeal form, and grounds for appeal.

There is also an opportunity to appeal a failure to make a decision within the prescribed time frame. For more information about this option, please speak with the Planner reviewing the application.

As part of the Ontario Land Tribunals (OLT), LPAT is an adjudicative tribunal that conducts hearings, mediations, and makes decisions on land-use planning disputes. For a better understanding on the land use planning and appeal process in Ontario, please visit the OLT website (<https://olt.gov.on.ca/>).

4. What other approvals and review fees may be required?

A minor variance that is granted only permits the applicant relief under the Zoning By-law. Additional approvals, such as a building permit for a building project are still required. For a building project, other permits and approvals are required in particular circumstances. For example, in cottage areas, a permit may be required from the Ministry of Natural Resources, and/or the appropriate Conservation Authority and/or Trent-Severn Waterway before any construction takes place at, near, or in the water (i.e. retaining wall, a dock or boathouse).

Please note that the Conservation Authority and Building Division may charge additional review/permit fees beyond the minor variance application fees.

5. Further information

For more information related to individual applications, please submit an inquiry to planningadmin@kawarthalakes.ca.

Please note:

This information is meant for guidance only and should not be construed by anyone as a right to development approval if the steps indicated are followed. Please consult the Planning Act and its regulations, the Provincial Policy Statements, A Place to Grow: Growth Plan for the Greater Golden Horseshoe, the Oak Ridges Moraine Conservation Plan (where applicable), the relevant Official Plan policies, Zoning By-Laws, and other documents for definitive requirements and procedures.

Figure 1: Minor Variance Approval Process

