



THE CORPORATION OF THE CITY OF WELLAND COMMITTEE OF ADJUSTMENT

GUIDELINES FOR MAKING APPLICATION TO THE COMMITTEE OF ADJUSTMENT FOR

MINOR VARIANCE OR PERMISSION

The Planning Act, as amended allows a Municipal Council to appoint a Committee of Adjustment to consider minor changes from the provisions of a Zoning By-law, Interim Control By-law and certain other By-laws, and to consider changes to legal non-conforming uses. These minor changes are more commonly referred to as Minor Variances.

WHAT IS THE COMMITTEE OF ADJUSTMENT?

The term "Committee of Adjustment" comes from the Committee's authority to adjust By-law requirements in special circumstances. Its members are appointed by City Council. Minor Variance or Permission Applications are considered by the Committee of Adjustment at a Public Hearing. Please refer to the current "**Schedule of Public Hearings**" for applicable dates.

POWERS OF THE COMMITTEE

- a) **Minor Variances** - A Committee may grant Minor Variance to any Zoning By-law, Interim Control By-law or certain other By-laws including the Sign By-law, Fence By-law and Pool Enclosure By-law;
- b) **Non-Conforming Uses** - A Committee may:
 - approve an enlargement or extension to an existing legal non-conforming building, structure, or use. Such a building, structure or use does not comply with the provisions of the Zoning By-law, but legally has been in continuous existence before and following the date the By-law was passed;
 - approve a use that is similar to the purpose of the existing legal non-conforming use, or that is more compatible with the uses permitted in the By-law;
- c) **By-law Interpretation** - Where the permitted uses in the By-law are defined in general terms, a Committee may permit a use not specifically named in the By-law if, in the opinion of the Committee, this use conforms with the uses permitted.

SUBMISSION REQUIREMENTS

The Applicant or Authorized Agent is required to provide appropriate answers to all questions in the Application form, and to provide any additional information required by the Committee prior to the processing of the Application by the Secretary-Treasurer. All Owners must provide their signature, as required. A **fully completed application** must be submitted to the Secretary-Treasurer together with the required fee(s) and the following:

1. One (1) copy of a **sketch/plan drawn to scale** showing:
 - the boundaries and dimensions of the subject lands and of all abutting lands;
 - the location, size and type of all existing and proposed buildings and structures on the subject lands, indicating the distance of the buildings or structures from the front yard lot line, rear yard lot line and the side yard lot lines;
 - the approximate location of all natural and artificial features on the subject land and on land that is adjacent to the subject land that, in the opinion of the Applicant, may affect the Application. Examples of features include buildings, railways, roads, water courses, drainage ditches, river and stream banks, wetlands, wooded areas, wells and septic tanks;
 - the current uses on land that is adjacent to the subject land;
 - the location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public travelled road, a private road or a right-of-way;
 - if access to the subject land is by water only, the location of the parking and docking facilities to be used;
 - the location and nature of any easement affecting the subject land.
2. In addition to the sketch/plan, the following must be submitted for a **“Sign Variance Application”**.
 - the location of the proposed sign must be shown on the sketch/plan, including the distance to all property lines;
 - the size, height and dimensions of the proposed sign, including the sign face area must be shown on an elevation sketch;
 - the location, size and type of all other existing signs on the property must be shown/provided;
 - for a proposed ground sign, the distance to traffic signal light standard must be shown on the sketch/plan;
 - for a proposed billboard sign, the distance to all other billboard signs within 400

metres must be shown on the sketch/plan.

3. In addition to the sketch/plan, the following must be submitted for a “**Fence Variance Application**” and a “**Pool Enclosure Application**”:
 - the location and height of the proposed fence must be shown on the sketch/plan;
 - the construction details of the proposed fence must be shown on an elevation sketch;
 - the location, height and construction details of all other existing fences must be shown/provided.
4. A copy of the registered Deed of the subject land.
5. The Niagara Peninsula Conservation Authority (NPCA) Plan Review Fee, if required. City Staff will screen the Application and advise if the NPCA fee is applicable. The NPCA fee schedules are attached.
6. The Niagara Region Review Fee of \$200.00, if required. City Staff will screen the Application and advise if this fee is applicable with a cheque made payable to the Region of Niagara.
7. The Applicant is required to complete the attached Environmental Site Screening Questionnaire and submit it with the Application.

In addition, the Committee:

- requires that an Application for any property containing, or permitted to contain, a commercial or industrial use must be accompanied by a current Plan of Survey signed by an Ontario Land Surveyor;
- may require that a current Plan of Survey signed by an Ontario Land Surveyor - rather than a hand drawn sketch - accompany any other Application;
- requires that an Application signed by an Agent or Solicitor on behalf of the Applicant must be accompanied by the Owner's written authorization. If the Applicant is a Corporation acting without an Agent or Solicitor, the Application must be signed by an Officer of the Corporation and the Corporation's seal (if any) must be affixed.
- for larger projects, an electronic version of the survey in AutoCAD .DWG format in Version 14 or higher, with the following spatial characteristics:

Map Projection: *Universal Transverse Mercator*
Horizontal Datum: *NAD83 Zone 17 North*
Horizontal Units: *Metres*

The graphics in the drawing must be geographically positioned to 3rd order accuracy. The City's horizontal control network (UTM NAD83) may be used as a control reference and can be accessed on the City of Welland Internet Map Server at the following web address:

<http://gis.welland.ca/wims/login.asp>

Please email the electronic information to christine.rossetto@welland.ca, michael.horsley@welland.ca and christopher.mazzuca@welland.ca indicating the Minor Variance File Number and the name of the Applicant.

ADDITIONAL INFORMATION TO THE APPLICANT

- a) The Committee requires that the Applicant or Agent/Solicitor must be present at the Hearing or the Hearing may be adjourned or may proceed in his/her absence;
- b) The Applicant is cautioned that applications to the Committee may involve technical interpretation of legal documents (i.e. the Zoning By-law, the Official Plan and other By-laws) and independent professional advice in the preparation of the Application is recommended;

- c) Applications involving Minor Variances to specific dimensional requirements of City By-laws should be based on accurate information, including survey information. Any dimensional variances granted by the Committee are specific and requests which are even slightly inaccurate may result in an approval which would not be useful to the Applicant. For example, approval for a 2.4 m side yard rather than the required 3.0 m sideyard would be of no use if the required Variance was shown by a survey to be 2.3 m;

If non-surveyed Variances are requested, the Applicant should be sure the requested Variances will include a margin for error. In the above example the non-surveyed request of 2.4 m should perhaps have been 2.2 m;

- d) The Planning Act requires that before granting a request for a Variance, the Committee must be satisfied that the following 4 tests are met:
 - that the Variance is a Minor Variance;
 - that the Variance is desirable for the appropriate development or use of the land, building or structure;
 - that the general intent and purpose of the By-law are maintained;
 - that the general intent and purpose of the Official Plan, if any, are maintained.

Applicants or their Agents should provide information in their Application or at the Hearing addressing these tests;

- e) Where the Application involves a non-conforming use, questions 18 to 20 of the Application must be answered accurately, since this information is vital in determining if the existing use is a legal non-conforming use. In doing so, please remember the onus is on

the Applicant or Authorized Agent to prove to the Committee that the subject property contains a legal con-conforming use.

- f) City Staff as well as the Committee of Adjustment Members will perform a site inspection of the property prior to the Public Hearing;
- g) A rescheduling fee will apply to Applications that are requested by the Applicant to be deferred or adjourned to a subsequent Hearing.