

City of Stratford Committee of Adjustment Guideline

Purpose of the Guideline

The purpose of this guideline is to help applicants through the process of making an application to the City of Stratford Committee of Adjustment. The guideline includes background information on the City's Service Philosophy, the need for minor variances and consents and their relationship to the Zoning By-law and Official Plan. The guideline also sets out the application requirements and provides a step by step outline of the Committee of Adjustment process from initial application to final approval.

Service Philosophy

Our **commitment** is to the community;

Our **duty** is to policy and practice;

Our **goal** is knowledgeable solution-orientated service!

Specifically:

- We will **work in partnership** with applicants and their representatives to find solutions to any challenges that may arise in the development process provided that such solutions do not conflict with the public interest.
- We **support safe, accessible well-planned, well-constructed development** in support of the City's strategic objectives and Official Plan and that recognizes the unique character of this community.
- We will **protect the public interest** through the effective assessment and management of risk and through the enhancement of the social, economic and environmental character of the city.
- We are committed to the City developing in a **progressive, timely and orderly manner**.
- We will **coordinate our responses, demonstrate clear and effective communications** and provide **timely decisions**.
- We are committed to **continuously improving** the process. If one of us believes a city policy or practice does not serve the public interest, we will propose changes to that policy or practice.
- We will also work to **keep abreast of improvements in other municipalities** and incorporate changes which we feel are applicable to Stratford into our processes.



What is the Committee of Adjustment?

The Committee of Adjustment is a quasi-judicial tribunal appointed by City Council and is independent and autonomous from City Council. It derives its jurisdiction from the Planning Act of Ontario. The Committee's mandate is to:

- Hear Applications for "Minor Variances" - where a requirement of a Zoning By-law cannot be met (under Section 45 of the Planning Act). This includes applications, which deal with the enlargement or extension of a building or structure that is legally non-conforming, or for a change in non-conforming use.
- Hear Applications for Consent to "Sever" a property or for any agreement, mortgage or lease that extends for 21 years or more (under Section 53 of the Planning Act).

What is a Zoning By-law?

A Zoning By-law outlines how a specific parcel of land may be used. Zoning By-laws also regulate lot size, parking requirements, building height and other site-specific factors.

What is a Minor Variance?

The term minor variance is used to describe a situation where a variance is granted to the Zoning By-law to allow a property to be used in a way that does not comply exactly with the requirements of the Zoning By-law. The Committee of Adjustment grants approval for a minor variance.

What is Consent?

A consent or severance is the authorized separation of land to form two or more new adjoining properties. Consent is also required for the sale, mortgages or lease (for 21 years or more) of a newly created parcel of land. The Committee of Adjustment grants approval for a consent.

Minor Variance Applications

Land uses in Stratford are controlled by Zoning By-law 201-2000 as amended from time to time, by zoning different areas with land use zones. The By-law also contains rules that apply to each zone for things such as permitted uses, building set backs and lot coverage. Because the Zoning By-law contains provisions that apply to the entire City, it is sometimes not possible to comply with these requirements. As such, the Planning

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Act allows City Council to establish a Committee of Adjustment to which property owners can apply when they require a "minor variation" to the regulations.

A legal non-conforming use is a land use, building(s), or structure(s) that was lawfully established and has continuously been used for that purpose and that is no longer permitted under the requirements of a Zoning By-law. Over the long term, a legal non-conforming use should cease to exist and be replaced by a use that complies with the zoning.

- If the property was used for a purpose not now permitted and was lawfully established before a Zoning By-law changing the permitted uses was passed, and it has been used continuously in that way, you may have legal non-conforming rights.

Any change to or expansion of a legal non-conforming use is a privilege, which you must apply for and have approved by the Committee of Adjustment.

When considering an Application for Minor Variance from the existing municipal Zoning By-laws, the Committee must consider the following "four tests", namely:

- Whether the variance is minor
- Whether the variance is desirable for the appropriate development or use of the land
- Whether the general intent and purpose of the Zoning By-law is maintained
- Whether the general intent and purpose of the Official Plan is maintained

The Committee of Adjustment cannot grant major variances or exemptions to the By-law, which, in effect, would constitute a change of zoning. In such cases, an application should be made for an amendment to the Zoning By-law.

The Committee of Adjustment may either approve your application or refuse it if one of the tests have not been met. It may also postpone the hearing. You will be notified of the Committee's decision in writing, which becomes final and binding if no appeals are received.

Consent Applications

A consent is required if you want to sell (sever) or mortgage a portion of your land or enter into an agreement/lease for a period of 21 years or more. There are also other circumstances in which a consent from the Committee of Adjustment is required; your

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lawyer can help you to determine if a consent is necessary. Sometimes another form of land division approval such as a Plan of Subdivision may be more appropriate. A consent can only be approved if a plan of subdivision is not necessary for the proper and orderly development of the land.

The requirement for a consent helps to ensure that development occurs in a controlled and orderly way, and that proper servicing is in place to accommodate it.

It is important to note that the both the severed and retained lots must conform to the Official Plan and the Zoning By-law. If they do not, a minor variance must be applied for at the same time as the consent.

Appealing a Decision of the Committee of Adjustment

The Committee's decision can be appealed to the Ontario Municipal Board by either the applicant, or any other person or public body. The appeal must be filed within 20 days of the Committee's decision (minor variance applications) or within 20 days of the secretary treasurer giving written notice of the decision (consent applications) and must include the reasons for the appeal and include a fee payable to the Ontario Minister of Finance. It should be noted that only individuals, corporations and public bodies may appeal decisions in respect of applications for consent to the Ontario Municipal Board.

More information on appealing a decision of the Committee of Adjustment can be obtained from the City of Stratford Development Services Department.

Applying to the Committee of Adjustment for a Minor Variance and/or Consent

Outlined below are the steps involved in making an application for a minor variance and/or consent. There is a period of approximately 10 to 12 weeks from the time an application is filed with the Secretary-Treasurer to the point where a decision of the Committee of Adjustment is final and binding.

Step 1 - Consult with Development Services Department Staff

Before you fill out an application, discuss your plans with the Development Services Department. They will be in a position to advise you on potential issues that could arise as a result of the application, such as:

- the need for a variance;

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- the nature of the variance;
- whether or not there might be servicing requirements or land dedications involved with a given proposal, or
- whether or not an amendment to the zoning by-law is required, rather than a variance.
- whether a plan of subdivision is required
- whether a proposed consent conforms to the Zoning By-law
- whether any additional information or studies will be required

Step 2 - Determine your Timeline

The Planning Act has strict requirements for giving notice of a Committee of Adjustment hearing, as such **complete applications** must be received by the deadline or they will not be listed for the subsequent meeting.

Step 3 - Complete the Application Process, including the following:

- a complete application form (incomplete forms will not be processed)
- a copy of a dimensioned and scaled drawing of the proposal depicting the lot and showing the location and size of the buildings and of the parking and access on the lot;
- a cheque made payable to the City for the application fee;
- if you are using an agent or solicitor, your written authorization identifying by name the individual who will be your agent or solicitor.

In some cases, additional information could be helpful in assessing an application; you are encouraged to submit photographs or other relevant documentation.

Step 4 - Notice of Public Hearing and Circulation of Application:

After your application has been received, a notice of Public Hearing will be listed in the Beacon Herald newspaper and will be sent to all assessed property owners within 60 metres (200 feet) of the property, at least 14 days before the date of the Hearing. At the same time copies of your application will be circulated to other City departments, and, in some cases, to external agencies. The purpose of this circulation is to obtain advice from and/or requirements from these interested groups in the form of reports for the Committee of Adjustment that are considered at the Public Hearing.

Step 5 - Public Hearing and Decision Making Process:

The Public Hearing will normally be held within 30 days of receiving your application. It is required that you and/or your agent or solicitor attends the Hearing to explain the reasons for your application; if you do not attend, the Committee may proceed in your absence. Any interested persons are also entitled to attend and to express their views about the application. When reaching their decision, the Committee will also consider verbal advice and written reports from staff, along with representation by the applicant and any input from people who speak at the meeting.

If your application is approved, the Committee may impose conditions as part of its decision.

Step 7 - Notice of Decision:

Within 10 days (Minor Variance Applications) or 15 days (Consent Applications) of the Committee making its decision, the Secretary-Treasurer of the Committee will mail one copy of the decision to you and to anyone else who filed a written request for notice of the decision. Information is included in the Notice of Decision outlining appeal procedures and identifying the last day for appealing the Committee's decision to the Ontario Municipal Board.

Step 8 - When the Decision is Final and Binding;

If no appeal is made by the end of the 20 day appeal period, the decision is final and binding. You will be notified by mail, and, if the application has been approved, you should, subject to the fulfillment of any conditions set out in the final decision, be in a position to apply for a building permit or be in compliance with the zoning by-law.

In the case of Consent Applications the Secretary Treasurer will not stamp the deeds until all of the imposed conditions have been fulfilled. It is important to note that all of the conditions must be fulfilled within one year of the decision, or the application will be deemed to have been refused.

For more information, contact the Development Services Department at (519) 271-0250 ext 345.