

MINOR VARIANCE

FACT SHEET

WHAT IS A MINOR VARIANCE?

Municipalities in Ontario establish standards to achieve preferred development patterns in their communities. These standards are set out in the Zoning By-law. A zoning by-law governs the type of development permitted on a property and lists the minimum development requirements as zone provisions. A minor variance application is a method for property owners to seek minor variance or relief from zone provisions through Committee of Adjustment when circumstances make it difficult to meet zoning provisions.

WHEN IS A MINOR VARIANCE REQUIRED?

A minor variance might be required when:

- Provisions of the Zoning By-law can't be met by new construction
- Creating new undersized lots through Consent
- Legalizing the property prior to sale

MINOR VARIANCE VS. ZONE AMENDMENT

If the relief or variance required is sizeable enough not to be considered minor, an application to Council for a Zoning By-law amendment is an option rather than an application to Committee of Adjustment for a minor variance.

WHAT IS THE COMMITTEE OF ADJUSTMENT?

The Committee of Adjustment is a quasi-judicial body appointed by Council consisting of seven citizens-at-large which make decisions on minor adjustments to the Zoning By-law as well as on severance applications. The Committee of Adjustment functions independent of Council and decisions of the Committee are final. Decisions are subject to appeal to the Local Planning Appeal Tribunal (LPAT).

HOW TO APPLY

Prior to application, you should arrange for a pre-consultation to discuss your proposal. Contact the Town's Director of Building & Development at 519-284-2340 ext. 215. If you are uncertain whether or not you require a minor variance, we can help. A formal minor variance application form will need to be fully completed by the applicant and submitted to the Secretary-Treasurer of the Committee of Adjustment in the Building and Development Department with the non-refundable application fee of \$800 payable to the Town of St. Marys to cover administrative costs.

MINOR VARIANCE REQUIREMENTS

- ★ **All measurements must be in metric**
- A completed application form
- Non-refundable application fee of \$800 by cheque payable to the "Town of St. Marys"
- Any applicable agency information i.e. Upper Thames River Conservation Authority
- An accurate scaled survey drawing of the proposal showing the following information:
 1. The subject lands, including its boundaries and dimensions, location, and nature of any easement or restrictive covenants which affect the subject lands
 2. The uses of adjacent and abutting lands
 3. The location of all existing as well as proposed buildings and their uses, dimensions and setbacks from lot lines
 4. The location of all natural and man made features on the land and the location of any of these features on adjacent and abutting lands
 5. Any proposed severance lines
 6. Scale and arrow north

**See reverse
for more details**

Grant Brouwer, Director of Building & Development
Municipal Operations Centre
408 James Street South, St. Marys ON
519-284-2340, ext. 215
gbrouwer@town.stmarys.on.ca



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MINOR VARIANCE PROCESS

1. Pre-consultation application (no cost) and meeting
2. Complete a formal minor variance application
3. Gather required information for application
4. Submit completed application and drawing to the Secretary-Treasurer of Committee of Adjustment (**measurements in metric**)
5. Staff review application
6. Answer questions and complete deficiencies derived from application review
7. Staff circulate Notice of Public Hearing at least 10 days before public hearing date
8. Staff collect comments resulting from the circulation and forward these to applicant and Committee of Adjustment
9. Committee of Adjustment Public Hearing
10. Decision by Committee of Adjustment
11. Circulation of Committee decision to applicant, agent, staff and anyone requesting notification
12. Twenty (20) day appeal period following date of the Committee decision
13. If no appeals received, final notice is circulated to applicant, agent and staff
14. Process is complete and a minor variance to the Zoning By-law has been granted as per the application
15. Successful applicant completes any conditions attached to minor variance approval

PROFESSIONAL REPRESENTATION

There is no legal requirement for an agent to represent the application. Professional assistance may clarify and expedite an application. If you are not comfortable explaining the application at a public hearing with the Committee of Adjustment you may wish to hire an agent. Professional representation in a minor variance application may be provided by a lawyer, surveyor, or other professional in a related field. Special studies may be required to justify the proposed development and answer any technical questions. Costs for the services of an agent or any special studies are the responsibility of the applicant.

APPLICATION DRAWINGS

Accuracy is critical to minor variance applications and drawings. Drawings that do not clearly define and confirm the application will be rejected. It is beneficial to the application if the services of a surveyor or engineer are engaged to draft a clear, accurate application drawing to confirm the proposal. An Ontario Land Surveyor can also clarify and confirm property boundaries through a survey in cases where these may be uncertain. Keep in mind that survey sketches are protected by copyright law. Costs for the services of a professional to draft an application drawing are the responsibility of the applicant.

OBJECTIONS AND DENIALS

Concerns expressed by any of the circulated agencies or valid objections from neighbours may affect the outcome of your application.

If someone objects to an application it does not necessarily mean that approval is denied. All evidence must be presented at the Public Hearing and weighed by the Committee of Adjustment.

The requested minor variance must meet all of the following four tests in order to be approved:

- ✓ Is the variance minor in nature?
- ✓ Is the variance required for appropriate development of the property?
- ✓ Is the variance within the intent of the Zoning By-law?
- ✓ Is the variance within the intent of the Official Plan?

APPEALS

Following the final decision by the Committee of Adjustment a party (including the applicant) has 20 days to file an appeal to the Local Planning Appeal Tribunal (LPAT). The fee for such appeal is \$300 payable to the Ontario Minister of Finance.

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