

Minor Variance Guidelines

A guide to submitting Minor Variance Applications

What is the Committee of Adjustment?

The Committee of Adjustment is a committee, comprised of Council members, which deals with minor variances and meets once a month.

Purpose of the Committee of Adjustment

The Committee of Adjustment is authorized to grant minor variances from the Township's Zoning By-law, and to permit enlargements, extensions or changes to legal non-conforming uses.

What is a Minor Variance?

A minor variance is a minor deviation (variance) to the provisions of the Zoning By-law. The variances can relate to the land, building, or structure of the uses thereof. The Committee may authorize such minor variances, if, in the opinion of the Committee, the variance meets the four tests as prescribed in the Planning Act:

1. Is the variance minor?
2. Is it desirable for the appropriate development or use of the land, building, or structure?
3. Does it maintain the general purpose and intent of the Official Plan?
4. Does it maintain the general purpose and intent of the Zoning By-law?

Planning Staff provide comments and make a recommendation to the Committee based on the four tests.

The Committee is authorized to permit the enlargement, extension, or change in use of any legal non-conforming building or use. Generally, the Committee will consider the impact of the expansion on the neighbourhood and whether the expansion is appropriate. For changes to a legal non-conforming uses the Committee may consider similar or more compatible uses. Section 45(2) of the Planning Act offers more detail into the expansion or change of legal non-conforming uses.



When is a variance required?

All development proposals must comply with the Township of Selwyn Comprehensive Zoning By-law, which establishes regulations specific to individual properties. These regulations deal with permitted uses, building setbacks, building height, pool and accessory structure requirements, etc.



Whenever changes are made to a particular site and any of the regulations are not complied with, a minor variance or an amendment to the Zoning By-law is required to legalize the situation. Potential applicants are encouraged to consult with appropriate Planning Staff prior to applying for a minor variance.

Examples of minor variance applications may include, but are not limited to:

- New buildings or additions to existing buildings;
- Porch enclosures or new deck;
- New accessory structures such as garages and sheds;
- Enlargement, extensions or change of use of any legal non-conforming buildings; and/or
- Parking spaces required for a new or expanding business.

Overview of the Committee of Adjustment Process

1. Prior to submitting an application for minor variance, it is strongly recommended that an applicant contact Planning Staff for assistance with outlining necessary variances. In many cases, Planning Staff can give an applicant an indication as to whether or not a particular application could be supported.
2. The applicant is required to submit a completed application, along with a detailed sketch of the proposal and the application fees to the Building and Planning Department. Planning Staff will check the application for completeness and are available to witness signatures. Details of the submission requirements are outlined in this pamphlet and on the application form.
3. Planning Staff co-ordinate the processing of the application. The submission and plans are circulated to various municipal departments and agencies and comments are requested, a minimum of 10 days prior to the public hearing.
4. A Notice of Public Hearing is also mailed to neighbouring property owners within 60 metres (200 feet) of the subject lands. The Notice of Public Hearing includes the date, time, and location of the Public Hearing, a description of the requested variances(s) and a location map of the property. As the hearing is an open forum during which the Committee listens to any and all concerns raised; the applicant may find it beneficial to consult and communicate with surrounding neighbours to identify and resolve any concerns they may have before the scheduled hearing date.
5. The Public Hearing is held, and the Committee members are provided copies of any written comments received from various departments and agencies and from the public. The Secretary-Treasurer introduces the application and gives a summation of the comments received. The owner / agent requesting the variance is given an opportunity to address the Committee. The Committee Chair will then ask anyone in attendance if they have any comments or concerns. The applicant is permitted to respond to any concerns raised by interested



parties. The Committee then has an opportunity to ask any questions of the owner/agent and of Planning Staff. Once all the information is heard, the Committee deliberates and renders a decision, which may include terms or conditions. The Committee also has the option of tabling (deferring) the application if for instance, additional information or a site visit is required.

6. Notice of Decision listing the reasons for approval, refusal or deferral and conditions (if any) is mailed to the owner/agent and to each person who requested a copy of the decision in writing. Such notice includes information regarding the right to appeal the Committee's decision.
7. During the specified appeal period (20 days from the date of the oral decision) an appeal can be made by the applicant/agent or any other specified person or public body who has an interest in the matter who has met the conditions prescribed in the Planning Act, to the Ontario Land Tribunal (OLT). Forms required to file an appeal to the OLT are available on the OLT website. Any appeal must outline reasons for the appeal and must include the applicable fees. If there is no appeal, the decision of the Committee of Adjustment is final.

**Note: The appeal process through the OLT can have an unknown time frame and the decision made by the OLT is final.*

8. Once the decision is final and the proposal complies with the applicable zoning regulations and conditions (if any), a Building Permit may be applied for.

Archaeological Assessments

Applications for minor variances are regulated by the Ontario Planning Act. As a minor variance application is an application under the Planning Act, the Committee of Adjustment is compelled to make planning decisions that conform with the Provincial Planning Statement (PPS). As it relates to the Township's legislated responsibility related to the completion of an archaeological assessment, the PPS provides the following direction:

4.6.2. Planning authorities shall not permit development and site alteration on lands containing archaeological resources or areas of archaeological potential unless the significant archaeological resources have been conserved.

Archaeological potential, as referenced in policy 4.6.2, is assessed through the Ministry of Tourism, Culture and Sport – Criteria for Evaluating Archaeological Potential. When and where archaeological potential is identified in accordance with Provincial criteria, an archaeological assessment completed by a licenced archaeologist is required.

What are typical conditions for approval?

Typical conditions of a minor variance approval may include:

1. That the applicant(s) obtain the necessary building permit.
2. That the applicant(s) obtain any necessary septic system review or permit.
3. That the development be substantially in accordance with the sketch submitted with the application (any future development must comply with the applicable provisions of the by-law).
4. That the applicant provide the Township with a survey / surveyors report or certificate completed



by a licensed Ontario Land Surveyor (OLS) at the foundation stage of construction.

5. That the applicant(s) be required to obtain approval from the Otonabee Region Conservation Authority (ORCA).
6. Sedimentation and erosion control is to be implemented, where appropriate, prior to, during and after construction until all unstable soil is vegetated.
7. That if there is to be any soil disturbance or excavation of any undisturbed areas in accordance with MTCS Criteria for Evaluating Archaeological Potential, that the applicant be required to complete an archaeological assessment of the project area prior to excavation, which is to be provided to the Township and forwarded to Curve Lake First Nation for comment; and that the applicant be required to have a Curve Lake First Nation Liaison on-site for the archaeological assessment.
8. The applicant is advised to establish or increase a vegetation protection zone along the shoreline to a minimum of 30 metres using native non-invasive species. The Healthy Shorelines Planting Guide is available for further information.

Additional conditions may be added on a site-specific basis.

What are the submission requirements?

A complete submission package consists of the following:

1. Completed Minor Variance Application form.
2. Authorization from owner if applicant is not the owner.
3. Required fees (Township & Conservation Authority).
4. Surveyor's Real Property Report (SRPR).
5. Completed site plan illustrating the following items:
 - a. The boundaries and dimensions of the subject land;
 - b. The location, size and type of all existing and proposed buildings and structures on the subject land, indicating the distance of the buildings or structures from the front yard lot line, rear yard lot line, the side yard lot lines, and from the high-water mark (if applicable);
 - c. The approximate location of all natural and artificial features (for example, buildings, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells, septic tanks, hydro lines, telephone lines or any other services) 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;
 - d. The current uses on land that is adjacent to the subject land;
 - e. The location, width and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public traveled road, a private road or a right-of-way;
 - f. If access to the subject land is by water only, the location of the parking and docking facilities to be used;
 - g. The location and nature of any easement affecting the subject land;
 - h. The site plan must be drawn to scaled utilizing good drafting techniques;
 - i. A scale and north arrow should be shown on the sketch;



- j. Applications for relief from the high-water mark will require a location survey that illustrates the setback from the high-water mark and the flood plain elevation; and
- k. Applications for variances to the height requirement will require elevation drawings.



How long does it take?

The entire process usually takes 8-12 weeks including:

- The Public Hearing
- The 20 day appeal period
- The Decision is final and binding on the 21st day, provided no appeals are received.

If the Committee's decision is appealed to the Ontario Land Tribunal (OLT), in excess of 6 to 9 months may be added to the process.

When is the application deadline?

Applications must be submitted five (5) weeks prior to the scheduled Public Hearing in order to be heard at that Hearing.

Hearings normally take place on the 4th Tuesday of each month. Refer to our website for the scheduled Committee of Adjustment Meeting dates.

When can I apply for my building permit?

Typically, once the appeal period has expired, the building permit application would be submitted. However, the Township's Building Services will accept applications prior to the expiration of the appeal period subject to the applicant entering into an agreement with the municipality which outlines that the applicant is aware of the risks of submitting the building permit application prior to final approval.



Additional information for the applicant

- All information submitted in support of this application will be considered public information, including any reports, studies, drawings or other documentation submitted by applicant(s), agent(s), consultants(s) or solicitor(s). The Township of Selwyn is permitted to make the application and any associated supporting information available to the general public. The Township of Selwyn is also permitted to provide copies of the application and any supporting information to any member of the public or other third party that requests the information.
- The Secretary-Treasurer schedules the applications and will advise the applicant of the actual hearing date by way of notice.
- The applicant/agent is encouraged to attend the hearing on the date and time stated in the public notice to represent his/her application.
- The applicant/agent should be prepared to present their application before the Committee if required, explaining the necessity for the variance. The applicant/agent should be prepared to answer any questions by the Committee or members of the public.
- Once the application has been heard and the Committee members have made a decision the Secretary will send the applicant/agent a notice of decision.

Key Agencies to Contact

- ❖ **Otonabee Region Conservation Authority (ORCA)** – planning@otonabeeconservation.com
- ❖ **ORCA - Clean Water Act** – Terri Cox – Risk Management Official - tcov@otonabeeconservation.com
- ❖ **Selwyn Public Works Department** – publicworks@selwyntownship.ca
- ❖ **Selwyn Building Department** – Robert Kelly – Chief Building Official - rkelly@selwyntownship.ca
- ❖ **County of Peterborough Planning Department** – planning@ptbocounty.ca
- ❖ **County of Peterborough Public Works Department** – pwinfo@ptbocounty.ca
- ❖ **Curve Lake First Nation** – consultation@curvelake.ca
- ❖ **Hiawatha First Nation** – tcowie@hiawathafn.ca
- ❖ **Trent Severn Waterway** – alanna.boulton@pc.gc.ca

Pamphlets are updated periodically.

For further information on Minor Variance Applications, or to discuss options please contact the Township Planner at (705) 292-9507 or planning@selwyntownship.ca

This pamphlet has no legal status and cannot be used as an official interpretation of the various bylaws, codes and regulations currently in effect. The Township of Selwyn accepts no responsibility to persons relying solely on this information.



Minor Variance Process

