

A Guide to the Minor Variance Process



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1. What is a minor variance and who approves variances?

A variance is the relief from the terms of a zoning by-law where a proposed use or structure does not conform exactly to the zoning by-law. The Committee of Adjustment can also approve the expansion of a legal non-conforming use and similar uses.

The approval of a minor variance rests with the Township's Committee of Adjustment (Committee). The Committee currently consists of the five appointed members of Council.

2. Where do I apply for a minor variance?

The application form is available in the Township office located at 1 Ottawa St. E., Havelock. Before you apply for a minor variance, you should consult with municipal staff in the building and Planning Department. They can fully explain the process including the dates for site visit and meetings, how to apply, supporting material that must be submitted and any other approvals that may be required.

3. What is the process for a minor variance?

Before applying for a minor variance, you should consult with municipal staff in the Building and Planning Department. They will be able to explain the process, how to apply, supporting material required (i.e. sketches, plans, building location survey, etc.) and other approvals that may be required. See Figure 1.

When applying for a variance, there is a fee for processing the application. For the fee amount, refer to the Building Permit Fees By-law or call the municipal office. As an applicant, you will be required to complete the application form. The more accurate the information provided, the less likely that delays will occur.

If your submission is incomplete, your application will be returned. Also, the 30 day time frame for making a decision does not begin until all of the prescribed information is received.

Once the application is ready to be processed, there will be a site visit conducted by the Planning Advisory Committee. They will visit the site and make recommendations to the Committee of Adjustment.

The property owners 60 metres surrounding the subject property and other applicable approval authorities will be circulated a notice of the application with a site plan 10 days prior to the Committee of Adjustment meeting. Any person or public body may submit opinions /concerns to the Committee. These submissions will be read into the record at the Committee of Adjustment meeting.

When the Committee has made a decision on your application, it is required to send a Notice of Decision, within 10 days of the decision being made, to the applicant and any other person or public body who attended the meeting and requested, in writing to the Clerk, to be notified. Once the decision is made, a 20 day appeal period follows. Any appeal can be filed with the Clerk of the municipality who will forward it to the Ontario Municipal Board.

4. How is the variance application evaluated?

When the Committee is considering a variance application, the four tests as prescribed by Sec. 45(1) of the Planning Act are applied to determine if the variance should be approved. The four tests are:

- Is the application minor in nature?
- Is it appropriate and desirable development for the area?
- Is it in keeping with the purpose and intent of the Zoning By-law?
- Is it in keeping with the purpose and intent of the Official Plan?

5. What about the conditions of a variance approval?

A variance approval may contain various conditions including approvals from outside agencies, sediment control, or any other condition that the Committee feels is appropriate. Every variance approval will contain the condition that there is a 20 day appeal period before a building permit can be issued.

6. Rights of Appeal

Decisions of the Committee may be appealed to the Ontario Municipal Board (OMB) and can be made in two different instances.

- The applicant may appeal if the Committee makes no decision within 30 days from the date of receipt of a complete application.
- Any person or public body may appeal the Committee's decision and any condition within 20 days of the date of the Committee's decision.

Appeals must be filed with the Secretary of the Committee of Adjustment (the Clerk), accompanied by reasons for the appeal and the fee required by the Ontario Municipal Board.

The OMB is an independent administrative tribunal responsible for hearing appeals and deciding on a variety of contentious municipal matters.

7. What other approvals may be required?

In addition to the planning approvals and a building permit, there are other permits and approvals required in certain circumstances. For example, any building on waterfront will require approval from the Crowe Valley Conservation Authority and possibly the Ministry of Natural Resources and the Department of Fisheries and Oceans. Any new dwelling or addition to an existing dwelling will require approval from the Peterborough County-City Health Unit.

Depending on the location of the site and the specific proposed location of structures, there may be approvals needed from other agencies such as Hydro One, Ministry of Transportation, Peterborough County Works Department, Bell Canada, etc.

8. Further Information

This package is intended to provide general guidance to the minor variance process. For more specific information related to an individual application, please contact the Building and Planning Department at (705) 778-2308. The office hours are 8:30 am – 4:30 pm, Monday to Friday. You may contact the office to make an appointment with the staff. The office is located at 1 Ottawa St. E., Havelock.

Please Note: This package is for information only. It should not be construed as a right to approval if the steps indicated are followed. Please consult the Planning Act and its regulations, the Provincial Policy Statements, the relevant Official Plans and Zoning By-laws and other by-laws for definitive requirements and procedures.

Figure 1

