



A Guide to the Minor Variance Process

Section

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Figure 1 – Minor Variance Approval Process

1. What is a Variance and who approves Minor Variances?

A variance is the relief from the terms of a Zoning By-law where a proposed use, building or structure does not conform exactly with the Zoning By-law, and/or any By-law that implements the City's Official Plan. The same application form may be used to request the expansion of a non-conforming use, creation of similar uses, and/or creation of a use which conforms more to the current Zoning By-law than the present non-conforming use.

The approval of minor variances rests with the City's Committee of Adjustment (Committee). The Committee can also approve the expansion of a non-conforming use and similar uses. The Committee currently consists of one appointed member of Council and six members of the public as appointed by Council.

2. Where do I obtain a Minor Variance application form?

The Pre-screening form and the Application for Minor Variance/Permission form, along with the application fees, are available at each of the City's Service Centres and on the City's website <http://www.city.kawarthalakes.on.ca/property-development-by-law/planning/guides-forms>.

3. What is the process for a Minor Variance application?

(Please see Figure 1)

As this is your application, you are responsible for its accuracy and applying for the correct relief. If your application is incomplete or you do not provide all of the required information, your application will not be accepted and returned to you.

Before you apply for a variance, you should complete the pre-screening process. Pre-screening allows staff to assess the merits of the proposed variances and discuss your potential application with you during a set meeting time. During the pre-screening meeting, Planning staff will be able to explain to you the process, how to apply, what supporting material you must submit (e.g. sketches, plans, building location survey), if there are any requirements for special studies set out in the Official Plan and Zoning By-Law and what other permits (e.g. building permits) and approvals may be required. There is a fee for the pre-screening process.

The City also collects Conservation Authority and Sewage System review fees, where applicable. The fees for processing the minor variance application can be found on the City of Kawartha Lakes Planning Application Fees list, which can be accessed through the link contained in Section 2.

As an applicant, you are required to fill out the minor variance application form. The more accurate the information provided, the less likely that delays will occur with the review.

A legislated 30 day time frame for rendering a decision begins once all the prescribed information is received. Once your application is complete, a public meeting date will be arranged.

Your application shall be circulated for comment to any City Departments/Divisions and external agencies (e.g. Conservation Authority) which may have an interest in the application. The Building Division will be circulated where development is proposed on either partial or private services, which involves servicing by septic systems not subject to Ministry of Environment approval.

The Committee, through mail, is legislatively required to give notice of an application at least 10 days in advance of a public meeting to all property owners within 60 metres of the subject property. As part of the legislative requirements an advisory sign must be posted upon the subject property at least 10 days before the public meeting. The City shall make a sign available to the applicant. The applicant is responsible for posting the sign, placing it correctly, and submitting photographic evidence to the City demonstrating that they have complied with the posting requirements. The advisory sign requirements may be found in Section 12 of the Application for Minor Variance/Permission.

4. How is a Minor Variance application evaluated?

Staff shall visit the subject property prior to writing a Committee of Adjustment Report with their recommendations. The applicant and the Committee receives a copy of this report prior to the public meeting. When the Committee considers a minor variance application, four tests are applied to determine if the variance(s) is/are minor and should be approved. The four tests are:

- Is it in keeping with the general purpose and intent of the Official Plan?
- Is it in keeping with the general intent and purpose of the Zoning By-Law?
- Is it appropriate and desirable for the use of the land?
- Is it minor in nature?

Any person or public body may submit opinions/concerns to the Committee in writing or in person at the public meeting. Written opinions/concerns may be submitted to the Committee prior to the meeting. These comments are considered by the Committee prior to rendering its decision.

5. Committee Decision and Conditions of Approval

When the Committee has reached a decision on your application, it is required to issue a Notice of Decision. A Notice of Decision issued for minor variances that are granted usually contains conditions.

A minor variance approval may have certain conditions attached such as requirements for landscaping, buffering, or any other condition the Committee feels is appropriate. As the circumstances for each variance are unique, the conditions for each variance will vary. However, most minor variances receive a condition requiring that the construction related to the minor variance application be completed within 18 months of the Notice of Decision. Be aware that any approval given only applies to what was applied for including the footprint noted in the sketch.

6. Rights of Appeal

Within 10 days of the Notice of Decision the applicant and any person or public body who submitted written comment prior to the public meeting or attended the meeting and requested, in writing, to be notified shall receive a copy of the Notice of Decision.

When a decision is made, an appeal to the Local Planning Appeal Tribunal (LPAT) may be submitted. The LPAT is an independent administrative tribunal responsible for hearing land use planning appeals. Any person or public body who submitted written comment to the Committee and/or spoke at the public meeting is entitled to file an appeal.

Decisions of the Committee may be appealed to the LPAT in two circumstances:

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

Appeals must be filed with the Secretary-Treasurer of the Committee of Adjustment, accompanied by reasons for the appeal and the fee required by the LPAT. Any appeal is forwarded to the LPAT within 15 days of the end of the appeal period.

Applicants are responsible for all costs associated with third party LPAT appeals and municipal peer reviews of background reports. Deposits are required upon receipt of an appeal and/or request for peer review in accordance with the City's Tariff of Fees By-law.

7. Application Fee Refunds

Should the applicant decide not to proceed with the application, a portion of the City's fees may be refunded in accordance with the City's Tariff of Fees By-law.

The fees for applications denied by the Committee are non-refundable.

8. What other approvals and review fees may be required?

A minor variance that is granted only permits the applicant relief under the Zoning By-law. Additional approvals, such as a building permit for a building project are still required. For a building project, other permits and approvals are required in particular circumstances. For example, in cottage areas, a permit may be required from the Ministry of Natural Resources, and/or the appropriate Conservation Authority and/or Trent-Severn Waterway before any construction takes place at, near, or in the water (i.e. retaining wall, a dock or boathouse).

Please note that the Conservation Authority and Building Division may charge additional review/permit fees beyond the minor variance application fees.

9. Further Information

The information required for a complete application is outlined on the Pre-screening and Application for Minor Variance/Permission forms. All necessary application fees and a sketch must be included with the application.

This brochure is intended to provide general guidance only to the minor variance application process. For more specific information related to the minor variance application process please contact the Development Services Department – Planning Division at (705) 324-9411 extension 1231.

Hours of Operation:

8:30 a.m. to 4:30 p.m., Monday to Friday, statutory holidays excepted.

Appointment with Staff:

Should you require an appointment with Planning staff to go over your proposal with you, a complete Pre-screening form with the applicable fee and a sketch must first be submitted to the City. Once the form, sketch and fee have been received, Planning staff shall arrange a meeting time.

Form Submission:

The completed Pre-screening and Application for Minor Variance/Permission forms may be submitted to the Development Services Department – Planning Division. The Planning Division is located at 180 Kent Street West, 2nd Floor, Lindsay, Ontario, K9V 2Y6.

Please Note:

This brochure is meant for guidance only, and should not be construed by anyone as a right to development approval if the steps indicated are followed. Please consult the Planning Act and its regulations, the Provincial Policy Statement, Growth Plan, the relevant Official Plan policies, Zoning By-Laws, and other by-laws for definitive requirements and procedures.

Figure 1
Minor Variance Approval Process



