

Policy Title: Minor Variance Applications

Policy Number: 07-06-01

Section: Community Development

Effective Date: February 2, 2017

Approved by:

Leadership Team

Subsection: Committee of Adjustment

Last Review Date: March, 2025

Owner Division/Contact:

Legislative Services Division/ Committee of Adjustment

Policy Statement

Decisions on minor variance applications shall be made in good faith and in accordance with the powers provided to the Committee of Adjustment under Section 45 of the *Planning Act*.

Purpose

Property owners may apply to the Committee of Adjustment for minor variances to the Zoning By-law.

This policy outlines the processes related to minor variance applications, including requirements, roles and responsibilities.

Legal Authority

Section 45(1) of the *Planning Act* provides that the Committee of Adjustment, upon the application of the owner of any land, building or structure affected by any by-law that is passed under Section 34 or 38 of the *Planning Act*, may approve minor variances from the provisions of the by-law provided the application meets the requirements of Section 45(1).

Under Section 45(2) of the *Planning Act*, the Committee may approve minor variances relating to the expansion or alteration of legal non-conforming uses. Further, when permitted uses are defined in general terms in the Zoning By-law, the committee may approve minor variances to allow uses that, in the opinion of the committee, conform to permitted uses in the by-law.

Under Section 45 (3) of the *Planning Act*, a Council that has constituted a Committee of Adjustment may, by by-law, empower the Committee of Adjustment to grant minor variances from the provisions of any by-law of the municipality that implements an official plan, or from such by-laws of the municipality as are specified and that implement an official plan.

Application

Application forms may be obtained from Committee of Adjustment staff, Office of the City Clerk or the City of Mississauga web site. Application forms are available in alternative formats upon request.

Completed application packages are submitted to Committee of Adjustment staff and must include:

- The application form
- One copy of a sketch/plan
- An Appointment and Authorization form (when the application is being signed by an agent)
- An Acknowledgement of Public Information and Permission to Enter form
- A Variance Acknowledgement form
- A Posting of Advisory Sign form, and
- Applicable fee payment

The Committee of Adjustment may reduce or waive application fees under Section 69(2) of the *Planning Act* when it is determined that:

- The application resulted from an error on the part of the City, or
- The application fee would exercise an extreme hardship upon the applicant, as determined by the Committee

The application fee may be reduced or waived by the Committee by way of a motion where a majority of the Committee members present concur with the motion. Such a motion may be brought to the Committee by staff or moved by a Committee member. The motion may be considered before, on, or after the scheduled hearing date for the application.

Hearings

All applications must be considered at public hearings. All hearings shall be located in meeting rooms that are accessible to the general public or, alternatively, virtually livestreamed on Mississauga.ca.

Notice of Hearing

The Committee of Adjustment staff shall provide notice of public hearings in accordance with Ontario Regulation 200/96 under Sections 3 (1) and (7), where required.

Comments

Staff and agency comments shall be posted online in advance of the applicable hearing on the City of Mississauga website for public review. Comments from members of the public shall not be posted online, however shall be provided to the authorized agent, applicant, or any member of the public who inquires.

Presentation of Applications

Matters shall be addressed in the order they appear on the agenda, or at the discretion of the Committee. Requests to alter the order of the agenda shall be considered on a case-by-case basis by the Committee. Applicants will be required to make a brief presentation of their application if requested by the Committee.

Any interested parties may attend a hearing and will be given an opportunity to speak in favour of or against the applicable application, within the time limit set out in the Committee's Procedure By-law.

Deferral

All deferral requests shall be addressed at the beginning of the applicable meeting. Applicants must generally attend the public hearing to request a deferral of an application. Written requests for deferral may be accepted in certain circumstances and only at the discretion of the Committee.

Withdrawal

A request for an application to be withdrawn from the scheduled hearing date by the applicant or authorized agent must be for reasonable cause. The request for withdrawal must be set out in writing if made prior to the hearing or the request may be made orally at the commencement of the hearing.

If a request for withdrawal of an application is made in writing prior to the commencement of the hearing, on the basis of reasonable cause, the Secretary-Treasurer shall make a record that the application has been withdrawn and shall immediately give notice to all property owners within 60 metres (197 feet) of the subject lands that the application has been withdrawn. Where the Secretary-Treasurer has made a record that an application has been withdrawn, the Committee shall take no further action in respect of that application.

Where a written request for withdrawal of an application fails to set out reasonable cause for the withdrawal, or where the Secretary-Treasurer is unable to determine whether the written request for the withdrawal sets out reasonable cause, the request for withdrawal of an application shall be presented to the Committee at its next scheduled hearing and the Committee shall determine what further action to take in respect of that application.

Where a request for withdrawal of an application is made orally at the hearing, the Committee shall become seized of the matter and shall determine whether to grant the request or whether to continue with a hearing on the application. If the Committee grants the request for withdrawal of an application, upon the conclusion of the hearing the Secretary-Treasurer shall immediately give notice to all property owners within 60 metres (197 feet) of the subject lands that the application has been withdrawn.

Decisions

All Committee decisions shall be made in accordance with the Committee's legislated powers under Section 45 of the *Planning Act*.

Decisions are made by a simple majority of members who hear an application. Decisions, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision. All committee members who concurred with a decision shall sign the decision. The notation "dissented" shall be used to indicate all committee members who did not concur.

The Committee may subject an application to conditions and/or restrictions for such time and subject to such terms and conditions as the Committee considers advisable and as are set out in the decision.

The Secretary-Treasurer shall, no later than 15 days from the making of the decision, send one copy of the decision certified by them to the applicant and to each person who appeared in person, virtually or by way of authorized agent at the hearing or who filed a written request for notice of the decision.

Appeals of Decisions

Decisions of the Committee of Adjustment may be appealed to the Ontario Land Tribunal, in accordance with Section 45(12) of the *Planning Act*.

Role of Committee of Adjustment Staff

Committee of Adjustment staff must:

- Accept, process, and follow up on all minor variance applications for the Committee of Adjustment
- Refer any questions concerning possible charges for City requirements to the Development Engineering Section, Transportation & Works Department and/or the Parks, Forestry and Environment Division, Community Services Department
- Ensure that all information provided in verbal or written format is factual and accurate
- Refrain from advising anyone on any possible decision of the Committee of Adjustment as this is a qualified privilege of authority by the Committee of Adjustment members at a scheduled hearing
- Distribute the Notice of Decision concerning a particular application only after the Committee of Adjustment members have officially signed the decision
- Have the approval of the Secretary-Treasurer or Committee Chair before giving out any information concerning a deferred application to the applicant and/or an authorized agent
- Never loan out Committee of Adjustment files or leave them unattended at any time
- Post online for public viewing any departmental and agency comments, letters, or other materials to be provided to the Committee (excluding comments from members of the public)
- Allow the applicant and the public to view:

- Application forms and plans prior to the hearing
- Departmental/agency comments after they have been posted online, and
- Comments from other members of the public (at any time), and
- Ensure that in the event of an interruption in mail service, procedures are implemented to provide the best service possible in the circumstances (such as increasing circulation time or ensuring the hand delivery of notices)

Role of Committee of Adjustment Members

Committee of Adjustment members must:

- Attend scheduled Committee of Adjustment meetings
- Review in advance of a hearing the provided information for each application to be heard and perform associated site visits
- Listen to and consider arguments from both sides and maintain objectivity and an open mind when considering and deciding on applications
- Not discuss the merits of an application with members of the public, applicants, or other committee members outside of the public hearing for the application
- Ensure all decisions and imposed conditions are in accordance with applicable legislation
- Sign all decisions on which the member concurred
- Declare conflicts of interest on applications where they may have an actual or perceived pecuniary interest, and
- Attend training sessions, as required, in order to remain knowledgeable on updates to legislation and City policy and procedures

Revision History

Reference	Description
SMT – 2010 03 31	
June 20, 2013	Scheduled review; admin changes to Application requirements
GC-0623-2015 – 2015 10 28	Amended to reflect additional circulation area identified in Table 2.1.2.1.1 of Zoning By-law 0225-2007, as amended
February 2, 2017	Scheduled review. Revised to reflect current legislation and practices.
August 29, 2018	Housekeeping – OMB renamed to Local Planning Appeal Tribunal.
August 16, 2021	Scheduled review. Revised to include virtual hearings.

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March 11, 2025	Scheduled review. Revised to clarify processes and update legislative references.
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