

ZONING BY-LAWS

A zoning bylaw sets out the technical requirements designed to influence the size of buildings and the types of uses permitted in an area. Requirements such as the distance a building is to be setback from the street, the width of a driveway, or the height or size of a building on a lot can be governed by a zoning by-law. Types of uses (e.g. residential, commercial, industrial) can also be restricted within a specific area. The purpose of zoning is to seek to ensure that the buildings and permitted uses in an area are compatible.

WHAT IS A MINOR VARIANCE?

If a landowner proposes to construct something that does not comply with the technical requirements of a zoning by-law, the landowner can apply to the City for an amendment to the zoning by-law (major changes) or to the Committee of Adjustment for a minor variance (minor changes). The Committee of Adjustment has a hearing to determine whether or not to grant the variance.

If granted, a minor variance provides a site specific permission to deviate from the technical requirements of the zoning by-law. In order to be considered a “minor variance” the *Planning Act* requires that the proposed variance must satisfy the following four tests.

1. It is minor.
2. It is desirable.
3. It conforms to the intent and purpose of the official plan.

4. It conforms to the intent and purpose of the zoning by-law.

PROCESS OF APPLYING FOR A MINOR VARIANCE

The following procedure outlines the steps involved in making an application for a minor variance. Appeals to the Ontario Municipal Board are also discussed.

1. Pre-Application Consultation

Applicant attends at local planning office (see back of brochure) to discuss proposal with planning staff who set out steps to be taken by applicant.

2. Preliminary Project Review

Applicant brings detailed proposal to planning staff who review zoning by-law and inform applicant of variances required from zoning by-law, if any.

3. Submission of Complete Application

Applicant submits a completed application form with multiple copies of plans and drawings. Applicant may also chose to submit a cover letter explaining variances applied for, photographs, or letters of support from neighbours.

4. Public Notice – Sign on Property

The applicant is required to display a sign provided by the City on the property for which the minor variance is sought. The sign includes information regarding the proposed variance, the hearing date when the application will go to the Committee of Adjustment, and a name and telephone number of a City staff contact person.

5. Public Notice – Mail to Neighbours

The City will mail notice of the proposed minor variance and the date of the hearing at the Committee of Adjustment to neighbours within 60 metres of the property where the variance is sought.

6. Objecting to Proposed Minor Variance

The City contact on the public notice is usually the planner responsible for determining if the proposed minor variance meets the four tests under the *Planning Act*. The planner will prepare a written recommendation report to the Committee of Adjustment, which will be considered at the hearing to determine whether or not to grant the variance.

People who have concerns or who oppose the proposed variance should contact the planner at their very first opportunity. If legitimate planning concerns are raised, these will likely make their way into the planner’s report. The planner may also include a list of persons, and their specific concerns, in the report to the Committee of Adjustment. The planner will discuss the proposal and may even meet with local residents to discuss their concerns.

The public notification process provides an opportunity to become involved in the process before the Committee of Adjustment hearing takes place.

7. Committee of Adjustment Hearing

At the hearing the Committee will formally consider the minor variance application. The applicant will describe the proposal, the

variance sought, why it is a minor variance, and why the Committee should grant the variance. Applicants sometimes hire a planner, an architect, or a lawyer to present their application. The City planner will speak to the opinions in his or her recommendation report. While the Committee is not required to follow the recommendation of staff, it will generally give the staff position significant consideration.

People who oppose or support the application will also be given an opportunity to speak to the Committee. It is helpful if they provide the Committee with a letter stating who they are or the group they represent, where they live, and a summary of their planning concerns with the proposed variances.

The Committee will consider submissions made by the applicant, City staff, and others when making its decision. If it is satisfied that it has enough information, the Committee may grant or deny the application for the minor variance at that time. In some instances, the Committee may ask for more information and defer the application to another date. An objector who does not formally voice their concern to the Committee will likely be denied the opportunity to appeal the decision of the Committee to the Ontario Municipal Board.

All participants should be professional, prepared, and focus on the four tests when considering the merits of the variance application.

8. Committee of Adjustment Decision

The applicant and others who request to be notified should receive a written decision from the Committee within approximately ten (10) days of the hearing.

Subject to meeting a fixed deadline it is possible to appeal a decision of the Committee of Adjustment.

9. Appeal to the Ontario Municipal Board

Should the applicant or objector not agree with the decision of the Committee of Adjustment there is a twenty (20) day period within which an application to appeal the decision may be filed with the Ontario Municipal Board. An appeal to the Board is more formal than a Committee of Adjustment hearing. Hearings typically include professional planners or other experts who provide expert opinion evidence as to why the minor variance should be supported or denied. Many hearings also involve lawyers.

IS IT A MINOR VARIANCE?

Whether or not a minor variance ought to be granted is based on an objective analysis of the four tests in s. 45(1) of the *Planning Act*.

An analysis of the four tests must be objective and should consider legitimate planning issues such as impacts on the street scape, compatibility of uses, shadowing impacts, and loss of privacy.

If you support or object to a minor variance be reasoned in your arguments and bear in mind that concerns or evidence must be presented in light of the four tests. Think about the character of the neighbourhood and whether or not what is being proposed would fit into the neighbourhood. You may want to speak to the City planner, or a consulting planner as to how to best frame your application or objections.

The information in this pamphlet is not meant to be planning or legal advice.



Useful Resources:

City of Toronto - Procedure:

http://www.toronto.ca/developing-toronto/dtguide/committeeadj_review.htm#minor

City of Toronto - Applications:

http://www.toronto.ca/developing-toronto/dtguide/committeeadj_requirements.htm

City of Toronto – Fees and Forms:

<http://www.toronto.ca/developing-toronto/dtguide/appendix1.htm>

City of Toronto
Urban Development Services Office
North District

North York Civic Centre
First Floor - 5100 Yonge Street
Toronto, ON M2N 5V7
Inquiries: 416-395-7000

Ontario Municipal Board

<http://www.omb.gov.on.ca>



Yorkmills Valley Association

Applying for or Objecting to a Minor Variance Application

Yorkmills Valley Association

