

The authority of the Planning Advisory Committee is contained in the *Community Planning Act*. The Planning Advisory Committee is appointed by Town Council. The following guideline can be used in completing the attached form for an application to the Planning Advisory Committee (including approval for a Variance, Discretionary Use, Temporary Use, Non-Conforming Use, or Uses Similar & Compatible to a use that is permitted under the by-law for the zone in which the land or building is situated). Applications are to be submitted to the Planning Department with an accompanying fee of **\$250.00**.

Introduction:

The Zoning By-law provides standards for the development of land, buildings or structures within specific Zones established throughout the Town. Most development proposals will satisfy these standards, however **in some cases there are circumstances, which are peculiar to a property, which may prevent an owner from developing it in a manner that meets all applicable standards**. In most cases it is possible to request a variance.

Unlike a zoning amendment, commonly called “rezoning”, a variance does not change the existing By-law standard, but it may permit a specific development to proceed. The Planning Advisory Committee schedules meetings on the first Monday of each month (or on Tuesday where the Monday is a holiday).

Process for making an application:

The total time to complete a request may differ, depending upon receipt of enough details to describe the proposed use or plans for buildings, site plans or subdivision plans to complete an application and enough time for notification of surrounding property owners, before being placed on an upcoming Agenda. As a minimum, please be prepared for the process to take at least three to four weeks to complete an application.

1. The process typically begins when an owner seeks to subdivide or build on a parcel of land and the Planning Department finds that all required By-law standards cannot be met. The applicant will be advised that an adjustment needs to be made in the plans to comply with the By-laws. Where a change is not practical, an application for a variance may then be made by the owner. Staff, on behalf of the Committee, will send a letter to surrounding property owners seeking their views on the request (usually 30 m radius of the property), advising where and when the application will be considered by the Planning Advisory Committee.
2. Information is gathered from other agencies and departments where required and a report is prepared by staff concerning the proposal. The staff report, and public input received concerning the application is made available to the applicant prior to the Planning Advisory Committee meeting where the item is to be considered.

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3. Planning Advisory Committee holds a public meeting to consider the application at a place and time as set out in the above noted letter to surrounding property owners (and copied to the applicant). The Planning Advisory Committee considers the staff report, including submissions and presentations by the applicant and other interested parties/individuals. When the Committee feels that it has enough information to decide on the Applicant's request, it will make a motion to **approve or deny** the application. In granting a variance, the Planning Advisory Committee may impose conditions related to the approval.
4. Variance decisions of the Planning Advisory Committee are not normally referred to Council however, the Planning Advisory Committee may require the owner to enter into an agreement to ensure compliance with any imposed conditions, in which case Council will be asked to authorize execution of a Registered Agreement.

Role of the Planning Advisory Committee:

The Planning Advisory Committee considers the Application at a public meeting. The Committee reviews the staff report and written submissions and hears presentations from neighbouring property owners, by the applicant and by other individuals, both in favour of and from those opposed to the Application.

The following criteria under section 55(1) of the *Community Planning Act* are considered with respect to an application, and should be addressed in the attached application form:

55(1) Subject to the terms and conditions it considers fit, the advisory committee or regional service commission may permit:

- (a) a proposed use of land or a building that is otherwise not permitted under the zoning by-law if, in its opinion, the proposed use is sufficiently like or compatible with a use in the by-law for the zone in which the land or building is situated, or*
- (b) a reasonable variance from the requirements referred to in paragraph 53(2)(a) of a zoning by-law if it is of the opinion that the variance is desirable for the development of a parcel of land or a building or structure and is in keeping with the general intent of the by-law and any plan under this Act affecting the development.*

Role of Applicant:

The applicant is responsible for preparing the application, complete with enough relevant property and development information to enable staff to analyze and make a recommendation to the Planning Advisory Committee. The applicant or agent/representative should appear at the Planning Advisory Committee meeting to speak in favor of the application and to answer any questions of the Committee Members. Once a variance has been granted the applicant may seek permit approvals. Should an application be denied the applicant may not resubmit an

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application that has been previously denied or is substantially the same matter previously refused by the Committee for a period of 1-year from the date of the denied application.

An appeal may be made to the Provincial Assessment and Planning Appeal Board within sixty days of a decision of the Planning Advisory Committee, if the applicant believes that the decision:

- resulted from misapplication of the *Community Planning Act* or By-law enacted under the *Act*;
- would cause special or unreasonable hardship not subject to alleviation under section 55 of the *Act*:

The Assessment and Planning Appeal Board has often cited an appropriate test in determining whether there is a special or unreasonable hardship:

Some trial, or oppression or need or something hard to bear, different from that which is usual or ordinary or that is not based on or in accordance with reason or sound judgement. With the additional restriction that only applies to an applicant who stands before the Board as an innocent victim of circumstances beyond his or her control and not of his/her own making, which are causing him/her the special or unreasonable hardship. It also has held that evidence of mere inconvenience or the preference by the developer of one development option over another viable development option does not bring the appellant within the parameters of the term special or unreasonable hardship.

Requirements under section 53(2)(a) considering a variance:

- i) minimum size and dimensions of lots;
- ii) maximum density
- iii) height, number of stories and ground or floor area of buildings;
- iv) percentage of land that may be built upon, depth, size or area of yards, parking areas and open space;
- v) placement, location and arrangement of buildings and structures, including their setbacks from boundaries of streets and other public areas, and from rivers, streams or other bodies of water;
- vi) the design, character and appearance of buildings and structures;
- vii) placement, height and maintenance of fences, walls, hedges, shrubs, trees and other objects;
- viii) types, dimensions and location of driveway access to streets;
- ix) the facilities for off street parking and loading of vehicles;
- x) the size of rooms and of lighting and ventilating buildings;

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- x) the excavation of sand and gravel, clay, shale, limestone or other deposits for purposes of the sale or other commercial use of the material excavated;
- xii) altering land levels for building or other purposes surface drainage;
- xiii) location, dimensions, standards of construction and purpose of advertising signs and billboards;
- xiv) preservation and planting of trees;
- xv) location of buildings in relation to sources of public water supply;
- xvi) Subject to Federal & Provincial standards of pollution control.

The Applicant is encouraged to attend the Planning Advisory Committee meeting scheduled for your Application, to present your proposal and to answer any questions posed by Committee Members.

PLEASE PRINT OR TYPE

1. Name of Applicant _____
2. Telephone No. Home _____ Business _____
3. Mailing Address _____
_____ Postal Code _____
- 4. EMAIL ADDRESS:** _____
5. Name of Property Owner
(If different from Applicant) _____
Telephone No. Home _____ Business _____
6. Mailing Address _____
_____ Postal Code _____
7. If Applicant is **not** owner, Explain

8. Civic Address or describe location of property for which an application is being requested.

9. What is being requested?

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10. Describe what you propose to do. State what the land, building or structure is to be used for. ***YOU MUST PROVIDE DRAWINGS TO FULLY ILLUSTRATE YOUR PROPOSAL. (YOU MAY INCLUDE PHOTOGRAPHS). THE PLANS MUST INCLUDE MEASUREMENTS OF THE PROPERTY, DIMENSIONS OF ALL EXISTING AND PROPOSED BUILDINGS OR STRUCTURES, INCLUDING SETBACKS FROM PROPERTY LINES. (Provide attachments where required.)***

11. Explain why you cannot carry out your proposal without obtaining a variance (or other approval).

12. How do you think your proposal will affect other properties?

13. Has an application previously been made to the Planning Advisory Committee with respect of this property? ***YES*** ***NO***
If the answer is yes, explain.

NOTE IF APPLICANT IS NOT THE OWNER, SIGNATURE OF OWNER AUTHORIZING THE APPLICANT TO SUBMIT THIS APPLICATION TO THE PLANNING ADVISORY COMMITTEE IS REQUIRED.

Signature of Owner (If not Applicant) _____

Date _____

By completing and signing this form, the applicant grants permission to Town Inspectors to enter the land, building or premises at any reasonable time for the purpose of conduction of inspections associated with review of the Application and compliance with associated permits.

For Office Use Only

Application fee paid: _____ Application Approved: _____