



CITY OF  
**Welland**

## APPLICATION FOR MINOR VARIANCE / PERMISSION

### PROCESS AND INFORMATION

The **Committee of Adjustment** has been appointed by City Council under the Planning Act to make decisions on Applications for Minor Variance and for Permission.

#### **Minor Variance – Planning Act, Section 45(1)**

A Minor Variance Application requests relief from the provisions of any Zoning By-law.

The power of the Committee of Adjustment to grant a minor variance under Section 45(1) of the Act is based on the following **four (4) tests**, all of which must be satisfied for approval:

1. Is the variance minor?
2. Is the variance desirable for the appropriate development or use of the land, building or structure?
3. Is the general intent and purpose of the Zoning By-law maintained?
4. Is the general intent and purpose of the Official Plan maintained?

#### **Permission – Legal Non-Conforming Uses and General Terms – Planning Act, Section 45(2)**

A Permission Application deals with legal non-conforming uses as follows:

1. The Committee may permit an enlargement or extension to an existing legal non-conforming building or structure wherein the use of such building or structure does not conform with the provisions of the Zoning By-law but legally has been in continuous existence before and following the date the By-law was passed.
2. The Committee may permit a use that is similar to the purpose of the existing legal non-conforming use, or that is more compatible with the uses permitted in the By-law.

3. Where uses are defined in general terms, the Committee may permit the use of any land, building or structure for any purpose that, in its opinion, conforms with the uses permitted in the By-law.

## **The Application and Public Hearing Process**

### **Pre-consultation**

Applicant consults with City Planning Division Staff to discuss the proposal, Zoning By-law requirements, any required minor variances, technical items and any other City or agency requirements. A pre-consultation meeting may be scheduled by Planning Staff for input from City Divisions and other agencies.

### **Application Submission**

Applicant completes and submits all required items including the Application, a sketch of the property, fees and other required documents, to the Secretary-Treasurer, Committee of Adjustment.

- Hard copy or PDF format accepted.
- City fees paid via cash, debit or cheque.
- Only complete Applications will be processed.

### **Notice of Public Hearing**

A complete Application is scheduled for a Public Hearing per the Schedule. Public Notice of the Application occurs as follows:

- A notice sign will be posted on the subject property by the Applicant.
- Published in Welland Tribune newspaper.
- Posted on City website Planning Public Notices.  
<https://www.welland.ca/Media/Notices.asp>
- Circulated to City Divisions, agencies, and utilities.
- Mailed to all Owners of land located within 60 metres of the subject property.

## **Inspection and Comments**

City Staff and Committee Members may enter upon the subject property for an inspection prior to the Public Hearing date.

The public, agencies, utilities and City Divisions are invited to provide written comments in favour of or in opposition to the Application. All comments received will form part of the public record.

City Planning Division Staff will provide a recommendation report on the Application.

## **Public Hearing and Agenda**

The Public Hearing is held in person in Council Chambers. Date and time are shown on the Notice. The agenda will be posted on the City website prior to the Public Hearing. <https://www.welland.ca/Committees/Agendas/COA-agenda.pdf>

Applicant must attend the Public Hearing to explain the Application, why they cannot comply with the Zoning By-law and address the 4 minor variance tests (or the permission items). If the Applicant does not attend, the Application will be adjourned with no decision. A rescheduling fee per the Fee By-law is required to return an Application to the Committee.

The public is entitled to participate in the Hearing and provide verbal comments to the Committee.

The Committee will consider the Application, and all written and oral presentations made to it before rendering its Decision at the Hearing. The Committee may approve, approve with conditions, deny or defer its decision on the Application.

## **Notice of Decision and Appeal Rights**

The Notice of Decision for the Application is provided to the Applicant and to any person who makes a written request with the Secretary-Treasurer. The Committee's Decision is subject to a 20 day appeal period. If no appeal is received, the Decision of the

Committee is final and binding. A letter is provided to notify the Applicant. After the appeal period ends with no appeal, the Applicant may proceed with other required development approvals such as obtaining a Building Permit from the City.

If an appeal is received by the Secretary-Treasurer, it will be forwarded to the Ontario Land Tribunal (OLT) for processing. The OLT may dismiss the appeal and may make any decision that the Committee could have made on the Application. The Applicant will be notified if an appeal is received.

Appeal Rights: Per Section 45(12) of the Planning Act, only the Applicant, Minister or a specified person or public body as defined in the Planning Act may appeal the Committee's Decision. Third party appeal rights were removed by the Provincial government in 2022.

### **Resource Links**

City of Welland Property Information Pages

<https://www.welland.ca/Maps/PropPages/streets.htm>

City of Welland Zoning By-law 2017-117, as amended

<https://www.welland.ca/Planning/ZoningBylaw-Comprehensive.asp>

City of Welland Interactive Mapping Site

<https://arcgisweb.welland.ca/portal/apps/webappviewer/index.html?id=33f13212537d4781a23532457043bc0b>

City of Welland Planning Application Fees

<https://www.welland.ca/Planning/planningfees.asp>

Niagara Region Planning Fees

[https://www.niagararegion.ca/business/fpr/forms\\_fees.aspx](https://www.niagararegion.ca/business/fpr/forms_fees.aspx)

Niagara Peninsula Conservation Authority Review Fees

[https://npca.ca/images/uploads/common/2023\\_Planning\\_and\\_Regulation\\_Fee\\_S](https://npca.ca/images/uploads/common/2023_Planning_and_Regulation_Fee_S)

[chedules %28Including Tax%29.pdf](#)

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