

# Guide To Minor Variances

## What Is A Minor Variance?

The Town of Huntsville Zoning By-Law regulates the way in which land can be used in the Town by identifying different properties with land use zones. The By-law also contain rules that apply to each zone respecting matters such as permitted uses, building setbacks and lot coverage. As it is difficult for the Zoning By-law to address every circumstance that may affect the development or use of a particular property, the Planning Act allows the Town of Huntsville to establish a Committee of Adjustment to which property owners can apply when they require a "minor variation" to the regulations. The members of the Committee are also members of Town Council.

There are several situations whereby a need for a minor variance can be identified by Town of Huntsville staff. Some of the more common situations arise when building permit applications are made and when applications to sever or rezone land are made.

### Here are some examples:

**Construction of a garage:** A homeowner in an area zoned Residential (R2) wishes to build a detached garage in the side yard. The minimum side yard set back for a garage in this residential zone is 1 metre. The homeowner applies for a building permit and it is discovered that the proposed garage is 80 cm from the property boundary. In this situation, the homeowner cannot obtain the necessary building permit for the construction of the garage without first applying to and receiving a Minor Variance to the Zoning By-law from the Committee of Adjustment.

**Creating a new lot:** A homeowner in a rural area zoned Rural One (RU1) makes a consent application to create a new lot. The retained lands include their existing dwelling. The minimum side yard set back for a dwelling in an RU1 zone is 7 metres. Upon examination of the sketch plan provided with the consent application it is discovered that the existing dwelling will be 5 metres from the new property boundary if the severance is approved. In this situation, the consent cannot be finalized without the property owner first applying for and receiving a Minor Variance. Since the Town of Huntsville Committee of Adjustment is the approval authority for consent and minor variance applications, both these applications can be considered on the same hearing date if they are made within the required processing timeframes

**Building a deck:** A waterfront owner wishes to construct a deck on the front of their existing cottage. The Zoning By-law restricts certain types of structures from being within 20 metres of the normal high water mark of a lake. Upon making the building permit application, it is discovered that the deck will be 18 metres from the normal high water mark of the lake. In this situation, the cottage owner cannot obtain the necessary building permit for the construction of the deck without first applying for and receiving a Minor Variance to the Zoning By-law from the Committee of Adjustment.

## How Do I Make A Minor Variance Application?

- Step 1      **Consult with the Town of Huntsville Planning Department:**  
Before you fill out an application, discuss your plans with the Planning Department staff who can provide you with an application

if you wish to proceed.

**Town Planning staff can help determine:**

- the need for a variance;
- the nature of the variance;
- whether or not there might be servicing requirements or land dedications involved;  
or
- whether or not an amendment to the Zoning By-law is required, rather than a minor variance.

**Step 2 Complete the Application, including the following:**

- a survey or a dimensioned and scaled drawing of the proposal, depicting the lot, showing the location and size of all buildings, parking and access on the lot;
- a cheque made payable to the Town of Huntsville for the application fee;
- in some cases, additional information could be helpful in assessing an application; such as photographs.

**Step 3 Notice of Public Hearing and Circulation of Application:**

After your application has been received, a notice of Public Hearing will be sent to all assessed property owners within 60 metres (200 feet) of the property, at least 10 days before the date of the Hearing. At the same time your application will be circulated to other Town departments, and, in some cases, to external agencies. The purpose of this circulation is to obtain advice from and/or the requirements of these interested groups in the form of reports for the Committee of Adjustment consideration, prior to rendering a decision on the application.

**Step 4 Public Hearing and Decision Making Process:**

The Committee of Adjustment holds Public Hearings once a month and applications must be received at least 20 days before the date of the hearing to provide for sufficient time for review and processing.

It is very important that you and/or your representative attend the Hearing to explain the reasons for your application; if you do not attend, the Committee may proceed in your absence. Other interested persons are also entitled to attend and to express their views about the application. The Committee will also consider verbal and written reports from staff. Besides considering the site specific aspects of the application, the Committee will also use four tests to evaluate the application and reach its decision:

- Is the variance minor?
- Is it desirable for the appropriate development or use of the land, building or structure?

- Is the general intent and purpose of the Official Plan being maintained?
- Is the general intent and purpose and the Zoning By-law being maintained?

**If your application is approved, the Committee may impose conditions as part of its decision.**

**Step 5 Notice of Decision:**

Within 10 days of the Committee making its decision, the Secretary-Treasurer of the Committee will mail one copy of the decision to you and to anyone else who filed a written request for notice of the decision. Information included in the Notice of decision. Information included in the Notice of the Decision outlines the appeal procedures and identifies the last day for appealing the Committee's decision to the Ontario Municipal Board.

**Step 6 When the Decision is Final and Binding:**

If no appeal is made by the end of the 20 day appeal period, the decision is final and binding. You will be notified by mail, and, if the application has been approved, you should, subject to the fulfillment of any conditions set out in the final decision, be in a position to apply for a Building Permit or be in compliance with the Zoning By-law.

**Important Considerations:**

Prior to starting any construction activity it is important to consult with the Town of Huntsville Building Department regarding the need for a building permit and compliance with the Ontario Building Code. In this way, any deficiencies in meeting the requirements of the Huntsville Zoning By-law can be identified early and steps taken to either revise your plans or make the necessary minor variance application to the Committee of Adjustment.

**Can A Decision Of The Committee Of Adjustment Be Appealed?**

Anyone may appeal a decision of the Committee of Adjustment to the Ontario Municipal Board (OMB) within 20 days of the date of the Notice of the Decision of the Committee of Adjustment by personally delivering or sending a Notice of Appeal to the Secretary-Treasurer of the Committee of Adjustment. The appeal must set out the reasons for objecting to the decision and must include the OMB's prescribed appeal fee. The Secretary-Treasurer will then prepare an appeal package and forward it to the OMB. The OMB will schedule a hearing and give written notice of the time and date in advance of the hearing.

### **How Long Does The Process Take?**

It generally takes approximately 5 to 8 weeks from the time an application is filed with the Secretary-Treasurer to the point where a decision of the Committee of Adjustment is final and binding.

### **Need More Information or Have Any Questions?**

Contact:

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37 Main Street East  
Huntsville , Ontario , P1H 1A1  
(705) 789-1751 ext. 2351  
1-888-696-4255  
Fax (705) 789-6689

Please note that the timeframes and deadlines outlined herein can be subject to change when Provincial legislation and regulations are amended.