

## THE CORPORATION OF THE MUNICIPALITY OF WOLLASTON

### BYLAW 26-2019

#### BEING A BYLAW TO ESTABLISH PROCEDURES FOR THE MUNICIPALITY OF WOLLASTON COMMITTEE OF ADJUSTMENT

**WHEREAS** the Council of The Corporation of the Municipality of Wollaston has established a Committee of Adjustment under Section 44 of the *Planning Act*, R. S. O. 1990, c. P 13;

**AND WHEREAS** Subsection 238(2) of the *Municipal Act*, 2001, S. O. 2001, c. 25, as amended requires that every municipality and local board shall pass procedure Bylaw for governing the calling, place and proceedings of meetings;

**NOW THEREFORE** the Council of the Corporation of the Municipality Wollaston enacts as follows:

#### 1. DEFINITIONS

- a. "Committee" means the Municipality of Wollaston Committee of Adjustment.
- b. "Committee Member" means a person appointed by the Council of The Corporation of the Municipality of Wollaston from time to time.
- c. "Chair" means a Member of the Committee of Adjustments elected by the Members of the Committee of Adjustment to act as Chair.
- d. "Acting Chair" means a Member of the Committee of Adjustment elected by the Members of the Committee of Adjustment to act as the Acting Chair, as required.
- e. "Secretary" means an employee of The Corporation of the Municipality of Wollaston appointed by the Committee of Adjustment.
- f. "Acting Secretary" means an employee of The Corporation of the Municipality of Wollaston appointed by the Committee of Adjustment as required.
- g. "Applicant" shall mean the applicant, authorized agent or the applicant's representative.

#### 2. GENERAL PROVISIONS

- a. Location and Times of Meetings
  - i. All meetings shall be held at the Municipal Office , 90 Wollaston Lake Road Ontario, in the Council Chambers unless specified otherwise in the Notice of the meeting.
  - ii. Within thirty (30) days of receipt of an application, or at the call of the Chair.
- b. Notice
  - i. Notice of the Meeting shall be provided to Members of the Committee of Adjustment, by electronic mail or as otherwise practicable within the circumstances, in addition, notice of all Meetings of Committee of Adjustment shall be posted on the Municipality's website not less than Forty-eight (48) Hours in advance of the time fixed for the Meeting.
- c. Rules and Regulations
  - i. Subject to the provisions of the *Planning Act* and any other requirement of law, procedure shall be governed by the 11<sup>th</sup> Edition of *Robert's Rules of Order* in existence at the time, except as otherwise set out in this Bylaw.
  - ii. Notwithstanding the above, the rules and regulations contained herein may be suspended by a two-thirds vote of the Members present at the meeting.

- d. Absence of the Chair
  - i. In the case where the Chair does not attend within fifteen (15) minutes after the time appointed for the meeting, the Acting Chair shall take the Chair.
- e. Quorum
  - i. Where a committee is composed of three members, two members constitute a quorum, and where a committee is composed of more than three members, three members constitute a quorum.
  - ii. A vacancy in the membership or the absence or inability of a member to act does not impair the powers of the committee or of the remaining members.

### 3. MEETING PROCEDURES

- a. The Chair of the Committee is responsible for:
  - i. Calling the meeting to order;
  - ii. Calling for the declaration of Conflict of Interest;
  - iii. Adoption of minutes of previous meeting;
  - iv. Calling each application in order in which it appears on the agenda or at the discretion of the Chair and Committee;
  - v. Calling for any requests for adjournment/deferral of an application;
  - vi. Ensuring that the conduct of the meetings, hearings and members with respect to matters not specifically addressed in this Bylaw shall be in accordance with the applicable legislation.
- b. Any Committee Member who has prior knowledge of the application and/or has publicly voiced an opinion regarding the development of the lands or its owner shall disqualify himself or herself from the Hearing and leave the meeting room.
- c. Each application shall be called in the order determined by the Agenda. The Secretary or designate, will advise of any late correspondence relating to the applications before the Committee that has been received by the Secretary from agencies, residents and others who responded to the circulation of the Notice of Application.
- d. The Chair shall present the application or shall ask the applicant to present the application.
- e. The Chair shall ask the appropriate staff member(s) present for an overview of their Report(s) and highlights of the Report(s) of the staff member(s) not present at the meeting.
- f. The Chair shall ask the applicant to respond to the Planning Staff Report(s).
- g. Committee Members may ask questions of the applicant at this time.
- h. The Chair shall invite anyone else having an interest or concern with respect to the application to come forward and advise the Committee of their position. Each person addressing the Committee shall state their name and address prior to speaking to the application.
- i. When presenting to the Committee, all persons, other than the applicant, shall be limited to a maximum of five minutes unless prior notice is given to the Secretary.
- j. Committee Members may ask questions of those parties expressing an interest or concern.
- k. The Chair shall give the applicant the opportunity to respond to any comments received from commenting agencies or interested parties.
- l. Committee Members may ask additional questions at this time.
- m. Committee Members shall keep in mind the criteria to be met for approval of a Minor Variance as set out in Schedule "A" attached to this Bylaw.
- n. After having considered the issues raised by the applicant, any respondents and the planning evidence heard at the meeting by the Committee, the Chair shall permit discussion of the application and conditions with the Committee Members.
- o. The Chair shall review the four tests with the Committee Members and then call for a vote by the Committee with a show of hands on the application and the Chair shall forthwith announce the decision of the Committee together with the reasons for that decision.

- p. The Chair is permitted to vote on the application and may participate in any discussion.

#### **4. DECISION OF THE COMMITTEE**

- a. No decision of the Committee on an application is valid unless it is concurred in by a majority of the Committee Members that heard the application.
- b. The decision of the Committee, whether granting or denying the application, shall be in writing, shall set out the conditions of the decision and the reasons for the decision and shall be signed by the Committee Members who concur in the decision.
- c. In the case of a tie vote the Chair shall be given a second or casting vote.
- d. A copy of the Committee's written decision shall be prepared and issued in accordance with the provisions of the *Planning Act*.
- e. A copy of the Committee's written decision shall be sent to each person who appeared, in person or by agent or by counsel, to express an interest in the application. In addition, any other party expressing an interest in an application shall leave their name and address with the Secretary-Treasurer at the hearing and shall submit a written request should they wish to receive a copy of the written decision of the Committee and any further correspondence with respect to the application.

#### **5. CONFLICT OF INTEREST**

*Municipal Conflict of Interest Act R.S.O. 1990, Chapter M.50*

##### Duty of Committee Member

When present at meeting at which matter considered

**5 (1)** Where a Committee Member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter and is present at a meeting of the Committee of Adjustment at which the matter is the subject of consideration, the Committee Member,

(a) shall, prior to any consideration of the matter at the meeting, disclose the interest and the general nature thereof;

(b) shall not take part in the discussion of, or vote on any question in respect of the matter; and

(c) shall not attempt in any way whether before, during or after the meeting to influence the voting on any such question. R.S.O. 1990, c. M.50, s. 5 (1).

##### Written statement re disclosure

**5.1** At a meeting at which a Committee Member discloses an interest under section 5, or as soon as possible afterwards, the Committee Member shall file a written statement of the interest and its general nature with the Secretary-Treasurer of the Committee of Adjustment. 2017, c. 10, Sched. 3, s. 4.

##### Influence

**5.2 (1)** Where a Committee Member, either on his or her own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, in any matter that is being considered the Committee of Adjustment, the Committee Member shall not use his or her office in any way to attempt to influence any decision or recommendation that results from consideration of the matter. 2017, c. 10, Sched. 3, s. 4.

##### Disclosure to be recorded in minutes

**6 (1)** Every declaration of interest and the general nature thereof made under section 5 shall be recorded in the minutes of the meeting by the Secretary-Treasurer of the Committee of Adjustment. R.S.O. 1990, c. M.50, s. 6 (1).

## Registry

### Requirement to establish registry

**6.1** (1) Every municipality and local board shall establish and maintain a registry in which shall be kept,

(a) a copy of each statement filed under section 5.1; and

(b) a copy of each declaration recorded under section 6. 2017, c. 10, Sched. 3, s. 5.

### Access to registry

(2) The registry shall be available for public inspection in the manner and during the time that the municipality or local board, as the case may be, may determine. 2017, c. 10, Sched. 3, s. 5.

## **6. ADJOURNMENT OR DEFERRAL – FURTHER NOTICE**

- a. When an application has been adjourned or deferred, notice of the date of resuming the hearing of said application shall be given to those individuals who were present and gave their name and address to the Secretary as well as those individuals who made a written submission, which was read out to the Committee. The Notice may be given orally at the meeting before it is adjourned to those persons physically present.

## **7. AGENDAS**

- a. The Secretary or designate, shall prepare and make available to the Committee by twelve noon on the Friday before the hour appointed for holding a meeting, an agenda for the Committee of Adjustment meeting.
- b. The business of each meeting shall be taken up in the order in which it stands upon the agenda, unless otherwise determined by the Chair.

## **8. MINUTES**

- a. Minutes of the Committee of Adjustment shall record:
- i. The place, date and time of the meeting.
  - ii. The names of the presiding Chair, attending Committee Members, attending staff and the record of the attendance of the general public.
  - iii. Every declaration of interest and the general nature thereof;
  - iv. The adoption, reading (if requested by a member) and the correction of the minutes of prior meetings to verify their accuracy.
  - v. All the resolutions, decisions, and other proceedings of the meeting including an overview of discussions of the applications and the reasons for decisions.

## **9.**

### **FORCE AND EFFECT**

This Bylaw shall come into force and effect at the date of passing and all former bylaws governing such are hereby repealed.

**ENACTED AND PASSED IN COUNCIL** this 6<sup>th</sup> day of May, 2019.



Barbara Shaw, Reeve



Dylinna Brock, Clerk

## Schedule "A"

*Planning Act* s 45(1) The Committee of Adjustment, upon application of the owner of any land, building or structure affected by any Bylaw that is passed under section 34 or 38 or a predecessor of such sections, or any person authorized in writing by the owner, may, despite any other act, authorize such minor variance from the provisions of the Bylaw, in respect of the land, building or structure or the use thereof, as in its opinion is desirable for the appropriate development or use of the land, building or structure, if in the opinion of the committee the general intent and purpose of the Bylaw and of the official plan, if any, are maintained.

### ***General Intent and Purpose of the Official Plan***

To characterize the development of a 'neighbourhood or neighbourhoods,' "the development must respect and reinforce the existing physical character of the neighbourhood, including in particular...

- a) Patterns of streets, blocks and lanes, parks and public building sites;
- b) Size and configuration of lots;
- c) Heights, massing, scale and dwelling type of nearby residential properties;
- d) Prevailing building types;
- e) Setback of buildings from (water) or streets
- f) Prevailing patterns of rear and side yard setbacks and landscaped open space;
- g) Continuation of special landscape or built-form features that contribute to the unique physical character of a neighbourhood...."

"Respecting and enforcing the existing physical character of the neighbourhood does not mean identical to the existing pattern."

The challenge for the committee "is to assess compatibility with what is sought to be approved, with what already exists generally in the neighbourhood."

### ***General Intent and Purpose of the Zoning Bylaw***

- a) Does the proposed development meet the general intent and purpose of the existing Bylaw?
- b) Does the proposed Application conform with the general area of a 'neighbourhood'?
- c) Does the proposed Application maintain the building pattern in the location of a neighbourhood?
- d) These and other related questions may arise during the course of considering a proposed development that may help to decide if an Application for variance meets this test of *General Intent and Purpose of the Zoning Bylaw*.

***Desirable and Minor***

- a) "The two remaining tests for each variance are whether the variances are desirable for the appropriate development and use of the land and whether they are minor."
- b) "The test of whether a variance is minor is not simply a question of numbers. The principal consideration is the impact the variance will have and whether that impact is minor."

***FOUR TESTS:***

- ***Is the proposal minor in nature?***
- ***Is the relief being sought desirable for the appropriate development or use of the land, building or structure?***
- ***Does the application maintain the general intent and purpose of the Zoning Bylaw?***
- ***Does the application maintain the general intent and purpose of the Official Plan.***

NOTE: After considering all the evidence presented at the Public Hearing (meeting), Members of the Committee must decide if an Application as proposed meets the four tests above in order to approve an Application.