

**CORPORATION OF THE TOWNSHIP OF MCKELLAR**

**BY-LAW NO. 2022-~~12~~13** 

**Being a By-law to establish rules governing the proceedings of the Committee of Adjustment, the location and times of Hearings/Meetings and the conduct of Members, Staff and the Public**

**COMMITTEE OF ADJUSTMENT PROCEDURAL BY-LAW**

**WHEREAS** the Council of The Corporation of the Township of McKellar has established a Committee of Adjustment under Section 44 of the *Planning Act, R.S.O. 1990, c. P.13*, empowered with the authority to grant or refuse minor variances from the Zoning By-law;

**AND WHEREAS** the Committee of Adjustment is empowered by the Council of the Corporation of the Township of McKellar to grant or refuse minor variances from the Municipal Zoning By-law under Section 45 of the *Planning Act, R.S.O. 1990, c. P.13*;

**AND WHEREAS** a Committee of Adjustment is a local board as defined in the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended;

**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 a procedural by-law for governing the calling, place, and proceedings of meetings;

**AND WHEREAS** the Committee of Adjustment is further governed by O. Reg. 200/96; O. Reg. 175/16; and O. Reg. 432/96;

**NOW THEREFORE** the Council of the Corporation of the Township of McKellar hereby ENACTS as follows:

**1. DEFINITIONS IN THIS BY-LAW**

- (a) **"Acting Chair"** means the Acting Chair appointed by the Members of the Committee of Adjustment.
- (b) **"Chair"** means the Chair of the Committee of Adjustment elected by the duly appointed Members of the Committee of Adjustment.
- (c) **"Committee"** means a Committee of Adjustment constituted under Section 44 of the *Planning Act*.
- (d) **"Electronic Means"** means telephone, video or audio conferencing or other interactive means of the internet whereby Members, staff and the public are able to hear and /or see the Members(s) participating by Electronic Means and the Members(s) participating by Electronic Means are able to hear and / or see other Members, staff and the public.
- (e) **"Electronic Meeting"** means a meeting called and held in full or in part via Electronic Means, and with or without in-person attendance.
- (f) **"Electronic Meeting Protocols"** means protocols in association with this by-law, developed and amended as necessary, from time to time, to follow for an Electronic Meeting.
- (g) **"Electronic Participation"** means the participation of a Member(s) via Electronic Means when the Member cannot otherwise be present at the Meeting location in-person or when an Electronic Meeting is held in full or in part via Electronic Means
- (h) **"Electronic Participation Protocols"** means protocols in association with this by-law, developed and amended as necessary, from time to time, to follow for Electronic Participation in a Meeting.
- (i) **"Emergency"** means a situation or impending situation caused by the forces of nature, an accident, an international act, or other event or circumstance constituting a danger of major proportions to life or property and includes any period of time where an emergency has been declared to exist in all or part of the Township or all or part of the province under sections 4 or 7.0.1 of the *Emergency Management and Civil Protections Act, R.S.O. 1990, Chapter E.9.*, as amended.

- (j) **"Member"** means an individual appointed by the Council to the Committee of Adjustment.
- (k) **"Secretary-Treasurer"** means a non-voting member appointed by the Committee of Adjustment and may also be identified as 'Secretary.'

## **2. GENERAL PROVISIONS**

### **2.1 LOCATION AND TIMES OF HEARINGS/MEETINGS**

2.1.1 All meetings shall be held at the Municipal Building, 701 Hwy 124, McKellar, Ontario, in the Council Chambers, unless it is an Electronic Meeting or unless otherwise specified in the Notice of Hearing.

2.1.2 All meetings shall be held as per the Notice of Meetings as outlined in the Township of McKellar Procedural By-Law or at the call of the Chair and/or the Secretary-Treasurer as needed, with sufficient notice as required by the *Planning Act* [[Planning Act, R.S.O. 1990, c. P.13 \(ontario.ca\)](#)] and accompanying regulations.

### **2.2 RULES AND REGULATIONS**

2.2.1 Subject to the requirements of the *Planning Act* and any other requirements of law, procedure shall be governed by the latest edition of *Robert's Rules of Order*, except as otherwise set out in this by-law.

2.2.2 Notwithstanding the above, the rules and regulations contained herein may be suspended by a two-thirds vote of the Members present at the meeting.

### **2.3 ABSENCE OF THE CHAIR**

2.3.1 In the case where the Chair does not attend within fifteen minutes after the time scheduled for the meeting, the Acting Chair shall take the Chair.

### **2.4 QUORUM**

2.4.1 Where fewer than three Members are present one-half hour after the time scheduled for a meeting of the Committee, the Secretary-Treasurer shall record the names of the Members present and the meeting shall be adjourned.

2.4.2 A Member having a conflict of interest on one or more of the applications does not affect a quorum being present; however, at least two Members must be in agreement to make a decision on an application.

### **2.5 ELECTRONIC MEETINGS**

2.5.1 An Electronic Meeting may be conducted pursuant to section 238 of the *Municipal Act* [[Municipal Act, 2001, S.O. 2001, c. 25 \(ontario.ca\)](#)], in accordance with the section and the Electronic Meeting Protocols.

2.5.2 The option to hold an Electronic Meeting shall be at the discretion and determination of the Chair and/or the Secretary-Treasurer.

2.5.3 Members participating in an Electronic Meeting, either in person or by Electronic Means, shall be counted for purposes of a Quorum at the commencement, and at any point in time during the Meeting, and shall be entitled to vote as if they were attending the meeting in person.

2.5.4 A public notice of an Electronic Meeting shall include sufficient information as to provide the public with a means to electronically observe such Electronic Meeting.

2.5.5 Public participation in an Electronic Meeting may occur through viewing the webcast if available and /or by providing Public Comments regarding specific Agenda items at a specified Township email address included on the public notice. Public participation in a Public Hearing will be provided during an Electronic Meeting to meet legislative requirements. The process for Public Hearing participation will be included in the public notice of the Electronic Meeting. The Public must be notified that the meeting may be recorded.

2.5.6 The Secretary-Treasurer has delegated authority to develop and amend as necessary, from time to time, Electronic Meeting Protocols dependent upon the type and scope of the Emergency.

2.5.7 Notwithstanding the foregoing, the Committee of Adjustment Procedural By-Law shall continue to apply to an Electronic Meeting held pursuant to this section. Where there is a conflict between this section and another section of this by-law, this section, including the Electronic Meeting Protocols, shall prevail.

## **2.6 ELECTRONIC PARTICIPATION**

2.6.1 An Electronic Meeting may be conducted pursuant to section 238 of the *Municipal Act* in accordance with this section and the Electronic Participation Protocols.

2.6.2 If a Meeting is to be held in person, a Member is permitted to participate electronically in the Meeting and when participating electronically in the Meeting, they shall be counted for purposes of Quorum, they shall be entitled to vote as if they were attending the Meeting in person, and participate electronically in the Meeting.

2.6.3 When a Meeting is not an Electronic Meeting in full or in part via Electronic Means, but a Member wishes to participate electronically in accordance with this section, the Member shall make arrangements with the Secretary-Treasurer, no less than 24 hours in advance of the Meeting, to accommodate the request using an appropriate Electronic Means.

2.6.4 The Secretary-Treasurer has delegated authority to develop and amend as necessary, from time to time, Emergency Participation Protocols.

2.6.5 Notwithstanding the foregoing, the Committee of Adjustment Procedural By-law shall continue to apply to the Electronic Participation of a Member during a Meeting held pursuant to this section. Where there is a conflict between this section and another section of this by-law, this section, including the Electronic Participation Protocols, shall prevail.

2.6.6 Where a loss of connection issues, impedes the ability of a Member(s) to participate(s) in the meeting in real time, the meeting will continue, as long as quorum is maintained.

2.6.7 Where connection is lost and quorum cannot be maintained, the Chair shall recess the meeting for up to 15 minutes to regain quorum. If quorum is not achieved after 15 minutes, the meeting is adjourned.

2.6.8 Where connection is lost and no public participation is possible, including no in-person attendance, the meeting shall be recessed until connection

is restored. If no connection is restored within fifteen (15) minutes, the meeting shall be adjourned immediately with any Agenda items not yet discussed rescheduled to the next meeting of the Committee of Adjustment.

### **3. HEARING PROCEDURES**

- 3.1 Decisions of the Committee must be based on the information presented to the Committee at the Hearing. Members must be present in person or electronically to hear all of the information given during the Hearing process and if not, then they may not take part in the decision making for the application(s).
- 3.2 Members should not discuss any application prior to the Hearing and any Member who 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.
- 3.3 Planning Staff, or their designate, shall read the Notice of Hearing to those present and indicate all submissions received regarding the application. Planning Staff shall present its recommendation on the application.
- 3.4 An applicant or applicant's agent is permitted to present the application and the merits thereof.
- 3.5 All individuals supporting the application, other than the applicant or the applicant's agent, may speak to the application.
- 3.6 All individuals or agents opposed to the application may speak to the application.
- 3.7 All persons must give their name and mailing address prior to speaking to the Committee.
- 3.8 All persons presenting to the Committee are limited to a maximum of five (5) minutes each, unless otherwise permitted by a majority vote of the Committee. The Committee may ask questions of the applicant, applicant's agent, any person making oral submissions, Planning Staff, and the Secretary-Treasurer.
- 3.9 The Committee shall provide the applicant, or the applicant's agent, with an opportunity to respond to any questions or comments raised by the Committee, any person making oral submissions, Planning Staff, and/or the Secretary-Treasurer.
- 3.10 Once a resolution on an application is read by the Chair, only Members of the Committee (including the Chair) or the Secretary-Treasurer and Planning Staff can speak on the matter, unless otherwise permitted by a majority vote of the Committee.
- 3.11 The Chair is permitted to vote in favour of or against the resolutions and participate in any discussion regarding such.
- 3.12 A Hearing can be adjourned by a majority of the Members of the Committee present at the meeting, at the request of the applicant, any person in opposition, any person who has an interest in an application or where there is insufficient or inaccurate information.
- 3.13 In the case of minor variances, Members of the Committee concurring with the decision of the majority of the Members of the Committee shall sign the Notice of Decision.

- 3.14 No Decision of the Committee on an application is valid unless it is concurred with by the majority of the members of the Committee that heard the application, and the decision of the Committee, whether granting or refusing an application, shall be in writing, and in the case of a Minor Variance shall set out the reasons for the decision, and shall be signed by the Members who concur with the decision. A tie vote is deemed to result in a defeated/lost motion.

**4. ADJOURNMENT OF A HEARING - FURTHER NOTICE**

- 4.1 When a Hearing has been adjourned and/or postponed, for whatever reason, any individual expressing an interest in the application shall be able to leave their name and address with the Secretary-Treasurer, and/or may submit a written request, should they wish to receive further Notice of the date of resuming the Hearing. The Notice may be given orally at the Hearing before it is adjourned to those persons physically present or may be by telephone or by electronic mail, if available. A further Notice of any future meeting dealing with the application will also be required if the scheduled meeting has been postponed or cancelled for whatever reason.

**5. GRANTING OF MULTIPLE MINOR VARIANCES**

- 5.1 Where an application to grant more than one variance on the same application is made, the Committee may approve only certain variances. The Committee must give the reasons for those variances approved and reasons for those variances denied.

**6. CONDUCT OF MEMBERS**

- 6.1 The conduct of Committee Members is established by Township Council policy in association with its Procedural By-Law and the *Municipal Conflict of Interest Act* R.S.O. 1990, c.M.50 [[Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50 \(ontario.ca\)](#)]

**7. POINTS OF ORDER AND PRIVILEGES**

- 7.1 All matters pertaining to Points of Order and Privilege are governed by the latest edition of *Robert's Rules of Order* and shall be determined by the Chair and/or a majority vote of the members of the Committee present at the meeting if the decision of the Chair is contested.

**8. AGENDAS**

- 8.1 The Secretary-Treasurer, or their designate, shall prepare and make available to the Committee and public a minimum of three business days prior to the scheduled day for holding a Hearing/Meeting, an agenda, and agenda package, including the Planner's Report, if available, and the applicant's Application for the Committee of Adjustment meetings.
- 8.2 The format for the Committee of Adjustment meeting agendas shall be established by the Committee of Adjustment.
- 8.3 As soon as a meeting has been called to order, the agenda as amended, if appropriate, shall be adopted by resolution.
- 8.4 The business of each meeting shall be taken up in the order in which it stands upon the agenda, unless otherwise determined by a majority vote of the members present at the meeting.

**9. MINUTES**

- 9.1 Minutes of the Committee of Adjustment shall record:
- (a) The place, date, and time of the meeting.
  - (b) The names of the presiding Chair, attending Members and Staff.

- (c) The adoptions, reading (if requested by a member), and the correction of the Minutes of prior meetings to verify their accuracy.
- (d) All the resolutions, decisions, and other proceedings of the meeting without note or comment, except the reasons for decisions.
- (e) A brief summation of all submissions made at the Hearing.

**10. BY-LAW VALIDITY**

10.1 Should any section, subsection, clause, paragraph or provision of this bylaw be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this bylaw as a whole or any part thereof, other than the provisions so declared to be invalid.

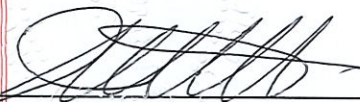
**READ** for a **FIRST** and **SECOND TIME** this 17th day of March, 2022.

  
\_\_\_\_\_  
Peter Hopkins, Mayor

  
\_\_\_\_\_  
Ina Watkinson, Clerk

**READ** a **THIRD** time and **PASSED** in **OPEN COUNCIL** this 17th day of March, 2022.

  
\_\_\_\_\_  
Peter Hopkins, Mayor

  
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Ina Watkinson, Clerk