



# Township of McKellar

701 Hwy #124, P.O. Box 69, McKellar, Ontario P0G 1C0 Phone: (705) 389-2842  
Fax: (705) 389-1244

## Guide to Minor Variances

### What is a Minor Variance?

The Township of McKellar Zoning By-Law regulates the way in which land can be used in the Township by identifying different properties with land use zones. The By-Law also contains 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 Township of McKellar to establish a Committee of Adjustment to which property owners can apply when they require a “minor variation” to the regulations.

There are several situations whereby a need for a minor variance can be identified by the Township of McKellar 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 Inland Development 1 (RU) wishes to build a detached garage in the side yard. The minimum side yard setback for a garage in this RU zone is 3 metres. The homeowner applies for a building permit and it is discovered that the proposed garage is 2.2 metres from the property boundary. In this situation, the homeowner cannot obtain the necessary building permit for the construction of the garage without first applying for and obtaining a Minor Variance to the Zoning By-Law from the Committee of Adjustment.

**Creating a new lot:** A homeowner in a rural area zoned Inland Development 1 (RU) makes a consent application to the Parry Sound Area Planning Board to create a new lot. The retained lands include their existing dwelling. The minimum interior side yard setback for a single detached dwelling in the Inland Development 1 (RU) zone is 5 metres. Upon examination of the sketch plan from the Planning Board it is discovered that the existing dwelling will be 4 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.

**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 the first 10 metres of the normal high water mark of a lake. Upon making the building permit application, it is discovered that the deck will be 5 metres from the normal high-water mark of the lake. Although a deck may project a maximum of 4 metres into the required setback, 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 of 1 metre to the Zoning By-Law from the Committee of Adjustment.



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## How do I make a Minor Variance Application?

### Step 1

#### **Consult with the Township of McKellar Building Department:**

Before you fill out an application, discuss your plans with the Building Department staff who can provide you with an application if you wish to proceed.

#### **Township Building staff can help determine:**

- the need for a variance;
- the nature of the variance;  
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, site services such as septic and hydro;
- a cheque made payable to the Township of McKellar for the application fee and deposit on expenses (\$750.00 application fee + \$500.00 deposit on expenses);
- 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 may be circulated to other Township 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 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



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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 of 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 outlines the appeal procedures and identifies the last day for appealing the Committee's decision to OLT (Ontario Land Tribunal)

## 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 be in a position to apply for a Building Permit or be in compliance with the Zoning By-Law. Conditions set on the Minor Variance may need to be fulfilled at this time, or after a building permit has been issued.

## **Important Considerations:**

Prior to starting any construction activity, it is important to consult with the Township of McKellar 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 Township of McKellar 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 can appeal a decision of the Committee of Adjustment to OLT (Ontario Land Tribunal) 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



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set out the reasons for objecting to the decision and must include the OLT's prescribed appeal fee. The Secretary-Treasurer will then prepare an appeal package and forward it to OLT. The OLT 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 5-8 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:

Building Department, Township of McKellar  
701 Highway 124, PO Box 69  
McKellar, Ontario  
P0G 1C0  
Phone: (705) 389-2842

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