

**THE CORPORATION OF THE TOWNSHIP OF MCGARRY**

**By-law No. 2015-28**

**Being a by-law to appoint a Committee of Adjustment**

**WHEREAS** Section 44(1) of the Planning Act, RS.O. 1990, Chapter P.13, as amended provides that Councils may, by By-law, constitute and appoint a Committee of Adjustment;

**AND WHEREAS** under Section 45(1 and 2) of the Planning Act, RS.O. 1990, Chapter P.13, as amended, the Committee of Adjustment has certain general and special powers;

**AND WHEREAS** under Section 45(3) of the Planning Act, RS.O. 1990, Chapter P 13, as amended, Council may, by By-law, empower the Committee of Adjustment to grant Minor Variances from the provisions of any By-law of the municipality that implements an Official Plan;


**AND WHEREAS** the Council of the Corporation of the Township of McGarry deems it advisable to appoint a Committee of Adjustment.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF MCGARRY ENACTS AS FOLLOWS:**

1. That the Corporation of the Township of McGarry hereby constitutes the Township of McGarry Committee of Adjustment (herein referred to as the Committee) which shall be comprised of the five (5) Members of Council.
2. That the Council of the Corporation of the Township of McGarry may appoint an Alternate Member to the Committee from time to time.
3. That the Corporation of the Township of McGarry hereby empowers the Committee to grant Minor Variances from the provisions of any local By-law which implements the Municipality's Official Plan.
4. That the operation of the Committee shall be as set out in Schedule "A" attached hereto and forming part of this By-law.
5. That this By-law shall come into force and take effect on the day upon which it is passed, and rescinds By-Law 2012-18.

**Read A First And Second Time This 19<sup>th</sup> Day Of August, 2015.**

**Read A Third And Final Time And Passed This 19<sup>th</sup> Day Of August, 2015.**

  
MAYOR

  
CLERK TREASURER

**SCHEDULE "A"**  
**TO BY-LAW NO. 2015-28**

**POLICIES, PROCEDURES AND CONDITIONS FOR THE  
OPERATION OF THE COMMITTEE OF ADJUSTMENT**

1. Definitions:

- (a) "Committee of Adjustment", hereinafter referred to as the "Committee", is a group of individuals appointed by the Council of The Corporation of the Township of McGarry to constitute the Committee of Adjustment pursuant to the provisions of the Planning Act, R.S.O. 1990, as amended.
- (b) "Member" is an individual who is appointed by Council to the Committee.
- (c) "Alternate Member" is an individual who is appointed by Council to the Committee to serve on an "as-needed basis" in the absence of a Member.
- (d) "Chair" is a Member of the Committee elected by the Members at the first regular Meeting of the Committee following their appointment or at any other time as necessary, who shall preside over the Meeting.
- (e) "Acting Chair" is a Member of the Committee elected by the Members at a Meeting on an "as-needed basis" who shall act as Chair in the Chair's absence or where the Chair has disclosed an interest.
- (f) "Secretary-Treasurer" is a Township of McGarry Staff person whose responsibility includes the authority to receive Applications, Application Fees, Decisions and Change of Conditions as required by the By-law and the Planning Act; to adhere to Regulations passed pursuant to the Planning Act; to record and file minutes and records of all Applications; and to accept and process appeals on Committee Decisions to the Ontario Municipal Board.
- (g) "Acting Secretary-Treasurer" is a Township of McGarry Staff person who acts as Secretary-Treasurer in the absence of, and has the same authority as, the Secretary-Treasurer.

2. Chair

- (a) The Chair of the Committee shall be elected from amongst the Members of the Committee for a term to be determined by the Committee.
- (b) The Chair shall be counted in determining quorum and shall be entitled to all the rights of a Member on the Committee, including voting.

3. Calling, Location and Notice of Hearings and Meetings

- (a) Hearings by the Committee shall be scheduled on an as needed basis per the requirements of the *Planning Act* and shall be held within thirty (30) days of the filing of a complete application and may also be held at the call of the Chair or Secretary-Treasurer.
- (b) A complete application shall be determined by the Secretary-Treasurer and shall include the payment of the required application fee.
- (c) All Hearings and Meetings of the Committee shall be held in a room accessible to the public.

4. Notice of Applications

- (a) The Notice of an Application to be considered at a Hearing shall be given in accordance with the provisions of the *Planning Act*, as amended, and any applicable Regulations and more specifically shall also be given by prepaid mail to all Owners of land within 60 metres of the property boundaries of the subject property.
- (b) Notice shall also be sent to those prescribed in the Regulation.
- (c) Notice of the application and the hearing shall be posted in a visible location on or in front of the property affected by the application. The Notice shall be posted by the applicant using wording approved by the Secretary-Treasurer or as required by the *Planning Act* and the posting shall be no less than ten (10) days prior to the date of the first hearing of the application.

5. The Committee of Adjustment shall hold a Public Hearing on every Application prior to a decision being made.

6. The Secretary-Treasurer may request a Planning Report for any application from the contract Planner for any application.
7. Applications and Agenda to Members
  - (a) Copies of each Application shall be delivered to each Member of the Committee at least fourteen (14) days prior to the Hearing. An agenda, prepared by the Secretary-Treasurer, with copies of all correspondence received, shall be forwarded to each Member prior to the Hearing.
  - (b) The addition of agenda items less than 24 hours prior to the Hearing or Meeting of the Committee shall be by unanimous consent of the Members present.
8. Quorum
 

Pursuant to the *Planning Act*, where a Committee is composed of five members, three members constitute a quorum.
8. Cancellation and Rescheduling of Hearings and Meetings
 

In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a Hearing or Meeting.
9. Hearing (Meeting) Procedures
  - (a) The Hearing shall be called to order by the Chair.
  - (b) The Chair shall ask for disclosure of any conflict of interest to any item on the Agenda at the beginning of the Hearing.
  - (c) The Minutes of the previous Meeting shall be adopted.
  - (d) The Chair shall call for any requests for deferral or withdrawal of an Application.
    - i. a request for deferral to a later Hearing must be for a reasonable cause.
    - ii. the Committee may set a new Hearing date for consideration of the deferred Application.
    - iii. the Committee may indicate requirements or conditions for deferral, such as renotification, payment of rescheduling fees, amendment or additional information.
    - iv. if any particulars concerning the Application are discussed or if the correspondence has been read
  - (e) The Chair shall call each Application in an order determined by the Agenda or in an order determined by the Committee.
  - (f) The Applicant or Agent must be present at the Hearing of the Application or the Application shall be deferred unless otherwise determined by the Committee.
  - (g) The Chair shall summarize the Application.
  - (h) The Chair shall ask the Applicant/Agent to introduce themselves and present the Application.
  - (i) The Chair shall ask the Secretary-Treasurer to read aloud, or summarize, correspondence received from Agencies or interested parties.
  - (j) The Committee may ask questions of the Applicant/Agent including whether the Applicant/Agent understands the comments or conditions requested and whether there are any questions.
  - (k) The Chair shall invite all persons having an interest in the Application to be recognized, state their names and advise the Committee of their positions. All discussion shall be directed to the Chair.
  - (l) The Chair shall give the Applicant/Agent the opportunity to respond to any comments received, including any Planning Report.
  - (m) After having considered the issues raised by the Applicant/Agent, interested parties, Agencies, the evidence heard at the Hearing by the Committee and after having regard for Official Plan issues, the Zoning By-law(s) in effect and the Provincial Policy Statement, the Chair shall ask the Members of the Committee for a decision in public with respect to the disposition of the Application. The Committee shall consider the four tests required by the Planning Act in evaluating an application and making a decision.
  - (n) A tie vote shall be deemed a denial of the Application.
  - (o) The Committee may adjourn the Hearing or reserve its decision.

- (p) All members concurring in the discussion shall sign the decision at the Hearing. All Members who have not disclosed an interest must make a decision on the Applications and may not abstain from voting.

10. Conduct of Hearings and Members

- (a) The conduct of Hearings and Members, with respect to matters not specifically addressed in this By-law, shall be generally pursuant to the *Statutory Powers Procedure Act, R.S.O. 1990, Chapter S.22*, as amended; the *Municipal Conflict of Interest Act, R.S.O. 1990, Chapter M50*, as amended; the *Planning Act, R.S.O. 1990, Chapter P.13*, as amended, and other applicable legislation and regulations.
- (b) All Hearings and Meetings shall be conducted in an open forum, open to the public including all deliberations and voting. A Hearing or Meeting may be closed to the public for matters described in Section 239 of the *Municipal Act*.

11. General

- (a) The Committee shall be empowered to impose necessary conditions as authorized under the *Planning Act* and other applicable legislation taking into consideration various planning documents and Policies of the Township of McGarry, the Provincial Government and other applicable agencies.
- (b) Pursuant to the *Planning Act*, the Committee of Adjustment is authorized to reduce or waive the Municipality's requirement for the payment of a fee in respect of an Application provided the Committee is satisfied that it would be unreasonable to require such fee.