

THE CORPORATION OF THE TOWN OF HAWKESBURY

BY-LAW N° 75-2018

To establish a committee of adjustment

WHEREAS Subsection 44(1) of the *Planning Act*, as amended, states that the Council of a municipality may by by-law constitute and appoint a committee of adjustment for the municipality composed of such persons, not fewer than three (3), as a council considers advisable;

AND WHEREAS the Council of the Corporation of the Town of Hawkesbury has adopted a Zoning By-law under Section 34 of the *Planning Act*;

AND WHEREAS the Council deems it necessary and appropriate to establish a Committee of Adjustment;

AND WHEREAS the Council has adopted a Property Standards By-law under Section 15.1 of the *Building Code Act*;

AND WHEREAS the Council has decided that the members of the Committee of Adjustment will also sit on the Property Standards Committee, the Sign Review Committee, the Fence Review Committee and the Taxi Appeal Committee;

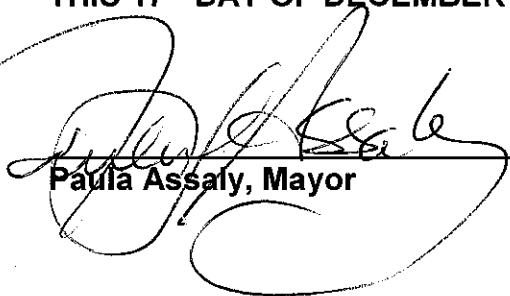
AND WHEREAS Subsection 238 (2) of the *Municipal Act, 2001*, as amended, states that every municipality and local board shall pass a procedure by-law for governing the calling, place and proceedings of meetings.

NOW THEREFORE, the Council of the Corporation of the Town of Hawkesbury hereby enacts as follows:

1. **THAT** a Committee of Adjustment be established in accordance with the terms of reference in Schedule "A" attached hereto and forming part of this by-law.
2. **THAT** the responsibilities and duties of the Committee of Adjustment shall include those of the Property Standards Committee, the Sign Review Committee, the Fence Review Committee and the Taxi Appeal Committee.
3. **THAT** the Committee of Adjustment shall be composed of members who are not members of the Municipal Council and shall hold office concurrent with the term of Council.
4. **THAT** the composition of the Committee of Adjustment shall be composed of three (3) appointed non-elected members.

5. **THAT** the remuneration of the Members of the Committee of Adjustment shall be \$75.00 a meeting.
6. **THAT** Section 1.2 of By-law N° 37-2004 (Taxi By-law), Section 7.2.2 of By-law N° 50-2001 (Property Standards By-law), Section 10.1 of By-law N° 35-2013 (Fence By-law) and Section 14.1 of By-law N° 75-2001 (Sign By-law) be amended to reduce the membership to three (3).
7. **THAT** By-law 29-2015 is hereby repealed.
8. **THAT** this By-law shall come into force and take effect on the date of its final passing thereof.

**READ A FIRST, SECOND AND ADOPTED UPON THIRD READING
THIS 17th DAY OF DECEMBER 2018.**



Paula Assaly, Mayor



Christine Groulx, Clerk

BY-LAW N° 75-2018

SCHEDULE "A"

TERMS OF REFERENCE – COMMITTEE OF ADJUSTMENT

Mandate under the *Planning Act*

The Committee's authority is granted by the Municipal Council under the provisions of Section 45 of the *Planning Act*, as amended to make decisions on Minor Variances from the Zoning By-law and to grant permission for altering or changing lawful nonconforming use of land, buildings or structures. While the Committee is a local board of the Town, it operates independently from Council and its decisions may be appealed to the Local Planning Appeal Tribunal (LPAT).

The Committee considers applications for minor variances where a requirement of a Zoning By-Law cannot be met. Minor Variances are often necessitated by circumstances peculiar to a property which prevent the owner from developing it in a way which conforms to the Zoning By-law. Typical requests for variances include: lot dimensions, building setbacks, parking requirements, sign size or height, fence height, minor changes in legal nonconforming uses, etc.

The Committee is authorized to grant a minor variance if all of the following criteria, commonly referred to as "four tests" are met:

- the variance is minor;
- the variance is desirable or an appropriate development or use of the land;
- the general intent and purpose of the Zoning By-law are maintained; and
- the general intent and purpose of the Official Plan are maintained.

The Committee will refuse an application if, in its opinion, one or more of the above criteria have not been met. The Committee cannot grant exemptions to the by-law which, in effect, would constitute a change of zoning. In such cases, the proponents would have to make an application for a Zoning By-law Amendment.

The Committee is required to give notice, follow procedures under the Ontario Regulation 200/96 Minor Variance Applications and is subject to the appeal process as set out in the *Planning Act*. All meetings of the Committee are open to the public, and rules governing the procedure for Council meetings shall be observed by the Committee in so far as they are applicable.

Mandate under the *Building Code Act*

The Committee's authority is granted by the Council under the provisions of the *Building Code Act*, as amended and includes all the powers and functions of the officer who made the order and the Committee may do any of the following things, if in the Committee's opinion, doing so would maintain the general intent and purpose of the

Property Standards By-law and of the Official Plan or policy statement: 1) Confirm, modify or rescind the order to demolish or repair. 2) Extend the time for complying with the order. While the Committee is a local board of the Town, it operates independently from the Council and its decisions may be appealed to the Superior Court of Justice.

Mandate under the *Municipal Act*

The Committee's authority is granted by the Council under the provisions of the *Municipal Act*, as amended. Under paragraph 7 of Subsection 11 (3), Council has the power to pass by-laws respecting to structures, including fences and signs and under Section 156 to licensing of taxicabs. While the Committee is a local board of the Town, it operates independently from the Council and its decision is final and binding.

Membership

The Committee shall be composed of three (3) appointed non-elected members appointed by resolution, including a chairperson.

Members appointed to the Committee shall be residents of the Town of Hawkesbury.

Term

Members of the Committee shall hold office for the term of the Council that appointed them unless otherwise decided by the Council. Members hold office until their successors are appointed and are eligible for reappointment. If a member ceases to be a member before expiration of his/her term, Council will appoint another eligible person for the remainder of the term.

The mandate of a member ends when he or she is absent for three consecutive meetings without a valuable excuse. The mandate ends at the end of the third meeting of which the member did not assist. Furthermore, the mandate of a member ends when a member is no longer a resident of the Town. Finally, any member can resign from the Committee by forwarding a written resignation letter to the Council.

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.

Quorum

Two (2) members shall constitute a quorum.

Meeting

Meetings will be scheduled upon receipt of an application for a minor variance, an appeal under the Sign By-law, the Fence By-law, the Property Standards By-law or the Taxicabs By-law and will usually take place in the Council Chambers.

Meetings shall be an open meeting and members of the public, including the applicant, authorized agent, applicant's representative and any respondents may be present

during any such deliberations with the exception of those items which may be discussed in closed meeting in accordance with Section 239 of the *Municipal Act, 2001*, as amended.

Committee Chair

The Committee will appoint one of its members to act as Chair. When the Chair is absent through illness or otherwise, the Committee may appoint another member to act as Acting Chair. The Chair has no authority to make decisions on his or her own, he or she can only run a meeting in a fair and efficient manner so that the will of the majority prevails after the minority has had a fair chance to present its point of view.

Secretary

The Town Clerk or his/her delegate shall be the Secretary of the Committee for appeals under the Property Standards By-law.

The Planner or his/her delegate shall be the Secretary-Treasurer of the Committee of adjustment.

The Chief Building Official or his/her delegate shall be the secretary of the Committee for appeals under the Sign and Fence By-laws.

The Town Clerk or his/her delegate shall be the Secretary of the Committee for appeals under the Taxicabs by-law.

Depending on the purpose of the meeting, the acting Secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the Committee.

Municipal Conflict of Interest Act

Committee members may have pecuniary conflict of interest as they have decision-making ability. Members should be cognizant of any conflict of interest or perceived conflict in terms of issues which may serve to benefit them personally.

The provisions of the *Municipal Conflict of Interest Act* shall apply to all members of the Committee and it is the duty of each member to disclose any pecuniary interest, direct or indirect, prior to the consideration of the matter at the hearing, and not take part in the discussion, nor vote, and shall not attempt in any way either before, during or after the hearing to influence the voting. The member shall leave the room if discussions are held in a closed meeting.

Municipal Freedom of Information and Protection of Privacy Act

Committee members shall act to protect the privacy of individuals with respect to personal information contained in application forms and information circulated to the

Committee and to ensure that personal information is used solely for the processing of the application.

Voting

No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken is of no effect.

The manner of determining the decision of the Committee on a motion shall be at the discretion of the Chair and is done by way of a show of hands, standing or otherwise.

Members shall be present to vote, attending the meeting by teleconference or any other means shall not be authorized.

All members present shall vote when a question is put forth, unless:

- such member has made a Declaration of interest under the *Municipal Conflict of Interest Act*, and therefore the member shall "abstain" from voting; or
- in the interest of making an informed decision such member was not in attendance at the meeting during which the integral components of the subject application were discussed.

A member that refuses to vote is considered a negative vote.

A vote shall be taken at the direction of the Chair on each motion duly moved and seconded.

The Chair shall announce at the meeting, the decision of the Committee.

A decision shall not be made as a result of a tie vote. A new motion should then be presented until one is carried by a majority of the members.

Decision

No decision of the Committee on an application is valid unless it is approved 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 shall set out the reasons for the decision, and shall be signed by the Chair and the Secretary.

Deputations

Any person desiring to present information or speak to the Committee at an open meeting shall have the opportunity to do so at the commencement of the meeting as provided under "Deputations" on the Agenda. Such persons shall have not more than

ten (10) minutes to address the Committee and no debate on any subject shall be engaged in by either the Committee or the person.

Communications, including a petition, designed to be presented to the Committee and filed with the Secretary shall be legibly written or printed, shall not contain any obscene or improper matter or language and shall be signed and dated by at least one person. It shall include an address and telephone number where return correspondence or contact is to be directed and shall become part of the public record of the meeting at which it is received.

Petitions designed to be presented to the Committee and filed with the Secretary shall contain original signatures and all information on the petition including names, addresses and telephone numbers shall become part of the public record of the meeting to which it is received.

Communications or petitions to be printed on an agenda shall be delivered to the Secretary no later than five days prior to meeting.

Agenda

The meeting agenda and supporting documents shall be circulated to the Committee members either by electronic mail or hand delivered at least 72 hours prior to the meeting.

The Committee shall deal with business matters in the following order:

- i) Call meeting to order
- ii) Declaration of interest
- iii) Adoption of minutes of previous meeting
- iv) Deputations
- v) Correspondence and other documents relating to application before the Committee
- vi) Varia
- vii) Adjournment

Confidentiality

The members of the Committee shall be bound by the *Municipal Act, 2001* as it relates to confidentiality, closed meetings and any other requirements under the Act which pertain to the conduct of officials. The members are bound by the *Municipal Conflict of Interest Act* and by the *Planning Act*.