

LAND USE BYLAW # 2018/11 and Amendments

PART 3

SECTION: 3.4 Variance to Regulations

1. The Development Authority shall not issue a permit for a use that is not listed in the district regulations as permitted uses or discretionary uses of a particular land use district.
2. Except as restricted in Sentence 3.4 (1) the Municipal Planning Commission may approve, with or without conditions, an application for development that does not comply with this Bylaw where:
 - a. the proposed development would not, in his opinion:
 - i. unduly interferes with the amenities of the neighbourhood; or
 - ii. materially interfere with or affect the use, enjoyment, or value of neighbouring properties.
 - b. the proposed development would, in the Municipal Planning Commission's opinion, conform with the use prescribed for that land or building in this Bylaw; and
 - c. the Municipal Planning Commission may approve, with or without conditions, an enlargement, alteration or addition to a legal non-conforming building if the non-conforming building complies with the uses prescribed for that land in this Bylaw and the proposed development would not, in his opinion:
 - i. unduly interferes with the amenities of the neighbourhood; or
 - ii. materially interfere with or affect the use, enjoyment, or value of neighbouring properties.
3. A Subdivision Officer may approve, with or without conditions, an application for subdivision that does not comply with the minimum lot dimensions outlined in the District Regulations Bylaw where:
 - a. the proposed subdivision would not unduly interfere with the amenities of the neighbourhood.
 - b. materially interferes with or affect to use, enjoyment, or value of neighbouring parcels of land; and
 - c. it can be proven by the applicant, to the Subdivision Officer, that the proposed lot can accommodate development of the site.

SECTION: 3.5 Limitation of Variance

1. In approving an application for a development permit pursuant to Section 3.4, the Development Authority and the Subdivision and Development Appeal Board, shall adhere to the following:
 - a. a variance shall be considered only in cases of unnecessary hardship or practical difficulties particular to the use, character, or situation of land or a building, which are not generally common to other land in the same Land Use Classification.
 - b. a variance may be considered to front yard and rear yard setbacks for buildings, provided the variance does not get reduced to less than the setbacks of approved or legal-nonconforming buildings on adjacent properties.
 - c. a variance may be considered to minimum side yard setbacks to allow cantilevered projections of up to 0.3m in floor area and up to 1.5m in width, extending beyond the minimum setback line provided the construction materials and cladding type of the facing wall meets, or exceeds, the appropriate building and fire codes and the opposite on the property side yard is not increased beyond the minimum setback requirement;



Variance Request

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d. a variance may be considered to maximum building height to allow an increase of up to 10% provided the roof style does not include gable ends facing side yards, the building style is suited to other buildings in the neighborhood and the minimum side yard setbacks are increased by the varied distance;

e. a variance may be considered to the maximum site coverage for residential properties to allow an increase of up to 3% in the maximum site coverage to allow the construction of a principal building provided the building does not exceed one storey in building height, there is no more than one accessory building on the site, at least 35% of the site is covered with soft landscaping and provided that no other variances have been granted or are required for the site.

2. In approving an application for a subdivision that does not meet the minimum lot size requirements specified in the Land Use District Regulations, the Subdivision Officer and the Subdivision and Development Appeal Board, shall adhere to the following:

- a. the proposed variance has been circulated to appropriate Town review committees for comments.
- b. the variance does not exceed 10% of the required regulation.
- c. the minimum lot area requirement for the subject lot has been met; and
- d. the site can handle the minimum building footprint area without reducing setback requirements outlined in Part 9.

PART 4:

SECTION: 4.4 Discretionary Use Permits

2. In addition to the information required in Section 4.2, for development applications requiring a variance to be issued the applicant shall provide a letter requesting the Municipal Planning Commission to consider the variance including the reasons the applicant feels the requested variance is suited to the site; and, photographs, as evidence, of adjacent properties.