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## Property Standards and Committee of Adjustment Terms of Reference

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\* *This is a mandated committee as per The Planning Act (Committee of Adjustment) and by Municipal By-law 03-35 (Property Standards)*

### 1.0 Background

This Committee serves two functions: the consideration of applications under Section 45 of the *Planning Act*; and consideration of appeals under the Property Standards By-law (by-law 03-35).

### 2.0 Powers of Committee

The Committee of Adjustment is established by By-law 13-08 passed under the *Planning Act*, Section 44. Pursuant to the *Planning Act*, Section 45, the Committee may consider applications for minor variance to the Municipality's Zoning By-law, may permit a change or extension of a legal non-conforming use and may be requested to interpret the Zoning by-law where a term is defined in a general manner. This does not include the authority to grant relief from application fees, as this has been reserved by and for Council.

The Property Standards Committee is established by By-law 03-35 passed under section 15.6 of the *Building Code Act*. The Property Standards Committee considers appeals to orders issued by an enforcement officer directing a property owner to comply with the Property Standards by-law as established under Section 15 of the *Act*.

### 3.0 Scope

The Committee is a quasi-judicial authority responsible for considering minor variance and appeals in a merits based assessment and in an unbiased manner and must conduct hearings in a transparent, balanced and responsible manner.

With respect to the *Planning Act*, Section 45 the Committee must determine if requests for minor variance meet the four tests established under the *Act*. It has authority to determine if changes in non-conforming use or enlargement of non-conforming structures represent appropriate changes consistent with good planning principals and is to make decisions that are consistent with the intent of the Official Plan and Zoning By-law and Provincial Policies.

With respect to Section 15 of the *Building Code Act* the Committee may alter or rescind property standards orders issued by municipal enforcement staff where the Committee determines that such action would be consistent with the Property Standards By-law, the Official Plan and/or an applicable policy statement.

#### **4.0 Appointment of Committee**

- a. The Committee shall be composed of three (3) qualified electors of the Municipality. No member of the committee shall be a paid employee of the Municipality. Preference will be given to candidates with relevant experience in planning and architecture. (as per By-law 03-35 and By-law 13-08).
- b. The term of office for members shall be the Term of Council and hold office until their successors are appointed.
- c. Members are eligible for re-appointment at the discretion of Council.
- d. When a member resigns from the Committee before the expiration of his/her term, Council shall appoint another eligible person for the unexpired portion of that term.
- e. If a Committee member fails to attend three (3) consecutive meetings of the Committee without reason, his/her position shall be deemed to be vacant.
- f. The Committee shall elect, annually, a Chairperson and such other officers as may be required from its members. In the Chairperson's absence, the Committee shall appoint another member as acting chair.
- g. The Committee shall hold regular meetings at the call of the Secretary-Treasurer.
- h. At any meeting of the Committee, a quorum shall consist of two (2) members of the Committee.

#### **5.0 Committee Support**

The Director of Planning is designated as the staff resource. Additional staff resources may be utilized as required.

## APPENDIX I

### THE CORPORATION OF THE TOWN OF MISSISSIPPI MILLS

#### BY-LAW NO. 13-08

**BEING** a by-law to establish a Committee of Adjustment for the Town of Mississippi Mills.

**WHEREAS** pursuant to Section 44(1) of the Planning Act, R.S.O. 1990, c. P. 13 as amended, the council of a municipality may by by-law constitute and appoint a committee of adjustment composed of such persons, not fewer than three, as the council considers advisable;

**NOW THEREFORE** the Council of the Corporation of the Town of Mississippi Mills hereby enacts as follows:

1. In this by-law, unless the context otherwise requires,
  - a) "Committee" means the Committee of Adjustment;
  - b) "Council" means the Council of the Corporation of the Town of Mississippi Mills;
  - c) "Town" means the Corporation of the Town of Mississippi Mills.
2. The Committee shall be composed of three (3) qualified electors of the Town. No member of the committee shall be a paid employee of the Town. Preference will be given to candidates with relevant experience in planning and architecture.
3.
  - a) The Committee members shall be appointed by Council.
  - b) The term of office for members shall be the Term of Council and hold office until their successors are appointed, and are eligible for re-appointment.
  - c) When a member resigns from the Committee before the expiration of his/her term, Council shall appoint another eligible person for the unexpired portion of that term.
  - d) If a Committee member fails to attend three (3) consecutive meetings of the Committee without reason, his/her position shall be deemed to be vacant.
  - e) The Committee shall elect, annually, a Chairperson and such other officers as may be required from its members. In the Chairperson's absence, the Committee shall appoint another member as acting chair.
  - f) The Committee shall hold regular meetings at the call of the Secretary-Treasurer.
  - g) At any meeting of the Committee, a quorum shall consist of two (2) members of the Committee.

4. The Committee shall be tasked with the following matters pertaining to a zoning by-law passed under section 34 of the Planning Act, R.S.O. 1990, c. P. 13 as amended:
  - a) Consider applications concerning minor variance from the provisions of the zoning by-law, in respect of the land, building or structure or the use.
  - b) Consider applications pertaining to the enlargement or expansion of legal non-complying or non-conforming uses provided that they legally existed prior to the passing of the zoning by-law.
5. Committee members shall receive a per diem rate of \$75.00 per meeting to be paid at the end of each fiscal year.
6. The Town Planner shall serve as Secretary-Treasurer for the Committee with the following duties:
  - a) Shall keep on file minutes and records of all applications and the decisions thereon and all other official business of the committee subject to legislative requirements.
  - b) Shall ensure proper notice is provided as required under the Planning Act, R.S.O. 1990, c. P. 13 as amended.
  - c) Provide an annual report to the Committee and members of Council.
7. The following rules apply to the holding of hearings and decisions:
  - a) The hearing on any application shall be held within thirty days after the application is received by the secretary-treasurer.
  - b) The committee, before hearing an application, shall in the manner and to the persons and public bodies and containing the information prescribed, give notice of the application.
  - c) The hearing of every application shall be held in public, and the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.
  - d) The chair, or in his or her absence the acting chair, may administer oaths.
  - e) No decision of the committee on an application is valid unless it is concurred in 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 members who concur in the decision.
  - f) Any authority or permission granted by the committee may be for such time and subject to such terms and conditions as the committee considers advisable and as are set out in the decision.

- g) If the committee imposes terms and conditions, it may also require the owner of the land to enter into one or more agreements with the municipality dealing with some or all of the terms and conditions, and in that case the requirement shall be set out in the decision.
  - h) An agreement entered into may be registered against the land to which it applies and the municipality is entitled to enforce the agreement against the owner and, subject to the *Registry Act* and the *Land Titles Act*, against any and all subsequent owners of the land.
  - i) The secretary-treasurer shall not later than ten days from the making of the decision send one copy of the decision, certified by him or her,
    - to the Minister, if the Minister has notified the committee by registered mail that he or she wishes to receive a copy of all decisions of the committee;
    - to the applicant; and
    - to each person who appeared in person or by counsel at the hearing and who filed with the secretary-treasurer a written request for notice of the decision, together with a notice of the last day for appealing to the Municipal Board.
8. In carrying out the provisions of this by-law, the Committee shall at all times be the agent of the Town and while acting bona fide within the limits of the authority of this by-law neither the Committee nor any member thereof shall incur any liability by reason of anything done or left undone by the Committee, provided however, that nothing in this paragraph contained shall authorize or empower the Committee to incur any debt, liability or obligation for which the Town shall become liable without having previously obtained the approval of Council.
9. This by-law shall come into effect on the day of its passing.

**BY-LAW READ**, passed, signed and sealed in open Council this 22<sup>nd</sup> day of January, 2013.

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John Levi, Mayor

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Robert Tremblay, Town Clerk

## APPENDIX II

### BY-LAW NO. 13-08 (Section 8.3)

(This section is amended by By-law 09-86)

#### 8.3 PROPERTY STANDARDS COMMITTEE

- 8.3.1 Every person who initiates an appeal of an Order made under Section 15.2(2) of the Ontario Building Code Act, S.O. 1992, c23, shall submit a Notice of Appeal in the time frame and manner as prescribed in section 15.3(1) of the Act. All Notices of Appeal shall be accompanied by a non-refundable payment of one hundred (\$100.00) dollars.
- 8.3.2 A Property Standards Committee shall be established and shall consist of a minimum of three (3) people appointed by Council.
- 8.3.3 The members of the Committee shall appoint one of themselves as Chair, and when the Chair is absent, the Committee may appoint another member to act as Chair pro tempore and any member of the Committee may administer oaths.
- 8.3.2 The Secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the Committee and Section 74 of the Municipal Act applies mutatis mutandis to such documents. The Secretary shall be comprised of a Municipal Staff member, appointed by the Committee.
- 8.3.4 A majority of the Committee constitutes a quorum and the Committee may adopt its own rules of procedure but before hearing an appeal it shall give notice or direct that notice be given of such hearing to such persons as the Committee considers should receive notice.
- 8.3.5 Where an appeal has been taken, the Committee shall hear the appeal and shall have all the powers and functions of the Officer who made the order and may:
- a. Confirm, modify or rescind the order to demolish or repair;
  - b. Extend the time for complying with the order if, in the Committee's opinion, the general intent and purpose of the by-law and of the Official Plan or policy statement are maintained.