

THE CORPORATION OF THE
TOWN OF PELHAM

BY-LAW NO. 2136 (1999)

Being a by-law to appoint a Committee of Adjustment to delegate the authority for considering applications for minor variances and consents and to provide for compensation for the members of the Committee of Adjustment.

WHEREAS pursuant to Section 54(1) of The Planning Act, R.S.O. 1990 Chapter P. 13 that the council of a Regional Municipality may, by by-law, delegate to the council of a constituent local municipality the authority for the giving of consents under Section 53 in respect of land in the local municipality,

AND WHEREAS pursuant to Section 54(2.1) of the Planning Act, the delegation of authority to give consents is deemed to include the authority to give approvals under Section 50(18) and to issue certificates for validation under Section 57 of The Act,

AND WHEREAS, the council for the Regional Municipality of Niagara has provided for this delegation through the adoption of Regional Municipality of Niagara By-law #185-1999,

AND WHEREAS pursuant to Section 54(2) of the Planning Act, that such council may, in turn, by by-law, delegate the authority to a Committee of Adjustment,

AND WHEREAS pursuant to Section 44(1) of the Planning Act that the Council of the 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,

AND WHEREAS Section 44(9) of the Planning Act, provides that the members of the Committee of Adjustment shall be paid such compensation as the Council may provide,

AND WHEREAS pursuant to Section 69(1) of the Planning Act, the Council may, by by-law, establish a tariff of fees for the processing of applications;

AND WHEREAS Section 55(2) of the Municipal Act, as amended, requires that every local board shall adopt a procedure by-law for governing the calling, place and proceedings of meetings;

AND WHEREAS the Committee of Adjustment is a local board as defined in the Municipal Affairs Act, R.S.O. 1990, c.M.46;

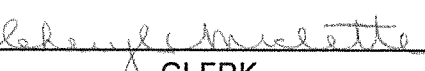
AND WHEREAS Section 55(3) and 55(8) of the Municipal Act, as amended, requires all meetings of a local board to be open to the public and prohibits a meeting to be closed to the public during the taking of a vote unless the exceptions, set out in Sections 55(5) or 55(9) apply;

NOW THEREFORE the Council of the Corporation of the Town of Pelham HEREBY ENACTS AS FOLLOWS:

1. THAT the persons named in Schedule "A" attached hereto and forming part of this by-law be and each are hereby appointed a member of the Committee of Adjustment who shall hold office for the remainder of the term of Council, being to November 30, 2000, or until their successors are appointed;
2. THAT remuneration for the Committee of Adjustment shall be as set out in Schedule "B" attached hereto and forming part of this by-law.
3. THAT mileage shall be paid to each member of the Committee of Adjustment as determined annually;
4. THAT the authority for the granting of consents for lands within the Town of Pelham, as delegated by the Regional Municipality of Niagara By-law No. 185-1999 to the Town of Pelham is hereby, in turn, delegated to the Committee of Adjustment;
5. THAT the operation of the Committee of Adjustment shall be subject to the policies, procedures and conditions as set out in Schedule "C" attached hereto and forming part of this by-law;
6. THAT the fees for processing of applications shall be as set out in Schedule "D" attached hereto and forming part of this by-law;
7. THAT a certified copy of this by-law be sent to the Minister of Municipal Affairs and Housing by registered mail by the Clerk for the Town of Pelham within thirty days of the passing hereof;
8. THAT this by-law shall come into force and take effect on the date of its passage with the exception of the delegation of consent authority which shall take effect January 1, 2000;
9. THAT by-law 867(1983) be and is hereby repealed, and that Section (1) of B7-law 1955 (1997) be and is hereby deleted.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
20th. DAY OF DECEMBER, 1999 A.D.


MAYOR


CLERK

SCHEDULE "A" TO BY-LAW #2136 (1999)
PERSONS APPOINTED TO THE
COMMITTEE OF ADJUSTMENT
FOR THE TOWN OF PELHAM

The following persons are appointed to serve on the committee of Adjustment for the Town of Pelham for a term ending November 30, 2000, or until their successors are appointed:

Gerald MacDonald
Brian DiMartile
Robert Magee
Jamie Douglas
John Durley

SCHEDULE "B" TO BY-LAW #2136 (1999)

REMUNERATION PAID TO MEMBERS OF THE
COMMITTEE OF ADJUSTMENT

1. The members of the Committee of Adjustment for the Town of Pelham shall be paid compensation as follows:

Chair	\$55 per meeting
Acting Chair	\$55 per meeting
Members	\$50 per meeting

2. Mileage shall be paid to each member of the Committee of Adjustment as determined annually.

SCHEDULE "C" TO BY-LAW #2136 (1999)

POLICIES, PROCEDURES AND CONDITIONS FOR THE OPERATION OF THE COMMITTEE OF ADJUSTMENT FOR THE TOWN OF PELHAM

Definitions

1. (a) "Hearing" means the public meeting of the Committee of Adjustment held for the purpose of considering applications for minor variance and consents, pursuant to the provisions of the Planning Act.
- (b) "Meeting" means the proceeding of the Committee of Adjustment as a whole.
- (c) "Committee Chair" means the Chair of the Committee of Adjustment elected by the members of the Committee at a general meeting of the Committee.
- (d) "Hearing Panel" means the members of the Committee of Adjustment, in attendance at a hearing held for the purpose of considering one or more applications for minor variance or consent pursuant to the provisions of the Planning Act, R.S.O. 1990, c.P.13.
- (e) "Hearing Chair" means a member of the Committee of Adjustment responsible for chairing a hearing, who shall be the Chair of the Committee, or in his/her absence a member of the Committee chosen by the hearing panel.
- (f) "Committee" means the members of the Committee of Adjustment.
- (g) "Member" means an individual appointed by the Council of the Town of Pelham to the Committee of Adjustment.
- (h) "Secretary-Treasurer" means the Secretary-Treasurer of the committee of Adjustment.
- (i) "Acting Secretary-Treasurer" means the Assistant Secretary-Treasurer of the Committee of Adjustment who is responsible for the duties of the Secretary-Treasurer in the absence of the Secretary-Treasurer.

Calling of Meetings and Hearings:

2. All meetings and hearings of the Committee of Adjustment, pursuant to Section 55(2) of the Municipal Act, as amended, shall be called by the Secretary-Treasurer or Chair of the Committee.
3. The Secretary-Treasurer shall prepare and cause to be delivered an agenda to each member of the Committee together with copies of each application at least 14 days prior to the hearing. The Secretary-Treasurer shall forward all correspondence received from commenting agencies two (2) days prior to the meeting, wherever possible and as soon as possible thereafter. In addition, copies of each application will be circulated to the Regional and Town Planning and Public Works Departments.

4. In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a hearing.

Location of Meetings and Hearings:

5. All meetings and hearings of the Committee shall be held at the Town of Pelham Municipal Building.

Quorum:

6. Pursuant to Section 44(5) where a committee is composed of more than three members, three members constitute a quorum.

Notice of Applications:

7.
 - (a) The notice of an application to be considered at a hearing shall be given in a manner that the Committee of Adjustment deems appropriate, in accordance with provisions of the Planning Act, as amended, and any applicable regulations thereunder.
 - (b) Notice of application procedures with respect to applications for validation of title and power of sale/foreclosure shall be the same as the procedures for consent applications except notice by mail to property owners within 60 meters of the subject lands is to be omitted.
 - (c) The Committee of Adjustment shall require, as part of its rules of procedure, that each applicant post an adequate sign on the subject property as a means of providing public notice of the proposed application in addition to the notice required by regulations under the Planning Act.
8. The Committee of Adjustment shall hold a public hearing on every application before a decision is made on the application.

Hearing Procedures:

9.
 - (a) The hearing shall be called to order by the Chair.
 - (b) The hearing panel shall disclose any pecuniary interest in any matter to be considered at the hearing.
 - (c) The Chair shall call for any requests for deferral or withdrawal of an application.
 - (i) A request for deferral of an application to a later hearing date must be for reasonable cause.
 - (ii) The hearing panel may set a new hearing date for consideration of the deferred application.
 - (iii) The hearing panel may indicate requirements or conditions for deferral, such as renotification, payment of rescheduling fee, amendment to the application or additional information to be submitted.

- (iv) If any particulars concerning the application are discussed or if the correspondence has been read, the hearing panel is seized of the application.
- (d) The Hearing Chair or Secretary-Treasurer shall call each application in an order determined by the agenda or in an order determined by the hearing panel.
- (e) The Hearing Chair shall ask the applicant, authorized agent and/or the applicant's representative (hereinafter referred to as the "applicant") to introduce him/herself to the panel.
- (f) The Hearing Chair shall request the Secretary-Treasurer to provide the applicant with a copy of correspondence received from agencies, residents and others who responded to the circulation of the notice of an application (for the purposes of the foregoing, the Secretary-Treasurer may provide a written summary of the contents of the correspondence to the applicant).
- (g) The hearing panel may ask questions of the applicant, including whether or not the applicant understands the conditions requested and whether the applicant has any questions or comments on same.
- (h) The Hearing Chair shall invite all persons having an interest in the application to come forward, state their name and address and advise the hearing panel of their positions. The hearing panel may ask questions of those persons expressing an interest.
- (i) The Hearing Chair shall give the applicant the opportunity to respond to any comments received from commenting agencies or interested persons.
- (j) After having considered the issues raised by the applicant and any other persons and the evidence heard at the hearing, the Hearing Chair shall ask the members of the hearing panel for a decision with respect to the disposition of the application.
- (k) Hearing panel members concurring in the decision shall sign the decision at the hearing. All hearing panel members must make a decision on the consent application and may not abstain from voting unless they have disclosed a pecuniary interest in the application at hand.

Conduct of Meetings, Hearings, Members and Staff:

10. The conduct of meetings, hearings and members with respect to matters not specifically addressed in this By-law, generally shall be in accordance with the Statutory Powers Procedures Act, R.S.O. 1990, c.S.22, as amended, and the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as amended. Conduct not covered by these Acts will be in accordance with Roberts Rules of Order.

11. The Secretary-Treasurer shall prepare and retain for the Committee of Adjustment a record or minutes of each hearing containing a summary of the verbal representations made to the hearing panel, together with a copy of all correspondence considered at the hearing. A copy of the minutes is to be circulated to the Town of Pelham Planning Department, the Regional Planning and Development Department and the hearing panel.
12. The Secretary-Treasurer shall be required to carry out the duties as prescribed in the Planning Act, R.S.O. 1990, c.P.13, as amended. Nothing in this by-law shall prevent the Council of the Corporation of the Town of Pelham from entering into an agreement with other municipalities to share the services of a Secretary-Treasurer.
13. The Secretary-Treasurer shall not give advice respecting any principles of Planning Law, any advice given shall be restricted to the meaning and use of approved forms.

SCHEDULE "D" TO BY-LAW #2136 (1999)

TARIFF OF FEES

The fees for processing an application for consent to the above referenced Committees of Adjustment are outlined below.

Description	Fee
Basic Processing Fee <i>Includes administration and mailing fees required to process consent applications. Please make cheques payable to Treasurer, Town of Pelham.</i>	\$500.00 Per application
Planning Review Fee <i>Fees are per application for consents which create new lots. Fees cover investigations into matters of Provincial interest performed by the Regional Niagara Planning Department. Please make cheques payable to Treasurer, Region of Niagara.</i>	\$50.00 (urban area) \$100.00 (outside urban area)
Health Inspection Fee <i>Required if municipal sewage system unavailable (i.e. private septic system proposed). Please make cheques payable to Regional Niagara Public Health Department.</i>	\$175.00 Per new lot + remnant
Rescheduling Fee <i>Applicable as determined by Committee when an adjournment of an application is necessary.</i>	\$125 Per application
Final Certification Fee <i>Fees are per application, payable upon submission of the documents (deeds) for issuance of final certification.</i>	\$100.00

The fee for processing an application for change of conditions under subsection 53(23) of the Planning Act is \$125.00, if the hearing panel that made the decision decides that circulation of the request for change of conditions is required.

Fees required to process minor variance applications shall be \$300.00 per application.