

**THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN**

**BY-LAW NO. 2018-108**

**(amended by By-law 2022-84 and 2023-09)**

**BEING A BY-LAW TO APPOINT A COMMITTEE OF ADJUSTMENT, TO DELEGATE THE AUTHORITY FOR CONSIDERING APPLICATIONS FOR MINOR VARIANCES AND CONSENTS, TO PROVIDE FOR COMPENSATION FOR THE MEMBERS OF THE COMMITTEE OF ADJUSTMENT, TO ADOPT POLICIES, PROCEDURES AND CONDITIONS FOR THE OPERATION OF THE COMMITTEE OF ADJUSTMENT, AND TO ESTABLISH A TARIFF OF FEES UNDER THE PLANNING ACT.**

**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 #124-1999,

**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 238 (2) of the Municipal Act 2001, 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 239 (1) of the Municipal Act 2001, 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 239 (2), (3) or (3.1) apply;

**NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WEST LINCOLN 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 15<sup>th</sup>, 2022, 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 Township of West Lincoln, as delegated by the Regional Municipality of Niagara By-law No. 124-1999 to the Township of West Lincoln 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 set out in Schedule 'D' attached hereto and forming part of this by-law;
7. THAT, the authority granted to the Property Standards Committee, as delegated by the Township of West Lincoln by-law number 98-105 Section 5.5 is hereby in turn delegated to the Committee of Adjustment;
8. THAT, this by-law shall come into force and take effect on the date of its passage;
9. THAT, by laws 2002-112, 2010-115, 2017-06, and 2017-100, as amended, be and are hereby repealed.

**READ A FIRST, SECOND AND THIRD  
TIME AND FINALLY PASSED THIS  
17<sup>th</sup> DAY OF DECEMBER, 2018.**

*CONSOLIDATED VERSION – original signed*

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**MAYOR DAVE BYLSMA**

*CONSOLIDATED VERSION - original signed*

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**JOANNE SCIME, CLERK**

**SCHEDULE 'A' TO BY-LAW 2018-108**

**PERSONS APPOINTED TO THE  
COMMITTEE OF ADJUSTMENT  
FOR THE TOWNSHIP OF WEST LINCOLN  
As amended by By-law 2023-09**

The following persons are appointed to serve on the Committee of Adjustment for the Township of West Lincoln for a term ending December 1, 2026, or until their successors are appointed:

- (1) Peter Forsberg
- (2) Bonnie Baarda
- (3) Deborah Coon-Petersen
- (4) Kim Willis
- (5) Peggy Cook

**SCHEDULE 'B' TO BY-LAW 2018-108**

**RENUMERATION PAID TO MEMBERS OF THE  
COMMITTEE OF ADJUSTMENT**

1. The members of the Committee of Adjustment for the Township of West Lincoln shall be paid compensation as follows:

Chair	\$75 per meeting
Acting Chair	\$75 per meeting
Members	\$70 per meeting

2. Mileage shall be paid to each member of the Committee of Adjustment for site visits at a determined annual mileage rate.

## SCHEDULE 'C' TO BY-LAW 2018-108

### POLICIES, PROCEDURES AND CONDITIONS FOR THE OPEPRATION OF THE COMMITTEE OF ADJUSTMENT FOR THE TOWNSHIP OF WEST LINCOLN

#### Definitions:

1. (a) "Hearing" means the public meeting of the Committee of Adjustment held for the purpose of considering applications for minor variance or consent pursuant to the provisions of the Planning Act.
- (b) "Meeting" means the proceedings 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) "Vice-Chair" means the Vice Chair of the Committee of Adjustment, elected by the members of the Committee at a general meeting of the Committee.
- (e) "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 consent or minor variance pursuant to the provisions of the Planning Act.
- (f) "Hearing Chair" means a member of the Committee of Adjustment responsible for chairing a meeting of the Committee of Adjustment who shall be the Chair of the Committee or in his/her absence, the Vice-Chair or a member of the Committee chosen by the Hearing Panel if the Vice-Chair is not in attendance.
- (g) "Committee" means the members of the Committee of Adjustment.
- (h) "Member" means an individual appointed by the Township of West Lincoln Council to the Committee of Adjustment.
- (i) "Secretary-Treasurer" means the Secretary-Treasurer of the Committee of Adjustment.
- (j) "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.
- (k) "Acting Chair" means the Vice Chair of the Committee of Adjustment or a Committee member responsible for chairing a meeting of the Committee of Adjustment if the Committee Chair is unable to chair a meeting.
- (l) "Applicant" means the applicant, authorized agent or the applicant's representative.

#### Applications:

2. The Procedures contained in this By-law shall be observed in all proceedings of the Committee and shall be the procedures for the order and dispatch of business conducted by the Committee.

#### Calling of Meetings and Hearings:

3. All meetings and hearings of the Committee of Adjustment shall be called by the Secretary-Treasurer or Chair of the Committee.
4. Notice of a regular, special or other meetings shall be posted in the administration office and shall be posted on the Township of West Lincoln's website not less than 24 hours before the meeting.

5. All notices of public hearings shall be given by pre-paid first class mail and posting of a notice sign or in a manner that the Committee deems appropriate in accordance with the Planning Act, R.S.O 1990, c.P.12, as amended; and in accordance with the prescribed regulations.
6. In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a hearing.

**Location of Meetings and Hearings; Quorum:**

7. The location of all hearings and meetings of the Committee shall be identified on the Public Hearing Notice as circulated by the Secretary-Treasurer.
8. Pursuant to the Planning Act, Subsection 44(5), where a Committee is composed of more than three members, three members constitute a quorum.
9. Subject to Subsection (8) above, the inability of a Member to act due to a declared conflict of interest does not impair the powers of the Committee or of the remaining Members.
10. As soon as there is a quorum after the time appointed for the start of the Hearing, the Hearing Chair shall call the hearing to order.
11. If no quorum is present thirty (30) minutes after the time appointed for a Hearing of the Committee, the Secretary-Treasurer shall record of the Members present and the meeting will stand adjourned until the next appointed time.

**Agenda:**

12. The Secretary-Treasurer shall have prepared and printed for the use of the Members at the hearing an agenda under the following headings:
  - a. Deferred/Withdrawn Items
  - b. Applications
  - c. Approval of Minutes
  - d. Other Business
  - e. Adjournment
13. The Secretary-Treasurer shall forward all correspondence received from commenting agencies two (2) days prior to the meeting wherever possible or as soon as possible thereafter.

**Hearing Procedures:**

14. The Hearing Chair shall:
  - a. Call the Hearing to order;
  - b. Call for declaration of Conflict of Interest pursuant to Subsection 31 of this by-law;
  - c. Call for any requests for adjournment/deferral of an application or any requests for withdrawal of an application pursuant to Subsection 32 of this by-law; and,
  - d. Call each application in the order in which it appears on the agenda or at the Hearing Chair and Hearing Panel's discretion
15. The Hearing Chair shall ask the applicant to introduce him/herself to the panel.
16. All applicants and/or authorized agents shall be required to take an Oath or make a Solemn Affirmation, in accordance with the Canada Evidence Act. The Secretary-Treasurer shall administer the Oath in accordance with the Commissioners for Taking Affidavits Act.
17. At any time, the Hearing Chair or Hearing Panel may ask the Secretary-Treasurer to:
  - a. Read aloud all comments received from agencies, residents and others who responded to the circulation of the notice of an application;
  - b. Read aloud any letters received from persons expressing an interest in the application;

- c. At the discretion of the Hearing Chair, summarize the nature of the interest being expressed;
  - d. Read aloud the proposed draft conditions to be attached to a decision. Should the Committee approve the application, the Hearing Panel may delete from, add to or revise the proposed draft conditions.
18. The Hearing Chair shall invite all persons having an interest in the application to come forward, state their name and address for the record, and advise the Hearing Panel of their positions. The Hearing Panel may ask questions of those persons expressing an interest.
  19. The Hearing Panel may limit the length of a public submission if there are multiple submissions from the public to ensure that all members of the public can be heard.
  20. An person showing interest shall confine his/her remarks to the subject application, and shall direct them through the Hearing Chair.
  21. The Hearing Chair shall give the applicant the opportunity to respond to any comments received from commenting agencies or interested persons.
  22. Any other public input after the Applicant's reply shall be at the discretion of the Hearing Chair & Hearing Panel.
  23. The Hearing Panel may consult with Planning Staff who are in attendance for any clarification needed.
  24. 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.

**The Decision:**

25. When the Hearing Chair is asking for a decision from the Hearing Panel, the Hearing Chair shall:
  - a. Ask whether the Members wish to conduct further discussions on the merits of the application;
  - b. At the conclusion of submission, ask the Members of the Hearing Panel for a motion with respect to the disposition of the application;
  - c. Upon motion from a Hearing Panel Member, ask for one of the remaining member to second the motion;
  - d. Permit discussion on the motion;
  - e. Call for a vote by the Hearing Panel on the motion;
  - f. Announce the decision of the Hearing Panel; and,
  - g. May summarize any dissenting decisions orally.
26. Each Hearing Member when requested by the Hearing Chair on a seconded motion shall indicate their position on the application. The majority decision of the Committee on this motion shall constitute the decision of the Hearing Panel.
27. For a Minor Variance application, a Hearing panel may vary its approval to a lesser extent from the relief sought in the submission as originally presented. However, the Hearing Panel does not have the authority to increase the impact of the variance from the original application as circulated.
28. No decision of the Committee on an application is valid unless it is concurred to 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 within the decision.

**Notice of Decision:**

29. A copy of the Committee's written decisions will be prepared and issued in accordance with the provisions on the Planning Act, R.S.O. 1990, c. P.13 as amended and in accordance with applicable regulations.

30. A copy of the Committee's written decision shall be sent to each person who has expressed an interest in an application and has left his/her name and address with the Secretary-Treasurer at the Hearing, or may submit a written request, should they wish to receive a copy of the written decision of the Committee and any further correspondence with respect to the application pursuant to the provisions of the Planning Act, R.S.O. 1990, c.P.13, as amended.

### **Conflicts of Interest**

31. In accordance with the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as amended, any Member of the Committee required to declare a conflict by the provisions of the Act, shall disclose any direct or indirect pecuniary interest for themselves or a family member and shall state the general nature of such interest; and it shall be recorded by the Secretary-Treasurer accordingly. The Member shall refrain from any discussion or comments for the duration of the subject application.

### **Requests for Deferral or Withdrawal**

32. A request for a matter to be withdrawn from the scheduled Hearing date by the applicant must be for reasonable cause and must be made at the Hearing or by written submission. If granted by the Committee and the Hearing, the Secretary-Treasurer will record that the application was withdrawn from the Committee's agenda and the Committee will take no further action on the matter.
33. If a request for withdrawal or adjournment is granted, the Committee will set a new Hearing date for the application if known, and indicate any other requirements or conditions of the adjournment/deferral fee at that time.

### **Additional Requirements for Applications:**

34. All Minor Variance applications shall be submitted on the prescribed form and in accordance with Ontario Regulation 200/96, as amended, and signed under affidavit by the registered owner(s), or his/her agent. If signed by the Agent, the Owner must provide written authorization for said Agent to act on his/her behalf.
35. All Consent applications shall be submitted on the prescribed form and in accordance with Ontario Regulation 197/96, as amended and signed under affidavit by the registered owner(s), or his/her agent. If signed by the Agent, the Owner must provide written authorization for said Agent to act on his/her behalf.
36. All applications shall be accompanied by a plot plan, drawn to scale, and/or an O.L.S. prepared survey sketch acceptable to the Secretary-Treasurer, together with such other information as the Secretary-Treasurer deems necessary to process the application.
37. No application will be processed until such time as the completed prescribed application form, survey sketch, required fee, or additional information as provided for under Section 53(3) of the Planning Act, R.S.O 1990, c.P.13, as amended, is submitted. The Secretary-Treasurer as authorized by the Township of West Lincoln's Council shall be authorized to determine the completeness of the application.

### **Additional Requirements for Committee Meetings:**

38. The Township of West Lincoln Committee of Adjustment shall operate under the rules, procedures and policies established by the Corporation of the Township of West Lincoln, where required and with necessary modification with respect to 1) the sale and other disposition of land, 2) hiring of employees, and 3) procurement of goods and services.
39. The West Lincoln Committee of Adjustment confirms that it shall operate under the policies established under Section 239(1) of the Municipal Act, 2001, as amended, with respect to closed session deliberations, when



required.

40. The West Lincoln Committee of Adjustment confirms that it shall operate under the policies established under the "Township of West Lincoln Code of Conduct for Members of Council, Local Boards and Advisory Committees."
41. The Committee of Adjustment Rules of Procedure may only be amended with a majority vote of the Whole of the Committee in attendance at a General Membership Meeting.

**SCHEDULE "D" (deleted)**  
**Amended by By-law 2022-84 Consolidated Fees & Charges By-law**