

**PROVINCE OF QUEBEC
MUNICIPALITY OF CLARENDON**

**BY-LAW # 2017-260
BY-LAW PERTAINING TO MINOR VARIANCES**

WHEREAS the Municipality of Clarendon is governed by the provisions of the Municipal Code of Quebec;

WHEREAS under the provisions of the Act respecting Land Use Planning and development (L.R.Q., c. A-19-1), Council can adopt a by-law pertaining to minor variances regarding the provisions of zoning and subdivision by-laws other than those relating to the use and density of land;

WHEREAS a Municipal Planning Advisory Committee is in existence;

WHEREAS it is necessary to make major modifications to these regulations in order to update;

WHEREAS there is, by the same occasion, an opportunity to create a by-law concerning minor variances;

WHEREAS notice of motion of the present by-law was given at the council meeting held on March 28th 2017;

THEREFORE it is proposed by Crs. Smith Seconded by Crs. Knox and resolved by the municipal Council adopted By-Law # 2017-260 entitled "By-Law Pertaining to Minor Variances".

ARTICLE 1: Preamble

The preamble is an integral part of the present by-law.

ARTICLE 2: Territory Affected

The provisions of the present by-law shall apply to the whole territory under the jurisdiction of the Municipality of Clarendon. On this territory, the present by-law applies to both individuals and legal persons under public or private law.

ARTICLE 3: Scope of Application

The present by-law governs the format and procedure of analysis of a minor variance application within Zoning and Subdivision By-Laws. In addition, it regulates the requirements for eligibility of admissibility in regards to such a request. Any minor variance application must be submitted and studied in conformity with the present by-law.

ARTICLE 4: General Principles of Interpretation

This by-law is written according to the principles mentioned in Articles 38 to 62 of the Interpretation Act (L.R.A., c. I-16). Consequently, the text of this by-law must be interpreted according to this Act.

ARTICLE 5: Terminology

In the present by-law, unless the context indicates otherwise, the following definitions shall apply:

Minor Variance: a special procedure established by by-law under which the Council may authorize the realization of the proposed work or regularization of work in progress or completed, which does not meet all the provisions of the Zoning or Subdivision By-Laws.

Designated Officer: employee designated by resolution of Council to administer and enforce the present by-law.

ARTICLE 6: Administration and Enforcement of the By-Law

The administration and enforcement of the present by-law refers to the designated officer appointed under the provisions of the Permit and Certificate By-Law.

Every minor variance from the zoning and subdivision by-laws shall respect the aims of the planning program. In no case, a minor variance may be granted for a zone in which land use is subject to particular constraints for reasons of public safety.

ARTICLE 7: Content of the Application

A minor variance application must be accompanied by the following documents and information:

1. The minor variance application form duly completed and signed as provided by the municipality.
2. The name, surname and address of the owner and, where applicable, their authorized representative.
3. Where applicable, a letter authorizing the representative to act on behalf of the owner of the property in question.
4. In the case where the minor variance is for the length, width, area of open space to be left between the buildings on the same property or space required between the buildings and road allowance or property lines:
 - An updated certificate of location prepared by a surveyor in the case of an existing building;
 - A projected plan prepared by a surveyor in the case of a proposed construction;
 - When it is required for the analysis of the request, a plan showing the minor variance requested.
5. A check payable to the Municipality of Clarendon for the amount of \$150.00 to cover review costs and required publications.

ARTICLE 7.1: Request for Work in Progress or Already Completed

To qualify, a minor variance application which relates to a cadastral plan or work in progress or already completed must meet the following conditions:

- The work or the cadastral plan must have been the subject, depending on the case, of a construction permit, a certificate of authorization or a subdivision permit;
- The work or the cadastral plan has been executed in good faith;
- Granting the minor variance would not result in endangering the safety, health or welfare of persons.

ARTICLE 8: Transmission of the Request

The designated officer reviews the application and verifies that all information and documents required by the present by-law were provided. If the information and documents required are incomplete or inaccurate, the examination of the application is suspended until the information and documents required are submitted by the applicant. The application is then considered to be received on the date of receipt of this additional information or documents.

The applicant must provide to the designated officer any additional information required to ensure proper understanding of the minor variance application.

ARTICLE 9: Transmission of the File to the Municipal Planning Advisory Committee

From the date on which he has in hand all the information and documents required by the present by-law, the designated officer has thirty (30) days to transmit the file to the Municipal Planning Advisory Committee.

ARTICLE 10: Study of the Application by the Committee

The Municipal Planning Advisory Committee reviews the request. After analyzing the request, the Municipal Planning Advisory Committee must give a written recommendation taking in account the conditions and criteria outlined in the present by-law.

If the Committee finds and concludes that the minor variance application does not comply with the provisions of Article 7 of the present by-law, it shall dismiss the application.

The resolution stating the Committee's recommendation must be submitted within sixty (60) days following the date upon which the minor variance request, accompanied by all the required information and documents and the amount covering the cost of the analysis, were received by the designated officer.

ARTICLE 11: Public Notice

The Director General of the Municipality must, no later than fifteen days before the holding of the sitting at which the council is to give a decision on the application for a minor variance, cause a notice to be published in accordance with the Law governing the municipality under section 145.6 of the *Act respecting Land Use Planning* (L.R.Q., c. A-19.1).

ARTICLE 12: Council Decision

Before making its decision, the Council or the designated officer shall explain the minor variance request. After hearing any person wishing to speak concerning the request and having reviewed the recommendation of the Municipal Planning Advisory Committee, the council makes its decision. The Council is not bound by the decision of the Municipal Planning Advisory Committee.

A certified copy of the resolution by which Council issued its decision must be transmitted by the Director General of the Municipality to the applicant and the designated officer within fifteen (15) days after its adoption by Council.

ARTICLE 13: Issuance of the Permit or Certificate

When the Council resolution grants the minor variance requested, the officer may then issue the building permit, subdivision permit or certificate of authorization required, provided that the application complies with all provisions of the planning regulations excluding the minor variance.

ARTICLE 14: Inscription in the Register Book

The minor variance application and the resolution from Council are recorded in the register compiled for this purpose.

ARTICLE 15 : Replacement

The present by-law replaces any preceding municipal by-laws concerning minor variances.

ARTICLE 16: Entry into Force

The present by-law shall enter into force in accordance with the Law.

Notice of Motion: March 28th 2017

Adoption of first Draft By-Law: April 11th 2017

Adoption of the By-Law: May 9th 2017

Date de publication: May 15th, 2017

Mayor, John Armstrong

Director General, Mike Guitard