

VARIANCE APPLICATION INFORMATION

GENERAL INFORMATION

- Variance Applications are reviewed by the Planning Advisory Committee (PAC) for the Town of Hampton. The PAC is appointed by Council to provide planning advice to Council and make decisions on variance applications.
- They meet regularly on the last Tuesday of each month. Applications should be in the Town office by the Wednesday before the meeting.
- All applicants are invited to appear before the committee. A time is to be arranged by the PAC. Telephone 832-6086 for a time.
- Town Staff are available to help fill out this application
- Landowners with a 30 metre radius of the property may be notified in writing and provided an opportunity to submit comments to the PAC. Notification for a discretionary use variance is 100 metre radius.
- Variance applications are approved, approved with conditions, or denied, solely by the PAC. The owner, applicant and residents have the opportunity to make comments to the PAC. A variance application can usually be processed and approved within one month of the time of the initial application. The applicant will be notified in writing of the PAC decision. Anyone who disagrees with the Committee's decision may initiate an appeal to the *New Brunswick Provincial Planning Appeal Board*.

WHAT IS A VARIANCE? A Variance generally involves a minor change of a zone standard in the Town of Hampton Zoning By-law. It is necessary if you wish to obtain a building permit in order to construct, renovate or alter a building which does not comply with the Zoning By-law requirements.

WHAT ZONING STANDARDS ARE AFFECTED BY VARIANCES? The Zoning By-law established minimum standards for such things as building setbacks from property boundaries, building height, percentage of the lot to be covered by a building, the number of parking spaces required, and so on.

WHEN IS A VARIANCE NECESSARY? If you wish to construct a new building, make additions or alternations to an existing building, or subdivide your property, your proposal must comply with the Town of Hampton Zoning By-Law. If it doesn't, you may apply to the PAC for a variance. Unlike a zoning amendment, a variance does not change the existing by-law. Instead it provides relief from the specific requirements of the Zoning By-law in order to allow you to follow through with your proposal and obtain a building permit.

Before the PAC approves your variance application, the Committee will examine your request to determine whether it:

- is minor (not of such a magnitude to warrant a rezoning of the site, nor will it unduly affect neighbouring properties);
- is suited to the appropriate development of the land, building or structure;
- maintains the general intent and purpose of the Zoning By-law;
- maintains the general intent and purpose of Town of Hampton Municipal Plan.

Legal Non-Conforming Use (Similar Use Variance)

Owners who use their property for a purpose that was legally in existence before the current zoning for the property came into effect are protected under the *New Brunswick Community Planning Act*. Although a specific use may become prohibited in a certain area, due to a change in zoning, the use is allowed to continue as a legal non-confirming use provided that it continues uninterrupted. If it is interrupted for more than ten months, the property loses its legal non-confirming status.

There are two kinds of legal non-confirming use applications that require the Committee's approval:

- a change from the existing non-confirming use to a different use (also not permitted by the By-law). In these cases, the new use must be similar to the existing one or more compatible with other uses in the area;
- an extension or enlargement of a legal non-confirming use. No expansion of a legal non-confirming use can be permitted beyond the property owned at the time the by-law was passed.

Discretionary Use Variance

Certain uses identified in specific zones in the Zoning By-law are permitted subject to terms and conditions prescribed by the PAC after review. These uses are called discretionary uses (i.e. tourist homes, neighbourhood daycare centres, group homes, vehicle sales, etc.)

This is for information purposes only. The Town of Hampton Zoning By-Law should be referred to for all matters of official interpretation.