



# APPLICATION FOR VARIANCE OR PERMISSION UNDER SECTION 45 OF THE PLANNING ACT

**THE CORPORATION OF THE CITY OF LONDON,  
DEVELOPMENT AND COMPLIANCE SERVICES,  
300 DUFFERIN AVENUE, LONDON, ONTARIO, N6A 4L9**

Updated: February 2020

**DETACH THE FIRST THREE PAGES AND RETAIN FOR FUTURE REFERENCE:**

1. This process pertains to an Application for Variance or Permission Under Section 45 of the Planning Act.
2. There are different fees for each type of application (See APP-2, attached, for a fee schedule).
3. If the application requires a Consent application, it is recommended that the consent be completed first.

**GENERAL INFORMATION:**

- Variations or Permissions, under Section 45 of the Planning Act, may be applied for in order to:**
- Vary the regulations of the Zoning By-law, or any By-law passed under Sections 34 or 38 of the Planning Act;
  - Permit a change in the use of land or buildings, from one non-conforming use to another non-conforming use;
  - Permit the extension or enlargement of a non-conforming use, and;
  - Permit the use of land or building for a use permitted by the by-law, where the use is defined in general terms.

**STEPS IN THE PROCESS:**

<b>Step 1</b>	<p><b>Identify if a Variance or Permission is necessary:</b></p> <p>When a project does not conform to the regulations of the Zoning By-law, or any By-law passed under Sections 34 or 38 of the Planning Act, an adjustment - through variance or permission - may be required. This need can be identified by the City in a number of ways; through the Building Permit Process, Licensing, Enforcement, and many others. This ability to <i>adjust</i> By-laws passed under Section 34 or 38 of the Planning Act is described in Section 45 of the Planning Act, in relation to the Committee of Adjustment.</p>
<b>Step 2</b>	<p><b>Submit concept/plans to the Minor Variance Coordinator, 7<sup>th</sup> floor, City Hall:</b></p> <p>Once the need for adjustment has been identified, the Minor Variance Coordinator will use the information and plans you have provided to complete a <b>Zoning Referral Record</b> (Schedule APP-1 herein) which forms part of a complete application. The Coordinator, or another Staff member, will review your application and contact you if more information is required in order to complete the Referral Form.</p> <p>You will need to provide dimensioned and scaled drawings of the proposal, showing all of the information and features as prescribed in Section 9 of the attached application form, to assist in completing the Zoning Referral Record.</p> <p>The Zoning Referral Record, and Staff, will identify:</p> <ul style="list-style-type: none"> <li>• The number, type, and/or extent of variance(s) or permissions required;</li> <li>• The general need for variance (what is being varied and why, and);</li> <li>• Whether a Consent, Site Plan, or other Application is also necessary.</li> </ul> <p><b>NOTE:</b> Adding a <u>use</u> that is described in the Zoning By-law, and not permitted in the zone, is done through an Amendment to the Zoning By-law and not through adjustment or variance.</p>

**STEPS IN THE PROCESS:****Step 3****Discuss your proposal, and review the Zoning Referral Record with other City divisions:**

In order to save time and ensure your application addresses all concerns, it is advised that you discuss your intentions with Development Services Planner, to determine:

- Whether or not the proposal is within the scope of the minor variance process;
- If there are any other Municipal issues or concerns with your proposal;
- Whether or not there might be servicing requirements/limitations, or land dedications, involved with a given proposal;
- If there are other items of interest, expenses, or requirements relevant to your proposal.

**Municipal Division(s) to Contact:**

- Start by speaking with Development Services Planners, who will review the application. You are encouraged to speak with a Planner, and can also speak with an engineer regarding your proposal **prior** to making your formal application. Call 519-930-3500 during office hours, or visit the 6th floor of City Hall (300 Dufferin Ave.) to meet with Staff, directly.

**Consultation with other agencies or departments may also be necessary. Municipal Staff will do their best to advise you, but it is your responsibility to check with the following agencies, at least:**

- Conservation Authorities - if the site is within an Authority's regulated area. The Upper Thames, Lower Thames, and Kettle Creek Conservation Authorities each regulate portions of London.
- Heritage Planning Staff - if the subject lands are considered to have archaeological potential, are within a Heritage Conservation District, or feature a listed or designated property.  
Phone: 519-661-4980
- Ontario Ministry of Transportation - if the application involves construction on or adjacent to a provincial highway. Visit the MTO's "Highway Corridor Management" webpage.

**Step 4****Complete the Application Form and submit it, along with other material identified during your preliminary inquiries, to the Minor Variance Coordinator:**

Once you are satisfied that all the above steps have been completed, the application can be submitted to the Minor Variance Coordinator. The Coordinator will inform you if more information is necessary, in order for Staff to do a thorough evaluation of the application under the Planning Act. In addition to completing the application form, you must also provide the following:

- A site plan/survey/concept plan of the proposal, dimensioned and drawn to scale - in metric - showing all of the information and materials as prescribed on **page 4** (part 9) of this form;
- A cheque, made payable to the "Treasurer, City of London" to cover the application fee (see Schedule APP-2, attached hereto);
- Your written authorization (with dated, original signature), identifying by name the individual who will act as your agent or solicitor for filing and handling your application(s) (if applicable) [See sections 15-17 herein] and;
- Additional information which may help the review process and assist in evaluating your application. Letters of support from your neighbours, drawings and photographs of the proposal, and other pertinent information is highly recommended. To avoid delays, please ensure that your application is complete, that all drawings are legible, and that all dimensions are accurate.

At this point, at City Hall, a *Commissioner of Oaths* will accept and stamp your application and indicate an approximate hearing date.

**\*Please be aware that we will not commission and accept an application without the Zoning Referral Record (ZRR), completed and signed by a Zoning Officer. At least two visits to City Hall will likely be required for an application to be submitted correctly.**

Once the application is deemed complete, the file is opened and timelines for processing are established. Please note that all of the information that was submitted is open to review by the general public, including name, address, phone number, etc. – this is a public process

**Step 5**

**Notice of Application:** Now that the application has been accepted and a hearing date scheduled, a "Notice of Application" will be published in a Thursday edition of *The Londoner* in order to meet statutory notice requirements. The application will also be circulated to the required agencies, departments and property owners within 60m of the subject lands, outlining the requested amendment(s), and inviting comment. The comments and opinions submitted to the Committee on this matter, including the name and address of the respondent(s), become public.

**STEPS IN THE PROCESS:****Step 6****Decision-making process:**

The Public Hearing will be held no sooner than 30 days after receipt of the complete application, and no less than 10 days after the mailing and/or publishing of the Notice of Application. It is important that you, and/or your agent, **attend the Hearing** to explain the reasons for your application. If you do not attend, the Committee may proceed in your absence, and without your input, and make a Decision on the matter.

Aside from the site-specific aspects of the application, the Committee of Adjustment typically use the following criteria (the four tests) to evaluate applications under section 45(1) of the *Planning Act* and reach their decision:

- Does the variance meet the general intent of the Official Plan and London Plan?
- Does the variance meet the general intent of the Zoning By-law?
- Is the request desirable for the appropriate use of the land, building, or structure?
- Is the requested variance minor in nature?

In some circumstances, where the land(s) or building(s) were lawfully used on the date of passing of the By-law for a use prohibited by the By-law, where there is a change from one non-conforming use to another, or where a use is generally defined by the By-law, permission can be sought under Section 45 (2) of the *Planning Act* to allow expansions, extensions, or specific changes in use. In these instances the Committee consider whether granting permission will cause undue hardship on neighbouring properties. Criteria for making decisions regarding non-conforming uses are provided in Sections 19.5.2. and 19.8.2 of the Official Plan and in policies 1665 through 1667 inclusive in the London Plan.

The Committee will also consider verbal and written submissions from staff, and any other interested parties, neighbours, etc. in their evaluation of all types of application.

**Step 7****Notice of Decision:**

Within 10 days of the Committee making its decision, the Minor Variance Coordinator will mail a copy of the Notice of Decision to the applicant, and to anyone else who filed a **written request for notice** of the decision. The information included in the Notice of Decision will outline appeal procedures and identify the last day for appealing the Committee's decision to the Local Planning Appeal Tribunal (LPAT).

**Step 8****A Final and Binding Decision:**

If no appeal is made by the end of the 20 day appeal period, the decision is final and binding. You will receive a "Notice of Final Approval" by mail and - if the application has been granted - you should be able to proceed with your project, subject to any conditions set out in the decision, or further permits which may be required. Conditions set out in the decision of the Committee of Adjustment must be satisfied prior to obtaining a building permit, or other subsequent permissions.

**NOTE: SECTION 45 OF THE PLANNING ACT PROVIDES THAT:**

The applicant, the Minister, or any other person or public body who has an interest in the matter, may appeal a decision of the London Committee of Adjustment to the Local Planning Appeals Tribunal (LPAT) within 20 days of the date of the Decision of the Committee by personally delivering, or sending a Notice of Appeal, to the Minor Variance Coordinator along with the required forms. Forms can be downloaded from the Environment and Land Tribunals Ontario (ELTO) LPAT website. A cheque or money order, as prescribed by the LPAT, must accompany the application. The Minor Variance Coordinator will then prepare an appeal package and forward it to the LPAT, once you have provided all necessary information. The LPAT will schedule a hearing and give written notice of the time and date in advance of the hearing.



THE CITY OF LONDON:

APPLICATION FOR VARIANCE OR PERMISSION UNDER SECTION 45 OF THE PLANNING ACT

<b>CONCURRENT APPLICATIONS FILED:</b>		<b>Date Received: (OFFICE USE ONLY):</b>
<b>Note to Applicant: For each application that is filed concurrently, complete and attach the appropriate application form and fees</b>		(Place Date Stamp Here)
<input type="checkbox"/>	Official Plan Amendment:	
<input type="checkbox"/>	Zoning By-law Amendment:	
<input type="checkbox"/>	Consent:	
<input type="checkbox"/>	Site Plan:	
<input type="checkbox"/>	Other (Specify):	<b>FOR REFERENCE PURPOSES</b> <b>Municipal address:</b>

<b>REQUIREMENTS FOR A COMPLETE APPLICATION INCLUDE:</b>	
<input type="checkbox"/>	The completed application form, and associated declarations.
<input type="checkbox"/>	A survey, site plan, or diagram of the proposal, dimensioned in metric and drawn to scale, showing all of the information as required by the <i>Planning Act</i> (see Section 9 herein).
<input type="checkbox"/>	Application Fee(s) made payable to the Treasurer, City of London.
<input type="checkbox"/>	A Letter of Authorization from the owner (with dated, original signature) <b>OR</b> completion of the Owner's Authorization on page 5 (item 15), <b>if the owner is not filing the application.</b>
<input type="checkbox"/>	Photographs or other relevant documentation that will assist in evaluating your application.
<input type="checkbox"/>	Completed Zoning Referral Record (see Schedule APP-1)

<b>PLEASE LIST THE REPORTS OR STUDIES THAT ACCOMPANY THIS APPLICATION:</b>	
<i>List all reports, justifications, letters, studies, or documents prescribed by the City of London, or that the applicant believes would be beneficial to the application.</i>	

<b>THIS APPLICATION PACKAGE MUST BE SUBMITTED TO:</b>	
City of London, Development and Compliance Services	Telephone: 519-930-3500
ATTN: Minor Variance Coordinator	
300 Dufferin Avenue, Room 706, London, Ontario N6A 4L9	

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INFORMATION AND MATERIAL TO BE PROVIDED IN AN APPLICATION UNDER SECTION 45 OF THE ACT (O.Reg 200/96)

**1a) Applicant Information:**

Complete the information below. All communications will be directed to the **Primary Contact** with a copy to the owner.

Note: If additional space is required for owner(s) information, please attach a separate sheet containing said information.

Registered Owner(s):

Name:

Address:

City:

Postal Code:

Phone:

Cell:

Fax:

E-mail:

Authorized Agent (authorized by the Owner to file the application, if applicable):

Name:

Address:

City:

Postal Code:

Phone:

Cell:

Fax:

E-mail:

Ontario Land Surveyor (if applicable):

Name:

Address:

City:

Postal Code:

Phone:

Cell:

Fax:

E-mail:

**1b) Which of the above is the Primary Contact?**     Owner                       Agent                       Surveyor

**2) Date application submitted to the City of London:**

**3) The Current Official Plan designation AND London Plan Place Type:**

**4) The current Zoning of the subject land and the uses permitted by that zone:**

*(Please use a separate sheet if needed)*

**5) Describe the nature and extent of the relief from the Zoning By-law (what is being varied):**

*(Please use a separate sheet if needed)*

**6) Indicate why the proposed use, or regulations, cannot comply with the provisions of the Zoning By-law:**

*(Please use a separate sheet if needed)*

**7) Description of Land:**

Geographic Township / Planning Area:

Lot(s):

Part Lot(s):

Concession(s):

Registered Plan Number:

Municipal street address (if applicable):

Assessment Roll Number:

**8) Land Use, Existing and Proposed:**

Frontage (m)

Depth (m)

Area (m<sup>2</sup>)

8 b) Existing Use of the subject land?

8 c) The length of time that the existing use of the subject lands has continued?

8 d) Number of existing buildings/structures on the subject land?

8 e) On what date were all existing buildings or structures on the subject land constructed?

8 f) The date the subject land was acquired by the current owner?

8 g) Proposed use of the subject lands?

8 h) If known, the number of proposed (new) buildings/structures?

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8 i) Specify the purpose/use of all proposed structures or buildings on the subject land.

**9) A sketch illustrating the following information, in metric units, is required:**

Sketch is to include all existing and proposed buildings as described above (Section 8).

- (a) The address of the subject site, a north arrow, and any other information necessary to identify what the diagram pertains to and how it is oriented.
- (b) The boundaries and dimensions of the subject land.
- (c) The location, size (area and dimensions), and type of all existing and proposed buildings and structures on the subject land, indicating the distance of the buildings or structures from the front yard lot line, rear yard lot line, and the side yard lot lines.
- (d) The approximate location of all natural and artificial features on the subject land and on land that is adjacent to the subject land that, in the opinion of the applicant, may affect the application. Examples include buildings, railways, roads, watercourses, drainage ditches, banks of rivers or streams, wetlands, wooded areas, wells, and septic tanks.
- (e) The current uses on land(s) adjacent to the subject land (*for example, residential, agricultural or commercial*).
- (f) The location, width, and name of any roads within or abutting the subject land, indicating whether it is an unopened road allowance, a public traveled road, a private road, or a right of way;
- (g) If access to the subject land will be by water only, the location of the parking and docking facilities to be used.
- (h) the location and nature of any easement affecting the subject land.
- (i) **NOTE:** Where an application for variance or permission is being made as part of the site plan approval process, diagrams, drawings, sketches, elevations, etc. shall be provided as prescribed through the Site Plan Consultation process and/or in accordance with the Submission Requirements of the Site Plan Control By-law C.P.-1455-541, Schedule 1.

**10) Access:** Access to the subject lands will be provided by?

Δ	Municipal Road	Δ	Provincial Highway	Note: if by water, provide parking/docking facility information and nearest public road.
Δ	Public Road, or Right of Way	Δ	Water only	

**11) Water Supply:** Water Supply to the subject lands will be provided by?

Δ	Municipal (piped) water	Δ	Privately owned and operated individual or communal wells
Δ	A lake or other body of water	Δ	Other (specify)

**12) Sewage Disposal:** Sewage disposal on the subject lands will be provided by?

Δ	Municipal sanitary sewer system	Δ	Privately owned individual or communal septic system
Δ	A Privy (outhouse)	Δ	Other (specify)

**12b) If the application would permit development on privately owned and operated individual or communal septic systems, and produce more than 4 500 litres of effluent per day, as a result of the development being completed, you are required to provide:**

- a) a servicing options report, and;
- b) a hydrogeological report

**13) Storm Drainage:** Storm drainage on the subject lands will be provided by?

Δ	Municipal sewers	┘ Ditches or Swales	┘ Other (specify)
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**16) Applicant's Declaration:**

**This must be completed by the person filing the application for the proposed Consent and in the presence of a Commissioner of Oaths.**

I, \_\_\_\_\_ of the \_\_\_\_\_  
Print name of applicant Print name of City, Town, Township, etc.

in the Region/County/District of \_\_\_\_\_ solemnly declare that all of the statements

contained in this Application for Minor Variance at \_\_\_\_\_  
(description of property)

and all supporting documents and plans are true and complete, and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at:

Region/County/District of Middlesex

in the Municipality of The City of London, this

\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Day) (Month) (Year) Signature

Please Print name of Applicant

Commissioner of Oaths:

**17) Municipal Freedom of Information Declaration:**

In accordance with the provisions of the Planning Act, it is the policy of the City of London to provide public access to all development applications and supporting documentation.

In submitting this development application and supporting documentation, I \_\_\_\_\_

The owner/authorized applicant, hereby acknowledge the above-noted policy and provide my consent, in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, that the information on this application and any supporting documentation provided by myself, my agents, consultants and solicitors, will be part of the public record and will also be available to the general public.

I hereby authorize the City of London to post a "Possible Land Use Change" sign, if necessary, and for municipal staff to access the subject site for purposes of evaluation of the subject application.

\_\_\_\_\_  
Signature Day Month Year

**OWNER/APPLICANT'S INFORMATION (Mandatory, please print)**

Name: \_\_\_\_\_ Mailing Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Cell No.: \_\_\_\_\_

**ZONING REFERRAL RECORD**

To be completed by an authorized City Employee, 7<sup>th</sup> Floor, City Hall

NOTE: the diagram submitted with the application must clearly identify items (a) through (m), below. Other regulations/information may also be required.

<p><b>File No.</b> <b>A.</b></p>
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Description of Land (for Office Use Only):	
Geographic Township / Planning Area:	
Lot(s):	Part Lot(s):
Concession(s):	Registered Plan Number:
Municipal street address (if applicable):	
Assessment Roll Number:	

**Existing Zone(s) in Z.-1 Zoning By-law:**

BY-LAW RESTRICTIONS	REQUIRED	AS SHOWN ON PLAN
(a) Use		
(b) Lot Area (m <sup>2</sup> )		
(c) Lot Frontage (m)		
(d) Front Yard (m)		
(e) Rear Yard (m)		
(f) Interior Yard (m)		
(g) Exterior Yard (m)		
(h) Landscaped Open Space		
(i) Lot Coverage		
(j) Height (m)		
(k) Off-street Parking		
(l) Floor Area Ratio?		
(m) Special Provisions?		
(n) Other		

**CONSENT REQUIRED?**       Yes       No

ZONING COMMENTS

While every effort has been made to ensure that the information contained herein is correct, the information is not warranted or certified to its accuracy. The information MUST be verified before filing for your Minor Variance Application

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Signature of Staff Member Authorized to Complete Referral

Year

Month

Day

**SCHEDULE OF FEES** Effective JANUARY 1, 2020

**Schedule APP-2**

All cheques must be made payable to:

**Treasurer, City of London.**

**APPLICATION FEES for VARIANCES AND PERMISSIONS**

<b>Category 1</b> <b>\$409.60</b>	<b>Category 2</b> <b>\$512.00</b>	<b>Category 3</b> <b>\$921.60</b>	<b>Category 4</b> <b>\$1228.80</b>
<p><b>Accessory Structures with no dwelling units:</b>                      Garages, Sheds, Pool equipment, decks, air-conditioners, boats, etc.)</p> <p>height                      yard setbacks                      gross floor area                      coverage                      location</p>	<p><b>Yard Setbacks</b></p> <p>interior side yard                      exterior side yard                      rear yard                      front yard</p> <p><b>MDS regulations</b></p>	<p><b>Permissions re. Non-Conforming Uses</b></p> <p>Change from one non-conforming use to another.</p> <p>Extension or enlargement of non-conforming use, or regulation.</p>	<p><b>Lot/Yard Requirements</b>                      - as a result of a consent application</p> <p><b>Generally Defined Uses</b> not specifically mentioned in the Zoning By-law.</p> <p><b>Home Occupation</b></p> <p><b>Definitions</b></p> <p><b>Increase in Density/Floor Area Ratio</b></p> <p><b>Lot/Building Regulations:</b>                      area, coverage, depth, frontage, landscaped open space, etc.</p> <p><b>Driveways &amp; Parking:</b> Front Yard, Boulevard, and other related variances, including parking reductions.</p> <p><b>Variances pertaining to Secondary Dwelling Units;</b> including within accessory structures.</p> <p><b>Other</b> (including but not limited to trucks, motor homes, rec. vehicles, etc.)</p>
<p><b>Yard Setbacks/ Encroachments for Porches, Decks, etc.</b></p>	<p><b>Height</b></p>		
	<p><b>Front Yard Parking</b>                      Existing prior to Oct 1/95                      (Council Oct 6/97)</p>		