

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 2021-21

A BY-LAW TO ESTABLISH A COMMITTEE OF ADJUSTMENT FOR THE TOWN OF LINCOLN AND TO PRESCRIBE THE PROCEDURES FOR GOVERNING THE CALLING PLACE AND PROCEEDING OF COMMITTEE MEETINGS AND TO REPEAL BY-LAW 2019-25.

WHEREAS:

1. Pursuant to Subsection 44(1) of The Planning Act, R.S.O. 1990, Chapter P.13, as amended, (hereinafter referred to as the "Act"), if a municipality has passed a by-law under Section 34 or a predecessor of such section, the Council may by by-law constitute and appoint a Committee of Adjustment for the municipality;
2. The authority for granting consents has been delegated by the Regional Municipality of Niagara to the Council of the Corporation of the Town of Lincoln pursuant to Section 54(1) of the Act;
3. Pursuant to Subsection 53(1) of the Act, a Council may, upon an application, give consents under Section 53 of the Act if satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality;
4. The Council of the Corporation of the Town of Lincoln deems it desirable to delegate the authority for the giving of consents to the Town of Lincoln Committee of Adjustment pursuant to Section 54(2) of the Act;
5. Pursuant to Subsection 54(2.1) of the Act, the delegation of authority to the giving of consents is deemed to include authority to give approvals under Subsection 50(18) and issue certificates of validation under Section 57 of the Act;
6. Pursuant to Subsection 54(7) of the Act, a delegation of authority made by the Council may be subject to such conditions as the Council by by-law provides;
7. The Council of the Corporation of the Town of Lincoln approved By-law 2019-25, being a by-law to establish a Committee of Adjustment for the Town of Lincoln and to prescribe the procedures for governing the calling place and proceeding of committee meetings on March 18, 2019.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN ENACTS AS FOLLOWS:

1. That the Council of the Corporation of the Town of Lincoln hereby establishes a Committee of Adjustment for the Town of Lincoln to be composed of a minimum of three (3) members of the public who shall hold office for the term of the Council that appointed them.
2. That three (3) members shall constitute a quorum.
3. That the Council of the Corporation of the Town of Lincoln hereby assigns to the said Committee of Adjustment the authority to:
  - a. Authorize minor variances pursuant to Subsection 45(1) of the Planning Act;
  - b. Grant applications pursuant to Subsections 45(2) and 45(3) of the Planning Act; and
  - c. Give consents under Section 53 of the Planning Act, which is deemed to include the giving of approval to the foreclosure of or exercise of a power of sale in a mortgage or charge (Subsection 50(18) of the Act) and the issuing of certificates of validation (Section 57).
4. That the operation of the Town of Lincoln Committee of Adjustment shall be subject to the policies and conditions as set out in Schedule "A" attached hereto and forming part of this by-law.
5. That by-law 2019-25 is hereby repealed.

6. That this by-law shall come into force and effect on the date of its final passing.

By-law read a first time this 8th day of March, 2021.

By-law read a second time this 8th day of March, 2021.

By-law read a third time and finally passed 8th day of March, 2021

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MAYOR: SANDRA EASTON

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CLERK: JULIE KIRKELOS

## SCHEDULE "A" TO BY-LAW NO. 2021-21

### 1. Definitions

- (a) "Committee Chair" means the Chair of the Town of Lincoln Committee of Adjustment who is responsible for the conduct of a meeting to consider an application.
- (b) "Committee" means the Town of Lincoln Committee of Adjustment established pursuant to the provisions of the Planning Act, 1990, as amended.
- (c) "Member" means an individual appointed by the Council of the Town of Lincoln pursuant to the provisions of the Planning Act, 1990, as amended.
- (d) "Secretary-Treasurer" means the Secretary-Treasurer of the Town of Lincoln Committee Adjustment appointed pursuant to the provisions of the Planning Act, 1990, as amended.
- (e) "Assistant Secretary-Treasurer" means the Assistant Secretary-Treasurer of the Town of Lincoln Committee of Adjustment who is responsible for the duties of the Secretary-Treasurer in the absence of the Secretary-Treasurer.

### 2. Meetings

- (a) The Committee shall hold its meetings on the fourth Tuesday of each month in the Council Chambers of Town Hall, 4800 South Service Road, or on such other day, time or place as may be determined from time to time.

### 3. Notice

- (a) The Notice of an Application to be considered at a meeting shall be given in accordance with the provisions of the Planning Act as amended and any regulations passed thereunder.
- (b) Notice of Application procedures with respect to applications for validation of title, power of sale and foreclosure and for changes to conditions shall be the same as the procedures for consent applications.
- (c) The Secretary-Treasurer of the Committee shall send notices of applications, decisions and change of conditions by the Committee, notice of meeting cancellation and rescheduling to the Clerk of the Corporation of the Town of Lincoln.

### 4. Cancellation of Meetings

In consultation with the Chair, the Secretary-Treasurer may cancel or reschedule a meeting if there are no applications to be heard at the scheduled meeting.

### 5. Quorum

- (a) Three (3) members shall constitute a quorum.
- (b) If no quorum is present fifteen (15) minutes after the time appointed for a meeting, the Chair of the meeting or the Secretary-Treasurer

may discharge the members present and may cancel or reschedule the meeting.

6. Application Information/Draft Conditions

An application information package shall be provided by the Secretary-Treasurer or designate, prior to the meeting for the use of applicants, authorized agents, applicant's representatives, committee members and any person having an interest in an application. A copy of the proposed draft conditions shall be available prior to the meeting for the applicant or the authorized agent or the applicant's representative.

7. Meeting Procedures

- (a) The meeting shall be called to order by the Committee Chair or the Secretary-Treasurer of the Committee.
- (b) The Committee Chair shall call for any requests for deferral of an application or for any request for withdrawal of an application.
  - (i) A request for deferral of an application to a later meeting date must be for reasonable cause. The Committee shall set a new date for the consideration of the deferred application and shall indicate any other requirements or conditions for deferral, such as re-notification, payment of a rescheduling fee, amendment or additional required information.
- (c) The Secretary-Treasurer shall call each application in an order determined by the agenda or in any order determined by the Meeting Chair and/or the Committee.
- (d) The Committee Chair shall ask the applicant, authorized agent or the applicant's representative to introduce themselves and present the application.
- (e) The Committee members, through the Committee Chair, may ask questions of the applicant, authorized agent or applicant's representative at this time. Questions may be asked during the presentation, however, typically questions shall be put forward by the members of the Committee at the conclusion of the presentation.
- (f) The Committee Chair shall invite anyone else having an interest(s)/concern(s) with respect to the application(s) to come forward, state their names and advise the Committee of their position(s). The Committee members, through the Committee Chair, may ask questions of those parties expressing an interest(s)/concern(s).
- (g) The Committee Chair shall read the proposed draft conditions and at the conclusion of the reading, the Committee Chair shall ask the applicant, authorized agent or applicant's representative whether or not he/she is able to indicate consent to the imposition of the conditions should the application be favourably considered.
- (h) The Committee shall give the applicant, authorized agent or applicant's representative the opportunity to respond to any comments received from commenting agencies or interested parties.
- (i) The Committee members, through the Committee Chair, may ask additional questions at this time.

- (j) After having considered the issues raised by the applicant, authorized agent, applicant's representative, any respondents and the evidence heard at the meeting by the Committee, the Committee Chair shall ask the members of the Committee for a motion with respect to the disposition of the application. The Committee Chair upon receipt of a motion from a Committee member shall ask for a seconder to the motion. The Committee Chair shall call, in the meeting, for the vote on the motion and each member openly and individually and the Committee Chair shall announce, at the meeting, the decision of the Committee. The Committee Chair shall cast a vote on the motion. A Committee member abstaining from the vote shall be deemed to have voted in the negative.
- (k) Committee members concurring in the decision of the Committee shall sign the decision at the meeting.

8. Chair

The Committee Chair shall be counted in determining a quorum and shall be entitled to all the rights of a member on the Committee, including voting.

9. Conduct of Meetings and Members

The conduct of meetings and members, with respect to matters not specifically addressed, shall generally be considered in accordance with the Statutory Powers Procedure Act, R.S.O. 1990, c.S.22 as amended, the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50 as amended, and any other recognized Parliamentary Rules of Order that the Committee may agree upon.

10. Conflict of Interest

If a Member determines that he or she has a pecuniary interest in an application as defined by the Municipal Conflict of Interest Act, he or she shall declare it prior to the commencement of the hearing on the application and shall absent himself or herself from the meeting for the duration of the hearing on that specific application.

11. Duties of Secretary-Treasurer

The Secretary-Treasurer shall prepare and retain for the Town's records, minutes of each hearing containing a summary of the verbal representations made to the Committee.