



**ONTARIO ASSOCIATION OF COMMITTEES OF  
ADJUSTMENT AND CONSENT AUTHORITIES**

***PRIMER ON  
PLANNING COURSE***

***Overview***

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# **PRIMER ON PLANNING**

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## **Lesson 1**

### **INTRODUCTION: THE PLANNING FRAMEWORK**

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Updated June 2022

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## Lesson 1

### INTRODUCTION: THE PLANNING FRAMEWORK

#### A. Objectives of Lesson

- To outline the statutory framework for land use planning in Ontario, especially as found in the Ontario *Planning Act* and its regulations. The official versions of the *Planning Act* and all other Ontario legislation referenced in this textbook can be accessed online at: [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).
- To describe the main governmental bodies involved in the planning process and how they work together.
- To introduce three key planning instruments: official plans, zoning by-laws and control over the subdivision of land.
- To introduce the concepts of minor variance, variations in legal non-conforming use, and consent to divide land.
- To introduce the legal dimension of the operations of committees of adjustment, land division committees and consent authorities.
- To describe the political and public context within which land use planning decisions are made and within which committees of adjustment, land division committees and consent authorities operate.

## SPECIFIC

In addition to the general Table of Contents above, you will find below a list of the main topics in Lesson 1 and page references where they can be found. This rather different format for a “Table of Contents” is intended to increase the usefulness of this package of material as an ongoing Reference Manual.

### Objectives of the Lesson

Page 1      The key topics you should understand upon completion of this Lesson.

### The basis for the “balancing act”

Pp 2-4      A brief introduction to the concepts of minor variance, alteration to legal non-conforming use and consent or severance - three ways in which some relief can be provided from the application of existing planning policies and controls. An explanation of why these must be considered within a broader planning framework, requiring a delicate balancing act.

### Provincial involvement in planning

Page 4      By providing the statutory framework, by establishing Provincial planning policies, and by exercising an approval power.

Page 40     For some additional information on a key Provincial body, the OMB, see Appendix A.

Page 42     For an outline of the one window planning and appeals service, see Appendix B.

### Local involvement in planning

Page 6      Directly through the preparation of official plans and zoning and other by-laws. By exercising control over the subdivision of land and by providing services.

### Local bodies in the planning process

Page 7      Municipal council, planning boards, planning advisory committees, committee of adjustment, land division committee and consent authorities.

### Main planning instruments

Pp 8-23     Brief overview of official plan, zoning by-law and (in somewhat more detail) control of the subdivision of land

- Page 8 Overview of official plan and table showing approval process. Official plan discussed in detail in **Lesson 2**.
- Page 11 Overview of zoning by-law and table showing approval process. Zoning by-law discussed in detail in **Lesson 3**.
- Page 14 Discussion of subdivision control, including its historical background, and table showing approval process. Also discussion of consents as limited alternative to plans of subdivision, a topic examined in more detail in **Lesson 5**.

#### Delegation of Minister's powers

- Page 24 Initially with regional governments, then broader delegation under 1973 and more recent amendments. Conditions relating to delegation.

#### Procedural requirements

- Pp 26-34 Implications of committees of adjustment, land division committees and consent authorities being quasi-judicial bodies. Concept of natural justice. Requirements of Statutory Powers Procedure Act. Impact of conflict of interest and FOI legislation. Specific procedures re applications for minor variances and for alterations in legal non-conforming use detailed in **Lesson 4**. Specific procedures re consent applications detailed in **Lesson 5**.

#### Politics, planning and the public interest

- Pp 34-38 Understanding politics as a process of making decisions, not a synonym for corruption. Recognizing potential shortcomings of a focus only on policies and legal procedures to the neglect of political considerations.

#### Summary: What have we learned?

- Page 39 A very brief 'snapshot' of the key points covered in Lesson 1.

#### Where to find the law

- Pp 44-45 Brief summary (in Appendix C) of how cases are cited and reported, as a guide to the case law references throughout the lessons.

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# **PRIMER ON PLANNING**

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## **Lesson 2**

### **THE OFFICIAL PLAN**

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## Lesson 2

### THE OFFICIAL PLAN

#### A. Objectives of Lesson

- To define the official plan and to examine the meaning and implications of that definition.
- To examine and illustrate the key components of the official plan, including the basis, goals and objectives, policies and maps.
- To explain the legal significance and legal limitations of an official plan.
- To introduce secondary and tertiary plans and various tools for implementing the official plan and the connection between the official plan and zoning by-laws.
- To appreciate the conflicting views regarding whether an official plan is policy or law, which impacts how it is to be interpreted and applied.
- To explain the concept of provincial planning policies and provincial policy statements.
- To describe the official plan approval process.
- To outline the various ways in which amendments to the official plan can be initiated.

## SPECIFIC

In addition to the general Table of Contents above, you will find below a list of the main topics in Lesson 2 and page references where they can be found. This rather different format for a “Table of Contents” is intended to increase the usefulness of this package of material as an ongoing Reference Manual.

### Objectives of the Lesson

Page 1      The key topics you should understand upon completion of this Lesson.

### Introduction

Pp 2-3      A brief outline of the value of planning policies and of the central role of the official plan.

### Definition of the official plan

Pp 3-6      The definition formerly in the Planning Act, and the various implications of this definition. The primarily physical focus of the plan.

### Content of the official plan

Pp 6-13      An examination of four key components: (1) statements about the basis for the plan, (2) defined goals and objectives, (3) specific policies to achieve objectives, and (4) map(s) designating land use categories. Examples of these components and their linkages.

Pp 13-15      Specific tools for implementing an official plan.

### Provincial planning policies

Pp 16-22      Background on provincial policy statements and their varied nature and changing status. Comparison of changes introduced with Bill 163 and then Bill 20.

### Upper tier planning policies

Page 22      Need for lower tier official plans (and zoning by-laws) to conform.

## Official plan approval process

Pp 22-32 Outline of various stages in the process. Notification and documentation requirements. Table showing key steps in approval. Process re official plan amendments.

## Significance of an official plan

Pp 32-34 Binding on municipality and its by-laws and public works, but not on private landowners. Need for positive steps to implement the plan.

## Summary: What have we learned?

Pp 35-36 A very brief snapshot of the key points covered in Lesson 2.

## Appendix A: How “official” must a plan be?

Pp 37-38 Summary of case law on whether planning policies in plan not yet fully approved are relevant in consent applications.

## Appendix B: Planning in Northern Ontario

Page 39 Very brief overview of planning administration in Northern Ontario.

## SPECIFIC

In addition to the general Table of Contents above, you will find below a list of the main topics in Lesson 3 and page references where they can be found. This rather different format for a [Table of Contents](#) is intended to increase the usefulness of this package of material as an ongoing Reference Manual.

### *Objectives of Lesson*

Page 1      The key topics you should understand upon completion of this Lesson

### *Introduction*

Page 2      A brief outline of the zoning by-law, the kind of information it contains, and its general purpose.

### *Components of Zoning By-Law*

Pp 3-5      Discussion of the four key components of: definitions, general provisions, zones and zone provisions.

### *How to Use a Zoning By-Law*

Pp 5-6      Series of steps to follow when determining the application of a zoning by-law to a particular property. [Checklist included]

### *Applying the Zoning By-Law: An Example*

Pp 7-10      Outline of fact situation, including excerpts from applicable zoning and OP. Question about the fact situation - and then the answer.

### *Zoning By-Law Approval Process*

Pp 10-17    Detailed outline of all the steps in zoning by-law approval process. [Table included]

### *Amendments/Rezoning*

Pp 17-18            Brief outline of (identical) procedures for amending a zoning by-law.

### *Special Types of Zoning*

Pp 18-23          Discussion of problems in trying to use zoning to control development in line with official plan objectives. Introduction of holding, interim control, temporary use, and increased height and density by-laws.

### *Site Plan Control*

Pp 23-25          Outline of background to introduction of site plan control and the short-lived experience with development control by-laws under s. 35a of Planning Act.

Explanation of site plan control by-laws, how they complement and refine zoning, but are not zoning.

### *Community Planning Permit System*

Pp 26-27          Nature of system of development permits and how it differs from control by zoning by-law.

### *Minor Variances and Legal Non-Conforming Uses*

Pp 27-29          Brief explanation of how they arise in connection with zoning by-law.

### *Zoning By-Law's Link to Official Plan*

Pp 30-32          Series of excerpts to illustrate the link between policies in Official Plan and Zoning.

Pp 33-36          Case Study: *Where's the Beef?*" to test your application of zoning (and official plan) to a particular minor variance application.

*What Have We Learned?*

Pp 37-38 Summary of key points covered in Lesson 3.

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# **PRIMER ON PLANNING**

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## **Lesson 3**

### **ZONING BY-LAWS**

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## Lesson 3

### ZONING BY-LAWS

#### A. Objectives of Lesson

- To explain the nature and general purpose of a zoning by-law.
- To describe the key components of a zoning by-law, namely, definitions, general provisions, zoning maps and zone provisions.
- To explain the relationship between zoning by-laws and the official plan.
- To outline the steps and requirements in the zoning by-law approval and amendment processes.
- To describe other specialized land use controls such as holding zones, temporary use by-laws, and increased height and density by-laws, as well as interim control by-laws.
- To introduce site plan control and the community planning permit system and distinguish these land use controls from zoning by-laws.
- To explain the concept of a minor variance under a zoning by-law.
- To explain the concept of a legal non-conforming use.

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# **PRIMER ON PLANNING**

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## **Lesson 4** MINOR VARIANCES & LEGAL NON-CONFORMING USES

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## Lesson 4

### MINOR VARIANCES & LEGAL NON-CONFORMING USES

#### A. Objectives of Lesson

- To explain the nature of the various forms of minor variance relief available under s. 45 of the *Planning Act*.
- To explain the underlying nature of the minor variance approval and distinguish it from a zoning by-law amendment.
- To highlight the four key factors that a committee of adjustment must consider with respect to an application for minor variance under ss. 45(1) and (3).
- To explain the tests to be considered by a committee of adjustment in evaluating an application for minor variance made pursuant to s. 45(2).
- To introduce the concept of legal non-conforming use under s. 34(9) of the *Planning Act*, including matters relating to legality and lawfulness of use, continuance and discontinuance, and intensification and change of use.
- To explain what types and degree of enlargements, extensions and alterations are possible with respect to a legal non-conforming use via minor variance approvals.
- To set out the process to be followed by a committee of adjustment in the consideration of applications for minor variance.
- To identify rights of appeal from minor variance decisions.

## SPECIFIC

In addition to the general Table of Contents above, you will find below a list of the main topics in Lesson 4 and page references where they can be found. This rather different format for a Table of Contents is intended to increase the usefulness of this package of material as an ongoing Reference Manual.

### *Objectives of Lesson*

Page 1      The key topics you should understand upon completion of this Lesson.

### *Introduction*

Pp 2-3      A brief introduction to the two types of planning variation or exception to be considered: minor variances and legal non-conforming uses.

### *Establishing a Committee of Adjustment*

Pp 4-6      An explanation of the status of a committee of adjustment, the legislative provisions governing its establishment, and the general powers its exercises.

### *Rules of Procedure*

Pp 6-25      A detailed summary of the rules governing the operation of a committee of adjustment - as set down in the Planning Act and Regulations and the Statutory Powers Procedure Act. This summary covers all steps from receipt of an application until the final decision is made.

Pp 23-25      A useful summary of the rules, in the form of a Checklist for the Secretary-Treasurer.

Page 49      A sample by-law for appointing a committee of adjustment is provided in Appendix A.

Pp 50-56      Regulation 200/96 as amended to July, 2016 is provided in Appendix B

Page 57      Case Law – Conflict of Interest

Page 58      A sample decision form is found in Appendix D

Pp 59-61      Ontario Municipal Board Appeal Submission Form

*Minor Variances: The 4 Key Factors*

Pp 27-31 An examination, with examples, of what is minor, is desirable, and how the intent of the official plan and zoning by-law are maintained.

*Minor Variances: Other Considerations*

Pp 31-40 A further examination of factors to be considered, including the concept of the variance as a special privilege, whether a variance can completely eliminate a by-law requirement, whether there can be a variance from use, and the imposition of conditions.

Page 40 A summary of the key minor variance considerations is provided.

*What is a Legal Non-Conforming Use?*

Page 41 An explanation of what a legal non-conforming use is, and how that is determined.

*Alterations to Legal Non-Conforming Uses*

Pp 42-47 A description of the kinds of changes which can be considered with respect to legal non-conforming uses - that is, enlargement or extension, or alteration to a use that is similar or more compatible. An examination, with examples, of the various factors to be considered in evaluating applications about non-conforming uses.

*Review of Non-Conforming Considerations*

Page 47 Summary of the key considerations.

*Regulation re Minor Variances*

Pp 50-56 Ontario Regulation 200/96 and 175/16 are in Appendix B. (Amendment to O. Reg. 200/96 on July 1, 2016 by O. Reg. 175/16 changed the giving of notice requirements)

*OMB Minor Variance Appeal – Municipal Submission Form (R3)*

Pp 61 List of All Information Required by OMB

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# **PRIMER ON PLANNING**

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## **Lesson 5**

### **CONSENTS**

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## Lesson 5

### CONSENTS

#### A. Objectives of Lesson

- To explain the nature and general concept of the subdivision of land in Ontario and, more particularly, the severance of land by way of consent approval.
- To briefly set out the law of subdivision and part lot control in s. 50 of the *Planning Act* and the enforcement mechanism that prohibits any agreement that purports to create an interest in land that does not comply with the statute.
- To describe the circumstances and activities that may require a consent, and the authorities capable of granting a consent.
- To set out the planning framework – statutory and regulatory – governing consent applications.
- To describe the criteria to be considered by an approval authority in evaluating the merits of an application for consent.
- To explain the effects of the granting of a consent.
- To outline the steps and requirements in the consent application process, including provisional consent and final consent.
- To indicate the authority of a consent authority to impose conditions on provisional consent and to require agreements with the owner of the land.

## **SPECIFIC CONTENTS**

In addition to the general Table of Contents above, you will find below a list of the main topics in Lesson 5 and page references where they can be found. This rather different format for a Table of Contents is intended to increase the usefulness of this package of materials as an ongoing Reference Manual.

***Objectives of Lesson 5*** **Page 1**

The key topics you should understand upon completion of this Lesson.

***Introduction*** **Pp 2-4**

A brief introduction to the control of the subdivision of land in Ontario.

***Who Gives Consents?*** **Pp 5-6**

A description of the legislative authority for consents, the varied consent jurisdictions which may exist and the make-up of consent authorities.

***Rules of Procedure*** **Pp 7-31**

A detailed summary of the rules governing the operation of a consent authority – as set down in the *Planning Act* and regulations. This summary covers all the steps from receipt of an application until the certificate of consent has been acted upon or has lapsed.

***Checklist for the Secretary-Treasurer*** **Pp 32-33**

Provides a useful summary of the rules, for quick reference.

***Flowchart*** **Page 34**

Provides a flow chart depicting the usual steps in the consent process.

***Ontario Regulation 197/96, as amended*** **Page 56**

The Ontario Regulation setting out the rules of procedure for consents and the prescribed information for a consent application form is found in Appendix A.

***Sample Notice of Decision*** **Appendix B & pg. 85**

***Certificates of Official*** **Page 69**

For Consent Forms 1 through 4, see Appendix A & Pp 83-84

**Ontario Municipal Board Appeals****Page 74**

For the OMB Form indicating information to accompany consent appeals, see Appendix C.

**Planning Considerations relating to Consents****Pp 35-44**

Provides a detailed explanation of the planning considerations which must be taken into account when judging a consent application, including provincial policy statements, municipal planning policies and controls, the long term impact of approval, and site evaluation (for suit-ability, access, future servicing requirements and compatibility of use).

**Once a Consent, Always a Consent?****Pp 44-45**

An explanation of this often confusing concept, when it applies, and when a consent authority would not want it to apply.

**The Consent Decision****Pp 46-49**

A summary of some pertinent case law concerning consent decisions, and three fact situations for your consideration.

**Conditions on Consent****Pp 49-54**

A discussion of the consent authority's power to require conditions before a consent is granted, court limitations on the conditions that may be imposed, and six fact situations to test your understanding of conditions.

**Answers to Fact Situations****Pp 81-82**

A summary of "answers" to the fact situations concerning conditions is found in Appendix D.

**Summary: What have we learned?****Page 55**

Summary of key considerations in evaluating consents.

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# **PRIMER ON PLANNING**

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## **Lesson 6**

### **VALIDATION OF TITLE**

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Prepared for OACA by  
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*OACA gratefully acknowledges the contribution of Sidney Troister in authoring this Lesson on "Validation of Title". Sidney is a senior partner in the law firm of Torkin Manes and is considered one of the leading members of the Ontario real estate bar. He is a frequent speaker at continuing legal education programmes for the Law Society of Upper Canada, the Ontario Bar Association, and many local Ontario law associations on a wide range of real estate law-related topics. In 2008, he was awarded the Law Society Medal for his contribution to the practice of law in Ontario. Sidney is the author of "The Law of Subdivision Control in Ontario", a text on Section 50 of the Planning Act and is generally considered by Ontario lawyers as the leading expert on subdivision control in the province. He co-authored "Real Estate Conveyancing in Ontario: A Nineties Perspective", for the Lawyers' Professional Indemnity Company, which analyzed the role of lawyers in real estate transactions in Ontario. He is a contributing author to "Agreements of Purchase and Sale" and to the 5th edition of "Falconbridge on the Law of Mortgages". Sidney is a frequent presenter at OACA events.*

## LESSON SIX – VALIDATION OF TITLE

### **A. Overview - Objectives of Lesson**

1. To understand what a certificate of validation is and when it is sought.
2. To appreciate that validation is different from a severance and consent and that it is not governed by the same rules or principles as consents.
3. To understand the criteria for validation certificates.