



Hamilton

Planning and Economic
Development Department
Planning Division
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5
P: 905.546.2424 x 2719
F: 905.546.4202

ZONING COMPLIANCE REVIEW AND ADMINISTRATION

NOTE: FEES ARE NON-REFUNDABLE

APPLICATION TYPE

- Applicable Law Review
- Committee of Adjustment – Clearance of Zoning Conditions – List the application number and condition numbers you wish to clear:
-
- Determination of a Legally Established Non-Conforming Use
- In Support of a Building Permit Application
- In Support of a Minor Variance Application
- In Support of a Site Plan Application
- In Support of a Zoning By-law Amendment Application

Project Location

Municipal Number:	Street Name:	Street Type: (Rd, St, Ave)	Street Direction:(N, S, E, W)
-------------------	--------------	-------------------------------	----------------------------------

Unit #:	Lot #:	Community: Ancaster <input type="checkbox"/> Dundas <input type="checkbox"/> Flamborough <input type="checkbox"/> Glanbrook <input type="checkbox"/> Hamilton-Proper <input type="checkbox"/> Stoney Creek <input type="checkbox"/>
---------	--------	--

Legal Description (optional):

Applicant Information

Applicant Name:

Mailing Address:	City	Postal Code
------------------	------	-------------

Phone Number:	Fax Number:	Email Address:
---------------	-------------	----------------

Applicant Signature: _____	Date:
-----------------------------------	-------

PLEASE NOTE: ALLOW FOR A 15 BUSINESS DAY REVIEW PERIOD

Description of Development/Construction/Use

Proposed Use:

Project Description/ Scope of Work:

FOR OFFICE USE ONLY

Receipt Number:	Payment Type:	Folder Number:	Date Received:	Deemed Complete:	Staff Initials:
-----------------	---------------	----------------	----------------	------------------	-----------------

The personal information collected on this form will be used to contact you for the administration of performing record searches as authorized under the *Municipal Act, 2001, section 227*. If you have any questions regarding the collection of the information, please contact 905.546.2720.

ZONING COMPLIANCE REVIEW – SUBMISSION REQUIREMENTS

APPLICABLE LAW REVIEW / APPLICATIONS IN SUPPORT OF A BUILDING PERMIT OR MINOR VARIANCE APPLICATION:

An application for Applicable Law Review/in support of a Building Permit or Minor Variance Application shall contain two (2) copies of a scaled and properly dimensioned site plan and two (2) copies of elevation drawings; the site plan shall indicate the parking layout, landscape areas, fencing, buildings and other structures. Floor plans may also be required.

The proposed or existing development or construction project made under this application will be limited to the review for Zoning By-law compliance only. The review will be based entirely on the information, details and plans provided by the applicant. This application does not substitute the requirement of obtaining a building permit in the normal manner for the proposed development or construction project.

A Zoning Examiner will review the application to determine compliance or conformity with the applicable Zoning By-law.

COMMITTEE OF ADJUSTMENT – CLEARANCE OF CONDITIONS:

An application for Committee of Adjustment – Clearance of Zoning Conditions shall contain the following information:

- A survey prepared by an Ontario Land Surveyor (O.L.S.) showing the following information, where applicable: lot area and lot frontage of both the lands to be conveyed and the lands to be retained; location of all buildings and structures in relation to the newly created lot lines on both the lands to be conveyed and the lands to be retained; the total lot coverage on both the lands to be conveyed and the lands to be retained; and the location of all parking spaces on both the lands to be conveyed and the lands to be retained
- A copy of the Notice of Decision for the subject property, including the conditions. On the front of this application form, please ensure that you have indicated the application number and which condition number(s) you wish to clear.

DETERMINATION OF A LEGALLY ESTABLISHED NON-CONFORMING USE:

Establishing entitlement to a legal non-conforming use protection is afforded under Section 34(9)(a) of the Planning Act. The establishment of legal non-conforming use requires that the use *existed*, was *lawfully* used and *continues* to be used for that purpose. The legal non-conforming use protection remains an exemption to the application of the law and must be established by the party asserting it, that being you the landowner.

The first requirement is that a real, bona fide use is made of the land by the owner seeking the non-conforming use exemption. The use must be evident at the outset when the use is established. There is no specific rule regarding the type of evidence required. However, a landowner contending an entitlement to the statutory legal non-conforming use protection is expected to provide independent cogent evidence of the existence of the non-conforming use.

The second requirement in establishing a valid non-conformity for purposes of the statutory exemption requires evidence that the land, building or structure was lawfully used for such prohibited purpose on the day of the passing of the by-law. More specifically, at the time the non-conforming use was originally established, the non-conforming use complied with all of the zoning by-law provisions or applicable legislation in effect on that date. The issuance of a building permit typically satisfies this requirement.

Accordingly, in addition to other supporting documents you deem appropriate, to support your assertion and enjoy the statutory rights to a legal non-conforming use the following documents and evidence are acceptable:

Primary Documents

- Building permit
- Local tax records - (*residential (and # of units) vs non-residential tax rates*)
- Assessment records - (*MPAC property code class*)
- Site specific Council decision
- Site specific legal ruling
- Municipal Licences (*where required*)
- Corporate Search/Documents - (*date of business formation, address reference*)
- Business tax records (*for continuance*)
- Business transaction receipts/records - (*for continuance*)
- Other Applicable legislative approvals (NEC, MTO, MOE, MNR, etc.) - (*where applicable*)

Secondary Documents

- Vernon Directory listings
- Third-party affidavits
- Dated photographs,
- Advertisements
- Newspaper articles
- Leases/Rental agreements
- MLS listings
- Construction receipts where a building permit was not required

APPLICATIONS SUBMITTED IN SUPPORT OF A SITE PLAN OR ZONING BY-LAW AMENDMENT APPLICATION:

- Submission requirements are outlined in the Zoning Compliance Review Terms of Reference found at: <https://www.hamilton.ca/build-invest-grow/planning-development/planning-policies-guidelines>
- In addition to the Terms or Reference, a copy of the Draft Zoning By-law Amendment shall be submitted for applications in support of a Zoning By-law Amendment.