

ONTARIO MUNICIPAL BOARD: JURISDICTION UNDER THE *PLANNING ACT*

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| <u>Subject Matter</u> | <u>Who May Appeal or Request Referral</u> | <u>Method of Appeal or Referral</u> | <u>Board's Power</u> |
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| 1. Official Plan: | | | |
| (a) Decision of approval authority | - any person or public body (s.17(36)) | <ul style="list-style-type: none"> - not later than 20 days after the day that the giving of written notice is completed (s.17(36)) - appeal all or part of the decision of the approval authority by filing a notice of appeal with the approval authority (s.17(36)) | <ul style="list-style-type: none"> - hold a hearing (s.17(44)) - may dismiss all or part of an appeal without holding a hearing if any of the enumerated matters in s.17(45) are satisfied (s.17(45)) - before dismissing an appeal the Board shall give the appellant an opportunity to make representation on the proposed dismissal (s.17(46)) - may dismiss all or part of an appeal after holding a hearing or without holding a hearing on a motion under subsection 17(45) (s.17(46.1)) - may approve all or part of the plan as all or part of an official plan, make modifications to all or part of the plan and approve all or part of the plan as modified as an official plan or refuse to approve all or part of the plan (s.17(50)) <p>[See Note 1 below]</p> |
| (b) Plan exempt from approval | - any person or public body (s.17(24)) | - not later than 20 days after the day that the giving of written notice is | - same as 1(a) |

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| | | completed (s.17(24)) - appeal all or part of the decision of council to adopt all or part of the plan to the Board by filing with the clerk of the municipality a notice of appeal (s.17(24)) | |
| (c) Failure to give notice | - any person or public body (s.17(40)) | - appeal if the approval authority fails to give notice of a decision of all or part of a plan within 180 days after the day the plan is received by the approval authority of which no notice of a decision was given (s.17(40)) - file a notice of appeal (s.19(40)) | - same as 1(a) |
| 2. Amendment to Official Plan: Council Adopts | | | |
| (a) Council initiated: Routine amendment | - same as 1 (s.21(1) incorporates s.17 provisions for amendments) | - same as 1 (s.21(1) incorporates s.17 provisions for amendments) | - same as 1 (s.21(1) incorporates s.17 provisions for amendments) |
| (b) Council initiated: Request of Minister | - same as 2(a) (s.23(1)) | - same as 2(a) (s.23(1)) | - same as 2(a) (s.23(1)) |
| (c) Council initiated: Direction of Approval Authority | - same as 2(a) (s.26(3)) | - same as 2(a) (s.26(3)) | - same as 2(a) (s.26(3)) |
| (d) Person or public body requests amendment (i.e. someone other than council) | - same as 1 (s.21(1) incorporates s.17 provision for amendments) | - same as 1. (s.21(1) incorporates s.17 provision for amendments) | - same as 1. (s.21(1) incorporates s.17 provision for amendments) |

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| 3. Amendment to Official Plan: Council Refuses to Adopt | | | |
| (a) Minister requests, is refused and proposes to make amendment (s.23(1)) | - any person (s.23(2)) - municipality (s.23(2)) | - request for referral to Board made to Minister (s.23(2)) - Minister must refer unless, in Minister's opinion, the request is not made in good faith, is frivolous, vexatious or is made only for the purpose of delay (ss.23(2), 23(3)) | - hold a hearing (s.23(2)) - hear any submissions that any person may desire to bring to the attention of the Board (s.23(4)) - make a decision as to whether the proposed amendment or an alternative form of amendment should be made (s.23(5)) - decision not final until confirmed by Lieutenant Governor in Council (s.23(5)) - Lieutenant Governor in Council may confirm, vary or rescind Board decision (s.23(6)) |
| (b) Person or public body requests amendment (ss.21(1), 22(1)) | - the person or public body requesting the amendment (ss.22(1), 22(7)) | - appeal if council refuses to adopt or fails to adopt amendment within 180 days from receipt of request by filing an appeal with the clerk of the municipality (s.22(7)) | - same as 1 (s.22(11) incorporates ss.17(44), (45), (46), (49) and (50)) [See Note 1 below] |
| 4. Community Improvement Plan and Amendments | - same as 1 (ss.28(4.1), (4.2) incorporate s.17 provisions) | - same as 1 (ss.28(4.1), (4.2) incorporate s.17 provisions) | - same as 1 (ss.28(4.1), (4.2) incorporate s.17 provisions) |
| 5. Zoning By-laws | | | |

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| (a) Council enacted by-law | - any person or public body (s.34(19)) | <ul style="list-style-type: none"> - not later than 20 days after the day that the giving of written notice is completed (s.34(19)) - file with clerk of the municipality a notice of appeal setting out objections and reasons (s.34(19)) | <ul style="list-style-type: none"> - hold a hearing (s.34(24)) - may dismiss all or part of an appeal without holding full hearing if the reasons set out in the notice of appeal satisfy any of the matters enumerated in subsection 34(25) (s.34(25)) - before dismissing an appeal the Board shall give the appellant an opportunity to make representation on the proposed dismissal (s.34(25.1)) - may dismiss the appeal after holding a hearing or without holding a hearing on a motion under subsection 34(25) (s.34(25.2)) - may dismiss the appeal (s.34(26)), or - may allow the appeal in whole or in part or direct council to repeal by-law in whole or in part or amend by-law in accordance with Board's order (s.34(26)) <p>[See Note 1 below]</p> |
| (b) Council does not enact by-law requested by applicant (s.34(11)) | - the applicant (s.34(11)) | - appeal to the Board if application refused or council refuses or neglects to make a decision within 120 days after receipt by the clerk of the application (s.34(11)) | <ul style="list-style-type: none"> - hear the appeal (s.34(11)) - may dismiss the appeal (s.34(11)) - may amend the by-law in such manner as the Board may determine (s.34(11)), or - may direct that the by-law be |

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| | | | amended in accordance with its order (s.34(11)) |
| 6. Holding Provision in Zoning By-law | | | |
| Application to remove Holding Symbol | - the applicant (s.36(3)) | - appeal to the Board if application refused or council refuses or neglects to make a decision within 120 days after receipt by the clerk of the application (s.36(3)) | - hear the appeal (s.36(3)) - may dismiss the appeal (s.36(3)) - may amend the by-law to remove the holding provision (s.36(3)), or - may direct that the by-law be amended in accordance with its order (s.36(3)) [See Note 1 below] |
| 7. Interim Control By-law | - any person or public body who has been given notice of the enactment of the by-law (ss.38(3), 38(4)) | - within 60 days from the date of passing of by-law (s.38(4)) - notice of appeal must set out objection and reasons (s.38(4)) | - same as 5(a) |
| 8. Site Plan Control | | | |
| (a) Plans and drawings | - the owner of the land (s.41(12)) | - where the municipality fails to approve the plans or drawings within 30 days after submission to municipality for approval (s.41(12)) - require the plans or drawings to be referred to the Board by written notice to the secretary of the Board and the | - hear and determine the matter in issue (s.41(12.1)) - determine the details of the plans or drawings (s.41(12.1)) - decision of the Board is final (s.41(12.1)) |

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| (b) Requirements as conditions to approval of plans and drawings | - the owner of the land (s.41(12)) | clerk of the municipality (s.41(12)) - where the owner is not satisfied with any requirement made by the municipality, including the terms of any required agreement (s.41(12)) - require the unsatisfactory requirements, or parts thereof, including the terms of any required agreement, to be referred to the Board by written notice to the secretary of the Board and the clerk of the municipality (s.41(12)) | - hear and determine the matter in issue (s.41(12.1)) - determine the requirements, including the provisions of any required agreement (s.41(12.1)) - decision of the Board is final (s.41(12.1)) |
| 9. Committee of Adjustment Decisions (ss.45(1)(2)(3)) | - the applicant (s.45(12)) - the Minister (s.45(12)) or - any other person or public body who has an interest in the matter (s.45(12)) | - within 20 days of the making of the decision (s.45(12)) - appeal to the Board (s.45(12)) - filing notice of appeal with the secretary-treasurer of the Committee (s.45(12)) - notice of appeal must set out objection and reasons (s.45(12)) - accompanied by fee prescribed by the Board (s.45(12)) | - hold a hearing (s.45(16)) - may dismiss all or part of an appeal without holding a hearing if the reasons set out in the notice of appeal satisfy any of the matters enumerated in subsection 45(17) (s.45(17)) - before dismissing an appeal the Board shall give the appellant an opportunity to make representation on the proposed dismissal (s.45(17.1)) - may dismiss the appeal after holding a hearing or without holding a hearing on a motion under subsection 45(17) (s.45(17.2)) - may dismiss the appeal (s.45(18)) - may make any decision that the |

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| | | | <p>Committee could have made on original application (s.45(18))</p> <ul style="list-style-type: none"> - may make a decision on an application which has been amended from the original application (s.45(18.1)) |
| 10. Minister's Zoning and Subdivision Control Orders | | | |
| <p>Application for amendment or revocation of the Order (in whole or in part)</p> | <ul style="list-style-type: none"> - any person or public body (s.47(10)) - the Minister (s.47(10)) | <ul style="list-style-type: none"> - request the Minister to request the Board to hold a hearing on the application (s.47(10)) - a request for a hearing must set out the reasons for the request and be accompanied by the prescribed fee (s.47(10.1)) - Minister shall refer unless, in the Minister's opinion, the request does not disclose any apparent land use planning ground, is not made in good faith, is frivolous, vexatious or is made only for the purpose of delay or the person or public body requesting the hearing has not provided written reasons for the request (ss.47(11)) | <ul style="list-style-type: none"> - hear any submissions that any person may desire to bring to the attention of the Board (s.47(12)) - may dismiss a request to hold a hearing without holding a hearing if the request satisfies any of the matters enumerated in subsection 47(12.1) (s.47(12.1)) - before dismissing a request to hold a hearing, the Board shall give the person or public body requesting the hearing the opportunity to make representation on the proposed dismissal (s.47(12.2)) - may dismiss a request after holding a hearing or without holding a hearing on a motion under subsection 47(12.1) (s.47(12.3)) - make a decision to amend or revoke the order, in whole or in part or refuse |

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| | | | to amend or revoke the order in whole or in part (s.47(13)) - the Minister shall give effect to the Board's decision (s.47(13)) |
| 11. Draft Plan of Subdivision | | | |
| (a) Approval of draft plan | - any person or public body (s.51(39)) | - appeal not later than 20 days after the day that the giving of written notice is completed (s.51(39)) - file with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the prescribed fee (s.51(39)) | - hold a hearing (s.51(52)) - may dismiss an appeal without holding a hearing if the reasons set out in the notice of appeal satisfy any of the enumerated matters in subsection 51(53) (s.51(53)) - before dismissing an appeal the Board shall give the appellant an opportunity to make representation on the proposed dismissal (s.51(54)) - may dismiss an appeal after holding a hearing or without holding a hearing on a motion under subsection 51(53) (s.51(54.1)) - may make any decision that the approval authority could have made (s.51(56)) |
| (b) Approval authority fails to make a decision | - the applicant (s.51(34)) | - appeal to the Board where the approval authority fails to make a decision on an application for approval of a plan of subdivision within 180 days after the day the application is | - same as 11(a) |

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| | | received by the approval authority (s.51(34)) | |
| (c) Conditions | - the applicant or any public body (s.51(43)) | - appeal at any time before the approval of the final plan of subdivision by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the prescribed fee (s.51(43)) | <ul style="list-style-type: none"> - hold a hearing (s.51(52)) - the Board may dismiss an appeal without holding a hearing if the reasons set out in the notice of appeal satisfy any of the enumerated matters in subsection 51(53) (s.51(53)) - before dismissing an appeal the Board shall give the appellant an opportunity to make representation on the proposed dismissal (s.51(54)) - may dismiss an appeal after holding a hearing or without holding a hearing on a motion under subsection 51(53) (s.51(54.1)) - shall determine the question as to the conditions appealed (s.51(56)) |
| (d) Changed conditions | - any person or public body (s.51(48)) | <ul style="list-style-type: none"> - appeal any of the changed conditions imposed by the approval authority to the Board by filing with the approval authority a notice of appeal that must set out the reasons for the appeal, accompanied by the prescribed fee (s.51(48)) - if the person appealing the changed conditions is other than the applicant or a public body the appeal must be filed not later than 20 days after the day that | - same as 11(c) |

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| | | the giving of written notice is completed (s.51(49)) | |
| 12. Consents | | | |
| (a) Decision of approval authority | - any person or public body (s.53(17)) | - appeal not later than 20 days after the giving of notice is completed (s.53(19)) - file with clerk of the municipality or the Minister a notice of appeal setting out the reasons and accompanied by the prescribed fee (s.53(19)) | - hold a hearing (s.53(30)) - may dismiss an appeal without holding a hearing if the reasons set out in the notice of appeal satisfy any of the enumerated matters in subsection 53(31) - before dismissing an appeal the Board shall give the appellant an opportunity to make representation on the proposed dismissal (s.53(32)) - may dismiss an appeal after holding a hearing or without holding a hearing on a motion under subsection 53(31) (s.53(32.1)) - make any decision that council or the Minister could have made (s.53(34)) |
| (b) Council or the Minister fails to make a decision | - the applicant (s.53(14)) | - appeal within 90 days after the day the application is received by the clerk of the municipality or the Minister (s.53(14)) - file a notice of appeal with the clerk of the municipality or the Minister, accompanied by the prescribed fee (s.53(14)) | - same as 12(a) |

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| (c) Council or Minister changes conditions of a provisional consent | - any person or public body (s.53(27)) | - appeal not later than 20 days after the giving of notice is completed (s.53(27)) - file with clerk of the municipality or the Minister a notice of appeal setting out the reasons and accompanied by the prescribed fee (s.53(27)) | - hold a hearing (s.53(30)) - the Board may dismiss an appeal without holding a hearing if the reasons set out in the notice of appeal satisfy any of the enumerated matters in subsection 53(31) - before dismissing an appeal the Board shall give the appellant an opportunity to make representation on the proposed dismissal (s.53(32)) - may dismiss an appeal after holding a hearing or without holding a hearing on a motion under subsection 53(31) (s.53(32.1)) - shall determine the question as to the condition or conditions appealed (s.53(34)) |
| 13. Determining cash in lieu of parkland dedication | | | |
| (a) Condition of development or redevelopment | - the owner of land or the municipality (s.42(10)) | - where there is a dispute between a municipality and the owner of land about the value of the land, the municipality or the owner may apply to the Board to have the value determined (s.42(10)) | - shall, in accordance as nearly as may be with the <i>Expropriations Act</i> , determine the value of the land, and - may, if a payment has been made under protest (s.42(12)), order that a refund be made to the owner (s.42(10)) |
| (b) Condition of approval of draft plan | - same as 13(a) (s.51.1(5) incorporates | - same as 13(a) (s.51.1(5) incorporates | - same as 13(a) (s.51.1(5) incorporates |

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| of subdivision | s.42(12) with necessary modifications) | s.42(12) with necessary modifications) | s.42(12) with necessary modifications) |
| 14. Determining Additional Parkland (on development or redevelopment after land previously conveyed) | - the owner of land or the municipality (s.42(11)) | - where there is a dispute between a municipality and the owner of land as to the amount of land or payment of cash in lieu, the municipality or the owner may apply to the Board (s.42(11)) | - shall make a final determination of the matter (s.42(11)) |
| 15. Residential Demolition Control | | | |
| (a) Council refuses to issue a permit | - the applicant (s.33(4)) | - where council refuses to issue permit or neglects to make a decision within 30 days after receipt by the clerk of the application, the applicant may appeal to the Board (s.33(4)) | - hear the appeal (s.33(4)) - dismiss the appeal or direct that the permit be issued (s.33(4)) - decision of the Board is final (s.33(4)) |
| (b) Council issues permit with conditions | - the applicant (s.33(10)) | - where applicant not satisfied as to the conditions, the applicant may appeal to the Board for a variation of the conditions (s.33(10)) | - hear the appeal (s.33(10)) - may dismiss the appeal or may direct that the conditions upon which the permit shall be issued be varied in such manner as the Board considers appropriate (s.33(10)) - decision of the Board is final (s.33(10)) |
| (c) Permit is issued: subsequent relief for conditions | - any person who has obtained a demolition permit and made application to council for relief | - appeal within 20 days of the mailing of the notice of the council decision, or where council refuses or neglects to make a decision within 30 days after | - hear the appeal (s.33(15)) - has same powers as the council has under subsection 33(14) (s.33(15)) |

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| | (ss.33(15)) | the receipt by the clerk of the application for relief (s.33(15)) | - decision of the Board is final (s.33(15)) |
| 16. Miscellaneous | | | |
| (a) Fees for processing planning applications | - any person required to pay a processing fee (s.69(3)) | - pay fee under protest (s.69(3)) - within 30 days of payment of fee (s.69(3)) - appeal to the Board against the levying of the fee (s.69(3)), or - appeal to the Board against the amount of the fee (s.69(3)) - written notice of appeal (s.69(3)) | - hear the appeal (s.69(4)) - dismiss the appeal or direct that a refund payment be made to the appellant in such amount as the Board determines (s.69(4)) |
| (b) Debentures – Community Improvement | - municipality issuing debenture | | - debentures issued by the municipality may be for such term of years as the debenture by-law, with the approval of the Board (s.28(12)) |
| (c) Disposition of assets and liabilities upon dissolution of planning board | - one or more of the municipalities affected by the disposition (s.73(2)) | - where municipalities cannot agree as to the disposition of assets and liabilities (s.73(2)) - application to the Board (s.73(2)) | - direct a final disposition (s.73(2)) |
| (d) Planning board budget apportionment | - a constituent municipal council (s.12(5)) | - within 15 days after receiving notice under subsection 12(4), notify the planning board and secretary of the Board (s.12(5)) | - hold a hearing (s.12(6)) - determine the apportionment (s.12(6)) - decision is final (s.12(6)) |

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| (e) Municipal planning authority budget | - a constituent municipal council (s.14.3(2)) | - within 15 days after receiving notice under subsection 14.3(1), notify the municipal planning authority and the Board (s.14.3(2)) | - hold a hearing (s.14.3(3)) - determine the apportionment (s.14.3(3)) - decision is final (s.14.3(3)) |
| (f) Disposition of assets and liabilities upon dissolution of municipal planning authority | - one or more of the municipalities affected by the disposition (s.14.6(4)) | - where municipalities cannot agree as to the disposition of the assets and liabilities (s.14.6(4)) - application to the Board (s.14.6(4)) | - direct a final disposition (s.14.6(4)) |

NOTE 1: Where in the opinion of the Minister of Municipal Affairs and Housing, a matter of provincial interest is, or is likely to be, adversely affected by a plan, official plan amendment, zoning by-law, holding provision by-law, or a part thereof, the Minister is entitled to advise the Board not later than thirty days before the day fixed for the hearing of the matter, identifying the part or parts of the plan, amendment etc. by which the provincial interest is, or is likely to be, adversely affected. Where this is done, the Board decision in regard to the part or parts is not final and binding unless it is confirmed by the Lieutenant Governor in Council. The Lieutenant Governor in Council is empowered to confirm, vary or rescind the Board's decision.