TOWN OF GRAVENHURST

BY-LAW NUMBER 2024-57

Being a by-law to provide rules governing the calling, place and proceedings of meetings of the Town of Gravenhurst Committee of Adjustment
(Repeal By-law No. 2008-63)

WHEREAS pursuant to Section 9 of the *Municipal Act,* a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS pursuant to Section 8 (1) of the *Municipal Act,* the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate to enhance the municipality's ability to respond to municipal issues;

AND WHEREAS Subsection 238(2) of the *Municipal Act*, 2001, S.O. 2001, Chapter P. 25, as amended, requires every municipality and local board adopt a procedure by-law for governing the calling, place, and proceedings of meetings;

AND WHEREAS Section 238 (2.1) of the *Municipal Act,* requires that the procedure by-law shall provide for public notice of meetings;

AND WHEREAS Section 239(1) and Section 239(5) of the Municipal Act requires all meetings to be open to the public and states that a meeting shall not be closed to the public during the taking of a vote;

AND WHEREAS Sections 23.1 and 23.2 of the *Municipal Act,* provides that a municipality may delegate powers and duties under this or any other Act to a person or a body subject to restrictions;

AND WHEREAS the Committee of Adjustment has been established pursuant to the Planning Act, R.S.O. 1990, Chapter P.13, as amended;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF GRAVENHURST ENACTS AS FOLLOWS:

1. That Schedules "A" and "B" shall form a part of this by-law.
2. This By-law shall come into full force and effect on the day of passage.
3. That upon this By-law coming into full force and effect, By-law No. 2008-63 will be repealed.

READ AND FINALLY passed this 28th day of May, 2024.

Mayor

Clerk

SCHEDULE A
To
By-law No. 2024-57
Committee of Adjustment Procedural By-law

SECTION I – DEFINTIONS

In this by-law:

"Acting Deputy Secretary-Treasurer" means an employee of The Corporation of the Town of Gravenhurst appointed by By-law;

"Application Meeting" means a meeting of the Committee held for the purpose of considering an application or applications filed pursuant to the *Planning Act*, R.S.O. 1990, Chapter P. 13, as amended;

"Business Meeting" means a meeting of the Committee held for the purpose of, among other things, establishing the policies and practices of the Committee and addressing any other matters related to the operation of the Committee;

"Chair" means a member of the Committee appointed by Resolution of Council as the Chairperson of the Committee;

"Committee" means the Town of Gravenhurst Committee of Adjustment;

"Deputy Secretary-Treasurer" means an employee of The Corporation of the Town of Gravenhurst appointed by By-law;

"Electronic meeting" means a meeting called and held in full or in part via electronic means with or without in persons in attendance;

"Emergency" means a situation or an impending situation that constitutes a danger of major proportions that could result in serious harm to persons or property as outlined in the *Emergency Management and Civil Protection Act* or other applicable legislation;

"Mayor" means the Mayor of the Town of Gravenhurst;

"Pecuniary Interest" means a direct or indirect interest within the meaning of the *Municipal Conflict of Interest Act*, Chapter M.50 as amended;

"Quorum" means a minimum number of three (3) members of the Committee present at a meeting of the Committee;

"Recorded Vote" means the recording of the name and vote of every member;

"Rules of Procedure" means the rules and regulations provided in this By-law or in the absence of a rule or regulation, the Town of Gravenhurst Procedural By-law shall prevail;

"Special Meeting" means a meeting not scheduled in accordance with the approved calendar/schedule of meetings;

"Secretary-Treasurer" means an employee of The Corporation of the Town of Gravenhurst appointed by By-law;

"Vice-Chair" means a member of the Committee appointed by Resolution of Council as the Vice-Chairperson of the Committee;

SECTION 2 - APPLICATION

2. The procedures contained in this By-law, the Town's procedural by-law, and Robert's Rules of Order shall be observed in all proceedings of the Committee of Adjustment and shall be the procedures for the order and dispatch of business conducted by the Committee of Adjustment.

SECTION 3 – CALLING OF HEARINGS

3. All hearings of the Committee of Adjustment shall be called by the Secretary-Treasurer of the Committee of Adjustment and notice of any hearing shall be given by pre-paid first class mail and posting of a notice sign or in a manner that the Committee of Adjustment deems appropriate in accordance with the Planning Act, R.S.O. Chapter P.13, as amended, and in accordance with the applicable regulations.

SECTION 4 – HEARINGS

4. The location of all hearings of the Committee of Adjustment shall be identified on the Notice of Public Hearing as circulated by the Secretary-Treasurer of the Committee of Adjustment.

Electronic Hearings

4.1 Members are permitted to attend meetings electronically in accordance with Schedule B of this By-law.

4.2 At the call of the Chair, Electronic Hearings are permitted as per the relevant provisions within the Municipal Act.

4.3 Notwithstanding the above, the remaining elements of the Procedural By-law shall continue to apply to an Electronic Hearing held pursuant to this Section.

Open Hearings

4.4 All hearings of Committee shall be open to the public and no person shall be excluded from a meeting that is open to the public, except for improper conduct.

Closed Hearings

4.5 A hearing of the Committee shall be closed to the public when the subject matter under consideration involves:

i) the security of the property and services of the Corporation;

ii) personal matters about an identifiable individual, including municipal or local board employees;

ii) a proposed or pending acquisition or disposition of land by the municipality or local board;

iii) labour relations or employee negotiations;

iv) litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;

v) advice that is subject to solicitor-client privilege, including communications necessary for that purpose;

vii) a matter in respect of which a council, board, committee or other body may hold a closed meeting under another Act.

Minutes

4.7 Minutes shall record:

i) the place, date and time of hearings;

ii) the name of the presiding officer or officers and notation of the attendance or otherwise of the Members;

iii) the reading, if requested, correction and adoption of the minutes of prior hearings; and,

iv) all the other proceedings of the hearing without note or comment

SECTION 5 - QUORUM.

5 A minimum of three (3) members shall be present to constitute a quorum.

5.1 Subject to Subsection (8) above, the inability of a member to act due to a declared conflict does not impair the powers of the committee or the remaining members.

5.2 As soon as there is a quorum after the time appointed for the start of the hearing, the Hearing chair of the Committee of Adjustment shall call the meeting to order.

5.3 If no quorum is present thirty (30) minutes after the time appointed for a hearing of the Committee, the Secretary-Treasurer shall record the names of the members present and the meeting will stand adjourned until the next appointed time.

5.4 If, during the course of a Committee of Adjustment meeting, a quorum is lost then the Chair may:

i) declare that the meeting stand adjourned, not ended, to reconvene at such time and place as the Chair shall then determine; or

ii) cancel the balance of the meeting if, in his/her opinion, it is not essential to deal with the balance of the agenda before the next ordinary meeting.

SECTION 6 – HEARING PROCEDURES

6 The Hearing chair of the Committee of Adjustment shall:

i) call the hearing to order;

ii) call for declaration of Conflicts of Interest or Pecuniary Interest pursuant to SECTION 10;

iii) call for any requests for adjournment/deferral of an application or any requests for withdrawal of an application pursuant to SECTION 11; and

iv) call each application in the order in which it appears on the agenda or at the Hearing Chair and Committee's discretion;

v) preside at every hearing;

vi) open the hearing by taking the Chair;

vii) announce the business in the order in which it is to be acted upon;

viii) receive and submit, in the proper manner, all motions presented by the members;

ix) put to vote all questions which are regularly moved and seconded or necessarily arise in the course of the proceedings and to announce the result;

x) decline to put to a vote motions which infringe upon the rules of procedure;

xi) restrain the members and non-members when engaged in debate within the rules of order in order to ensure an appropriate environment conducive to communication and Committee business;

xii) designate the order in which members are recognized to speak when two or more members wish to be recognized at the same time;

xiii) enforce, on all occasions, the observance of order and decorum among the members;

xiv) ensure that the meeting proceeds in an orderly and efficient manner;

xv) authenticate by his/her signature on all resolutions when necessary; and

xvi) adjourn the hearing when the business is concluded.

6.1 If Members of the public have registered in advance to make verbal comments during a Public Hearing via electronic means, those Members of the public shall be called first to speak, in order of the date of registration.

6.2 From time to time, Committee may determine it appropriate to alter the routine order of business, with the exception of Public Hearings. This may be done so with a majority vote during the meeting.

Conduct of Members

6.3 No Member shall:

a) Speak disrespectfully, use offensive words or unparliamentary language in or against the Reigning Sovereign, or of any of the Royal Family, or of the Governor-General, the Lieutenant-Governor of any Province, or any Member of the Senate, the House of Commons of Canada or the Legislative Assembly of the Province of Ontario, the Council or any Member or non-member or staff.

b) Speak on any subject other than the subject in debate.

c) Disobey the Rules of the Committee or a decision of the Chair or of the Committee on questions of order or practice or upon the interpretation of the Rules of the Committee. In case a member persists in any such disobedience after having been called to order by the Chair, the Chair may forthwith put the question, no amendment, adjournment or debate being allowed, "That such member is ordered to leave his/her seat for the duration of the meeting of the Committee", but if the Member apologized he/she may, by vote of the Committee, be permitted to retake his/her seat.

Introduction of Applications

6.4 The Hearing chair will ask the applicant, the authorized agent or the applicant's representative to introduce him/herself and present the application. The applicant shall be provided with a maximum ten (10) minute time period to present the nature of the application to the Committee. Any presentations beyond the maximum time period shall be at the discretion of the Hearing chair and Committee.

6.5 The Committee may ask questions of the applicant at this time, during, or after the presentation.

6.6 At anytime, the Hearing chair or Committee may ask the Secretary-Treasurer to:

a) read aloud all comments received from agencies who responded to the circulation of the notice of the application;

b) read aloud any letters received from persons expressing an interest in the application; and,

c) at the direction of the Hearing chair, summarize the nature of the interest being expressed.

6.7 With respect to applications for Consent (including Changes of Conditions) and Certificate of Validation, the Hearing chair may ask the Secretary-Treasurer to read aloud the proposed draft conditions to be attached to the decision should the Committee approve the application. The Committee may delete from, add to, or revise the proposed draft conditions.

Public Input

6.8 Public input shall be sought following the presentation of each application, reading of comments and proposed draft conditions. The Committee may limit the length of a public submission if there are multiple submissions from the public to ensure that all members of the public can be heard. Any other public input after the Applicant's Reply shall be at the discretion of the Hearing chair and Committee.

6.9 An interested person shall confirm his/her remarks to the subject application.

6.10 Following the introduction of each application, the Hearing chair shall:

a) invite anyone else having an interest in the application to come forward, identify themselves, and express his/her interest; and,

b) ask questions of the interested persons on behalf of the Committee and allow the Committee members to ask questions.

Applicant's Reply

6.11 Following the public input stage, the Committee shall give the applicant, the authorized agent, or the applicant's representative the opportunity to respond to any comments received from commenting agencies or interested parties; and to provide a summary of the substance of the application.

6.12 The Hearing chair and Committee may ask additional questions at this time.

Minor Variances

6.13 Following the Applicant's Reply on applications for Minor Variance, the Committee shall consider the issues raised by the applicant, agent, and any respondents and the evidence heard by the Committee. The Hearing chair shall:

a) ask whether the members wish to conduct further discussions on the merits of the application;

b) at the conclusion of submissions, ask the members of the Committee for a motion with respect to the disposition of the application;

c) upon a motion from a Committee member, ask for a remaining member to second the motion;

d) permit discussions on the motion;

e) call for a vote by the Committee on the motion;

f) announce the decision of the Committee; and,

g) may summarize any dissenting decisions orally.

Consents

6.14 Following the Applicant's Reply on applications for Consent (including Changes of Conditions), Certificate of Validation, and Approval for Foreclosure or the Exercise of Power of Sale, the Committee shall consider the issues raised by the applicant, agent, and any respondents and the evidence heard by the Committee. The Hearing chair shall:

a) ask whether the members wish to conduct further discussions on the merits of the application;

b) at the conclusion of submissions, ask the members of the Committee for a motion with respect to the disposition of the application;

c) upon a motion from a Committee member, ask for a remaining member to second the motion;

d) permit discussions on the motion;

e) call for a vote by the Committee on the motion;

f) announce the decision of the Committee; and,

g) may summarize any dissenting decisions orally.

SECTION 7 - VOTING

Minor Variances

7.1 Each member of the Committee, when requested by the Hearing chair on a seconded motion, shall indicate by show of hands, or by any other form of acknowledgement, their position on the motion. The majority decision of the Committee on this motion shall constitute the decision of the Committee. If the initial motion fails, a new motion is requested by the Hearing chair and continued until a majority of the Committee's members approve a motion.

Consents

7.2 Each member of the Committee, when requested by the Hearing chair on a seconded motion, shall indicate by show of hands, or by any other form of acknowledgement, their position on the motion. The majority decision of the Committee on this motion shall constitute the decision of the Committee. If the initial motion fails, a new motion is requested by the Hearing chair and continued until a majority of the Committee's members approve a motion.

Recorded Vote

7.3 If a Member present at a vote requests immediately before or after the taking of the vote that the vote be recorded, each member present, except a member who is disqualified from voting by any Act, shall announce his or her vote openly and the Secretary-Treasurer shall record each vote.

SECTION 8 – POWERS OF THE CHAIR AT THE PUBLIC HEARING

8 Public Hearings shall be chaired by a member of the Committee, as determined by the Committee.

8.1 The Hearing chair is entitled to all rights of a Committee member, including voting.

SECTION 9 – DECISIONS OF THE COMMITTEE OF ADJUSTMENT

9 No decision of the Committee on an application is valid unless it is concurred on by the majority of the members of the Committee that heard the application, and the decision of the Committee, whether granting or refusing an application, shall be in writing and shall set out the reasons for the decision, and shall be signed by the members who concur in the decision.

9.1 A copy of the Committee's written decision will be prepared and issued in accordance with the provisions of the Planning Act, R.S.O. 1990, Chapter P. 13, as amended, and applicable regulations.

9.2 A copy of the Committee's written decisions shall be sent to each person who appeared in person or by counsel to express his/her interest in the application. In addition, any other person expressing an interest in an application shall leave his/her name and address with the Secretary-Treasurer at the hearing, or may submit a written request, should they wish to receive a copy of the written decision of the Committee and any further correspondence with respect to the Application pursuant to the provisions of the Planning Act, R.S.O. 1990, Chapter P. 13, as amended.

SECTION 10 – CONFLICT OF INTEREST

10 In accordance with the Municipal Conflict of Interest Act, R.S.O. 1990, Chapter M.50, as amended, any member of the Committee required to do so by the provisions of the Act, shall disclose any direct or indirect pecuniary interest for themselves or a family member and shall state the general nature of such interest; and it shall be recorded by the Secretary-Treasurer accordingly. The member shall leave the hearing room for the duration of the subject application.

SECTION 11 – REQUESTS FOR DEFERRAL OR WITHDRAWAL

11 A request for adjournment/deferral of a matter on the scheduled hearing date by the applicant or authorized agent must be for reasonable cause and must be made at the hearing. If granted, the Committee will set a new hearing date for the application at the hearing and indicate any other requirements or conditions of the adjournment/deferral, such as re-notification or amendment, at that time.

11.1 A request for a matter to be withdrawn from the scheduled hearing date by the applicant or authorized agent must be for reasonable cause and must be made at the hearing or by written submission. If granted by the Committee at the hearing, the Secretary-Treasurer will record that the application was withdrawn from the Committee's agenda and the Committee will take no further action on the matter.

SECTION 12 - COMPOSITION

12 The Committee shall be comprised of two (2) Town of Gravenhurst Council members and three (3) Town of Gravenhurst ratepayers.

12.1 All members shall be appointed by Council of the Town of Gravenhurst by means of an Appointment By-law.

12.2 All Committee members shall be entitled to one vote per application.

12.3 Non-voting representatives of the Town of Gravenhurst present at each hearing may include a Secretary-Treasurer, Deputy Secretary-Treasurer, and Acting Deputy Secretary-Treasurer.

SECTION 13 – ROLES AND RESPONSIBILITIES

13 The Committee shall strive:

a) to make sound, effective, and timely decisions based upon objective data and open debate of issues;

b) to conduct its activities in an orderly, professional and businesslike manner;

c) to be honest and respectful of each other in their communications with the public, media, and staff;

d) to have utmost regard to and refrain from disclosing all confidential and privileged information;

e) to respect each others' time and honour commitments;

f) to embrace/encourage constructive disagreement and discussion while avoiding discouraging destructive conflict; and

g) to make reasonable attempts to build consensus on issues and failing that will respect the majority vote of the Committee.

SCHEDULE B
To
By-law No. 2024-57
Committee of Adjustment Procedural By-law

1. Participation

1.1 In accordance with the *Municipal Act* and Section 2.10 of the Procedural By-law, Members may participate in a meeting electronically. Electronic participation means attendance at Committee of Adjustment meetings using the audio-visual communication platform.

1.2 Notwithstanding the above, the general expectation is that Members shall participate in meetings in-person and electronic participation will be facilitated for unusual and exceptional circumstances only.

1.3 Members participating electronically shall have the same rights and responsibilities as if the Member was physically at the meeting including counting towards quorum and ability to participate in Closed Session.

1.4 At the Chair's discretion, meetings may be hosted in-person only, rather than as a hybrid meeting, without the option for Electronic Participation from Members and / or members of the public.

1.5 The maximum number of meetings that a Member can virtually participate, in a calendar year, are three (3) Committee of Adjustment meetings.

2. Registration

2.1 Approval for electronic participation is at the discretion of the Chair.

2.2 If a Member wishes to participate electronically, written notice is required to be submitted to the Chair and Secretary-Treasurer by no later noon the day prior to the meeting.

2.3 Exceptions may be granted by the Chair for unforeseen circumstances.

3. Technical Requirements

3.1 At all times, the Member must be able to hear, see and participate within the audio-visual system.

3.2 Members participating electronically shall be responsible for ensuring the reliability of their connection for the duration of the meeting. If a Member loses connectivity during the meeting for more than two (2) consecutive minutes, the Member will be deemed to have left the meeting.

3.3 Members participating electronically in Closed Session shall ensure that their location and technology protects and maintains the integrity of the confidential matters being considered and discussed.

4. General

4.1 The Secretary-Treasurer has the delegated authority to establish policies and procedures for electronic participation in hearings, including but not limited to the method to be used and electronic participation by Administration and members of the public.