



Planning Advisory Committee Meeting Minutes
February 25, 2025 - 7:00 pm

Attendees:

Dave Henderson	Phil Taber	Chris Rendell (Electronically)
Luke Johnson	Art Roy	Mark Reid (Chair)
Councillor Kim Tompkins (Vice Chair)		Jamie Mahoney

Guests:

Nada Guimond	424 McAlister, Riverview NB	Representing Rogers Communications
Jaret Guimond	424 McAlister, Riverview NB	Representing Rogers Communications

Staff:

Bailey Brogan	Assistant Planner/Development Officer
Arthur McCarthur, P.Eng	PLED Director/Development Officer
Marilyn Duplacey	Planning Co-ordinator

1. Call to Order

The meeting was called to order by Chair, Mark Reid at 7:04 pm.

2. Approval of Agenda

Moved by Dave Henderson and seconded by Councillor Kim Tompkins to approve the agenda as presented.

3. Disclosure of Conflict of Interest – None declared.

4. Approval of Minutes: a) January 28, 2024

Moved by Phil Taber and seconded by Jamie Mahoney to accept the January 28, 2025, Planning Advisory Committee Meeting minutes as presented. Motion Carried.

5. Building Reports: January 2025

Committee member asked if the number of days from receipt of application to issuance of permit could be included in future reports. Staff advised this request would be investigated but highlighted that times would be skewed with the time taken for the applicants to submit required information.

Request was made to have the detailed permit summary printed in landscape format for ease of reading.

Moved by Jamie Mahoney and seconded by Mark Reid to accept the January 2025 Building Reports as presented. Motion Carried.

6. New Business: a) Private Access Application – 368 William Bell Dr., Hampton NB

Staff presented an outline of the application to subdivide Lot 25-1 from PID 30200687 and create a 5 m public utility easement and a 6 m wide private access from Phaeton Drive to facilitate access to the telecommunications infrastructure. Under the Subdivision By-law (HAM-2024-17) a private access may be approved by the Planning



Advisory Committee as being advisable for the development of the land. On June 14, 2024, Council issued a letter of concurrence to Rogers Communications, and a Development Permit was then issued for the establishment of a 40 m high monopole telecommunications tower and a 7.5 square metre equipment shelter located in the side yard of the property. The area is zoned Industrial which has no lot size requirements. Telecommunications are permitted in all zones.

Jaret Guimond, of Hub Surveys in Moncton NB representing Rogers Communications, was in attendance. Chair Mark Reid asked if he wished to speak. Jaret advised that Hub Surveys provides land surveying and geomatic services to Rogers Communications and would answer any questions the committee might have. There were no questions.

Moved by Councillor Kim Tompkins and seconded by Phil Taber that the Planning Advisory Committee approve the requested private access, for telecommunications, from Phaeton Drive to Lot 25-1 for the property identified as PID 30200687, located at 368 William Bell Drive, as the subdivision is advisable for the development of the land.

Motion Carried.

b) Development Officer Variance Guideline

The following motion was made by Hampton Council at their February 11, 2025 meeting:

Moved by Councillor Tompkins and seconded by Councillor Boyé that Hampton Council refer the Development Officer Variance Guideline to the Planning Advisory Committee for review and recommendation.

Motion Carried.

With the Local Governance Reform in 2023, there has been an influx of development applications. The Community Planning Act and Hampton Zoning By-law allows for a Development Officer to permit a reasonable variance from zoning by-laws and standards. This tool will expedite development and subdivision applications and improve variance application processing timelines. The most common variances are setbacks, lot occupancy, frontage, depth and area, placement of walls, fences, signage and landscaping. The following categories and criteria may be considered by the Development Officer:

- i) Up to five (5) variances of 35% or less – 2 days processing time (approximately)
- ii) Variances between 35% and 60% where feedback is solicited from adjacent properties and no warranted objections are received – 15 days processing time (approximately).
- iii) Variances greater than 60% are only considered by the Planning Advisory Committee – 45 days processing time.

If at any time, concerns are raised by the Development Officer and/or stakeholders, the application would be referred to Planning Advisory Committee.

The committee discussed if there were any options for PAC to be considered in the process (example: stakeholder) for variances between 35 and 60% prior to the Development Officer decision. Staff advised that this may create concerns with administering the process and potential conflict of interest if the item was forwarded to the committee as a result of the committee providing input. Members further discussed how this may undermine the intention of the guideline, and result in timelines being extended. In addition, a member noted that it would be



difficult to implement a system that gives member(s) of PAC opportunity to provide input as the committee cannot act as an individual, but must as a whole. Further, staff had noted that any decision by the Development Officer could be appealed to the province. A question was raised about reporting on Development Officer variances approvals and staff noted that work is in progress on implementing a reporting system for all planning services, such as subdivision, rezones, and would include Development Officer Variances.

Moved by Dave Henderson and seconded by Art Roy that the Planning Advisory Committee recommend that Council approve the Development Officer Variance Guideline as proposed by Staff.

In Favour: Mark Reid, Councillor Tompkins, Dave Henderson, Art Roy, Luke Johnson, Jamie Mahoney, Chris Rendell

Contrary Minded: Phil Taber

Motion Carried.

Moved by Mark Reid and seconded by Jamie Mahoney that the Planning Advisory Committee recommend that Council approve the Development Officer Variance Fee to be 50% of the Planning Advisory Committee Fee.

Motion Carried.

c) Review Section 9 Procedural By-law – Electronic Communications

At the January 28, 2025, Planning Advisory Committee meeting a committee member raised concerns regarding the procedure/policy for members of the public participating in the meeting through electronic communication. Staff reviewed Section 9 of the Council Procedural By-law 2024-HAM-01, which applies to all Committees of Council.

Committee members are permitted to attend meetings using electronic communication if the member is outside the town or physically unable to attend the meeting, provided the member can hear the meeting and speak to each other and the public can hear the member. This also applies to anyone who phones in through Teams.

- Limited to 25% of regular meetings
- The member shall provide sufficient notice to Clerk (or PLED)
- Closed sessions – member shall state that they are alone
- Presiding officer shall announce that a member has joined virtually
- Voting – members attending via electronic communication shall be asked to state their vote after all members present have cast their votes

7. Next Meeting Regular Meeting Scheduled for March 25, 2025

8. Adjournment

Moved by Phil Taber to adjourn the meeting at 8:15 pm.

Mark Reid, Chair

Marilyn Duplacey, Staff Representative

Hampton Council Report

Planning, Engineering & Development Department



To: Council Session - Open

From: Bailey Brogan, Assistant Planner/Development Officer

Reviewed by: Arthur McCarthy, P. Eng., Director of PLED

Meeting Date: February 11, 2025

Subject/Topic: Development Officer Variance Guideline

Presentation: None

Background/Objective

In New Brunswick, development of communities is regulated by local governments with the establishment of by-laws. Since Local Governance Reform in 2023, Hampton has established new by-laws, prepared under the Community Planning Act and Municipal Plan, intended to regulate use of land through the Zoning By-law and the subdividing of land through the Subdivision By-law. With the influx of development applications, the recent adoption of new regulations/standards and public interest in reducing barriers within the planning and development approval process, there is opportunity for Hampton to improve the variance application processing timelines by completing Development Officer Variances, as provided within the Community Planning Act and Section 2.10.2 of the Hampton Zoning By-law.

Strategic Alignment

Development in Hampton is regulated by several by-laws. With development, a landowner may wish to deviate from the provisions of the Zoning By-law to achieve their desired objectives, and as such, must apply for a variance which is a relaxation of specific by-law requirements.

In Hampton, the most common variance requests are dimensional, such as:

1. Increase in building height
2. Reduce minimum setbacks for building(s)
3. Reduce minimum dimensions (frontage, depth and area) for lot(s)

Community Planning Act & Hampton Zoning By-Law

Section 55(2) of the Community Planning Act and Section 2.10.2 of the Hampton Zoning By-law states that subject to the terms and conditions that the Development Officer considers fit, they may permit a reasonable variance from the requirements referred to in subsections 53(2)(a)(i), (iii), (iv), (v), (vi), (vii), (viii), (ix), (xiii) and paragraph 53(2)(f).

The Community Planning Act allows variances to prescribed standards in zoning by-laws. The authority to approve variances is given to the Planning Advisory Committee and Development Officer depending on the type of variance. Historically, Hampton's Planning Advisory Committee reviewed and all variances, which would be granted if the requested variance is deemed reasonable, desirable for the development of the land and in-keeping with the intent of the Municipal Plan and Zoning By-law. A proposed fee structure is provided in Schedule B (Attachment 2).

Development Officer Variance Criteria

The following criteria outlines how variances will be addressed by the Development Officer and Planning Advisory Committee.

1. Variances over 60% or that contain a subdivision with three or more lots/three or more

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variances shall be considered by the Planning Advisory Committee.

2. A variance that is 60% and less, but greater than 35%, that may be considered by the Development Officer with consultation completed with adjacent landowners (Processing time – up to 15 days).
3. A variance or multiple variances (up to 5) that is **35% and less** may be considered by the Development Officer (Processing time – up to 2 days).

Recommendation

Staff recommend that Council refer the Development Officer Variance Guideline to the Planning Advisory Committee for recommendation. If Council is not in support of the Development Officer Guideline, the Planning Advisory Committee will continue to review all variance applications with a minimum processing time of 45 days, as shown in the attachment.

Attachment 1: Planning Advisory Committee Variance Process

The following diagram presented below outlines the process for PAC approvals, which includes variances, established within By-law HAM-2023-05 (A By-law to Establish a Planning Advisory Committee)

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1. Application for Planning Advisory Committee (PAC)

- Applications are required to be submitted a minimum of six (6) weeks before a regularly scheduled meeting to provide staff sufficient time to administer the process.



2. Application Assessment and additional information gathering

- Staff review the application information, potentially meet with applicant, and gather further information as part of determining application completeness. The by-law provides two (2) weeks to determine an application substantially complete before 1st of the regular meeting month.



3. Soliciting Feedback from the Neighborhood

- Notices are prepared at the beginning of the month and issued to residents within 100 meters of the applicant's property. Notices must be issued a minimum of 10 days before the meeting.



4. Prepare Planning Staff Report and PAC Agenda

- Staff prepare a report with a detailed review of the application which may include feedback from local/provincial authorities and/or public, and provides a recommendation based on facts, best practices and related polices/standards/guidelines. Draft reports are available 10 days in advance of the meeting.



5. Planning Advisory Regular Meeting

- PAC regular meeting is held the last Tuesday of the month. The meeting consists of a presentation by staff, hearing any objections, committee discussion on the application and providing a decision. Following the meeting, staff prepare a "Notice of Decision" on behalf of the committee to send to the applicant.



Minimum
Processing
Timeline
45 days



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Development Officer Variance Guideline

1. Introduction

Development in Hampton is regulated by several by-laws. With development, a landowner may wish to deviate from the provisions of the Zoning By-law to achieve their desired objectives and must apply for a variance which is a relaxation of the by-law requirement. The Community Planning Act provides flexibility to development standards by allowing variances to prescribed standards in zoning by-laws. The authority to approve variances is given through the Community Planning Act to both the Planning Advisory Committee and the Development Officer. This document has been prepared to provide guidance to Hampton's Development Officers for evaluating a variance that is requested as part of administering a subdivision and/or development permit application, and to set a framework for using Development Officer Variances as a tool to expedite the development process.

The following guideline outlines the legislative authority for completing Development Officer Variances, types of variances to be considered by Development Officers and by the Planning Advisory Committee, and the process for completing Development Officer Variances. This process includes collecting knowledge of the area, assessing the potential for impacts on adjacent or nearby properties and documentation to be forwarded to the applicant following a decision. This guideline intends to reduce barriers to development in Hampton, while ensuring the interests of the public are considered as part of evaluating variance applications.

2. Key Definitions

1. **Development Officer** means the person appointed by the Council as the Planning Director (Planning Officer), or any person delegated authority by the Municipal Planning officer with respect to this By-Law.
2. **Planning Advisory Committee (PAC)** means the Planning Advisory Committee established under Section 3 of the Community Planning Act.
3. **Planning Advisory Committee Variance** is a reasonable variance from Section 53(2)(a) or (f) of the Community Planning Act and includes:
 - a. 53(2)(a)(i) the size and dimensions of lots and other parcels into which land may be subdivided, and the size and dimensions of land required for a particular class of use or size of building or structure,
 - b. 53(2)(a)(ii) the density of population,
 - c. 53(2)(a)(iii) the height, number of storeys, ground area, floor area and bulk of buildings and structures,
 - d. 53(2)(a)(iv) the percentage of land that may be built on, and the depth, size or area of yards, courts, parking areas and open spaces,
 - e. 53(2)(a)(v) the placement, location and arrangement of buildings and structures,



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Development Officer Variance Guideline

- including their setting back from the boundaries of streets and other public areas, and from rivers, streams or other bodies of water,
- f. 53(2)(a)(vi) the design, character and appearance of buildings and structures,
 - g. 53(2)(a)(vii) the placement, height and maintenance of fences, walls, hedges, shrubs, trees and other objects,
 - h. 53(2)(a)(viii) the types, dimensions and locations of means of access of lots to streets,
 - i. 53(2)(a)(ix) the facilities to be provided and maintained for off-street parking and loading of vehicles,
 - j. 53(2)(a)(x) the size of rooms and the means of lighting and ventilating buildings,
 - k. 53(2)(a)(xi) the excavation of sand, gravel, clay, shale, limestone or other deposits for purposes of the sale or other commercial use of the material excavated
 - l. 53(2)(a)(xii) the altering of land levels for building or other purposes in so far as this may affect surface drainage,
 - m. 53(2)(a)(xiii) the location, dimensions, standards of construction and purposes of advertising signs and billboards,
 - n. 53(2)(a)(xiv) the preservation and planting of trees,
 - o. 53(2)(a)(xv) the location of buildings and structures in relation to sources of public water supply,
 - p. 53(2)(a)(xvi) subject to standards established under an Act of the Parliament of Canada or the Legislature, standards of pollution control to which permitted uses must conform; and
 - q. 53(2)(f) prescribe standards with respect to the appearance of land in a zone and require landscaping and improvements in accordance with standards prescribed in the by-law.
4. **Variance** means an exception to the standards of the Zoning By-law as prescribed by section 55 of the Community Planning Act.

3. Legislative Authority

The New Brunswick Community Planning Act provides the authority to local governments to establish by-laws to manage land use and provide land use planning services to its residents. The focus of this section is to highlight the role of the Development Officer provided by the Community Planning Act and reiterated within the Hampton Zoning By-law. The Hampton Zoning By-law (Section 2.11.3) outlines the types of applications reviewed by the Development Officer, which include a) Variances pursuant to the Community Planning Act, and b) Development Permits. Section 2.10.2 of the Hampton Zoning By-law references subsection 55(2) of the Community Planning Act (below) which gives the Development Officer authority to grant variances.

1. Community Planning Act

Section 55(2) of the Community Planning Act states that subject to the terms and conditions that the Development Officer considers fit, they may permit a reasonable variance from the requirements referred to in subsections 53(2)(a)(i), (iii), (iv), (v), (vi), (vii), (viii), (ix), (xiii), and



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Development Officer Variance Guideline

53(2)(f) of the Community Planning Act and referenced in the list below, if the Development Officer is of the opinion that the variance is desirable for the development of a parcel of land or a building or structure and is in keeping with the general intent of the Zoning By-law and the Hampton Municipal Plan.

- 53(2)(a)(i) the size and dimensions of lots and other parcels into which land may be subdivided, and the size and dimensions of land required for a particular class of use or size of building or structure;
- 53(2)(a)(iii) the height, number of storeys, ground area, floor area and bulk of buildings and structures;
- 53(2)(a)(iv) the percentage of land that may be built on, and the depth, size or area of yards, courts, parking areas and open spaces;
- 53(2)(a)(v) the placement, location and arrangement of buildings and structures, including their setting back from the boundaries of streets and other public areas, and from rivers, streams or other bodies of water;
- 53(2)(a)(vi) the design, character and appearance of buildings and structures,
- 53(2)(a)(vii) the placement, height, and maintenance of fences, walls, hedges, shrubs, trees, and other objects;
- 53(2)(a)(viii) the types, dimensions and locations of means of access of lots to streets
- 53(2)(a)(ix) the facilities to be provided and maintained for off-street parking and loading of vehicles;
- 53(2)(a)(xiii) the location, dimensions, standards of construction and purposes of advertising signs and billboards; and 53(2) (f) prescribe standards with respect to the appearance of land in a zone and require landscaping and improvements in accordance with standards prescribed in the by-law,

4. Development Officer Variance(s)

The following are categories and criteria for the Development Officer variance that may be requested:

1. A variance that is 60% and less, but greater than 35%, that may be considered by the Development Officer if:
 - i. Feedback is solicited from the adjacent landowner(s) that share a property line and that face the subject property line across the street, that may be directly impacted from the variance



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Development Officer Variance Guideline

- and no warranted objections are raised within seven (7) days of the solicitation date, and
- ii. If the objection is warranted and/or there is uncertainty surrounding the potential impact of the variance, the Development Officer shall not provide a determination on the request for a variance and as such, the landowner may submit the variance request to the Planning Advisory Committee for consideration.
2. A variance or multiple variances (up to 5) that is **35% and less** may be considered by the Development Officer.

Variance applications that will be considered by the Planning Advisory Committee include:

1. A variance that is **greater than 60%** of the prescribed standard shall be considered by the Planning Advisory Committee.
2. Subdivision applications that contain three or more lots, and/or three or more variance requests will not be determined by the Development Officer and review will be requested from the Planning Advisory Committee.

If there is uncertainty surrounding the potential impacts of the variance, the Development Officer shall not provide a determination on the request for a variance and refer the variance request to the Planning Advisory Committee for consideration. The Development Officer may request that the Planning Advisory Committee review a variance if the application raises any concerns with and/or poses a risk to Provincial Agencies, Utility Authorities and/or the municipality, as determined in consultation with the Department Director and/or Planning Director.

Following the Development Officer's review of the variance application, a notice of decision (template attached) shall be provided to the applicant and provide reasoning for the approval or denial of the application.



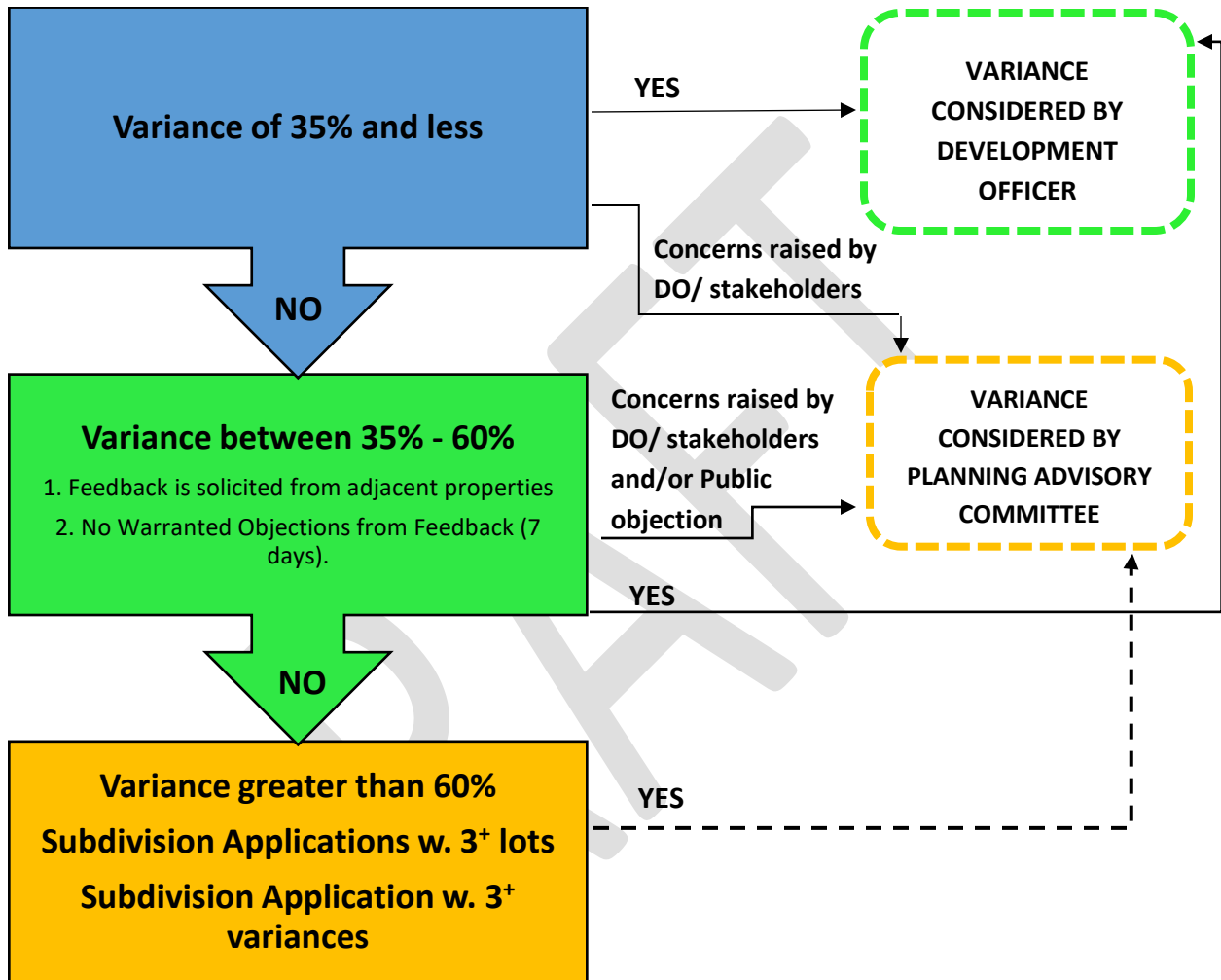
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Development Officer Variance Guideline

5. Development Officer Variance Flow Chart

The following is a visualization of the decision making process for Development Officer Variance with associated categories:



Note: The Development Officer may request variance application review from the Planning Advisory Committee at their discretion.



Development Officer Variance – Notice of Decision

Property Address:

Applicant:

Application Review Date:

Application Description

The application is to develop an accessory building (shed) in the rear yard. The proposed structure subceeds the permitted rear and side yard setbacks of 7.5 metres and 2.5 metres under the Hampton Zoning By-Law (HAM-2023-16) and requires two variances.

<u>Zoning By-Law Criteria</u>	<u>Requirement</u>	<u>Proposed Setbacks</u>	<u>Variance</u>
Rear Yard Setback (M)	7.5 m	6 m	1.5 m (20%)
Side Yard Setback (R1)	2.5 m	1.5 m	1 (40%)

Staff Analysis

Municipal Plan (HAM-2023-15): Residential

Zoning By Law (HAM-2023-16): One and Two Unit (R1) Residential

Summary of Application Notices: Four letters were sent to neighbouring properties and no concerns were raised.

- Summary of govt agencies contacted

Staff Recommendation: The application respects the scale, form and character of the existing neighbourhood as the lot is already developed with a one-unit dwelling and a fence. The application is desirable for the development of the property, and it not anticipated to impact neighbouring lots as the accessory building is located inside the fence surrounding the rear yard.

Under Authority provided by CPA.

Development Officer Decision: APPROVED/DENIED

Date of Decision: