

Canada  
PROVINCE OF QUEBEC  
HULL DISTRICT

## **MUNICIPALITY OF PONTIAC**

M.R.C. DES COLLINES-DE-L'OUTAOUAIS

### **BYLAW 07-18**

#### **BYLAW 07-18 PERTAINING TO MINOR VARIANCES**

**WHEREAS** the Municipality of Pontiac is able to modify its urban planning bylaws;

**WHEREAS** the council deems it necessary to modify bylaw 084-88 pertaining to minor variances so that it complies with sections 145.1 to 145.8 of the Act respecting Land use Planning;

**WHEREAS** council deems it necessary to modify the bylaw in order to render it more comprehensible to the public;

**WHEREAS** council deems it necessary to abrogate bylaw 03-13 and its amendments;

**WHEREAS** a notice of motion for the present bylaw was given at the meeting on September 11, 2018;

**WHEREAS** a copy of the bylaw was given to the council members no later than two working days before the meeting and all council members who are present declare having read it a renounce its reading;

It is

Moved by : Isabelle Patry  
Seconded by : Scott McDonald

AND RESOLVED to adopt the bylaw 07-18 as follows:

#### **Section 1 LEGISLATIVE AND INTERPRETIVE PROVISIONS**

##### ***1.1 TITLE OF THE BYLAW***

The bylaw is entitled: Bylaw 07-18 pertaining to minor variances. Interpretation and administrative rules governing the present bylaw are included in the bylaw number 176-01.

##### ***1.2 OBJECTIVES***

This bylaw governs the presentation and analysis mode of an application for a minor variance.

##### ***1.3 SUBJECTED TERRITORY***

The present bylaw, whose provisions apply to individuals as well as legal body governed by public or private law, applies to the entire territory under the jurisdiction of the Municipality of Pontiac.

## ***1.4 REPLACEMENT***

The following bylaw and its amendments are abrogated and replaced with the present bylaw :

The bylaw pertaining to minor variances of the Municipality of Pontiac, bearing number 084-88 and its amendments.

All other regulatory provisions that are non-compatible with the present bylaw are also abrogated.

However, such replacements do not affect the procedures initiated under the bylaws that are being replaced, which will prevail until a final judgment and execution. Also, it does not affect the permits that were issued under the bylaws that are being replaced.

## ***1.5 TERM OF AMENDMENT***

The provisions of this bylaw can only be adopted, modified or abrogated by an approved bylaw, according to the applicable provisions of the Act respecting land use, planning and development.

## **Section 2**

### **ADMINISTRATIVE PROVISIONS**

#### ***2.1 SCOPE OF APPLICATION***

The present bylaw governs:

- The presentation and the analysis process of an application for a minor variance;
- The subjects of the zoning and subdivision bylaws that could be the object of an application for a minor variance;
- Sets the grounds for admissibility and decision pertaining to a minor variance.

Any application for a minor variance must be tabled and studied according with the present bylaw.

#### ***2.2 TERMINOLOGY***

For the interpretation of the present bylaw, unless the context indicates a different meaning, any word or expression has the meaning that is given by the administrative bylaw number 176-01, and its amendments.

## **Section 3**

### **PROVISIONS RELATED TO AN ELIGIBLE APPLICATION**

All provisions of the zoning and subdivision bylaws currently in force on the territory of the Municipality of Pontiac could be the object of a minor variance, with the exception of the provisions related to:

- Use;
- Density of the surface area, which includes the number of units in a building, the number of main buildings of a lot and the reduction of all the lots in a housing development project.

#### ***3.1 IMPORTANCE OF THE MEANING "MINOR" IN A MINOR VARIANCE***

A minor variance should allow the adjustments of the size of a construction or subdivision for the properties for which a building project is already possible. If not so, the minor variance to the zoning and subdivision bylaws before major and could infringe upon the property rights of the owners of neighbouring properties.

A variance is not a means to avoid a modification to a regulation that is deemed inappropriate. In this case, the applicant must file an application for a regulatory modification.

A variance may also allow adjusting the implementation standards of a building, development of a land, or of a display sign without infringing upon the property rights of neighbouring properties, but could infringe upon the owner. Therefore, the minor variance allows adjusting minimally the regulation in order to allow carrying out a project or correcting work that is non-compliant but was done in good faith, following the issuance of a building or subdivision permit.

Any application for a variance to the environment protective measures must be accompanied by a complete explanatory document allowing ensuring that the impact on the environment is negligible. To obtain such variance, an applicant should even provide a proposal aiming at improving the quality of the environment to compensate for his application.

A variance may also be granted to allow the improvement and maintenance of a building having acquired rights. This excludes any form of acquired rights related to the use, since the law does not allow giving a minor variance related with uses.

In all cases, a minor variance is an exceptional measure that normally should not be granted if an applicant can comply with the regulation in force.

However, an applicant has the right to file an application for a minor variance to follow the Municipal Council's requirements under the other urban planning bylaw with discretionary character. For example, an applicant may, following a refusal, suggest to the Municipality a minor variance in order to better answer the objectives and criteria of the bylaw pertaining to implementation and architectural integration plans.

### ***3.2 ASSESSMENT CRITERIA OF AN APPLICATION FOR A MINOR VARIANCE***

Any application for a minor variance, in order to be granted, must respect the following criteria:

- The minor variance only concerns the provisions of the zoning and subdivision bylaws that do not concern use or the density of the surface area ;
- The minor variance respects the objectives of the urban planning plan ;
- The minor variance has the effect to keep the applicant from a serious prejudice ;
- The minor variance does not infringe upon the property rights of the owners of neighbouring properties;
- No minor variance can be granted in a zone where the surface area is submitted to particular constraints for public safety reasons;
- In the case where a construction is underway or already finished, the construction was the object of a permit or a certificate and the work was done in good faith.

### ***3.3 CONTENT OF THE APPLICATION***

An application for a minor variance should include the following documents and information:

- the form "application for a minor variance" duly completed;
- a location certificate prepared by a land surveyor within five (5) years before the application for the minor variance if it is an existing building;
- an implementation plan prepare by a land surveyor if it is for a projected building ;

- if needed for the analysis of the application, pictures, plans, drawings or details explaining the application ;
- the payment for the application's fees.

## **Section 4**

### **STUDY OF AN APPLICATION**

#### ***4.1 TRANSMISSION OF THE APPLICATION***

The application for the minor variance, including all requested information and documents, must be transmitted in writing to the designated official.

#### ***4.2 ADDITIONAL INFORMATION***

The applicant must provide to the appointed official any additional information that is requested to ensure a good comprehension of the application for the minor variance.

#### ***4.3 TRANSMISSION OF THE FILE TO THE PLANNING ADVISORY COMMITTEE***

From the date he has the requested document and information and the sum covering the analysis fees, the designated official transmits the application to the committee.

#### ***4.4 STUDY OF THE APPLICATION BY THE COMMITTEE***

The Planning Advisory Committee studies the application. After the analysis of the application, the Planning Advisory Committee must make its recommendation in writing, while taking into account the provisions and the criteria listed in the present bylaw.

If the committee notes or concludes that the application for the minor variance does not respect the evaluation criteria, it must give an adverse recommendation to the Municipal Council.

#### ***4.5 PUBLIC NOTICE***

The Secretary-treasurer of the Municipality must, at least 15 days before the meeting at which the Council will rule on the application for the minor variance, publish, under the Act which governs the Municipality, the notice provided at section 145.6 of Act respecting land use, planning and development (R.L.R.Q., c. A-19.1). This notice must indicate :

- the date, the time and the location of the meeting at which the application will be heard by the Council;
- the nature and effects of the requested variance;
- the designation of the concerned building, including the traffic lane and the address of the building or the cadastral number ;
- the fact that anyone interested may be heard by the Council regarding this application.

#### ***4.6 DECISION OF THE COUNCIL***

Before rendering his decision, the Council, or the appointed individual, must expose the application for the variance. After having heard anyone who wishes to express himself regarding this application and having noted the recommendation of the Planning Advisory Committee, the Council renders its decision. The Council is not bounded by the Planning Advisory Committee's recommendation. The resolution by which the Council renders its decision may provide any provisions, taking into account the Municipality's competencies in order to diminish the impact of the variance.

A certified copy of the resolution of the Council's decision must be transmitted to the applicant within 15 days of its adoption.

#### ***4.7 ISSUANCE OF THE PERMIT OR CERTIFICATE***

When the resolution of the Council grants the requested minor variance, the official may therefore issue the building permit, the subdivision permit or the requested certificate of authorization, on the conditions that the request be in compliance with the application tabled by the applicant, the conditions of the Council provided in the resolution granting the variance, as well as any other provisions of the urban planning bylaws, with the exception of the one being the object of the minor variance.

### **Section 5 ABROGATED AND FINAL PROVISION**

#### ***5.1 ABROGATED PROVISION***

The present bylaw abrogates all regulatory provisions of the same effect and more specifically, the bylaw 08-88 and its modifications.

#### ***5.2 COMING INTO FORCE***

The present bylaw will come into force according to the Law.

Carried

GIVEN IN PONTIAC (QUEBEC), this, 2018

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Benedikt Kuhn  
Director General

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Joanne Labadie  
Mayor

Notice of motion : September 11, 2018

Adoption : October 9, 2018

Resolution: **18-10-3556**