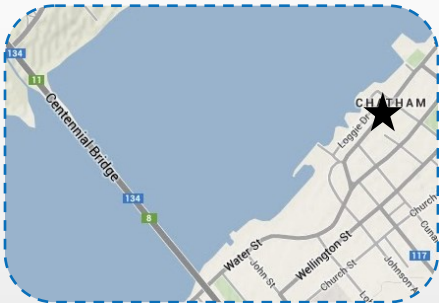


**Need More Info? Have Questions?
Come See Us or Contact Us:**



City of Miramichi Location

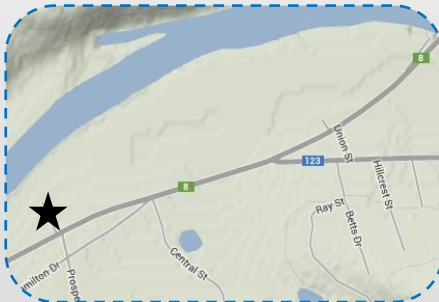


Greater Miramichi Regional Service Commission – Planning Services

1773 Water St., 2nd Fl.,
Miramichi, NB, E1N 1B2
Telephone: (506) 778-5359
Toll Free: 1-855-647-5359
Fax: (506) 778-5360
Email: info@rsc5.ca

Business Hours: 8:00am to 4:00pm, excluding stat holidays

Village of Doaktown Location (Seasonal)



Doaktown Village Office

8 Miramichi St.
Doaktown, NB, E9C 1C8
Telephone: (506) 365-7331
Fax: (506) 365-7111
Email: info@rsc5.ca

Business Hours: 9:00am to 3:00pm, every Tuesday beginning early May to late September, excluding stat holidays (call for exact opening date)

Please Note: This brochure is for informational purposes only. Where there is conflict between this brochure and current municipal by-laws and/or provincial legislation, the latter prevails.

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#3

What If I Can't Meet the Zoning Requirements? *About Variances*

PLANNING

Sep. 28, 2015

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zone requires a house to be setback from the rear lot line a minimum of 6.0 metres and you want to build 5.0 metres, you can apply for a variance. This is a shorter and simpler process than rezoning.

What is a Variance?

A variance is necessary in order to obtain a building permit to construct, renovate, or alter a building (or other form of development), which does not comply with the zoning by-law or subdivision by-law.

A Collaborative Approach

Working collaboratively to the benefit of the community is our goal. We are committed to working with you—and your team of professionals—prior to submitting your formal application in order to help you put together a complete application that has the best chance of success.

However, a variance cannot be used to change permitted land use or density of development; these two types of changes require a rezoning.

Unlike a rezoning, a variance does not actually change the existing zoning by-law. It provides 'relief' (somewhat like a special exemption) from a specific regulation or regulations in the zoning by-law, which will allow you to follow through with your specific project and obtain a building permit. In order to be approved, a variance must be deemed to be reasonable and to maintain the intent of the zoning by-law.

Who can Apply for a Variance?

The registered owner(s) of the property, or anyone else with written permission from the registered property owner, may apply for a variance.

What is the Fee for a Variance Application?

With the exception of the Village of Doaktown, the variance application fee is \$250. You can pay by cash, credit card, debit, or cheque made payable to GMRSC.

by the PRAC. The letter clearly states whether the variance(s) applied for have been approved, approved subject to 'terms and conditions', or denied. Minutes of the PRAC meetings are public information and are posted on our website.

After a Variance Decision is Made

Approved

Getting your variance approved does not automatically lead to issuance of a Building Permit for your project. You need to apply separately for a Building Permit; different and more detailed building plans and fees are required, and such applications are submitted to and reviewed by a Building Inspector (not Planning Staff) within the Planning Services department of GMRSC. To expedite your project, we encourage you to talk to a Building Inspector and perhaps submit your Application for a Building Permit while your variance application is still being processed.

Denied

If your Application was denied, you may:

- 1) Modify/alter your project and re-apply; or

- 2) Appeal the decision

The Applicant or other interested party may appeal a decision made (by PRAC or by a Development Officer) on a variance Application. In accordance with the NB *Community Planning Act*, such appeals cannot be handled by a Municipal Council, PRAC, Planning Director, or by other staff of Planning Services. Rather, such appeals must be filed with the NB Assessment and Planning Appeal Board (APAB), an independent board that is appointed by the provincial government and operates under the NB *Assessment and Planning Appeal Board Act*. To find out more about appeals, please contact the APAB directly.

APAB Contact

NB Assessment and Planning Appeal Board

City Centre, P. O. Box 6000, Fredericton, NB E3B 5H1

Tel: (506) 453-2126

Fax: (506) 444-4881

Email: elg/egl-info@gnb.ca

http://www2.gnb.ca/content/gnb/en/departments/local_government.html

technical considerations and comments received, provides an analysis, and makes a recommendation for PRAC's consideration. If any written comments (letters, emails) have been received from 'neighbours', they will also be included in the Report.

The Planning Staff Report is provided to the PRAC members a few days before the meeting. The Report is available upon request to the Applicant and the public after 12:00pm on the Friday before the PRAC meeting.

STEP 6: PRAC Meeting

(Note: For Development Officer variance process, skip directly to Step 7)

At this meeting, the PRAC will consider and make a decision on your Application.

To find out more about PRAC and its meetings, please refer to *Planning Brochure #3 PRAC Meetings*.

Step 7: Decision

Development Officer Variance

Once the Application has been reviewed by Planning Staff and the comments have been received

from the selected departments/agencies (see Step 5 above), Planning Staff will prepare and send the Applicant a written 'Notice of Decision'. The 'Notice of Decision' clearly states whether the variance(s) applied for have been approved, approved subject to 'terms and conditions', or denied.

PRAC Variance

The day after the PRAC meeting, Planning Staff will prepare and provide the Applicant with a written letter describing the decision made

Expediting Your Project

You can save time and resources in seeing your project through by:

- Meeting and speaking with Planning Services Staff to review information/submission requirements;
- Providing complete information in a timely manner; and
- Employing qualified professionals (e.g. engineers, surveyors, architects, planners, etc.) to assist you with your application.

Types of Variances

Dimensional Variance

A variance is most commonly sought to 'vary' a dimensional regulation in the zoning by-law (or zoning provisions of a rural plan) or subdivision by-law such as:

- Building setbacks;
- Number of on-site required parking;
- Building height;
- Minimum frontage on a public street, required to create a new lot; and
- Signage requirements

After preliminary assessment by staff in consultation with the Planning Director, a dimensional variance application will be streamed in to one of the following processes:

- 1) Development Officer variance; or
- 2) Variance (by PRAC)

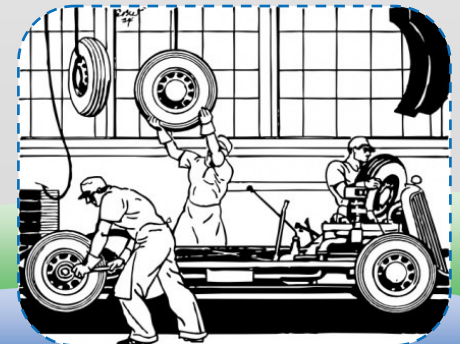
Conditional Use

The zoning by-law (or zoning provisions of a rural plan) identifies a number of conditional uses that are

subject to 'terms and conditions' to be imposed by the PRAC. For such uses, the 'terms and conditions' are aimed at protecting either the property within the zone or in abutting zones; and/or to safeguard the health, safety, and/or welfare of the general public. A conditional use application is processed in the same manner as a variance application, but must go to a PRAC meeting for 'terms and conditions' to be imposed.

Similar / Compatible Use

Sometimes a project proposes a land use that is not expressly cited in the list of permitted uses for that zone. No zoning by-law can possibly anticipate and include every single type of land use that may be proposed. For example, the project is for a 'furniture manufacture and assembly plant' but the list of permitted uses for that zone may just



state 'manufacturing facility', 'warehouse', and 'parts assembly facility' as permitted as main uses.

However, under *Section 35(1)* of the NB *Community Planning Act*, you can apply for permission for, subject to 'terms and conditions', "a proposed use of land or a building that is otherwise not permitted under the zoning by-law if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted in the by-law in the zone in which the land or building is situated." A similar or compatible use application is processed in the same manner as a variance application, but must go to a PRAC meeting for a decision to be rendered.

Temporary Use

On a rare occasion, an owner may want to use their property (or buildings) for period of time, and not permanently, for a land use that is not permitted by current zoning. A temporary use application can be made for a specific time period not exceeding one year. After preliminary assessment by staff in consultation with the Planning Director, a

temporary use application will be streamed in to one of the following processes:

- 1) Development Officer temporary use; or
- 2) Temporary use (by PRAC)

Non-Conforming Use

Owners who use their property for a purpose that was legally in existence before the current zoning came into effect are protected under the NB *Community Planning Act*. Although a specific use may become prohibited in a certain area due to a change in zoning, the use is allowed to continue (i.e. 'grandfathered') as a legal non-conforming use, provided that it has continued uninterrupted. If the use is interrupted for more than ten months, the property loses its legal non-conforming status. A non-conforming use application may be needed where:

- A building occupied by a non-conforming use has been damaged/partially destroyed by fire;
- The owner wants to expand (increase in size or intensify use) of a non-conforming use building/land;

get more information and/or make comments/objections about the Application.

- c) The notice also states the anticipated date for a decision to be made by the Development Officer (or PRAC) on the Application.

Step 5: Technical Review and Planning Staff Report

Planning Staff will ask selected departments/agencies to review the application and to provide comments back to Planning Staff. For example, the municipal Public Works Department (or Engineering Department) may be asked to provide comments as to whether the proposed connection to water and/or sanitary sewer systems are acceptable. If your project is adjacent to a river or stream, the provincial Department of Environment may be asked to review and provide comments on your Application regarding its mandated programs and regulations under the Clean Water Act-Wetlands and Watercourse Alteration Regulation (WAWA).

Sometimes, a department/agency will say that additional information or

reports are required in order for them to review and comment on an Application relative to their mandate and jurisdiction. Planning Staff may then ask the Applicant to supply this additional information. With some Applications, the process cannot move forward to the next step without this information being provided, reviewed, and deemed acceptable to the department/agency that requested it. If this occurs, the length of time it takes to complete the process can be increased by a few days or even a few weeks.

Planning staff will examine the Application as it relates to the zoning by-law (or rural plan), subdivision by-law, Commission policies and other technical matters within the mandate and jurisdiction of Planning Services.

For the PRAC variance process only, once the Application has been reviewed by Planning Staff and the comments have been received from the selected departments/agencies, a Planning Staff Report is prepared. The Report outlines the Application details, summarizes the

- Arrange a meeting with a Planner/Development Officer to submit and go over your Application package to ensure it is accepted as complete.

Step 3: Preliminary Assessment

a) Your Application package will be reviewed by Planning Staff to determine whether it is 'complete' or whether additional (or revised) submissions are necessary. Your Application cannot move forward until it is 'complete' (i.e. that all the technical details, plans, and/or documents required to review your Application against applicable zoning and other municipal and provincial laws and regulations).

times it may take much longer because an Application must be 'complete' on or before the last business day of the month in order to be put on the agenda for the next month's PRAC meeting. Please note the PRAC meets only once a month on the third Tuesday, and meetings are only held if there are a sufficient number of Applications to warrant a meeting.



Step 4: Notice to Neighbours

b) Planning Staff, in consultation with the Planning Director, will determine whether your Application can be dealt with by a Development Officer or if it must go to the PRAC for a decision. The Development Officer variance process usually takes between 5 and 7 days.

a) A written notice is sent to registered owners of the properties in the vicinity of property that is the subject of the Application. The Applicant is also sent a copy of this notice.

c) The PRAC variance process takes a minimum of three weeks. Some-

b) The notice provides a brief description of what variances are being requested, the location of the property, and how they can

- The owner wants to 'continue' a non-conforming use after it has ceased for a period of more than 10 months; or
- The owner wishes to change a non-conforming use to another similar non-conforming use

variance application but must go to a PRAC meeting for a decision to be rendered.

How Does the Variance Process Work? How Long Does it Take?

A non-conforming use application is processed in the same manner as a

The variance process is summarized in a flow diagram below. How long it takes to approve or deny a vari-

VARIANCE APPLICATION PROCESS



ance depends on (1) how long it takes the Applicant to produce a complete package (i.e. represented by "Package Complete" stage, green circle in flow diagram); and (2) whether or not a decision is made at Planning Services through the Development Officer decision process or through the PRAC process (i.e. represented in pink and green processes, respectively). Generally speaking, the Development Officer variance process takes 5-7 days and the PRAC process takes 12-18 days. Most applications that take longer than these average time frames occur because the Applicant did not complete his or her Application in a timely manner (i.e. repeat incomplete/insufficient submissions resulting in 'Additional Information Required' as represented by the orange box in the flow diagram).

The 6/7 Step Process

STEP 1: Schedule a Pre-Application Meeting

- a) Contact Planning Services to set up a meeting with a Planner or Development Officer.
- b) Planning Staff will provide infor-

mation about the regulations and process, and work with you to ensure your Application will be considered.

Did You Know?

The Greater Miramichi Regional Service Commission (GMRSC) serves a population of almost 40,000 with 4 municipalities and 19 local service districts. The region makes up almost 20% of the area of New Brunswick.

Municipalities served by the GMRSC include the Villages of Blackville and Doaktown, City of Miramichi, and Rural Community of Upper Miramichi.

- c) Be prepared to give a detailed description of your project. Provide reasons why your Application is necessary and how the Application makes for a better development than would occur under the existing zoning regulations.
- d) Once Planning Staff know more about your project, they can identify whether any 'special' technical reports or plans must be submitted as part of your Application package.

Step 2: Prepare and Submit Application Package

a) You will need to submit an Application package, which includes:

- Application form;
 - Site plan;
 - Letter describing the proposed development and providing reasons why zoning regulations cannot be met;
 - Building elevation 'concept' sketches;
 - Building floor plan 'concept' sketches;
 - Property owner authorization letter (only needed if Applicant is not the property owner);
 - Other 'special' technical reports, plans, or documents as required; and
 - Application fee (\$250.00).
- b) 'Special' Technical Submissions: Depending on the type of project and the characteristics of the property, other additional information may be required to be submitted as part of your Application package. Generally, these

special submissions would be identified at the pre-Application meeting with Planning Staff. The following types of technical information fall under this category:

- Drainage plan (with pre- and post-development run-off calculations or design brief);
- Site servicing plan;
- Copy of septic system installation permit;
- Survey or plot plan prepared by registered NB Land Surveyor;
- Copy of Watercourse Alteration Permit, as issued by NB Department of Environment;
- Land elevations including pre- and post-development cut or fill areas;
- Geotechnical report;
- Traffic impact assessment;
- Soil contamination assessment report;
- Water supply assessment (hydrogeological) report;
- Evidence of registered land subdivision (or consolidation); and