



A GUIDE TO THE BOARD OF VARIANCE APPEAL PROCESS

INTRODUCTION

What is a Board of Variance?

As legislated by Section 536 of the BC Local Government Act, a municipality that has adopted a zoning bylaw must establish a Board of Variance (BOV). In the District of Sechelt, there are three (3) members of the Board and as mandated by the District of Sechelt Board of Variance Bylaw No. 510, Sechelt Council appoints the three members. The members of the Board of Variance appoint their own chair. Each member is appointed for a three-year term. Members of an Advisory Planning Commission or an officer or employee of the municipality are prohibited from being appointed to a BOV. Meetings of a BOV are open to the public and may be advertised.

What does the Board do?

Upon application, the Board of Variance determines if compliance with certain provisions of a bylaw (predominantly zoning) would cause undue hardship for an individual. If hardship is determined then a minor variance is considered. The BOV will decide if the proposed minor variance is accepted, modified or rejected and if any conditions will have to be met. A decision of the BOV granting a variance is final and cannot be appealed except to the courts on procedural grounds. More information is provided below under "Process".

The Board may also determine if a building inspector's decision on the percentage or proportion of a building that has been significantly damaged or destroyed is in error.

Who can apply to the Board of Variance?

A property owner may apply to the BOV for a minor variance if they feel compliance with the zoning bylaw (and some others) would cause them an undue hardship. The BOV can only review hardships relating to minor matters such as siting/setbacks, dimensions and size of buildings. Land use (residential, commercial, industrial, etc.), density (number of homes), site coverage and flood protection requirements cannot be varied; nor can items such as covenants, land-use contracts, environmental, geotechnical or heritage development permits.

PROCESS

1. PRIOR TO APPLICATION

Meet with the Planning & Development Services Department to discuss the application to review the existing conditions and non-conformance items proposed and the Board of Variance appeal process.

2. APPLICATION REQUIREMENTS

Applications/appeals to the Board of Variance must include the following:

- ✓ A statement in writing describing:
 - the nature of the existing situation (background info)
 - what the hardship and inability to meet the bylaw requirements is
 - and what is the proposed variance;
- ✓ A property Title Search - Certificate of Title;
- ✓ A copy of all Covenants and Easements registered on Title;

- ✓ Completion of the application form including all Owners' Names and Signatures and the civic address;
- ✓ Payment of the Application fee of \$500.00;
- ✓ Four sets of Drawings and one digital copy including:
 - A Site Survey prepared by a BC Land Surveyor showing existing buildings, natural features and contours, easements, rights of ways, proposed buildings/extension in relation to property lines, new and existing parking spaces, etc. (if complicated, a drawing indicated the "existing" condition may be required separately from a drawing indicating the "proposed").
 - Elevations and Cross-sections of the existing and new/proposed building that will explain the proposal.
 - All drawings must be to scale.
- ✓ Photographs (digital) that explain the existing situation;
- ✓ When requesting a variance within a strata subdivision, provide written approval from the Strata Council; and
- ✓ Geotechnical and environmental reports may be required if the property is located in a Development Permit Area.

Further information and a site visit may be required to enable the Board of Variance members to visualize the proposal and its relationship to the surrounding area.

3. REFERRAL AND REVIEW

The referral stage takes approximately one month. Once an application is made, it is sent to all neighbouring property owners and tenants adjoining the property, including those across any road right-of-ways, to garner their input. Included in the send-out is the date and time of the BOV meeting where the appeal will be considered. The BOV may request advertisement of the meeting in the local newspaper.

Planning & Development Services Department staff will also review the application and provide a background report to assist the BOV members in their deliberation.

4. CONSIDERATION BY THE BOARD OF VARIANCE

Board of Variance meetings are open to the public. The applicant may be requested to make a presentation to the Board.

The Board of Variance will first determine if compliance with minor provisions of the zoning bylaw cause undue hardship. If so, they will determine if the new variance proposal relieves the undue hardship as long as the minor variance does not:

- result in inappropriate development of the site;
- negatively impact the natural environment;
- substantially affect the use and enjoyment of adjacent land;
- vary the permitted uses, densities or lot coverage,
- increase the flooding or geotechnical hazard risk, or
- defeat the intent of the bylaw.

Planning & Development Services Department staff will contact the applicant following the meeting to inform the applicant of the outcome. Applicants are advised that approval, if given by the Board, is for

the proposal as submitted. After acceptance by the Board, no alterations to the proposal or drawings are permitted.