



## Board of Variance Application Package

**A complete application form and all the materials must be provided to the Planning & Development Department by 12:00 pm on the deadline date listed on the Schedule on Page 3.**

NAME OF APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_

MAILING ADDRESS OF APPLICANT \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

E-MAIL ADDRESS OF APPLICANT/OWNER \_\_\_\_\_

NAME OF OWNER \_\_\_\_\_ PHONE \_\_\_\_\_

MAILING ADDRESS OF OWNER \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

ADDRESS OF PROPERTY \_\_\_\_\_  
(Subject of Appeal)

PRESENT USE OF PROPERTY \_\_\_\_\_

PROPOSED USE OF PROPERTY \_\_\_\_\_

Listed below are the relevant sections of the Board of Variance Bylaw. Please fill the check box indicating which section(s) your appeal will be made under.

901. Where a person alleges that:

(2) Compliance with the following would cause undue hardship:

- (a) a bylaw respecting the siting, dimensions or size of a building or structure;
- (b) a bylaw under section 8 (3) (c) [fundamental powers — trees] of the Community Charter, other than a bylaw that has an effect referred to in section 50 (2) [restrictions on authority — preventing all uses] of that Act if the council has taken action under subsection (3) of that section to compensate or mitigate the hardship that is caused to the person;
- (c) the prohibition of a structural alteration or addition under Section 911(5) of the “Local Government Act”;
- (d) a subdivision servicing requirement under section 938 (1) (c) in an area zoned for agricultural or industrial use.

902. Where a person alleges that:

- (1) if the person alleges that the determination by a building inspector of the amount of damage under section 911 (8) is in error.
- (2) On an application under subsection (1), the board of variance may set aside the determination of the building inspector and make the determination under section 911 (8) in its place.

Signature \_\_\_\_\_ Date \_\_\_\_\_

**Note: Before rendering a decision, the Board will seek input from all adjoining owners and residents and therefore, it is essential that the owner/applicant discuss the proposal with his/her neighbours well in advance of submission of the Board of Variance application. In addition, the Board has requested that the owner/applicant receive signatures from all notified neighbours to indicate their support or objection to the proposal.**

## PROCEDURES FOR APPLICATIONS

The following information must be submitted with your application to the Planning Department; be advised, if any of the items below are missing the application cannot be accepted:

- One set of full sized drawings.
- One set of 8 ½ x11 reduced drawings including a copy of the certified survey plan.
- A letter addressed to the Chair and Members of the Board of Variance, explaining briefly the rationale for the requested variance(s). This will be included with the notification forwarded by the City to the adjacent property owners.

**NOTE:** Do not include any dimensional information by bylaw section reference information in the letter.

- Certified sealed survey plan showing **existing** property lines, building location(s), setbacks and driveway. Show existing trees on site plan and any trees to be removed, in compliance with Tree Protection Bylaw No. 99-03, showing size, species and location of protected trees, and measures to protect the trees.
- Dimensioned site plan showing proposed work, property lines, building outlines, setbacks and parking (layout and surface material)
- Floor plans labeled to show space uses and locations of walls, doors, plumbing fixtures, windows locations, etc.
- Dimensioned elevation plans (side, front view, etc.) showing how the exterior appearance of the building will appear or changed with respect to windows, porches, entranceways and cladding materials.
- Dimensioned building section illustrating average grade with building height measurement.
- Two to three photographs of the site.
- Application fee of \$250.00.

### NOTES

1. Without limiting the discretion of the Board, it is the established policy of the Victoria Board of Variance is to grant variances only where the Board is persuaded that the present zoning creates a hardship unique to the property in question. The hardship must be one that would affect any owner of the property and cannot consider the particular personal circumstances of the applicant. Once a hardship is established, the Board may grant the minimum variance that it believes is necessary to alleviate the hardship, but may deny the variance if it is of the view that the proposed variance would substantially affect the use and enjoyment of the neighboring property, harm the natural environment, or defeat the purpose of the zoning bylaw. Variances cannot be granted to change permitted uses or densities.
2. Applications for conversion (e.g. from single family dwelling to duplex, etc.) and applications involving exterior alterations to a lawful, non-conforming use, may be referred to the Advisory Design Panel prior to consideration by the Board of Variance.
3. Please contact the City Planning Division for information on zoning and special restrictions such as heritage, land use contracts, development permit areas and restrictive covenants.
4. Please contact other City departments to obtain relevant information concerning driveway access, road widening, subdivision, service connections, boulevards and building permits.

**Please see Page 4 of this application for the “CLEAN HANDS POLICY” for planning approvals where *unauthorized construction or use* has commenced.**

**Why is there a board of variance?**

The *Local Government Act* requires any City that has a *Zoning Regulation Bylaw*, to have a Board of Variance. The Board of Variance is formed pursuant to the provisions of Section 899 of the *Local Government Act* and Board of Variance Bylaw 86-16. The Board deals with appeals for minor variances where compliance with the *Zoning Regulation Bylaw* would cause undue hardship. The Board may also allow additions and structural changes to “non-conforming” buildings.

The Board cannot deal with land use, density limits, parking variances or landscape variances.

**What is the board of variance?**

The Board of Variance is a quasi-judicial body independent from City Hall. The Board is made up of five members appointed by City Council. Elected City officials cannot sit on the Board of Variance. Decisions made by the Board of Variance are final.

**What is the process? - Application steps?**

1. The Board requests that the owner/applicant receive signatures from all notified neighbours indicating support for or opposition to the application. This is time well spent as it allows for constructive input and identification of concerns that your neighbours may have.
2. The application is made to the Planning & Development Department, located on the second floor at City Hall.
3. City staff reviews the application and confirm it is correct and variances are clear.
4. Notice is mailed to all owners and occupiers of neighbouring properties by the Board of Variance secretary two weeks prior to meeting date. Neighbouring properties include those directly across the street as well as those at rear and corners of the site of application.
5. Any letters of support or concern are received by the Planning & Development Department are read aloud at the start of the meeting.

**Meeting Steps:**

1. At the appointed time the Board of Variance secretary will take down the names of those attending the appeal. The secretary will introduce the attendees to the Board of Variance.

2. The Chair will then set out the process.
3. All correspondence with the application is read aloud by the secretary.
4. The Board then will ask for verbal presentation from the applicant.
5. The Board members may ask questions.
6. The Board will then ask the neighbours to provide any comments they may have.
7. The Board, applicant or neighbours may then ask questions.
8. Once the applicant and notified neighbours have had an opportunity to speak, the discussion will be closed.

**2010 Meeting Schedule**

Application Deadline	Hearing Date
DEADLINES	MEETINGS
December 21, 2009	January 14
January 4	January 28
January 18	February 11
February 1	February 25
February 15	March 11
March 1	March 25
March 15	April 8
April 6	April 22
April 19	May 13
May 3	May 27
May 17	June 10
May 31	June 24
June 14	July 8
June 28	July 22
July 19	August 12
August 3	August 26
August 16	September 9
August 30	September 23
September 20	October 14
October 4	October 28
November 1	November 25
November 15	December 9
December 20	January 14, 2011

## CLEAN HANDS POLICY FOR PLANNING APPROVALS

On May 13, 2004 and amended May 14, 2009, the Council of the City of Victoria adopted the following policy:

- A. This relates to all applications involving rezoning, variance, design or heritage approval in cases where enforcement action is pending.
- B. All such applications will be required to be made by a registered architect or engineer (or other professional as may be approved by the City).
- C. Where **illegal construction is in evidence, but not illegal occupancy**, then before the application may be processed through to civic evaluation and approvals bodies:
  1. The owner must obtain a building permit to restore the property to legal condition; and
  2. The owner's solicitor must provide a restrictive covenant registered on title that:
    - all illegal construction work has ceased pending approval decision
    - all illegal construction will be removed if approval is refused.
- D. Where **illegal occupancy is in evidence (without illegal construction)** before the application may be processed through to civic evaluation and approvals bodies, the owner's solicitor must provide a restrictive covenant registered on title that the illegal occupancy is vacated (the case will also be referred to Development & Regulatory Services for enforcement follow-up).
- E. Where **illegal occupancy is in evidence (with illegal construction)** before the application may be processed through to civic evaluation and approvals bodies:
  1. The owner must obtain a building permit to restore the property to legal condition; and
  2. The owner's solicitor must provide a restrictive covenant registered on title that:
    - the illegal occupancy is vacated (the case will also be referred to Development & Regulatory Services for enforcement follow up)
    - all illegal construction work has ceased pending approval decision (a section 700 notice may also be registered on the property title)
    - all illegal construction will be removed if approval is refused
    - the property must be made safe.