



# Board of Variance Information and Application Package

## **Notice of Changes due to COVID-19**

Board of Variance meetings will be held online until further notice. Applicants and adjacent property owners will receive information directly from the City (by email, phone or mail) for the date and time of the online meeting.

- The Board will seek input from all notified property owners and residents before rendering a decision.
- A notice of the application and upcoming meeting is mailed to all owners and tenants of adjacent properties 10 days prior to the hearing date.
- Information is also posted at [www.Victoria.ca](http://www.Victoria.ca)
- Those wishing to view plans please email [zoning@victoria.ca](mailto:zoning@victoria.ca)
- Members of the public may provide input on an application to the Board by email to [bov@victoria.ca](mailto:bov@victoria.ca) or mail to Development Services, 1 Centennial Square, Victoria BC V8W 1P6
- Emails and letters are forwarded to the Board of Variance in advance of the hearing.

Adjacent properties include properties that are directly across the street as well as those at the rear, sides and corners of the application's subject site.

## **Participation in an online Board of Variance meeting**

Neighbours and interested members of the public wishing to participate in the online meeting by either computer or phone need to email [bov@victoria.ca](mailto:bov@victoria.ca) or call 250.361.0212 and you will be provided a link to the meeting. All participants in the meeting will have their names and addresses recorded as part of the official record. The Board of Variance process remains otherwise unchanged.

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## **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 volunteer members appointed by City Council. Elected City officials and City employees are not permitted to sit on the Board of Variance.

The *Local Government Act* requires any local government that has adopted a *Zoning Regulation Bylaw* to have a Board of Variance. The Board of Variance is formed pursuant to the provisions of the [Local Government Act, Division 15 Section 536](#) and [Board of Variance Bylaw No. 07-097](#).

The Board deals with appeals for minor variances where compliance with the [Zoning Regulation Bylaw](#) would cause undue hardship unique to the property in question. The hardship must be one that would affect any owner of the property and cannot consider personal circumstances of the applicant.

If a hardship is established, the Board may grant the minimum variance that it believes is necessary to alleviate the hardship. However, the Board may deny the variance if it feels that the proposed variance would defeat the purpose of the Zoning Regulation Bylaw, harm the natural environment or substantially affect the use and enjoyment of a neighboring property. The Board may also grant relaxations for additions and structural changes to "legal, non-conforming" buildings.

The Board may not grant relaxations related to land use, density limits, on-site parking or landscaping. Decisions made by the Board of Variance are final and cannot be appealed.

Prior to submitting an application, the Board requests that applicants discuss their proposal with adjacent neighbours. This allows for constructive input and identification of concerns that your neighbours may have. The Board will seek input from all notified property owners and residents before rendering a decision.

### **Application process**

Applications should be emailed to [zoning@victoria.ca](mailto:zoning@victoria.ca).

- Staff reviews the application materials to ensure it is complete and will contact the applicant for payment of fee, which can be made to the City over the phone or via the City Hall mail slot located at the Pandora Avenue entry.
- Review of most applications will also be circulated to the Parks Department to confirm compliance with the [Tree Preservation Bylaw 21-035](#).
- Once the review is complete and required variances identified, notification is mailed to all owners and tenants of adjacent properties 10 days in advance of the next available meeting. Adjacent properties include properties that are directly across the street as well as those at the rear, sides and corners of the application's subject site.
- The Board meets on the second and fourth Thursday of each month.
- Typical time for processing applications from time of application is 6 to 8 weeks, some applications may take longer.

### **Hearing Process**

- At the appointed time, staff will invite all people into an online meeting using email or phone numbers provided earlier.
- The Chair will explain the process.
- All correspondence that has not been provided to the Board in advance of the hearing will be read aloud by the secretary at the start of the appeal hearing.
- The Chair will invite the applicant to present the proposal. The Board may ask questions of the applicant(s).
- The Chair will invite notified adjacent property owners/occupants to present comments and/or questions about the proposal. These are to be addressed directly through the Chair. The Chair facilitates all discussion between the applicant(s) and the attendees.
- Once the applicant(s) and adjacent property owners/tenants have had an opportunity to speak, the open public discussion will be closed. The Board will then deliberate the proposal. The applicant(s) and notified adjacent property owners/tenants (attendees) may remain in the meeting room and listen to the deliberations but cannot participate in any discussion at this stage.
- Once the Board has completed its deliberations, a motion will be made by a Board member and voted on by the Board members. A motion requires a majority vote to be passed. The Chair does not vote on a motion unless the members are evenly divided in the vote. If a motion is not passed, a new motion may be made and voted on.
- In extenuating circumstances, the Chair may choose to adjourn a hearing to a later date.
- Once a motion is passed, the decision is final and cannot be appealed. However, if the proposed construction is not substantially started within 2 years of the date the relaxation was granted by the Board, permission would be terminated, and a new approval would be required.

## **Board of Variance Application**

ADDRESS OF SUBJECT PROPERTY \_\_\_\_\_

APPROVED USE OF PROPERTY \_\_\_\_\_

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

APPLICANT \_\_\_\_\_ PHONE \_\_\_\_\_

APPLICANT ADDRESS \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

APPLICANT E-MAIL \_\_\_\_\_

PROPERTY OWNER \_\_\_\_\_ PHONE \_\_\_\_\_

OWNER ADDRESS \_\_\_\_\_ POSTAL CODE \_\_\_\_\_

Listed below are the relevant sections from the [Local Government Act](#). Please identify all sections applicable to your appeal.

### **Part 14 Division 15 Section 540**

- (a) a bylaw respecting
  - (i) the siting, size or dimensions of a building or other structure;
- (b) a subdivision servicing requirement under section 506 (1) (c) [*provision of water, sewer and other systems*] in an area zoned for agricultural or industrial use;
- (c) the prohibition of a structural alteration or addition under section 531 (1) [*restrictions on alteration or addition while non-conforming use continued*];
- (d) 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.

### **Part 14 Division 15 Section 544**

- (1) determination by a building inspector of the amount of damage under section 532 (1) [*end of non-conforming use protection if building of other structure is seriously damaged*] 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 532 (1) in its place.

### **Declaration**

- I hereby acknowledge that all the information provided is considered public information and available for public viewing and distribution
- I hereby declare that all the information contained in this application supporting documents are to the best of my belief true and correct in all respects.

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

Received By (City staff) \_\_\_\_\_ Date \_\_\_\_\_

## **Application requirements**

The following information must be submitted with your application. All drawings must be provided to a standard drafting scale. Incomplete applications **cannot** be accepted.

- One set of PDF drawings** (to scale).
  
- Letter addressed to the Board of Variance**, explaining briefly the rationale for the requested variance(s). *NOTE: Do not include any dimensional information and bylaw section references within the letter.*  
(This will be included with the notification forwarded by the City to the adjacent property owners/tenants.)
  
- If the applicant is not the property owner**, a letter addressed to the Chair and Members of the Board of Variance from the owner authorizing the applicant to act on the owner's behalf.
  
- Current Survey Certificate by BC Land Surveyor (sealed or signed)** - showing existing property lines, building size and setbacks, geodetic grades (as applicable) trees and driveway.
  
- Site Plan** – drawn to scale identifying the proposed work, property lines, building outlines, setbacks and parking (layout and surface material).
  
- Trees & shrubs** - show existing trees on the proposed site plan and any trees to be removed, show size, species and location of protected trees, protected root zones and measures to protect the trees as per the [Tree Preservation Bylaw No. 21-035](#).
  
- Floor plans** - of all floor levels identifying walls, doors, plumbing fixtures, windows, etc. Label uses for all the spaces (bedroom, bathroom, kitchen, etc.)
  
- Elevation plans** - (front, sides and rear views) showing how the exterior appearance of the building appears and proposed changes with respect to additions, doors, windows, decks/porches, etc.
  
- Cross section plan** – include existing, finished and average grade with building height measurement. Provide the dimension from the average grade to the underside of the ceiling joists for the lower floor. Provide the average grade calculation table and key plan as described in Schedule A – Definitions.
  
- Photographs** - of the site from the exterior where the proposed work will commence.
  
- Application fee of \$250.00 regardless of the number of requested variances.