

When is a Variance Needed?

When a particular application by virtue of a site regulation such as a setback, site coverage, height or other regulation will not comply with the Zoning Bylaw, a variance may be required. With the exception of “use” and “density”; zoning, subdivision and sign bylaw regulations may be varied by Council. Development Variance Permit applications are usually considered where the site characteristics or other unique circumstances do not permit strict compliance with an existing regulation. In some cases, where a zoning regulation may impose undue “hardship” on the owner/builder, a proponent may apply to the Board of Variance.

Board of Variance

A proponent can apply for a Board of Variance when:

- there is undue hardship caused by a Zoning Bylaw regulation as to the siting, size or dimension of a building, the prohibition against structural additions or alterations to a legal non-conforming use; and
- the development/ construction is minor in nature; or
- an individual feels there has been an error in judgment by the Building Inspector as to the extent of damage to a non-conforming structure.

What is the Board of Variance?

The Board of Variance is an independent appeal body appointed by Council under the authority of the British Columbia *Local Government Act*. It consists of three community members and primarily addresses matters related to the Village’s Zoning Bylaw.

The Board is responsible for considering minor variances concerning the siting, size, or dimensions of buildings or structures when strict compliance with the Zoning Bylaw would result in "undue hardship."

Key Points About the Board of Variance

- The Board **cannot** alter land use or density provisions of the Zoning Bylaw.
- It does **not** replace the Building Permit process.
- Property owners must still meet other technical requirements, such as **BC Building Code** regulations and standards, before a building permit can be approved and issued.

What is Undue Hardship?

- Hardship is related to aspects of the particular site as opposed to general hardships in the area, or hardships generated by the owner. Cost or expense is generally not considered a hardship. In most cases it is attributed to existing buildings or structures, rather than newly proposed but not yet built

Development Variance Permit

A proponent can apply for a Development Variance Permit if:



BOARD OF VARIANCE VS. DEVELOPMENT VARIANCE

- the development is not considered minor in nature; and/or
- the applicant is requesting relief from a Zoning Bylaw regulation as to the siting, size or dimension of a building, or to the prohibition against structural additions or alterations, or to the subdivision servicing requirements in a particular area.

The process of obtaining a Development Variance Permit differs from that of a Board of Variance approval.

Purpose

This policy establishes assessment criteria for evaluating requests for variances to the Zoning Bylaw. The purpose is to ensure clarity and consistency in the administration of development variance requests and to assist applicants in understanding the evaluation process.

Policy

1.0 Intent

Development proposals requiring variances (excluding use or density) to the Zoning Bylaw will be assessed using the criteria outlined in Section 3.0, alongside applicable policies in the Official Community Plan (OCP). Village staff will continue to work with applicants to achieve compliance with the Zoning Bylaw wherever possible.

2.0 Variance Options and Applicability

Variances to the Zoning Bylaw regulations, excluding use or density, may be applied for and considered through the following mechanisms:

- a) A Development Variance Permit (DVP); or
- b) An application to the Board of Variance.

Development Variance Permits (DVP): Required for variance requests not eligible for consideration by the Board of Variance.

Board of Variance Applications: May be pursued if the application does not involve matters listed under Section 542(2) of the *Local Government Act*. In cases involving these matters, applicants must apply for a DVP.

The assessment criteria in Section 3.0 apply only to applications under (a) and do not extend to Board of Variance applications.

3.0 Assessment Criteria

Variance requests will be evaluated using a two-part test:

1. **Justification of Variance**
2. **Appropriateness of Variance**

Applicants are encouraged to minimize any potential negative impacts associated with the variance. If reasonable efforts are not made, staff may recommend denial.

The criteria below serve as guidance, and staff will exercise reasonable judgment in identifying and evaluating the specific circumstances of each application.

Part 1 – Justification of Variance

3.1 Land Use Justification

- Applicants must demonstrate the necessity of the variance with an acceptable rationale, such as:
 - Inability to reasonably use or develop the property due to bylaw compliance;
 - A net benefit to the community or immediate area resulting from variance approval; or
 - Improved efficiency or effectiveness in using the property.
- Applicants must also show efforts to avoid or reduce the extent of the variance requested.

3.2 Unique Condition Justification

- Applicants must identify special conditions unique to the property (e.g., shape, size, location) that would create undue hardship if compliance were enforced.
- Applicants must prove that these conditions distinguish the property meaningfully from others in the area.

Part 2 – Appropriateness of Variance

3.3 Spirit of the Zoning Bylaw

- Does the variance violate the intent of the bylaw?
- Does it contradict the broader objectives of the Zoning Bylaw?

3.4 Public Interest

- What are the potential impacts on public or private rights?
- Could the variance compromise public health or safety?

3.5 Long-Term Development

- Does the variance align with long-term development goals for the area?
- Is the area undergoing redevelopment, and how does the proposal fit within that context?

3.6 Land Use Compatibility and Design

- Is the proposal compatible with adjacent land uses?
- Are there measures to mitigate adverse impacts?
- Does the development demonstrate innovation and sensitivity in design?

3.7 Neighbourhood Impact

- Would the variance adversely affect the neighbourhood (e.g., utilities, traffic)?
- What mitigations are proposed?
- Does the variance align with other Village plans or strategies?

3.8 Environmental Impact

- Does the variance align with the Village's environmental goals?
- What are its impacts on environmental sustainability and natural features?

3.9 Housing Contribution

- Does the variance contribute to housing affordability or unique housing options?

3.10 Community Consultation

- What feedback has been received from community engagement?
- How have public concerns been addressed?
- Could the variance adversely impact a specific neighbour?