

WHAT DOES A BOARD OF VARIANCE ORDER LOOK LIKE?

The decision of the Board (called an “Order”) is recorded in the minutes of the BOV meeting where the decision was made. The “Order” will include the details of any building plans and specifications to which the Order refers and the timeline approved by the Board.

The meeting minutes become the record of the Board’s decision and the document used by the applicant to show whether the request was granted or not. The decision is not registered on the certificate of title of the property.

CAN I APPEAL THE BOARD OF VARIANCE DECISION?

No. All decisions of the Board of Variance are final – the only exception is that an applicant or the Town may appeal a Board decision related to an application to set aside a determination of the Building Inspector under Section 911(8) of the *Local Government Act*. Such an appeal would be to the BC Supreme Court. If an application is denied, the applicant may be able to make an application to the Town Council for a Development Variance Permit.

FOR MORE INFORMATION

Development Services Department, 132C Roberts Street, Ladysmith BC
250-245-6415 | DS@ladysmith.ca

Visit www.ladysmith.ca/business-development to download a copy of the Zoning Bylaw.



IF A VARIANCE IS GRANTED, HOW LONG DO I HAVE TO BEGIN CONSTRUCTION?

The *Local Government Act* states that construction should be substantially started within 2 years from the order (Board decision), however it gives the Board of Variance authority to specify a lesser time frame if deemed appropriate. The Board of Variance shall consider the time frame for every individual application.

ARE THE BOV MEETINGS, MINUTES AND DECISIONS PUBLIC?

Yes. The BOV proceedings generally are a matter of public record and any interested person may attend. The results of hearings are available on the Town’s website by accessing the BOV minutes or at City Hall during regular business hours.

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BOARD OF VARIANCE APPLICANT GUIDE



WHAT IS A BOARD OF VARIANCE?

The Board of Variance is an independent appeal body which consists of three people appointed by Council in accordance with the British Columbia *Local Government Act*. As an independent body, the Board of Variance functions separately from Council.

WHAT KINDS OF ISSUES COME BEFORE THE BOARD?

The Board deals with appeals for minor variances or exemptions in situations where a person feels that compliance with any of the following would cause them undue hardship:

- the Town’s *Zoning Bylaw*, respecting the siting, dimensions or size of a building or structure (includes but is not limited to residences, garages, decks and sheds), or the siting of a manufactured home in a manufactured home park;
- the prohibition of a structural alteration or addition to buildings containing a non-conforming use as defined under Section 911(5) of the *Local Government Act*;

- a subdivision servicing requirement under Section 938(1)(c) of the *Local Government Act* in an area zoned for agricultural or industrial use.

In the case of severe damage (such as a fire) to a building or structure that was non-conforming prior to the event, the Board of Variance may reconsider a decision by the Town’s Building Inspector about the extent of the damage.

The Board of Variance is NOT an appeal board for Council decisions.

What Do "Minor Variance" and "Undue Hardship" Mean?

The *Local Government Act* does not define "minor" or "undue hardship". Minor variance is determined by the Board in its decision-making and relates to the specific circumstances of the request. Typically, undue hardship results from site and/or building aspects (e.g. irregular shaped lot, slope, natural features, historic siting), as opposed to personal circumstances. It is the applicant’s responsibility to clearly state in writing the basis for the appeal in their application submission and demonstrate the “hardship” that would result from full compliance. The Board also reviews hardship in its decision-making.





WHAT MUST I INCLUDE WITH MY APPLICATION?

The following information is required to begin the Board of Variance application process:

- One (1) completed copy of the Board of Variance Application form and checklist. Where the applicant is not the owner of the property, an Appointment of Agent form or written permission of the owner for the applicant to act on their behalf is required. (1 print copy with original signatures)
- Variance Rationale Letter - include the basis for an appeal and the "undue hardship" that would result from full compliance.
- Application Fee (\$750 as of February, 2015)
- Site plan based on a survey prepared by a BC Land Surveyor showing the proposed variance, existing buildings, setbacks (1 print copy, 1 digital in PDF)
- Building elevation plans prepared by a BC Land Surveyor, if the requested variance concerns a height-related issue (1 print copy, 1 digital in PDF)
- Current Certificate of Title from the Land Title Office, including copies of any rights-of-way, restrictive covenants, easements, etc. that are registered on the title. (1 print copy, 1 digital in PDF)
- Any other related information to support your application that you intend to present to the Board. (1 print copy, accompanied by a digital PDF copy wherever possible)

WHAT DO I NEED TO CONSIDER BEFORE APPLYING?

There are a few things to consider before submitting an application. The Development Services Department can help verify if the request could be considered by the Board of Variance. You can contact the department at 250-245-6415 or ds@ladysmith.ca.

HOW MUCH DOES IT COST TO APPLY TO THE BOARD OF VARIANCE?

As of February, 2015 the Board of Variance Application fee is \$750 plus costs associated with delivery of required notices. The application fee is payable to the Town of Ladysmith when the application is submitted. The application fee is non-refundable. Delivery costs are collected separately.

WHEN ARE APPLICATIONS DUE?

Applications are accepted on a continuous basis at City Hall either in-person (410 Esplanade) or by mail (PO Box 220, Ladysmith BC, V9G 1A2). When an application is received by the Town, the Board members will be notified and a hearing date set. Please be aware that the hearing process can take 5-6 weeks from the date of application, provided that complete and accurate information is submitted.

WILL MY NEIGHBOURS BE NOTIFIED OF MY APPLICATION?

Yes, as required by the Town's Board of Variance Bylaw, the Board of Variance must notify all owners and tenants of land that is within 60 metres of the subject property. Notification will include details of the request and the date of the Board of Variance meeting; recipients are invited to submit written comments or speak at the Board of Variance hearing. It is advisable to let your neighbours know about your proposal.

WHAT STEPS ARE INVOLVED IN THE PROCESS?

1. **Contact the Town** – begin the process by contacting the Development Services Department to determine if a Board of Variance application is an option for you. (Call 250-245-6415 or email ds@ladysmith.ca)
2. **Application** – submit your completed application, supporting documents, plans and fee.
3. **Review** – once submitted, Town staff review the application for completeness and prepare an agenda package for the Board.
4. **Public Notice** – property owners within 60 metres are notified of the application and are invited to submit written comments or speak at the Board of Variance hearing. The applicant will be invoiced the cost for notice delivery.
5. **Hearing** – Board hearings are public meetings at which time the applicant or their representative present their application to the Board. Property owners that received the Notice may offer their input on the application either prior to (in writing) or verbally during the hearing. The Board deliberations and decision-making are conducted in public.
6. **Decision** – The applicant is advised of the Board's decision. The Board may approve or deny the applicant's request. They may adjourn the hearing on the application to another date/ time if more information is required to make a decision.



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BOARD OF VARIANCE APPLICATION FORM



CONTACT INFORMATION

Name of Applicant (Contact Person): _____
(If the applicant is not the registered owner an Appointment of Agent form is required)

Company Name (If Applicable): _____

Company Search (If Applicable): _____

Phone: _____ **Cell:** _____

Email: _____ **Fax:** _____

Mailing Address: _____

Preferred method of correspondence: Email Post Fax

PROPERTY

Civic Address of Property: _____

Legal Description of Property: _____
(Must match title)

Proposed Variance Requested: _____

Purpose of Proposed Variance: _____

Is this variance required to legalize a building or structure that has already been constructed?

Was a valid Building Permit issued prior to construction? If yes, Building Permit # _____

Signature for Board of Variance Application

I/we hereby declare that all of the above statements and the information and materials submitted in support of this application are, to the best of my knowledge, true and correct in all aspects.

Date

Applicant Name (Signature)

Applicant Name (Print)



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BOARD OF VARIANCE APPLICATION CHECKLIST

REQUIRED ITEMS

- Application Fee of \$750* (No GST)
- Completed Board of Variance Application Form
- Completed Board of Variance Checklist (Dated and Signed)
- Variance Rationale Letter
- Certificate of Title and Registered Charges (e.g. Covenant, Easement)
- Site Plan

* Notice Delivery: The cost of notice delivery is invoiced to the applicant.

ADDITIONAL ITEMS

- Appointment of Agent Form or written permission from property owners (when Applicant is not the Registered Owner)
- BCLS Site Survey
- BCLS Height Survey (for Height Variances)
- Letter from Applicable Professional (e.g. Architect)

Please note: a discussion with staff is required to confirm additional application requirements.

Notes:

Certificate of Title

Copy of the Certificate of Title for the subject land(s) and a copy of all relevant charges. These documents must be obtained no longer than two weeks prior to application and can be accessed through a Notary Public or Lawyer.

Variance Rationale Letter

A letter outlining the rationale of the proposed variance and how the current regulations cause an “undue hardship” to the proposed development of the land.

BCLS Site Survey

A legal survey from a certified BC Land Surveyor may be required to confirm proposed dimensions and distances. The site survey needs to include all existing and proposed enhancements on the subject land(s) and must indicate distances from outer corners and external walls to adjacent property lines as well as to adjacent buildings or structures.

Signature for Board of Variance Application

I/we hereby declare that all of the above statements and the information and materials submitted in support of this application are, to the best of my knowledge, true and correct in all aspects.

Date

Applicant Name (Signature)

Applicant Name (Print)