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## What is the Board of Variance?

In accordance with the *Local Government Act* (“the Act”), every local government in British Columbia that adopts a zoning bylaw must also establish a Board of Variance (“the Board”). In the City of White Rock, the Board is comprised of three volunteers that are appointed by City Council for a three year term.

The Board is an avenue for appeal on the application of certain local government bylaws in specific circumstances defined in the Act. The Board of Variance is not an appeal board for local government policy decisions and it cannot replace the decisions of elected officials. A person may appeal to the Board for a variance only if the application of the regulations to their particular site would impose undue hardship upon them.

## What can the Board of Variance vary?

The jurisdiction of the Board is set forth in Section 540 of the Act. The Board may only order a minor variance or permit an exemption in relation to circumstances that include, but are not limited to the following:

- The siting, size, and physical dimensions of buildings and structures (such as lot coverage or setbacks) as regulated under the Zoning Bylaw; or
- Prohibitions on structural alterations or additions in relation to buildings containing lawful non-conforming uses

Additionally, the Board cannot order the issuance of a minor variance or a permissible exemption if the proposal would, in the Board’s opinion, result in the following:

- result in the inappropriate development of the site;
- adversely affect the natural environment;
- substantially affect the use and enjoyment of adjacent land;
- vary permitted uses and densities on the site; or
- defeat the intent of the bylaw

Only the Board of Variance may determine what constitutes a minor variance or a permissible exemption, and whether or not undue hardship has been demonstrated. For more information on what constitutes ‘hardship’ please see the FAQ.

## Alternative Variance Process: Development Variance Permits

Development variance permits are a mechanism that allows property owners to vary certain regulations contained within specific land use bylaws, such as zoning bylaws, sign bylaws, or subdivision servicing bylaws. While development variance permits are ultimately considered and approved by City Council, they are a more flexible instrument that is not bound by the ‘undue hardship’ threshold test.

To learn more, please see the City’s Guide to Development Variance Permits or contact staff for more information.

### Questions?

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# What is the Board of Variance application process?

The Board of Variance application is fully detailed in the [White Rock Planning Procedures Bylaw, 2017, No. 2234](#). For the purposes of reference, a general overview of the Board of Variance application process is provided below:

Step 1: Pre-Application Meeting	Step 2: Application Submission
<p>It is strongly recommended that you arrange a meeting with Planning staff at City Hall to discuss your proposal prior to application submission.</p> <p>Staff will be able to advise you on various aspects of your proposed development, including commentary on site characteristics and details on relevant City bylaws, policies, and other related plans.</p> <p>Staff will also provide assistance on advising you on what type of variance application to make.</p>	<p>The Board of Variance Application Form is available on the <a href="#">Planning Resources &amp; Documents section</a> of the website. Application fees are summarized in the <a href="#">City's Summary of Development Application Fees</a>.</p> <p>Prior to making application with the City of White Rock, please confirm with staff as to whether there will be any further additional requirements are required prior to formal submission. Staff will only accept a full and complete application at time of submission.</p>

Step 3: Internal Review and Circulation	Step 4: Public Notification
<p>Once your application has been received by the Planning Department, it will be assigned to a File Manager who will guide you through the application process.</p> <p>Once the File Manager has reviewed your application for completeness, the application will then be circulated for comment by other City departments and external agencies as required. Planning staff will also provide their own review of the proposal.</p> <p>During this time, staff may request plan revisions, clarification, or additional information for the proposal.</p>	<p>Notification letters are mailed out to the owners and occupants of all adjacent properties of the subject property ten days prior to the Board Meeting. The applicant will also be sent a notification letter for their reference.</p> <p>This notification letter will include a summary description of the proposal, details on how a member of the public can review the proposal along with all submitted materials, who to contact in order to provide feedback on the proposal, and the scheduled time, date, and location of the Board meeting.</p>

Step 5: Meeting Preparation
<p>Prior to the Board meeting, staff will prepare an agenda package (including a summary report on the proposal) for review and consideration by the Board.</p> <p>A copy of this agenda package will be provided to the applicant for their reference to assist them in their preparation for the upcoming Board meeting. Applicants will also be advised of the time, date, and location of their upcoming Board meeting.</p> <p>Any correspondence received from adjacent property owners and occupants will be included as part of the agenda package, or submitted to the Board on-table for their review.</p>

## Step 6: Board Consideration

At the scheduled meeting, the Board will formally introduce your application. Staff will also be in attendance at the Board meeting, to answer any questions that the Board may have. Copies of the public agenda package will also be provided for review at the meeting by the public.

Once their application is formally introduced by the Board, applicants will be given an opportunity to present and provide further comment on their proposal, and to answer any questions received from the Board.

Members of the public will also be given an opportunity to express their opinions through written comment received earlier during the application process, or in person at the Board meeting.

At the meeting, the Board will verbally state their decision at the meeting. Within seven days of the meeting, the applicant will receive a formal letter detailing the official Board decision.

If the Board orders the issuance of the minor variance or permissible exemption, the applicant may then choose to proceed with the next stage in the development process (such as making application for a tree management permit, a demolition permit, etc.).

## Frequently Asked Questions

### *Do I have 'undue hardship'?*

All applications before the Board are subject to the 'undue hardship' threshold test. The intent of this term ('undue') is to limit the concerns of the Board to types of hardship that result from aspects of the site, rather than those created or generated by the owner (e.g. increased cost or loss of an amenity). An example of 'undue hardship' resulting from the specific characteristics of a property is provided below:

Example: The subject property has bedrock protruding in the building envelope area. This physical characteristic makes achieving both compliance with the setback regulations of the zoning bylaw and building a home with a functional layout difficult and unreasonable.

This hardship created here is specific to the site, is difficult to comply with, and is created through no fault of the property owner.

The undue hardship may also be borne from circumstances that unfairly penalize only one or a few property owners. This circumstance should be considered exceptional to the general circumstance.

For example, if compliance with the siting regulations is onerous for all properties within that particular zone, then there is likely not any undue hardship in this circumstance.

An example of 'hardship' (*but not 'undue hardship'*) is provided below:

Example: An applicant wants to vary the angle of containment regulation of the RS-2 zone to install a permanent awning on their top deck. The angle of containment regulation requires that no portion of a building (except open-type guardrails) protrude above this south-facing terracing setback.

As this hardship is applicable to all properties within the RS-2 zone, and is an issue being generated by the property owner, then there may not be undue hardship.

If your proposal does not meet the qualifications of having 'undue hardship', or if the proposal relates to varying regulations that fall outside of the jurisdiction of the Board (such as off-street parking requirements), then you may wish to look into making application through the Development Variance Permit process.

*How often does the Board meet?*

The Board typically meets to consider variance applications approximately five times a year. Board of Variance application submissions must be received at least six weeks in advance of the scheduled meeting. Scheduled Board meeting times and submission application deadlines are outlined in the Board of Variance Meeting Schedule.

*May I present my case to the Board?*

Yes. The property owner, or their authorized agent, may choose to attend the scheduled Board meeting. They may also choose to present their case before the Board to further clarify the rationale for their appeal.

*How long does a Board of Variance application take?*

A Board of Variance application typically takes six to eight weeks to process, in accordance with the Board of Variance Meeting Schedule. This process may take longer if the Board choose to defer the application contingent to revisions, or if additional development application types are required (e.g. a Minor Development Permit).

*Can I make an appeal if the Board denies my application?*

No. All decisions by the Board are final.

*Does the decision for my Board of Variance application expire?*

Yes.

A decision from the Board of Variance will expire if construction is not substantially started within 2 years after the decision was made, or within a longer or shorter time period established by the Board's decision.