



BOARD OF VARIANCE

PLANNING AND DEVELOPMENT DIVISION
MARCH 2001

This brochure has been prepared by the Permit Licence and Inspection Services Department to assist landowners and their agents in understanding the Board of Variance function and appeal process.

The authority, structure and role of the Township of Langley Board of Variance is specified in the "Municipal Act" and "Langley Zoning Board of Variance Establishment Bylaw 931" as amended. The Municipal Act requires that a Board of Variance consist of 5 persons, 2 of which are appointed by Council, 2 by the Minister of Municipal Affairs, and 1 jointly by the 4 appointees.

Under specific circumstances the Board of Variance provides an avenue for appeals on the strict application of specific Municipal Bylaws, primarily the Zoning Bylaw.

There are several types of appeals which the Board of Variance can consider. The most common appeal is the relaxation of the siting requirements prescribed in Zoning Bylaw No. 2500. A variance of this type can only deal with buildings and structures in terms of their size, dimensions and location on a lot. Most applications of this type request relaxations to permit yard setback variances.

Less common are requests for the extension of a non-conforming use. The Municipal Act permits an extension of an established non-conforming use throughout a building. However, an owner needs approval from the Board of Variance to make internal structural alterations or to make an addition to a building providing that there would be no further contravention of the bylaw.

Other less common appeals include the relaxation of subdivision serving requirement where the land is zoned for agricultural or industrial uses subject to a number of qualifiers. In addition, the appeal of a decision of the building inspector may be made with respect to the repair and reconstruction of a non-conforming building that has been destroyed to the extent of 75% or more of its value above its foundation.

JURISDICTION

The Board of Variance is not intended to be an appeal mechanism for Council's land use decisions (i.e. density or use changes as prescribed in the Zoning Bylaw), nor can the Board's decisions replace those of Council.

The Municipal Act allows the Board of Variance to consider siting relaxations only if the appeal satisfies all of the following conditions:



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1. The existing Zoning bylaw must, in the opinion of the Board, impose 'undue hardship' on the applicant. The intent of this term is to limit appeals to those that result from site characteristics which would penalize the owner if he had to strictly comply with zoning requirements. In such a case the existing zoning requirements would need to be considered unfair or unduly onerous by the Board.
2. The requested variance must be 'minor'. It must not, in the Board's opinion, constitute a substantial variation to the Zoning Bylaw, nor
 - (a) result in inappropriate development of the site;
 - (b) substantially affect the use and enjoyment of adjacent land;
 - (c) vary permitted uses and densities under the applicable bylaw; or
 - (d) defeat the intent of the bylaw.

In addition to the above considerations, appeals with respect to internal structure alterations or additions to a non-conforming building must not involve any further 'permitted use' contraventions of the Zoning Bylaw, beyond the limits of the existing building.

Similarly, appeals for the relaxation of servicing requirements are considered only if the requirement is considered by the Board to be unfair or unduly onerous and the variance requested is minor. However, the land must be zoned for agricultural or industrial uses.

Individuals are advised to keep these considerations in mind when making an application or representation to the Board.

APPLICATION PROCEDURES

The Board of Variance generally meets the evening of the third Tuesday of each month. All applications to be considered must be submitted to the Secretary for the Board two weeks prior to the Board of Variance hearing. Outlined below are the steps involved in the Board of Variance appeal process:

1. Prior to submitting a written application, the applicant or his agent should discuss the characteristics of the proposed appeal with Municipal staff in both the Building and Planning and Development Departments.

These discussions will familiarize the applicant with the zoning, siting and setback requirements, layout options, etc. and ensure that all relevant information is included in the application.

2. Formal application is then made to the Board of Variance through the Secretary for the Board in the Permit, Licence and Inspection Services Department by the registered owner or an authorized agent. There is an application fee to appeal to the Board of Variance that must be paid at the time of application.

The agent must provide a letter of authorization signed by the registered owner stating that the agent is authorized to act on the owner's behalf.

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3. A complete application shall include:

- (a) The purpose of the required variance, supporting documentation and rationale, and an indication of the 'undue hardship' that necessitates the application.
- (b) A sketch plan of the subject lot to a minimum scale of 1:500 showing the location and dimensions of all existing and proposed buildings, structures and driveways. Any topographic features such as streams or slopes should also be shown on the map, as well as neighbouring buildings where appropriate.

In certain cases it may assist the application to provide the following:

- (c) Front, side, and rear elevations of the proposed structure drawn to a minimum scale of 1:50. These drawings should show the location and dimensions of all openings such as windows and doors as well as the type of finish to be applied.
 - (d) A floor plan drawn to a minimum scale of 1:50 showing the size, location and use of each room or floor area and the location of all doors and egresses.
4. Following acceptance of the application, the Secretary for the Board of Variance reviews the application and circulates it to other relevant departments and agencies for their input.
 5. The applicant, all property owners and tenants in occupation adjacent to or immediately across the road from the subject property are notified by letter as to the nature of the application, and time, date and location of the Board of Variance hearing. This process enables those who feel they are affected by the application an opportunity to express their concerns either in writing or orally to the Board of Variance at the scheduled hearing.
 6. For each application a report is prepared by the Secretary for Board of Variance and submitted to the Board for its information.
 7. At the Board of Variance hearing, the Secretary for the Board introduces the application and states the facts that pertain to the application. The applicant is then given the opportunity to describe the nature of his appeal and why it is requested. The Board may ask questions of the applicant and further clarification. After the Board is satisfied with the information given, adjacent residents are allowed the opportunity to present their concerns. The Secretary to the Board also informs the Board of any written submissions received.
 8. Following the hearing the Board, in an "in-camera" meeting closed to the public, evaluates the variance request and advises the Board's Secretary to inform the applicant in writing of its decision.
 9. A formal letter is then sent by the Secretary for the Board of Variance notifying the applicant of the Board's decision as well as any conditions to the decision. Adjacent property owners may contact the Secretary in the Permit, Licence and Inspection Services Department to ascertain the decision.
 10. Pursuant to the Municipal Act, the decision of the Board of Variance is final.
 11. If the requested variance is approved and construction is involved, a building permit application may then be made to the Permit, Licence and Inspection Services Department.

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APPLICATIONS OR ENQUIRIES SHOULD BE DIRECTED TO:

Secretary, Board of Variance
c/o Permit, Licence and Inspection Services Department
The Corporation of the Township of Langley
4914 - 221 Street
Langley, B.C. V3A 3Z8
Telephone: 533-6018

BOARD OF VARIANCE APPEAL PROCESS

