



Board of Variance Application Guide

# Board of Variance

This brochure provides an overview of the steps involved in the Board of Variance application process. This is a general guide only. It is not meant to replace bylaws or other legal documents. Applicants are advised to meet with the Planning Department to discuss their specific development proposal and to consult the relevant bylaws referenced in this document prior to submitting an application.

## WHAT IS A BOARD OF VARIANCE?

The Board of Variance is an appeal body consisting of three appointed members who hear and then decide upon variances to the Zoning Bylaw of the Town of Gibsons. The Board of Variance functions independently from Town Council and has its own authority under the Local Government Act. It is not an appeal board for local government policy decisions, and it cannot replace decisions of elected officials. The Board is confined to considering variances that will not impact adversely upon a policy decision or change the intent of the Bylaws adopted by Town Council.

Variances can be granted respecting bylaw requirements for the siting, dimensions, or size of buildings. In some special cases general regulations or ones prohibiting structural changes in a non-conforming building or requiring services upon subdivision may result in an undue hardship, if applied to a particular site. A person may appeal to the Board for a variance only if the application of these general regulations to his or her particular site would impose such a hardship.

**There are five categories of appeal to the Board of Variance:**

- relaxation of zoning regulations;
- extension of non-conforming uses;
- relaxation of servicing requirements;
- reconstruction of a nonconforming building; and,
- relaxation of tree protection requirements.

The Board of Variance meets as required, upon receipt of a formal application to the Board of Variance, through the Secretary to the Board of Variance. Agendas and Minutes are posted on the website, and the opportunity to comment on applications is by written invitation to affected neighbours.

## APPLICATION FEES

The fee for a Board of Variance application is \$1,200.

## STEPS TO BOARD OF VARIANCE APPLICATIONS

### □ **STEP 1 – PRE-APPLICATION MEETING**

Before proceeding with a Board of Variance application, owners are encouraged to meet with staff to review all options related to their proposal. Zoning maps, land use bylaws and other relevant bylaws should be consulted.

Owners are also encouraged to meet with the adjacent property owners to discuss the impact of any variances.

It is expected that:

- Variances will not result in significant negative impacts on neighbouring properties;
- There is a demonstrated need for the variance in order to permit reasonable use of the property;
- The overall intent of the original bylaw requirement or standard is not compromised;
- The variance does not appear to establish a precedent for other properties, but responds to a site-specific situation or difficulty; and that,
- The variance results in suitable development that is an asset and compatible in the context of surrounding uses.

Applications for variance must clearly state the reasons and justifications for requested variances. The Board will consider any request for relaxations in light of the justifications for the request, the individual site circumstances and the impact on the adjacent properties.

### □ **STEP 2 – SUBMISSION OF APPLICATION**

A completed application form, with necessary attachments, is to be submitted to the Planning Department and must include:

- A Certificate of Title dated within 30 days of application. The Town can obtain this for a fee;
- Owner's signature or written authorization from the registered owner(s) for an agent to act on their behalf;
- Proposal Summary outlining the nature of the proposed development, how the development fits within the neighbourhood, the design character of the housing, neighbourhood, or commercial use proposed and clearly indicating the proposed variance and the bylaw provision that is requested to be varied;
- Site Plan: Showing the dimensions of the proposed subdivision or development in metric scale including:
  - Dimensions of the property, existing and proposed roads;
  - Lot area excluding portions of the lot with greater than 50% slope;
  - Location and dimensions (including setbacks) of existing and proposed buildings on site (a recent survey plan is required);
  - The location of any watercourses, steep banks or slopes; and,
  - Any easements or statutory Rights-of-Ways.

### □ **STEP 3 – APPLICATION REVIEW AND REFERRAL TO AGENCIES**

The Secretary to the Board of Variance reviews the proposal and refers it to other municipal departments, or outside referral agencies for comment if the interests of other departments would be impacted by the proposal (allow six weeks for referral process).

### □ **STEP 4 – MEETINGS**

A summary report is prepared by the Secretary to the Board of Variance which outlines the proposal and provides staff and referral agency comments. The Board receives the summary and reviews the application with the applicant who generally attends the meeting. Meetings are held at the call of the chair on an as-needed basis.

### □ **STEP 5 – NOTIFICATION**

The Secretary shall deliver a Notice of Appeal to all owners and tenants in occupation of the land that is subject of the application and the registered owners of all property adjacent to the parcel which is the subject of the appeal.

Any written evidence entered before the hearing date, including staff reports, are available for public inspection during the normal business hours of the Town.

### □ **STEP 6 – HEARING**

Any person or body with interest in property within the Municipality is entitled to be heard at the hearing and evidence may be given orally or in writing. The Board of Variance Bylaw states that the Board shall act in good faith to both sides before arriving at a decision. All hearings are open to the public. The Bylaw also addresses requests for an adjournment; when an appeal may proceed without the appellant present; when and how an appeal may be withdrawn; and the right to be represented by Counsel.

### □ **STEP 7 – DECISION**

The decision of the Board shall be by a majority of those members present, and shall be made within seven days of the hearing. The Secretary shall, within seven days of a decision, send by registered mail or otherwise deliver the written decision of the Board of Variance to the appellant, all persons who made representation at the hearing and the Town Building Official. The Secretary shall, within seven days of the decision, enter that decision in the record maintained at the Town office.

## **APPLICATION TIMING**

The Board of Variance process requires approximately two to three months for completion.

Timing can depend on the completeness of the information submitted, the availability of Board members, and the workload of staff.

## WHAT'S NEXT?

Apply for a Building Permit. At the time of the Building Permit application, you may need to hire consultants, such as an independent civil engineering firm to design the on-site servicing when it is not in place and assist with the application requirements.

Most applications for commercial, industrial, or multi-family development require a security deposit for the value of the proposed landscaping works.

Where the value of construction is over \$50,000, at the time of the Building Permit application you will need to:

- Review the required engineering services for the property. It is the applicant's responsibility to provide all necessary off-site servicing upgrades (e.g. roads, water, sewer, drainage, street lighting, curb, gutter and sidewalk) to the Subdivision and Development Servicing and Stormwater Management Bylaw (No. 1175, 2012) standards. When off-site servicing is required, the applicant will be required to enter into a Servicing Agreement with the Town;
- Hire a consultant, such as an independent civil engineering firm, to design the off-site servicing and assist with the Servicing Agreement requirements;
- Install a fire sprinkler system at the time of Building Permit as per Building Bylaw (No. 1284, 2020); and,
- Pay Development Cost Charges (Bylaw No. 1329, 2025), if applicable.

## CONTACTS

**Town of Gibsons Planning Department:** 604-886-2274

**Town of Gibsons Infrastructure Services Department:** 604-886-2274

**Town of Gibsons Building Department:** 604-886-2274

**Gibsons and District Volunteer Fire Department:** 604-885-6870

**Ministry of Transportation and Infrastructure:** 604-740-8987

This brochure is meant for guidance only and is not intended to replace the requirements of the *Local Government Act* and applicants should obtain copies of the relevant bylaws before proceeding with development applications. For specific information, please contact the staff at:

Town of Gibsons  
474 South Fletcher Road, Box 340  
Gibsons, B.C. V0N 1V0