



**Regional District Okanagan-Similkameen**  
101 Martin Street, Penticton, BC V2A 5J9  
Telephone: (250) 492-0237, Toll free: 1-877-610-3737  
Fax: (250) 492-0063 E-mail: [info@rdos.bc.ca](mailto:info@rdos.bc.ca)  
Website: [www.rdos.bc.ca](http://www.rdos.bc.ca)

## BOARD OF VARIANCE GUIDE

### What is a Board of Variance Order?

Section 899 of the British Columbia *Local Government Act* stipulates that any local government that has adopted a zoning bylaw or rural land use bylaw must establish a Board of Variance.

A person may apply to a Board of Variance for an order to vary certain zoning or rural land use bylaw provisions where an applicant can adequately demonstrate, to the satisfaction of the Board, that compliance with certain bylaw provisions would cause the applicant undue hardship. A person may apply for relief of certain restrictions imposed under Section 911 of the *Local Government Act* with regards to legal non-conforming buildings.

A Board of Variance cannot, however, vary:

- bylaw requirements involving land use or density (for example the number of buildings per hectare);
- floodplain specifications;
- a registered covenant;
- any requirements under Part 27 *Local Government Act*, (Heritage Conservation);
- bylaw requirements concerning designated heritage conservation areas; or
- any requirements of a heritage revitalization agreement under Section 966 of the *Local Government Act*.

### When May You Apply to the Board of Variance?

You may apply to the Board of Variance for an order to vary a bylaw provision(s) if you believe that compliance would cause you undue hardship in the following situations:

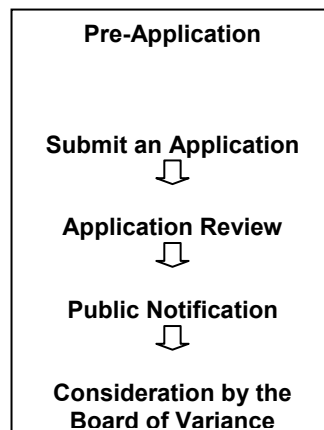
- the siting, dimensions or size of a building or structure;
- a structural alteration or addition to a building or structure having a non-conforming use; or,
- a subdivision servicing requirement for water, sewage or drainage in an area zoned for agricultural or industrial use.

### What is the cost of a Board of Variance Application?

The application fee to the Board of Variance is \$800.00

### The Board of Variance Application Process

The major stages in the Board of Variance Application Process are:



### **Step 1 – Pre-Application**

Prior to submitting your application for a development variance you may wish to contact RDOS planning staff to review bylaws, policies and regulations, and concerning your required variance. In making your application you will need to consider your local Zoning Bylaw or Rural Land Use Bylaw and maps, Official Community Plan, and any other applicable bylaws. Properties in the Regional District are subject to specific zoning regulations. Zoning regulations restrict such things as site coverage, building setbacks, and set minimum parking space requirements. Certain bylaw provisions concerning density and use of the property cannot be varied by a Board of Variance.

### **Step 2 – Submit an Application**

Once you have reviewed all applicable regulations and determined your bylaw variance requirements, you must complete a Board of Variance application form and submit it to the Regional District office with the applicable fee. RDOS staff will be available to assist you. You will be expected to provide the following:

- A recent Title Certificate indicating the owner(s) name(s). If the applicant is an agent of the owner, then the owner(s) must sign the authorization on the application form. The Title Certificate will also indicate if there are any covenants or easements which may affect the proposed development. Attach copies of any covenants or easements to the application;
- A brief description of the required variance and reasons why the variance may be justified. Physical features, built features, building designs and financial constraints may restrict your ability to fully comply with certain bylaw requirements;
- A full size set of plans. Your drawings should clearly indicate the required variance and the bylaw provision that is required to be varied. The site plan should be titled and to a scale that can be easily reviewed, and include information regarding setbacks of all existing and proposed buildings. For a proposed variance to relax a height requirement, an elevation plan should be submitted.

### **Step 3 – Application Review**

Your application is received by the Board of Variance secretary, a planning staff member, and assessed to ensure that your proposed variance can be realized through a Board of Variance appeal. Where it is uncertain, the Board shall determine whether a matter for its consideration falls within its jurisdiction.

### **Step 4 – Public Notification**

The Board of Variance secretary will set a time, date and location for a hearing of your application. You should attend the hearing to present your proposal.

Staff will prepare a notice for the Board of Variance that contains the subject matter of the application and the time and place where the application will be heard by the Board. This notice shall be provided to all owners and tenants in occupation of the subject land and adjacent lands.

### **Step 5 – Consideration by the Board of Variance**

The Board of Variance may order that a variance be permitted from the requirements of a bylaw, or that an applicant be exempted from the restrictions placed on alterations or additions to buildings and structures which are non-conforming following the hearing, if:

- undue hardship would be caused to the applicant through compliance;
- it would not result in inappropriate development of the site;
- if it does not adversely affect the environment;
- if it does not substantially affect the use and enjoyment of adjacent land;
- if it does not vary permitted uses and densities of the applicable bylaw; and,
- if it does not defeat the intent of the bylaw.

A decision of the Board of Variance is final.

### **For Further Information. . .**

This information is intended to provide guidance only and should not be interpreted as a right to a variance to a bylaw if the steps indicated are followed. Please consult the *Local Government Act* and its regulations, as well as the Regional District Okanagan-Similkameen applicable bylaws for the definitive requirements and procedures. For any further information, please contact your RDOS office. Telephone numbers and addresses are on the front of this guide.