

BOV RESPONSIBILITIES:

Board of variance

A local government that has adopted a zoning bylaw must establish one or more boards of variance to allow people to request relief from provisions of that bylaw.

As an alternative to applying for a development variance permit from a local government, a person may apply to the board of variance if they feel compliance with the bylaw would cause them hardship. For example, if an outcrop in a person's yard prevented them from siting the house in conformity with the normal setbacks, a person could apply for a variance.

Board membership

Each member of a board of variance is appointed to a three-year term by the municipal council or regional board. Members of an advisory planning commission or officers or employees of the local government are prohibited from being appointed to a board of variance. An appointment may be rescinded at any time.

In a municipality, a board of variance consists of three or five people, depending upon the population of the municipality.

A regional district board may establish one or more boards of variance, each consisting of three people. If it establishes more than one board, the board jurisdictions must not overlap.

Board of variance proceedings

Board of variance meetings must be open to the public.

The board may grant a variance if they find that compliance with the bylaw would cause undue hardship and have considered the following factors and are of the opinion that the variance does not:

- Result in inappropriate development of the site
- Adversely affect the natural environment
- Substantially affect the use and enjoyment of adjacent land
- Vary permitted uses and densities

- Defeat the intent of the bylaw

Board of variance focus

The board of variance focuses primarily on hardship relating to matters such as siting, dimensions and size of buildings. A board of variance order cannot conflict with *Land Title Act* covenants or deal with matters in land use permits, land use contracts, floodplain bylaw specifications or phased development agreements.

A board of variance may also consider applications to vary the terms of an early termination of land use contract bylaw and order the continuation of the land use contract to no later than June 30, 2024.

Board of variance appeals

A decision of the board of variance is final. However, there may be an appeal to the Supreme Court in the specific case where a person alleges that there has been an error by the building inspector in the determination of the amount of damage to a non-conforming building above its foundation. Non-conforming buildings that have been damaged or destroyed by 75% or more of their value may only be reconstructed to conform with zoning.

As a board of variance operates as a tribunal, its decisions may be assessed by the courts under the *Judicial Review Procedure Act* if it is alleged that proper procedure was not followed.

- [*Judicial Review Procedure Act*](#)

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