

# Guide to appealing to the BOARD OF VARIANCE

**“The Board of Variance is an independent body that considers variances to the Surrey Zoning By-law. The Board has the authority to grant variances in situations where compliance with the Zoning By-law would cause a person undue hardship.”**

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## **Introduction**

The Surrey Board of Variance is a volunteer Board and is an independent quasi-judicial body empowered to objectively determine hardships resulting from the Surrey Zoning Bylaws and to grant or deny variances. Variances are granted in situations where compliance with the zoning Bylaw would cause an applicant undue hardship and denied where no undue hardship can be found.

## **Terms of Reference**

### ***Local Government Act***

[Part 14, Division 15 of the Local Government Act](#) provides the establishment, procedures, and authority of a Board of Variance (“Board”).

“Division 15 – Board of Variance

- 536. Requirement for board of variance
- 539. Chair and procedures for board of variance
- 540. Application for variance or exemption to relieve hardship
- 541. Notice of application for variance
- 542. Board powers on application

Please see Chapter 14 of the [Local Government Act, RSBC 2015 c.1](#) for exact wording of the legislation.

### **Establishment**

Section 536 states that a local government that has adopted a zoning by-law must, by by-law, establish a Board of Variance. ["Surrey Board of Variance Establishment By-law, 2010, No. 17282"](#) provides for the establishment of a Surrey Board of Variance and lays out the procedures to be followed. Board members cannot be members of an advisory planning commission, elected officials, or employees of the local government that appoints them. Board members are volunteer members; they do not receive remuneration for their work.

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## **Procedures**

Section 539 provides for the election of a chair, and vice-chair, and states that a procedures by-law must set out the procedures to be followed by the Board. City of [Surrey's BOV By-law](#) sets out the Board's procedures. The Board must maintain a record of all its decisions available for public inspection.

## **Authority**

Section 540 provides the circumstances under which a person may apply to the Board, Board jurisdictions when considering variance appeals, notification process, and extended details of the Board's decisions.

In general the jurisdiction of the Board of Variance can be described as follows:

- (a) Variance of zoning regulation relating to the size, dimensions on siting of buildings or structures;
- (b) Structural addition of non-conforming buildings and structures;
- (c) Relaxation of certain limited subdivision servicing requirements;
- (d) Determination of the percentage of destruction of a non-conforming building or structure (a matter relevant to whether it can be rebuilt); and
- (e) Variance of certain tree protection requirements.

The Board may order that a minor variance be permitted, if the Board has heard the applicant and any other persons notified and finds undue hardship, and further the Board is of the opinion that the variance does not:

- Result in inappropriate development of the site or adversely affect the natural environment;
- Substantially affect the use and enjoyment of adjacent land;
- Vary permitted uses and densities under the applicable by-law; or
- Defeat the intent of the by-law.

The Board must not make order that would:

- Be in conflict with a registered covenant or Section 24A of the Land Registry Act;
- Deal with a matter that is covered in a permit or land use contract;
- Deal with a flood plan specification;

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- Apply to a property for which authorization for Heritage Conservation alterations are required;
  - Apply to a property for which Heritage Conservation is scheduled or contains a feature or characteristic of Heritage Conservation; and
  - Apply to a property for which a Heritage revitalization agreement is in effect.

Legislation requires that the Board must notify the owners and tenants of the subject land and all land that is adjacent to subject land prior to hearing the appeal. The notice must state what is being appealed and the time and place where the application will be heard.

If the Board grants an appeal they may also sets a time within which the construction must be completed, or if the construction is not substantially started within two years the permission or exemption terminates. Decisions of the Board are final.

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## **Process and Fees**

The by-law states that any person appealing before the Board will provide a fully completed notice of appeal to the Board Secretary no less than twenty days prior to the next scheduled hearing. The Bylaw also sets out the conditions of rebate of portions of the application fee.

Schedule E of the [Surrey Fee Setting Bylaw](#) sets the application fees.

## **Annual Meeting Schedule**

The [annual meeting schedule is posted on the City of Surrey Website](#).

*Note: BOV hearing dates are subject to change.*

## **Notification Process**

The by-law provided that five days notice of the hearing will be given to the appellant, and the owners and occupiers of properties in proximity to the subject property.

## **Conduct of a Hearing**

The by-law states that, the Board shall act in good faith and listen fairly to both sides before arriving at a decision. The parties shall be given a chance to correct any statement made at the hearing and contradict it if prejudicial to their view. All hearings are open to the public. The by-law 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.

## **Application Process**

### **Pre-application**

Prior to submitting your application for a variance, you must complete a Board of Variance Inquiry Form and submit it to the Planning Division staff to review by-laws, policies and regulations, and your anticipated variance. In making your application you will need to consider your local Zoning by-law and maps, Official Community Plan, any other applicable by-laws and special restriction such as heritage, land use contracts; development permits areas and restrictive covenants. Zoning regulations restrict such

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things as site coverage, building setback, and sets minimum parking space requirements. The Board cannot vary certain by-law provisions concerning density and use of the property. You may also wish to contact other City departments to obtain relevant information concerning driveway access; road widening; subdivision; service connections; boulevards; and, building permits. The Planning Division will determine if your application should be referred to the Board of Variance, or if a Development Variance Permit process should be undertaken.

### **Submitting an application**

Once your inquiry has been reviewed and you have been advised to proceed with a Board of Variance application, you must complete the 'Notice of Appeal' form; Staff will be available to assist you to ensure that the appropriate supporting documentation is being submitted (See checklist on page 11 of this guide). The items necessary for securing a place on the upcoming Board agenda are as follows:

1. The 'Notice of Appeal' form (see page 7 of this guide); when signing the form you are affirming that you have read the application requirements and the terms of reference for the Board, as set out in this guide.
2. A letter addressed to the Board members, explaining in brief a description of the variance, any reason why the variance is required, and reasons why the variance may be justified, in particular why there is undue hardship.
3. Site plans showing property lines, all building locations and setbacks. The 8.5 x 11 (or 11 x 17) sized copy of the site plan should clearly show the area of the proposed work, by shading or crosshatching (see example of site plan on page 9). Your drawing should also clearly indicate the by-law provision and the requested variance. The site plan should include information regarding setbacks of all existing and proposed buildings. Elevation plan should be submitted as well.
4. Floor plans labeled to show spaces uses and door and window locations. One set of reduced drawings on 8.5 x 11 paper.

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5. Elevation plans (side, front view, etc.) showing how the exterior appearance of the building will be changed with respect to windows, porches, entranceways and cladding materials. Building section illustrating average grade.
  6. A Certificate of Title (not older than three months) indicating the current owner(s) name(s).
  7. The Certificate of Title will also indicate if there are any covenants, easements, right-of-ways, building schemes, and design guidelines, which may affect the proposed development. Copies of any these documents are to be submitted with the application.
  8. If the applicant is an agent of the owner, then the owner(s) must sign a letter of authorization (see page 9 of this guide).



**BOARD OF VARIANCE  
NOTICE OF APPEAL**

Time: \_\_\_\_\_  
Appeal No \_\_\_\_\_

**1) TO BE FILLED IN BY APPLICANT**

PROJECT ADDRESS: \_\_\_\_\_

LEGAL DESCRIPTION: \_\_\_\_\_

REGISTERED OWNER/TENANT: \_\_\_\_\_ RES. PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ POSTAL CODE: \_\_\_\_\_ BUS. PHONE: \_\_\_\_\_

AGENT: \_\_\_\_\_ RES. PHONE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ POSTAL CODE: \_\_\_\_\_ BUS. PHONE: \_\_\_\_\_

HAS BUILDING PERMIT BEEN APPLIED FOR? Yes \_\_\_\_\_ No \_\_\_\_\_

HAS BUILDING PERMIT BEEN ISSUED: Yes \_\_\_\_\_ No \_\_\_\_\_ Email: \_\_\_\_\_

**2) TO BE FILLED IN BY APPLICANT - VARIANCE SOUGHT - Referred by:** \_\_\_\_\_

EXISTING NON-CONFORMING YES \_\_\_\_\_ NO \_\_\_\_\_ PREVIOUS APPEAL? YES \_\_\_\_\_ NO \_\_\_\_\_

REQUESTING RELAXATION(S) OF:

(a) FRONT YARD SETBACK REQUIREMENT from \_\_\_\_\_ to \_\_\_\_\_

(b) REAR YARD SETBACK REQUIREMENT from \_\_\_\_\_ to \_\_\_\_\_

(c) \_\_\_\_\_ SIDE YARD SETBACK REQUIREMENT from \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_ SIDE YARD SETBACK REQUIREMENT from \_\_\_\_\_ to \_\_\_\_\_

(d) FLANKING YARD SETBACK REQUIREMENT from \_\_\_\_\_ to \_\_\_\_\_

(e) GARAGE PROJECTION REQUIREMENT from 50% to \_\_\_\_\_ %

(f) LOT COVERAGE REQUIREMENT from \_\_\_\_\_ to \_\_\_\_\_

(g) HEIGHT REQUIREMENT from \_\_\_\_\_ to \_\_\_\_\_

(h) OTHER: \_\_\_\_\_

TO ALLOW (Circle One) CONSTRUCTION/RETENTION OF: \_\_\_\_\_

*I HAVE READ THE APPLICATION REQUIREMENTS AND THE TERMS OF REFERENCE FOR THE BOARD OF VARIANCE. I CERTIFY THAT THE INFORMATION SUPPLIED WITH THIS APPLICATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.*

SIGNATURE OF ALL REGISTERED OWNERS IS REQUIRED:

DATE: \_\_\_\_\_ SIGNATURE OF OWNER: \_\_\_\_\_

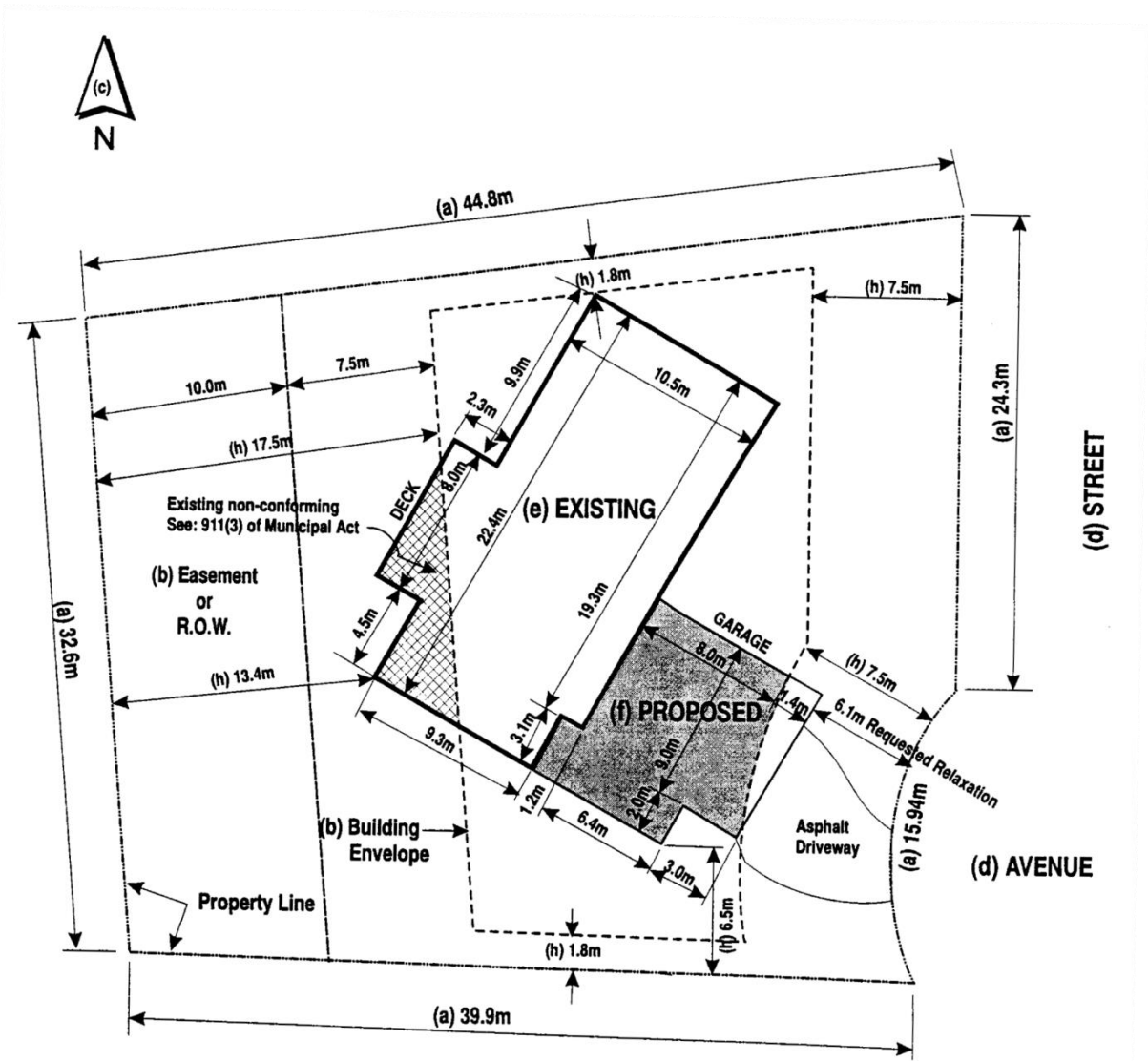
DATE: \_\_\_\_\_ SIGNATURE OF OWNER: \_\_\_\_\_

DATE: \_\_\_\_\_ SIGNATURE OF AUTHORIZED AGENT: \_\_\_\_\_

THE PERSONAL INFORMATION ON THIS FORM IS COLLECTED UNDER THE AUTHORITY OF BOARD OF VARIANCE BYLAW, THE LOCAL GOVERNMENT ACT, AND THE COMMUNITY CHARTER AND WILL BE USED ONLY FOR THE PURPOSE FOR WHICH IT WAS COLLECTED OR FOR A USE CONSISTENT WITH THAT PURPOSE. IF YOU HAVE ANY QUESTIONS ABOUT THE COLLECTION AND USE OF THIS INFORMATION, PLEASE CONTACT THE BOARD SECRETARY AT 604-591-4561.

<b>3) TO BE FILLED IN BY LEGISLATIVE SERVICES DIVISION</b>		<b>4) TO BE FILLED IN BY BUILDING DIVISION</b>
APPLICATION FEE: _____	ZONE: _____ TITLE _____	REC'D FROM LEGISLATIVE SERVICES: _____
RECEIPT NO. _____	COVENANTS: _____	REVIEWED? YES ___ NO ___ BY: _____
DATE: _____	DVP/D.P. NO.: _____	REMARKS AND NOTATIONS: _____
REC'D BY: _____	L.U.C. NO.: _____	_____
AT: _____	HERITAGE STATUS: _____	_____
MAP NO: _____	AGR. LAND RESERVE: _____	_____

**3. EXAMPLE OF A SITE PLAN:**



- |                               |              |                              |         |
|-------------------------------|--------------|------------------------------|---------|
| 3.(a)(iii) Area of lot        | _____ sq. m. | 3.(g) Lot coverage allowed   | _____ % |
| <b>Existing:</b>              |              | 3.(g) Lot coverage required: |         |
| 3.(e)(iii) Area of each floor | _____ sq. m. | 3.(g)(i) Existing coverage   | _____ % |
| 3.(e)(iv) Number of floors    | _____        | 3.(g)(ii) Proposed coverage  | _____ % |
| <b>Proposed:</b>              |              | 3.(g)(iii) Total coverage    | _____ % |
| 3.(f)(iii) Area of each floor | _____ sq. m. |                              |         |
| 3.(f)(iv) Number of floors    | _____        |                              |         |

**Note: This site plan does not include an accessory building.**

**Board of Variance**  
**Letter of Authorization**

Site Civic Address: \_\_\_\_\_

Legal Description: \_\_\_\_\_

This document shall serve to notify the Board of Variance that I am/we are the legal owner(s) of the property described above and do authorize the person(s) indicated below ("Authorized Agent") to act on my/our behalf on all matters pertaining to the Board of Variance Appeal for the above referenced property.

Name of Property Owner(s): \_\_\_\_\_

\_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Telephone & Fax: \_\_\_\_\_

Name of Authorized Agent: \_\_\_\_\_

Company Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone & Fax: \_\_\_\_\_

Signature of Property Owner(s):	Date:
Signature of Authorized Agent:	

***Note: All registered owners of the property shall sign this letter of authorization. Use additional sheets if necessary.***

## **Application review**

Your application once received, is reviewed and assessed to ensure that your proposed variance can be realized through a Board review. Where it is uncertain, the Board shall determine whether a matter for its consideration falls within its jurisdiction.

## **Public notification**

The Local Government Act requires that before hearing an application the Board must notify the owners and occupiers of the land subject to appeal and of all real property adjacent to the property subject to appeal. The notice must say what is being appealed, and the time and place the appeal will be heard. The Board secretary will set a time and date for a hearing of your application. Prior to that hearing the Board members may carry out a site inspection of your property.

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

## **Conduct of a Hearing**

Any persons or body with interest in property within the municipality is entitled to be heard at the hearing, and is entitled to be represented by a solicitor or by an agent. Evidence at a hearing may be given orally or in writing. The Board shall not hear oral evidence, except at a regularly constituted hearing of the subject matter of that evidence. The Applicant shall be afforded the first opportunity to present his evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequence as the Chair may direct until all interested parties to the application have been afforded an opportunity to present their evidence and arguments. The Board may view the property affected by the application and surrounding properties. The Board may adjourn the Hearing from time to time, and may reconvene without further published notice if the time, date, and place of reconvening is announced at adjournment. If the application or other persons notified do not appear at the hearing or any adjournment thereof, and have not advised the Secretary in advance they wish to be heard at another date, the Board may proceed to decide the appeal in his or her absence.

<input checked="" type="checkbox"/>	<b>Checklist for submitting an application to the Board of Variance</b>
<b>Pre-application</b>	
	Reviewed with Planning staff - by-laws, policies, regulations, and any special restrictions, such as Heritage status, Land Use Contracts, Development Permits or Restrictive Covenants
	Reviewed driveway access, road widening, service connection, and boulevards, with Engineering staff
	Have a clear understanding of the required variance being appealed to the Board.
<b>Application</b>	
1.	Completed Notice of Appeal Form <i>(See page 7)</i>
2.	Letter addressed to the Board
3.	Site Plan, showing requested variance. <i>(See page 8) All items within this gray section should be included on site plan)</i>
	Lot measurements, width, length and area of lot
	Building envelope <i>(Based on the zoning by-law required setbacks)</i>
	North indicator arrow
	Identify adjacent roads, lanes, streets, etc.
	Identify all tree locations, size and species
<b>For All Existing Buildings</b>	
	Detailed dimensions of exterior width and length
	Area of each floor and Number of Floors
<b>For All Proposed Buildings</b>	
	Detailed dimensions of exterior width and length
	Area of each floor and Number of Floors
	Exterior stairs
	Height <i>(showing requested variance, if height variance requested)</i>
	Area of accessory buildings
	Include distance from any buildings, decks, garages, carports and sheds to all lot lines.
<b>Lot Coverages <i>(In percentages, see page 8, underneath the site plan example)</i></b>	
	Lot coverage allowed
	Lot coverage required for existing structure
	Lot coverage required for proposed structure
	Total lot coverage
4.	Floor plan <i>(for <u>existing</u> and <u>proposed</u>)</i> showing space uses and door and window locations. <i>(Reduced to 8.5 x 11 paper)</i>
5.	Elevations plans <i>(Reduced to 8.5 x 11 paper)</i>
6.	Certificate of Title <i>(Not older than three months)</i> <i>(May be obtained at the Land Registry Office at 88 – 6<sup>th</sup> Street, New Westminster, BC Phone: (604) 660-2595)</i>
7.	Any documents registered on title, covenants, easements, right-of-ways, building schemes, or design guidelines <i>(May be obtained at the Land Registry Office at 88 – 6<sup>th</sup> Street, New Westminster, BC Phone: (604) 660-2595)</i>
8.	Letter of Authorization <i>(If required, see page 9)</i>
9.	For strata-owned properties, a copy of the Strata Council's approval for the proposed structure
10.	Application Fee (as set out in <a href="#">Schedule E of the Surrey Fee Setting Bylaw</a> )

**Conversion Factors:**

<i>centimeters</i>	<i>to</i>	<i>Meters</i>	Multiply by	0.01
<i>feet</i>	<i>to</i>	<i>Meters</i>	Multiply by	0.3048
<i>inches</i>	<i>to</i>	<i>Meters</i>	Multiply by	0.0254
<i>inches</i>	<i>to</i>	<i>Feet</i>	Multiply by	0.08333
<i>meters</i>	<i>to</i>	<i>Inches</i>	Multiply by	39.37
<i>meters</i>	<i>to</i>	<i>Feet</i>	Multiply by	3.281
<i>millimeters</i>	<i>to</i>	<i>Meters</i>	Multiply by	0.001
<i>square feet</i>	<i>to</i>	<i>square meters</i>	Multiply by	0.0929
<i>square yards</i>	<i>to</i>	<i>square meters</i>	Multiply by	0.8361
<i>yards</i>	<i>to</i>	<i>Meters</i>	Multiply by	0.9144

**Conversion  
Feet to Meters**

Feet	Meters
1	0.3048
2	0.6096
3	0.9144
4	1.2192
5	1.5240
6	1.8288
7	2.1336
8	2.4384
9	2.7432
10	3.0480
11	3.3528
12	3.6576
13	3.9624
14	4.2672
15	4.5720
16	4.8768
17	5.1816
18	5.4864
19	5.7912
20	6.0960
21	6.4008
22	6.7056
23	7.0104
24	7.3152
25	7.6200

**Conversion  
Inches to Meters**

Inches	Meters
1	0.0254
2	0.0508
3	0.0761
4	0.1016
5	0.127
6	0.1523
7	0.1777
8	0.2032
9	0.2286
10	0.254
11	0.2794
12	0.3047
13	0.3302
14	0.3555
15	0.381
16	0.4064
17	0.4317
18	0.4572
19	0.4826
20	0.508
21	0.5334
22	0.5588
23	0.5841
24	0.6095
25	0.635

**Conversion  
Meters to Feet**

Meters	Feet
1	3.28983
2	6.56166
3	9.84249
4	13.12332
5	16.40415
6	19.68498
7	22.96181
8	26.24164
9	29.52147
10	32.80130
11	36.08113
12	39.36196
13	42.64179
14	45.92162
15	49.20145
16	52.48228
17	55.76311
18	59.04394
19	62.32477
20	65.60560
21	68.88643
22	72.16726
23	75.44809
24	78.72892
25	82.00975

## WEBSITE INFORMATION

City of Surrey website address: <http://www.surrey.ca>

Please follow the links below to locate relevant information.

[Residential Building Permits information](#)

[Board of Variance information and Minutes](#)

[Property Image and Zoning Maps](#)

[Zoning By-law 12000](#)

**Metric Conversion site**

To convert feet to meters a conversion calculator is available at:

<http://www.metric-conversions.org/length/feet-to-meters.htm>

For further clarification of information within this document please contact the Secretary to the Board at (604) 591-4561 or via email at: [clerks@surrey.ca](mailto:clerks@surrey.ca)

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