

# Board of Variance

## Terms of Reference

[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.

### **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;
- 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 set 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.