

What is a Board of Variance?

The Board is a quasi-judicial body separate from the local government with its own authority under the *Local Government Act*.

The Board of Variance for the Town of Smithers is an appointed body of three persons that has the authority to grant a **minor variance** to **certain provisions** of Town bylaws.

When can I apply to the Board of Variance?

The Board will hear appeals when a person feels that compliance with a Town bylaw respecting any of the following would cause **undue hardship**:

- The siting, dimensions or size of a building or structure;
- The prohibition of a structural alteration or addition to a non-conforming structure;
- Tree Protection Bylaw (i.e. prohibited removal of trees on private property);
- Subdivision Servicing Bylaw requirements related to water distribution, fire hydrant, sewage collection, sewage disposal, drainage collection or drainage disposal systems in an area zoned for agricultural or industrial use;
- Early termination of land use contract bylaw, provided that the BOV application is received within 6 months after the adoption of the bylaw.
- A determination by the Building Inspector of the amount of damage under Section 532 of the *Local Government Act*.

What are some limits to the Board's jurisdiction?

A BOV decision cannot:

- vary floodplain specifications
- conflict with restrictive covenants
- deal with matters covered by a land use permit, land use contract or phased development agreement
- vary the density or use of land specified in a bylaw
- apply to a property
 - for which an authorization for alterations is required under Heritage Conservation,
 - for which a heritage revitalization agreement is in effect, or
 - that is a protected heritage property or contains a feature or characteristic identified to be of heritage value or character.

What do I need to consider before applying?

Town Staff can help verify if the proposed variance is a legal option and provide you with details of the process. Staff will advise applicants on the board's jurisdiction. Staff cannot however, prevent anyone from applying to the Board. The BOV reserves the right to determine whether an application falls within its jurisdiction.

What must I include with my application?

The following information is required to begin the Board of Variance application process:

- Application fee \$800
- Board of Variance Application
- Rationale Letter clearly stating the nature of the complaint, undue hardship caused, relief sought and grounds for the relief.
- Site plan showing property lines, the proposed variance, and measurements for existing buildings and setbacks.

What is the review process?

- 1 **Application** – Begin the approval process by submitting an application, supporting documents, plans and fee.
- 2 **Review** – Once submitted, Town staff review the application for completeness and prepare a staff report to the Board.
- 3 **Public Notice** – Adjacent property owners within 60m are notified of the application and are invited to submit written comments or speak at the Board of Variance Hearing.
- 4 **Hearing** – Board hearings are public meetings at which time the applicant or their representative present their application to the Board. Board members determine if the BOV has jurisdiction. The public may offer their input on the application either prior to (in writing) or verbally during the hearing.
- 5 **Decision** – The applicant is advised of the Board’s decision. The Board may approve or deny the applicant’s request.

How much does it cost?

A Board of Variance application fee is **\$800**. The application fee is non-refundable even in cases where the BOV reviews an application and deems to have no jurisdiction.

How long will it take?

A decision can usually be given within a 5-6 week period, provided that complete and accurate information is submitted.

How long is a Board of Variance decision valid for?

No record of the Board of Variance decision is sent to the Land Title Office. The Board’s decision is maintained as a matter of public record and is valid as long as construction has substantially started within 2 years after approval or within a longer or shorter time as specified by the Board of Variance.

**For Further Information Contact:
Planner - Town of Smithers**

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Smithers, BC V0J 2N0

Office Hours

Monday to Friday (except Holidays)
8:30 am to 4:30 pm

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This brochure is meant for informational purposes only. Please consult the Local Government Act and its regulations, the Town of Smithers Official Community Plan, Board of Variance Bylaw, Zoning Bylaw and other bylaws for definitive requirements and procedures.

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