



Islands Trust

# APPLICATION GUIDE

## Board of Variance Order

### ***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 must establish a Board of Variance. Each Local Trust Committee has a Board of Variance.

A person may apply to a board of variance for an order to vary certain zoning bylaw provisions where an applicant can adequately demonstrate, to the satisfaction of the Board of Variance, 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 may order that a minor variance be permitted provided that the board has heard from the applicant and any person notified of the application, and provided that the board finds that undue hardship would be caused to the applicant. It is up to the Board of Variance to determine what constitutes a minor variance and whether or not hardship has been proven.

A board of variance cannot vary:

- a registered covenant registered under s. 219 of the *Land Title Act*;
- a development permit, development variance permit, temporary use permit or tree cutting permit;
- a Land Use Contract;
- a Phased Development Agreement;
- a flood plain requirement;
- 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.

A Board of Variance cannot issue an order that in the board's opinion:

- results in inappropriate development of the site;
- adversely affects the natural environment;
- substantially affects the use and enjoyment of adjacent land;
- vary permitted uses and densities under applicable bylaws; or
- defeats the intent of the bylaw.

### ***When Do You Need to Apply For a Board of Variance Order?***

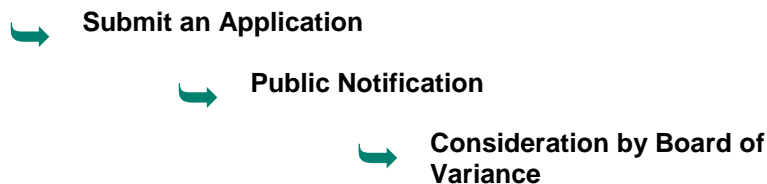
You may apply to the Board of Variance for an order to vary a bylaw provision(s) if you believe that compliance would cause you undue hardship in the following situations:

- the siting, dimensions or size of a building or structure, or the siting of a manufactured home in a manufactured home park;
- 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.

## ***The Board of Variance Order Application Process***

The major stages in the Development Variance Permit Application Process are:

### **Pre Application**



### ***Step 1 — Pre-Application***

Prior to submitting your application for a development variance you may wish to contact local planning staff to review bylaws, policies and regulations concerning your required variance. In making your application you will need to consider your local Land Use Bylaw. Each property in the Islands Trust Area is subject to specific zoning regulations. Zoning regulations, which are in the Land Use Bylaw, restrict such things as site coverage, building setbacks, and sets minimum parking space requirements.

### ***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 Islands Trust office with the applicable fee. Application forms are available for download from our website [www.islandstrust.bc.ca](http://www.islandstrust.bc.ca) under the “Land Use Application Form” link. Islands Trust staff will be available to assist you; however you will be expected to provide the following:

- A recent State of Title Certificate indicating the owner(s) name. If the applicant is an agent of the owner, then the owner(s) must sign the authorization on the application form. The State of 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 the hardship reasons why the variance may be justified. Lot configuration and physical features may make it difficult to develop your property and these should be noted in support of your application. Please note that Court decisions over the years have established that the cost of removing an illegally built structure is not a valid hardship.
- Dimensioned site plans in the quantity and size noted on the application form. 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 — Public Notification*

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

The Board of Variance secretary will set a time, date and location for a hearing of your application. You, or a representative, should attend the hearing to present your proposal. Prior to that hearing the Board of Variance may contact you in order to carry out a site inspection of your property.

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, and be posted at the Islands Trust Office and on bulletin boards on the island.

### *Step 4 — Consideration by the Board of Variance*

The Board of Variance may order that a minor 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.

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 development approval if the steps indicated are followed. Please consult the *Local Government Act* and its regulations, as well as the other Islands Trust applicable bylaws for the definitive requirements and procedures. For further information, please contact your Islands Trust Office (see next page).

Contact Information

<b>Victoria Office</b>	<b>Salt Spring Office</b>	<b>Northern Office</b>
<p><i>Email</i> information@islandstrust.bc.ca</p>	<p><i>Email</i> ssiinfo@islandstrust.bc.ca</p>	<p><i>Email</i> northinfo@islandstrust.bc.ca</p>
<p><i>Address</i> 200 1627 Fort St Victoria, BC V8R 1H8</p>	<p><i>Address</i> 1-500 Lower Ganges Road Salt Spring Island, BC V8K 2N8</p>	<p><i>Address</i> 700 North Road Gabriola Island, BC V0R 1X3</p>
<p><i>Telephone</i> 250.405.5151</p>	<p><i>Telephone</i> 250.537.9144</p>	<p><i>Telephone</i> 250.247.2063</p>
<p><i>Fax</i> 250.405.5155</p>	<p><i>Fax</i> 250.537.9116</p>	<p><i>Fax</i> 250.247.7514</p>
<p>Galiano Mayne North Pender Saturna South Pender Executive Islands</p>	<p>Salt Spring</p>	<p>Denman Gabriola Gambier Hornby Lasqueti Thetis</p>

*Calls can be made toll-free via Enquiry BC:*

In Victoria call: 250.387.6121

In Vancouver call: 604.660.2421

Elsewhere in BC call: 1.800.663.7867