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Denman, Gabriola, Gambier, Hornby,  
Lasqueti, Thetis, Ballenas-  
Winchelsea Islands

## Schedule F: Order - Board of Variance

### Information about Board of Variance Orders

A Board of Variance can issue an order to vary certain land use bylaw regulations such as required siting, size or dimensions of buildings or structures, or grant relief with regards to legal non-conforming buildings. However, the Board of Variance cannot vary

- 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; or
- a heritage conservation permit, heritage alteration permit or heritage revitalization agreement.

Furthermore, the Board of Variance must be satisfied that compliance with the land use bylaw regulations would cause the applicant undue hardship. Also, a Board of Variance cannot issue an order that:

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

## Application Process

### Pre-Application

- Review the **Islands Trust Policy Statement** and **Official Community Plan (OCP)** to determine if there is policy support for your proposal.
- Determine whether or not proposed uses, buildings or structures will be located within a Development Permit Area; if so, an application for a Development Permit may also be required. Contact the Islands Trust to confirm.
- Review the **Land Use Bylaw (LUB)**. The LUB will specify the uses that are permitted or prohibited in various zones, and provide regulations for the siting, size and dimensions of uses, buildings and structures. The LUB may also contain regulations for parking, signage, landscaping, run-off control, and Development Permit guidelines.
- Determine where strict compliance with the land use bylaw would cause undue hardship.

Prior to submitting your application for a Board of Variance Order you may wish to contact local planning staff to review applicable policies and regulations. In making your application you will need to consider your local Land Use Bylaw.

### Application Submission

- Submit a complete application and fee; ***incomplete applications will not be accepted.***
- The Islands Trust will contact you to request any missing application materials.

### Public Notification

Your application is received by the Board of Variance Secretary and assessed to ensure that your proposed variance can be considered by the Board of Variance. Where it is uncertain, the board shall determine whether a matter for its consideration falls within its jurisdiction.

The 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.

The Secretary 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 posted at the Islands Trust Office and on bulletin boards on the island.

### **Board of Variance Consideration**

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. Board of Variance orders are not filed as notices with the Land Titles Office.

## **Application Requirements**

*Please provide the following information in addition to the completed application form, fee, title search and title charges:*

- A written description of the required variance(s) and the hardship reasons why the variance(s) 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.
- A Site Survey completed by a registered BC Land Surveyor (BCLS), unless the Islands Trust confirms a survey is not needed;
- An 11x17 Site Plan, drawn to scale, showing the following:
  - a. The location, dimensions and floor area of existing and proposed buildings and structures;
  - b. The location of existing and proposed water infrastructure (e.g. septic tanks, disposal fields, wells, water lines, cisterns, retention ponds, etc.) on both the subject property and neighbouring properties (if applicable);
  - c. The location of existing and proposed driveways, off-street parking, loading, outdoor storage, stream crossings, pathways, decks and patios;
  - d. The location of all watercourses (including streams, ditches, lakes and wetlands);
  - e. The location, dimensions and area of existing and proposed covenant areas, easements and utility corridors;
  - f. Setbacks of existing and proposed buildings, structures and water infrastructure to lot lines, the natural boundaries of watercourses and the sea, and, where applicable, the edge of any cliff on the subject property;
  - g. The area of the subject property;
  - h. The height of existing and proposed buildings and structures.
- Elevation drawings (if applying for a height variance).

### **Additional Requirements**

A Building Permit or a Siting and Use Permit may be required. If variances are required, a Building Permit or Siting and Use Permit cannot be issued until a Development Variance Permit or Board of Variance Order is first issued.

If the proposed development is located within a Development Permit Area, as identified in the applicable OCP, a Development Permit may also be required. If it is not possible to comply with all bylaw requirements, the application will need to be modified, or an application will need to be made for a bylaw amendment.

In addition to complying with local trust committee bylaws, applicants are responsible for meeting all other regulatory requirements applicable to land use and development in BC (e.g. *BC Building Code, Transportation Act, Water Sustainability Act, Environment Act, Public Health Act, Agricultural Land Commission Act*, etc.).

For further information, visit the Islands Trust website at [www.islandstrust.bc.ca](http://www.islandstrust.bc.ca) and applicable bylaws.

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**NOTE:** *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 any further information, please contact the Islands Trust.*



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# Land Use Application

**Application Type:** *Check all that apply*

*See Associated Schedules for Information and Application Requirements*

<input type="checkbox"/> Bylaw Amendment	<input type="checkbox"/> OCP <input type="checkbox"/> Land Use / Rezoning <input type="checkbox"/> Land Use Contract	Schedule A
<input type="checkbox"/> Development Permit	<input type="checkbox"/> Renewal or Amendment	Schedule B
<input type="checkbox"/> Development Variance Permit	<input type="checkbox"/> Renewal	Schedule C
<input type="checkbox"/> Heritage Alteration Permit		Schedule D
<input type="checkbox"/> LCRB License	<input type="checkbox"/> Liquor <input type="checkbox"/> Temporary Change <input type="checkbox"/> Cannabis Retail	Schedule E
<input type="checkbox"/> Order - Board of Variance		Schedule F
<input type="checkbox"/> Siting & Use Permit		Schedule G
<input type="checkbox"/> Soil Deposit / Removal	<input type="checkbox"/> Registration <input type="checkbox"/> Permit	Schedule H
<input type="checkbox"/> Strata Conversion		Schedule I
<input type="checkbox"/> Subdivision Review		Schedule J
<input type="checkbox"/> Temporary Use Permit	<input type="checkbox"/> Renewal	Schedule K

**Description of Subject Property:**

Civic Address	PID
Legal Description	

**Purpose of Application:** *Provide a brief description (attached additional pages if needed)*

**Applicant:**

<i>Name</i>	<i>Company</i>
<i>Mailing Address</i>	
<i>Phone</i>	<i>Email</i>

**Declaration:**

*As the owner or agent authorized to act on behalf of the owner(s) of the subject property, I declare the information submitted in support of this application is true and correct in all respects.*

Signature

**Office Use Only:**

Date Received	Fees Paid	Receipt No.	TAPIS No.
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**Owner Authorization:**

As the registered owner(s) of the subject property, I/we declare that the information submitted in support of this application is true and correct in all respects. I/we hereby authorize Islands Trust staff or their contractors to conduct site inspections of the subject property for the purpose of processing this application, and hereby authorize and appoint:

Print Name (Complete if applicant is not the owner(s))

... to serve as the agent for this application, and communicate with Islands Trust staff and Islands Trust bodies on our behalf.

**All registered owners on title must be listed on and sign the application. Corporations must include a list of directors.**

<i>Name/Company Name</i>	<i>Signature</i>
<div style="border: 1px solid black; height: 20px;"></div>	
<i>Mailing Address</i>	
<div style="border: 1px solid black; height: 20px;"></div>	
<i>Phone</i>	<i>Print Name</i>
<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>
<i>Email</i>	<i>Date</i>
<div style="border: 1px solid black; height: 20px;"></div>	<div style="border: 1px solid black; height: 20px;"></div>

<i>Name/Company Name</i>	<i>Signature</i>
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**Application Checklist** The following materials must accompany the application:

- Completed application form
- Current title search (issued within 30 days)
- Copies of all title charges (restrictive covenants, rights-of-way, etc.)
- Application fee (see applicable Local Trust Committee Fees Bylaw for current fees)
- If applicable, QEP Report registered in Province of BC Riparian Areas Regulation (RAR) Notification System
- Required plans, drawings, reports and other information as noted on the applicable schedules and DAI Bylaws**

**NOTE** A complete application and fee must be received before the application will be processed. Fees may be paid using cash, cheque or interac e-transfer (contact Islands Trust for e-transfer procedure). Applicants are advised that processing times may depend on applications volumes and timing of local trust committee meetings. Applicants are encouraged to apply for permission well in advance of scheduled development.

**NOTE:** Pursuant to section 4(4) of the Contaminated Sites Regulation, BC Reg. 375/96, a site profile is not required and will not be accepted by the Islands Trust.

**Freedom of Information**

The collection of personal information, for the purpose of processing this application, is authorized under the Local Government Act, Community Charter and section 26(c) of the Freedom of Information and Protection and Privacy Act. Enquiries may be directed to a Deputy Secretary at any of the Islands Trust Offices, as noted on page 1 of this form. A request for information, under the Freedom of Information and Protection of Privacy Act may be made to: FOI Coordinator, Islands Trust, 200-1627 Fort Street, Victoria, BC V8R 1H8, Tel. (250) 405-5151, Fax (250) 405-5155.