Board of Variance Appeals for Single and Two Family Dwellings

This brochure explains how to apply for a Board of Variance appeal for Single and Two Family Dwellings and includes the Building Permit application requirements.

“What can be appealed to the Board of Variance?”

If compliance with Zoning Bylaw requirements would cause undue hardship a person may apply to the Board of Variance for a minor variance of the Zoning Bylaw respecting the siting and dimensions of a building or structure. Examples of some of the non-compliance that may appropriately be addressed to the Board include:

- house, accessory buildings or swimming pool encroaching into required yards, or sited too close to each other
- over-height building (except in the R11 Zone where height is a factor in the calculation of the density of the permitted use)
- number of storeys
- depth of building
- over-height fences
- vision clearance at street or lane corners

As the Board of Variance considers neighbourhood input and exercises an independent authority, an applicant is not guaranteed of success at a Board hearing. Applicants are encouraged to prepare compliant designs in order to avoid delay and expense. If their only recourse is to appeal to the Board they must be prepared to demonstrate a hardship.

“Other brochures related to this topic”

- Burnaby Board of Variance
- Building permit application requirements for new single and two family dwellings
- Building permit application requirements for new residential garages
- Legal survey requirements for single and two family dwellings
What cannot be appealed to the Board of Variance?

The Local Government Act excludes density of development and property use from the Board’s authority and these cannot be appealed. As such, all requirements under Development Density subsections of the Zoning Bylaw are not appealable, and this includes oversize accessory buildings. In addition, the Board of Variance is explicitly prohibited from making an order that:

- results in inappropriate development of the site,
- adversely affects the natural environment,
- substantially affects the use and enjoyment of adjacent land,
- defeats the intent of the bylaw,
- would be in conflict with a covenant registered on Title for the property,
- deals with matters that are covered in a development permit, a land use contract, or a phased development agreement,
- varies a flood plain specification, or
- deals with heritage properties.

Encroachments into environmentally sensitive lands must be dealt with through the Planning Department and/or Environmental Review Committee prior to making a Board of Variance Appeal.

Building Permit applications for Board of Variance appeals are not accepted for development on properties undergoing sub-division or rezoning.

Obtaining a Board of Variance Referral Letter

A Board of Variance application is made through the Office of the City Clerk but an applicant must obtain a Board of Variance referral letter from the Building Department before making an application.

The referral letter from the Building Department indicates that an application for a Building Permit has been refused on the basis of specific contraventions of the requirements of the Burnaby Zoning Bylaw. To obtain a referral letter, a complete Building Permit application (including structural drawings) is required.

Permit applications identified at the time of initial submission as having Zoning Bylaw non-compliant designs will not be given priority for issuance of a referral letter over the counter. They must wait their turn for complete plan check, similar to other permit applications with compliant designs.

If Building Department staff observe Zoning Bylaw infractions during plan check, they will discuss compliance options with the applicant. Should the applicant decide that they will seek Board of Variance approval; staff will identify any additional documentation that may be required (see below), provide the applicant with a referral letter describing the infraction(s), and will notify the applicant of the earliest available Board of Variance hearing.

The applicant will need to present the referral letter, as well as a separate letter expressing reason(s) for requesting variance(s), to the Office of the City Clerk when making the Board of Variance application.

Further information regarding making applications to Board of Variance including requirements for demonstrating hardship, deadlines for submission and hearing dates, please refer to Burnaby Board of Variance webpage or call the Office of the City Clerk at 604-294-7290.
Requirements for Building Permit Application:

All applicable documentation required for a complete Building Permit application must be submitted at the outset (refer to “Building Permit Application Requirements for New Single and Two Family Dwellings” brochure for further information).

Documentation for the Use of the Board of Variance:

In addition to the Building Permit application drawings, the following documents must be provided to the Building Department:

- two complete sets of architectural drawings reduced to 8 ½” x 11”
- two copies of topographical survey reduced to 8 ½” x 11”

At the Board of Variance Hearing, an overhead projector and screen are available if applicants wish to display drawings and plans related to the appeal.

Determination of the Board of Variance

Any determination of the Board of Variance is final. Upon being notified of the Board’s decision by the Office of the City Clerk, the applicant will need to determine whether to pursue the Building Permit application, (either as initially submitted - in the event of a positive decision, or appropriately revised to comply with the zoning bylaw - in the event of a negative decision) or cancel it.

If the applicant chooses to proceed with the Building Permit application, outstanding documentation must be submitted to the Building Department. The Building Permit application will be cancelled if outstanding information or revisions have not been submitted within 30 days of notification of the outcome of the appeal.

After the Board of Variance decision any revision to the Building Permit application will be charged a revision fee in accordance with the current fee schedule.

The flow chart on the next page may clarify the process for you.

Further information

For Zoning Bylaw information or questions regarding Building Permit applications related to single and two family dwellings please call the Building Department at 604-294-7130.

For Zoning Bylaw information and Board of Variance appeals for other than single and two family dwellings please call the Planning Department at 604-294-7400.

Further information regarding Board of Variance applications, including requirements for demonstrating hardship, deadlines for submission and hearing dates, please call the Office of the City Clerk at 604-294-7290.
Applicant submits Building Permit Application

Plan Checker reviews the submitted drawings and issues B of V referral letter

Applicant submits B of V application to City Clerk's Office with referral letter

Applicant revises Building Permit Application & resubmits to B of V

Applicant to finalize Building Permit Application submission

Applicant revises drawings to comply with Zoning Bylaw

Building Department issues Building Permit

Applicant cancels or revises Application

Applicant cancels Building Permit Application

B of V Approval

NO

YES