

BOARD OF VARIANCE PUBLIC INFORMATION

INTENT

The main purpose of a Board of Variance (BOV/"the Board") is to deliver flexibility and discretion in the application of bylaws and other regulations linked to land use, specifically where zoning bylaws have produced "legal non-conforming" status, or otherwise created hardship where land, and its use and development, is involved.

COMPOSITION

Currently The City of Grand Forks Board of Variance is composed of 0 members who are appointed by The City of Grand Forks Council, pursuant to the provisions of the *Local Government Act* ("the Act").

MANDATE

The Corporation of The City of Grand Forks bylaw for the establishment of a Board of Variance demands the Board to hear any application about concerns mentioned in the Act.

The Act permits Boards to conduct hearings and when acceptable mandate that a minor variance be allowed where the applicant claims that compliance with a bylaw would cause hardship in regard to the siting, dimensions, or size of a building or structure*, or the siting of a manufactured home in a manufactured home park.

The Board may also allow a structural change or addition to a building or structure covering a legal non-conforming use, or which would then be illegal under subdivision servicing requirements. Also, the Board may grant a minor variance from the needs of the Subdivision Servicing Bylaw for properties zoned industrial or agricultural where compliance with the Bylaw would cause undue hardship.

*Structure includes, but is not limited to, such things as garages, carports, decks, balconies, workshops, sheds, barns, outbuildings, and free-standing signs.

PROCEDURES

Legally required procedures defined under the Local Government Act

Notice of application for variance:

The Board must notify to and hear the applicant, parcel owners and tenants adjacent to the parcel which is the subject of the application.

Board powers on application:

The Board may order that a minor variance be permitted from the requirements of the applicable bylaw, or that the applicant be exempted from alteration or addition while non-conforming use continued, if the Board determines that undue hardship would be triggered to the applicant if the bylaw is conformed with.

And that the variance or exception does not:

- Result in inappropriate development of the site
- Adversely affect the natural environment
- Substantially affect the use and enjoyment of adjacent land
- Vary permitted uses and densities under the applicable bylaw
- Defeat the intent of the bylaw
- Vary the application of an applicable bylaw in relation to residential rental tenure

Limits on Jurisdiction:

The Board must make sure that there is no conflict with:

- Covenant
- Development Permit, Temporary Use Permit, Development Variance Permit and Tree Cutting Permit
- Land Use Contract, Flood Plain Specification, Heritage and
- Phased Development Agreement

Interpretations on words like “inappropriate”, “minor variance”, “hardship” or “undue hardship”, “substantially” are adaptable to circumstances and judgment. For example, a variance of 4 m may be minor in one situation, but a variance of 0.5 m might be unwarranted in another. The same case applies to other conditions like stability; for example, what is suitable on one parcel may be completely unsuitable on another.

The Board does not set standards. Each application is assessed on its own facts, and it is not open to applicants to argue that a neighbour was allowed a variance and therefore they are eligible to a variance as well, although applicants can refer to other decisions. Approval is established upon the plans as submitted to the Board.

A decision of the Board is final, except under limited, defined circumstances.

Other Procedures

The Board would normally meet on a monthly basis. Time and date will be determined after Board members are appointed by Council. Applications must be received 28 calendar days prior to the meeting, and the fee paid, which is established by Planning-Procedures and Fees Bylaw. The Board may hold a special meeting with proper notification to applicants and neighbours.

Applications are heard in the order they are received by the Secretary. If the meeting continues past 9:30 pm, the Board may decide to adjourn any unheard applications to the following scheduled meeting. All meetings of the Board are open to the public except under limited circumstances. All members of the Board visit the sites of all applications; the members may inspect the site at any reasonable daylight time from the morning of the day preceding the hearing to the day of the hearing.

Board members are not expected to make advance appointments to view a site. Applicants must ensure the site is safe to access during daylight hours, and that the needed variance is clearly marked on the parcel. Inaccessible sites or where the variance markings are unsatisfactory or missing will be postponed to a later hearing.

It is a good idea that applicants discuss their proposal with neighbours before the hearing to lessen concerns that may affect the nature of their application.

PLANS

Due to the legally required procedures defined under the Local Government Act, the Board needs more detail than simply that of the variance itself. For example, if the variance requested is to build a structure closer to a lot line than the zoning allows, the Board (and the neighbours) need a guarantee that it will not improperly block sunlight or views, etc. Thus, the Board may need to see elevations, even though a height variance may not be required. Similar situations occur all the time.

The Board understands that applicants do not always have to incur into full architectural blueprints costs if it is likely a variance may be denied. But sometimes blueprints are often necessary, and always advantageous, a scale drawing may be adequate, given the dimensions are precisely marked. What is not acceptable is a rough sketch, with partial measurements and not drawn to scale.

Approval is based upon the plans as submitted to the Board.

The applicant is required to include with the application the following documentation:

1. A site plan in a format that could be duplicated (e.g., shapefile, KML, georeferenced PDF maximum size 11 x 17"), including:
 - (i) north point and scale
 - (ii) dimensions and area of the site
 - (iii) size, shape and siting (including setbacks) of all existing and proposed buildings and additions, with dimensions
 - (iv) existing trees
2. Floor plans in a format that could be duplicated (e.g., shapefile, KML, georeferenced PDF maximum size 11 x 17") with dimensions and use of rooms, including all outside balconies and decks, and whether enclosed or not; and proposed additions.
3. Elevations at the same scale as floor plans, showing front, rear, and side elevations, with decks and balconies, and proposed additions.
4. Applicants are required to submit any other information necessary to support their application when it is submitted. For example:
 - (a) Professional arborist's report if protected trees may suffer damage, particularly root damage, and the application is approved. The arborist may be required to be present when construction is started.
 - (b) Topo- graphical survey may be required, if the application includes septic fields or drainage, together with a professional engineer's report.
 - (c) Letter of Assurance from a registered BC Land Surveyor is required where height variances are requested. Elevations must be to scale, showing the relationship to adjacent properties, natural grade, and roof sections, together with visual/physical evidence on site that will indicate the anticipated height and will show contextual relationship.

Important Note: The application may be postponed if documentation is not complete.

5. The applicant is responsible to use their best decision in what documentation best supports their application, and that documentation is included with the application so that the Board and any neighbours impacted have time to analyze it before the hearing.
6. Applicants may bring larger scale plans, elevations and/or models in the best format available to the hearing.
7. Where mandatory for the application, calculations of the allowable floor space ratio in non-basement areas appropriate to the zoning are necessary.
8. The applicant must submit the required important information in a clear and concise manner so that the Board can make an informed decision.

HEARINGS

Hearings are informal; applicants and interested persons are required to give their names and addresses to the Secretary, who then reads the details of the application.

- Applicant authorized agent, or person may represent them.
- The Chair asks the applicant (or representative) if they have any evidence, they need to add that is not part of their application.
- The Chair gives members of the Board the opportunity to ask questions.
- The Chair asks any interested persons to make their case, for or against.
- The applicant is given the opportunity to respond.
- The Board members may ask further questions.
- All questions and statements are made through, and to, the Chair.
- The Board considers the application after all the information presented has been heard. At this point no additional input from applicants or interested persons is allowed, and the Board gives its decision, made by a simple majority vote of the members.
- The Board may allow or disallow the application in part or in its total.
- The Board may add conditions or restrictions to the awarding of the application.
- The Board may modify an application, or recommend modifications, and may postpone an application until the next (or later) meeting of the Board to allow time for such modifications to be considered by the applicant.
- Applicants may also request that a hearing be postponed, the Board may grant this action.
- The Board may postpone the application if the applicant or a representative does not show.
- The application may be postponed if, in the Board's opinion, insufficient information is presented.
- No additional fees are payable if an application is postponed.
- The same application will not be reheard. The Board may reconsider a revised application if different reasons are established, or if the proposal is amended.