



BOARD OF VARIANCE

PURPOSE: The Village of Kaslo is required to establish a Board of Variance, in accordance with Part 14: Division 15 of the Local Government Act.

Mandate

540 A person may apply to a board of variance for an order under section 542 [board powers on application] if the person alleges that compliance with any of the following would cause the person hardship:

- (a) a bylaw respecting
 - (i) the siting, size or dimensions of a building or other structure, or
 - (ii) the siting of a manufactured home in a manufactured home park;
- (b) a subdivision servicing requirement under section 506 (1) (c) [provision of water, sewer and other systems] in an area zoned for agricultural or industrial use;
- (c) the prohibition of a structural alteration or addition under section 531 (1) [restrictions on alteration or addition while non-conforming use continued];
- (d) a bylaw under section 8 (3) (c) [fundamental powers — trees] of the Community Charter, other than a bylaw that has an effect referred to in section 50 (2) [restrictions on authority — preventing all uses] of that Act if the council has taken action under subsection (3) of that section to compensate or mitigate the hardship that is caused to the person.

Reporting

The board shall report annually to Council.

Schedule

The Board of Variance will meet within 45 days of receipt of an application.

MEMBERSHIP: All appointments to voting positions must be made by resolution of Council.

Term

Appointments shall be for a 3 year term or until a successor is appointed by Council.

Composition

The voting members of the Committee shall be:

- The board shall consist of 3 members of the public. Municipal employees or elected officials are not eligible.

Staff may attend meetings at the discretion of the CAO, to provide procedural or subject matter advice, but will not have voting rights.

Quorum

Quorum shall be 2 members of the Committee.

RESOURCING:

The Corporate Officer or their designate will ensure that meeting notices are posted, agenda packages are distributed, minutes are recorded, and meeting materials are available for public inspection.

The Corporate Officer or designate will fulfill the duties of Secretary to the board, as outlined in Board of Variance Bylaw 1166, as amended.

PROCEDURE:

The members of a board of variance must elect one of their number as chair.

The chair may appoint a member as acting chair to preside in the absence of the chair.

The board must follow the procedures established in Village of Kaslo Board of Variance Bylaw 1166, as amended.

542 (1) On an application under section 540, the board of variance may order that a minor variance be permitted from the requirements of the applicable bylaw, or that the applicant be exempted from section 531 (1) [alteration or addition while non-conforming use continued], if the board of variance

(a) has heard the applicant and any person notified under section 541,

(b) finds that undue hardship would be caused to the applicant if the bylaw or section 531 (1) is complied with, and

(c) is of the opinion that the variance or exemption does not do any of the following:

(i) result in inappropriate development of the site;

(ii) adversely affect the natural environment;

(iii) substantially affect the use and enjoyment of adjacent land;

(iv) vary permitted uses and densities under the applicable bylaw;

(v) defeat the intent of the bylaw;

(vi) vary the application of an applicable bylaw in relation to residential rental tenure.

(2) The board of variance must not make an order under subsection (1) that would do any of the following:

(a) be in conflict with a covenant registered under section 219 of the Land Title Act or section 24A of the Land Registry Act, R.S.B.C. 1960, c. 208;

(b) deal with a matter that is covered in a land use permit or covered in a land use contract;

(c) deal with a matter that is covered by a phased development agreement under Division 12 [Phased Development Agreements];

(d) deal with a flood plain specification under section 524 (3);

(e) apply to a property

(i) for which an authorization for alterations is required under Part 15 [Heritage Conservation],

(ii) for which a heritage revitalization agreement under section 610 is in effect, or

(iii) that is scheduled under section 614 (3) (b) [protected heritage property] or contains a feature or characteristic identified under section 614 (3) (c) [heritage value or character].

(3) In relation to an order under subsection (1),

(a) if the order sets a time within which the construction of the building, structure or manufactured home park must be completed and the construction is not completed within that time, or

(b) if that construction is not substantially started within 2 years after the order was made, or within a longer or shorter time period established by the order, the permission or exemption terminates and the bylaw or section 531 (1), as the case may be, applies.

(4) A decision of the board of variance under subsection (1) is final.