

Board of Variance Application Form

OFFICE USE ONLY

Application Fee: _____

Receipt No. _____

File No. _____

SECTION 1: DESCRIPTION OF PROPERTY (AS INDICATED ON THE STATE OF TITLE CERTIFICATE)

Legal Description _____

Civic Address _____

Electoral Area _____ Parcel Identifier (P I D) _____

SECTION 2: OWNER INFORMATION (ATTACH ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

1) _____	2) _____
Name _____	Name _____
Mailing Address _____	Mailing Address _____
Town / Province _____	Town / Province _____
Postal Code _____	Postal Code _____
Telephone/ Cell _____	Telephone/ Cell _____
Fax _____	Fax _____
Email _____	Email _____

I would prefer all correspondence via: ☐ email ☐ regular mail

SECTION 3: AGENT INFORMATION

Name _____	Mailing Address _____	Town/Province _____
Postal Code _____	Telephone/ Cell _____	Fax _____
		Email _____

I would prefer all correspondence via: ☐ email ☐ regular mail

SECTION 4: REASON FOR APPEAL

I/ We, the registered owner(s) of the above noted property, hereby appeal to the Board of Variance for the following:

- ☐ To review a decision made by the Regional District of Nanaimo Manager of Building, Bylaw & Emergency Planning Services pursuant to Section 532 of the **Local Government Act**.

Or,

To determine that compliance with the following will cause undue hardship:

- ☐ Relating to siting, size and dimensions of a building or structure, or the siting of a manufactured home in a manufactured home park. (Note: use and density, including varying maximum building size provisions, will not be considered for variance)
- ☐ The prohibition of structural alteration and addition pursuant to Section 531 of the **Local Government Act**.
- ☐ A subdivision servicing requirement pursuant to Section 506 of the **Local Government Act** in an area zoned for agricultural or industrial uses.

SECTION 5: APPLICATION COMPLETION CHECKLIST:

ALL MEASUREMENTS TO BE IN METRIC

- ☐ A copy of Certificate of Indefeasible Title (dated within past 30 days)
- ☐ A letter of authorization
- ☐ A letter outlining the details of the appeal and clearly stating the proposed variance.
- ☐ Application fee as required by Bylaw No. 1259, 2002
- ☐ Two (2) survey plans certified by a BC Land Surveyor to a maximum scale of 1:500, showing location of existing and proposed buildings and structures and parts thereof
- ☐ Electronic copies of all plans
- ☐ Property Declaration Form

Additional information may be required, such as:

- ☐ Two (2) building elevation plans to a maximum scale of 1:100
- ☐ Two (2) survey plans certified by a BC Land Surveyor including topographical information
- ☐ Professional Engineer's Report
- ☐ RDN Sustainable Development Checklist
- ☐ Other _____
- ☐ _____

SECTION 6: Registered Owner's Authorization

(ATTACH ADDITIONAL PAGE IF MORE THAN TWO OWNERS)

I hereby declare that all the above noted statements and information contained in this application and supporting documents are true and correct.

Signature of Registered Owner

Date

Signature of Registered Owner

Date

In order to process your application, please provide all necessary documentation with your application. Please refer to the Board Of Variance Guide for further information. Contact the Board of Variance Secretary if you require assistance.

Submit the completed application form, required fee, plans, and supporting material to the Regional District of Nanaimo. The fee is payable to the "Regional District of Nanaimo".

Personal information collected on this form is collected for the purposes of processing this application and for administration and enforcement. The personal information is collected under the authority of the *Local Government Act*, Regional District of Nanaimo Bylaws and pursuant to section 26 of the *Freedom of Information and Protection of Privacy Act*.

Letter of Authorization

for Representative / Agent

Date: _____

As the registered owner(s) of the following property:

Civic Address: _____

Legal Description: _____

I / We hereby authorize the following person to act as agent on my / our behalf in all matters pertaining to the application for development on the above noted property and by doing so will be deemed to know of and to understand the contents of the applications and associated documents. I / We acknowledge the authority of the agent to bind me/us in all matters relating to the work to be performed under the following applications (please check all applicable):

- | | | |
|---|--|--|
| <input type="checkbox"/> OCP Amendment | <input type="checkbox"/> Rezoning | <input type="checkbox"/> Subdivision |
| <input type="checkbox"/> Development Permit | <input type="checkbox"/> Development Variance Permit | <input type="checkbox"/> Board of Variance |
| <input type="checkbox"/> Temporary Use Permit | <input type="checkbox"/> Agricultural Land Reserve | <input type="checkbox"/> Other |

Owner Name (please print)

Owner Name (please print)

Signature of Owner

Signature of Owner

Agent's Information

Agent's Name

Company Name

(Address)

City

Postal Code

Telephone

Fax No.

Cellular Phone

Email

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Property Declaration Form

for Riparian Areas, Nesting Trees,
Coastal Floodplain, and Site Profiles

Civic Address:	9 Digit PID:
Legal Description:	

Riparian Areas

I (we) acknowledge that the province of British Columbia enacted the *Riparian Areas Regulation* to protect the critical features, functions, and conditions required to sustain fish habitat. Furthermore, this legislation prohibits the Regional District of Nanaimo (RDN) from approving or allowing a development to proceed adjacent to a watercourse until it has received notice that a report prepared by a Qualified Environmental Professional has been received by the Ministry of Environment & Climate Change Strategy.

I (we) understand that a water feature includes any of the following:

- a) any watercourse, whether it usually contains water or not;
- b) any pond, lake, river, creek or brook; and/or,
- c) any ditch, culvert, spring, or wetland.

I (we) declare that I (we) are familiar with the property and area, and have inspected the property and immediate area for the existence of any water features. I (we) declare that (***please check the one that applies***):

- ☐ that there are no water features located on the subject property; or
- ☐ there are water features located on the subject property.

I (we) declare that all proposed development including land alteration, vegetation removal, alteration or construction of a building or structure (please check the one that applies):

- ☐ is greater than 30.0 metres from a water feature; or
- ☐ is less than 30.0 metres from a water feature.

Coastal Floodplain

I (we) acknowledge that a building located in a marine coastal area may be subject to flooding as a result of high tides, storm surges and wave effects.

I (we) declare that we are familiar with the property and area, and have inspected the property and immediate area for the existence of the marine coast.

I (we) declare that (***please check the one that applies***):

- ☐ the property is located more than 100 metres from the marine coast; or
- ☐ the property is located less than 100 metres from the marine coast.

Eagle and Heron Nesting Trees

I (we) acknowledge that the *Wildlife Act* protects Bald Eagles and Great Blue Herons, their eggs and nests. Bald Eagles and Great Blue Herons are sensitive to development near their nesting sites and may return to a nest that has been unused for a number of years.

While the provincial government and the RDN undertake mapping of nesting sites from time to time, not all are mapped. Some on private property may have been undetected, and new nests are continually being built. Typically, a 60 metre radius for an eagle nesting tree and depending on the level of development in an area, a 60 - 300 metre radius for a heron nesting tree (or trees) is considered to be sensitive to disturbance. Electoral Areas A, E, G and H require that a development permit be obtained prior to development near an eagle or heron nest.

Mapped eagle and heron nest trees can be found on the Community Mapping Network at www.cmnmaps.ca/WITS/ and www.cmnmaps.ca/GBHE/.

I (we) declare that I (we) are familiar with the property and area, and have inspected the property and immediate area for the existence of eagle or heron nests prior to completing this form. I (we) declare that (***please check the one that applies***):

- ☐ there are no eagle or heron nesting trees on or within 100 metres of the subject property;
- ☐ there is an eagle or heron nesting tree on or within 100 metres of the subject property.

Site Profile - section to be completed for demolition, subdivision, rezoning, development or development variance permit

I (we) acknowledge that when an application is made to the RDN, Section 40(1) of the *Environmental Management Act* requires that a Site Profile be completed when the applicant knows, or reasonably should know, that the land is being used or has been used for industrial or commercial purposes of the type listed in Schedule 2 of the *Contaminated Sites Regulation*, unless otherwise exempt under the Regulation. Please find the list of Schedule 2 activities and Site Disclosure Statement on the Government of BC website at www2.gov.bc.ca/gov/content/environment/air-land-water/site-remediation/site-identification. Please contact the RDN Planning Department if any of the activities listed in Schedule 2 apply to the subject property.

I (we) declare that (***please check the one that applies***):

- ☐ I (we) have read the *Contaminated Sites Regulation* Schedule 2 document, and determined that the subject property has been used for purposes listed in Schedule 2, and filled out the Site Disclosure Statement; or
- ☐ I (we) have read the *Contaminated Sites Regulation* Schedule 2 document and am (are) not required to submit a Site Disclosure Statement as to my (our) knowledge, the subject property has not been used for any of the activities listed in Schedule 2; or
- ☐ I (we) have read the *Contaminated Sites Regulation* Schedule 2 document and am (are) exempted from being required to submit a Site Disclosure Statement under Section 4 of the *Contaminated Sites Regulation*. I (we) have provided the following information in support of this exemption: (List information below, use additional pages as required)

DECLARATION SIGNATURE

Please provide an additional page with owners' names and signatures if required.

I (we) declare that I (we) have read and filled out the above form.

Owner 1/Agent (Print Name)	(Signature)	(Date)
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Phone: _____ Email: _____

Owner 2/Agent (Print Name)	(Signature)	(Date)
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Phone: _____

Owner 3/Agent (Print Name)	(Signature)	(Date)
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Phone: _____

OR if the owner is a Corporation or Limited Company:

_____) _____
 _____) Corporate Seal
 (Company Name) _____) _____
 _____) _____
 Authorized Signatory _____)

Witnessed By:

Witness (Print Name)

(Signature)

(Date)

Phone: _____

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BOARD OF VARIANCE 2023 SCHEDULE

DEADLINE for APPLICATIONS	DEADLINE for AGENDA MAILOUT	BOARD OF VARIANCE MEETING
Monday, Dec 19 th , 2022	Friday, Dec 30 st , 2022	Wednesday, January 11 th , 2023
Monday, January 16 th	Friday, January 27 th	Wednesday, February 8 th
Monday, February 13 th	Friday, February 24 th	Wednesday, March 8 th
Monday, March 13 th	Friday, March 31 st	Wednesday, April 12 th
Monday, April 17 th	Friday, April 28 th	Wednesday, May 10 th
Monday, May 15 th	Friday, May 26 th	Wednesday, June 14 th
Monday, June 12 th	Friday, June 30 th	Wednesday, July 12 th
Monday, July 17 th	Friday, July 28 th	Wednesday, August 9 th
Monday, August 14 th	Friday, September 1 st	Wednesday, September 13 th
Monday, September 18 th	Friday, September 29 th	Wednesday, October 11 th
Monday, October 16 th	Friday, October 27 th	Wednesday, November 8 th
Monday, November 13 th	Friday, December 1 st	Wednesday, December 13 th
Monday, Dec 18 th , 2023	Friday, Dec 29 th , 2023	Wednesday, January 10 th , 2024

All Board of Variance meetings are convened at 4:00 p.m.
1st floor Committee Room, Regional District of Nanaimo Office
6300 Hammond Bay Road, Nanaimo



250-390-6510 / 250-954-3798 / Toll free 1-877-607-4111

The Board of Variance is established by Regional District of Nanaimo Bylaw 1621
and operates independent of the Board of the Regional District of Nanaimo.

Guide to the Board of Variance (BOV) Process

What is a Board of Variance?

Section 536 of the British Columbia *Local Government Act* stipulates that any local government that has adopted a zoning bylaw or rural land use bylaw must establish a board of variance. The Board of Variance functions separately from the local government that established it and has its own authority under the Act.

A person may apply to the Board of Variance for an order to vary certain zoning or rural land use bylaw provisions where an applicant can adequately demonstrate, to the satisfaction of the Board, that compliance with certain bylaw provisions would cause the applicant undue hardship. A person may apply for relief of certain restrictions imposed under Sections 528-532 of the *Local Government Act* with regards to legal non-conforming buildings.

The Board of Variance **cannot**, however, vary:

- Bylaw requirements involving land use or density (for example the number of buildings per hectare);
- Floodplain specifications;
- A registered covenant;
- Any requirements under Part 15 *Local Government Act*, (Heritage Conservation);
- Bylaw requirements concerning designated heritage conservation areas; or,
- Any requirements of a heritage revitalization agreement under Section 610 of the *Local Government Act*.

Before you apply.....

The Board of Variance application for an appeal can be acquired from the Planning Department at the Regional District of Nanaimo office. It is recommended that the property owner gather as much information regarding their property and proposal as possible (e.g. legal description, drawings, and surveys). You are recommended to obtain further details and advice from the planning staff when making an application.

Board of Variance Process

Step 1 – Applicant consults with staff and obtains application

Prior to submitting your application for a variance, you should contact the planning staff to review bylaws, policies and regulations concerning your requested variance. In making your application you need to consider your local land use bylaw and maps, Official Community Plan, and any other applicable bylaws. Each property in the RDN area is subject to specific zoning regulations. Zoning regulations restrict such things as site coverage, building setbacks, and sets minimum parking space requirements. Certain bylaw provisions concerning density and use of the property cannot be varied by a Board of Variance.

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 Regional District of Nanaimo office with the applicable fees. The planning staff will be available to assist you. You must provide the following:

- A recent State of Title indicating the owner(s) name. If applicant is an agent of the owner, the owners must sign the letter of authorization 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 reasons why the variance may be justified. Physical features, built features, building designs, and financial constraints may restrict your ability to fully comply with certain bylaw requirements;
- A site plan/survey plan that includes any requested variances to set backs, prepared by a BC Land Surveyor (BCLS). Your plan should clearly indicate the requested variance and the bylaw provision that is to be varied. The site plan should be titled and at 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, a building elevation plan, certified by a BCLS, must be submitted;

You may also be required to provide the following:

- A topographical survey plan certified by a BC Land Surveyor; and,
- Professional Engineer's Report.

Step 3 – Notifying Neighbouring Properties

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 located within 50 metres of a parcel that is the subject of the permit.

Step 4 – Board of Variance Hearing

The Board of Variance meets on the second Wednesday of each month at 4:00 p.m. in the Committee Room of the Regional District of Nanaimo located at 6300 Hammond Bay Road, Nanaimo, B.C. You 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.

At the Board of Variance hearing, the Secretary for the Board introduces the application and states the facts that pertain to the application. The applicant is then given the opportunity to describe the nature of the 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 if:

- Undue hardship would be caused to the applicant through compliance;
- It would not result in inappropriate development of the site;
- It does not adversely affect the use and enjoyment of adjacent land;
- It does not substantially affect the use and enjoyment of adjacent land;
- It does not vary permitted uses and densities of the applicable bylaw; and,
- It does not defeat the intent of the bylaw.

A decision from the Board of Variance is final.

