



# Factsheet

## Application for a variance

**Q. My development permit was denied. Can I appeal this decision?**

**A.** Development permits are automatically denied when the application for a permit does not meet the requirements of the Zoning Bylaw. A person may apply for an exemption from the Zoning Bylaw (also known as a variance) if there are **practical difficulties** or **unnecessary hardships** in meeting the requirements of the Zoning Bylaw **because of the exceptional narrowness, shortness, shape, topographic features, or any other unusual condition of the property.**

**Q. How do I know if my application meets the criteria for a variance request?**

**A.** Prior to submitting your variance request, you can come into the Village office to review your proposal. Staff can provide additional information on the Zoning bylaw and on past variance requests.

**Q. How does the Board of Variance make a decision?**

**A.** Within 30 days of receiving an application for a variance, the Board of Variance must schedule a Public Hearing regarding the application. Per the Municipal Act, the Board of Variance **shall not** approve an application for a variance if:

- a) The unusual condition is the result of the applicant's or the property owner's action;
- b) The adjustment requested would constitute a special privilege inconsistent with the restrictions on the neighbouring properties in the same district;
- c) The variance or exemption would be contrary to the purposes and intent of the OCP or zoning bylaw and would injuriously affect the neighbouring properties; or
- d) The variance or exemption would allow a change to a use that is not similar to a permissible use in the area.

**Q. What happens at the public hearing?**

**A.** The public hearing provides an opportunity for neighbours, and other interested parties, to share their opinion on the application. Neighbours are notified of the application and the public hearing by the Village, and are encouraged to bring their perspectives to the hearing or to send them in writing.

**Q. What is an unusual condition of a property?**

**A.** An unusual condition is not clearly defined in either the Municipal Act, or the Zoning Bylaw, leaving this somewhat to the discretion of the Board of Variance. However, the Municipal Act is clear that a variance cannot be approved if the unusual condition is the result of the applicant's or property owner's action.

**Q. When would a variance be considered to injuriously affect a neighbouring property?**

**A.** Injurious affection is a legal concept that describes damages to lands of an owner through action of a municipal government or some other public body. Typically, this is interpreted as changes that impact land value. The Board of Variance must assess whether approving a variance would result in an injury to land value for the neighboring properties.

**Q. What uses are permissible in an area?**

**A.** Permissible uses are those uses that are consistent with the zoning (e.g. Residential, Commercial, Industrial). The zoning map is in the Village of Haines Junction's Official Community Plan. The Zoning Bylaw lists permissible uses in each zone.

**Q. How do I apply for a variance?**

**A.** Application forms are available on the Village of Haines Junction website or at the Village office. Applications require a non-refundable fee of \$100 per application.

**Q. Can a decision of a Board of Variance be appealed?**

**A.** Any person may appeal a decision of the Board of Variance to Council for a fee of \$100.