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Minor Variance

LAND PLANNING
BRANCH

This note explains what a variance is and when variances are authorized.

What is a variance?

A variance is an authorization allowing a small change to the usual requirements of a zoning regulation. Some Yukon zoning regulations allow the development officer to vary certain rules by up to 10%. Other regulations may not have this provision and the Development Officer cannot vary anything. The applicant may appeal a denied application to the Zoning Appeal Board and ask for a variance.

How do I know if I require a minor variance or variance?

Your development permit application is reviewed for compliance with the area development (zoning) regulations. If you have had a pre-application consultation with the Development Officer, the minor variance provision may have been identified. If your application was submitted without the consultation, the Development Officer will inform you whether a minor variance is required and may be able to authorize it. If your application is not in accordance with the zoning and the proposed development exceeds the minor variance (usually 10%) or no variance provision exists in the regulations, the Development Officer must deny the application. You will be advised on how to appeal this decision to the Zoning Appeal Board and ask for a variance from the Board. The Zoning Appeal Board has a higher level of authority and may decide to approve your application after a hearing.

The most common form of variance deals with setbacks from a property line. For example if a zoning regulation requires all buildings to be 10 meters from a property line and your site has certain unique characteristics which make it difficult to build within the setbacks, the development officer may, depending on the zoning regulation, relax the 10 meters by 10% or 1 meter. If this is not enough to provide a suitable location to build, the application must nevertheless be denied and you may appeal to the Zoning Appeal Board.

A setback provision may be varied if certain decision criteria are met. The primary consideration is the concept of undue hardship caused by a unique feature of the property such as bedrock close to the surface or steep slopes which make it impractical to build without a variance. The hardship cannot be caused by the property owner themselves.

How do I apply for a variance?

The development permit application decision letter will provide you with contact details for the Zoning Appeal Board which is one of the roles of the Yukon Municipal Board. You must write a letter appealing the decision and asking for a variance within 30 days of receiving the decision.

For more information, contact:

Zoning Appeal Board
c/o Sourdough Secretarial Services
7213 7th Ave.
Whitehorse Yukon Y1A1A3

General info:

www.emr.gov.yk.ca/lands/

Map viewer:

<http://mapservices.gov.yk.ca/lands/>

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ADMINISTRATIVE JURISDICTIONS

YUKON GOVERNMENT

Manages the majority of Yukon (public) land in the territory.

ENERGY, MINES AND RESOURCES

Land Management Branch

accepts applications to buy, lease and use public land. Administers Yukon government's non-titled land registry.

Agriculture Branch administers Yukon agriculture and grazing programs.

Land Planning Branch manages local area plans, zoning regulations and subdivision requests (outside Whitehorse and Dawson City).

Forest Management Branch administers timber permits and forestry planning.

COMMUNITY SERVICES

Community Infrastructure Branch develops planned subdivisions.

YUKON FIRST NATIONS

Control their own Settlement Lands.

MUNICIPALITIES

Administer lands, community plans and zoning bylaws within their jurisdictions.

Whitehorse and Dawson also control subdivision within their boundaries.

CANADA

Natural Resources Canada provides the survey system for Canada Lands (national parks, territories, offshore land, and Indian reserves).

Once your appeal letter is submitted to Zoning Appeal Board, a hearing must be held within 45 days. After the Board has heard the matter it must hand down a written decision within 30 days of the date of the hearing.

What do I do before and at an appeal or variance hearing?

It would be useful to prepare your case beforehand by reading the area development regulations for your area. It has been the boards practice over time to have hearings in a less formal manner than legal court proceedings. This helps to gather information from all participants in a more relaxed atmosphere and lessens participants' feelings of anxiety or nervousness.

As the person appealing you may be represented by legal counsel or you may speak on your own behalf. It would be useful to prepare your case beforehand and include reasons why you believe the decision is not appropriate.

The board chairs the hearing and guides the proceedings. In general the person who is appealing is asked their reasons for doing so and to provide any supporting facts to explain their view. Then the interested parties make their points of view known. Afterwards there may be a period for the board to ask questions to gather more information or clarify information provided. Once the board is satisfied it has enough information to consider the appeal properly, the hearing is finished.

What happens next?

The board must hand down its decision as a written order within 30 days of the date of the hearing. The board considers factors such as hardship that is not a result of the owners own doing, whether the variance would be a special privilege which neighbours are not able to obtain, whether the variance would have a negative impact on adjacent properties and whether the variance is more of a zoning amendment than simply a variance of the zoning. For exact wording please refer to the regulation CO 1976/225.

If the original decision has been changed by the Board, the Development Officer provides an authorization with the variance and/ or changes ordered by the Board.

For further information on the development permitting process and appeals please contact the Land Planning Branch at:

Phone: (867) 667-3734

Toll Free: 1-800-661-0408 ext. 2734

Fax: (867) 393-6340

Email: land.planning@gov.yk.ca

CONTACTS

YUKON GOVERNMENT

www.gov.yk.ca

Toll free: 1-800-661-0408 + extension
(last 4 digits of desired number)

ENERGY, MINES AND RESOURCES

320-300 Main Street, Whitehorse

Land Management Branch

Tel: (867) 667-5215

Fax: (867) 667-3214

land.disposition@gov.yk.ca

- land applications, developed lot sales

land.use@gov.yk.ca

- land use permits

Land Planning Branch

Tel: (867) 667-3530

Fax: (867) 393-6340

land.planning@gov.yk.ca

- subdivision and zoning in rural Yukon

COMMUNITY SERVICES

Building Safety

Tel: (867) 667-5741

Fax: (867) 393-6249

-building and construction permits
outside Whitehorse

JUSTICE - Land Titles

Tel: (867) 667-5612

Fax: (867) 393-6358

YUKON HOUSING CORPORATION

Loans Administration

Tel: (867) 667-8114

Fax: (867) 667-3664

- lot financing, agreements-for-sale

ENVIRONMENTAL HEALTH SERVICES

Tel: (867) 667-8391

Fax: (867) 667-8322

- septic systems

OTHER AGENCIES

CITY OF WHITEHORSE

www.city.whitehorse.yk.ca

Planning Services

Tel: (867) 668-8335

Fax: (867) 668-8395

- development charges, planning, zoning

Building Inspection

Tel: (867) 668-8340

Fax: (867) 668-8395

CITY OF DAWSON

www.cityofdawson.ca

Tel: (867) 993-7400

Fax: (867) 993-7434

- subdivision, planning and zoning

NRCAN-SURVEYOR GENERAL

Tel: (867) 667-3950

Fax: (867) 393-6707

- legal survey maps, plans, approvals

Survey plans available at <http://cls.nrcan.gc.ca/plansearch-rechercheplan-eng.php>