

Attachment 1

Provisions of Delegation of Minor Variances

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Criteria for Determining When a Variance is Minor

Minor variances in the following categories may be considered by the Director: 1) siting, size, and dimensions of buildings, structures and other permitted uses; 2) off street parking and loading for projects that include five or fewer units; 3) signs; 4) landscaping to screen or for natural environmental benefits. No variance may result in a change to the density or permitted use of the site.

A variance is considered to be minor where it is comparatively unimportant in size, or degree. The determination of degree must be done with regard to the particular circumstances involved. A minor variance may result in a significant change from a provision of the bylaw where that provision is determined to be comparatively unimportant under the particular circumstances.

A variance is minor if, given the provision of sufficient evidence, and the particular circumstances of the application, it can be determined that the variance would:

1. Be small enough to be relatively unnoticeable by the average user of the site, adjacent sites, and the surrounding public realm; or,
2. Be of a comparatively unimportant degree, as defined by the variance resulting in:
 - Construction that is consistent with the neighbourhood context;
 - Construction that is appropriate to existing buildings on the site;
 - Construction that maintains functionality (e.g. access and connectivity, accessibility, screening, fire access, weather protection) and/or livability (e.g. adequate outdoor space) of the subject site;
 - No more than minor adverse impacts to the functionality (e.g. loading, garbage collection, vehicle access location) and/or livability (e.g. views, shadowing, light, air, indoor or outdoor privacy) of neighbouring properties, including for any buildings that could be built on those properties under existing zoning;
 - No more than minor adverse impacts to the public realm (e.g. streetscape, lane, adjacent public open space), and/or other public assets (e.g. trees);
 - No more than minor adverse impacts to the future expansion or operation of existing permitted uses in the vicinity;
 - Adequate safety for those using, accessing and/or traveling past the subject site and surrounding sites on foot, rolling or by vehicle; and,
 - No loss of protected trees, except in circumstances where the Director determines the variance would support other priorities of Council or the City.

Application Evaluation Criteria

The Director shall evaluate minor Development Variance Permit applications using the following considerations, which are consistent with the City of New Westminster's Policy Approach to Considering Requests for Development Variances (2008), as updated from time to time:

- There should be a valid reason why the bylaw requirements cannot be met. It is not sufficient that a variance would be convenient to an owner in order to justify its approval; nor is it required that a variance be justified due to hardship; however, requests for variances on new buildings will generally not be supported unless there is a hardship related to the site (such as slope and topography issues), or it would support a Council priority (e.g. affordable rental, retention of protected trees, etc.)
- The applicant can demonstrate they have explored all reasonable alternative solutions and determined that none is available, to the satisfaction of the Director.
- The applicant can demonstrate the possible mitigations to issues related to the variance have been identified and incorporated into the proposal, to the satisfaction of the Director.
- The variance would result in a nonconformity that is satisfactory and acceptable from a planning standpoint, e.g. continues to meet the intent of the bylaw, fulfills related planning objectives, etc. This includes that the description or definition of the permitted use must be considered, to help frame what is the intent of the Zoning Bylaw and Official Community Plan and how the new use strays outside or continues to meet that intent.
- The variance would result a nonconformity that is consistent with other related City policy that would otherwise support the limitations of the provision of the regulation being sought to vary;
- The variance would result a nonconformity that maintains sufficient vehicle vision clearance (i.e. at street and lane corners, driveways), and/or required vehicle access to the site.

Terms and Conditions

The following terms and conditions will apply to development variance permits approved through this process:

1. A Development Variance Permit shall apply to, and only to, those lands within the City described by the Permit, and any or all buildings, structures and other development thereon.

2. The provisions of Zoning Bylaw 6680, 2001, as updated and/or replaced from time-to-time, shall be varied or supplemented only as described by the Development Variance Permit.
3. The development shall be carried out within 24 months of the date of issuance of a Development Variance Permit.
4. As a condition of the issuance of a Development Variance Permit, the City may hold Security in the amount set out by the Permit to ensure that related landscaping is carried out in accordance with the terms of the permit and that any unsafe condition that may occur as a result of contravention of the Permit is corrected. The City may undertake and complete the works required to satisfy the landscaping condition or carry out any construction required to correct the unsafe condition, or both, at the cost of the Owner and may apply the Security in payment of the cost of the works, with any excess to be returned to the Owner. Interest earned on the Security provided shall accrue to the Owner and be paid to them immediately on return of the Security or, in default, become part of the amount of the Security.
5. The land described by the Development Variance Permit shall be developed strictly in accordance with the terms and provisions of the Permit which shall form a part of the Permit.
6. If the Owner does not substantially commence the development permitted by a Development Variance Permit within 24 months of the date of the Permit, the Permit shall lapse.
7. All plans and specifications included in a Development Variance Permit are subject to any charges required by the Building Inspector or other officials of the City where such plans and specifications do not comply with any duly enacted law or bylaw, and such non-compliance is not specifically permitted by the Permit. Minor variations which do not substantially alter the work referred to in the plans and specifications may be permitted if approved in writing by the Director.