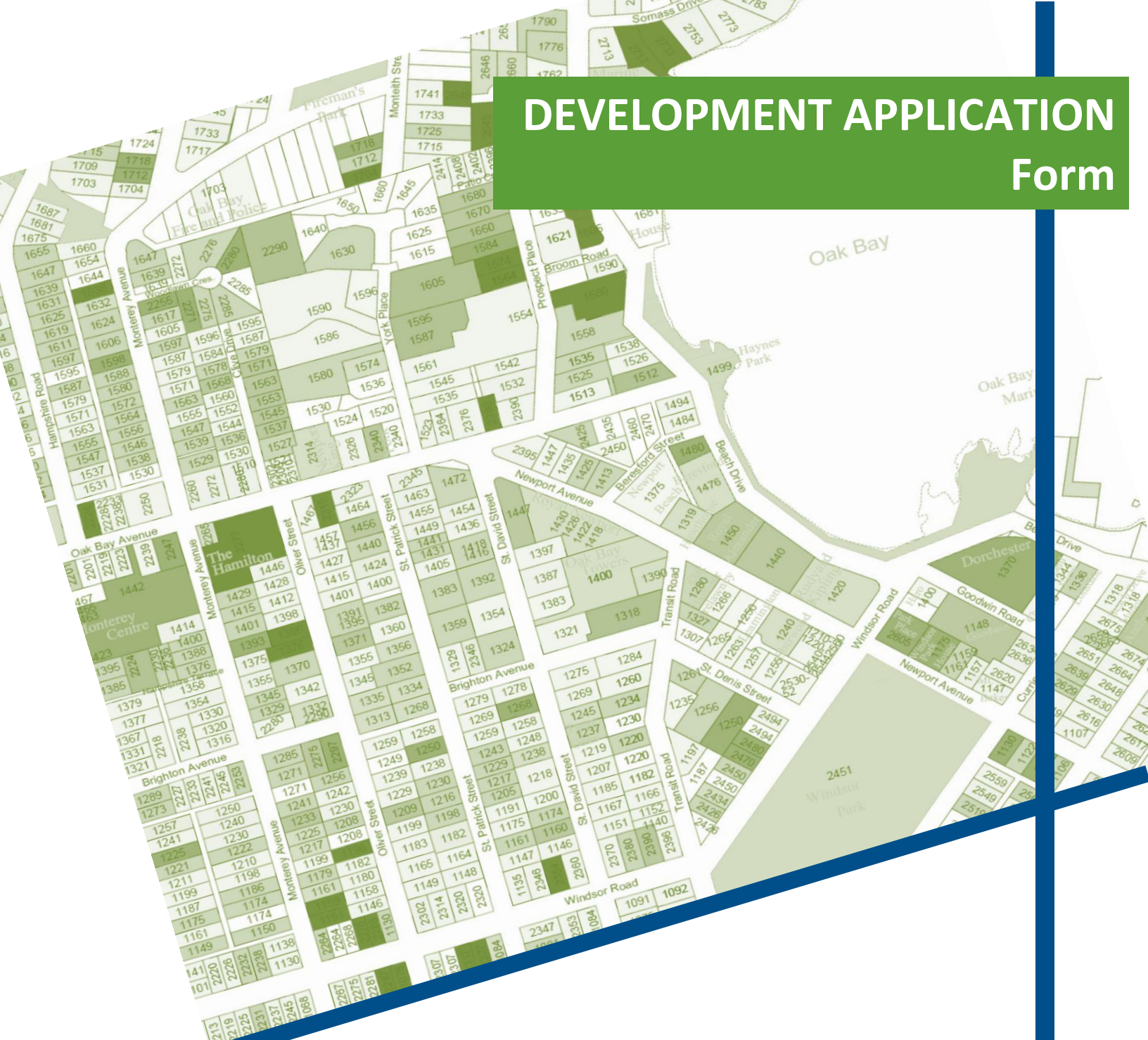


# DEVELOPMENT APPLICATION Form



Look for the green emblem – these  
are the pages to be completed for  
your Development Application!



DISTRICT OF  
**OAK BAY**

**District of Oak Bay**  
2167 Oak Bay Avenue  
Victoria, BC V8R 1G2  
Ph. (250) 598-2042  
[www.oakbay.ca](http://www.oakbay.ca)

## WHAT ARE THE DOCUMENTS THAT MAY BE REQUIRED FOR YOUR APPLICATION?

### Amendment Rationale (1 copy)

A written explanation that must include: description of surrounding area; purpose of OCP / zoning or other amendment; and how the application is consistent with the objectives and policies of the Official Community Plan. Where applicable, this should also include the Variance Rationale (see below).

### Appointment of Agent Form (1 copy)

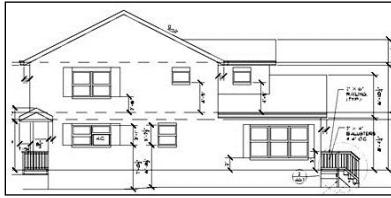
Required if applicant is not registered owner of the subject property.

### Archaeological Assessment (1 copy)

Please contact the British Columbia Association of Professional Archaeologists at [www.bcapa.ca](http://www.bcapa.ca).

### Building Elevations (2 copies)

Building elevations should be submitted for north, south, east and west elevations, and must indicate the average natural and finished grade, as well as height of all proposed buildings, fences or retaining walls.



### Certificate of Title (1 copy)

Copy of the Certificate of Title for subject land(s), and a copy of all relevant covenants, easements, rights of way, and other charges, no older than 30 days at time of application. A Certificate of Title can be obtained from [www.ltsa.ca](http://www.ltsa.ca) or at 1321 Blanshard Street, Victoria.

### Community Amenity Contribution Proposal (1 copy)

A written proposal indicating how the proposed development will satisfy Council policy contained within the Official Community Plan.

### Concept Plan (1 copy)

Show layout of proposed development.

### Design Rationale (1 copy)

Written explanation of project conformity to relevant guidelines and items such as form and character, surrounding context and building materials.



### Development Data (Include on Site Plan)

This should be provided on the Site Plan as a table that summarizes the proposed development, including but not limited to, site area, lot coverage, number of units, total floor area, floor area ratio, lot breadth, building height, occupiable height, roof height, open space locations, percent of hard surfacing in front / back yards, and parking requirements.

### Economic Impact Analysis (2 copies)

To assess the effects of the proposed development, include items such as impact on commercial space, commercial use, and employment within the community.

### Environmental Assessment (2 copies)

To include, but not limited to, watercourse, wildlife and bird habitat, wildlife corridors, sensitive ecosystems and species at risk, discharges to air and water, tree canopy, land disturbance and clearing, and proposed mitigation.

### Geotechnical Report (2 copies)

To assess the suitability of the site if land stability problems or flood levels / sea level rise issues are present.

### Heritage Conservation Plan (1 copy)

To be prepared by a heritage professional in keeping with Standards and Guidelines for the Conservation of Historic Places in Canada.

### Landscape Plan (1 copy)

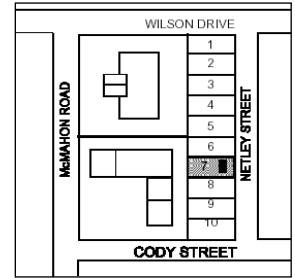
The plan should include an inventory of proposed plant material (number, type and size), and proposed treatment of other surfaces including hardscaped areas and boulevard and driveway crossings.

### Location Plan (1 copy)

The plan should show the general location of the proposed development and surrounding area.

### Neighbourhood Context / Streetscape (1 copy)

A drawing or photomontage showing how the proposed development fits into the street.



### Rainwater (Stormwater) Management Plan (2 copies)

A report identifying how rainwater will be dealt with. The objective is to manage flows at pre-development levels.

### Riparian Area Assessment (3 copies)

As per Provincial Riparian Area Regulations (RAR), an assessment must be completed by a Qualified Environmental Professional (QEP) for projects proposing development within the riparian setback. Prior to approvals, confirmation is required that the Province has reviewed the report.

### Servicing Report (2 copies)

A report indicating the existing and proposed water, sanitary, and storm services.

### Shadow Study (2 copies)

Typical study is undertaken during Equinox at intervals of 9:00 am, 12:00 pm and 3:00 pm.

### Site Plans (1 full set 24" x 36" / 1 full set 11" x 17")

Legal data (survey) showing dimensions of all property lines, rights of way and easements, north arrow, scale and date of plan; dimensions and setbacks of proposed and existing buildings; location, number and dimensions of all off street parking and loading spaces; percent of hard surfacing in front and back yards; existing and proposed access points to site, all watercourses, including their natural boundary, wetland boundary (where applicable), top of bank (where applicable) and leave strip boundaries; location, size and type of all trees on site.

### Site Profile Form (1 copy)

Forms and information available at [www.env.gov.bc.ca/epd/](http://www.env.gov.bc.ca/epd/)

### Survey Plan (2 copies)

To show legal boundaries, dimensions and area of the land(s).

### Traffic Study (2 copies)

To include, but not limited to, additional loads on local and major intersections, impacts to traffic patterns, proposed improvements to area street systems, and rationale for vehicle access points.

### Tree Management Plan (TMP) (2 copies)

To include general location and type of vegetation, description of trees and tree groupings, species listing, size of trees, identification of any significant / protected trees, tree removal rationale, tree protection fencing locations, and other protection strategies.

### Variance Rationale (1 copy)

A written rationale for all proposed variances.

### View Analysis (1 copy)

To include plans and documentation indicating how the proposed development will impact the surrounding area.

**NOTE: All plans, drawings and elevations to be submitted with your application must be prepared by the appropriate professional**

**INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT**

**Type of Application (please check all that apply)**

- |  |  |
|--|--|
| <input type="checkbox"/> Official Community Plan (OCP) Amendment | <input type="checkbox"/> Development Permit (DP)     |
| <input type="checkbox"/> Zoning Bylaw Amendment                  | <input type="checkbox"/> Development Variance Permit |
| <input type="checkbox"/> Land Use Contract Amendment / Discharge | <input type="checkbox"/> Uplands Siting and Design   |
| <input type="checkbox"/> Heritage Revitalization Agreement       | <input type="checkbox"/> Covenant Amendment          |
| <input type="checkbox"/> Heritage Alteration Permit              | <input type="checkbox"/> Board of Variance           |

**Applicant**

Name of Applicant (*contact person*) \_\_\_\_\_

*\*If applicant is not the registered owner, an Agent Authorization form will be required.*

Mailing Address \_\_\_\_\_

Postal Code \_\_\_\_\_

Phone 1 \_\_\_\_\_ Phone 2 \_\_\_\_\_

Fax \_\_\_\_\_

Email \_\_\_\_\_

Name of Property Owner (*if different from applicant*) \_\_\_\_\_

Mailing Address \_\_\_\_\_

Email \_\_\_\_\_

Please indicate preferred method of correspondence  Email  Mail

**Application Fees**

- |  |                           |
|--|---------------------------|
| <input type="checkbox"/> Official Community Plan Amendment   | \$1500.00                 |
| <input type="checkbox"/> Zoning Bylaw Amendment  | \$1500.00                 |
| <input type="checkbox"/> Concurrent Official Community Plan / Zoning Amendment                     | \$2000.00                 |
| <input type="checkbox"/> Land Use Contract Amendment <sup>1</sup>                                  | \$1500.00                 |
| <input type="checkbox"/> Land Use Contract Discharge   | no fee                    |
| <input type="checkbox"/> Heritage Revitalization Agreement   | \$ 750.00                 |
| <input type="checkbox"/> Heritage Alteration Permit <sup>2</sup>                                   | \$ 200.00                 |
| <input type="checkbox"/> Development Permit  | \$1000.00                 |
| <input type="checkbox"/> Development Variance Permit   | \$1000.00                 |
| <input type="checkbox"/> Uplands Siting and Design <sup>2</sup>                                    | \$ 400.00                 |
| <input type="checkbox"/> Covenant Amendment  | \$ 750.00                 |
| <input type="checkbox"/> Large Projects Fee (commercial / residential projects > 4 dwelling units) | \$1.00/m <sup>2</sup> GFA |
| <input type="checkbox"/> Public Hearing Fee  | \$1200.00                 |
| <input type="checkbox"/> Board of Variance   | \$ 250.00                 |

**PLEASE NOTE:**  
Application fees must be submitted with your complete application. Fees are non refundable.

<sup>1</sup> Not applicable where a zoning amendment fee applies.

<sup>2</sup> Not applicable where a development permit or development variance permit applies.

**Please indicate the amount being paid for this application** \$ \_\_\_\_\_

*The District of Oak Bay accepts cash, cheque or debit for payment of application fees.*

**For Office Use Only**

File No. \_\_\_\_\_ Application Fee \$ \_\_\_\_\_

**Property Information and Proposed Amendment**

Civic Address of Property \_\_\_\_\_  
 PID Number(s) \_\_\_\_\_  
 Legal Description of Property\* \_\_\_\_\_  
 \_\_\_\_\_

**Amendment Requested**

**For OCP / Rezoning**, Indicate  Text Amendment  Map Amendment

**For DP**, Indicate  Form & Character  Environmental / Aquatic

**Variations Requested** (all measurements to be provided in metres)

- |                                      |                 |            |
|--------------------------------------|-----------------|------------|
| (1) Front Lot Line                   | from _____      | to _____   |
| (2) Rear Lot Line                    | from _____      | to _____   |
| (3) _____ Side Lot Line              | from _____      | to _____   |
| (4) _____ Side Lot Line              | from _____      | to _____   |
| (5) Total Side Lot Lines             | from _____      | to _____   |
| (6) Second Storey Setback            | from _____      | to _____   |
| (7) Building Height                  | from _____      | to _____   |
| (8) Occupiable Height                | from _____      | to _____   |
| (9) Roof Height                      | from _____      | to _____   |
| (10) Space Between Buildings         | from _____      | to _____   |
| (11) Front / Rear Yard Paved Surface | from <u>25%</u> | to _____ % |
| (12) Parking Spaces                  | from _____      | to _____   |
| (13) Other _____                     |                 |            |

Describe Proposed Amendment \_\_\_\_\_  
 \_\_\_\_\_

Purpose of Application \_\_\_\_\_  
 \_\_\_\_\_

*\* Legal description must match that shown on Certificate of Title*

**WAIT! Before you submit, have you checked with your neighbours? The District of Oak Bay strongly encourages applicants to contact owners and residents of nearby properties about their proposal early in the process.**

**Signature**

I / we hereby declare that all of the above statements and the information and materials submitted in support of this application are, to the best of my knowledge, true and correct.

\_\_\_\_\_  
**Applicant Name (please print)**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Applicant Signature**

**PLEASE NOTE**

**A pre-application meeting with staff is required to determine additional application requirements.**

**REQUIRED ITEMS for  
All Development Applications\***

- Electronic Application Submission - USB Flash Drive or Email (up to 8 MB per email),  
With **ALL** Supporting Documentation  
*Electronic documents MUST be submitted as per the requirements set out on Page 6*
- Completed Application Form
- Application Fee (see page 1)
- Certificate of Title (dated within 30 days of the date of application)
- Copy of any Relevant Covenants, Easements, Rights of Way, Other Charges
- Location Plan
- Amendment Rationale
- Completed Checklist (dated and signed)
- Completed Board of Variance Checklist (see page 5)  
*\* See Page 7 for Board of Variance Requirements*

*Please be advised that further information may be required as a result of the application review process, therefore the checklist items noted on this form should not be considered a complete list of requirements.*

**Additional Items**

Required	Submitted	
<input type="checkbox"/>	<input type="checkbox"/>	Agent Authorization Form
<input type="checkbox"/>	<input type="checkbox"/>	Survey Plan
<input type="checkbox"/>	<input type="checkbox"/>	Site Plan at 1:100 Scale
<input type="checkbox"/>	<input type="checkbox"/>	Detailed Drawings at 1:50 Scale
<input type="checkbox"/>	<input type="checkbox"/>	Development Data
<input type="checkbox"/>	<input type="checkbox"/>	Building Elevations / Floor Plans at 1:50 Scale
<input type="checkbox"/>	<input type="checkbox"/>	Materials Checklist (colours, materials, photos)
<input type="checkbox"/>	<input type="checkbox"/>	Concept Plan
<input type="checkbox"/>	<input type="checkbox"/>	Sustainability Checklist
<input type="checkbox"/>	<input type="checkbox"/>	Environmental Assessment
<input type="checkbox"/>	<input type="checkbox"/>	Riparian Area Assessment
<input type="checkbox"/>	<input type="checkbox"/>	Tree Protection Plan
<input type="checkbox"/>	<input type="checkbox"/>	Landscape Plan
<input type="checkbox"/>	<input type="checkbox"/>	Traffic Study
<input type="checkbox"/>	<input type="checkbox"/>	Servicing Report
<input type="checkbox"/>	<input type="checkbox"/>	Rainwater (Stormwater) Management Plan
<input type="checkbox"/>	<input type="checkbox"/>	Site Profile Form
<input type="checkbox"/>	<input type="checkbox"/>	Geotechnical Report
<input type="checkbox"/>	<input type="checkbox"/>	Archaeological Assessment
<input type="checkbox"/>	<input type="checkbox"/>	Statement of Significance
<input type="checkbox"/>	<input type="checkbox"/>	Heritage Conservation Plan
<input type="checkbox"/>	<input type="checkbox"/>	Economic Impact Analysis
<input type="checkbox"/>	<input type="checkbox"/>	Design Rationale
<input type="checkbox"/>	<input type="checkbox"/>	Variance Rationale
<input type="checkbox"/>	<input type="checkbox"/>	Neighbourhood Context / Streetscape
<input type="checkbox"/>	<input type="checkbox"/>	View Analysis
<input type="checkbox"/>	<input type="checkbox"/>	Shadow Study
<input type="checkbox"/>	<input type="checkbox"/>	Community Amenity Contribution Proposal

} (1 full set 24" x 36", 11" x 17" and 8 ½" x 11")  
 (10 sets 11" x 17" for Uplands Siting and Design)

**Signature**

I / we hereby declare that all of the statements and the information and materials submitted in support of this application are, to the best of my knowledge, true and correct.

\_\_\_\_\_/\_\_\_\_\_  
Applicant Name(s) (please print)

\_\_\_\_\_  
Date

\_\_\_\_\_/\_\_\_\_\_  
Applicant Signature(s)

**WAIT!**

**BEFORE YOU SUBMIT YOUR APPLICATION, check your plans and drawings! Can you read all the text and see all the details of your drawings on the 8 1/2" x 11" plans? If not, consider increasing the size of your text and drawings. If you can't read them, we can't read them, and they may not be accepted.**

**INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT**

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**VOLUNTARY WAIVER**

I / we hereby agree to the release of all floor plan data as provided with this application. I understand this information may become public as it is reviewed by Council and its committees.

\_\_\_\_\_/\_\_\_\_\_  
Applicant Name(s) (please print)

\_\_\_\_\_  
Date

\_\_\_\_\_/\_\_\_\_\_  
Applicant Signature(s)

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## WHAT YOU NEED TO KNOW ABOUT SUBMITTING YOUR PLANS

All plans, drawings and elevations to be submitted with your application must:

1. be prepared by the appropriate professional
2. be provided at a scale of 1:100
3. digital quality no more than 300 DPI per image
4. digital layers must be flattened
5. text documents OCR enabled
6. PDF files must be compressed using the “Prepare for Web Publishing” feature

Your Site Plan must include a **Zoning Analysis (Site Data)**, provided as shown in the following example:

Address	1234 Overview Drive		
Legal Description	Lot 1, Section 2, Plan VIP12345, Victoria District; PID 001 002 003		
LOT INFORMATION	REQUIRED	EXISTING	PROPOSED
Zone	RS-5		
Lot Area	558 m <sup>2</sup>	949 m <sup>2</sup>	n/a
Lot Frontage	15.25 m	21.10 m	n/a
Lot Breadth	n/a	21.20 m	n/a
Lot Depth		44.50 m	n/a
Front Yard Setback Area		172.57 m <sup>2</sup>	
Paved Surface (m <sup>2</sup> and %)		40.60 m <sup>2</sup> / 23.5%	45.30 m <sup>2</sup> / 26.3%
Rear Yard Setback Area		218.27 m <sup>2</sup>	
Paved Surface (m <sup>2</sup> and %)		23.20 m <sup>2</sup> / 10.6%	
Setbacks <sup>1</sup>			
Front Lot Line	7.62 m	7.62 m	6.90 m
Interior Side Lot Line(s)	1.52 m	1.74 m / 3.37 m	
Total Side Lot Lines	4.57 m	5.11 m	
Rear Lot Line	11.10 m	17.30 m	
Second Storey	3.00 m	n/a	3.40 m
Between Buildings/Structures	3.00 m	5.20 m	
Heights <sup>1</sup>			
Average Grade		14.66 m	
Roof Height	8.84 m	6.83 m	8.22 m
Building Height	7.07 m	4.28 m	5.99 m
Occupiable Height	4.42 m	0.58 m	3.69 m
Gross Floor Area <sup>1</sup>		168.03 m <sup>2</sup>	243.50 m <sup>2</sup>
Main Floor		177.03 m <sup>2</sup>	191.28 m <sup>2</sup>
Upper Floor(s)		n/a	63.08 m <sup>2</sup>
Basement		n/a	n/a
Accessory Buildings		10.00 m <sup>2</sup>	10.00 m <sup>2</sup>
Exemptions		- 19.00 m <sup>2</sup> garage	- 1.86 m <sup>2</sup> covered door - 19.00 m <sup>2</sup> garage
Floor Area Ratio <sup>1</sup>	0.4	0.18	0.26
Lot Coverage	30%	208.75 m <sup>2</sup> / 22.0%	209.95 m <sup>2</sup> / 22.1%
Parking (# spaces, covered)	2, 1	3, 2	
<b>PROPOSED VARIANCES</b>			
		<i>Proposed</i>	<i>Variance Requested</i>
	Paved Surface	45.30 m <sup>2</sup> / 26.3%	4.70 m <sup>2</sup> / 2.8%
	Front Lot Line	6.90 m	0.72 m

<sup>1</sup> Data to be provided for all applicable buildings and structures.

All Measurements to be Provided in Metric

## What Is The Process for a Heritage Revitalization Agreement?

To make application for a Heritage Revitalization Agreement, the property must either be on the Heritage Register or have Heritage Designation. If the application involves a subdivision, then an application for subdivision must also be included (Note that a Subdivision Application is under a separate application form than this Development Application Form.)

### Preliminary Inquiry

- District staff meet with you, review your property, and organize a preliminary information presentation to the Heritage Commission for their initial comments on the proposed project.

### Application and Departmental Review

- The applicant submits a complete Development Application package and applicable fees. District staff review the application for consistency with District regulations (for example, zoning, building permits, fire safety).

### Report to Council

- A staff report is submitted to Council for their consideration to forward the application to the Heritage Commission for their comments and recommendation.

### Community Consultation

- Community consultation is an important part of the process. It is important to check with your neighbours and get their feedback on your proposed project. The Heritage Commission is also part of that consultation. In addition, your application may be reviewed by the Advisory Design Panel and Advisory Planning Commission for their recommendations.

### Report to Council

- When a complete staff review and appropriate referrals and consultation have taken place, including recommendations of the Heritage Commission and initial community input, a staff report is forwarded to Council. At this stage, Council may direct staff to prepare the Heritage Revitalization Agreement.

### Heritage Revitalization Agreement, Bylaw Preparation and Readings

- Staff will prepare a Heritage Revitalization Agreement for the proposed project. The Agreement is subject to a formal process of bylaw readings, posting signage on the property, and a public hearing. Council then considers the proposal for approval through bylaw adoption at a subsequent meeting.

### Development Phase

- Following Council approval, applicants are encouraged to meet with the Building and Planning Department for submission of Heritage Alteration Permit and Building Permit applications. Once Permits have been issued, the applicant is encouraged to update the District every six (6) months regarding development progress, including periodic site visits from the District.

### Project Development - Completion Phase

- Once the project has been certified complete by the property owner, registered professional or heritage consultant, a site review will be conducted and authorized as complete by the District.

#### Please Note:

**A Heritage Revitalization Agreement expires two (2) years from the date of issuance if works have not been completed.**



## Board of Variance Checklist

### Required Items for Board of Variance

- Electronic Application Submission, Including all Supporting Documentation
  - Cover Letter Addressed to Secretary to the Board of Variance
  - Completed Application Form
  - Application Fee
  - Certificate of Title (*dated within 30 days of the date of application*)
  - Copy of any Relevant Covenants, Easements, Rights of Way, Other Charges
  - Clear Description of the Proposed Work
  - Statement Indicating Variances Requested and Grounds on Which Relief is Sought
  - Detailed Drawings (1 full set 24" x 36"; 1 full set 11" x 17") to Include:
    - Site Plan
    - All Applicable Exterior Building Elevations
    - Proposed Work in Relation to Adjacent Properties and Buildings
    - Portion of Proposed Work That Does Not Conform to Zoning Regulations
    - Topographic Details (where pertinent to appeal)
- Scaled drawings to be provided at 1:50 (1/4" = 1 ft)*

## What Is The Board of Variance?

A Board of Variance is legislated through the *Local Government Act*, and required for any municipality where a zoning bylaw has been adopted. For the District of Oak Bay, the Board consists of three persons appointed by Council. However, the Board functions separately from the District and has its own authority under the *Act*.

The Board of Variance is established to provide an avenue for appeal on the interpretation of select local government regulations, such as the zoning bylaw or tree protection bylaw; and may consider variances that will not adversely impact a policy decision or change the intent of an adopted bylaw. It does not have the authority to allow for a change in permitted use or density, nor to create a situation where decisions conflict with other matters such as *Land Title Act* covenants, permits, land use contracts or floodplain bylaw specifications.

Generally, the Board focuses on situations that are considered minor and creating a **hardship**, and that relate to matters such as siting, dimensions, and size of buildings. Factors that are taken into consideration when making a decision include ensuring the variance does not

1. Result in inappropriate development of the site
2. Adversely affect the natural environment
3. Substantially affect the use and enjoyment of the adjacent land
4. Vary the permitted uses and densities, or
5. Defeat the intent of the bylaw.

Some uses of land, although lawful at the time, are not permitted under current bylaws. These uses are considered lawful nonconforming. For a building containing a lawful nonconforming use, the Board of Variance has the authority to determine whether a structural alteration or addition is permissible.

## Process



## Board of Variance Considerations

Section 901 of the *Local Government Act* requires the Board of Variance hear an applicant and the owners and tenants of the subject and adjacent properties prior to making a decision. The Board must also be satisfied that a variation is justified through a determination of undue hardship. As such, the Board must consider a set of criteria, as noted below; and a determination in the affirmative for each of the criteria may qualify for consideration of a variance. Conversely, if the determination is in the negative, there may be justification to deny the appeal.

### Board of Variance Considerations

#### 1. Is the variance request of a minor nature?

A 'minor variance' limits the scope of the variance the Board may allow. Relaxation of a requirement of a bylaw cannot be a substantial variation. Because the statute limits the Board's authority in this way, the Board must consider this point most carefully. While the decision of the Board is final, the courts may review an appeal on a procedural or jurisdictional issue, including the scope or degree of a variation permitted by the Board.

#### 2. Has the applicant provided sufficient evidence to substantiate 'undue hardship' if they comply with regulations?

The application of requirements of the bylaw must create a **hardship**. Increased cost or loss of an amenity is a hardship but is unlikely to be a sufficient reason on its own.

The hardship created must be **undue**. The intent of this term is to limit the concerns of the Board to types of hardship that result from aspects of the site as opposed to those that are personal to, or generated by, the owner. If a site characteristic is that bedrock protruding in the site's building area makes compliance with the siting provisions of a bylaw difficult and unreasonable, the hardship created, through no fault of the property owner, is undue. If other properties in the zone do not have the protruding rock, they would not be subject to the same degree of hardship.

The difficulty in determining what is undue hardship revolves around whether the hardship would have been a hardship for everyone. If compliance with the general setback regulations is difficult or expensive, but that is the case for all properties within that zone, then one could not argue that there is undue hardship. If a circumstance penalizes one or only a few owners, it would be unfair and unduly onerous.

#### 3. Will the variance, if granted, result in the 'inappropriate development' of the site?

Legislation does not limit the interpretation of 'inappropriate' solely to an opinion of the Board. It states that the variance must not be 'inappropriate'. A simple test would be to compare the proposed development with that existing on surrounding lots. The elected officials, to some measure, have defined what is appropriate by specifying general regulations in a bylaw. If these are 'appropriate' for surrounding properties, the Board should determine why they would not be equally appropriate for the particular property that is the subject of appeal.

#### 4. Will the variance, if granted, 'vary uses and densities' under the Zoning Bylaw?

Variations allowed by the Board cannot change permitted use or density. Such changes are not minor. They may only be made by elected officials through a zoning bylaw amendment, which is subject to full public scrutiny.

The issue of density may add complexity. Variances affecting setbacks, the size and dimensions of a building, site coverage, or the floor space ratio could result in allowing change in the density of a use. However, as long as any increase in density is within the limits established in the zoning bylaw, it is within the permitted density.

*One example would be where relaxation of a 20 metre setback for an apartment building may allow a larger building to be constructed on the site. It should be clear in the decision that such a relaxation does not give any special right to the developer to increase the number of units over that allowed by bylaw simply because a larger building is now possible. More units beyond the limits of the bylaw would be an increase in density.*

#### 5. Will the variance, if granted, 'substantially affect' the use and enjoyment of adjacent land?

The full wording in the legislation refers to affecting the use and enjoyment of adjacent land that includes a full range of considerations such as noise, dust, destruction of views as well as safety concerns. It is the Board's obligation to determine if the variance requested would cause significant impact on surrounding properties. A petition circulated by the applicant to adjoining owners indicating consent to the variance, although a helpful indication, does not satisfy this requirement. Ownership changes and what does not offend on neighbour may another. The Board must decide the issue.

#### 6. Will the variance, if granted, 'defeat the intent' of the bylaw?

The Board must try to determine, from reading the bylaw, what the local government intended to be the type of neighbourhood established by the zoning regulations. It must decide this by reading the bylaw because that is the only valid definition of the Council's intent. Any variance granted by the Board should not disrupt the basic harmony with other developments within a zone.

While the Board of Variance is limited in its authority to provide minor variances that are substantially in keeping with the Zoning Bylaw, the Municipal Council may grant variances at its discretion in accordance with the Development Variance Permit process. Applicants are advised to contact the District of Oak Bay for more information.