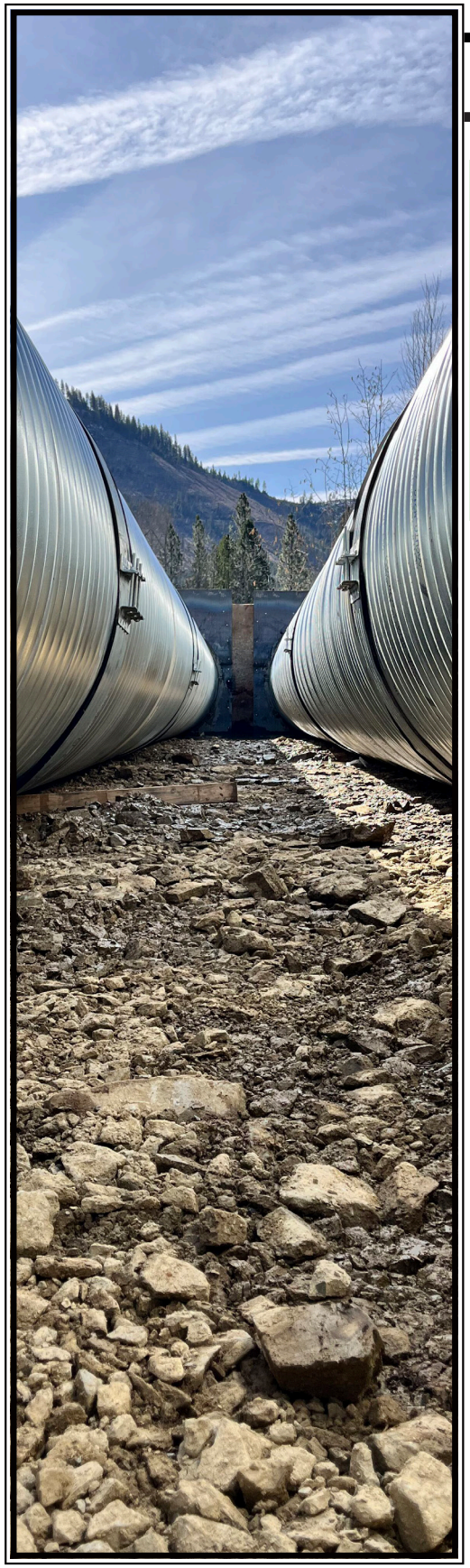

SECTION 500 - VARIANCES

Section 500 outlines the process by which an applicant may request a variance from the Highway District Standards when unique site conditions make strict compliance impractical. It establishes the criteria the Highway Districts use to evaluate whether a variance is justified, ensuring that any exceptions are based on legitimate hardship, remain consistent with public safety, and do not grant special privileges. This section provides a clear, fair framework for reviewing variance requests while maintaining the integrity and intent of the overall Standards.

501. VARIANCES

501.01 Authority and Limitations. The Director of Highways may grant a variance from these Standards only as provided in this Section. A variance does not authorize a deviation from applicable federal or state law, county or municipal ordinance, or a requirement imposed by another governmental agency.

501.02 Eligibility. A variance may be granted when physical conditions unique to the property or proposed work make strict compliance with a Standard impracticable or create an unnecessary hardship, and the requested variance:

a. is the minimum deviation reasonably necessary to address those conditions;

b. remains consistent with the purpose of the affected Standard;

c. will not materially impair public health, safety, or welfare;

d. will not be materially detrimental to neighboring property or the District highway or public right-of-way; and

e. will not grant a special privilege inconsistent with the limitations imposed on similarly situated property.

Increased cost, reduced financial return, personal convenience, or design preference, standing alone, does not establish an unnecessary hardship.

501.03 Application. A variance request shall be submitted in writing with the applicable fee and shall:

a. identify each Standard from which a variance is requested;

b. describe the requested deviation;

c. identify the unique physical conditions and resulting hardship;

d. explain why strict compliance is impracticable and why the requested deviation is the minimum reasonably necessary;

e. demonstrate compliance with the criteria in Section 501.02; and

f. include plans, drawings, calculations, or other information necessary to evaluate the request.

When relevant to the requested variance, the application shall include a scaled site plan showing property lines, public rights-of-way, highways, easements, existing and proposed structures, approaches, driveways, pedestrian facilities, parking, loading areas, landscaping, and other material site features. The Director may require additional information reasonably necessary to evaluate the request.

501.04 Decision. The Director shall approve, approve with conditions, or deny the request in writing. The decision shall identify the Standard at issue and state the findings supporting the decision under Section 501.02. The Director may impose conditions reasonably necessary to ensure compliance with these Standards and protect the District highway, public right-of-way, and public health, safety, and welfare.

502. APPEAL

502.01 Appeal to the Board. The Applicant may appeal the Director's decision to the Board by submitting a written appeal and the applicable fee within 28 days after the date of the decision. The appeal shall identify the decision being challenged and state the grounds for the appeal.

502.02 De Novo Review. The Board shall consider the variance request de novo and is not bound by the Director's findings or decision. The Board may consider the original application, the Director's decision, the written appeal, and any additional testimony, documents, or other information it determines relevant. The appeal shall be placed as an action item on a Board meeting agenda.

502.03 Board Decision. The Board may approve, approve with conditions, or deny the variance request. The Board shall issue a written decision identifying the Standard at issue and stating its findings under Section 501.02.

503. DURATION AND EXPIRATION

503.01 Duration. Unless otherwise stated in the decision or the applicable permit or approval, a variance expires if the authorized work has not commenced within six months after the variance becomes final.

503.02 Extension. Before the variance expires, the Applicant may request one extension of up to six months. The Director may grant the extension upon finding that the conditions supporting the variance have not materially changed. A variance expires if the authorized work does not commence within the extension period.