

THE CORPORATION OF THE DISTRICT OF SAANICH

BYLAW NO. 8599

TO CONSTITUTE A BOARD OF VARIANCE

WHEREAS the "*Local Government Act*" provides that where a Council has adopted a Zoning Bylaw there shall be established by bylaw a Board of Variance;

AND WHEREAS the Council of the Corporation of the District of Saanich has adopted a Zoning Bylaw;

NOW THEREFORE the Council of The Corporation of the District of Saanich enacts as follows:

1. There is hereby established pursuant to the provisions of the *Local Government Act* a Board of Variance for the Corporation of the District of Saanich consisting of five (5) persons appointed by Council.
2. An appointment under Section 1 is for a maximum term of:
 - a) Three (3) years, or
 - b) If no successor has been appointed at the end of the three (3) year period, until the time that a successor is appointed.
3. A person who is:
 - a) a member of the Council, or
 - b) an officer or employee of the Corporation of the District of Saanich, is not eligible to be appointed to the Board of Variance.
4. The members of the Board of Variance shall elect one of their number as Chair and the Chair may appoint a member of the Board of Variance as Acting Chair to preside in his or her absence.
5. The Council may rescind an appointment to the Board of Variance at any time.
6. Where a member of the Board of Variance ceases to hold office, the person's successor shall be appointed in the same manner as the member who ceased to hold office, and, until the appointment of the successor, the remaining members constitute the Board of Variance.
7. A member of the Board of Variance shall not receive compensation for services as a member but shall be paid reasonable and necessary expenses that arise directly out of the performance of his or her duties.
8. The Council shall in its annual budget provide for the necessary funds to pay for the costs of the Board of Variance.
9. The Board of Variance shall hear and determine any appeal with respect to matters mentioned in Part 14: Division 15 of the *Local Government Act*.

10. Any person may appeal to the Board of Variance by filing with the Corporate Officer of the Corporation of the District of Saanich a written notice of appeal stating the grounds of the appeal, together with accurate site plans, elevation plans (if applicable), an address to which notices may be mailed, and any other information necessary to support the application.
11. Upon receipt of a notice of appeal the Corporate Officer or his or her delegate shall schedule the appeal for a Board of Variance Hearing. Notice of the hearing shall be mailed or otherwise delivered by the Corporate Officer or his or her delegate, addressed to the applicants and/or owners and occupiers of the land that is the subject of the application, and mailed or otherwise delivered to the owners and occupiers of the land that is adjacent to the land that is the subject of the application, at least six clear days before the date set for the hearing.
12. All hearings by the Board of Variance shall be open to the public except that the Board may close to the public all or part of a meeting in accordance with Division 3 of the *Community Charter*.
13. Proceedings before the Board of Variance shall be informal. The Board may admit any evidence, whether on oath or not and whether written or oral, and may inspect the premises which are the subject of the appeal.
14.
 - a) A quorum of the Board of Variance will consist of three (3) members.
 - b) All members present must vote on each application, unless that member withdraws for reason of conflict of interest, as set out at section 18 below
 - c) The decision of the Board shall be by a majority of those members present.
 - d) If the votes of those members present, including the vote of the Chair or Acting Chair, are equal for or against allowing an appeal, the application shall be denied."
15. The Board of Variance shall cause minutes of its proceedings to be kept, such minutes to be in accordance with the Council Procedure Bylaw.
16. Meetings of the Board of Variance may be adjourned from time to time.
17. Persons whose property is affected by an appeal to the Board of Variance have a right to be heard and to give evidence at the hearing or may be represented by some other person authorized to represent them.
- 18.a) If a Board member attending a meeting of the Board considers that he or she has a direct or indirect pecuniary interest or a conflict of interest for any other reason in an application, the member must declare this and state the general nature of why the member considers this to be the case.
- 18.b) After making the declaration, the Board member must immediately leave the meeting or that part of the meeting during which the matter is under consideration and called to a vote. The Board member must not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.
- 18.c) The person recording the minutes of the meeting must record the member's declaration, the reason given for it, and the times of the member's departure from the meeting room, and if

applicable, the member's return."

19. Every decision of the Board of Variance shall be filed with the said Corporate Officer, or his or her delegate, who shall give notice thereof to the appellant and to the Building Inspector or Manager of Inspection Services.
20. The Board of Variance may grant a time extension to a previously approved variance if the applicant demonstrates that unforeseen circumstances caused delay, and the Board of Variance is satisfied that the time extension is reasonable.
21. The Board of Variance shall not grant more than one time extension for each previously approved variance, and such time extension shall not exceed one year.
22. Bylaw No. 8497, being the "Board of Variance Bylaw, 2003", and any amendments, are hereby repealed except insofar as they repeal any other bylaw.
23. This bylaw may be cited for all purposes as the "**BOARD OF VARIANCE BYLAW, 2004, NO. 8599**".

Includes Bylaw Amendment 9615 and 9916.