

BOARD OF VARIANCE BYLAW, 2004, NO. 8599

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Includes Bylaw Amendment 9615

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 Municipal Clerk 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 Municipal Clerk 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 Municipal Clerk 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) The decision of the Board to either grant or deny an appeal must be made by a motion adopted by not less than three members.
 - c) A Board member may abstain from voting. An abstention shall be so recorded and shall not be counted as either an affirmative or negative vote. A Board member who intends to abstain from voting on a decision shall not participate in the discussion or debate leading up to the vote.
 - d) Where a decision to grant or deny an appeal has been made at a meeting where:
 - i) only three members are present; and
 - ii) the motion on that appeal was not carried unanimously,

such an appeal is deemed tabled, and unless subsequently withdrawn in writing by the applicant, must be reconsidered by the Board as soon as

arrangements can be made by the Secretary to convene another Board meeting.

- e) Where an application has been tabled in accordance with this section, the Secretary must proceed in accordance with Section 11.
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. The decision in writing of all or of a majority of the members of the Board of Variance is the decision of the Board.
 19. Every decision of the Board of Variance shall be filed with the said Municipal Clerk, or his or her delegate, who shall give notice thereof to the appellant and to the Building Inspector or Manager of Inspection Services.
 20. A decision of the Board of Variance under Section 10 of this bylaw is final.
 21. 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.
 22. The Board of Variance shall not grant more than one time extension for each previously approved variance under section 21 of this Bylaw, and such time extension shall not exceed one year.
 23. A person may apply to a Board of Variance for an order under Part 14: Division 15 of the *Local Government Act* if the person alleges that the determination by a building inspector of the amount of damage under section 532 of the *Local Government Act* is in error.
 24. On an application under Part 14: Division 15 of the *Local Government Act*, the Board of Variance may set aside the determination of the building inspector and make the determination under section 532 of the *Local Government Act* in its place.
 25. The applicant or the local government may appeal a decision of the Board of Variance under Part 14: Division 15 of the *Local Government Act* to the Supreme Court.

26. Bylaw No. 8497, being the "Board of Variance Bylaw, 2003", and any amendments, are hereby repealed except insofar as they repeal any other bylaw.
27. This bylaw may be cited for all purposes as the "**BOARD OF VARIANCE BYLAW, 2004, NO. 8599**".

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