

THE CORPORATION OF THE DISTRICT OF CENTRAL SAANICH

BYLAW NO. 2049

A Bylaw to Establish a Board of Variance.

WHEREAS Council of the District of Central Saanich has adopted a Land Use Bylaw;

AND WHEREAS pursuant to Section 536 of the *Local Government Act* the District of Central Saanich shall establish by bylaw a Board of Variance;

NOW THEREFORE the Council of the District of Central Saanich, in open meeting assembled, enacts as follows:

1. Title

1.1 This Bylaw may be cited for all purposes as the “**Board of Variance Bylaw 2049, 2020**”.

2. Membership

2.1 The Board of Variance shall consist of three (3) persons appointed by the Municipal Council of the District of Central Saanich.

2.2 An appointment under section 3.1 is for the latter of:

- a) three (3) years; or,
- b) where no successor has been appointed at the end of the three year period, until the time that a successor is appointed.

3. Terms of Membership

3.1. The Chair may appoint a member of the Board of Variance as Acting-Chair to preside in their absence.

3.2 A Council member, employee or officer of the municipality or an approving officer, or member of the Central Saanich Advisory Planning Commission, is not eligible to be a Board of Variance member.

3.3 Council may rescind an appointment to the Board of Variance at any time.

3.4 If a Board of Variance member ceases to hold office, the person’s successor is to be appointed in the same manner as the member who ceased to hold office, and, until appointment of the successor, the remaining members constitute a Board of Variance.

3.6 A member of a the Board of Variance shall not receive compensation for services as a member, but shall be paid reasonable and necessary expenses that rise directly out of the performance of duties, and therefore, the Council shall, in its Annual Budget, provide for the necessary funds to pay the costs of the Board of Variance .

4. Jurisdiction

4.1 The jurisdiction of the Board of Variance shall be as prescribed in the Local Government Act.

5. Application Procedure

5.1 A person may apply to the Board of Variance by filing an application with the Board of Variance Secretary. The application must be:

- a) Signed by the owner of each parcel of land that is the subject of the application or by a person authorized in writing by the owner to act as his or her agent for the purpose of making the application.;
- b) made on the prescribed application form;
- c) accompanied by the information required on the application form; and
- d) accompanied by a fee as set out in the Fees and Charges Bylaw.

5.2 The deadline for applications shall be the fifteenth (15th) day of each month. If the 15th falls on the weekend, the deadline shall be the preceding Friday.

5.4 The notice of hearing must state the subject matter of the application and the time and place where the application will be heard.

6. Serving of Notice

6.1 Any notice hereunder shall be deemed to have been validly given if hand delivered giving seven (7) clear days notice to the owners or occupiers of affected lands and/or premises at such addresses as appear on the last revised assessment roll of the District of Central Saanich or at such address or addresses as such affected persons shall specify in writing.

6.2 Affected lands and/or premises for the purposes of section 6.1, includes those separated by public or private rights-of-way from the subject property.

6.3 If the appeal is brought under the Local Government Act, notice will be given to the official whose interpretation is being appealed and said official shall be granted an opportunity to explain the interpretation to the Board of Variance.

- 6.4 The applicant shall, for a period commencing at least seven (7) days before the hearing of an application made under Local Government Act, post on the parcel that is subject of the application a notification sign provided for that purpose by the District of Central Saanich. The District may require the applicant to post a security deposit in a reasonable amount to ensure the return of the sign in good condition.

7. Board of Variance Meeting Procedures

- 7.1 Board of Variance meetings shall be scheduled on the first Thursday of the month in the Municipal Hall Council Chambers unless otherwise determined by the Chair of the Board of Variance in consultation with the Secretary and all other members of the Board of Variance.
- 7.2 If there are no applications to the Board of Variance or other matters to be considered then the meeting shall be cancelled.
- 7.3 A majority of members shall constitute a quorum of the Board of Variance.
- 7.4 Meetings of the Board of Variance including all hearings shall be open to the public, except that the Board of Variance may close to the public all or part of a meeting where permitted under the Community Charter.
- 7.5 The proceedings before the Board of Variance shall be informal and evidence need not be given under oath. Any person who deems his property to be affected by an application shall have the right to be heard and give evidence at the hearing thereon.

Electronic Meetings

8. During the Provincial state of emergency declared on March 18, 2020 in response to the COVID-19 Pandemic, and subject to the authority of Ministerial Orders, the following procedures apply:
- a) A Board of Variance meeting, except for any part of the meeting that is closed to the public, may be conducted by means of electronic or other communication facilities provided that the facilities:
 - i. enable the participants to hear, or watch and hear, each other; and
 - ii. enable the public to hear the participation of all members during the meeting.
 - b) A Board of Variance member may participate in the meeting by means of electronic or other communication facilities only if it is impossible or impractical for the members to be physically present at the meeting.

- c) A Board of Variance member participating in a meeting by means of electronic or other communication facilities must have received the agenda materials prior to the commencement of the meeting.

9. Decision of the Board of Variance

- 9.1 Within 7 days following the completion of a hearing, the Board of Variance shall give its decision in writing to the Board of Variance Secretary, who shall mail a copy of the decision to the applicant and all persons who made representations at the hearing who requested a copy of the decision by leaving their mailing address with the Board of Variance Secretary.
- 9.2 A Board of Variance shall maintain a record of all its decisions and shall ensure that the record is available for public inspection during normal business hours.
- 9.3 A decision of the Board of Variance under section 542 of the Local Government Act is final.
- 9.4 The applicant or the Council may appeal the decision of the Board of Variance under section 544 of the Local Government Act to the Supreme Court.

10. Appeal Procedure

- 10.1 Any person exercising a right of appeal to the Board of Variance shall deposit with the Secretary of the Board of Variance within ten (10) days of the decision a Notice of Appeal therefrom which shall, in a concise manner, state the full names of the owners of the lands and/or premises, the legal description and street address, if any, of such lands and/or premises concerned, and the grounds of complaint, and shall therein state an address to which all notices to him may be mailed, and shall within the said period of ten (10) days file with the Corporate Officer a copy of such Notice of Appeal.
- 10.2 The Board of Variance may require that any appellant shall produce such technical evidence or information as the Board of Variance may deem necessary in connection with any appeal including, but not limited to, any or all of the following: a certified survey plan, site plan, topographical survey plan or Engineer's report relating to drainage, geotechnical survey, topography or other pertinent matter.
- 10.3 The Chair of the Board of Variance shall arrange for the hearing of appeals and notice thereof shall be given to the appellant before the date of the hearing, and to the Building Inspector and to the owners of adjacent property under Section 7.1 hereof; and the Chair of the Board of Variance shall satisfy him or herself that due publicity has been given to appeals and shall provide for reasonable expression of the opinion of the owners of such adjacent property.

- 10.4 The Board of Variance may, in any case, take a view of the lands and premises in respect to which an appeal has been received any hearing may be adjourned from time to time at the discretion of the Board of Variance.
- 10.5 The Board of Variance 's decision shall be in writing and shall be filed with the Secretary of the Board of Variance and shall be transmitted to the Corporate Officer and the Council shall carry out or procure to be carried out the purport of such decision upon fulfillment by any appellant of any condition which may be imposed by the Board of Variance in such decision.

11. Repeal

- 11.1 The District of Central Saanich Zoning Board of Variance Bylaw, No. 809, 1985 is repealed.

READ A FIRST TIME on this 25th day of May, 2020.

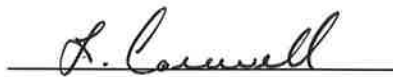
READ A SECOND TIME on this 25th day of May, 2020.

READ A THIRD TIME on this 25th day of May, 2020.

ADOPTED this 25th day of May, 2020.



Ryan Windsor
Mayor



Liz Cornwell
Corporate Officer



