

BY-LAW NO. 809

A By-Law to establish a zoning board of variance.

The Mayor and Aldermen of the Corporation of the District of Central Saanich, in open meeting assembled, ENACTS AS FOLLOWS:-

1. A Zoning Board of Variance is hereby established to be known as "THE DISTRICT OF CENTRAL SAANICH ZONING BOARD OF VARIANCE, PURSUANT TO SECTION 961," Municipal Act R.S.B.C. 1979, Chapter 290.
2. The Zoning Board of Variance shall be composed of three (3) members as follows:
 - A. one (1) appointed by resolution of Council;
 - B. one (1) appointed by the Lieutenant-Governor in Council;
 - C. one (1) appointed by the other two appointees; and the members of the Board shall elect one of their members as Chairman.
3. An appointment under Subsection 2 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.
4. A person who is:
 - A. a member of the Central Saanich Advisory Planning Commission or a member of the local government or an officer or employee of the local government is not eligible to be appointed to a Zoning Board of Variance.
5. The Chairman may appoint a member of the Zoning Board of Variance as Acting-Chairman to preside in his absence.
6. A majority of a Zoning Board of Variance is a quorum.
7. Where a member of a Zoning Board of Variance ceases to hold office, his 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 Zoning Board of Variance.
8. The appointee of a Council may be removed at any time by the Council, and the appointee of the Lieutenant-Governor in Council may likewise be removed at any time by the LieutenantGovernor in Council; and on recommendation of the Council, the Lieutenant-Governor in Council may remove the person appointed by the other two appointees.
9. A member of a Zoning Board of Variance shall not receive compensation for his services as a member, but he shall be paid reasonable and necessary expenses that rise directly out of the performance of his duties, and therefore, the Council shall, in its Annual Budget, provide for the necessary funds to pay the costs of the Board.

10. Jurisdiction of the Board:

- A. The Zoning Board of Variance shall hear and determine any appeal where a person alleges that:
- i. compliance with:
 - a. a By-Law respecting the siting, dimensions, or size of a building or structure, or the siting of a mobile home in a mobile park;
 - b. the prohibition of a structure alteration or addition under Section 970 (5); or,
 - c. a subdivision servicing requirement under Section 989 (1)(C), in an area zoned for agricultural or industrial use, would cause him undue hardship; or,
 - ii. The determination by a Building Inspector of the amount of damage under Section 970 (8) is in error, that person may make application to a Zoning Board of Variance for an order under Subsection (B) or (C).
- B. On an application under Subsection (A)(i), the Zoning Board of Variance may, after hearing the applicant and any person notified under Section (E), and on finding that undue hardship would be caused to the applicant if the By-Law or Section 970 (5) is complied with, order that a minor variance be permitted from the exempted from Section 970 (5), so long as the variance or exemption does not:
- i. result in inappropriate development of the site;
 - ii. substantially affect the use and enjoyment of adjacent land;
 - iii. vary permitted uses and densities under the applicable By-Law; or
 - iv. defeat the intent of the By-Law.
- C. On an application under Subsection (A)(ii), the Zoning Board of Variance may set aside the determination of the Building Inspector and make the determination under Section 970 (8) in its place.
- D. The Zoning Board of Variance shall not make an order under Subsection (B) where the order would:
- i. be in conflict with:
 - a. a covenant registered under Section 24A of the Land Registry Act R.S.B.C. 1960, C 208, before the repeal of the Act, or Section 215 of the Land Title Act; or,
 - b. Section 27 of the Heritage Conservation Act.
 - ii. deal with a matter that is covered in a land use contract, or a permit under Division (5), or
 - iii. deal with a flood plain specification under Section 969 (2).
- E. Where a person makes an application under Section (A)(i), the Zoning Board of Variance shall notify all owners and occupiers of the land that is:
- i. the subject of the application; or,
 - ii. adjacent to land that is subject of the application.

- F. The notice shall state the subject matter of the application and the time and place where the application will be heard.
 - G. Where a Zoning Board of Variance, in respect of an application under Subsection (A)(i), orders that a minor variance be permitted or an exemption from Section 970 (5) be allowed, the Board may order that, unless the construction of the building structure or mobile home park is completed within a time set in the order, the permission or exemption terminates and the By-Law or Section 970 (5), as the case may be, applies.
 - H. The applicant may appeal the decision of the Zoning Board of Variance under Subsection (C) to the County Court.
 - I. A decision of the Zoning Board of Variance under Subsection (B) is final.
 - J. A Zoning 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.
 - K. All Hearings of the Board of Variance shall be open to the public.
11. Appeal procedure:
- A. any person exercising a right of appeal to the Zoning Board of Variance shall deposit with the Secretary of the Board within ten (10) days of the decision complained of, 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 Municipal Clerk a copy of such Notice of Appeal.
 - B. the Board may require that any appellant shall produce such technical evidence or information as the Board 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.
 - C. the Chairman of the Board 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 12 (A) hereof; and the Chairman of the Board shall satisfy himself that due publicity has been given to appeals and shall provide for reasonable expression of the opinion of the owners of such adjacent property.
 - D. the proceedings before the Board shall be informal and evidence need not be given under oath. Any person who deems his property to be affected by an appeal, he shall have the right to be heard and give evidence at the hearing thereon.

