

SUNSHINE COAST REGIONAL DISTRICT

BYLAW NO. 380 Consolidated for convenience only to include 380.1 & 380.2

A Bylaw of the Sunshine Coast Regional District to establish a Board of Variance.

Whereas the Board of the Sunshine Coast Regional District has adopted Zoning Bylaws for the electoral areas, there exists a requirement to establish by Bylaw, a Board of Variance.

Now therefore the Board of the Sunshine Coast Regional District, in open meeting assembled, enacts as follows:

1. CITATION

This bylaw may be cited as the "Sunshine Coast Regional District Board of Variance Bylaw No. 380, 1993."

2. ESTABLISHMENT

Pursuant to Section 899 of the *Local Government Act* a Board of Variance is hereby established. The Board of Variance shall carry out the duties within the jurisdiction of the Board pursuant to Section 901 of the *Local Government Act*.

3. APPOINTMENTS

(a) The Board of Variance shall consist of three persons appointed by the Sunshine Coast Regional District Board.

(b) An appointment under subsection (a) is for the later of

- (i) 3 years, and
- (ii) if no successor has been appointed at the end of the 3 year period, until the time that a successor is appointed.

(c) A person who is member of the Sunshine Coast Regional District Board or any advisory body thereto, or who is an officer or employee of the Sunshine Coast Regional District is not eligible to be appointed to the Board of Variance.

(d) The members of the Board of Variance shall elect one of their number as Chair, who may then appoint a member of the Board of Variance as acting Chair to preside in the Chair's absence.

4. SECRETARY

The Sunshine Coast Regional District shall appoint a Secretary to the Board of Variance. The responsibilities of the Secretary are:

- (a) to receive notices of application for an order,

- (b) to determine whether the application:
 - (i) is in conflict with a covenant registered under section 219 of the *Land Title Act* or section 24A of the *Land Registry Act*, R.S.B.C. 1960, c. 208,
 - (ii) deals with a matter that is covered in a permit under Division 9 of Part 26 of the *Local Government Act* or covered in a land use contract,
 - (iii) deals with a flood plain specification under section 910 (2) of the *Local Government Act*, or
 - (iv) applies to a property
 - (a) for which an authorization for alterations is required under Part 27 of the *Local Government Act*,
 - (b) that is scheduled under section 970.1 (3) (b) of the *Local Government Act* or contains a feature or characteristic identified under section 970.1 (3) (c) of the *Local Government Act*, or
 - (c) for which a heritage revitalization agreement under section 966 of the *Local Government Act* is in effect.
- (c) if the application for an order is outside the jurisdiction of the Board of Variance to notify the applicant,
- (d) if the application for an order is within the jurisdiction of the Board of Variance to notify the Chair of the Board of Variance of the receipt of an application for an order,
- (e) to ensure that proper notification is given in compliance with this bylaw,
- (f) to keep proper records of the Board of Variance proceedings, and
- (g) to maintain a record of all decisions of the Board of Variance and make it available to the public in the Sunshine Coast Regional District office during normal business hours.

5. MEETINGS

- (a) A meeting of the Board of Variance shall be held on the first Thursday of every month, 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.
- (b) In the event that no complete application for an order is deposited with the Secretary to the Board of Variance at least fifteen (15) working days prior to the date of the next meeting, then no meeting need be held.
- (c) A meeting of the Board of Variance on a particular application for an order shall be held not more than ninety (90) days after the date of receipt of the application for an order unless an extension is allowed by the written consent of the applicant.
- (d) The Board of Variance shall be convened by the Chair on the date of hearing and at the time and place set out in the notice.

- (e) The Board of Variance shall hear all representations made to the Board.
- (f) A meeting of the Board of Variance must be open to the public, except as provided for in Division 3 of Part 4 of the *Community Charter*.

6. NOTICE OF APPLICATION

- (a) Any person desiring to make application to the Board of Variance shall file a written notice of application for an order with the Secretary to the Board of Variance. The notice shall state clearly the grounds upon which the application is based and the relief sought, and shall give an address to which all notices respecting the hearing may be mailed. The notice of application shall be accompanied by any documentation prescribed by the Board of Variance and any applicable application fee.
- (b) Where an application for an order is based upon a determination of value made pursuant to subsection eight (8) of section 911 of the *Local Government Act* the notice of application shall be filed with the Secretary to the Board of Variance within fifteen (15) working days of the making of the determination.
- (c) The Secretary, upon the filing of an application for an order, shall notify the Chair of the Board of Variance of the application. The Chair shall forthwith set a date for the hearing of the application by the Board of Variance.
- (d) Upon receipt of an application and the determination of a hearing date, the Secretary shall, not less than ten (10) days prior to the date of the hearing, send notice of the hearing by ordinary mail or otherwise deliver to:
 - (i) the applicant
 - (ii) the members of the Board of Variance,
 - (iii) the registered owners as shown on the last revised Assessment Roll and all tenants in occupation of land that is:
 - (a) the subject of the application; and
 - (b) adjacent to the subject property or separated only by a private or public right-of-way or road.";
 - (iv) if an application under Section 902(1), of the *Local Government Act*, the official whose determination is being appealed.
- (e) The notice of the hearing shall state the date, place and time of the hearing and shall include the order requested.

7. CONDUCT OF HEARING

- (a) A quorum for the hearing is any two members of the Board of Variance. If the Chair is absent for a hearing, those present may appoint an acting Chair for the duration of that hearing.

- (b) Any person who has been notified by the Board of Variance is entitled to be heard at the hearing and is entitled to be represented by solicitor or by an agent duly appointed in writing.
- (c) Any person represented, in accordance with subsection 7 (b), whether or not also attending in person, shall be deemed to be a party attending the hearing.
- (d) Submissions at a hearing may be given orally or in writing.
- (e) The Board of Variance shall not hear oral submissions except at a regularly constituted hearing of the subject matter.
- (f) The applicant shall be afforded the first opportunity to present their submission, and thereafter, submissions shall be presented in such sequence as the Chair may direct until all parties to the application have been afforded an opportunity to present their submission and argument. The Board of Variance is not bound by the legal or technical rules of evidence.
- (g) The Board of Variance may view the property affected by the application and surrounding properties. If this is done after hearing all submissions to the application for an order, it may make a decision subsequent to said inspection without reconvening the hearing.
- (h) The Board of Variance may adjourn the hearing from time to time and may reconvene without further notice if the time, date and place of reconvening is announced at adjournment.
- (i) If the applicant or other persons notified do not appear at the hearing or any adjournment thereof, the Board of Variance may proceed to decide the application in their absence.

8. DECISION

- (a) The decision of the Board of Variance shall be by a majority of those members present and made within 60 days of the hearing.
- (b) The Secretary shall, within 7 days of a decision, send the written decision of the Board of Variance by registered mail or otherwise deliver to the applicant, the Chief Building Inspector, Director of Planning and such other persons as the Board of Variance shall deem proper.
- (c) The Secretary shall, within 7 days of the decision, enter that decision in the record maintained at the Regional District office.

9. SEVERABILITY

If a section, subsection, paragraph, subparagraph or phrase of this bylaw is for any reason declared invalid by a Court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this bylaw.

10. REPEAL

The "Sunshine Coast Regional District Board of Variance Bylaw No. 54, 1971" is hereby REPEALED.