

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 1697

A Bylaw to establish a Board of Variance

Whereas under the provisions of Section 961 of the Municipal Act, R.S. Chapter 290, Council is required to establish a Board of Variance;

Now Therefore the Municipal Council of the Corporation of the City of Courtenay in open meeting assembled enacts that a Board of Variance is hereby established as follows:

1. Definitions

- (a) "Council" means the Council of the Corporation of the City of Courtenay.
- (b) "Municipality" means the Corporation of the City of Courtenay.
- (c) "Municipal Act" means the Municipal Act R.S. Chapter 290.

2. Secretary

The Council shall appoint a Secretary to the Board of Variance. The responsibilities of the Secretary are:

- (a) to receive notices of appeal;
- (b) to notify the Chair of the Board of Variance of the receipt of notice of appeal;
- (c) to ensure that proper notification is given in compliance with this bylaw.
- (d) to keep proper records of the Board of Variance proceedings.

3. Meetings

- (a) The time and date of a meeting of the Board of Variance shall be determined by the Chair of the Board of Variance in consultation with the Secretary and all other members of the Board of Variance.
- (b) A meeting of the Board of Variance on a particular appeal shall be held not more than 40 days after the date of receipt of the notice of appeal unless an extension is allowed by the written consent of the appellant.
- (c) 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.
- (d) The Board of Variance shall hear all representations made to the Board.
- (e) The deliberations of the Board of Variance shall not be open to the public.
- (f) A majority of the Board members is a quorum.

4. Notice of Appeal

- (a) Any person desiring to appeal to the Board shall file an application with the Secretary of the Board. The application shall be in the form prescribed by Council and attached as "Schedule A" to this bylaw, and shall be accompanied by an application fee in the amount set out in "City of Courtenay Fees and Charges Bylaw No. 1724, 1993".

- (b) Where the appeal is based upon a decision of any official charged with the enforcement of a zoning bylaw, or upon a determination of value made pursuant to subsection (8), of Section 970 of the Municipal Act, the notice of appeal shall be filed with the Secretary of the Board within 30 days of the making of the decision or determination as the case may be.
- (c) The Secretary, upon the filing of an appeal, shall forthwith notify the chair of the Board of the appeal.
- (d) Upon receipt of the notice of appeal by the Secretary, and the determination of a hearing date, the Secretary shall send by registered mail or otherwise deliver, not less than 7 days prior to the date of the hearing, notice of the hearing to:
 - (i) the members of the Board of Variance;
 - (ii) the appellant;
 - (iii) the registered owners as shown on the last revised assessment roll and tenants in occupation of all real property located adjacent to the parcel about which the appeal is being heard;
 - (iv) if an appeal under subsection (1) (a) (i) (ii) and (iii) of Section 962 of the Municipal Act, the official whose interpretation is being appealed.
- (e) The notice of the hearing shall state the date, place and time of the appeal hearing and shall include a copy of the notice of appeal.
- (f) The Secretary shall upon receipt of any notice of appeal, or of any written evidence entered before the hearing, permit the same to be inspected at the Secretary's office during regular office hours.
- (g) Public notice of the hearing, if ordered by the Board, shall be given by publication of a notice stating the time and place of the hearing and the general nature of the appeal in not less than 2 consecutive issues of a newspaper published or circulating in the municipality with the last such publication appearing not less than 3 days or more than 10 days before the date of the hearing.

5. Conduct of Hearing

- (a) Any person or body with interest in property within the municipality is entitled to be heard at the hearing and is entitled to be represented by a solicitor or by an agent duly appointed in writing.
- (b) Any person represented, in accordance with subsection 6 (a), whether or not also attending in person, shall be deemed to be a party attending the hearing.
- (c) Evidence at a hearing may be given orally or in writing.
- (d) The Board shall not hear oral evidence except at a regularly constituted hearing.
- (e) No member of the Board shall discuss the merits of the appeal with any person who is not a member of the Board or the Secretary before the Board has reached a decision.
- (f) The appellant shall be afforded the first opportunity to present his evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequence as the chair may direct until all parties to the appeal have been afforded an opportunity to present their evidence and arguments.
- (g) The Board may adjourn the hearing from time to time and may review the property affected by the appeal and surrounding properties.

- (h) If the appellant fails to appear at the hearing or any adjournment thereof, the Board may proceed to decide the appeal in his absence.

6. Decision

The Secretary shall:

- (a) within 7 days of a hearing, send by mail or otherwise deliver the decision of the Board of Variance in the form attached as Schedule "B" to this bylaw to the appellant, all persons who made representation at the hearing and the local government building inspector.
- (b) maintain a record of all variance and opinions given by the Board in an annual log. A copy shall be available for viewing by the public at all times during normal office hours.

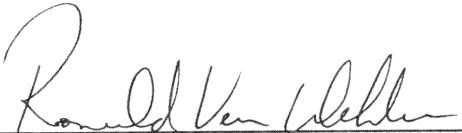
- 7. This Bylaw shall come into force and effect upon final adoption.
- 8. Bylaws No. 1372, 1398, 1444, 1561 and 1684 are hereby repealed.
- 9. This Bylaw shall be cited as "Board of Variance Bylaw No. 1697, 1994"

Read a first time this 3rd day of October 1994.

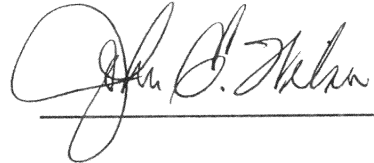
Read a second time this 3rd day of October 1994.

Read a third time this 3rd day of October 1994.

Reconsidered, finally passed and adopted this 17th day of October, 1994.



Mayor



Clerk

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 1697

SCHEDULE "A"

APPLICATION FOR APPEAL TO THE BOARD OF VARIANCE

Application No. _____

Date: _____

Applicant

Registered Owner(s)

Name: _____

Name: _____

Address: _____

Address: _____

Telephone No.: _____

Telephone No. _____

I/We hereby appeal to the Board of Variance as provided in Section 962 of the Municipal Act to permit the proposed variance as described below on the following property:

Legal Description of Property: _____

Civic Address: _____

Description of Proposed Variance/Exemption

Application Fee:

An application fee as set out in "Fees and Charges Bylaw No. 1724, 1993", shall be made payable to the City of Courtenay and shall accompany this application.

Signature of Applicant (Registered Owner)

This application is made with my full knowledge and consent.

Date

Signature of Registered Owner

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 1697

SCHEDULE "B"
BOARD OF VARIANCE DECISION

Application No. _____

Date: _____

To: Name: _____

Address: _____

Property to which decision refers: _____

Decision of Board of Variance: _____

Time Schedule: _____

PLEASE NOTE:

Where a board of variance, in respect of an application, orders that a minor variance be permitted or an exemption be allowed, it may order that, unless the construction of the building, structure or manufactured home park is completed within a time fixed in the order, the permission or exemption terminates and the bylaw, as the case may be, applies.

Signed by the members of the Board of Variance this day of .

Member

Member

Member