



CONSOLIDATION

BOARD OF VARIANCE BYLAW

Bylaw 3727

Current to January 5, 2023

Last amended on December 21, 2022

Consolidated and printed by authority of the Corporate Officer under
The Corporation of the District of North Cowichan Consolidation and Revision Authority Bylaw 3514

Amendments

| Number | Amendment Bylaw Number | Effective Date dd mmm yyyy |
|---------------|------------------------------------|---------------------------------------|
| 1 | Board of Variance Bylaw 3889, 2022 | 21 Dec 2022 |
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The Corporation of the North Cowichan of North Cowichan

Board of Variance Bylaw

Bylaw 3727

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WHEREAS the *Local Government Act* requires a local government that has adopted a zoning bylaw to establish, by bylaw, a board of variance;

AND WHEREAS the *Local Government Act* requires the bylaw establishing a board of variance to set out the procedures to be followed by the board of variance;

NOW THEREFORE, the Council of The Corporation of the North Cowichan of North Cowichan enacts as follows:

Definitions

1 In this bylaw:

“**adjoining**” means any property sharing a boundary with the subject property, or which lies directly opposite the subject property’s boundaries when separated by a road, lane or watercourse;

“**Board**” means the North Cowichan Board of Variance established under this Bylaw;

“**North Cowichan**” means The Corporation of the District of North Cowichan.

Establishment

2 A Board is established for North Cowichan.

Board membership

3 (1) The Board is comprised of 5 members, to be appointed by North Cowichan Council.

(2) Each Board member appointment is for a 3 year term, or until a successor is appointed.

- (3) A Board member may be reappointed for a further term, to a limit of 2 consecutive terms.
- (4) The following persons are not eligible for appointment to the Board:
 - (a) a North Cowichan officer or employee,
 - (b) a member of North Cowichan Council,
 - (c) a member of an advisory planning commission.

Board Chair

- 4 (1) The Board must elect a member as the Board Chair.
- (2) Where the Board Chair is unable to attend a meeting, the members present at the meeting must elect a Chair for that meeting.
- (3) The Board Chair is responsible for the conduct of the hearing, to ensure procedural fairness and a reasonable opportunity for parties to make representations to the Board.

Application and fee

- 5 A person may apply to the Board for an order in accordance with Division 15 [Board of Variance] of Part 14 [Planning and Land Use Management] of the *Local Government Act* by submitting the following to the Director of Planning:
 - (a) a completed application, in the form prescribed by the Director of Planning,
 - (b) copies of the following:
 - (i) site plan/ survey plan prepared by a BC Land Surveyor,
 - (ii) current state of title certificate (dated within 30 days),
 - (iii) building elevation plan, if applicable
 - (iv) qualified engineer's report, if applicable,
 - (v) authorization from all registered property owner(s) if an agent is acting on behalf of the owner(s),
 - (vi) letter setting out the why the variance may be justified, and
 - (c) payment of the fee set out in North Cowichan's Fees Bylaw.

Notice of hearing

- 6 (1) A notice of hearing must be mailed or otherwise delivered at least 10 days before the scheduled hearing to all owners and occupiers of
 - (a) the property that is the subject of the appeal to the Board, and
 - (b) all properties adjoining the property that is the subject of the appeal.
- (2) The notice of hearing must include the subject matter of the appeal, the date, time and place where the appeal will be heard, applicable North Cowichan staff contact information, and that the application for appeal to the Board is available for public inspection at the Municipal Hall during regular business hours.

Board meetings

- 7 (1) Board meetings are held bi-monthly, unless otherwise determined by the Board Chair in consultation with North Cowichan staff.

- (2) If there is no completed application ready for the Board's consideration 10 days prior to the next scheduled meeting, the meeting must be cancelled.
- (3) A quorum for the Board is 3 members.
- (4) Any individual or organization with an ownership, tenancy or business interest in the property, or their authorized agent, is entitled to make representations to the Board at the hearing.
- (5) The Board must receive and hear representations made to the Board.
- (6) The applicant must be afforded the first opportunity to present evidence and arguments, and thereafter, evidence and arguments must be presented in such sequence as the Chair directs until all parties to the application have been afforded an opportunity to present their evidence and arguments.
- (7) The deliberations of the Board must be open to the public.
- (8) The Board may adjourn a hearing and no further notification is required if the date, time and place of reconvening are stated to those present at the time of adjournment.

Electronic meetings [BL3889]

- 7.1**
- (1) A board of variance is hereby authorized to conduct its meetings by means of electronic or other communication facilities.
 - (2) A member of the board of variance who is unable to attend at a board of variance meeting may, upon authorization of the presiding member, participate in the meeting by means of electronic or other communication facilities.
 - (3) For the purposes of subsection (1), the notice must satisfy the requirements of section 541 of the *Local Government Act*.

Decision

- 8**
- (1) Following the Board's decision, North Cowichan must provide a copy of the decision to the applicant.
 - (2) North Cowichan must maintain a record of the Board's decisions for public inspection.

Severability

- 9** If any section, subsection, paragraph, clause, phrase or word within this Bylaw is for any reason held to be invalid by the decision of a court or competent jurisdiction, such decision does not affect the validity of the remaining portions of this Bylaw.

Repeal

- 10** "Zoning Board of Variance By-law 1968", No. 1217, and all amendments, are repealed.

Read a first, second and third time on December 19, 2018
Adopted on February 6, 2019