



**THE CORPORATION OF THE
CITY OF PORT COQUITLAM**

BYLAW NO. 3105

A Bylaw to provide for the establishment of a Board of Variance

Whereas the Council of the City of Port Coquitlam has adopted a zoning bylaw, and whereas pursuant to the Local Government Act, RSBC 1979, c. 290, as amended, (the "Act"), Council for the City of Port Coquitlam (the "Council") shall establish, by bylaw, a Board of Variance;

Now therefore the Municipal Council of The Corporation of the City of Port Coquitlam, in open meeting assembled, enacts as follows:

1. **CITATION**

This Bylaw may be cited for all purposes as the "Board of Variance Bylaw, 1997, No. 3105".

2. **ESTABLISHMENT**

Pursuant to the Section 537 of Local Government Act (the "Act"), a Board of Variance (the "Board") is hereby established. The Board shall consist of those persons appointed in accordance with the Act. The members of the Board shall elect one of their number as Chair.

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3. **DEFINITIONS**

Appellant means a person who has filed a Board of Variance application with the Secretary;

Board means the Board of Variance members appointed for the Corporation of the City of Port Coquitlam;

City means the Corporation of the City of Port Coquitlam;

Chair means the Chair of the Board of Variance, elected by its members; and

Secretary means the Secretary to the Board of Variance;

4. BOARD MEMBERS

- a) A board member must abstain from voting in respect to an application where they have a conflict of interest (ie. they are the applicant or a neighbour of the property stated in the application).
- b) Board members not present (either in person or participating electronically) during a hearing must not participate in the decision with respect to an application (ie. no proxy vote).
- c) A board member who abstains from voting will be shown in the minutes as voting in the affirmative.

5. SECRETARY

The Corporate Officer or the Corporate Officer's designate shall be Secretary to the Board. The responsibilities of the Secretary are:

- a) to receive notices of application made pursuant to Section 962(1) of the Act;
- b) to determine whether the Applicant seeks an order of the Board which would:
 - i) be in conflict with:
 - a covenant registered under Section 24(a) of the *Land Registry Act* RSBC 1960, c. 208, before the repeal of that Act or Section 215 of the *Land Title Act*; or
 - 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 of the Act; or
 - iii) deal with a flood plain specification under Section 969(2) of the Act.

If the application deals with any of these matters the Board has no jurisdiction and the Secretary shall so notify the Applicant.

- c) to notify the Chair of the Board of the receipt of the application if the application is within the Board's jurisdiction;
- d) to ensure that proper notification is given in compliance with this bylaw;
- e) to keep proper records of the Board proceedings, and;
- f) to maintain a record of all decisions of the Board and make it available to the public in the civic office during normal business hours.

4. **HEARING SCHEDULE**

- a) The Chair shall determine the meeting schedule for the Board.
- b) The Board shall be convened by the Chair on the date of Hearing and at the time and place set out in the notice.
- c) The Board shall hear all representations made to the Board.

5. **NOTICE OF APPLICATION AND APPLICATION FEE BOARD OF VARIANCE APPLICATION**

- a) Any person desiring to apply to the Board for an order shall file a written application with the Secretary of the Board in a form approved by the Secretary. The application shall state clearly the grounds on which the application is based and the relief sought and shall give an address to which all notices respecting the Hearing of the application (the "Hearing") may be mailed.
- ~~b) The application to the Board shall be accompanied by a non-refundable application fee as follows:
 - i) \$175 if a complete application for a building permit has been submitted in accordance with Building and Plumbing Bylaw, 2009, No. 3710;
 - ii) \$325 if a complete application for a building permit has not been submitted.~~
- ~~e) Where the application is made pursuant to Section 962(1)(b) of the Act, the application shall be filed with the Secretary of the Board within thirty (30) days from the date of the determination made under Section 970(8) of the Act by the Building Inspector.~~
- b) The application will be accompanied by the application fee as determined in the City's current Fees and Charges Bylaw. The application fee will be non-refundable if a review of the application has been initiated.
- ~~d)~~ The Secretary shall send by mail or otherwise deliver, not less than ten (10) days prior to the date of the Hearing, notice of the Hearing to:
 - i) the members of the Board;
 - ii) the Applicant;
 - iii) the registered owners as shown on the last revised assessment roll and all occupiers of the subject property and all real property located immediately adjacent to the parcel which is the subject of the appeal;
 - iv) if an appeal is under 962(1)(b), the Building Inspector whose determination is being appealed.

ed) The notice of the Hearing shall state the date, place, and time of the Hearing and shall state the subject matter of the application.

ef) The Secretary shall upon receipt of any notice of application or of any written evidence entered before the Hearing including staff reports, permit the same to be inspected at the Secretary's office during regular office hours.

6. CONDUCT OF HEARING

a) A quorum for the Hearing is three (3) members. If the Chair is absent for a Hearing, those present may appoint an Acting Chair for the duration of that Hearing.

b) 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.

c) Any person represented, in accordance with subsection 6b, whether or not also attending in person, shall be deemed to be a party attending the Hearing.

d) Evidence at a Hearing may be given orally or in writing.

e) The Board shall not hear oral evidence, except at a regularly constituted Hearing of the subject matter of that evidence.

f) The Applicant 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 application have been afforded an opportunity to present their evidence and arguments.

g) The Board may view the property affected by the application and surrounding properties. The Board may adjourn the Hearing from time to time, and may reconvene without further published notice if the time, date, and place of reconvening is announced at adjournment.

h) If the Applicant or other persons notified do not appear at the Hearing or any adjournment thereof, and have not advised the Secretary in advance that they wish to be heard at another date, the Board may proceed to decide the appeal in his absence.

7. DECISION

a) The decision of the Board shall be by a majority of those members present and made within seven (7) days of the Hearing.

b) The Secretary shall, within seven (7) days of a decision, send by mail or otherwise deliver the written decision of the Board to the Applicant, all persons who made representation at the Hearing, and the local government Building Inspector.

- c) The Secretary shall, within seven (7) days of the decision, enter that decision in the record maintained at the local government office.
- d) The Board must not re-hear an appeal covering the identical grounds or principles upon which the Board has previously rendered a decision.
- e) A decision of the Board is final, and may only be over-turned by the Supreme Court of Canada as permitted under the Act.

8. SEVERABILITY

If any part, section, subsection, clause or sub-clause of this Bylaw is for any reason held to be invalid by the decision of a Court of competent jurisdiction, such a decision does not affect the validity of the remaining portions of this Bylaw.

98. REPEAL

"The Corporation of the City of Port Coquitlam Board of Variance Bylaw, 1982, No. 1919", is hereby repealed.

Read a first time by the Municipal Council this 14th day of April, 1997.

Read a second time by the Municipal Council this 14th day of April, 1997.

Read a third time by the Municipal Council this 14th day of April, 1997.

Reconsidered, finally passed and adopted by the Municipal Council of The Corporation of the City of Port Coquitlam this 28th day of April, 1997.

L.M. TRABOULAY
Mayor

SUSAN RAUH
Corporate Officer

Bylaw 3735	Record of Amendment Fee Changes	2011 03 28
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