

District of West Vancouver



Board of Variance
Bylaw No. 4487, 2007

Effective Date – April 30, 2007

District of West Vancouver

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A bylaw to establish and set the procedure for a Board of Variance.

The Council of the District of West Vancouver enacts as follows:

Part 1 Citation

1.1 This bylaw may be cited as Board of Variance Bylaw No. 4487, 2007.

Part 2 Severability

2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Previous Bylaw Repeal

3.1 Board of Variance Bylaw No. 3359, 1989 (adopted on July 10, 1989) and the following amendment bylaw are hereby repealed:

Amendment Bylaw
Bylaw No. 3572

Effective Date
February 12, 1990

Part 4 Definitions

4.1 In this bylaw:

“**Board**” means the Board of Variance;

“**Council**” means the Council of the District of West Vancouver;

“**District**” means the District of West Vancouver;

“**Municipal Hall**” means the District of West Vancouver Municipal Hall located at 750 17th Street, West Vancouver, BC V7V 3T3; and

“**Secretary**” means the person appointed as Secretary to the Board pursuant to this bylaw.

Part 5 Establishment

- 5.1 The Board is established pursuant to the *Local Government Act* and consists of five persons appointed by Council.
- 5.2 The Board is established to hear and determine applications on the grounds and to the extent set out in the *Local Government Act*.
- 5.3 Where a member of the Board ceases to hold office, the remaining members will constitute the Board until the appointment of a successor.

Part 6 Secretary to Board

- 6.1 The Chief Administrative Officer of the District will appoint a Secretary and an Acting Secretary to the Board to fulfill the following duties:
 - 6.1.1 Present applications to the Board;
 - 6.1.2 Cause notices of applications and Hearings of the Board to be delivered to:
 - (a) the members of the Board as directed by the Board or its Chair; and
 - (b) the applicant and affected persons in accordance with Part 8 of this bylaw;
 - 6.1.3 Prepare agendas of all applications to be considered at a Board Hearing, and mail or otherwise deliver the agendas to each member of the Board at least one week prior to the Hearing;
 - 6.1.4 Record the decisions of the Board and maintain minutes of Hearings and orders of the Board;
 - 6.1.5 Ensure that after their adoption by the Board the Hearing minutes are signed by the Chair and Secretary;
 - 6.1.6 Notify applicants and District staff responsible for Planning and Building Inspections in writing of the decisions of the Board; and

- 6.1.7 Ensure Board Hearing minutes are made available for inspection by the public during the normal Municipal Hall business hours.

Part 7 Application and Fee

- 7.1 A person may apply to the Board for a minor variance or an exemption to relieve hardship by submitting the following to the Permits & Inspections Department Secretary:
- 7.1.1 a completed application including:
- (a) the minor variance or exemption requested;
 - (b) the grounds of hardship on which the application is brought; and
 - (c) the address to which all notices for the applicant may be mailed or otherwise delivered;
- 7.1.2 the required supporting documentation specified in the application form; and
- 7.1.3 the application fee prescribed by the District's Fees and Charges Bylaw.
- 7.2 All applications to the Board will be reviewed for comment by designated staff.

Part 8 Notice

- 8.1 Notice of the Hearing of an application to the Board must be mailed by ordinary mail or otherwise delivered no later than ten calendar days prior to the date of the Hearing to all owners and tenants in occupation of land:
- 8.1.1 that is the subject of the application; and
- 8.1.2 that is adjacent to or within 50 metres of the land that is the subject of the application.
- 8.2 The notice referred to in subsection 8.1 must:
- 8.2.1 state the nature of the application;
 - 8.2.2 identify the land that is the subject of the application; and
 - 8.2.3 state the time, date and place of the Hearing.

- 8.3 Any notice pursuant to this Part is deemed to have been validly given if sent by ordinary mail or otherwise delivered to the owners and tenants in occupation of affected lands at such addresses as appear on the last revised Assessment Roll or at such other address as such affected person may specify in writing.

Part 9 Board Hearing Procedures

9.1 Appointment of Chair

9.1.1 At the first Hearing of each year the Board must:

- (a) elect one of their members as Chair for a one year period.

9.1.2 The Chair may appoint a member of the Board as Acting Chair to preside in the Chair's absence either for a single meeting or for a set period of time.

9.2 Schedule of Hearings

9.2.1 The Board may annually establish a schedule of Hearings.

9.2.2 The Board may amend the schedule of Hearings by resolution.

9.3 Quorum and Voting

9.3.1 A quorum of the Board is any three members of the Board.

9.3.2 The Chair of the Board is entitled to vote on all matters coming before the Board.

9.3.3 The Chair is not entitled to move or second a motion.

9.3.4 Any Board member who abstains from voting is deemed to have voted in favour of the motion.

9.3.5 In the event that the number of votes cast by the members of the Board is equally divided for and against the motion, the motion is defeated.

9.4 Conduct of Hearings

9.4.1 All Hearings of the Board are open to the public.

9.4.2 The applicant and any other person who believes that their interest in property is affected by the application may make either oral or written submissions, or both, at the Hearing of the application and may be represented by a solicitor or agent.

9.4.3 Evidence given at a Hearing of the Board does not need to be under oath.

9.5 **Adjournments**

9.5.1 Before reaching a decision on an application, the Board may require that further information be supplied by the applicant and may adjourn the Hearing from time to time as the Board deems advisable.

9.5.2 A Board Hearing may be adjourned from time to time and may be reconvened without further notice, provided the time, date and place of reconvening is announced to those present at the time of adjournment, failing which notice of the reconvened hearing must be given in accordance with Part 8 of this bylaw.

9.6 **Decision of Board**

9.6.1 At the conclusion of a Hearing, the Board may render its decision or may adjourn the application and render its decision at a subsequent Hearing.

9.6.2 If the applicant or applicant's solicitor or agent is not present at the Hearing of the application, the Board may grant or deny an order in the absence of such person.

9.6.3 If an application is granted, the Board may set a time within which the lawful construction must be completed, failing which the exemption granted by the Board shall terminate and the provisions of the applicable bylaw or the *Local Government Act*, as applicable will apply.

9.6.4 Each decision of the Board must be mailed or otherwise delivered to the applicant, owner of the subject land, persons who provided written submissions to the Board and to the Supervisor of Building Inspections.

9.6.5 The Secretary will maintain a record of the Board's decisions which must be available for public inspection during normal Municipal Hall business hours.

Part 10 Appeals

10.1 All decisions of the Board are final and may only be appealed to the Supreme Court under the *Judicial Review Procedure Act*.

READ A FIRST TIME on April 23, 2007

READ A SECOND TIME on April 23, 2007

READ A THIRD TIME on April 23, 2007

ADOPTED by the Council on April 30, 2007

[Original signed by Mayor]

Mayor

[Original signed by Municipal Clerk]

Municipal Clerk