

DISTRICT OF SQUAMISH

BYLAW NO. 1485

A bylaw to establish a Squamish Board of Variance,
Board of Variance procedures, and application fee.

The Council of the District of Squamish, in open meeting assembled, enacts as follows:

CITATION

1. a) This bylaw may be cited as the "District of Squamish Board of Variance Establishment, Procedure and Fee Bylaw No. 1485, 1997."

ESTABLISHMENT AND MEMBERSHIP

2. a) A three-member Board of Variance is hereby established in accordance with the provisions of the Municipal Act.
- b) The terms of office and the method of appointing and removing an appointee to the Board are in accordance with the provisions of the Municipal Act.
- c) The Board shall elect a Chair from its members annually by resolution at the first hearing of the year.
- d) The Chair may appoint a member of the board of variance as acting Chair to preside in the absence of the chair.

SECRETARY TO THE BOARD

3. a) The District of Squamish Clerk is hereby appointed as the Secretary to the Board.
- b) The Secretary shall:
 - 1) receive appeal applications and prepare hearing agendas on behalf of the Board;
 - 2) ensure that proper notification is given in compliance with this bylaw;
 - 3) maintain a record of all decisions of the Board and ensure the record is available for public inspection; and
 - 4) act as the Board of Variance Head under the Freedom of Information and Protection of Privacy Act.

HEARINGS

4. a) Regular Board hearings shall be held on the third Wednesday of each month at a time to be established annually by resolution at the first hearing of the year and amended thereafter by resolution.
- b) If no Appeal Application is received by the Secretary at least 21 days prior to the scheduled date of the next regular hearing and no matters remain to be disposed of from previous hearings, then no hearing need be held on that date.
- c) The Chair, with the consent of one other member, may call a special hearing of the Board to be held at any time.
- d) Hearings are open to the public and the Board shall hear representations regarding applications made to the Board.
- e) The deliberations of the Board following the conclusion of representations shall be closed to the public.
- f) A quorum of the Board is two members.
- g) The Chair shall call the hearing to order when a quorum is present.
- h) If a quorum is not present within fifteen minutes after the scheduled time of the hearing the Secretary must:
 - i) record the names of the members present;
 - ii) advise any applicants and persons in attendance that the hearing must adjourn due to lack of quorum and of the date, time and place to reconvene the hearing; and
 - ii) adjourn the hearing.

NOTICE OF APPEAL

5. a) A person wishing to apply to the Board for relief available through the Board of Variance under the Municipal Act, must complete an Appeal Application stating clearly the grounds on which the appeal is based, the relief sought, and the address to which all notices respecting the appeal hearing must be directed. The Appeal Application must be substantially in compliance with the "Board of Variance Application" form shown as "Schedule A" which is attached to and forms a part of this Bylaw.

5. NOTICE OF APPEAL Contd.

- b) The applicant must:
 - i) submit, not less than 21 days before the date of the Board hearing at which the applicant wishes to be heard, the Appeal Application to the Building Inspector; and
 - ii) pay to the District of Squamish at the time of submitting the application, a non-refundable application fee of \$175.00.
- c) The Building Inspector shall confirm that the Appeal Application is fully completed before forwarding it to the Secretary. Incomplete applications may be delayed to a future hearing subject to completion of application.
- d) If an appeal is based on a determination of value made under Section 911(8) of the Municipal Act, the Appeal Application must be filed no later than thirty days after the applicant has been advised of such determination.
- e) The Secretary must, not less than ten days before the date of the hearing, send notice of the hearing to:
 - 1) the applicant;
 - 2) the members of the Board of Variance;
 - 3) all owners and occupiers of land that is the subject of the appeal;
 - 4) all owners and occupiers of land that is adjacent to the land that is the subject of the appeal; and,
 - v) in the case of a Section 911(8) determination appeal, the Building Inspector.
- f) The notice of the hearing must state:
 - 1) the time, date and place of the hearing;
 - 2) the legal description and civic address of the property in respect of which the appeal has been made;
 - 3) the reasons for the appeal as contained in the Appeal Application;
 - 4) the opportunity to make representations to the Board; and
 - 5) the availability of any Appeal Application or of any written evidence tendered before the hearing including staff reports, for inspection at the Secretary's office during regular office hours.

6. CONDUCT OF HEARINGS

- 1) Any person with an interest in property within the Municipality is entitled to be heard at a hearing and may be represented by a solicitor or other agent duly appointed in writing.
- 2) Evidence at a hearing may be given orally or in writing, but the Board must not hear oral evidence except at a hearing.
- 3) The applicant shall be afforded the first opportunity to present evidence and arguments at a hearing; thereafter evidence and arguments may be presented in such sequence as the Chair may direct until all interested parties have been afforded a reasonable opportunity to be heard.
- d) No further notice of an adjourned hearing is required if the date, time and place to reconvene are stated to those present at the time of adjournment.
- e) If the applicant, having failed to notify the Secretary that the applicant or a representative is unable to attend, does not appear at the hearing, the Board may proceed to decide the appeal in the absence of the applicant.

DECISIONS

- 7. a) The decision of the majority present is the decision of the Board and if there is a tie vote, the appeal is denied.
- b) The decision of the Board must be made within seven days after the hearing.
- c) The Secretary shall send by mail or otherwise deliver to the applicant and the Building Department notice of the decision of the Board within seven days after that decision.
- d) The Board may impose a time limit on variance orders for completion of construction in accordance with the Municipal Act.
- e) The process to appeal a decision of the Board is in accordance with the provisions of the Municipal Act.

GENERAL

- 8. a) Subject to the provisions of this Bylaw, the Board may determine its own procedure.

REPEAL

9. a) District of Squamish "Board of Variance Bylaw No. 507, 1979" and "District of Squamish, Board of Variance Application Fee, Bylaw No. 1105, 1990" are hereby repealed.

READ A FIRST, SECOND, AND THIRD TIME this 2nd day of September, 1997.

RECONSIDERED AND FINALLY ADOPTED this 16th day of September, 1997.

Corinne Lonsdale, Mayor

Joe Barry, Clerk

SQUAMISH BOARD OF VARIANCE APPEAL APPLICATION

DATE: _____

<u>IMPORTANT INFORMATION</u>	
On finding undue hardship, the Board may order a minor variance or exemption if it would not:	
(a)	result in inappropriate development of the site;
(b)	substantially affect the use and enjoyment of adjacent land;
(c)	vary permitted uses and densities under the applicable bylaw; or
(d)	defeat the intent of the bylaw.
An order must not:	
(a)	be in conflict with a registered Land Title Act Covenant;
(b)	deal with a matter covered in a land use contract or permit;
(c)	deal with a floodplain specification under s.910(s) of the Municipal Act; or
(d)	apply to a heritage property.

I hereby apply for a hearing before the Board of Variance for:

LAND SUBJECT OF THE APPLICATION	
Street Address:	
Legal Description:	
Zoning:	
OWNER/CONTACT	
Full Name of Property Owner(s):	
Full Name of Owner's Authorized Representative (if applicable):	
Address to Which Notices Should be Mailed:	
Daytime Telephone Number of Owner, Applicant and/or Authorized Representative:	
Delegation (Name of Applicant or Person(s) Who Will Represent Applicant at the Hearing):	
TYPE OF APPLICATION (Complete Applicable Section(s) A, B, C, D or E)	
A.	VARIANCE OF A BYLAW RESPECTING SITING, DIMENSION OR SIZE OF A BUILDING OR

STRUCTURE OR THE SITING OF A MANUFACTURED HOME IN A MANUFACTURED HOME PARK [s.901(1)(a)]

Bylaw Name/No.

Section(s) Appealed:

Variance(s) From:

To:

(current requirement)

(new requirement requested)

B. EXEMPTION FROM PROHIBITION OF A STRUCTURAL ALTERATION OR ADDITION TO STRUCTURE WITH A NON-CONFORMING USE [s.901(1)(c)/911(5)]

Bylaw Name/No. which previously permitted use:

Bylaw Name/No. which resulted in legal non-conforming status:

Continuing Non Conforming Use:

Structural Alteration or Addition Desired:

NOTE: If alteration or addition will result in a structure contrary to current bylaw siting, dimension or size requirements, also complete Section A.

C. VARIANCE OF A SUBDIVISION SERVICING BYLAW REQUIREMENT IN AN AREA ZONED FOR AGRICULTURAL USE OR INDUSTRIAL USE [s.901(1)(d)/938(1)(c)]

Bylaw Name/No.

Section(s) Appealed:

Variance(s) From:

To:

(current requirement)

(new requirement requested)

D. VARIANCE OF A BYLAW UNDER DIVISION (2) OF PART 22 (PROTECTION OF TREES) Tree Cutting Prohibition and Regulation Bylaws (s.708/709) or Significant Trees Bylaws (s.710) (Except Bylaw under s 711, Hazardous Trees and Shrubs, or where Council under 714(2) has compensated or mitigated the hardship)

Bylaw Name/No.

Section(s) Appealed:

Variance(s) From:

To:

(current requirement)

(new requirement requested)

E. APPEAL BUILDING INSPECTOR'S DETERMINATION OF DAMAGE (Extent of Damage to Non-Conforming Building) [s.902/911(8)]

Date of Building Inspector's Determination: (Application Must be Filed No Later than 30 Days After Determination)

Summary of Building Inspector's Determination (copy attached):

Determination Requested of Board:

A, B, C, or D APPLICANTS - PROVIDE STATEMENT OF UNDUE HARDSHIP:

I allege compliance with the bylaw/Section 911(5) of the Municipal Act (strike out one) would cause me undue hardship by:

(Attach additional page(s) if required)

A, B, C, or D APPLICANTS - PROVIDE COMPLETION TIME:

Respecting Type A, B, C, or D applications, the Board may specify a time for **completion** of the construction of the building or structure permitted by the minor variance or exemption from s.911(5) after which the permission or exemption would terminate.

When do you expect to complete the work which is the subject of your application?

ADDITIONAL INFORMATION/REASONS

Additional Information/Reasons Supporting the Application are:

(Attach additional page(s) if required)

ATTACHMENTS

- Application Fee: cash or cheque payable to the District of Squamish in the amount of \$175.00
- State of Title Certificate - with copies of any registered covenant or land use contract or permit.

Drawings (all must be to scale):

- Site Plan - Provide a site survey prepared by a BC Land Surveyor showing any existing buildings and proposed extensions in relation to property lines, or where no buildings exist, provide a site plan showing proposed building footprint and setbacks in relation to property lines. Minimum Scale - 1: 100 (1" = 20')
- Floor Plan - Showing intended use
- Elevations - Provide preliminary elevations showing building height on maximum 8 1/2" by 11" paper with height calculations. Minimum Scale - 1:50 (1/4" = 1'0)
- Additional information in support of the application (eg. photographs, letters of support)

Further information may be required to enable the Board of Variance members to visualize the proposal and its relationship to the surrounding area. Approval, if given by the Board, is for the plans submitted. Changes to plans after the Board's decision will require a new application.

SIGNED BY ALL OWNERS SHOWN ON TITLE:

Signature of Registered Owner(s)

Signature of Registered Owner(s)

Signature of Agent/Option Holder

Decisions of the Board regarding Type A, B, C, and D applications are FINAL. Decisions of the Board regarding Type E applications may be APPEALED by the applicant or the local government TO THE SUPREME COURT. Questions of procedure can be appealed to the Court under the Judicial Review Procedure Act.

Information in this application is collected pursuant to the Municipal Act, will form part of the public record and is subject to the Freedom of Information and Protection of Privacy Act.

WHAT IS THE SQUAMISH BOARD OF VARIANCE?

The Municipal Act requires a local government that has adopted a zoning bylaw to establish a board of variance. The Squamish Board of Variance, its procedures and application fee are established by Bylaw No. 1485 . Board members (3) are:

- volunteers;
- appointed by the District of Squamish (one member);
- appointed by the Minister of Municipal Affairs (one member);
- appointed by the other two appointees (one member);
- appointed for three year terms;
- not permitted to be a member of the Squamish Advisory Planning Commission or an officer or employee of the District of Squamish.

WHAT DOES THE BOARD VARY?

The jurisdiction of the Board is limited to, after finding **undue hardship**, granting **minor variances** or exemption from a:

- bylaw respecting siting, dimensions or size of a building or structure or the siting of a manufactured home in a manufactured home park;
- prohibition of a structural alteration or addition for legal non-conforming uses;
- bylaw for subdivision servicing requirements in an area zoned for

- agricultural use or industrial use;
- bylaw for tree cutting prohibition and regulation and significant tree bylaws.

An undue hardship **may** be a unique land challenge, circumstances beyond the control of the applicant or a general hardship to the applicant. Hardship applications must not: conflict with s.219 Land Title or s.24A Land Registry Acts covenants, apply to heritage property, deal with a matter covered in a land use contract or permit, or deal with a floodplain specification.

An applicant can also appeal to the Board for a new determination if they feel the building inspector erred in the determination of damage to a structure containing a legal non-conforming use which may prevent reconstruction after damage or destruction.

The Board's area of jurisdiction is limited in the Municipal Act.

HOW DO I APPLY?

After being advised by District staff: that you cannot obtain a building permit due to non conformance with bylaws; of the subdivision servicing requirements; of tree bylaw requirements or of a determination of damage with which you disagree, **CONTACT THE BUILDING DEPARTMENT**. Staff will provide you with a Board application form. Submit your

application fee (\$175.00) and completed form with required attachments to the Building Department at least three weeks before the Board Hearing. The Board meets monthly in the Council Chambers at the Municipal Hall.

Notice of the hearing will be distributed to the Board, applicant, land owner, and neighbours of the land that is the subject of the appeal. **DO NOT CONTACT BOARD MEMBERS PERSONALLY**. Members may visit the property prior to the hearing but must not hear evidence outside of the hearing. Applicants should contact their neighbours personally before the hearing to answer any questions they may have and to seek their support.

ARE YOU A NEIGHBOUR OF THE APPLICANT?

The District will send adjacent property owners notice of the hearing. Copies of the notice, application and written submissions are available at Municipal Hall for inspection by neighbours and interested parties. All Board decisions are also available. Neighbours can submit a letter c/o the Clerk, Municipal Hall, presenting their opinion on the application for the Board to consider OR speak at the hearing.

THE HEARING...

Board hearings are informal quasi-judicial processes, open to the public (except during decision deliberation) and held in accordance with procedural fairness.

Procedural fairness includes hearing both sides in the presence of one another, disclosure of documents, and no bias or conflict of interest.

At the hearing, the applicant or the applicant's agent should be in attendance to describe their request and to answer questions from the Board. The applicant will be provided an opportunity to speak, followed by any interested parties who wish to speak. Interested parties can also submit written comments on the application.

After hearing interested parties, the Board will deliberate "in-camera", with only the Secretary in attendance. The public will be invited to attend when deliberations are complete to hear the Board announce their decision.

Decisions of the Board are by majority vote. The Board may specify a time limit for completion of construction or specifically reference the plans or purpose in its variance order.

Decisions of the Board are final except determination of damage which can be appealed to the Supreme Court by the

applicant or local government.

WE'RE HERE TO HELP...

Visit Municipal Hall to obtain copies of pertinent bylaws and application forms or to review Board of Variance hearing agendas or decisions. Staff are available to answer your questions regarding municipal regulations and the process to apply to or address the Board of Variance. A copy of the Municipal Act is available for review of referenced sections.

The Board is established by municipal bylaw adopted by Council, however, once established, it operates independently from Council. The Building and Clerk's Departments provide administrative support in processing applications and maintaining records. The Planning Department provides assistance interpreting the Zoning Bylaw.

For further information contact:

Building Department Ph: 815-5011
DISTRICT OF SQUAMISH
37957 Second Avenue
Squamish, BC V0N 3G0
Facsimile: (604) 815-5013

Planning Department Ph: 815-5002
Clerk's Department Ph: 815-5005
DISTRICT OF SQUAMISH
37955 Second Avenue
Squamish, BC V0N 3G0

Facsimile: (604) 892-1083

SQUAMISH BOARD OF VARIANCE INFORMATION BROCHURE

*This brochure is for information only.
Applicants should obtain a copy of*

*relevant
bylaws and application requirements.*



Copy at 85%

