BOARD OF VARIANCE

BYLAW NO. 9259

EFFECTIVE DATE – JULY 27, 2015
BOARD OF VARIANCE BYLAW NO. 9259

The Council of the City of Richmond enacts as follows:

PART ONE: CONTINUATION AND JURISDICTION OF BOARD

1.1 Continuation of Board

1.1.1 The Board, established by previous bylaw of the City, is hereby continued.

1.2 Jurisdiction of Board

1.1.2 The Board shall hear and determine applications on the grounds and to the extent set out in the Local Government Act.

PART TWO: ADMINISTRATIVE AND TECHNICAL SUPPORT

2.1 Administrative Support

2.1.1 The Corporate Officer, or a person assigned by the Corporate Officer, shall be the Secretary to the Board.

2.1.2 The Secretary shall have the following duties:

(a) determine completeness of an application;

(b) provide notice of an application in accordance with the Local Government Act and this bylaw;

(c) prepare the agenda and minutes for each Board meeting;

(d) provide notice of a Board decision in accordance with this bylaw; and

(e) maintain a record of all decisions of the Board and ensure that the record is available for public inspection during normal business hours.

2.2 Technical Support

2.2.1 The City's Planning and Development Division shall provide technical support to the Board in respect to an application.

2.2.2 The representative(s) of the Planning and Development Division may:
(a) provide a written report to the Board in respect to an application; and/or
(b) attend a hearing and respond to any questions from the Board.

PART THREE: APPLICATION PROCEDURES

3.1 Completion of Application

3.1.1 A person or an owner, as applicable, may apply to the Board for an order under the following section(s) of the Local Government Act:

(a) section 901 [Variance or exemption to relieve hardship];
(b) section 901.1 [Exemption to relieve hardship from early termination of land use contract];
(c) section 902 [Extent of damage preventing reconstruction as non-conforming use].

3.1.2 The person or owner making an application shall submit the following to the Secretary:

(a) a completed application form together with any required supporting materials, including any applicable drawings and plans, and the grounds of the application, in form and content satisfactory to the Secretary;
(b) title search, dated no earlier than 30 days from the application date, for the land that is the subject of the application; and
(c) the applicable fee specified in the Consolidated Fees Bylaw No. 8636, which fee is non-refundable except in accordance with section 3.2.2 of this bylaw.

3.1.3 The owner making an application pursuant to section 3.1.1(b) of this bylaw shall submit the following additional materials and information:

(a) a copy of the land use contract registered on title, together with any amendments to the land use contract; and
(b) the length of extension requested for the termination of the land use contract, the nature of the hardship requiring the extension, and how the extension would relieve the hardship, together with any supporting documents or materials.

3.1.4 The Secretary shall examine each application and may request the applicant to submit such further information or materials as the Secretary may deem necessary.
3.1.5 An application for an order under section 3.1.1(b) of this bylaw shall be made within 6 months after the adoption of the bylaw, authorized by section 914.2 [early termination of land use contracts] of the Local Government Act, that is applicable to the land for which the order is sought.

3.2 Withdrawal or Adjournment

3.2.1 A person or owner who has made an application may, at any time prior to the hearing date, apply to the Secretary to withdraw the application or request an adjournment of the hearing.

3.2.2 If a person or owner withdraws an application prior to the mailing or delivery of notices for the hearing pursuant to section 4.1.2 of this bylaw, the person or owner is entitled to a refund of 50% of the fee paid pursuant to section 3.1.2(c) of this bylaw.

3.2.3 If the Secretary grants a request to adjourn a hearing after the mailing or delivery of the notices for the hearing pursuant to section 4.1.2 of this bylaw, the person or owner shall pay to the City the additional fee specified in the Consolidated Fees Bylaw No. 8636 for mailing or delivery of notices in respect to the new hearing date.

PART FOUR: BOARD PROCEDURES

4.1 Pre-Meeting Procedures

4.1.1 Upon the Secretary being satisfied the application is complete, the Secretary shall:

(a) schedule the hearing of the application for the next available meeting date for the Board;

(b) provide notice of the hearing in accordance with section 4.1.2 of this bylaw; and

(c) provide the completed application to the Board and the City’s Planning and Development Division.

4.1.2 Not less than 10 days before the hearing date for an application for an order pursuant to section 3.1.1(a) or (b) of this bylaw, the Secretary shall mail or otherwise deliver written notice of the hearing date, time, location and subject matter for the application to:

(a) the person or owner making the application;

(b) the tenants in occupation of the land that is the subject of the application; and
4.1.3 The **Secretary** may schedule more than one **hearing** for each **Board** meeting.

### 4.2 Meeting Procedures

4.2.1 The quorum of the **Board** for a meeting is the majority of its members.

4.2.2 If a quorum is not present within 15 minutes after the scheduled time of the meeting, the **Secretary** shall cancel the meeting and:

(a) record the names of the persons present;

(b) reschedule the **applications** to be heard at that meeting to the next available **Board** meeting; and

(c) either:

(i) prior to cancelling the meeting, announce the new **hearing** date and location for each rescheduled **application**; or

(ii) provide notice of the new **hearing** date and location in accordance with section 4.1.2 of this bylaw.

4.2.3 At the beginning of each **hearing**, the **Secretary** must provide to the **Board** and the applicant any written submissions in respect to the **application** received in advance of the **hearing**.

4.2.4 The applicant must be afforded the first opportunity to make a submission to the **Board**, after which submissions may be presented by other persons in the order determined by the Chair of the meeting, until all persons wishing to make a submission relevant to the **application** have been given an opportunity to be heard.

4.2.5 Other than the applicant, persons making submissions to the **Board** at a **hearing** must not exceed a total speaking time of five minutes, excluding the time taken for questions posed by **Board** members, unless the **Board** authorizes additional speaking time.

4.2.6 The **Board**, in its discretion, may:

(a) establish procedures for **Board** meetings and **hearings**, provided such procedures do not conflict with the provisions of this bylaw;

(b) administer an oath or affirmation for oral evidence;

(c) accept evidence that is unsworn, written or hearsay evidence; and
(d) before evidence is presented at a hearing, direct that:

(i) no oral evidence will be allowed to be given unless all of the witnesses first take an oath or affirmation in the same manner as witnesses at a civil trial in the Supreme Court of British Columbia; or

(ii) no written evidence will be allowed to be given unless it is given by affidavit.

4.2.7 The Board may, at any time, adjourn a meeting or the hearing of an application, provided either:

(a) prior to the adjournment, the Secretary announces the new date and location for the meeting or hearing; or

(b) the Board directs the Secretary to provide notice of the new meeting or hearing date and location in accordance with section 4.1.2 of this bylaw.

4.2.8 The Board must not hear any oral or written submissions in respect to an application except at a hearing for the application.

4.3 Decision-Making Procedures

4.3.1 At the conclusion of the hearing for an application, the Board may:

(a) grant or deny the order requested by the applicant and provide reasons for the grant or denial;

(b) request further information from the applicant, the City’s Planning and Development Division or any person who has made a submission to the Board in respect to the application and adjourn the hearing in accordance with section 4.2.7 of this bylaw; or

(c) reserve its decision and provide a written decision at a later date.

4.3.2 The decision of the Board to either grant or deny an order must be supported by not less than 3 members of the Board.

4.3.3 A Board member must not abstain from voting in respect to an application heard by the Board member.

4.3.4 Board members not present during a hearing for an application must not participate in making a decision in respect to the application.

4.3.5 A Board member shall not discuss the merits of an application other than with another Board member who was present at the hearing for the application.
4.3.6 If an applicant, or his or her representative, does not attend the hearing for the application, the Board may adjourn the hearing in accordance with section 4.2.7 of this bylaw or make a decision in the absence of the person or owner.

4.3.7 Following a decision by the Board in respect to an application, the Secretary must mail or otherwise deliver to the applicant written notice of the Board’s decision.

4.3.8 The Board shall not rehear an application covering the identical grounds or principles upon which the Board has previously rendered a decision.

PART FIVE: INTERPRETATION

5.1 In this bylaw, unless the context requires otherwise:

APPLICATION means an application for an order under section 3.1.1(a), (b) or (c) of this bylaw

BOARD means the Board of Variance for the City continued pursuant to this bylaw

CITY means the City of Richmond

COMMUNITY CHARTER means Community Charter, SBC 2003, c. 26, as amended or replaced from time to time

CORPORATE OFFICER means the person appointed by Council pursuant to section 148 of the Community Charter as the Corporate Officer of the City, or his or her designate

HEARING means the hearing of an application by the Board

LOCAL GOVERNMENT ACT means Local Government Act, RSBC 1996, c. 323, as amended or replaced from time to time

SECRETARY means the person assigned to be Secretary to the Board in accordance with section 2.1.1 of this bylaw

PART SIX: SEVERABILITY

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

PART SEVEN: REPEAL AND CITATION

7.1 Board of Variance Establishment and Procedure Bylaw No. 7150 is hereby repealed.

7.2 This bylaw is cited as “Board of Variance Bylaw No. 9259”.
FIRST READING
SECOND READING
THIRD READING
ADOPTED

MAYOR

CORPORATE OFFICER