

DISTRICT OF LANTZVILLE

BYLAW NO. 2003 - 10

A BYLAW TO ESTABLISH A BOARD OF VARIANCE

WHEREAS:

- A.** Section 899 of the *Local Government Act* provides that where a local government has adopted a zoning bylaw, the local government must establish a board of variance; and
- B.** Pursuant to Section 900 of the *Local Government Act*, the bylaw establishing a board of variance must set out procedures to be followed by the board of variance;

NOW THEREFORE the Municipal Council of the District of Lantzville in open meeting assembled hereby enacts as follows:

Citation

- 1. This Bylaw may be cited for all purposes as "Lantzville Board of Variance Bylaw No. 2003 - 10".

Establishment

- 2. A Board of Variance is hereby established for the municipality of the District of Lantzville.

Jurisdiction

- 3. The Board of Variance shall hear and determine appeals on the grounds and to the extent in accordance with the *Local Government Act*.

Secretary

- 4. The Council of the District of Lantzville shall appoint a Secretary to the Board of Variance.
- 5. The responsibilities of the Secretary shall be:
 - a) to receive completed notices of appeal;
 - b) to notify the Chairperson of the Board of Variance the receipt of notice of appeal;
 - c) to ensure that proper notification is given in compliance with this bylaw;
 - d) to keep proper records of the Board of Variance proceedings;
 - e) to appoint a representative to receive the notices of appeal when circumstances require an appointment; and
 - f) to determine whether the appellant seeks a decision of the Board which would be in conflict with a covenant registered pursuant to Section 219 of the *Land Title Act*, a Section 215 covenant registered before the repeal of that section, or a Section 24(a) covenant pursuant to the *Land Registry Act* before the repeal of that Act; a requirement for a permit under Part 26 of the *Local Government Act*, or a matter which is covered in a land use contract.

Notice of Appeal

6. An appellant, exercising the right of appeal, shall deliver to the Secretary of the Board of Variance or appointee, a completed Notice of Appeal as outlined in the sample of the Notice of Appeal form contained in Schedule "A", together with such plans and technical information as the appellant or Secretary deems necessary to support the appeal including, but not limited to, the following:
 - a) survey plan certified by a BC Land Surveyor;
 - b) site plan to scale;
 - c) topographical survey plan certified by a BC Land Surveyor;
 - d) building elevation plan certified by a BC Land Surveyor;
 - e) Professional Engineer's report with respect to drainage, topography, geotechnical consideration, or other pertinent matters; and
 - f) a letter outlining the details of the appeal.
7. Prior to the processing of a Board of Variance Appeal, the applicant shall pay to the Regional District of Nanaimo the amount set out in the "Regional District of Nanaimo Fees Bylaw No. 1259, 2002".
8. Upon receipt of a Notice of Appeal by the Secretary of the Board of Variance and determination of the Hearing date, the Secretary shall, not less than seven (7) calendar days prior to the date of the Hearing, give notice of the Hearing by way of registered mail or otherwise to:
 - a) the members of the Board of Variance;
 - b) the appellant;
 - c) the Building Inspection Department of the Regional District of Nanaimo; and
 - d) the registered owners, as shown in the last revised assessment roll, and all tenants of occupation of the property under appeal and the land adjacent to the land that is the subject of the application.
9. The Notice of the Hearing shall state the date, time, and place of the Hearing and shall include a copy of the Notice of Appeal.

Hearings

10. A hearing of the Board of Variance shall be held on the second Thursday of each month, unless otherwise varied by the Chairperson of the Board of Variance in consultation with the Secretary and all other members of the Board of Variance.
11. In the event that no completed Notice of Appeal is deposited with the Secretary of the Board of Variance or their appointee within fourteen (14) calendar days prior to the date of the next Hearing, no Hearing shall be held.
12. A Hearing of the Board of Variance shall be held a maximum of 45 days after the date of receipt of a Notice of Appeal.
13. A Hearing of the Board of Variance shall be convened by the Chairperson on the date of Hearing and at the time and place set out in the Notice of Hearing and 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.

14. The members of the Board of Variance may view the property under application and the surrounding properties.
15. The Board of Variance shall hear all representations made to the Board.
16. The appellant shall be afforded the first opportunity to present evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequence as the Chairperson may direct until all parties to the application have been afforded an opportunity to present their evidence and arguments.

Decision


17. The decision of the Board shall be by a majority of those members present and made within seven (7) days of the hearing.
18. The Secretary of the Board of Variance shall, within seven (7) days of the decision, send by registered mail, or otherwise, the written decision of the Board of Variance to the appellant, all persons who made representation at the Hearing, and the Regional District of Nanaimo's Building Inspection Department.
19. The Secretary shall, within seven (7) days of the decision, enter that decision in the record maintained at the Lantzville municipal offices.

READ A FIRST TIME this 25th day of June 2003.

READ A SECOND TIME this 25th day of June 2003.

READ A THIRD TIME this 25th day of June 2003.

FINALLY ADOPTED this 14th day of July 2003.




Colin Haime
Mayor



David Gawley
CAO/Corporate Administrator

SCHEDULE "A" to Lantzville Board of Variance Bylaw No. 2003 - 10

 REGIONAL DISTRICT OF NANAIMO	DEVELOPMENT SERVICES DEPARTMENT 6300 Hammond Bay Road, Nanaimo, BC V9T 6N2 (250) 390-6530 (Nanaimo) (250) 954-3809 (District 69) 1-877-607-4111 (within BC) FAX: (250) 390-6513	
	BOARD OF VARIANCE NOTICE OF APPEAL	
Names of Appellant _____		
Mailing Address: _____	Postal Code: _____	
Telephone Number: _____	Fax: _____	Cell: _____
Name of Agent _____		
Mailing Address: _____	Postal Code: _____	
Telephone Number: _____	Fax: _____	Cell: _____
Legal Description of Property of Notice of Appeal: _____ _____		
Civic Address: _____		
I/WE ENCLOSE THE FOLLOWING:		
<input type="checkbox"/> A copy of Certificate of Indefeasible Title (dated within past 30 days) <input type="checkbox"/> A site plan or survey plan, drawn to scale, showing the location of buildings and structures and parts thereof <input type="checkbox"/> Building elevation plan certified by a BC Land Surveyor <input type="checkbox"/> A topographical survey plan certified by a BC Land Surveyor <input type="checkbox"/> Professional Engineer's Report <input type="checkbox"/> Notice of Appeal Fee Receipt No: _____		
I/WE, THE REGISTERED OWNERS(S) OF THE ABOVE NOTED PROPERTY, HEREBY APPEAL TO THE BOARD OF VARIANCE FOR THE FOLLOWING:		
<input type="checkbox"/> To review a decision made by the Regional District of Nanaimo Manager of Building Inspection and Enforcement pursuant to Section 911(8) of the <i>Local Government Act</i> . To determine that compliance with the following will cause undue hardship: <input type="checkbox"/> Relating to siting, size and dimensions of a building or structure of the siting of a manufactured home in a manufactured mobile home park. (Note: use and density, including varying maximum building size provisions, will not be considered for variance) <input type="checkbox"/> The prohibition of structural alteration or addition pursuant to Section 911(5) of the <i>Local Government Act</i> . <input type="checkbox"/> A subdivision servicing requirement pursuant to Section 938 (1 c) of the <i>Local Government Act</i> in an area zoned for agricultural or industrial uses.		
_____ SIGNATURE OF REGISTERED OWNER(S)		_____ DATE
_____ SIGNATURE OF REGISTERED OWNER(S)		_____ DATE
To be completed by Board of Variance Secretary or appointee.		
Appeal No: _____	Zoning: _____	Request: _____
RDN Map No: _____	DP Area: _____	Received By: _____
Folio No: _____	Covenants: _____	Date: _____