

**TOWN OF QUALICUM BEACH  
BYLAW NO. 902**

**A BYLAW TO ESTABLISH A BOARD OF VARIANCE AND ITS PROCEDURES**

**WHEREAS** the *Local Government Act* requires a local government that has adopted a zoning bylaw to establish, by bylaw, a Board of Variance;

**AND WHEREAS** the Town of Qualicum Beach has adopted a zoning bylaw;

**AND WHEREAS** the population of the Town of Qualicum Beach is less than 25,000;

**NOW THEREFORE**, the Council of the Town of Qualicum Beach, in open meeting assembled, enacts as follows:

**CITATION**

1. This bylaw may be cited as “Town of Qualicum Beach Board of Variance Bylaw No. 902, 2024”.

**DEFINITIONS**

2. In this bylaw:

“**Board**” means the Board of Variance for the Town of Qualicum Beach.

“**Chair**” means the Chair of the Board.

“**Corporate Administrator**” means the person appointed as such.

“**Council**” means the Municipal Council of the Town of Qualicum Beach.

“**Director of Planning**” means the person appointed as such.

“**Member**” means a person who is eligible, pursuant to the *Local Government Act*, to be a member of the Board and is appointed by Council to the Board.

“**Records**” means a record, regardless of form, recorded or stored graphically, mechanically, electronically, digitally, or otherwise.

“**Secretary**” means the secretary to the Board of Variance.

“**Town**” means the municipality of the Town of Qualicum Beach.

**BOARD ESTABLISHED AND CONTINUED**

3. The **Board**, established by previous board of variance bylaws of the **Town**, most recently pursuant to the provisions of the *Local Government Act*, and consisting of three **Members**, is continued.

*[The following is inserted for reference only and is not a part of this bylaw. Part 14, Division 15 of the Local Government Act (LGA), sections 536-544, establishes regulations for the Board of Variance in addition to this Bylaw, including:*

- (a) a person who is a member of the Advisory Planning Commission or of Council, or an officer or employee of the Town, is not eligible to be appointed to the Board;*
- (b) the Board shall consist of 3 persons appointed by Council;*

- (c) *an appointment to the Board is for a 3-year period, and if no successor has been appointed at the end of the 3-year period, continues until the time that a successor is appointed;*
- (d) *Council may rescind an appointment to the Board at any time;*
- (e) *members of a board of variance must not receive compensation for their services as members, but must be paid reasonable and necessary expenses that arise directly out of the performance of their duties; and necessary funds to pay the costs must be provided in the annual budget;*
- (f) *members of the Board must elect one of their number as Chair, and the Chair may appoint a member of the Board of Variance as acting Chair to preside in the absence of the Chair;*
- (g) *the bylaw establishing the Board must set out the procedures of the Board, including how appeals are to be brought and notices given (compliant with the notice of application for variance requirements in the LGA);*
- (h) *listing the type of application for variance or exemption if compliance would cause the person a hardship;*
- (i) *describing the powers of the Board to order a minor variance or to exempt the applicant, under specified conditions and limitations; and*
- (j) *describing the powers of the Board to set aside the determination of a building inspector and make a determination in its place on the extent of damage to non-conforming use property.]*

## **JURISDICTION**

4. The **Board** shall hear and determine appeals on the grounds and to the extent set out in the *Local Government Act*.

## **CHAIR & SECRETARY**

5. The appointed **Members** of the **Board** shall, at the first meeting held each year, elect one of their number as **Chair** who shall preside at all meetings for the balance of the year.
6. The **Corporate Administrator** is appointed as **Secretary** to the **Board**.
7. The responsibilities of the **Secretary** shall be to:
  - (1) establish and make available to the public, the form of the notice of appeal - the "Board of Variance Application";
  - (2) receive notices of appeal;
  - (3) ensure that proper notification is given and the agenda is distributed in compliance with **Town** bylaws and Provincial laws;
  - (4) ensure that staff assigned to record the proceedings are in attendance for each meeting;
  - (5) ensure that accurate minutes of the meetings of the **Board** are prepared and made available to the public in the municipal office during normal business hours;

- (6) give written notice of each decision of the Board to the appellant, the Building Inspector, and the Director of Planning; and,
- (7) maintain and keep safe the **Records** of the business of the **Board**.

## MEETINGS

8. A meeting of the **Board** shall be held on the first Thursday of each month, to consider applications of appeal received.
9. In the event that no application of appeal is deposited with the **Secretary** to the **Board** at least 20 calendar days prior to the date of the next meeting, then no meeting shall be held.
10. The **Chair**, in consultation with the **Secretary**, may call a special meeting of the **Board**.
11. A meeting of the **Board** shall be held no later than a maximum of 45 days after the date of receipt of an application of appeal, unless an extension is allowed by written consent of the appellant.
12. The **Chair**, or the **Member** appointed by the **Chair** as Acting **Chair**, shall convene the hearing on the date and at the time and place set out in the notice of hearing and agenda.
13. Two appointed **Members** of the **Board** is a quorum.
14. In the event that a quorum is not present within 15 minutes after the scheduled time of the meeting, the names of those present shall be recorded and the meeting shall stand adjourned.
15. Persons whose property is affected by an appeal to the **Board** have a right to be heard and to give evidence at the hearing or may be represented by some other person authorized to represent them. Evidence at a hearing may be given orally or in writing, or submitted to the **Secretary** in writing in advance of the hearing. The **Board Members** shall not receive representations or evidence except at a properly constituted hearing.
16. All decisions of the **Board** shall be made by resolution and by a majority vote of all **Members** present. All **Members** of the **Board**, including the **Chair**, must vote on every question unless they have declared a conflict and left the meeting. Each **Member** of the **Board** present who does not signify their vote, shall be counted in the affirmative. In the event that the number of votes cast by the **Members** is equally divided for and against a question, the motion is defeated.

17. The **Board** may adjourn the hearing of an application from time to time and reconvene without further notification provided that the time, date and place of reconvening is announced to those present at the time of adjournment.

#### **NOTICE OF APPEAL/APPLICATION**

18. A person exercising the right of appeal shall deliver to the **Secretary** to the **Board** a completed appeal application form, in the form prescribed from time to time by the **Secretary** for that purpose, together with the application fee and such plans and particulars as the appellant or **Secretary** deems necessary to support the appeal.

#### **NOTICE OF APPEAL FEE**

19. The Notice of Appeal/application fee is payable to the **Town** in the amount as established in the Development Application Procedures and Fees Bylaw No. 605, 2007 and as amended from time to time.

#### **NOTIFICATION OF HEARING AND DECISION**

20. Upon receipt of an application of appeal by the **Secretary** and determination of the hearing date, the **Secretary** shall, not less than 10 calendar days prior to the date of the hearing, give notice of the hearing by way of mail or otherwise, to the **Members** of the **Board** and all owners and occupiers of land that is the subject of the appeal or adjacent to the land that is subject of the appeal.
21. The notice of the hearing shall state the subject matter of the application and the date, time and place where the appeal will be heard.
22. The **Secretary** shall, within 7 days of the hearing, deliver to the appellant, the Building Inspector, and the **Director of Planning** confirmation of the decision of the **Board**, by printed or electronic means.

**SEVERABILITY**

23. If any section, subsection, paragraph, clause, phrase or word within 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.

**READ A FIRST TIME** this 29<sup>th</sup> day of May, 2024.

**READ A SECOND TIME** this 29<sup>th</sup> day of May, 2024.

**READ A THIRD TIME** this 29<sup>th</sup> day of May, 2024.

**ADOPTED** this 26<sup>th</sup> day of June, 2024.

*ORIGINAL SIGNED*

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Teunis Westbroek, Mayor

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Luke Sales, Deputy Corporate Administrator