

TOWN OF QUALICUM BEACH

BYLAW NO. 580.54

A Bylaw to Amend the Town of Qualicum Beach
Land Use And Subdivision Bylaw No. 580, 1999

The Council of the Town of Qualicum Beach, in open meeting lawfully assembled, enacts as follows:


1. The "Town of Qualicum Beach Land Use and Subdivision Bylaw No. 580, 1999" is amended as follows:
 - (1) "Part 5 - BOARD OF VARIANCE AND ADVISORY PLANNING COMMISSIONS" is deleted and replaced with "Part 5 - BOARD OF VARIANCE AND ADVISORY PLANNING COMMISSION" as attached as Schedule 'A' and forming part of this bylaw.
 - (2) The Table of Contents is amended by deleting Schedules '5A' and '5B'.
2. This bylaw may be cited as "Town of Qualicum Beach Land Use and Subdivision Bylaw No. 580, 1999, Amendment (Part 5 - Board of Variance and Advisory Planning Commission) Bylaw No. 580.54, 2009."

INTRODUCED AND READ A FIRST TIME this 5th day of October, 2009.

READ A SECOND TIME this 21st day of October, 2009.

READ A THIRD TIME this 21st day of October, 2009.

ADOPTED this 2nd day of November, 2009.



Teunis Westbroek, Mayor



Trudy Coates, Corporate Administrator

Town of Qualicum Beach

Bylaw No. 580.54 - Land Use and Subdivision Bylaw Part 5 - BOV and APC

Page 2 of 9

Schedule 'A' to Bylaw No. 580.54

TOWN OF QUALICUM BEACH

BYLAW NO. 580

PART 5

BOARD OF VARIANCE

AND

ADVISORY PLANNING COMMISSION

BYLAW NO. 580 – PART 5 - BOARD OF VARIANCE AND ADVISORY PLANNING COMMISSION

BOARD OF VARIANCE

5.1 ESTABLISHMENT & JURISDICTION

1. Council hereby establishes a Board of Variance for the Town of Qualicum Beach pursuant to the provisions of section 899 of the *Local Government Act*.

[The following is inserted for reference only and is not a part of this bylaw. Sections 899 and 900 of the Local Government Act establish that:

- (a) the Board shall consist of 3 persons appointed by Council;*
 - (b) an appointment to the Board is for the later of 3 years, and if no successor has been appointed at the end of the 3-year period, until the time that a successor is appointed;*
 - (c) Council may rescind an appointment to the Board at any time;*
 - (d) 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;*
 - (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,*
 - (f) the chair may appoint a member of the board of variance as acting chair to preside in the absence of the chair.]*
2. The Board of Variance shall hear and determine appeals on the grounds and to the extent set out in sections 901 and 902 of the *Local Government Act*.

5.2 CHAIR & SECRETARY

1. The appointed members of the Board of Variance 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.
2. The Corporate Administrator is appointed as Secretary to the Board of Variance.
3. The responsibilities of the Secretary shall be to:
 - a) receive notices of appeal;
 - b) ensure that proper notification is given and the agenda is distributed in compliance with Town bylaws and Provincial laws;
 - c) ensure that accurate minutes of the meetings of the Board of Variance are prepared and made available to the public in the municipal office during normal business hours; and
 - d) maintain and keep safe the records of the business of the Board of Variance.

5.3 MEETINGS

1. A meeting of the Board of Variance shall be held on the first Thursday of each month, to consider applications of appeal received.
2. In the event that no application of appeal is deposited with the Secretary to the Board of Variance at least 10 calendar days prior to the date of the next meeting, then no meeting shall be held.
3. The Chair, in consultation with the Secretary, may call a special meeting of the Board of Variance.
4. A meeting of the Board of Variance 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.
5. 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.
6. Two appointed members of the Board of Variance is a quorum.
7. In the event that a quorum is not present within fifteen minutes after the scheduled time of the meeting, the names of those present shall be recorded and the meeting shall stand adjourned.
8. Persons whose property is affected by an appeal to the Board of Variance 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 of Variance members shall not receive representations or evidence except at a properly constituted hearing.
9. All decisions of the Board shall be made by resolution and by a majority vote of all members present. The Chair of the Board is entitled to vote on all matters coming before the Board and, in the event that the number of votes cast by the members is equally divided for and against a question, the motion is defeated. Any member of the Board who abstains from voting on a question shall be deemed to have voted in the affirmative.
10. 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.

5.4 NOTICE OF APPEAL/APPLICATION

A person exercising the right of appeal shall deliver to the Secretary to the Board of Variance 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.

5.5 NOTICE OF APPEAL FEE

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

5.6 NOTIFICATION OF HEARING AND DECISION

1. Upon receipt of an application of appeal by the Secretary to the Board of Variance and determination of the hearing date, the Secretary shall, not less than 7 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 of Variance 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.
2. The notice of the hearing shall state the subject matter of the application and the date, place and time where the appeal will be heard.
3. The Secretary to the Board of Variance shall, within 7 days of the hearing, deliver to the appellant and the Building Inspector, written confirmation of the decision of the Board of Variance.

ADVISORY PLANNING COMMISSION

5.7 ESTABLISHMENT

Council hereby establishes an advisory planning commission to be known as the Town of Qualicum Beach Advisory Planning Commission.

[The following is inserted for reference only and is not a part of this bylaw. Section 898 of the Local Government Act establishes:

- (a) at least 2/3 of the members of an advisory planning commission must be residents of the municipality;*
- (b) the members of an advisory planning commission must serve without remuneration, but may be paid reasonable and necessary expenses that arise directly out of the performance of their duties; and,*

- (c) *a person who is a council member, employee or officer of the local government, or an approving officer, is not eligible to be a member of an advisory planning commission, but may attend at a meeting of the commission in a resource capacity.]*

5.8 FUNCTION/REFERRAL OF MATTERS TO THE COMMISSION

1. The function of the Advisory Planning Commission shall be to advise Council on matters coming within the scope of Section 898 of the *Local Government Act* and amendments thereto, as may from time to time be referred to the Advisory Planning Commission by Council or the Director of Planning.
2. Council hereby refers to the Advisory Planning Commission the following types of applications, for the Commission to provide advice to Council and staff, prior to consideration by Council:
 - a) rezonings that do not require a change to the land use policies in the Official Community Plan; and,
 - b) development permits when the subject property is in a “Form and Character Development Permit Area” as designated in the Official Community Plan.

5.9 MEMBERSHIP AND TERMS OF APPOINTMENT

1. The Advisory Planning Commission shall be comprised of five members, each appointed by the Council for a term commencing on the adoption of the Council resolution making the appointment and continuing for a term of approximately two years, ending December 31 of the second year of their term, or:
 - (a) earlier, due to member resignation, death or Council rescinding the appointment; or
 - (b) later, if no successor has been appointed at the end of the two-year term, until the time that a successor is appointed.
2. Council may rescind an appointment to the Commission at any time.
3. The Council shall, when appointing the five members of the Commission, give consideration to:
 - a) the *Local Government Act* requirement that at least three members must be residents of the Town;
 - b) the preference that at least one of the members of the Advisory Planning Commission be a registered professional architect; and,
 - c) each members’ qualifications, interests, and background to cover one or more of the following areas:
 - (i) architecture and urban planning;
 - (ii) environmental matters;
 - (iii) the land development industry;
 - (iv) the local business community;
 - (v) representative of the youth in the community;
 - (vi) representative of the community’s aging population;
 - (vii) the local tourism industry; and,

(viii) community interest in design and development.

4. Advisory Planning Commission members may be reappointed at the end of their two-year term. At the end of two consecutive terms, a member shall not be eligible for reappointment for a period of one year.
5. The member of Council, appointed by Council as liaison to the Advisory Planning Commission, may attend the meetings of the Advisory Planning Commission but is not a member and shall not vote.
6. The Director of Planning, or designate, shall attend the Advisory Planning Commission meetings in a resource capacity, is not a member, shall not vote and is responsible for reporting the Commission's recommendations to Council.

5.10 PROCEDURES

Chair and Secretary

1. The appointed members of the Advisory Planning Commission 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.
2. The Corporate Administrator is appointed as Secretary to the Advisory Planning Commission.
3. The responsibilities of the Secretary shall be:
 - a) to receive the material for the meeting agenda from the Director of Planning;
 - b) to ensure that proper notification is given and the agenda is distributed in compliance with Town bylaws and Provincial laws;
 - c) to ensure that accurate minutes of the meetings of the Advisory Planning Commission are prepared and made available to the public in the municipal office during normal business hours; and
 - d) to maintain and keep safe the records of the business of the Advisory Planning Commission.

Meetings

4. Meeting procedures shall be in accordance with the Procedure Bylaw.
5. Meetings of the Advisory Planning Commission shall be held on the first and third Wednesdays each month when required, as determined by the Director of Planning or the Director's designate:
 - a) after applications identified in Section 5.8 are submitted to the Town; or
 - b) when matters coming within the scope of Section 898 of the *Local Government Act* are referred to the Advisory Planning Commission by Council.

6. The Advisory Planning Commission shall meet for a special meeting at the call of the Chair.
7. The Chair, or in the event that the Chair is not in attendance after the time appointed for a meeting, the member appointed by the Advisory Planning Commission as acting Chair for the duration of the meeting, shall call the meeting to order on the date and at the time and place set out in the meeting agenda as soon as a quorum is in attendance.
8. Three appointed members of the Advisory Planning Commission is a quorum.
9. In the event that a quorum is not present within 15 minutes after the time appointed for a meeting, the names of those present will be recorded and the meeting shall stand adjourned.

Public Representation

10. The Advisory Planning Commission meetings are open to the public, but the general public shall not comment or take part in any discussion. All persons in attendance shall maintain order and quiet and not applaud or otherwise interrupt any speech or action during the meeting.
11. At Advisory Planning Commission meetings, the Advisory Planning Commission shall hear representations from applicants and applicants' agents on matters referred to under Section 5.8.
12. All applicants and applicants' representatives wishing to speak at a meeting of the Commission must have the permission of the Chair.

Order of Business

13. The following shall be the regular order of business at a meeting of the Commission:
 - a) Call to Order
 - b) Agenda Adoption
 - c) Minutes Approval
 - d) For each item on the agenda referred to the APC under Section 5.8, the following process shall be followed:
 - i) Opening remarks by the Director of Planning or designated staff regarding the content and conduct of the meeting
 - ii) Staff presentation, applicant presentation, and committee discussion of various applications
 - iii) Advisory Planning Commission Recommendations
 - e) Adjournment

Recommendations

14. When reviewing Development Permit applications, the Commission shall take the following into consideration when making recommendations to Council:
 - a) design guidelines as detailed in Development Permit Area guidelines in the Official Community Plan, and
 - b) merits of the overall design.

15. When reviewing applications that require rezoning, the Commission may also take into consideration:
 - a) Town of Qualicum Beach Official Community Plan;
 - b) the form and character of the proposed development in relation to its surroundings;
 - c) effect on neighbourhood amenities;
 - d) effect on the availability of suitable housing options;
 - e) site development strategy, including landscaping and preservation of natural amenities;
 - f) building design in reference to human needs including convenience of access, protection of views, provision of light, maintenance of privacy and mitigation of noise;
 - g) outdoor lighting and signs;
 - h) the promotion of health, safety, security, convenience, and the public interest;
 - i) environmental impact and green building;
 - j) transportation and mobility issues, including active transportation alternatives;
 - k) other land use matters; and
 - l) other issues as referred by Council.

16. Recommendations of the Advisory Planning Commission shall be made by resolution and by a majority vote of all members present.

17. If the developer is agreeable, the developer may re-submit plans to the Advisory Planning Commission to address the recommendations made by the Advisory Planning Commission at a previous meeting.

18. If the developer does not wish to re-submit plans to the Advisory Planning Commission, then the Advisory Planning Commission's recommendations shall be presented to Council.

19. If minutes have not been adopted by the Advisory Planning Commission prior to consideration of an application, draft minutes may be presented to Council.