



BOARD OF VARIANCE BYLAW  
BYLAW 3605, 2016

# BYLAWS



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Cover photo by Toni Falk



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## **Board of Variance Bylaw 3605, 2016**

**ADOPTED February 22, 2016**

### **PURPOSE**

This bylaw sets out to establish a Board of Variance for the City of Campbell River under the provisions of the local government act.

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The Council of the City of Campbell River enacts as follows:

## PART 1: Title

**1.0** This bylaw may be cited for all purposes as **Board of Variance Bylaw 3605, 2016**.

## PART 2: Definitions

**2.0** In this bylaw, unless the context clearly indicates otherwise:

<b>Applicant</b>	means an owner or owners of property which is subject to an application, or the person, company or persons acting under the written consent of the owner or owners.
<b>Adjoining</b>	means any parcel sharing a boundary with the subject parcel, or which lies directly opposite the subject parcel's boundaries when separated by a road, lane or watercourse.
<b>Board</b>	means the Board of Variance established under this Bylaw pursuant to the provisions of the Local Government Act.
<b>Chair</b>	means the Chairman/Chairwoman of the Board of Variance
<b>City</b>	means the City of Campbell River as a corporate entity.
<b>Hearing</b>	means that part of a Board of Variance meeting devoted to consideration of a particular application, but not necessarily containing the decision of the Board.
<b>Legitimate Interests</b>	means ownership or tenancy of property, or residency, or the carrying-out of business activities.
<b>Meeting</b>	means a Board of Variance meeting at which one or more Hearings are scheduled to take place.
<b>Member</b>	means a member of the Board of Variance.
<b>Order</b>	means a determination by the Board of Variance in full or partial favour of a bylaw variance, or the extent to which a non-conforming building has been damaged.
<b>Provide</b>	means to send by regular mail, or by email, or by fax, or otherwise deliver.

## PART 3: Constitution of the Board

**3.0** A Board of Variance (hereafter referred to as the "Board") is established for the City of Campbell River.

**3.1** The Board shall comprise five members to be appointed by Council resolution, one of whom shall be elected by the Board members to be the Chair of the Board (hereafter referred to as "the Chair").

- 3.2** In the event of the need to replace a member of the Board, a successor shall be appointed by Council resolution; and until the appointment of a successor, the remaining members shall constitute the Board.
- 3.3** The City may seek, or maintain on file, non-binding expressions of interest from persons willing to serve on the Board. Seeking and/or maintaining such information shall not be construed as acceptance by Council of a person's suitability for appointment nor offer any guarantee of appointment
- 3.4** A person's expression of interest in serving on the Board does not obligate them to accept appointment.
- 3.5** Each member appointed shall hold office for a term of three years, or until a successor is appointed.
- 3.6** A member may be reappointed for a further term, to a limit of no more than two consecutive appointed terms. Full terms served prior to the adoption of this Bylaw are not counted for the purposes of this section.
- 3.7** The City, in consultation with the Board, may delay the appointment of a successor under s.3.5 if doing so would ensure an appropriate overlap between members' terms of service.
- 3.8** The following persons are not permitted to serve as Members on the Board:
  - a. City employees;
  - b. members of City Council;
  - c. persons serving on City Commissions.
- 3.9** Three Board members are a quorum.
- 3.10** During a Meeting, a decision of the majority of Members present is the decision of the Board.
- 3.11** Outside of a meeting, the Chair or Acting Chair may alone represent or act on behalf of the Board in relation to administrative matters.
- 3.12** The Board may, from time to time and as it deems necessary, adopt policies and/or guidance pertaining to the acceptance of applications, the conduct of Meetings, or matters of practice and interpretation.
- 3.13** The Chair may, from time to time, appoint a member of the Board as Acting Chair to preside in the absence of the Chair.
- 3.14** Council may at its discretion and by resolution remove a member from the Board at any time and without cause.
- 3.15** No allowances or compensation shall be paid to Board Members other than for nominal expenses incurred in performing official duties as deemed necessary by the City.

## PART 4: Applications to the Board

- 4.0** Every person applying to the Board for an order that a minor variance to a bylaw is permitted, or that the determination of a Building Inspector as to the extent of damage to a non-conforming building shall be set aside, shall:

- a. complete and submit to the City an application on a form prescribed by the City, including all information required by that form; and
- b. pay the required fee as set out in the relevant City Bylaw.

**4.1** Upon receipt of a completed application the City shall:

- a. In consultation with Board members, establish a date and time for the Board to meet to consider the application;
- b. Provide notice of the application including the place, date and time of the hearing, not less than five calendar days prior to the scheduled hearing date, to:
  - (i) all Board Members;
  - (ii) the applicant, and if different from the applicant, owners and occupants of the parcel(s) subject to the application;
  - (ii) owners and occupants of the parcels adjoining the parcels subject to the application;
- c. prepare a report to the Board, providing analysis and staff recommendations;
- d. Provide a copy of the staff report prior to the scheduled hearing date, to:
  - (i) all Board Members;
  - (ii) the applicant.

## PART 5: Board Procedures and Duties

- 5.0** Where neither the Chair nor the Acting Chair is present at a meeting, the remaining members must elect a Chair for that meeting.
- 5.1** A City representative must be present at the meeting and record a summary of the meeting.
- 5.2** Following notification under s. 4.1, any person or organization (including the City and/or any of its departments or commissions) with Legitimate Interests in the city, may make written submissions relevant to the application, to the City. For the purposes of this section and subsections, “written submissions” also includes faxes, emails and email attachments.
  - a. Any written submissions under s. 5.2 must be received by the City not later than 3:00 pm on any working day not less than two working days prior to (and not including) the day of the hearing.
  - b. Any written submissions received by the City under s. 5.2 will be Provided to the Board prior to the hearing, or at the hearing if it would be impractical to Provide to the Board prior to the hearing.
  - c. Any written submissions received by the City under s. 5.2 that the City considers to be defamatory to any party whether involved or uninvolved with the application, will not be Provided to the Board, and the sender, if identifiable, will be notified and if practical do so, given an opportunity to remake their submission with the offensive material removed.

- 5.3** Any person or organization (including the City and/or any of its individual departments or commissions) with Legitimate Interests in the city, may make oral and/or written submissions relevant to the application, to the Board during the hearing, and may be represented by a third party. For the purposes of this section and subsections, “written submissions” refers to printed material only, and does not include any electronic formats.
- a. The Board may refuse to accept any written submissions it considers to be defamatory to any party whether involved or uninvolved with the application.
- 5.4** The Board may refuse to accept or consider oral and/or written submissions received under ss.5.2 and 5.3 if not from persons or organizations notified under s.4.1, if the Board considers that those persons/organizations have no reasonable direct or indirect connection to the application.
- 5.5** The Chair is responsible for the conduct of the hearing, to ensure procedural fairness and a reasonable opportunity for involved parties to make representations.
- 5.6** The Chair may exclude any party, including Board members, whose behavior unreasonably interferes with the orderly conduct of the hearing.
- 5.7** Prior to granting or denying an Order, the Board must first determine that it has jurisdiction.
- 5.8** Before reaching a decision, the Board may require or request further information from any party and may adjourn or defer the hearing as it sees necessary.
- a. A hearing may be reconvened without further notification provided the time, date and place of reconvening is announced to those present at the time of adjournment.
- b. A hearing reconvened in the absence of an announcement of the time, date and place of reconvening to those present at the time of adjournment shall be subject to re-notification in accordance with 4.1 b).
- 5.9** The Board may determine an application at the conclusion of the hearing, or defer its decision to a later meeting.
- 5.10** Board members may, at their discretion and at any time prior to determining an application, visit the subject property and/or any other properties or public areas they consider to be potentially affected by the application, and may enter onto such properties with the permission of the owner(s).
- 5.11** Following the Board’s decision, the City will provide a copy of the decision to the applicant, members of the Board and any parties making submissions before or during the hearing, where those submissions have been accepted by the Board.
- 5.12** The City shall maintain a record of the Board’s decisions for public inspection.



## PART 6: Severability and Repeal

- 6.0** 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 or competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.
- 6.1** "Board of Variance Bylaw No. 3042, 2003" as amended, is hereby repealed.



READ THE FIRST TIME this 25<sup>th</sup> day of January, 2016

READ THE SECOND TIME this 25<sup>th</sup> day of January, 2016

READ THE THIRD TIME this 9<sup>th</sup> day of February, 2016

ADOPTED this 22nd day of February, 2016

Signed by the Mayor and City Clerk this 24<sup>th</sup> day of February 2016

  
\_\_\_\_\_  
MAYOR  
  
\_\_\_\_\_  
CITY CLERK



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River**

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