

**CAPITAL REGIONAL DISTRICT
BYLAW NO. 4288**

**A BYLAW TO ESTABLISH A BOARD OF VARIANCE FOR
THE JUAN DE FUCA ELECTORAL AREA**

WHEREAS Section 536 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 WHEREAS pursuant to Section 539 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 Board of the Capital Regional District, in open meeting assembled, enacts the following:

PART 1 - ESTABLISHMENT

A Board of Variance is hereby established for the Juan de Fuca Electoral Area of the Capital Regional District.

PART 2 – APPOINTMENT OF BOARD MEMBERS

1. The Board of Variance shall consist of three members appointed by the Board of the Capital Regional District. At least two members must be residents of East Sooke, or Otter Point, or Shirley or Jordan River area.
2. An appointment to the Board of Variance is for a maximum term of:
 - a) Three (3) years, or
 - b) If no successor has been appointed at the end of the three (3) year period, until the time that a successor is appointed.
3. At the first meeting in each calendar year, the members of the Board of Variance shall elect one of their members as Chair and the Chair may appoint a member of the Board of Variance as Acting Chair to preside in his or her absence.
4. The Board of the Capital Regional District may rescind an appointment to the Board of Variance at any time.
5. A quorum for a hearing is two members.

PART 3 - SECRETARY

1. A Secretary shall be provided to the Board of Variance by the Juan de Fuca Community Planning division of the Capital Regional District.
2. The responsibilities of the Secretary are:
 - a) to receive completed notices of appeal;
 - b) to notify the Chair of the Board of Variance upon the receipt of a 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 in accordance with Section 542 (2) of the *Local Government Act*.

PART 4 – NOTICE OF APPEAL

1. An appellant shall deliver to the Secretary of the Board of Variance or appointee, a completed Notice of Appeal in the form prescribed by the Manager, Juan de Fuca Community Planning, together with such plans and technical information the appellant or Secretary deems necessary to support the appeal including, but not limited to the following:
 - a) letter stating the grounds of the appeal;
 - b) survey plan certified by a BC Land Surveyor;
 - c) site plan to scale;
 - d) building elevation plans to scale;
 - e) certificate of title no older than 30 days of the appeal;
 - f) Title encumbrances;
 - g) signature of property owner(s);
2. Prior to the processing of a Board of Variance appeal, the applicant shall pay to the Capital Regional District a non-refundable application fee of Three Hundred Dollars (\$300.00).
3. 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 ten (10) 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 Capital Regional District Juan de Fuca Community Planning and Building Inspection Services divisions;
 - d) the registered owners, as shown in the last revised assessment roll, and all tenants in occupation of the property under appeal and the land within 50 metres of the land that is the subject of the application.
4. The notice of the hearing shall state the date, time, and place of the hearing and subject matter of the application.

PART 5 – HEARINGS

1. Juan de Fuca Community Planning, in consultation with the members of the Board of Variance, shall set a date for the hearing of an appeal.
2. A hearing of the Board of Variance shall be convened by the Chair on the date of hearing and at the time and place set out in the notice of hearing and the Board of Variance 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.
3. The members of the Board of Variance may view the property under application and the surrounding properties.
4. The Board of Variance shall hear all representations made to the Board.
5. 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 Chair may direct until all parties to the application have been afforded an opportunity to present their evidence and arguments.
6. Presentations to the Board of Variance and the deliberations and decisions of the Board of Variance shall be open to the public.

PART 6 – DECISION

1. The decision of the Board of Variance shall be by a majority of those members present.
2. The Secretary of the Board of Variance shall 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 Capital Regional District Juan de Fuca Community Planning and Building Inspection Services divisions.
3. Where the Board of Variance orders that a minor variance be permitted or an exemption from Section 531 of the *Local Government Act* be allowed, it may order that, unless the construction of the building, structure or manufactured home is completed within a time set in the order, the permission or exemption terminates and the bylaw or Section 531 of the *Local Government Act*, as the case may be, applies.
4. The Secretary shall enter that decision in the record maintained at the Juan de Fuca Community Planning office.

PART 7 – REPEAL

Bylaw No. 3376 "Malahat, Willis Point Area Board of Variance Bylaw No. 2, 2006" and Bylaw No. 3839 "Juan de Fuca Board of Variance Bylaw No. 1, 2012" are hereby repealed.

PART 8 - CITATION

This Bylaw may be cited as "Juan de Fuca Board of Variance Bylaw No. 10, 2019".

READ A FIRST TIME THIS	10th	day of	April	2019.
READ A SECOND TIME THIS	10th	day of	April	2019.
READ A THIRD TIME THIS	10th	day of	April	2019.
ADOPTED THIS	10th	day of	April	2019.



CHAIR



CORPORATE OFFICER

