



**CITY OF RICHMOND**

**REPORT TO COMMITTEE**

*to Gen Purposes Ctte - Sept 18/00*

**TO:** General Purposes Committee

**DATE:** August 31, 2000

**FROM:** J. Richard McKenna  
City Clerk

**FILE:** 8060-20-7150

**RE: BOARD OF VARIANCE ESTABLISHMENT AND PROCEDURE BYLAW NO. 7150**

**STAFF RECOMMENDATION**

That Board of Variance Establishment and Procedure Bylaw No. 7150 be introduced and given first, second and third readings.

J. Richard McKenna  
City Clerk

Att. 1

FOR ORIGINATING DIVISION USE ONLY		
<b>ROUTED TO:</b>	<b>CONCURRENCE</b>	<b>CONCURRENCE OF GENERAL MANAGER</b>
Zoning.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	
Law.....	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	

## STAFF REPORT

### ORIGIN

The existing Board of Variance bylaw, written and adopted in 1991, is out of date in a number of areas, and in some instances does not reflect the practices of the Board which have evolved over the last decade, or changes to the Municipal Act (now the Local Government Act). The purpose of this report is to present a more modern and updated Board of Variance Bylaw, but one which essentially follows the Board of Variance application procedures contained in the existing bylaw.

### ANALYSIS

Although the bylaw reflects the procedures set out in the 1991 bylaw, you should be aware of the following:

- (a) language and terminology in the bylaw have been updated and modernized;
- (b) provincial statute references have been corrected or made generic, and thus the bylaw will be less prone to change if future statute amendments occur;
- (c) the bylaw requires the Board to hold all deliberations in public - a legal requirement of Bill 88;
- (d) board meetings are now at the call of the Chair rather than on a regular monthly schedule, which should provide more flexibility to applicants, as this should shorten the time to convene a board meeting;
- (e) some minor improvements have been made in the processing of applications received by the City; and
- (f) definitions, consistent with those used in other recently adopted bylaws, have been added.

### FINANCIAL IMPACT

None.

### CONCLUSION

This bylaw is presented in the context of reviewing, modernizing and updating all of the City's bylaws to make them more user friendly for both staff and the public. Members of the Board of Variance have been consulted and have no concerns with this new bylaw because of its similarity to the existing Board of Variance procedures.



J. Richard McKenna  
City Clerk

JRM:fja

**CITY OF RICHMOND**  
**BOARD OF VARIANCE ESTABLISHMENT AND PROCEDURE**  
**BYLAW NO. 7150**

The Council of the City of Richmond enacts as follows:

**PART ONE - ESTABLISHMENT OF BOARD**

- 1.1 A Board of Variance is established in accordance with the provisions of the *Local Government Act*.

**PART TWO - SECRETARY TO BOARD**

- 2.1 The **City Clerk** is appointed as the **Secretary** to the **Board**.
- 2.2 The **Secretary**, in addition to receiving applications and preparing agendas on behalf of the **Board**, must:
- (a) maintain minutes of all proceedings and orders of the **Board**; and
  - (b) after their adoption by the **Board**, ensure that such minutes:
    - (i) are submitted to the **Chair** and **Secretary** for signature; and
    - (ii) are made available for inspection by the public during the normal business hours of the **City**.

**PART THREE – ORDER REGARDING VARIANCE OR EXEMPTION TO RELIEVE HARDSHIP**

**3.1 Application Procedure**

- 3.1.1 A person wishing to apply to the **Board** for an order under this Part must complete an application which is available from the **Manager, Zoning**.
- 3.1.2 The completed application, together with:
- (a) the required attachments specified in such application; and
  - (b) the application fee specified in the current Development Application and Approval Fees Bylaw,

must be submitted to the **Manager, Zoning**, who must determine whether or not the application is within the jurisdiction of the **Board**.

3.1.3 If it is determined that the application is beyond the jurisdiction of the **Board**, the **Manager, Zoning** must, within 3 days of such determination, advise the applicant in writing, and the application will not be processed further.

3.1.4 If it is determined that the application is within the jurisdiction of the **Board**, the **Manager, Zoning** must forward such application to the **Secretary**, together with the required attachments, not less than 14 days prior to the date of the **board meeting** at which the application is to be considered.

### 3.2 Processing of an Application

3.2.1 The **Secretary** must, upon receipt of a completed application, pursuant to subsection 3.1.4, and not less than 10 days before the date of the **board meeting** at which such application is to be considered:

(a) mail or otherwise deliver, a notice of the **board meeting** to:

- (i) the applicant;
- (ii) the agent of the applicant (if any); and
- (iii) the owners and tenants in occupation of the land which is the subject of the application; and
- (iv) the owners and tenants in occupation of the land which is adjacent to land which is the subject of the application.

(b) proceed in accordance with section 5.1.

3.2.2 The notice of the **board meeting** at which an application will be considered, must:

- (a) identify by street address, or by other appropriate means in the absence of a street address, the land which is the subject of the application; and
- (b) state the subject matter of the application, and the time, date and place of the **board meeting**.

## PART FOUR- ORDER REGARDING EXTENT OF DAMAGE PREVENTING RECONSTRUCTION AS NON-CONFORMING USE

### 4.1 Application Procedure

4.1.1 A person wishing to apply to the **Board** for an order under this Part must:

- (a) complete an application which is available from the **Manager, Zoning**; and

- (b) submit such completed application and the required application fee as specified in the current Development Application and Approval Fees Bylaw, to the **Manager, Zoning** for review.

4.1.2 Upon reviewing the application, the **Manager, Zoning** must forward such application to the **Secretary**, not less than 14 days prior to the date of the **board meeting** established in accordance with subsection 6.1.1, at which such application to be considered.

#### 4.2 Processing of Application

4.2.1 The **Secretary** must, upon receipt of a completed application pursuant to clause (b) of subsection 4.1.1, proceed in accordance with section 5.1.

### PART FIVE - BOARD AGENDA

5.1 Not less than 7 days before the date of each **board meeting**, the **Secretary** must:

- (a) prepare an agenda of all applications to be considered at that meeting, and
- (b) mail or otherwise deliver a copy of the agenda for that meeting to each member of the **Board** and to the **Manager, Zoning**.

### PART SIX - OPENING OF BOARD MEETING PROCEEDINGS

#### 6.1 Convening of Meetings

6.1.1 The **Board** must meet at the call of the **Chair**, in consultation with the other members of the **Board** and the **Secretary** as to the date of such meeting, in Richmond City Hall, at the time and place specified in the agenda.

6.1.2 Upon a **board meeting** being convened, the first item of business must be the adoption, with the correction of errors or omissions, if any, of the minutes of the previous **board meeting**.

#### 6.2 Quorum of the Board

6.2.1 A quorum of the **Board** is any three members, one of whom may be either the **Chair** or the Acting **Chair**.

6.2.2 As soon after the scheduled time of a meeting as there is a quorum present, the **Chair**, if present, must convene the meeting, provided that where the **Chair** is absent, the Acting **Chair** must convene the meeting.

6.2.3 Where the **Chair** or Acting **Chair** are not present, the remaining members must elect a **Chair** for that meeting.

- 6.2.4 If a quorum is not present within fifteen minutes after the scheduled time of the meeting, the **Secretary** must record the names of the members present, and such meeting is deemed to have been cancelled.
- 6.2.5 Where a **board meeting** has been cancelled due to the lack of a quorum, the **Secretary** must advise any applicants and all persons in attendance, and must:
- (a) reschedule any pending applications to a future **board meeting**; and
  - (b) proceed in accordance with:
    - (i) subsections 3.2.1 and 3.2.2 to the extent applicable regarding notification; and
    - (ii) section 5.1 regarding agenda preparation and delivery.

## **PART SEVEN - CONDUCT OF A BOARD MEETING**

### **7.1 Submissions to a Board Meeting**

- 7.1.1 Any person or organization with interest in property within the **City** is entitled to make either oral or written submissions or both at a **board meeting**, and is entitled to be represented by a solicitor or by an agent.
- 7.1.2 The applicant must be afforded the first opportunity to make a submission to the **Board**, after which other submissions may be presented in the order determined by the **Chair**, until all persons or organizations with an interest in such application have been given an opportunity to be heard.
- 7.1.3 The Board must not consider any oral or written submissions on an application except at the **board meeting** at which that application is to be considered.

### **7.2 Deliberations of the Board**

- 7.2.1 Other than at a **board meeting**, a member of the **Board** is not permitted to discuss the merits of an application with any person.
- 7.2.2 The deliberations, and the decision of the **Board** to either grant or deny an order must be made in the presence of the applicant, and any other persons notified in connection with that application, if in attendance at that meeting.
- 7.2.3 If the applicant or any other person notified of that application is not present at the **board meeting** at which the application is scheduled to be considered, the **Board** may grant or deny an order in the absence of the applicant or any other person.

7.2.4 Any **Board** member may view any property which is the subject of, adjacent to, or which in their opinion, is affected by an application, and may enter such property with the permission of the occupier.

### 7.3 Adjournment of a Board Meeting

7.3.1 A **board meeting** may be adjourned from time to time, and may be reconvened without further notification, provided the time, date and place of reconvening is announced to those present at the time of adjournment.

7.3.2 Where an adjournment has been made without an announcement regarding reconvening, the **Secretary** must proceed in accordance with the provisions of:

- (a) subsections 3.2.1 and 3.2.2 to the extent applicable regarding notification; and
- (b) section 5.1 regarding agenda preparation and delivery,

for those applications affected by the adjournment.

### 7.4 Voting Procedures of the Board

7.4.1 The decision of the **Board** to either grant or deny an order must be made by a motion adopted by not less than 3 members.

7.4.2 Any **Board** member who abstains from voting is deemed to have voted in favour of the motion.

7.4.3 Where a decision to grant or deny an order has been made at a meeting where:

- (a) a minimum three member quorum was present; and
- (b) the motion on that application was not unanimous;

such application is deemed tabled, and unless subsequently withdrawn in writing by the applicant, must be reconsidered by the **Board** as soon as arrangements can be made by the **Secretary** to convene another **board meeting**.

7.4.4 Where an application is to be reconsidered in accordance with subsection 7.4.3, the **Secretary** must:

- (a) proceed in accordance with the provisions of:
  - (i) subsections 3.2.1 and 3.2.2 to the extent applicable regarding notification; and
  - (ii) section 5.1 regarding agenda preparation and delivery; and

- (b) provide, a copy of any submissions received on that application at the meeting at which the application was first considered, to any **Board** member not in attendance at that meeting.

**7.5 Notification After Board Decision**

7.5.1 The **Secretary** must, within 3 days of a decision by the **Board** to either grant or deny an order, mail or otherwise deliver written notification of such decision to:

- (a) the owner;
- (b) the applicant;
- (c) the agent of the applicant (if any);
- (d) all persons who made representation on that application, at the **board meeting**; and
- (e) the **Manager, Zoning**.

7.5.2 The **Manager, Zoning** must, upon receipt of an order of the **Board**, enter such order in the records of the **City**.

**PART EIGHT - INTERPRETATION**

8.1 In this bylaw, unless the context requires otherwise:

- BOARD** means the Board of Variance.
- BOARD MEETING** means a meeting of the Board of Variance.
- CHAIR** means the Chair of the **Board**.
- CITY** means the City of Richmond.
- CITY CLERK** means the person appointed by Council who has the responsibility of corporate administration for the **City**, which includes the powers, duties and functions specified in Section 198 of the *Local Government Act*.
- MANAGER, ZONING** means the Manager, Zoning in the Urban Development Division of the **City**.
- SECRETARY** means the Secretary to the **Board**.



**PART NINE - PREVIOUS BYLAW REPEAL**

9.1 Board of Variance Establishment and Procedure Bylaw No. 5800 (adopted December, 1991) is repealed.

**PART TEN - SEVERABILITY AND CITATION**

10.1 If any section, subsection, paragraph, clause or phrase of 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.

10.2 This bylaw is cited as "**Board of Variance Establishment and Procedure Bylaw No. 7150**".

FIRST READING

SECOND READING

THIRD READING

ADOPTED

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CITY OF RICHMOND
APPROVED for content by originating dept.
APPROVED for legality by Solicitor

\_\_\_\_\_  
MAYOR

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