

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 5843

A BY-LAW to establish a Board of Variance

WHEREAS the Council has adopted a zoning by-law.

AND WHEREAS the Municipal Act provides that where a Council has adopted a zoning by-law there shall be established by by-law a Board of Variance.

NOW THEREFORE the Council of The Corporation of the District of Burnaby ENACTS as follows;

1. This By-law may be cited as the "BURNABY BOARD OF VARIANCE BY-LAW, 1971".
2. A Board to be known as the Board of Variance is hereby established and it shall be constituted in the manner prescribed by and perform the duties set forth in the Municipal Act.
3. For the purposes of this by-law, unless the context otherwise requires:
 - (a) "Board" means the Board of Variance;
 - (b) "Chairman" means the Chairman of the Board of Variance;
 - (c) "Corporation" means The Corporation of the District of Burnaby'
 - (d) "Secretary" means the Secretary of the Board of Variance.
4. The Corporation shall provide a Secretary for the Board who shall:
 - (a) Record the decisions of the Board;
 - (b) Receive notices of appeal and present them to the Board;
 - (c) Cause such notices of appeal or of meetings of the Board to be published or served as directed by the Board or the Chairman;
 - (d) Prepare, maintain, and preserve the minute-book and other records of the proceedings, transactions, and other business of the Board;
 - (e) Notify appellants and the Corporation in writing of the decisions of the Board, and
 - (f) Perform such other duties as are customary to the office of the Secretary.

5. Any person entitled to appeal to the Board as provided in the Municipal Act shall file with the Secretary a notice of appeal in writing on a Notice of Appeal Form approved by the Board and shall state in general terms the grounds of the appeal.

6. Any person entitled to appeal to the Board as provided in the Municipal Act shall, when the appeal is from a decision of an official of the Corporation, file with the Secretary within thirty (30) days from the date on which the decision was made a notice of appeal in writing on a Notice of Appeal Form approved by the Board and shall state in general terms the grounds of the appeal. The Board may extend the time for filing such notice in any given case for cause on the written request of the appellant.

7. A notice of appeal received by the Secretary less than ten days prior to the next scheduled hearing of the Board will be heard at the next hearing of the Board after the said scheduled hearing.

8. The Secretary shall notify the Chairman and the Corporation of all notices of appeal received by him and the Chairman shall then fix a convenient date, time and place for the hearing of the appeal. The Chairman need not convene the Board more often than once in any calendar month.

9. The Secretary shall, at least five days prior to the hearing of the appeal by the Board, mail to the appellant and the Corporation, and to the owners and occupiers of all real property located adjacent to the property with respect to which the appeal is being heard a notice of the date, time and place of the hearing.

10. Public notice of a hearing shall be given if the matter is deemed by the Board to be of sufficient importance. Such notice shall be given by publication in a newspaper circulating in the Municipality of Burnaby in not less than two consecutive issues and at a time not more than ten days nor less than three days before the hearing.

11. (a) The Board on being convened at the appointed date, time and place shall hear the appellants and any witnesses or other persons whose evidence may assist the Board in reaching a decision.

(b) Proceedings at the hearing shall be informal and evidence need not be given under oath unless the Board so requires.

(c) All hearings shall be open to the public.

(d) The Board may adjourn any hearing from time to time as the Board may deem advisable, and may cause notice of the hearing so adjourned to be mailed to such person or persons as the Board may deem to be affected by the appeal.

(e) Witnesses may be produced at the hearing by any of the parties and they may be required to give evidence and to produce books, papers, documents, or writings in their possession or under their control relating to the appeal.

(f) The appeal may be heard and determined by the Board whether the appellant is present or not.

12. (a) At the conclusion of the hearing of an appeal by the Board, the Board may forthwith render its decision or may adjourn the appeal and render its decision subsequently.

(b) The Board shall render a decision within thirty (30) days from the date of the conclusion of the hearing of an appeal.

(c) The decision in writing of all or a majority of the members of the Board shall be the decision of the Board.

(d) The decision of the Board shall be mailed by the Secretary to the appellant and the Corporation.

(e) A decision of the Board may contain such conditions as the Board may deem to be desirable and proper in the circumstances.

13. If an appeal is allowed by the Board, and if a permit is required by a By-law of the Corporation, the appellant shall, within 90 days of the date of the decision of the Board, apply to the Building Inspector of the Corporation for a permit. If the appellant does not apply for a permit within the said period of 90 days the decision of the Board shall be void.

14. The Board shall not, within one (1) year of the date of the decision of the Board, re-hear an appeal previously denied covering the identical grounds or principles upon which the Board has already rendered a decision.

15. Subject to the provisions of this By-law, the Board shall determine its own procedure

Read a first time this 29th day of March , 1971.

Read a second time this 29th day of March , 1971.

Read a third time this 29th day of March , 1971.

Reconsidered and adopted this 5th day of April,

1971.

Robert M. Putte
MAYOR

J. Shaw
CLERK

