



# City of Port Moody

## CONSOLIDATED FOR CONVENIENCE

### Bylaw No. 2934

Substantive purpose statement:

WHEREAS the City Council of the City of Port Moody has adopted “City of Port Moody Zoning Bylaw, 1988, No. 1890”, as amended from time to time;

AND WHEREAS pursuant to section 536 of the Local Government Act there shall be established, by bylaw, a Board of Variance;

NOW, THEREFORE, the Council of the City of Port Moody in open meeting assembled enacts as follows:

#### 1. Citation

1.1 This Bylaw may be cited for all purposes as "City of Port Moody Board of Variance Bylaw, 2012, No. 2934"

#### 2. Repeal

2.1 Bylaw No. 2581, cited as “Board of Variance Bylaw No. 2581” and all amendments are hereby repealed.

#### 3. Establishment of Members

3.1 The Board of Variance (the “Board”), established by previous bylaws of the City is continued and shall consist of five (5) members appointed by Council.

3.2 Subject to subsections 3.3 to 3.7, the term of office for members of the Board is three (3) years, but members may be reappointed for further terms, without limitation.

3.3 Council may appoint a successor to finish the remainder of a term of office of a member that resigns, is removed from office by Council, or is otherwise unable to complete the term of office.

3.4 If Council has not approved a successor before the end of a member’s term of office, that member’s term of office continues until Council appoints a successor for that member.

3.5 No person who is a member of City Council, an officer or employee of the City or a member of the City’s Community Planning Advisory Committee is eligible to be appointed or to sit as a member of the Board.

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- 3.6 If a member of the Board ceases to hold office, that person's successor shall be appointed in the same manner as the member who ceased to hold office and, until the appointment of the successor, the remaining members constitute the Board.
- 3.7 Council may remove a member from the Board at any time.

## 4. Chair to Preside at Meetings

- 4.1 In January of each year, the members of the Board shall elect one of their members as Chair to preside at the Board's meetings.
- 4.2 The Chair may appoint a member of the Board to act as Acting Chair to preside in the absence of the Chair.
- 4.3 Where the Chair or Acting Chair are not present, the remaining members shall elect a chair for that meeting.

## 5. Secretary to the Board

- 5.1 The General Manager of Planning and Development shall appoint a Secretary to the Board (the "Secretary").
- 5.2 The Secretary shall:
  - 5.2.1. receive applications for an order of the Board ("applications");
  - 5.2.2. notify the members of the Board of the receipt of applications;
  - 5.2.3. prepare, maintain and preserve the minutes and other business of the Board;
  - 5.2.4. ensure proper notification is given to all owners and tenants in accordance with the *Local Government Act* and this Bylaw; and
  - 5.2.5. maintain a record of all Board decisions and ensure the record is available for public inspection during normal business hours.
- 5.3 The Secretary shall examine applications as submitted and may request applicants to furnish further information as may be necessary for the proper understanding of the nature of the application.

## 6. Quorum

- 6.1 The quorum for the Board is a majority of its members.
- 6.2 If a quorum is not present within fifteen minutes after the scheduled time of the meeting, the Secretary shall record the names of the members present, and such meeting is deemed to have been cancelled.
- 6.3 Where a Board meeting is cancelled due to lack of a quorum, the Secretary shall advise any applicants and all persons in attendance, and shall reschedule any pending application to a future Board meeting.

## 7. Applications

7.1 Any person wishing to apply to the Board for an order as provided in the *Local Government Act* (the “applicant”) must complete an application form which is available from the City’s Planning and Development Department.

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7.2 The completed application form, together with:

- a) the required attachments specified in the application form; and
- b) the non-refundable application fee, as set out in the City of Port Moody Fees Bylaw;

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must be submitted to the Secretary.

## 8. Notices

8.1 Not less than 10 days before the date set for a meeting of the Board to consider an application, the Secretary shall mail or otherwise deliver notice of the meeting to:

- a) the applicant requesting an order of the Board;
- b) the owner(s) of the land that is the subject of the application, if different than the applicant; and
- c) the owners and occupants of the lands adjacent to the land that is the subject of the application.

8.2 A notice given in relation to an application shall state the subject matter of the application and the time, date and location where the application will be heard.

8.3 At least 10 days prior to the date set for the meeting of the Board, the Secretary shall prepare an agenda of all applications to be considered at the meeting and mail or otherwise deliver such agenda to the Board members.

## 9. Conduct of Meeting

9.1 All meetings of the Board dealing with an application shall be open to the public except those meetings or portions of meetings that are closed to the public under the provisions of Section 90 of the *Community Charter*.

9.2 Any person or body who is entitled to be heard shall be entitled to be represented by his or her solicitor or agent duly appointed in writing.

9.3 The Chair or Acting Chair shall open the meeting.

9.4 As each application is heard, the applicant shall have the first opportunity to present his or her 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.

- 9.5 The Board may adjourn a meeting from time to time as the Board may deem advisable to view the property or obtain additional information, and may reconvene the meeting without further notice if the time, date and location of the reconvened meeting is announced at adjournment.
- 9.6 Evidence and argument at a meeting may be given orally or in writing.
- 9.7 If an applicant or other person who has been properly notified of a meeting as required by this Bylaw, does not appear at a meeting or at a reconvened meeting after an adjournment, and has not advised the Secretary in advance that they wish to be heard at another date, the Board may proceed to decide the application in his or her absence.
- 19.8 The Board and its members shall not receive representations or evidence except at a properly constituted meeting.

## 10. Decision of the Board

- 10.1 The decision of the Board shall be by a majority of those members present.
- 10.2 The Secretary shall send by mail or otherwise deliver the written decision of the Board to the applicant.
- 10.3 A decision of the Board whether to grant a minor variance under section 542 of the *Local Government Act* is final.
- 10.4 The Board shall not, within six (6) months of the date of the decision of the Board, re-hear an application previously denied covering the identical grounds or principles upon which the Board has already rendered a decision.

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- 10.5 If a minor variance is allowed by the Board and the applicant must obtain a Building Permit in accordance with City of Port Moody Building and Plumbing Administration Bylaw, the applicant must submit a completed Building Permit application within one (1) year of the date of the Board's order approving the minor variance. If a completed Building Permit application is not submitted within the one (1) year period, the Board's decision shall expire and be void.

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## 11. Severability

- 11.1 If any part, section, subsection clause or sub-clause, 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.

Read a first time this 27<sup>th</sup> day of November, 2012.

Read a second time this 27<sup>th</sup> day of November, 2012.

Read a third time this 27<sup>th</sup> day of November, 2012.

Adopted this 11<sup>th</sup> day of December, 2012.

**BYLAW 2934 ADOPTED  
AMENDMENT No.1, 2017, 3116**

December 11, 2012  
November 18, 2017