

BOWEN ISLAND MUNICIPALITY

BYLAW No. 274, 2010

A bylaw to continue the board of variance and to establish application procedures

The Council of Bowen Island Municipality, in open meeting assembled, enacts as follows:

1. The Board of Variance established by Bowen Island Trust Committee Board of Variance Bylaw No. 3, 1978 is continued.
2. The Board shall consist of 3 persons appointed by the Council.
3. A member of the Board who has an interest in an application that would constitute a conflict of interest under the *Community Charter* must not:
 - a) remain or attend at any part of a hearing during which the application is under consideration;
 - b) participate in any discussion of the application at the hearing;
 - c) vote on the application at the hearing; or
 - d) attempt in any way, whether before, during or after the hearing, to influence the voting on any question in respect of the application.
4. If a Board member has a right to be heard in respect of an application to the Board as the applicant or as a person notified under section 10 of this Bylaw, and is prohibited by Section 3 from exercising that right, the member may appoint another person as a representative to exercise the member's right on his or her behalf.
5. The Council shall designate an employee of the Municipality to serve as Secretary to the Board.
6. An application to the Board under s. 901(1) or 902(1) of the *Local Government Act* shall be made to the Board on the form prescribed for that purpose by the Secretary, and shall be accompanied by the fee prescribed by Bylaw No. 11, 2000.
7. Every application made to the Board under s. 901(1) shall disclose, in writing, the undue hardship that would be caused to the applicant if required to comply with the bylaw or statutory provision in respect of which the application is made.
8. Every application made to the Board under s. 902(1) shall set out the basis for the applicant's allegation that the determination of the Building Inspector of the amount of damage under s. 911(8) of the *Local Government Act* is in error.

9. The Secretary shall, on receipt of a complete application and the application fee, notify the Chair of the Board who shall fix a convenient date for the hearing of the application.
10. The Secretary shall, following the fixing of the date of the hearing, give notice of the hearing in writing to all persons described in s. 901(4) of the *Local Government Act*, by ordinary post mailed at least 10 clear days prior to the hearing date, addressed to each owner and tenant in occupation according to the records of the Municipality. The Secretary may, alternatively, give such notice by delivery to the premises of the owner or occupier at least 5 clear days prior to the hearing date.
11. For the purposes of s. 901(4) of the *Local Government Act* and this Bylaw, a parcel of land is adjacent to a parcel that is the subject of an application to the Board if the parcel shares any boundary with the parcel that is the subject of the application, or if any portion of the parcel is separated by a street or lane from and directly opposite the parcel that is the subject of the application.
12. The Secretary shall also give notice of the hearing in writing to the Director of Planning and the Building Inspector, at least 5 clear days prior to the hearing date.
13. Hearings of the Board shall be convened at the Municipal Hall or other premises on Bowen Island designated by the Chair, and shall be open to the public.
14. Proceedings before the Board shall be informal, and evidence need not be given under oath.
15. The Chair may make reasonable procedural rules for the conduct of the hearing, and may adjourn a hearing.
16. In addition to hearing the applicant and persons notified under section 10 of this Bylaw, the Board may hear:
 - a) the Director of Planning, or any person designated by the Director of Planning for that purpose, in relation to the matters set out in s. 901(2)(c) and 901(3) of the *Local Government Act*, in respect of an application under s. 901(1); and
 - b) the Building Inspector, in respect of an application under s. 902 of the *Local Government Act*.
17. The Board may, prior to or during a hearing, take a view of the premises or lands in respect of which an application is made.
18. The Secretary shall record in the minutes of the hearing:
 - a) a summary of the representations made by the applicant, any person notified under section 10 of this Bylaw, the Director of Planning or the Building Inspector;
 - b) the Board's determination with respect to undue hardship;
 - c) the order of the Board, including the details of any building plans and specifications to which the order refers; and

- d) any time specified by the Board within which construction must be completed or substantially started.
19. The Corporate Officer shall have custody of the minutes of the Board and shall preserve the minutes in the same manner as the minutes of the Council.
 20. The Secretary shall give written notice of the decision of the Board to each applicant, by ordinary post mailed not more than 5 days following the date of the hearing.
 21. Board of Variance Bylaw No. 3, 1978 is repealed.
 22. This Bylaw may be cited as "Bowen Island Municipality Board of Variance Bylaw No. 274, 2010".

READ A FIRST TIME this 14th day of June, 2010.

READ A SECOND TIME this 14th day of June, 2010.

READ A THIRD TIME this 14th day of June, 2010.

RECONSIDERED AND FINALLY ADOPTED this 21st day of June, 2010.



Bob Turner, Mayor



Kathy Lalonde, Corporate Officer

Certified to be a true and correct copy of Bylaw No. 274, 2010, cited as "Bowen Island Municipality Board of Variance Bylaw No. 274, 2010 adopted by the Council of Bowen Island Municipality on this 21st day of June, 2010.



Kathy Lalonde, Corporate Officer