

DISTRICT OF FORT ST. JAMES
BOARD OF VARIANCE BYLAW NO. 1066, 2023

A bylaw to establish a board of variance for the District of Fort St. James

The Council of the District of Fort St. James, in open meeting assembled, ENACTS AS FOLLOWS:

1. CITATION

1.1. This bylaw may be cited as District of Fort St. James Board of Variance Bylaw No. 1066, 2023.

2. ESTABLISHMENT

2.1 The board of variance of the District of Fort St. James is established in accordance with the provisions of the *Local Government Act*.

3. INTERPRETATION

3.1 In this bylaw,

Application means an application of appeal to the board of variance;

Applicant means a person who has applied to be heard by the board of variance or their authorized agent;

Board means the board of variance for the District of Fort St. James;

Building official means the person appointed to this role for the District, or their designate;

Chair means the chair of the *Board*;

Council means the elected Council of the District;

District means the District of Fort St. James; and

Manager means a manager employed by the District of Fort St. James assigned to accept *applications* to the *Board*.

3.2 A reference in this bylaw to an enactment of British Columbia or the District of Fort St. James is a reference to that enactment as amended, revised, consolidated, or replaced from time to time.

3.3 Unless otherwise defined in this bylaw, words and phrases in this bylaw have the meanings assigned to them in the *Local Government Act*, the *Community Charter*, or the *Interpretation Act*.

4. APPLICATION

Board Members

- 4.1 The *Board* shall consist of three (3) members appointed by *Council*.
- 4.2 The *Board* shall elect one member as *Chair*.
- 4.3 Each *Board* member shall hold office for a term of three (3) years or until a successor is appointed.
- 4.4 A *Board* member may be reappointed for a further term or terms without limit.

Meetings

- 4.5 The *Board* shall determine the meeting schedule with a minimum of five meetings scheduled per year.
- 4.6 If no *application* to the *Board* is received at least 30 days before a scheduled meeting, the scheduled meeting will be cancelled.
- 4.7 The *Board* will be convened by the *Chair* on the date of the hearing and at the time set out in the public notice of the hearing.
- 4.8 The *Board* shall hear representation made to the *Board*.
- 4.9 Meetings and deliberations of the *Board* shall be open to the public, except if closed pursuant to section 90 of the *Community Charter*.
- 4.10 The *District* shall provide administrative support to the *Board*.

Electronic Meetings

- 4.11 A *Board* meeting may be conducted by electronic communication means if:
 - a) the *Chair*, or in the absence of the *Chair*, the acting *Chair*, determines it is advisable; or
 - b) the electronic format is necessitated by a health, safety, or environmental emergency or urgent *District* business that prevents members from attending in person.
- 4.12 Advance notice of a meeting to be conducted under section 15 will be provided as follows:
 - a) the agenda cover sheet will include a statement that the meeting is being held electronically; and
 - b) instructions for participation in the electronic meeting will be included on the agenda cover sheet, on the public notice, and on the *District's* website.

Electronic Participation at Meetings

- 4.13 A member of the *Board* may participate in a meeting by electronic means.
- 4.14 A member of the *Board* participating in a meeting by electronic means is deemed to be present at the meeting.

Process

- 4.15 The *Board* shall hear *applications* as specified under sections 542, 543, and 544 of the *Local Government Act*.
- 4.16 The *manager* may:
- a) prescribe the form and content of an *application* form; and
 - b) determine if an *application* is complete.
- 4.17 A person wishing to be heard by the *Board* must submit to the *manager*:
- a) a completed *application* form;
 - b) all supporting documentation required by the *manager*; and
 - c) the non-refundable application fee as set out in Administrative Fees and Charges Bylaw No. 999, 2018.
- 4.18 If the *manager* determines that the cost to process an *application* exceeds or may exceed the application fee, costs exceeding the application fee shall be recovered from the *applicant* based on actual staff and contractor costs incurred in processing the *application*.
- 4.19 The *manager* may, at any stage of the *application* review, require the *applicant* to pay a deposit based on the *manager's* estimate of the cost of processing the *application*.
- 4.20 The *manager* may withhold review of an *application* if the *applicant's* account is in arrears.

Notice of Hearing

- 4.21 The *District* shall, not less than seven (7) calendar days before the hearing of an appeal under section 540 of the Local Government Act:
- a) mail or otherwise deliver notice of the hearing to all owners and occupiers of properties located at a distance no greater than 100 metres from the property line of the lands subject to the *application*; and
 - b) post notice of the hearing on the District website and at the public notice location at the District office.

- 4.22 The notice shall state the date, place, and time of the hearing and shall state the subject matter of the *application*.
- 4.23 The *District* shall permit members of the public to inspect any notice of *application*, evidence entered before the hearing, and staff reports at the *District* office during regular business hours prior to the hearing.

Conduct of the Hearing

- 4.24 A quorum of the *Board* shall be two (2) members.
- 4.25 The *Chair* is a member of the *Board* and is entitled to vote on all matters coming before the *Board*.
- 4.26 In the absence of the *Chair*, the remaining members may appoint one or the other as acting *Chair* for the duration of the hearing.
- 4.27 Any person with an interest in property within the *District* is entitled to be heard at the hearing and is entitled to be represented by a solicitor or by an agent appointed in writing.
- 4.28 The *District*, through an official appointed by *Council*, is entitled to be heard as a party at the hearing.
- 4.29 Evidence at a hearing may be given orally or in writing, but the *Board* shall not hear oral evidence except at a regularly constituted hearing of the subject matter of that evidence.
- 4.30 The *applicant* shall be afforded the first opportunity to present their evidence and arguments; thereafter evidence and arguments shall be presented in such sequence as the *Chair* directs until all parties to the *application* have been afforded a reasonable opportunity to be heard.
- 4.31 The *Board* may view the property affected by the appeal and the surrounding properties.
- 4.32 The *Board* may adjourn a hearing and no further notice of the hearing is required if the date, time, and place for its resumption are stated to those present at the time of the adjournment.
- 4.33 If the *applicant*, having failed to notify the *District* at least three (3) business days in advance that neither they nor their representative is able to attend the hearing, does not appear at the hearing, the *Board* may proceed to decide the appeal in their absence.

Decision

- 4.34 The decision of the majority shall be the decision of the *Board*.
- 4.35 When the votes of all members present are equal for and against, the appeal shall be denied.

- 4.36 The *District* shall, within seven (7) days of a decision, send by mail or otherwise deliver the written decision of the *Board* to the *applicant* and the building official.
- 4.37 A decision of the *Board* may contain such conditions as it deems appropriate under the circumstances.
- 4.38 A decision of the *Board* is final.

General

- 4.39 Subject to this bylaw, the *Board* may determine its own procedures.

5. REPEAL

- 5.1 Board of Variance Bylaw No. 88, 1968, is hereby repealed.

READ A FIRST TIME THIS 11th DAY OF JULY 2023.

READ A SECOND TIME THIS 11th DAY OF JULY 2023.

READ A THIRD TIME THIS 11th DAY OF JULY 2023.

ADOPTED THIS 25th DAY OF JULY 2023.

[Original Signed]

Martin Elphee, Mayor

[Original Signed]

Gwendolyn Kennedy, Corporate Officer