

CITY OF SURREY

BY-LAW NO. 15317

As amended by By-law: 16201, 01/15/07; 16519, 01/14/08; REPEALED BY 17282, 12/13/2010

A by-law to provide for the establishment
of a Board of Variance.

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WHEREAS the City Council of the City of Surrey had adopted Zoning By-laws, being "Surrey Zoning By-law, 1964, No. 2265" and "Surrey Zoning By-law, 1979, No. 5942", and "Surrey Zoning By-law, 1993, No. 12000";

AND WHEREAS pursuant to Section 899, of the "*Local Government Act*," there shall be established by by-law, a Board of Variance (hereinafter called the 'Board') as therein set out; NOW, THEREFORE, the City Council of the City of Surrey (hereinafter called 'Council'), in open meeting assembled, ENACTS AS FOLLOWS:

ESTABLISHMENT

1. The Board is hereby established and shall consist of five (5) members appointed by Council.
2. Each member of the Board shall hold office for a term of three (3) years, or until his or her successor is appointed, and members may be reappointed for further terms. Council may rescind an appointment to the Board at any time.
3. A majority of the Board is a quorum.
4. In the event of the death, resignation or removal from office of a member of the Board, the remaining members shall constitute the Board until the appointment of a successor.

5. Members of the Board shall not receive compensation for their services other than allowances for actual expenses reasonably and necessarily incurred in the performance of their duties. Council shall include in its annual budget the funds necessary to pay for the costs of the Board.
6. The members of the Board must elect one of their members as Chair. The Chair may appoint a member of the Board as acting chair to preside in the absence of the Chair.

APPEAL PROCESS & FEES

7. The Board shall hear and determine applications as specified under Section 901 and Section 902 of the *Local Government Act*.
8. Any person who wishes to exercise the right of application before the Board shall deposit with the person duly authorized a notice of application which shall state the description of the property which is the subject of the application, and the grounds of application, supporting documentation, and an address to which all notices may be mailed or otherwise delivered.
9. Notice of application received less than twenty (20) days prior to the next scheduled hearing of the Board will be considered at the subsequent hearing of the Board.
10. Every person submitting a notice of application to the Board shall pay to the City at the time of application, the application fee as defined in Schedule E of "Surrey Fee Setting By-law, 2001, No. 14577, as amended and no application shall be received by the person duly authorized until payment of such fee is made.
11. Upon a decision being made by the Board, the applicant may, within sixty (60) days of the decision, make a further application to the Board if the application relates to the same matter as the original appeal but varies the relaxation requested. This second application shall be accompanied by a fee as defined in Schedule E of "Surrey Fee Setting By-law, 2001, No. 14577, as amended.

12. Rebates of a portion of the application fee shall be made according to the following conditions:
 - (a) After a notice of application has been received, but prior to initiation of the public notification process, a 90% rebate shall be made to the person who paid the application fee if an appeal to the Board is unnecessary, or if an appeal is withdrawn.
 - (b) After a notice of application has been received, and following commencement of the public notification process, but prior to the Board meeting, a 75% rebate shall be made to the person who paid the application fee if an appeal to the Board is unnecessary, or if an appeal is withdrawn.

SECRETARY DUTIES

13. The Secretary, to the Board (the "Secretary") shall be appointed by the City Clerk. In addition to recording the decisions of the Board at its meetings, the Secretary shall:
 - (a) receive notices of application and present them to the Board;
 - (b) cause such notices of application or of meetings of the Board to be published or served as directed by the Board or its Chair;
 - (c) prepare, maintain and preserve the minute book and other business of the Board;
 - (d) notify applicants and City officials, in writing, of the decisions of the Board; and
 - (e) perform such other duties as are customary to the office of the Secretary.
14. The Secretary shall examine the notices of application as submitted and may request applicants to furnish further information as may be necessary for the proper understanding of the nature of the applicant.
15. The Secretary shall notify the Chair and Board members of a notice of application a week prior to the hearing of the application. Five days notice of the hearing shall be mailed or otherwise delivered by the Secretary to the applicant, directed to the address described in the notice of application. Notice of the hearing shall be mailed or otherwise delivered to the owners and occupiers of the properties adjacent to the subject property, including those across dedicated rights-of-way and highways.

CONDUCT OF HEARING

16. At the hearing of an application, the Board shall act in good faith and fairly listen to both sides before arriving at a decision. The parties shall be given a chance to correct any statement made at the hearing and contradict it if prejudicial to their view. All hearings of the Board shall be open to the public, except those hearings which are closed to the public under the provisions of Section 90 and Section 92 of the *Community Charter* as may be applicable to the Board.
17. Before reaching a decision on the application before it, the Board may require further information and may adjourn the hearing from time to time as the Board may deem advisable.
18. The applicant may request an adjournment of the hearing if the applicant notifies the Secretary of such request prior to the hearing and the Board may grant an adjournment.
19. In the event of an applicant failing to appear at the hearing of the application and no adjournment having been requested, or in the event of the applicant being present at the hearing and failing to proceed with the application when called upon by the Secretary to do so, the application may be dismissed or adjourned at the discretion of the Board.
20. The applicant may request in writing at any time prior to the hearing to have the applicant proceed in the applicant's absence and the Board may grant the request and may conduct the hearing of the application without the applicant being present and may decide the appeal.
21. The applicant may withdraw the application appeal by a written request filed with the Secretary at any time prior to the hearing or may withdraw the application orally at the hearing.
22. The persons appearing before the Board shall have the right to be represented by counsel.

23. The decision in writing of all or of a majority of the members of the Board is the decision of the Board.
24. The decision of the Board shall be mailed or otherwise delivered by the Secretary to the applicant, directed to the address described in the notice of application, and shall be deemed good and sufficient notification of the Board's decision.
25. In the event of the Board members being equally divided, the application shall be disallowed.
26. At the conclusion of the hearing, the Board may render its decision or may adjourn the application and render its decision at a subsequent meeting.
27. The decision of the Board shall be recorded in writing by the Secretary, and the Secretary shall provide the written decision to the applicant and City officials.
28. The Board may grant or deny the application and may uphold or reverse the decision of the City official charged with enforcement of the by-law considered either in whole or in part or may modify the decision as appears warranted by the facts disclosed at the hearing.
29. If an application is allowed by the Board, the Board may set a time within which the lawful construction of the building, structure or manufactured home park must be completed. If that construction is not substantially started within the time set by the Board, then the permission or exemption granted by the Board shall terminate and the provisions of the applicable by-law or section of the *Local Government Act*, as the case may be, shall apply.
30. An appeal of the Board's decision lies to a Judge of the Supreme Court, but all other decisions of the Board are final and binding.
31. Subject to the provisions of this By-law, the Board shall determine its own procedure.

32. "Surrey Board of Variance By-law, 1980, No. 6477", as amended, is hereby repealed.
33. This By-law may be cited for all purposes as "Surrey Board of Variance By-law, 2004, No. 15317."

PASSED THREE READINGS on the 7th day of June, 2004.

RECONSIDERED AND FINALLY ADOPTED, signed by the Mayor and Clerk, and sealed with the Corporate Seal on the 21st day of June 2004.

_____ MAYOR

_____ CLERK

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