



BYLAW NO. 1812

BOARD OF VARIANCE

A bylaw to establish a Board of Variance

WHEREAS the *Local Government Act* requires that the Town of Smithers establish a Board of Variance where a Zoning Bylaw has been adopted;

AND WHEREAS the Council of the Town of Smithers has adopted a Zoning Bylaw;

NOW THEREFORE the Council of the Town of Smithers, in open meeting assembled, enacts as follows:

1 – ADMINISTRATIVE PROVISIONS

- 1.1 This bylaw may be cited as "Bylaw No. 1812 – Board of Variance" and takes effect as of the date of adoption.
- 1.2 The "Town of Smithers Board of Variance Bylaw, No. 1645" and amendments are hereby repealed.
- 1.3 If any portion of this bylaw is found invalid by a court of competent jurisdiction, it shall be severed and the severance shall not affect the validity of the remainder of the bylaw.

2 – ESTABLISHMENT

- 2.1 A Board of Variance for the Town of Smithers is hereby established pursuant to the provisions of the *Local Government Act*.

3 – SECRETARY

- 3.1 Council shall appoint a Secretary to the Board of Variance.
- 3.2 The Secretary shall:

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- a) Receive applications and prepare meeting agendas;
- b) Set a date and time for the application to be heard that is mutually agreeable to the Board of Variance members and the applicant;
- c) Ensure proper notification is given in compliance with the requirements of the Local Government Act and this bylaw;
- d) Keep proper records of all Board of Variance proceedings;
- e) Provide written communication of the Board of Variance's decision to the applicant within 10 days of the decision being made.

4 – APPLICATIONS

- 4.1 Any person exercising the right of appeal pursuant to the *Local Government Act* to the Board of Variance shall submit an application to the Secretary on the form provided by the Town of Smithers.
- 4.2 The application shall clearly state the nature of the complaint, undue hardship caused, relief sought, and grounds for the relief.
- 4.2 Every application to the Board of Variance must be accompanied by a non-refundable application fee in the sum of \$800.00.

5 – NOTICE OF HEARING

- 5.1 The Secretary shall, not less than ten (10) calendar days before the hearing of an application under this bylaw, mail or deliver via electronic transmission or otherwise, notice of the hearing to:
 - (a) the members of the Board;
 - (b) the applicant;
 - (c) the registered owner(s), as shown on the last revised assessment roll, and all occupiers of the subject property;
 - (d) the owners and occupiers of all Lands within a 60 metre radius of the subject property;
 - (e) the Building Inspector whose determination or denial is being appealed (as applicable);
 - (f) the Corporate Officer of the Town of Smithers.; and
 - (g) Mayor and Council of the Town of Smithers.

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- 5.2 The notice of the hearing shall state the date, place, and time of the hearing and shall state the subject matter of the application. All hearings shall take place at the Town of Smithers Municipal Office.
- 5.3 The deadline for public written submissions to the Board of Variance shall be 1:00 p.m. on the day prior to the Board meeting when the application is to be considered.
- 5.4 The Secretary shall upon receipt of any application or of any written submissions before the hearing, including staff reports, permit the same to be inspected by the public at the Town Office during regular office hours.

6 – MEETING PROCEDURE

- 6.1 The Board of Variance shall, at its first meeting each year or at its next meeting in the event of the Chair being vacated, elect a Chair from among the three members who shall serve in such capacity until a successor is chosen.
- 6.2 A meeting of the Board shall be held within forty (40) days after the date of receipt of an application unless an extension is allowed by written consent by the applicant.
- 6.3 A meeting of the Board shall be convened by the Chair on the date of the hearing and at the time set out in the notice, provided a quorum of two (2) Board members is present.
- 6.4 If a quorum is not present within fifteen (15) minutes of the scheduled time for the hearing, the Secretary, or his or her designate, must:
- (a) record the names of the member present;
 - (b) advise any applicants and persons in attendance that the hearing must adjourn due to lack of quorum and of the date, time and place to reconvene the hearing; and
 - (c) adjourn the hearing.
- 6.5 The appeal shall be read by the Chair of the Board of Variance.
- 6.6 The Board must hear or otherwise consider all submissions from the applicant, affected property owners and tenants, recommendations from staff and other relevant agencies before making a ruling.

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- 6.7 The Chair is entitled to vote on all matters and any Board member who abstains from voting is deemed to have voted in favour of the motion.
- 6.8 The decision of the majority shall be the decision of the Board, provided that where the votes of the members present, including the vote of the Chair or Acting Chair, are equal for and against allowing an application, the application shall be denied.
- 6.9 All meetings and deliberations of the Board shall be open to the public in accordance with Section 90 of the *Community Charter*.
- 6.10 Minutes of the Board meetings shall be submitted to the next Regular Council meeting for information only.

READ A FIRST TIME THIS 10TH DAY OF OCTOBER 2017.

READ A SECOND TIME THIS 10TH DAY OF OCTOBER 2017.

READ A THIRD TIME THIS 10TH DAY OF OCTOBER 2017.

ADOPTED THIS 24TH DAY OF OCTOBER 2017.


Taylor Bachrach
Mayor


Anne Yanciw
Chief Administrative Officer

**CERTIFIED A TRUE &
CORRECT COPY** of Bylaw
No. 1812 cited as "Bylaw No.
1812 – Board of Variance"


Dianna Plouffe
Corporate Officer

YHB/MA

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