



VILLAGE OF BELCARRA
Board of Variance
Bylaw No. 399, 2007



A bylaw to establish and set the procedure for a Board of Variance.

The Council of the Village of Belcarra in open meeting assembled enacts as follows:

1. Citation

- 1.1 This Bylaw may be cited as the "Village of Belcarra Board of Variance Bylaw No. 399, 2007."

2. Definitions

In this bylaw;

"Board" means the Board of Variance;

"Council" means the Council of the Village of Belcarra;

"Hearing" means a Board of Variance meeting;

"Municipal Hall" means the Village of Belcarra Municipal Hall located at 4084 Bedwell Bay Road, Belcarra, BC V3H 4P8; and

"Secretary" means the person appointed as the Secretary to the Board pursuant to this bylaw.

3. Establishment

- 3.1 The Board is established pursuant to the Local Government Act and consists of three people appointed by Council, for a term of three (3) years. Members may be reappointed for further terms. Council may rescind an appointment to the Board at any time.
- 3.2 The Board is established to hear and determine applications on the grounds and to the extent set out in the Local Government Act.
- 3.3 Where a member of the Board ceases to hold office, the remaining members will constitute the Board until the appointment of a successor.

4. Secretary to the Board

4.1. The Chief Administrative Officer of the Village or their designate shall be Secretary to the Board to fulfill the following duties:

4.1.1. Receive notices of application and present them to the Board;

4.1.2. Present applications to the Board;

4.1.3. Cause notices of applications and Hearings of the Board to be delivered to:

- a) the members of the Board as directed by the Board or its Chair;
and
- b) the applicant and affected persons in accordance with Part 6 of this bylaw.

4.1.4. Prepare agendas of all applications to be considered at a Board Hearing, and mail or otherwise deliver the agendas to each member of the Board at least one week prior to the Hearing;

4.1.5. Record the decisions of the Board and maintain minutes of Hearings and orders of the Board;

4.1.6. Ensure that after their adoption by the Board the Hearing minutes are signed by the Chair and Secretary;

4.1.7. Notify applicants and Village staff responsible for Planning and Building Inspections in writing of the decisions of the Board; and

4.1.8. Maintain a record of the Board Hearing minutes which must be available for public inspection during normal Municipal Hall business hours.

5. Application and Fee

5.1 A person may apply to the Board for a minor variance or an exemption to relieve hardship by submitting the following:

5.1.1 a completed application including:

- a) the minor variance or exemption requested;
- b) the grounds of hardship on which the application is brought; and
- c) the address to which all notices for the applicant may be mailed or otherwise delivered;

- 5.1.2 the required supporting documentation specified in the application form;
and
- 5.1.3 the application fee set out in Schedule A to this bylaw. No application shall be received by the person duly authorized until payment of the fee is made.
- 5.2 All applications to the Board will be reviewed for comment by designated staff. The Secretary may request applicants to furnish further information as may be necessary for the proper understanding of the nature of the application.

6. Notice

- 6.1 Notice of the Hearing of an application to the Board must be mailed by ordinary mail or otherwise delivered no later than ten calendar days prior to the date of the Hearing to all owners and tenants in occupation of land which is:
 - 6.1.1 the subject of the application; and
 - 6.1.2 adjacent to the land that is the subject of the application, including those across dedicated rights-of-way and highways.
- 6.2 The notice referred to in section 6.1 must:
 - 6.2.1 state the nature of the application;
 - 6.2.2 identify the land that is the subject of the application; and
 - 6.2.3 state the time, date and place of the Hearing.
- 6.3 Any notice pursuant to this Part is deemed to have been validly given if sent by ordinary mail or otherwise delivered to the owners and tenants in occupation of affected lands at such addresses as appear on the last revised Assessment Roll or at such other addresses as such affected person may specify in writing.

7. Board Hearing Procedures

- 7.1. At the first Hearing of each year the Board must elect one of their members as Chair for a one year period.
- 7.2. The Chair may appoint a member of the Board as Acting Chair to preside in the Chair's absence either for a single meeting or for a set period of time.
- 7.3. The Board may annually establish a schedule of Hearings.
- 7.4. The Board may amend the schedule of Hearings by resolution.
- 7.5. A quorum of the Board is any two (2) members of the Board.

- 7.6. The Chair of the Board is entitled to vote on all matters coming before the Board.
- 7.7. Any Board member who abstains from voting is deemed to have voted in favor of the motion.
- 7.8. All Hearings of the Board are open to the public.
- 7.9. The applicant and any other person who believes that their interest in property is affected by the application may make either oral or written submissions, or both, at the Hearing of the application and may be represented by a solicitor or agent.
- 7.10. The Applicant shall be afforded the first opportunity to present his evidence and arguments, and thereafter, evidence and arguments shall be presented in such sequence as the Chair may direct, until all parties have been afforded an opportunity to present their evidence and arguments.
- 7.11. Evidence given at a Hearing of the Board does not need to be under oath.
- 7.12. The Board shall not hear oral evidence, except at a regularly constituted Hearing of the subject matter of that evidence.
- 7.13. Before reaching a decision on an application, the Board may require that further information be supplied by the applicant and may adjourn the Hearing from time to time as the Board deems advisable.
- 7.14. The Board may view the property affected by the application and surrounding properties. The Board Hearing may be adjourned from time to time and may be reconvened without further notice, provided the time, date and place of reconvening is announced to those present at the time of adjournment, failing which notice of the reconvened hearing must be given in accordance with Part 6 of this bylaw.

8. Decision of Board

- 8.1 At the conclusion of a Hearing, the Board may render its decision or may adjourn the application and render its decision at a subsequent Hearing.
- 8.2 If the applicant or applicant's solicitor or agent is not present at the Hearing of the application, the Board may grant or deny an order in the absence of such person.
- 8.3 If an application is granted, the Board may set a time within which the lawful construction must be completed, failing which the exemption granted by the Board shall terminate and the provisions of the applicable bylaw or the Local Government Act, as applicable will apply.
- 8.4 Each decision of the Board must be mailed or otherwise delivered to the applicant, owner of the subject land; persons who provided written submissions to the Board and to the Village staff responsible for Building Inspection.

8.5 The Secretary will maintain a record of the Board's decisions which must be available for public inspection during normal Municipal Hall business hours.

9. Appeals

9.1 All decisions of the Board are final and may only be appealed to the Supreme Court under the Judicial Review Procedure Act.

10. Severability

10.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

11. Previous Bylaw Repeal

11.1 The Village of Belcarra Board of Variance Bylaw No. 266, 1997 is hereby repealed.

READ A FIRST TIME on November 19, 2007.

READ A SECOND TIME on November 19, 2007.

READ A THIRD TIME on November 19, 2007.

ADOPTED by the Council on December 3, 2007.

(signed by) Ralph Drew
Mayor Ralph E. Drew

(signed by) Lynda Floyd
L. Floyd Chief Administrative Officer

This is a certified a true copy of
Village of Belcarra Board of Variance Bylaw No. 399, 2007

Chief Administrative Officer

SCHEDULE A

Description	Fee
Board of Variance Application	\$400.00
Board of Variance – Review of Plans	\$75.00
Board of Variance Application Rebate – if withdrawn prior to initiation of public notification process	85%
Board of Variance Application Rebate – if withdrawn after to commencement of public notification process and prior to Board Hearing	70%