CITY OF NANAIMO

BYLAW NO. 3152

A BYLAW TO ESTABLISH A BOARD OF VARIANCE

WHEREAS pursuant to Section 961 of the Municipal Act, where a local
government has adopted a zoning bylaw, the Council shall, by bylaw, establish
a Board of Variance.

THEREFORE BE IT RESOLVED that the Council of the City of Nanaimo, in
open meeting assembled, HEREBY ENACTS AS FOLLOWS.

Title

1. This bylaw may be known and cited for all purposes as the "BOARD OF
VARIANCE BYLAW 1988 NO. 3152".

Interpretation

2. In this bylaw unless the context otherwise requires:

"Act" means the Municipal Act, R.S.B.C. 1979, and amendments thereto.

"Board" means the Board of Variance of the City.

"City" means the City of Nanaimo.
Establishment

3. There is hereby established in the City a Board to be known as the Board of Variance.

Meetings

4. (1) A meeting of the Board shall be held on the third Thursday of each month, unless otherwise directed by the Chairman.

(2) The Board shall maintain a permanent record of all its decisions, and shall have in attendance at its meetings an employee of the City who shall keep minutes of the proceedings.

Applications of Appeal

5. (1) Any person desiring to appeal to the Board shall file a written notice of appeal with the Board not less than ten days prior to the date of the meeting. The notice shall state clearly the grounds upon which the appeal is based and the relief sought, and shall give an address to which all notices respecting an appeal hearing may be mailed.

Notification

6. Notices pursuant to Section 962 of the Act shall be mailed or otherwise delivered not less than seven (7) days prior to the date when the appeal will be heard.

Conduct of Appeal Hearing

7. (1) A majority of the members of the Board shall constitute a quorum.

(2) The Chairman, if present, shall preside at all meetings of the Board.
(3) The Board may receive any evidence that it considers proper to admit whether on oath or not. Any person who deems to have an interest in any such appeal shall have a right to be heard at the hearing and to adduce evidence, and may be represented by a solicitor or by an agent duly appointed in writing.

(4) Evidence at a hearing may be given orally or in writing.

(5) The appellant 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 Chairman may direct until all parties to the appeal have been afforded an opportunity to present their evidence and arguments.

(6) The Board may view the property affected by the appeal and surrounding properties. The Board may adjourn the hearing from time-to-time and may reconvene without further published notice if the time, date and place of reconvening is announced at the time of adjournment.

(7) If the appellant or other persons notified do not appear at the hearing or any adjournment thereof, and have not advised the Board in advance that they wish to be heard at another date, the Board may proceed to decide the appeal in his absence.

(8) The deliberations of the Board shall not be open to the public, unless otherwise directed by the Chairman.

Decision

8. (1) A decision of the Board shall be by a majority of those members in attendance at a hearing.
(2) In all cases where votes of the members of the Board then present, including the vote of the Chairman or other person presiding, are equal for and against a question, the question shall be defeated and it shall be the duty of the member presiding to so declare. Any member of the Board then present who abstains from voting shall be deemed to have voted in the affirmative.

(3) Verbal notification of the Board's decision respecting an appeal hearing may be made, upon request, the day following the hearing.

(4) The Board shall, within seven (7) days of a decision respecting an appeal hearing, mail or otherwise deliver the written decision of the Board to the appellant and to the City's Building Inspector, and when requested, to all persons who made representation at the hearing.

Repeal

9. "BOARD OF VARIANCE BYLAW 1986 NO. 2937" and amendments thereto are hereby repealed.

PASSED FIRST, SECOND AND THIRD READINGS 1988-DEC-12.

ADOPTED 1989-JAN-16.