



Development Appeals Board
Appeal Decision

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING
APPEAL NO. 02-18 PERTAINING TO 8 ROSEWOOD BAY, WHITE CITY, SK
MARCH 28, 2018**

Panel: Dennis Gould, Chair
Bill Wood, Board Member
Cory Schill, Board Member
Dale Strudwick, Board Member

Secretary: Voula Siourounis

Appellant: [REDACTED] Property Owner

Respondent: Delainee Behrns, Development Officer, Town of White City

Introduction:

- 1) This appeal pertains to a development permit refusal for an accessory building at 8 Rosewood Bay, White City, SK. The development permit application was refused by the Town of White City as the Development Officer does not have the authority to grant a variance to the Zoning Bylaw. The Appellant is requesting the Development Appeals Board overturn the Development Officer's refusal and direct the issuance of a development permit.
- 2) The Appellant is proposing to build an accessory building near the west side of the back yard, but he wishes to have it protrude into the side yard set-back 2.8 meters. The required set-back in this zone is 4.8 meters. The requested relaxation amounts to a 58% relaxation.
- 3) Per subsection 221(d) of *The Planning and Development Act, 2007*, the Board can allow the appeal, allow the appeal with conditions, vary or refuse the appeal.
- 4) The Board cannot make a decision that:
 - a. would create a special privilege;
 - b. is injurious to neighbouring properties; and
 - c. defeats the intent and purpose of the Zoning Bylaw.

Appellant's Position:

- 5) The neighbouring property across the street (lot 5) and their garage appears to be closer than 4.8 meters to the side lot line. However, the distance from the building to the side lot line was not physically measured.

- 6) The immediate neighbour adjacent to the Appellant does not have an issue with the proposed building being closer to the side lot line.
- 7) Because of the location of the property, there will be no residential neighbours to the rear of the property. Therefore, there shouldn't be an issue with placing the proposed building closer to the rear lot line.

Respondent's Position:

- 8) The side-yard set-back requirements for lot 5 were in fact met. The Respondent submitted the site plan for lot 5 to the Board and the Appellant for review.
- 9) There have been two appeals, one in 2016 and one in 2014, for similar variance requests in an R3 Residential Zone. The Respondant submitted a copy of both appeal decisions and indicated that the 2016 appeal requested a 75% variance to the set-back requirement and the 2014 appeal requested a 38% variance to the set-back requirement. Both appeals were denied.

Questions from the Development Appeals Board:

Which lot are you referring to as lot 11? Lot 11 doesn't exist on Rosewood Bay.

- 10) The Appellant explained that he thought lot 5 was actually lot 11 and indicated the lot he was referring to was lot 5.

Issues:

Would issuing a development permit grant the Appellant a special privilege in comparison to their neighbours?

- 11) The Appellant's requested relaxation is excessive as it constitutes a 58% relaxation.
- 12) There have been two relaxations considered in the past for similar development permit applications in the same zoning district. Both side yard relaxations were denied as they were considered excessive.
- 13) Allowing this appeal would set the Appellant apart from similar property owners who have been denied in the past for similar proposed developments.
- 14) Therefore, the proposed development would constitute a special privilege.

Would issuing a development permit defeat the intent of the Zoning Bylaw?

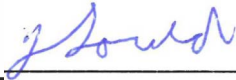
- 15) Because the distance from the lot line to the proposed building is greatly reduced, it would severely restrict access for building maintenance and emergency services.
- 16) The Board considers the requested relaxation excessively outside of the standard and intent set by the Zoning Bylaw.
- 17) Therefore, the proposed development would defeat the intent of the zoning bylaw.

Would issuing a development permit cause injury to neighbouring properties?

- 18) The Appellant provided a signature of support from the neighbouring property owner on his Notice of Appeal.
- 19) The Town of White City notified neighbouring property owners regarding the proposed relaxation and received no objections.
- 20) Therefore, the proposed development would not injuriously effect neighbouring property owners.

Conclusion:

- 21) The Board finds allowing the appeal:
 - a. would give a special privilege;
 - b. would defeat the intent of the Bylaw; and
 - c. would not negatively impact neighbouring properties.
- 22) The Board denies the appeal.



Dennis Gould, Board Chair