



Development Appeals Board  
Appeal Hearing

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING  
APPEAL NO. 01-22 PERTAINING TO 15 GREGORY AVENUE, WHITE CITY, SK**

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

**Secretary:** Cassandra Virgin

**Appellant:** [REDACTED] Property Owner

**Respondent:** Chace Kozack, Development Officer, Town of White City

**Introduction:**

- 1) This appeal pertains to a fence permit refusal for a 1.8m (6ft) front yard fence at 15 Gregory Avenue. The fence 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 fence permit.
- 2) The Appellant is requesting a relaxation of the Town's Zoning Bylaw pertaining to fence regulations to permit a 6ft (1.8m) front yard fence.
- 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) There is only one violation of The Zoning Bylaw restrictions in this case. The Board cannot make a decision for this request that:
  - a. would create a special privilege;
  - b. is injurious to neighbouring properties; or
  - c. defeats the intent and purpose of The Zoning Bylaw.
- 5) Notice of this appeal has been provided to property owners within a 75m radius of the subject property to allow them the opportunity to assess whether they will be injuriously affected by the proposed zoning variance. Six email submissions were received. Four in support, one against, and one of a neutral position.

**Appellant's Position:**

- 6) The Appellant proposes to build a 1.8m (6ft) fence in the front yard of the property.
- 7) The Appellant's home is on a large deep lot on Gregory Avenue. The well treed lot provides an attractive habitat for wild deer who frequent residential areas of White City, particularly during the winter months.
- 8) In the spring of 2022, the Appellant applied for a permit to build a 1.8m (6ft) fence around their lot in order to discourage the deer from frequenting their lot. The permit was denied as The Zoning Bylaw only permits 1.8m (6ft) fencing across the rear of the yard and part way along the east and west sides of the yard. A front yard fence can only be 1.2m (4ft).
- 9) Despite the permit to build being denied, the Appellant proceeded to complete the 1.8m (6ft) fence on all four sides on the property, with the exception of the gate at Gregory Avenue. He indicated that the design of the gate will be decided later, after the Board renders a decision on this appeal.
- 10) The Zoning Bylaw for this zone clearly limits back yard fence height at 1.8m (6ft), but also clearly limits the fence height across the front and along the sides, back to the proximity of the house, to 1.2m (4ft).
- 11) The material (wire) used to build the fence is open and provides visibility to the yard and is relatively inconspicuous, but the fence height is significantly above the 1.2m (4ft) allowed in the Town and most other municipalities where 1.2m (4ft) is sufficiently high to define property lines.
- 12) A number of neighbours have submitted support for the fence that the Appellant has built but acknowledged that fencing in the Appellant's yard may cause the deer to frequent other people's yards. The deer will continue to enter the Town. Additionally, one neighbour has submitted strong opposition to front yard fences in his area citing aesthetics, openness and character of the area, but did say he could accept a low fence, i.e. 1.2m (4ft) as allowed by The Zoning Bylaw.

**Respondent's Position:**

- 13) The Respondent does not have the authority to approve any minor variance or approve a permit that does not comply with The Zoning Bylaw.
- 14) The Respondent noted, the fence permit was denied however, the Appellant constructed the fence anyways.
- 15) With respect to the fence application, the Town has additional concerns, in that:
  - a. approval of a 6ft front fence would set a precedent in the Town; and

- b. no regulations for acceptable fencing materials currently exist within the Town's Zoning Bylaw meaning, if another 1.8m (6ft) fence were approved through the appeal process it may not be made of inconspicuous material.

**Issues:**

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

- 16) The Board considers this front yard relaxation request of 0.6m (2ft), or 33%, to be excessive and would constitute a special privilege that the Board will not allow in this case nor in other cases involving similar circumstances. Granting this request under these circumstances would be a "special privilege" that the Board would not grant to others.

- 17) Therefore, the Appellant's application does not clear this bar.

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

- 18) The Respondent has pointed out The Zoning Bylaw intends to contribute to openness, defining property lines and uniformity with residential fence heights in most municipalities, The Board considers this relaxation request to be excessive and unreasonable for a front yard, and it would defeat the intent of The Zoning Bylaw.

- 19) Therefore, the Appellant's application does not clear this bar.

*Would issuing a development permit cause injury to neighbouring properties?*

- 20) The Board acknowledges that there were a number of neighbours who expressed support for the 1.8m (6ft) fence, but that it may result in the deer merely moving to other people's yards. Additionally, one neighbour registered opposition to the high fence citing fencing in front yards, aesthetics, openness of the area and character of the area. The board accepts these concerns as significant potential for injurious affection to neighbouring property owners.

- 21) Therefore, the Appellant's application does not clear this bar.

**Conclusion:**

The board finds that allowing the appeal:

- 1) Would give Special Privilege.
- 2) Would defeat the intent of the Zoning Bylaw.
- 3) Would negatively impact neighbouring properties.

**Motion:**

**Strudwick/Wood:** THAT Appeal 01-22 requesting a front yard fence height relaxation of 0.6m (2ft), or 33% be denied.

**CARRIED UNANIMOUSLY.**

- 22) For these reasons, the appeal is denied. The appellant shall have 20 days from issuance of this decision to appeal to the Saskatchewan Municipal Board, if desired.



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**Dennis Gould, Board Chair**