



Development Appeals Board
Appeal Decision

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING
APPEAL NO. 01-20 PERTAINING TO 6 CAPITOL PLACE, WHITE CITY, SK
JULY 30, 2020**

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

Secretary: Rachel Obrigewitsch
Assistant: Jessica Glasser

Appellant: [REDACTED], Property
Owners

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

Neighbouring Property Owners: [REDACTED], 8 Capitol Place;
[REDACTED], 7 Capitol Place;
[REDACTED], 5 Capitol Place

Introduction:

- 1) This appeal pertains to a development permit refusal for a new accessory building at 6 Capitol Place, 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 home is located in a small bay with 12 large lots. In this case, the lot is 200 feet long and 130 feet wide.

- 3) The Appellant is proposing to build a garage on an existing foundation that was poured in 1983, however a building was never erected on those footings. The foundation is 9 feet from the north property line, however, the current bylaw setback requirement is 4.8 metres, or 15 feet. Relaxation requested is 6 feet, or 42% more than allowed. In addition, the proposed garage is 62.5 feet long and 34.5 feet wide, a total of 2,156.25 square feet. The Zoning Bylaw allows for total accessory building square footage of 5% of the total lot area, or 1,306.8 square feet. The relaxation requested is 65% more than allowed. Also, the Appellant is proposing a wall height of 14 feet where the Zoning Bylaw allows for a maximum height of 12 feet. The relaxation requested is 16% more than allowed.
- 4) The purpose of the side yard setback regulations is to provide sufficient space abutting the neighbouring lot, to ensure the building envelope is located entirely on the lot, to accommodate the town's natural drainage system and to provide space for building maintenance, along with access for emergency services.
- 5) A notice of this appeal has been provided to property owners within a 75 metre radius of the subject property to allow them the opportunity to assess whether they will be injuriously affected by the proposed zoning variance. No responses were received.
- 6) 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.
- 7) There are 3 violations of the Zoning Bylaw restrictions in this case. The Board cannot make a decision, for each of these violations, 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:

- 8) The Appellant purchased this home two years ago. The footings were poured in 1983 by a previous property owner and are 8 inches thick and at least 3 feet deep. The Appellant does not know why the previous owner never erected a building on these footings but would now like to use these footings for their new building.
- 9) The Appellant provided 7 pages of satellite images of other lots in White City showing buildings on those lots and what percentage those buildings are of the total lot size. In each case the total area of all the buildings on these lots are more than the 5% allowed under the Bylaw for accessory buildings. Therefore, they wish to have a larger building approved as it appears others have been approved in White City.
- 10) The Appellant also submitted copies of building regulations from other jurisdictions, namely the Town of Balgonie, RM of Edenwold and Town of Pilot Butte, in support of his request to relax the regulations as other jurisdictions have done.

- 11) The Appellant has contacted many of their neighbours and received support for their building plans.
- 12) The building will be used as a shop and storage of ATVs, a lawn mower, old car, and truck. Also, they would like to put in a lift to be able to work on vehicles. It will not be used as a commercial building.

Submissions from neighbouring property owners:

- 13) ██████████ provided a six page summary of his support for the Appellant's proposed building. In his report he summarized comparisons of building regulations from other jurisdictions, his view on the differences between jurisdictions and his personal support for the building proposed. ██████ also spoke highly of the appellants and the good work they've done to improve the appearance of their property in two years they've owned it. The ██████████'s are the neighbour to the north of the Appellant and the most affected by this development.
- 14) ██████████ spoke highly of the appellants and supported their building plans.
- 15) ██████████ spoke highly of the appellants and supported their building plans.

Issues:

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

- 16) The Appellant requested square footage relaxations of 849.45 square feet over the maximum allowed by the Zoning Bylaw. This amount is 65% over the maximum allowed. A wall height relaxation of 2 feet over the maximum allowable wall height was also requested. This amount is 16% over the maximum allowed. In addition, there are two other structures on the property, each 80 square feet, which makes the requested relaxation (849.45 + 160.) 1009.45 square feet. The Board considers each of these requests to be excessive and would not approve these relaxations to other properties in the same zone under similar circumstances.
- 17) Therefore, the proposed development, area and height, would constitute a special privilege.

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

- 18) The relaxations requested for size and height are 65% and 16%. These amounts are considered excessive and do defeat the intent of the Bylaw.

Would issuing a development permit cause injury to neighbouring properties?

- 19) Many of the Appellants neighbours presented written or oral support for the proposed development and no one presented opposition to the development. The neighbour to the north, and most affected by this development, made it clear that they have no issue with the proximity of the building. There appears to be no injurious affection to neighbours in this case.

Conclusion:

20) For these reasons, the appeal regarding area and height encroachments are denied, **BUT** the appeal for the side yard encroachment is allowed.



Dennis Gould, Board Chair