



Development Appeals Board
Appeal Hearing

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING
APPEAL NO. 02-21 PERTAINING TO 37 EMERALD RIDGE, WHITE CITY, SK**

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

Secretaries: Voula Colbow, Cassandra Virgin

Appellants: [REDACTED] Property Owners

Respondents: Chace Kozack, Development Officer, Town of White City &
Delainee Behrns, Junior Planner, Town of White City

Introduction:

- 1) This appeal pertains to a development permit refusal for an addition of the accessory building at 37 Emerald Ridge. 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 Appellants are requesting the Development Appeals Board overturn the Development Officer's refusal and direct the issuance of a development permit.
- 2) The Appellants are requesting a relaxation of the side yard setback from 4.8m to 3.84m. The relaxation requested is 20%.
- 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 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, there was only one response received and that person supported the development.

Appellant's Position:

- 6) The Appellants are proposing to build an accessory building in the back yard but needs to build it .96m into the side yard setback, in order to have room to easily access the doorway in the building.
- 7) Appellants stated Appeal 01-18 had R3 zoning and was approved by the board. Appeal 01-18 asked for a relaxation of 1.4m which is greater than the requested .96m set back.
- 8) The Appellants stated there is a row of trees and a narrow strip of grass beside the proposed structure. Adjacent to the property is a walking path in the ditch beside White City Drive. This relaxation will not be noticeable to the pedestrians or the motorists on the road.
- 9) There is a well about 5 feet from the rear of the building and the appellants do not want to move the building any closer to the well.
- 10) Numerous neighbours have signed a document supporting the appellants proposed building.
- 11) Appellants have completed the work to reroute irrigation according to the garage plan, in order to maintain their yard during construction.

Respondent's Position:

- 12) The Respondent does not have the authority to approve any minor variance or approve a permit that does not comply with The Zoning Bylaw.

Issues:

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

- 13) The Appellants requested relaxation of the side yard setback .96m or 20%. The board has allowed other homeowners similar relaxations and recognizes the difficulty homeowners have trying to position structures with the limited space available on these smaller lots. Therefore, the proposed development would not constitute a special privilege.

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

- 14) The Respondent provided the intent of the bylaw. The board considers the requested relaxation to be large for Zone R3 but are prepared to approve due to the circumstances in this case and would therefore not defeat the intent of the bylaw.
- 15) Therefore, the proposed development does not defeat the intent of the bylaw.

Would issuing a development permit cause injury to neighbouring properties?

- 16) There was no “injurious affection” to neighbouring properties presented at the hearing. Numerous neighbouring homeowners have showed support for the development. In addition, there are no neighbours on that side of the property, only a walking path and a roadway.
- 17) Therefore, the proposed development would not cause injury to neighbouring properties.

Conclusion:

The board finds that allowing the appeal:

- 1) Would not give Special Privilege.
- 2) Would not defeat the intent of the Zoning Bylaw.
- 3) Would not negatively impact neighbouring properties.

Motion:

- Motion to allow appeal for .96m relaxation into side yard setback made by Dale Strudwick.
- Motion seconded by Bill Wood.
- Approval of motion was unanimous.

For these reasons, the appeal is allowed. The appeal fee shall be refunded to the Appellants and Town of White City shall issue a development permit 30 days from the date of this decision.



Dennis Gould, Board Chair