



Development Appeals Board
Appeal Hearing

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING
APPEAL NO. 01-21 PERTAINING TO 8 OXFORD BAY, WHITE CITY, SK**

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

Acting Secretary: Voula Colbow

Appellant: [REDACTED] Property Owner

Respondent: Delainee Behrns, Junior Planner, Town of White City

Adjacent Property Owners: [REDACTED] Adjacent Property Owner

Introduction:

- 1) This appeal pertains to a development permit refusal for an addition to the accessory building at 8 Oxford Bay. 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 requesting a relaxation of the side yard setback from 2.5m to 2.0m. 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 Appellant is proposing to construct a garage as additional storage, particularly for a boat.
- 7) The Appellant stated that due to the orientation of the principal building it would be difficult to use the garage to store the boat if the garage were constructed with a 2.5m setback. A 2.0m setback would allow sufficient space to transport the boat from the front access of the lot to the garage. There is no rear access to the property that would allow the Appellant to transport the boat to the proposed garage.

Respondent's Position:

- 8) The Respondent does not have the authority to approve any minor variance or approve a permit that does not comply with The Zoning Bylaw.
- 9) The Respondent indicated two similar relaxations that have been granted by the Development Appeals Board within the Residential 4 Zoning District:
 - a. Appeal 05-19 – the side yard setback was reduced from 2.5m to 2.0m; and
 - b. Appeal 01-14 – the side yard setback was reduced from 2.5m to 1.0.

Issues:

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

- 10) The Appelleant requested relaxation of the side yard setback of 0.5m, this amount is a 20% relaxation of the regulations. While the board considers this amount to be large for the Residential 4 Zoning District in 2019 another property owner in Resident 4 Zoning District was permitted a 20% relaxation of the regulations nearly identical to this appeal. The board recognizes the difficulty homeowner have trying to position structures within the limited space available on small lots.

- 11) Therefore, the proposed development would not constitute a special privilege.

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

- 12) The Respondent provided the intent of the bylaw. The Board considers the requested relaxation to be large for the Residential 4 Zoning District. However, due to the circumstances of the case, and the limited options for the property owner due to configuration of the lot, the requested relaxation would not defeat the intent of the bylaw.
- 13) Therefore, the proposed development does not defeat the intent of the bylaw.

Would issuing a development permit cause injury to neighbouring properties?

14) There was no "injurious affection" to neighbouring properties. Two adjacent homeowners indicated their support for the development.

15) Therefore, the proposed development would not cause injury to neighbouring properties.

Conclusion:

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



Dennis Gould, Board Chair