



Development Appeals Board
Appeal Decision

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING
APPEAL NO. 05-19 PERTAINING TO 12 STANFORD ROAD, WHITE CITY, SK
JULY 31, 2019**

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

Secretary: Chazlyn Lambie

Appellant: [REDACTED], Property Owner

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

Introduction:

- 1) The Appellant wants to build an accessory building in the back yard but a gas line easement at the back of the yard has created a problem. One of the considerations the Appellant had when purchasing the home, was the space that seemed to be available to build on this lot.
- 2) After the purchase was complete, they discovered from the “real property report” that the gas line easement existed. It was too late to back out of the home purchase at that point.
- 3) The Appellant tried his best to make the structure fit within the Town’s setback requirements, but in doing so the building would be so close to the house that it would be very difficult to get a vehicle in and out of the structure.
- 4) By moving the structure .5M into the sideyard setback, there would be sufficient space to access the building. This .5M relaxation amounts to a 20% relaxation request.
- 5) Two of the adjacent property owners have expressed their support of the Appellant’s building.
- 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) 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:

- 8) Appellant noted that the second page from their application for appeal was missing from the appeal package and provided copies for the board members to review. Appellant went over the information that was missing from the package.
- 9) Appellant purchased the property 2 years ago, one of the main things that appealed to them was the lot and the set up of the side yard easement that allowed them to have access to a back garage, the intent to put a secondary dwelling. The challenges when they had the check over and a had received the real property report, were realized there is a 3 meter gas line in the backyard.
- 10) Appellant provided two images that showed two positions of stake markers. The first photo featured stakes if they followed the bylaws and the second image showed where the opening of the garage would be if they would get an allowance of 0.5 meters.
- 11) Appellant is unable to encroach on the sask energy sask line. Residents need to be 1.5 meters from a gas line.
- 12) Mentioned he would have build the house differently on the lot had he known where the gas line was, unfortunately he was not offered the real property report, nor did he think to ask for it but he is just trying to deal with the situation as it is now.

Respondent's Position:

- 13) The size of the building, when we do the calculation for the 5 % of the lot area, we get 479 square feet and that the appellant is asking for is 396 so its approx. over 80 square feet less than what is allowed and it's not like he is asking for something large trying to fit into a small spot, I think he is asking for something small trying to fit into a small spot.

Questions from the Development Appeals Board:

Just to clarify that first picture, your house is the one on the right?

- 14) The Appellant responded: My house in the first picture is on the left. So, this is looking at it, approaching it.

Clarify where you placed those stakes in there, outside stake on this picture here?

- 15) The Appellant responded: On that picture there, the far left stake is 2.5 meters from the property line and then the second stake in is where I am proposing to put the door so it still looks somewhat normal if you are looking from the street cause I do not want to put that door super tight to the outside wall if possible, it just wouldn't look appealing, I'd sooner have it at least one-foot to start the door, 9 foot across to the other door the other stake. So, that's looking at it if you're standing in the garage looking at the approach angle coming in. and then the other picture is showing the approach in driving in at the extra point 5 that I am requesting.

So, we have a side door for the garage?

16) The Appellant replied: Yeah so, the side door would be right behind the house so in that first picture it would be to the left.

The gas line, is it in the back of the yard?

17) The Appellant responded: Yes, you'll see it on the property report in your package, it's marked as 3-meter easement.

a. Board: I see the gas line now.

You have a truck? Is it a half ton?

18) The Appellant replied: Even with what we come up with here for a solution, my truck is not going to be feasible. But there's a couple things I will put back there, couple sea-doo's, the area is 8 foot 6, that half meter makes a big difference as you can see in those pictures.

Long term, do you plan to have a fence there?

19) The Appellant responded: Lot is currently empty beside me, but our future plan is having a fence.

Issues:

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

20) During general discussion the Board indicated that they were prepared to grant this requested relaxation even though the amount is large, primarily due to the gas line easement being the cause of the issue in this case. The Board would consider such a relaxation for others in Zone R4 if they had similar circumstances.

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

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

22) In its documentation the Town provided the intent of the bylaw. The Board considers the requested relaxation to be large for Zone R4, but are prepared to approve this one due to the circumstances in this case and would therefore not defeat the intent of the bylaw.

23) Therefore, the proposed development does not defeat the intent of the zoning bylaw.

Would issuing a development permit cause injury to neighbouring properties?

24) There was no "injurious affection" to neighbouring properties presented at the hearing. Two adjacent homeowners showed support for the development.

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

Conclusion:

26) The Board finds the following appeal:

- a. Would not give a special privilege;
- b. Would not defeat the intent of the Bylaw; and
- c. Would not negatively impact neighbouring properties.

27) For these reasons, the appeal is allowed.



Dennis Gould, Board Chair