



Development Appeals Board
Appeal Decision

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING
APPEAL NO. 01-18 PERTAINING TO 15 EMERALD RIDGE, WHITE CITY, SK
JANUARY 17, 2018**

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

Secretary: Ken Kolb

Appellant: [REDACTED], Property Owners

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

Introduction:

- 1) This appeal pertains to a development permit refusal for a building addition at 15 Emerald Ridge, 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 where the yards have a narrow frontage and a much wider back yard. In this case, the eastern property line runs 25 degrees off of square, and the west property line is 10 degrees off square.
- 3) The Appellant is proposing to build a garage and house addition where the northeast corner of the garage addition will protrude into the 4.8 metre side yard setback. The Appellant is asking for a relaxation of 1.4 meters, or 54 inches, which amounts to a relaxation of 29%. The protrusion is 1.4 metres, but due to the sharp angle of the property line, this protrusion is only for the first few feet and tapers off quickly.
- 4) 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.
- 5) 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:

- 6) Only the front corner would encroach into the setback, but the rest of the building immediately falls into the approved area.
- 7) Two other houses in the bay have received approval for variances to the side yard setback requirement.
- 8) The encroachment will allow us to utilize the space in our yard for a useable purpose, while still maintaining a lot of open space between the houses.
- 9) We've spoken to all neighbours in the bay and they are all supportive of the addition and content with the variance.
- 10) The addition of the garage would not defeat the intent of the bylaw. The addition is meant to meet the growing needs of our family. We take pride in our home and keep our property clean, uncluttered and any changes to our home have always been done professionally. The appeal of our home is very important to us and we want it to look seamless within our neighbourhood.
- 11) Granting the variance would not give us any advantage over a neighbouring property as neighbouring properties in our bay have been granted similar variances. This shows that allowing a corner of the building to encroach into the side yard has already been considered reasonable. Granting a variance would mean that the majority of the building is still within the required set setback and the property owner is still able to make purposeful and visually appealing use of their property.
- 12) The submitted photos show that the variance would not be visually noticeable when compared to neighbouring properties, and will actually make the buildings look more uniform.
- 13) A precedent has been set to allow for slight variances in the side yard set back within the bay. It is fair and reasonable for a similar variance to be approved.

Respondent's Position:

- 14) The lot in question is an irregular, pie-shaped lot which makes it more difficult to achieve proper setbacks.
- 15) At least two neighbouring properties with similar, irregular shaped lots in this bay of Emerald Ridge have had proposed additions and corresponding setback encroachments approved by the Development Appeals Board.
- 16) The purpose of the side yard setback regulations is to provide sufficient space abutting the neighbouring lot, to ensure that 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.
- 17) 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. Aside from the three letters of support provided by the Appellant, no responses were received.

Questions from the Development Appeals Board:

Were you aware the requested variance is larger than the variance granted to other properties in this bay?

18) The Appellant stated they were aware they're requesting a bit more, however, in comparison to other properties on the bay, their yard is quite a bit more narrow than other properties. The Appellant argued the 4.8 metre setback seems like it would be appropriate for most yards on the bay because they are 25 to 30 metres wide, however their property is only 16 metres wide, therefore they are at a bit of a disadvantage to begin with, which is why they're requesting a bit larger variance.

Issues:

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

19) There have been two relaxations allowed in the past for other properties in the same bay as the subject property. Side yard relaxations were granted for 17 Emerald Ridge for 1 foot or 6% and 9 Emerald Ridge for 27 inches or 14%.

20) The Appellant's requested relaxation is not excessive under the circumstances due to the extreme irregular shape of their lot.

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

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

22) The property in question is located on higher ground, and drainage does not seem to be an issue. This relaxation will still allow sufficient room to access the back yard for maintenance and emergency services.

23) The Board considers the relaxation excessive, but recognizes the layout of the irregular shaped lot presents additional challenges when positioning square or rectangular buildings. In this case, the protrusion into the side yard setback is for a very short distance and drops off quickly due to the very sharp angle of the eastern property line.

24) Therefore, the proposed development would not defeat the intent of the zoning bylaw.

Would issuing a development permit cause injury to neighbouring properties?

25) The Appellants presented three letters of support from their neighbours. The Town of White City notified neighbouring property owners regarding the proposed relaxation and received no objections.

26) Therefore, the proposed development would not injuriously effect neighbouring property owners.

Conclusion:

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



Dennis Gould, Board Chair

Decision Date: January 29, 2018