



**DEVELOPMENT APPEALS BOARD  
RECORD OF DECISION  
Grant Schneider  
33 Bluebell Crescent, Moose Jaw, SK  
APPEAL NO. 5 of 2019**

IN THE MATTER OF AN APPEAL TO THE DEVELOPMENT APPEALS BOARD, of the City of Moose Jaw, in the Province of Saskatchewan, heard in Committee Room B, City Hall, Moose Jaw, on Tuesday, July 16, 2019 pursuant to the provisions of *The Planning and Development Act, 2007*.

**APPELLANT:** Grant Schneider

**RESPONDENT:** City of Moose Jaw  
Planning and Development Services Department

**RESPECTING THE PROPERTY** Lot 17, Block 10, Plan No. 76MJ00294  
33 Bluebell Crescent

**ZONING:** R1 – Large Lot Density Residential District

**NATURE OF APPEAL**

THE APPELLANT, Grant Schneider, is requesting a variance to the City of Moose Jaw's Zoning Bylaw No. 5346, as amended.

**REQUESTED VARIANCE**

The appellant is requesting a variance to the City of Moose Jaw's Zoning Bylaw No. 5346, to permit the construction of an accessory building on the property described as Lot 17, Block 10, Plan No. 76MJ00294, civically known as 33 Bluebell Crescent, Moose Jaw, SK with a proposed:

- Combined accessory building floor area of 125.6 m<sup>2</sup> (1,352 ft<sup>2</sup>), contrary to the 83.61 m<sup>2</sup> (900 ft<sup>2</sup>) prescribed by the City of Moose Jaw's Zoning Bylaw.

**HEARD ON**

Tuesday, July 16, 2019 in Committee Room B, 2<sup>nd</sup> Floor, City Hall.

**IN ATTENDANCE**

**The Board:** Terrence Wallace, Chairperson  
Rece Allen, Vice Chairperson  
Fred Anderson, Member  
Warren Brisbin, Member

**Appeared for the Appellant:** Grant Schneider

**Appeared for the Respondent:** Eric Bjorge, Assistant City Planner

### **LEGISLATIVE PROVISIONS**

The DAB is guided by the principles expressed in Section 221 of *The Planning and Development Act, 2007*, which reads as follows:

- 221 In determining an appeal, the board hearing the appeal:
- (a) is bound by any official community plan in effect;
  - (b) must ensure that its decisions conform to the uses of land, intensity of use and density of development in the zoning bylaw;
  - (c) must ensure that its decisions are consistent with any provincial land use policies and statements of provincial interest; and
  - (d) may, subject to clauses (a) to (c), confirm, revoke or vary the approval, decision, any development standard or condition, or order imposed by the approving authority, the council or the development officer, as the case may be, or make or substitute any approval, decision or condition that it considers advisable if, in its opinion, the action would not:
    - (i.) grant to the applicant a special privilege inconsistent with the restrictions on the neighbouring properties in the same zoning district;
    - (ii.) amount to a relaxation so as to defeat the intent of the zoning bylaw; or
    - (iii.) injuriously affect the neighbouring properties.

### **PRELIMINARY MATTERS**

The parties agreed that the appeal was properly brought before the Board and that all parties have received the following information:

- Exhibit A The Application for Appeal before the Development Appeals Board which was submitted to the Office of the City Clerk on **May 13, 2019**.
- Exhibit B Names & Addresses of Assessed Property Owners within 75 metre radius of Applicant's property.
- Exhibit C Notice of Hearing, Development Appeals Board.
- Exhibit D Affidavit of Service, verifying the letters to residents within a 75 metre radius were sent by regular mail on **July 2, 2019**.
- Exhibit E Report dated **June 24, 2019** from the City of Moose Jaw's Department of Planning & Development Services which includes facts and information pertinent to the appeal and their response to the applicable sections of *The Planning and Development Act, 2007*.

## **APPELLANT**

The Appellant, Grant Schneider, was present and presented the following information:

- he is proposing to build a storage shed in the northwest corner of his back yard to provide more storage space
- he feels there is sufficient space in his yard to have the shed
- his lot is 195 feet across and 120 feet deep
- he will not be infringing on his neighbor
- he has spoken to his neighbor and they have no concerns
- park is behind his property
- will be siding the shed with hardy board plank, same siding as on the house
- shingles on the shed may not be cement (as that is what is on the house) as the structure may not support that type of shingle
- the proposed shed will have a cement floor
- wants to make sure the yard looks attractive with the proposed shed
- no power will be provided to the shed
- will be able to access the shed from the front of the house (between house and fence on the north side)
- proposing a 9' x 7' door on shed for easy access
- wants to use the shed for his hobbies

## **NEIGHBOURING PROPERTY OWNER(S)**

The Chairperson confirmed that no correspondence had been received by the Office of the City Clerk with respect to the matter.

## **RESPONDENT**

The Respondent provided the following information as provided in Exhibit E:

## **BACKGROUND**

The initial appeal was heard before the Development Appeals Board on June 18, 2019 and was tabled following the submission of new information. Two additional accessory structures are present on the property that were not included in the initial site plan. The application was tabled to allow for the requested variance to be updated to include the area of the two additional structures.

The subject property is composed of a single large lot with an approximate area of 1,492 m<sup>2</sup> (16,062 ft<sup>2</sup>). The property is located on the southwest bend of Bluebell Crescent and is zoned R1- Large Lot Low Density Residential District. The purpose of this District is to provide for large lot residential development in the form of one-unit dwellings as well as complementary community uses.

The applicant requested to construct a detached accessory building for the purposes of storage. The proposed building will measure 14 ft by 18 ft, for a total square footage of 252 ft<sup>2</sup>. Since the property already contains multiple accessory structures with a combined floor area of 1100 ft<sup>2</sup>, the applicant must go through development appeals to construct an additional accessory building. This appeal will also legalize the small accessory structures.

### **MATERIAL BEFORE THE BOARD**

The material filed with the Board in accordance with Section 223 of *The Planning and Development Act, 2007* with respect to this matter (i.e., filed at least five (5) days prior to the hearing) included the following:

- Exhibit A      The Application for Appeal before the Development Appeals Board which was submitted to the Office of the City Clerk on **May 13, 2019**.
- Exhibit B      Names & Addresses of Assessed Property Owners within 75 metre radius of Applicant's property.
- Exhibit C      Notice of Hearing, Development Appeals Board.
- Exhibit D      Affidavit of Service, verifying the letters to residents within a 75 metre radius were sent by regular mail on **July 2, 2019**.
- Exhibit E      Report dated **June 24, 2019** from the City of Moose Jaw's Department of Planning & Development Services which includes facts and information pertinent to the appeal and their response to the applicable sections of *The Planning and Development Act, 2007*.

### **DECISION OF THE BOARD:**

*The Planning and Development Act, 2007*, Section 221(d) states there are three (3) bars to entitlement, which must be cleared for the appeal to be granted by the Board. To fail on any one means that the appeal cannot be granted.

Based on the evidence presented, the Board concludes that the requested relaxation will not:

#### **a)      Be a special privilege for the following reasons:**

When the test with respect to a special privilege is applied, the Development Appeals Board is willing to grant the variance due to the size of the lot. The Board also stated that they would be willing to grant a similar variance to anyone else in the same circumstances.

**b) Be contrary to the purpose and intent of the Bylaw for the following reasons:**

When the test for the variance to be contrary to the purpose and intent of the Bylaw is applied, the Development Appeals Board noted that the relaxation in this case is not in an amount to impede the intent of the Bylaw. The Board also noted that the lot size at this location exceeds the standard City lot size to which this Bylaw is based on.

**c) Injurious affect the neighbouring properties for the following reasons:**

The Development Appeals Board noted that granting this variance will not injuriously affect the neighbouring properties as the location of the shed is such that no neighbouring properties will be affected. The Board recognized that no objections were received from property owners within the 75 metre radius area.

It is the decision of the Development Appeals Board that the appeal be **GRANTED**.

**RIGHT OF APPEAL:**

Any person wishing to appeal the decision of the Board may do so within twenty (20) days after the date on which a copy of this decision is received and upon written notice to the Saskatchewan Municipal Board, Planning Appeals Committee, Room 480, 2151 Scarth Street, Regina, Saskatchewan, S4P 2H8. A fee of \$50 per appeal will be assessed. A copy of any appeal should also be forwarded to the Secretary, Development Appeals Board, c/o City Clerk's Office, 228 Main Street North, Moose Jaw, Saskatchewan, S6H 3J8.

DATED at the City of Moose Jaw, this 22<sup>nd</sup> day of July, 2019.

Terrence Wallace  
Terrence Wallace, Chairperson

Pearl Anderson  
Pearl Anderson, Secretary