

## Mike Holmes: Fences can make bad neighbours

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Ray Smith / Canwest News Service

Most homeowners never think about a property survey. They might have one somewhere that came with the house when they bought it. But odds are they don't know where it is or whether it's even accurate.

But you need to fix that if you haven't had a survey done before any construction - even if you're just building a fence or shed - you risk having to take it down and do it again. You risk creating a bad relationship with your neighbours and maybe even a lawsuit if things go too far.

You might not need a permit for a fence or a small garden shed, and you might not have to have it inspected, but you better believe it has to be built within the proper legal setbacks allowed by your municipality.

You need a survey that accurately shows all property lines, easements and setbacks, so you know where you are allowed to build legally. The original property survey of your house when it was built may be out of date. There may have been improvements made - maybe a pool or gazebo, a deck or even an addition. A current survey will note everything on your lot.

If you are building a privacy fence, should you plan on it being right on the property line? Not really - your fence should be on your property entirely, even if it's just by a few inches. Think about it - how is the fence held up? Are you using concrete footings - do they go over on to the neighbour's property? That's not legal - you can't encroach. And don't assume that an existing fence is in the right place if you go to replace it. A survey may show that it was built a lot farther inside the property line than it should be. And property lines aren't always straight.

For a long time now, average lot sizes in housing developments have been getting smaller, and the houses are getting much larger. A larger percentage of the lot is built, and there's less open space. That means there's a lot less room for mistakes when it comes to fences and structures in backyards. You need to be very aware of the setbacks and easements on your lot.

Every property has a building setback - that's the area measured in from all sides of your lot that you are not allowed to build on.

The setback varies on all sides of your lot - it might be 10 feet on the sides, and 40 ft. in the back - and it varies between municipalities, and it varies within municipalities, depending on the zoning bylaws. You need to know the setbacks, and the rules, before you build.

If you build something too close to the property line, you are in violation of the bylaw and can be made to remove it, and possibly fined. Also, you are only allowed to "cover" a certain percentage of your lot with "buildings" - and that includes permanent structure such as decks, sheds, pergolas, etc. If you go over that percentage - without being granted permission - you can be made to take the structure down.

The setback gives a residential area a consistent standard for building placement, making sure the houses aren't too close together, too tall so they block light from other neighbours or too close to the street. Sometimes certain parts of a house are allowed to project into the setback, such as bay windows, decks or eaves.

And, in some situations, homeowners who are doing additions or building new can apply for a variance that allows them to change the setback or the lot coverage in their specific situation. That's granted by the local government, if they agree to it.

A survey shows not only property lines and setbacks, it shows easements for power lines, sewer lines, gas lines, storm-water catch basins, telephone and cable TV lines.

An easement is the right to use a part of your property, by a third party, for a specific purpose. It's on your deed. For example, you might have a utility easement on your deed that allows hydro workers to access a transformer in the back corner of your lot. Or it might allow for maintenance workers to access gas or power lines buried across your property.

You can't build on an easement. Nothing - not even a fence or part of a fence. If you do, you'll have to take it down and compensate for any damages you might have caused. You usually can't even plant a garden, in case that interferes with future access, or at least you need to be prepared to have it torn up if work needs to be done.

Make sure you have a recent accurate survey, and understand the setbacks that apply in your area before you decide to build anything. The last thing you want is to have to take it down and do the job again or risk fines or lawsuits. Do it right the first time.

For more information on home renovations, go to [makeitright.ca](http://makeitright.ca).