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## Suddenly, couple's chimney is "illegal"

Ruta Benjamin and her husband were sitting in their house, minding their own business, when they suddenly found themselves in violation of regulations of the Technical Standards and Safety Authority without doing anything wrong.

They live near Avenue Rd. and highway 401, where many of the older bungalows have been torn down and replaced with what she calls "monster homes."

The bungalow next door to the Benjamin home was torn down 18 months ago and replaced with a large two-storey home. The City of Toronto Committee of Adjustment had approved some minor zoning variances for the new house, and the city issued a building permit for it.

Last month, when an inspector from Enbridge Gas Distribution came to complete the final safety check of the new house, the Benjamins were served with a notice of infraction. It stated that their chimney no longer complied with the fire safety regulations of the Technical Standards and Safety Authority (TSSA) because it suddenly wasn't tall enough.

They were given until yesterday to raise the chimney at their own expense or have their gas supply cut off.

The strange thing about the situation is that the new McMansion is in full compliance with the zoning bylaws and Ontario Building Code. "The builder did nothing wrong," Benjamin told me.

The height of the chimney on the Benjamin bungalow complied with all appropriate fire and gas safety rules - until the new house was built next door. Since the top of their chimney is lower than the roof line of the new house, it suddenly becomes illegal - and the Benjamins are responsible for the cost of fixing the problem.

The result is a bizarre situation where the city issued a permit for the construction of a house but the permit created an illegal situation with the older house next door.

With the City and the TSSA apparently not talking to each other, the Benjamins find that the construction of the house next door has put their own house in breach of the gas safety code.

When I looked up photos of the two houses on the new street view function of *maps.google.ca*, I could see that the top of the Benjamin chimney is about the same height as the second floor windows in the new house, and the distance separating the two houses is fairly narrow.

For fire safety reasons, chimneys must be at least two feet higher than anything within ten feet. In this case, the distance between the two houses appears less than that, and the Benjamin chimney is considerably lower than the roof line of the new house.

In our phone conversation earlier this week, Ruta Benjamin told me that she has found a contractor to raise the height of their chimney at a cost of \$1,500.

"As you can imagine," Benjamin emailed me, "the word to best describe our feeling (is) ridiculous. We happen to live in the wrong house at the wrong time, and feel that the City of Toronto should not have approved the building permit due to the impact it would have on its neighbouring property, or at the very least, (should have) required that the builder cover the cost of the upgrades to our property to ensure continued compliance."

"To add to our frustration," she wrote, "we can look out our front window and see other non-compliant properties just across the street."

Benjamin contacted the office of Karen Stintz, her city councillor. She was told that the city regulates the building code and the province (through the TSSA) the gas delivery code, "so essentially their hands are tied."

Frankly, I find that explanation absurd. How difficult would it be for the city to require applicants for building permits to certify that adjacent properties will not be affected by fire code requirements, or if they are, to require the applicant to pay to raise the height of the neighbouring chimney?

Is it too much to suggest that the city and the TSSA should talk to each other before building permits are issued?