

**TOWN OF WHITE CITY**  
**DEVELOPMENT APPEALS BOARD**

February 27, 2017

Minutes of the Monday, February 27, 2017 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #01-17 [REDACTED], Lot 26, Block 35, Plan 102095692, 2 Stanford Bay.

**Present:** Chairman: Dennis Gould  
Board Members: Dale Strudwick and Cory Schill  
  
Development Officer: Debi Breuer  
  
Secretary: Bonnie Stanley

**Appellants:** [REDACTED]

**Introductions:**

Chairman Dennis Gould stated that the board had come to order at 7:00 PM. The Chairman introduced the members of the Board, the Town Representative and the Secretary. The Chairman acknowledged the Appellant [REDACTED].

**Conflicts:**

Board members indicated they did not have a conflict of interest.

**Chairman's Comments:**

The Chairman explained that Development Appeal Hearings are open to the public and those who are affected by the out come of the appeal can make a presentation to the Board. Written materials received within 5 days of the hearing will be considered by the Board.

Authorized by *The Planning and Development Act, 2007*, the Board can allow, allow with conditions, vary or refuse the appeal.

The Board must be certain that any decision it makes about the matter under appeal does not constitute a special privilege inconsistent with the restrictions on, or injurious to neighbouring properties and the amount of the requested relaxation of the zoning bylaw does not defeat its intent and purpose.

Once those who can be heard have made their presentations the Board will reserve its decision. Appellants receive the Board's written decision by registered letter within 30 days of the hearing. Board decisions do not take effect for 30 days to allow interested parties to appeal to the Saskatchewan Municipal Board which must take place within 20 days of receiving the decision.

**Official Record  
Development  
Appeal #01-17:**

The documents which form the record of the appeal were inspected by the Appellant prior to the commencement of the hearing and included:

- The agenda for the hearing.
- Appellant's 2 page submission, received February 20, 2017.
- Development Officer's Report.
- Email received February 22, 2016 from adjacent property owner, Stacey Musleh objecting to Appeal for relaxation of zoning bylaw.
- The Town of White City Development Permit Form "A".
- The Town of White City Development Permit – Notice of Decision Form "B".
- Site Plan
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated February 8, 2017.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated February 8, 2017.
- Notice of the appeal sent to 18 adjacent property owners.
- A copy of Bylaw 581-14.
- A copy of Part XI, Division 1, of *The Planning and Development Act, 2007*; the duties and responsibilities of the Development Appeal Board.
- The signed commissioned Statutory Declaration for service of notice.

**Resident  
Submissions:**

The Secretary advised that twenty (20) property owners within 75 metres were notified of the appeal application and hearing and that there was one objection received.

**Procedure:**

The procedure was explained for presentations. To begin the board will hear the appellant present their position with respect to the requested relaxation. Once their presentation is completed the town representative presents the town's position. The Appellant is then allowed to respond after which the town responds. Once the appellant and respondent have made their presentations board members will ask questions about the requested relaxation.

Referring to his written submission the Appellant stated:

1. We own 2 Stafford Bay and we are in the planning phase of constructing single residential dwelling. Lot is not square and not parallel and setbacks quite large. The other developments are a little smaller for setbacks. So in order to get this house plan on this lot which the engineer designed would encroach by 4.25 inches on the far east side of house and then it would run down on an angle about 10 feet to the west it would be zero again. Not much of an encroachment but it is encroaching.
2. Tried to move the house around. This is the least amount that would encroach. It already sits on an angle. At this angle we have the least encroachment it would help with the design of house to have those rear sides parallel.
3. This encroachment is less than 1%. And only that one corner.

**Town Development Officer: Debi Breuer**

The Development Officer stated that she had nothing further to add to her report. The only thing I can bring to your attention is that the bylaw in 2016 was changed at one time I was allowed to grant a 10% variance and a lot of builders took advantage of the 10% and we decided to change the bylaw that any variance would have to come to the Development Appeals Board.

Comment from Appellant: I was just going to say that this encroachment is actually less than 1% and only on one corner.

**Question:**

Q: You read the email that came in from someone not agreeing with your appeal. Do you know where that house is?

A: No I do not know that person. At this point I couldn't see how I would encroach anybody's view since on the east side I have no neighbours and to the south there is a pathway. And the neighbor to the west there is no corner of the house that is encroaching the property line.

Q: That residence is 7 lots from the rear of your lot.

A: Yes.

The Chairman asked the Town representative if she knew, or could show us on the Town map, where these 2 properties are situated.

The Development Officer showed the Board Members and the Appellant the town map on the wall in the meeting room. She pointed out that the Appellant's lot is a corner lot facing north, immediately south of his lot there is a walking path, then 8 properties between there and the lot belonging to the lady who filed the objection.

**Final comments:**

The Appellant had nothing further to add.

The Town Development Officer had no further comments.

The Appellant left at 7:15 PM.

The Town Representative left at 7:15 PM.

**Facts:** The facts in this appeal, as presented to the Board are:

- 1) The subject lands are legally described as Lot 26, Block 35, Plan 102095692 in the Town of White City.
- 2) The subject lands are zoned R-4 as set out in the Town of White City Zoning Bylaw 581-14.
- 3) The development permit was denied because the proposed single detached dwelling encroached into the required 12 meter rear yard setback.

**Conclusions and Reasons:**

In an appeal of a development permit refusal, the Act places the onus on the appellant to make a case to the development appeals board that, even though the development violated a municipal zoning bylaw, it should be allowed to proceed because it clears all three “bars to variance relief” as set out in clause 221(d) of the Act.

The three bars are:

- Special privilege
- Intent
- Injurious affection

### Conclusions and Reasons:

In an appeal of a development permit refusal, the Act places the onus on the appellant to make a case to the Development Appeals Board that, even though the development violated a municipal zoning bylaw, it should be allowed to proceed because it clears all three “bars to variance relief” as set out in clause 221(d) of the Act.

The three bars that the Board must consider in their decision are:

- Special privilege
- Intent
- Injurious affection

It is important to point out key circumstances of this application:

1. The [REDACTED]'s lot is generally a rectangular shaped lot, but the corners are not square, therefore positioning a truly “square” building on a not square lot poses some problems. The appellant indicated that they tried positioning the building different ways on the lot, and the current proposal requires the least amount of relaxation of the setback requirements.
2. The requested relaxation in this case is 4.13 inches, in an area requiring a 12 Meter setback. This relaxation request is less than 1% of the 12 meter requirement. This is a very minor amount.
3. One nearby homeowner submitted an objection to the Board, stating the following:  
*“As a White City home owner in close proximity to this property I would like to state that I am against the appeal. I am concerned that if the city decides to relax this bylaw for this individual it will negatively affect all the property owners near this property.  
By encroaching into the required setback it will limit everyones peripheral and rear view. Instead of looking at an open space we may be looking at the side of someones house/roof and will overall decrease the natural light in the area. When designing our house our original house plan needed to be adjusted to fit within the zoning bylaws and I would expect that everyone else follow the same rules.”*

The Appellant stated that he does not know where this person’s home is in relation to his lot. However the Town representative was asked if she knew the proximity

of the properties here. She showed the Board and the Appellant on the Town map that the Appellant's lot is a corner lot facing north and the above submission came from a person owning a property 8 lots to the south, and their home faces East. In addition, the Town map shows that there is a walking path immediately south of the Appellant's lot.

The Board acknowledges this person's objection but the Board is not convinced that a relaxation of less than 5 inches in this case interferes with anyone's sightlines in the area nor would it affect lighting in any way.

Special Privilege:

- During discussion the Board members were unanimous that allowing a rear yard relaxation of 4.13 inches is a minor amount and allowing such a relaxation does not constitute a special privilege, as other minor relaxations have previously been allowed by the Board.

Therefore the Appellant's application does clear this bar.

Intent:

- The Board does not believe that this minor relaxation defeats the intent of the zoning bylaws.

Therefore the Appellant's application does clear this bar.

Injurious affection:

- One person owning property in the area made a written submission outlining objections, but the Board has noted above, that these concerns are without substantive merit.

Therefore the Appellant's application does clear this bar.

**Appeal #01-17**  
**Decision**

In accordance with the requirements of the *Planning and Development Act, 2007* the following is the decision of the Development Appeals Board hearing on February 27, 2017 at the Town of White City Municipal Office.

**DENNIS GOULD: Moved/Seconded: DALE STRUDWICK:** That Appeal #01-17 made by [REDACTED] for a relaxation of the Zoning Bylaw 581-14, to permit a single detached dwelling to encroach into required 12 meter rear yard setback be allowed, for the following reasons:

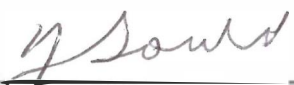
- 1) The relaxation does not contravene the Town's Basic Planning Statement and intent of the Zoning Bylaw.
- 2) The relaxation does not encroach upon or injuriously affect neighbouring properties.
- 3) The requested relaxation is not a special privilege as others have been granted a similar relaxation.

**Carried.**

**Adjournment:**

**CORY SCHILL: Moved/Seconded: DENNIS GOULD:** That the hearing adjourn at 7:25 PM.

**Carried**

  
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**Dennis Gould, Board Chair**