

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

May 16, 2012

Minutes of the Wednesday May 16, 2012 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #03-12 [REDACTED], Lot 15, Block 2, Plan 76R05819, 5 Confederation Drive.

Present: Chairman: Dennis Gould
Board Members: Wes Memory, Bill Wood, Glenn Weir

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 #02-12:**

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 1 page submission received May 8, 2012.
- Development Officer's Report.
- The Town of White City refused Development Permit.
- Zoning Bylaw No. 541-10, Section 4.2.4. Accessory Regulations with respect to R2 area.
- Letter dated April 19, 2012 to Town of White City from [REDACTED].
- Drawing of New Garage Addition (2 Pages)
- Site Plan.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated April 30, 2012.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated April 30, 2012.
- Notice of the appeal sent to 12 adjacent property owners.
- A copy of Bylaw 541-10.
- 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 twelve (12) property owners within 75 metres were notified of the appeal application and hearing and that no objections have been 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. The Appellant had not much more to add to his comments on his submission. He feels that it would be best to add on to the existing garage and it would be much better for street appeal.
2. The Appellant commented on the four or five items in his submission.
3. There were no concerns from the neighbours and the roof pitch does not exceed the house roof line.

Town Development Officer: Debi Breuer

The Development Officer stated that the zoning bylaw has seen many changes. We evolved in 2009 combined a number of zones together. There may be a lot of non-confirming buildings but they have been grandfathered in. She stated that the appellant's original garage exceeds the 5% of lot area. If he was to add the garage onto his house it would be permitted. But this is detached garage so it is two separate things.

Question:

Q: The appellant's argument is very persuasive, notwithstanding the Development Officer's report. The site plan looks well thought out. Do any trees or power lines need to be removed?

A: No.

Q: What is the wall height in the addition of the garage?

A: 12 feet.

Q: And the pitch is not higher than the house?

A. No.

Q. On property line to the actual building... is it 10 feet from the property line to the concrete and then 3 feet from concrete to edge of garage?

A. The wall is 10 feet from property line.



Q. Are you going to finish the exterior of the addition the same as the existing garage?

A. Yes.

Final comments:

The appellant had no further comments.

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 15, Block 2, Plan 76R05719 in the Town of White City.
- 2) The subject lands are zoned R-2 as set out in the Town of White City Zoning Bylaw 541-10.
- 3) The development permit was denied because the proposed addition to the detached garage exceeded the 5% total maximum allowable floor area for an accessory building in the R-2 Residential District Zone.

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

Special Privilege: During general discussion the Board indicated that they were prepared to grant the same privilege to another applicant for the same circumstances.

The [REDACTED]'s situation is similar to other recent cases where under the current Bylaw the proposed building exceeds the 5% maximum allowed for accessory buildings. In this case the excess is a minor amount and the Board is therefore willing to allow a relaxation in this case as well as to others who would have similar circumstance in their appeal.

Therefore the application does clear this bar.

Intent: The requested relaxation is a very small amount and the Town does not seem to oppose this small variance. The Board does not see this relaxation as a material amount and are prepared to approve this relaxation.

The [REDACTED]'s application therefore clears this bar.

Injurious affection:

There was no “injurious affection” demonstrated or posed during the appeal hearing.

The [REDACTED]'s application therefore clears this bar.

**Appeal #03-12
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 May 16, 2012 at the Town of White City Municipal Office.

DENNIS GOULD: Moved/Seconded: GLENN WEIR: That Appeal #03-12 made by [REDACTED] for a relaxation of the Zoning Bylaw 541-10, to permit an addition to a detached garage to exceed the 5% total maximum allowed floor area for an accessory building be granted, 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:

WES MEMORY: Moved/Seconded: BILL WOOD: That the hearing adjourn at 7:25 PM.

Carried



Dennis Gould, Board Chair