

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

April 19, 2017

Minutes of the Monday, April 19, 2017 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #04-17 [REDACTED], Lot 18, Block 35, Plan 102095692, 7 Stanford Bay.

Present: Chairman: Dennis Gould
Board Members: Glenn Weir, Bill Wood, Dale Strudwick, Cory Schill and Amanda Sutton

Development Officer: Dagmar Crumley

Secretary: Bonnie Stanley

Appellants: [REDACTED]

Adjacent Property Owner: Ben Kuzmicz

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 Appellants [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 #04-17:**

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, E-mail from Town Planner and New plot plan received April 12, 2017.
- Development Officer's Report.
- The Town of White City Development Permit Form "A".
- The Town of White City Development Permit – Notice of Decision Form "B".
- Site Plan
- Town of White City Zoning District Map
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated April 6, 2017.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated April 6, 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 eighteen (18) property owners within 75 metres were notified of the appeal application and hearing and that there were no objections 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.

Appellants:

The Appellants stated that they had nothing further to add to their written submission.

Town Development Officer: Debi Breuer

The Development Officer stated that she had nothing further to add to her report.

Adjacent Property Owner: Ben Kuzmicz

All I'd like to say is I understand the process and when Mr. & Mrs. [REDACTED] came in with their plans it was definitely 10% over on the side yards. We automatically looked at it and it was a rejected and said go back and started again. Well until they show me an email that came from the Town Planner which basically said they had a 10% variance. So there was either a misunderstanding or miscommunication that put our client's and Mr. Mrs. [REDACTED] through a lot of extra work somewhere along the line those communications from the Town has got to be more clear or there's got to be a better communication between....and I think maybe that happened because it was a new employee, I'm not sure. But the

simple fact is we were able to get them to move their whole structure back to the minimum on the rear yard which gave them a side yard of a few centimeters over a period of about a meter. Frankly this was a mistake on the Town and the information that was given to these people when they did their plans. I'm not here to lay blame. I'm just here to say that's the way I interpret it. I've never come to one of these hearings, but somewhere along the line I mean you can 't ask or I guess you can.....they spent \$3000 to - \$5000 making these plans, following the directions of the Town so that's all I'm saying and there definitely was a communication problem.

Question:

The Board had no questions for the Appellants.

Final comments:

The Appellant had nothing further to add.

The Town Development Officer had no further comments.

The Appellant left at 7:10 PM.

The Town Representative left at 7:10 PM.

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

- 1) The subject lands are legally described as Lot 18, 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 2.5 meter side 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 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:

- The [REDACTED]'s lot is an irregular shaped lot, being significantly narrower at the front.
- The requested relaxation in this case is .04 Meters, or 1.5748 inches, in an area requiring a 2.5 Meter side yard setback. This relaxation request is less than 2% of the 2.5 meter requirement. This is a very minor amount.

Special Privilege:

- During discussion the Board members were unanimous that allowing a side yard relaxation of .04 meters, or less than 2 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 [REDACTED]'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 [REDACTED]'s application does clear this bar.

██████████

Injurious affection:

- There was no injurious affection demonstrated during the hearing.

Therefore the ████████'s application does clear this bar.

**Appeal #04-17
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 April 19, 2017 at the Town of White City Municipal Office.

DENNIS GOULD: Moved/Seconded: AMANDA SUTTON: That Appeal #04-17 made by ██████████ for a relaxation of the Zoning Bylaw 581-14, to permit a single detached dwelling to encroach into required 2.5 meter side 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:

BILL WOOD: Moved/Seconded: DENNIS GOULD: That the hearing adjourn at 7:30 PM.

Carried



Dennis Gould, Board Chair