

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

**March 18, 2015**

Minutes of the Wednesday, March 18, 2015 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #01-15 [REDACTED], Lot 5, Block 39, Plan 102095692, 9 Oxford Bay.

**Present:** Chairman: Dennis Gould  
Board Members: Bill Wood, Amanda Sutton, Glenn Weir, 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 6:52 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 #01-15:**

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 dated March 18, 2015.
- Development Officer's Report.
- Refused Development Permit, Development Permit Application, Building Permit Application, Accessory Building Specifications, Site Plan.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated February 10, 2015.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated February 10, 2015.
- Notice of the appeal sent to 14 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 fourteen (14) 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. He is looking to build a 12' x 16' shed along side of house. There is large space there at the side of the house. Plans for backyard include a play structure and landscaping. The exterior of the shed would match the stucco that is on the house. He assured the Board that it will be very well built. Wooden floor or concrete it will be solid.
2. He would appreciate the approval for the variance as he feels that it is the ideal spot to put a shed.

**Town Development Officer: Debi Breuer**

The Development Officer stated that she had nothing further to add to her report. That she is bound to follow the zoning bylaw. What the Appellant submitted contravened the bylaw. Appeals of Sheds or accessory building that come mostly to these hearing are due to placement. Yards are smaller than older parts of the Town is it is sometimes awkward to place them.

**Question:**

Q: Is the play structure already built?

A: No.

Q. A question on measurement on site plan. Are you asking for a 1.5 metre relaxation from 2.5 metre side yard setback? It looks like you are asking for a 1 metre setback.

A. There was a further clarification between metres and feet and the Appellant confirmed that the relaxation was in feet.

Q. What is principle use of shed?

A. It's a garden shed to store equipment, bikes, lawnmower, etc.

Q. Why wouldn't you move it 8 feet over?

A. The garage is a drive through and access to back yard.

Q. Have you consulted the fence line with the neighbor?

A. There is currently nothing on neighboring property. The lot belongs to a builder.

Q. Why wouldn't you put the shed behind the principle building?

A. They would like to put the deck and patio on one side and play structure on the other.

Q. Is it at all an option to relocate the shed from the site plan you presented?

A. Yes, but I prefer not to. Open to maybe a touch smaller shed. Maybe a 10' x14' shed.



- Q. The shed appears to be in a parallel line of the house?
- A. Yes.
- Q. The space between the edge of shed as drawn now and up to the house is that all driveway?
- A. Plan on pouring a pad for access to backyard from the garage. It is not going to be used as a driveway.
- Q. If the shed was moved would it block the garage door?
- A. Yes.
- Q. Have you considered making it smaller and portable?
- A. I would like a bigger shed. 2 small sheds won't look great. I don't want to consider that option.
- Q. The property beside is vacant and say you get approved to build shed 1 foot from property line. Your neighbor eventually buys and builds. Because if you get approval your future neighbor can also ask from same type of relaxation. What are your thoughts on that?
- A. It depends on the scenario. I'm open to suggestions.

The Development officer then spoke to drainage issues. If the sheds are close together it will create problems with drainage.

**Final comments:**

Appellant has no further comments.

The Town Development Officer had no further comments.

The Appellant left at 7:20 PM.

The Town Representative left at 7:30 PM.

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

- 1) The subject lands are legally described as Lot 5, Block 39, Plan 102095692 in the Town of White City.
- 2) The subject lands are zoned R-7 as set out in the Town of White City Zoning Bylaw 541-10.
- 3) The development permit was denied because the proposed accessory building 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:

1. The requested relaxation request is for a side yard relaxation of 1.5 meters. This would leave the side yard setback to be 1 meter. However, the lot plan provided showed that the actual relaxation requested was more and the remaining setback was only 1.5 feet.
2. The accessory building is planned to be situated in the vacant space 8.8 feet behind the garage and 11.5 feet from the side of the house. The Appellant stated that they need the accessory building to be that far from the house to allow access to the drive through door in the rear of the garage.
3. The “kid’s play structure” shown on the lot plan is not actually there yet, but the Appellant’s intentions are to build one in that area towards the rear of the lot.

4. The Town representative pointed out that the accessory building does not comply with the Accessory Building Regulations to be at least “1 meter from the rear of the building line of the principal building”. It was also pointed out that the setbacks are in place to allow for drainage and maintenance of the space.

Special Privilege:

During general discussion the Board indicated that the Appellant had not convinced them that it was necessary to grant the requested relaxation for the following reasons:

- The Appellant’s have a preference to place the accessory building behind their garage and beside the house. They have not convinced the Board that there are not other alternatives to position the building in the rear of the yard to comply with the set back as required in the Bylaw.
- To allow the requested setback relaxation could cause problems with drainage and maintenance behind the building.

Therefore the [REDACTED]’s application does not clear this bar.

Intent:

In its documentation the Town provided the intent of the bylaw. The Board considers the request for relaxation of the side yard setback to be excessive for Zone R7, the Board also agrees that the building must be at least 1 meter from the rear of the building line of the principal building, as such, defeats the intent of the bylaw.

Therefore the [REDACTED]’s application does not clear this bar.

Injurious affection:

There was “injurious affection” demonstrated or posed during the appeal hearing.

- To allow the requested setback relaxation could cause problems with drainage and maintenance behind the building.

Therefore the [REDACTED]’s application does not clear this bar.

**Appeal #01-15**  
**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 March 18, 2015 at the Town of White City Municipal Office.

**Glenn Weir: Moved/Seconded: Dennis Gould** That Appeal #01-15 made by [REDACTED] for a relaxation of the Zoning Bylaw 541-10, to permit an accessory building to encroach into required 2.5 meter side yard setback be denied, for the following reasons:


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

**Carried.**

**Adjournment:**

**Bill Wood: Moved/Seconded: Dennis Gould:** That the hearing adjourn at 8:00 PM.

**Carried**

  
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**Dennis Gould, Board Chair**