

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

May 18, 2016

Minutes of the Tuesday, May 18, 2016 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #02-16 [REDACTED], Lot 3, Block 6, Plan 76R5619, 6 Federal Drive.

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

Development Officer: Debi Breuer

Secretary: Bonnie Stanley

Appellants: [REDACTED]

Introductions:

Chairman Dennis Gould stated that the board had come to order at 7:15 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 #02-16:**

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 4, 2016.
- 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".
- 2 Site Plans for garage.
- Google earth aerial photograph.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated April 18, 2016.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated April 18, 2016.
- Notice of the appeal sent to 12 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 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 referred to his submission. He is also looking at putting up 2 car garage in back. He won't be using it as a garage. It will be used more as a workshop. The garage will be finished exactly the same as house ie., shingles, siding, soffits, etc. There is a natural gas line that runs right off back corner of house. He can't build the garage overtop of the natural gas line. If has to move the garage to comply with the bylaw he would have to tear out flower beds, sidewalk and a 30' pine tree. He does not want to have to cut it down. He can't go to other side of yard as the same rules would apply. This only eaves one spot which is right in the middle of back yard and that would not be esthetically pleasing. He looked at putting it further back but there is a high rise on hill and he would have to dig into it. He talked to all neighbours except for one and there were no objections. There is 50 feet between him and his neighbor. The garage package will come from Friess Talhman and the trusses come from Gangnail

Town Development Officer: Debi Breuer

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

Question:

Q: What is the distance between the property line and the side of your house?

A: Roughly 33 feet.

Q: Referring to the photo - That appears to be grass on the east side, it's not a driveway right now is it?

A. You can go down the easement. The whole idea for the garage would be for woodworking and storage (garden tractor).

Q. How wide is the proposed building?

A. 26' x 34'. It might be a bit longer as I haven't quite decided yet.

Q. Is the overhead door on the alley side?

A. Yes.

Final comments:

The appellant said that he didn't want to put the garage in the center of yard as he will eventually be putting up a new deck in backyard.

The Town Development Officer had no further comments.

The Appellant left at 7:25 PM.

The Town Representative left at 7:25 PM.

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

- 1) The subject lands are legally described as Lot 3, Block 6, Plan 76R5619 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 581-14.
- 3) The development permit was denied because the proposed detached garage encroached into the required 4.8 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 positioning of the accessory building is the Appellant’s preferred location. There are other alternatives to its positioning, but that would involve moving a natural gas line and or infringing on flower beds, sidewalk and mature trees in the rear of the Appellant’s lot.
2. The Board acknowledges that the neighbour to the East would not be directly affected by the Appellant’s positioning of the building in this case, because there is a 50 foot drainage easement between the 2 properties.
3. The side yard setback requirement for Zone R2 is 4.8 Meters. The relaxation requested is 3.58 meters, approximately 11 feet, or 75%, and during discussion the Board members considered this amount of relaxation to be excessive in this case or other cases involving similar circumstances.

██████████
Special Privilege:

- The Board considers a side yard relaxation request of 3.58 M, or about 11 feet, to be excessive and is not prepared to grant such a relaxation in this case nor in other cases that might have the same circumstances. Granting this request would be a “special privilege” that the Board would not grant to others.

Therefore the ██████████'s application does not clear this bar.

Intent:

- The Board considers this relaxation request to be excessive, and would defeat the intent of the zoning bylaws.

Therefore the ██████████'s application does not clear this bar.

Injurious affection:

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

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

**Appeal #02-16
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 18, 2016 at the Town of White City Municipal Office.

CORY SCHILL: Moved/Seconded: GLENN WEIR: That Appeal #02-16 made by ██████████ ██████████ for a relaxation of the Zoning Bylaw 581-14, to permit a detached garage to encroach into required 4.8 meter side yard setback be denied, for the following reasons:

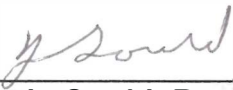
- 1) The relaxation does contravene the Town's Basic Planning Statement and intent of the Zoning Bylaw.
- 2) The requested relaxation is a special privilege and others have not been granted a similar relaxation.

Carried.
... 6

Adjournment:

DENNIS GOULD: Moved/Seconded: BILL WOOD: That the hearing adjourn at 7:40 PM.

Carried



Dennis Gould, Board Chair