

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

August 17, 2016

Minutes of the Tuesday, August 17, 2016 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #03-16 [REDACTED], Lot 19, Block 35, Plan 102095692, 9 Stanford Bay.

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 7:00 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 #03-16:**

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 2 page submission, received July 19, 2016.
- Development Officer's Report.
- The Town of White City Order to Remedy.
- Copy of letter dated June 6, 2016 from Town of White City Development Officer to [REDACTED].
- One Page summary from Development Officer
- Photograph of sea can at 9 Stanford Bay
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated July 22, 2016.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated July 22, 2016.
- Notice of the appeal sent to seven (7) 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 seven (7) 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 her written submission the Appellant stated:

1. They are looking for extension with regard to the removal of sea can. A relaxation in the bylaw in this instance so they can complete their house and then remove sea can as soon as possible thereafter.
2. The sea can is completely full at this time and trying to remove contents and move it would be very difficult. They have no place to store their stuff.
3. Had they known prior they would not have put a sea can on the property.
4. They had gotten approval from developer. That it had been done numerous times in new construction. Gotten approval from a staff member. Wording was a storage container. That there was a misinterpretation and miscommunication regarding the sea can storage container. They weren't aware that it was a sea can. The staff member did not tell her she needed a permit for the sea can.
5. She thought that the sea can was a storage container. She has seen several sea cans at Bower west phase 3 as well.
6. She is asking to have it extended a couple more months to October 31st. The house is being painted so it is getting close to being completed.

Town Development Officer: Debi Breuer

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

Question:

Q: Have you seen the Development Officer's report?

A: Yes I read it.

Q: You mentioned you saw other sea cans in the same general area. Can you be specific as to how many and where?

A: 2 on Motherwell, 1 across the bay but it is gone now and 1 in a neighbour's front yard. She heard there was one the size of hers being used by someone and operating a business out of it.

Q. Have you actually seen this particular sea can?

A. No.

Response from Board Member Wood: Then your comment is actually hearsay.

Q: Do you know specifically the difference between a sea can and storage container?

A. Sea cans have that certain look.

Q. You don't think there is any difference in size?

A. Yes there are different sizes.

Q. Did the Town know anything about these other sea cans?

A. I asked Publics Works Manager to check the Town for any more sea cans. He did find other Storage Units but they were smaller and there were permits for each of them.

Q. Our Secretary provided the Board Members with certain information on July 22, 2016. Included in that information was a picture of a "big storage bin" shown as "Schedule "A". Where did this picture come from?

- A. The Town's Public Works Manager took the picture of the sea can in the Appellant's back yard.
- Q. Is this the unit in your back yard?
- A. Yes.
- Q. What are you going to do you with the storage container after October 31st.
- A. We are just renting it and they are going to pick it up.
- Q. Who is this rented from?
- A. We rent it from a company called Star Containers.
- Q. Is Pups containers or Big Steel bins permitted?
- A. Yes provided they do not exceed the size limit.
- Q. You had access to the Town's Zoning Bylaw?
- A. Yes on the website.
- Q. What's being stored in the sea can?
- A. Furniture, construction items and tools.
- Q. How long has the sea can been in your back yard?
- A. April 20th, 2016. End of April sometime.
- Q. To Development Officer: Is a permit required to place a storage container?
- A. Yes. A temporary development permit.
- Q. You say there are other sea cans in your area, but I believe what you are seeing are big steel bins, and Pups, and they are approved storage containers as defined by the Town. Could you confirm if they are those containers?

- A. Not sure what they are.
- Q. You are here to ask for an extension of time before you are required to remove the sea can, in fact you do not have a permit to be extended. Therefore you cannot be asking for an extension as you do not have a permit to extend.
- Q. From the Appellant: What am I asking for then?
- A. From Board Member Weir: A special privilege.
- A. From the Appellant: Ok then.

Final comments:

The Appellant had nothing further to add.

The Town Development Officer had no further comments.

The Appellant left 7:23 PM.

The Town Representative left at 7:23 PM.

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

- 1) The subject lands are legally described as Lot 19, 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 owners have placed a mobile storage container (rail or sea can) on their property which is strictly prohibited in any Residential District in the Town of White City.

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 required space to store household items, building material & tools while their home was being constructed. They accepted information from the Developer of their lot, and from an individual at the business where they rented the Sea Can, that it would be OK to put a Sea Can on their lot and store items in it until their new home was completed.
2. The [REDACTED]’s seem to have been unaware that the Town Bylaws require that a permit is required before placing a Portable Storage Unit on their lot. However, being unaware that a permit was required does not change the fact that the Sea Can was placed on their lot and these units are not allowed in any residential district.
3. They were however fully aware that a building permit was required to build their home, and if they had consulted with the Town Development Officer in advance, the Board is confident that the [REDACTED]’s would have been given the correct information about the type and size of storage containers that are allowed in residential districts.
4. The Town Representative, in her report, has pointed out that the maximum capacity for the allowable Portable Storage units is 28.21 cubic meters. She has also shown the size of Sea Cans to be 40 feet long, and that their capacity is 90.61 cubic meters. That is more than 3 times the capacity of the allowable portable storage units.

5. In reviewing clause 3.5.12(f) of the Bylaw, it is abundantly clear that “sea cans” are strictly prohibited in any Residential District. Also, 3.5.13 clearly states the conditions for portable storage units to be placed on a lot, including permit requirements and size limitations for the container. It seems abundantly clear that Council drafted these sections with clarity and details to remove all doubt as to what storage units are allowed, and what storage units are not allowed in residential districts.

Special Privilege:

- During discussion the Board members were unanimously opposed the Sea Can being allowed at 9 Stanford Bay and it should be removed as soon as possible. The bylaws are abundantly clear that Sea Can units are prohibited in any residential district and the Board will not allow one in any residential district, now or in the future.
- Granting this request would be a “special privilege” that the Board would not grant to others.

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

Intent:

- The Board considers the Appellant’s request to be strictly contrary to the clearly worded requirements of the Bylaw, and if allowed would defeat the intent of the zoning bylaws.

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

Injurious affection:

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

Therefore the [REDACTED]’s application does clear this bar.

**Appeal #03-16
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 August 17, 2016 at the Town of White City Municipal Office.

GLENN WEIR: Moved/Seconded: DENNIS GOULD: That Appeal #03-16 made by [REDACTED] for a relaxation of the Zoning Bylaw 581-14, to permit a sea can to be placed at 9 Stanford Bay 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 as others have not been granted a similar relaxation.

Carried.

Adjournment:

BILL WOOD: Moved/Seconded: DENNIS GOULD: That the hearing adjourn at 7:45 PM.

Carried



Dennis Gould, Board Chair