

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

**July 29, 2015**

Minutes of the Wednesday, July 29, 2015 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #04-15 [REDACTED], Lot 1, Block G, Plan 101965068, 44 Lott Road.

**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] and [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 #04-15:**

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 1 page submission received July 27, 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 June 30, 2015.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated June 30, 2015.
- Notice of the appeal sent to 5 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 five (5) 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 thanked the Board Members for taking the time out to spend time to hear their request. He provided some background information about them and why they wanted to build in White City. They have lived in Pilot Butte for a numbers of years and have been actively involved in the community. Another reason for moving to White City is that [REDACTED] now has a job in White City.
2. Their intent was always to conform to bylaw, but there was a bit of miscommunication between the architect, the builder and themselves. Went in with good intentions and are emotionally invested with the house plans. They found out later that there was a width problem with the house. They had discussed the issue with the most immediate neighbor and thought it was a logical route to take this matter to the Development Appeals Board.
3. There is a low risk relating to the municipal reserve and walking path that they would encroach upon. He does not believe that anything else could be done with the municipal reserve (ie future construction).
4. They are very passionate about the design of the house and feel that building this beautiful home will only increase the values of the neighbouring properties.

**Town Development Officer: Debi Breuer**

The Development Officer stated that she had nothing further to add to her report other than the fact that in the report the zoning bylaw was getting amended and on Monday night Council gave 2<sup>nd</sup> and 3<sup>rd</sup> reading to the bylaw amendment and this area of White City is now considered and R4 instead of an R3.

**Question:**

Q: What previous decisions were you referencing?

A: In a conversation with town. I did not look at previous cases, but they did say there were cases that were approved.

Q: On the south side of lot can anything be built?

A: There is a neighbor to west and the municipal reserve on east.

Q: If you decided to put up fence and people notice that the fence is 2 feet from house.

A: We thought of using trees instead of a fence.

Q: What is the side yard distance on the neighbor's side?

A: 2.5 meters.

Q: So you're looking for 1.75 meter relaxation of the reserve side?

A: Yes.

Q: There would only be .7 of a meter left for the side yard?

A: Yes

Q: Has there been any consideration to shift house?

A: Maintaining the width with neighbor's property was the priority.

Q: Is there any option to purchase that 1.75 meters of the municipal reserve?

A: If that was an option we would pursue it.

**Final comments:**

Appellant had no further comments. He appreciated your consideration and time. They love the property and design of house. Any recommendation would be acceptable.

The Town Development Officer informed the Board and Appellant that she is aware that the Town is presently negotiating with another home owner to purchase a piece of the public reserve next to the home owner's lot.

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 1, Block G, Plan 101965068 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:

██████████

1. The required side yard setback in Zone 4 is 2.5 meters. The requested relaxation request is for a portion of the side yard, where the Principle Building will encroach into the side yard setback requirements by 1.756 meters.
2. Immediately adjacent to the South East side of the lot, where the relaxation is requested, is a Municipal Reserve, then a paved walking path and then a small creek bed. There is no possibility that there will ever be a home built adjacent to this side of the appellants lot.
3. If this side of the yard is fenced in, the space between the fence and the Principle Building would be .75 of a meter, or less than 30 inches. The appellant, or any subsequent owner, may find this space to be very limiting for any use to be made of this area in the future.

Special Privilege:

- The Board considers a side yard relaxation request of 1.756 meters, or a relaxation request of 70%, 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 such a large relaxation request to be excessive, particularly for a Principle Building, 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 #04-15  
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 July 29, 2015 at the Town of White City Municipal Office.

**DENNIS GOULD: Moved/Seconded: BILL WOOD:** That Appeal #04-15 made by [REDACTED] 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 denied, for the following reasons:

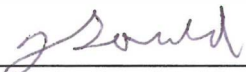
- 1) The relaxation does contravene the Town's Basic Planning Statement and intent of the Zoning Bylaw.
- 2) The requested relaxation is a special privilege as others have not been granted a similar relaxation.

**Carried.**

**Adjournment:**

**GLENN WEIR: Moved/Seconded: AMANDA SUTTON:** That the hearing adjourn at 7:25 PM.

**Carried**

  
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**Dennis Gould, Board Chair**