

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

**April 18, 2012**

Minutes of the Tuesday, April 18, 2012 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #02-12 [REDACTED], Lot 8, Block 9, Plan 101857855, 35 Fernwood Street.

**Present:** Chairman: Dennis Gould  
Board Members: Wes Memory, Bill Wood

Development Officer: Debi Breuer

Secretary: Bonnie Stanley

**Appellants:** [REDACTED]

**Introductions:**

Chairman Dennis Gould stated that the board had come to order at 7:10 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 #02-12:**

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 submissions along with site plan.
- Development Officer's Report.
- The Town of White City refused Development Permit.
- Professional Building Inspections Inc. Plan Review Check List.
- Residential Development Permit and Site Plan
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated March 19, 2012.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated March 19, 2012.
- Notice of the appeal sent to 4 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 four (4) 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 2<sup>nd</sup> garage proposal is to put a business vehicle of into the garage for winter storage, etc. Also items such as general tractors and lawn mowers He would like to have a place for those items so that they would not be kept in yard. The height in garage is within specifications and the biggest thing that he was looking for was to ease into the side yard setback which is 7.5 meters. He would like to encroach 2.93 meters, to a point which is 4.6 meters from the property line.
2. The garage will still allow for shelter of trees between his and the neighbors yards. Two rows of poplars have already planted.
3. He stated that his lot is long in length and if the garage was within the side yard setbacks it would take up more space in back yard.
4. He wants to keep garage out of kid's way so they won't get harmed when backing out.
5. He has an underground sprinkler system and he would be have to move several lines.
6. The driveway to the 2<sup>nd</sup> garage would connect with driveway along side of the house.

7. If he were to place the garage further into the yard, more driveway would be required and it would cost more to create and maintain.
8. He stated that noise would not be a concern to the neighbours as he doesn't run odd hours of any kind. His business is 9-5 operation.
9. There are natural bushes in back yard and he does not want to remove any. If he has to place garage further into yard he would have to take some out.

**Town Development Officer: Debi Breuer**

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

**Question:**

- Q: On the diagram there is a square indicating the underground manifold system? Where are they specifically?
- A: One is to the left of the house and the other is in the southeast corner of where the garage would be.
- Q: How many lines are there by the one by the garage?
- A: There's 4 lines plus an extra water outlet (tap).
- Q: You show a sandbox and play structure in your site plan. How far is that from the side of the garage?
- A: I didn't measure....approximately 70 feet possibly.
- Q: Do you know how far your house is back from the front of the yard?
- A: Development Officer stated – 15 meters.
- Q: Do you know approximately how far it is from the back of the house to the front of the detached garage?
- A: I paced it out and I think it was around 55-60 feet parallel.
- Q: Did we send out send notices to adjacent property owners?



- A. Board Secretary - Yes notices were sent to 4 property owners. I did receive a call from a neighbor and her concern was if it was going to be placed on the property line. I said that it was not that it encroached approximately half of the side yard setback. She was fine with that.
- Q. Are you the 2<sup>nd</sup> house from pipeline easement?
- A. The third house in from the pipeline easement.

**Final comments:**

The appellant said he's unsure of sandbox measurement to garage. One of the other reasons to place the garage into side yard was to keep it as far away from children at play. The two rows of trees will reduce any noise from garage and maintain a windbreak. His original thought was to go 10 feet but he would lose a row a trees and he did not want to do that as they are already established.

The Town Development Officer had no further comments.

The Appellant left at 7:30 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 8, Block 9, Plan 101857855 in the Town of White City.
- 2) The subject lands are zoned R-3 as set out in the Town of White City Zoning Bylaw 541-10.
- 3) The development permit was denied because the proposed detached garage encroached into the required 7.5 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 are:

- Special privilege
- Intent
- Injurious affection

Special Privilege: During general discussion the Board indicated that they were prepared to grant the same privilege to another applicant for the same circumstances.

The [REDACTED]’s situation is similar to another case in Zone R3 where the proposed building was on an angle and only a corner of the building encroached into the side yard setback. In the [REDACTED] case, the entire side of the proposed building encroaches into the side yard setback but to a much lesser extent than in the above referenced case. The Board is therefore willing to allow a relaxation in this case as well as to others who would have similar circumstances in their appeal.

Therefore the application does clear this bar.

Intent: Certainly White City’s appeal, and distinguishing factor, are its large lots and the resulting feeling of space and country living. The 10 meter side setback does foster feelings of space and country living; encroaching into that setback therefore does compromise the apparent intent of the bylaw. However, in this case, there is no evidence that the neighbouring homeowners are concerned that the requested relaxation would cause an encroachment into their space.

Therefore the application does clear this bar.

Injurious affection:

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

The [REDACTED]’s application clears this bar.

**Appeal #02-12  
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 18, 2012 at the Town of White City Municipal Office.

**WES MEMORY: Moved/Seconded: DENNIS GOULD:** That Appeal #02-12 made by [REDACTED] for a relaxation of the Zoning Bylaw 541-10, to permit a detached garage to encroach into required 7.5 meter side yard setback be granted, for the following reasons:

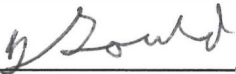
- 1) The relaxation does not contravene the Town's Basic Planning Statement and intent of the Zoning Bylaw.
- 2) The relaxation does not encroach upon or injuriously affect neighbouring properties.
- 3) The requested relaxation is not a special privilege as others have been granted a similar relaxation.

**Carried.**

**Adjournment:**

**DENNIS GOULD: Moved/Seconded: BILL WOOD:** That the hearing adjourn at 8:00 PM.

**Carried**

  
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**Dennis Gould, Board Chair**