

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

March 13, 2017

Minutes of the Tuesday, March 13, 2017 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #03-17 [REDACTED], Lot 12, Block 12, Plan 101879433, 153 Meadow Road.

Present: Chairman: Dennis Gould
Board Members: 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 7:25 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 #03-17:**

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 Submission received March 13, 2017.
- 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".
- Building Permit Application.
- Professional Building Inspections Inc. Detached Garage - Specifications.
- Site Plan.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated February 23, 2017.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated February 23, 2017.
- Notice of the appeal sent to 20 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 nine (9) property owners within 75 metres were notified of the appeal application and hearing and that no objections have been received.

The Board acknowledged correspondence from Darren Shivak, but that his submission has no negative impact on this case.

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 submission the Appellant stated:

1. Thank you for taking time to hear appeal tonight. My name is [REDACTED], and my wife Jamie and I and our 3 kids have resided at our current residence at 153 Meadow Road since 2007. We own and operate a business called Rapid Lawn Hydroseeding & Landscaping that services White City, Regina and area. We are also very involved in the community with sports and recreation and volunteer numerous hours every year. This is just a bit of background about us.
2. We submitted our building permit for a new detached garage in early January 2017 which was refused due to side yard setback saying a required setback of 4.8 meters so I bring forth this appeal for the following reasons:
3. The Appellant referred to his written Submission outlining his Reasons for Appeal.

Town Development Officer: Debi Breuer

The Development Officer stated that she had nothing further to add to her report. But she did comment on the following: "I'd like to say one thing at the time [REDACTED] when you built your house I probably did your permit. At the time when [REDACTED] built which were 2 zoning bylaws previous we had a limit on the size that person

could have an attached garage and therefore because of that limit it ended up in that area and in that timeframe there were a lot of extra detached garages that seemed to pop up because we had a limit on the size of attached garages. Now most of them are attached 3 car garages. Back then they were a majority of 2 car attached garages. So I just wanted you to be aware that it wasn't setback issues back then it was size of the garage."

Question:

- Q: You said that to comply with the setback requirements you would have to move it to the back of the lot. Do you know how far you would have to move it back in order to get the 4.8 side yard setback?
- A: So pretty much the northwest corner of garage would have to be in line with south end of our house.
- Q: The way you have the gas line shown. It runs pretty much straight north and south doesn't it? Parallel to the house?
- A: Yes it does. But what I'm say is if we angle the garage which we don't want to angle the garage and move it back it's going to be at least half way past the house. We still need to be a meter away from the gas line. I didn't scale this out. It's based on my rough calculations on my measurements.
- Q: So let's say you move this garage 5 to 6 feet straight back. No angle no nothing. Parallel to the house. Do you not think it might fit within the 4.8 meter setback?
- A: I don't think it will.
- Q: The 2 measurements on the east side of the site plan, 10.30 and 10.31. Is that correct? The opposite side of the building.
- A: Yes
- Q: So the garage doesn't fit on that side either does it?
- A: No the way our lot is set up the only front yard landscaping we have is on the northeast corner of the house. The northwest is our driveway and crushed rock. The only grass we have is on the northeast side of the house.

Final comments:

The Appellant had nothing further to add.

The Town Development Officer had no further comments.

The Appellant left at 7:45 PM.

The Town Representative left at 7:45 PM.

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

- 1) The subject lands are legally described as Lot 12, Block 12, Plan 101879433 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 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 [REDACTED]'s lot is a large pie shaped lot, narrow at the front (North) and much wider at the back. At the appellant's desired position for the accessory building, there is about 12 feet from the front corner of the building the side yard property line. The required side yard setback is slightly less than 16 feet. At the rear of the building the distance to the side yard property line is about 23 feet.
2. The appellant estimated that the building would have to be moved back half the length of the building in order to comply with the setback requirement of 4.8M, or slightly less than 16 feet.

██████████

3. However, during discussion the Board did calculate the distance that the building would have to move back. The length of the garage is 24 feet, and in that measurement the distance to the property line increases 11 feet. (23 less 12) The present encroachment is nearly 4 feet, therefore, if the building is moved straight back 1/3 the length of the building, the distance to the property line will increase by 1/3 of the 11-foot differential, nearly 4 feet. Moving the building back 8 feet would enable it to fit within the setback requirements.

4. The appellant also provided several photos of accessory buildings in the area which he indicated didn't look like they were setback as required by the bylaw. The Town representative was asked if these buildings were erected before the current bylaw setback requirements were put in place, and she confirmed that they were likely erected under older bylaw requirements.

5. There are landscaping items behind the appellant's desired position for the building, moving the building back would interfere with some of these items.

The appellant has not convinced the Board that his desired position for the building, is the only viable placement for it. The landscaping items that may need to be revised are not insurmountable obstacles.

Special Privilege

During discussion, the Board members were unanimous that the 24% side yard relaxation requested, if allowed, would constitute a special privilege that we are not prepared to grant to others who might have similar circumstances.

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

Intent

The Board believes that a 24% relaxation of the side yard setback in this case, would defeat the intent of the bylaw.

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

Injurious affection

There was no injurious affection noted in this case.

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

**Appeal #03-17
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 13, 2017 at the Town of White City Municipal Office.

Dennis Gould: Moved/Seconded: That Appeal #03-17 made by [REDACTED] 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:

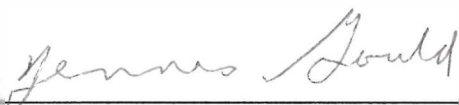
- 1) The relaxation does contravene the Town's Basic Planning Statement and intent of the Zoning Bylaw.
- 2) The requested relaxation is a special privilege as others have not been granted a similar relaxation.

Carried.

Adjournment:

Glenn Weir: Moved/Seconded: Dale Struckwick: That the hearing adjourn at 8:05 PM.

Carried



Dennis Gould, Board Chair