

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

**August 10, 2016**

Minutes of the Tuesday, August 10, 2016 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #04-16 [REDACTED], Lot 36, Block 36, Plan 102095692, 8 Yale Place.

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

Development Officer: Debi Breuer

Secretary: Bonnie Stanley

**Appellant:** [REDACTED] ([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 #04-16:**

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, site plan and subdivision plan, received August 1, 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".
- Site Plan.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated July 28, 2016.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated July 28, 2016.
- Notice of the appeal sent to 9 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 written objections have been received. Adjacent property owner, [REDACTED], attended the meeting.

**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 is asking for 2.47 metre variance for lot 36, 8 Yale Place. The Appellant advised that he has built this particular house on 4 different lots. The lot is an irregular lot and only 37 metres long. He said that he did received a 10% variance for the front of the house. No site lines would be lost. Lot 37 beside his lot is also irregular. He tried to make this particular house plan fit on the lot.
2. Only encroaching on a small corner of the back of the house.

**Town Development Officer: Debi Breuer**

The Development Officer stated that she had nothing further to add to her report. She did mention the fact that builders were having problems with these irregular lots. They were having difficulties in trying to fit homes on the lots within the required setbacks.

**Question:**

- Q: What is the total length of house and garage?
- A: The garage is 32x24 feet. Unfortunately I don't have those measurements with me. I would say 43 feet plus the garage.
- Q: It's not on the drawing?
- A: No.
- Q: Does the Dev Officer have the measurements?
- A: No.
- Q: To Development Officer – In terms of other appeals coming forward. Is it the Town's philosophy to grant the 10% variance?
- A: The 10% variance was brought into Bylaw because of irregular shaped lots in order to help the homes fit on these irregular properties.
- Q: It is not automatic?
- A: No.
- Q: How close are the 2 houses next to you?
- A: 2.5 meters on one side and the other has more. The house is still within the side yard setbacks.
- Q: Were there any objections from the property owners.
- A: None were received.

- Q. To [REDACTED] - Did you want to say anything at this hearing?
- A. She was wondering why the builder was looking to expand such a big footprint. Will block her backyard view.
- Q. Are you objecting to this request?
- A. I am yes.
- Q. To [REDACTED] - Have you started any construction?
- A. No. I've built 12 other houses and always try to build by the book.

**Final comments:**

The Appellant had nothing further to add.

The Town Development Officer had no further comments.

The Appellant left at 7:23 PM.

The Town Representative left at 7:24 PM.

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

- 1) The subject lands are legally described as Lot 36, Block 36, Plan 102095682 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 encroaches into the required 12 meter rear 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. In this case the lot involved is an irregular shaped lot, making it difficult to position some homes and attached garages, so the building will fit within the required front, rear and side yard setback requirements. This proposed structure would fit on any of the normal rectangular lots in Yale place that are 45M deep, but not on this particular odd shaped lot being slightly less than 38M deep.
2. The Development Officer had offered to relax the front yard setback requirement by 10%, (amounting to 1M), and this amount would not interfere with the street sightlines as this lot is on the outside of a curve. However this amount of relaxation was not sufficient to allow the rear of the structure to be within the 12M rear yard setback requirements. The building would still encroach into the rear yard setback requirement by an additional 2.47M.
3. The total of the front yard and the rear yard setback requirements is 22M. (10M front and 12M in the rear) The encroachments requested are 1M in the front yard and 2.47M in the rear yard, which amount to a relaxation of 10% encroachment in the front and a 20% encroachment in the rear.
4. The neighbor from the adjacent lot at 6 Yale place attended the appeal hearing and expressed her opposition to the rear yard relaxation. Her opposition was that the home would interfere with their sightline from their back yard, and that everyone should comply with the setback requirements like they had to when they built their home.

Special Privilege:

- During discussion the Board members agreed that a relaxation of 1M in the front yard is within reason and they would be prepared to allow that amount, as would be allowed to others in similar circumstances. However, the Board members are not prepared to allow a relaxation of 20% (2.47M) in the rear yard as this additional amount is excessive and the Board 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 Appellant’s application does not clear this bar.

Intent:

- The Board agrees to allow the 1M relaxation in the front yard but considers the additional relaxation requested in the rear yard to be excessive, and would defeat the intent of the zoning bylaws.

Therefore the Appellant’s application does not clear this bar.

Injurious affection:

The neighbor from the adjacent lot at #6 Yale Place expressed concern that the rear yard relaxation requested would interfere with their rear yard sightline, as well as their concern that all homeowners should be required to comply with local setback requirements as they were required to do when they built.

Therefore the Appellant’s application does clear this bar.

**Appeal #04-16  
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 10, 2016 at the Town of White City Municipal Office.

**DALE STRUDWICK: Moved/Seconded: DENNIS GOULD:** That Appeal #04-16 made by [REDACTED] for a relaxation of the Zoning Bylaw 581-14, to permit a single detached dwelling to encroach into the required 12 meter rear 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 relaxation does encroach upon or injuriously affect neighbouring properties.
- 3) The requested relaxation is a special privilege as others have not been granted a similar relaxation.

**Carried.**

**Adjournment:**

**CORY SCHILL: Moved/Seconded: BILL WOOD:** That the hearing adjourn at 7:45 PM.

**Carried**

  
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**Dennis Gould, Board Chair**