

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

**August 23, 2011**

Minutes of the Tuesday, August 23, 2011 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #03-11 [REDACTED], Lot 16, Block 2, Plan 76R05619, 3 Confederation Drive.

**Present:** Chairman: Dennis Gould  
Board Members: Wes Memory, Bill Wood, Glenn Weir  
  
Development Officer: Debi Breuer  
  
Secretary: Bonnie Stanley

**Appellants:** [REDACTED]

**Introductions:**

Chairman Dennis Gould stated that the board had come to order at 7:05 PM. The Chairman introduced the members of the Board, the Town Representative and the Secretary. The Chairman acknowledged the Appellants [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 #03-11:**

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.
- The Appellant's written submission – received August 15, 2011.
- Development Officer's Report
- The Town of White City refused Development Permit.
- Professional Building Inspections Inc. Plan Review Check List.
- Application for Building Permit
- Residential Development Permit and Site Plan
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated July 31, 2011.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Town Manager dated July 31, 2011.
- Notice of the appeal sent to 10 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 ten 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 their written submission the Appellant stated:

1. We are asking for a relaxation of the bylaw for the side yard minimum.
2. Referring to their written submission they are proposing to build a detached garage that is more than 10.5 metres from house in R2 area but will encroach in the side yard setback.
3. The minimum side yard setback is 3 metres and they are asking for 1.84 feet into side yard setback.
4. The reason we are doing so is because we didn't want to have to move SaskEnergy gas line to house. Cost of moving the line is approximately \$600 + GST.
5. On the other side of the yard there are mature trees, garden area and extensive landscaping, etc.
6. The gas line runs under deck and if it were moved it would affect the back yard landscaping and deck area. It would also affect the maple tree that is situated in middle of yard.

**Town Development Officer: Debi Breuer**

The Development Officer referred to her report. As a Development Officer her main purpose is that she upholds the zoning bylaw for permits that come in. Stating her opinion from the Town's standpoint of view, this is such a small variance and the Town does not have an issue with this encroachment.

**Question:**

Q: On the diagram which side of the garage will the garage doors be located?

A: The doors will be facing the back lane.

Q: The garage is 40' x 30'?

A: Yes.

Q: Any consideration to switching to 30' x40'?

A: The reason that it is 40' x 30' is that they want more room for like a snowmobile trailer and other items. They want to install double doors. Two 16' doors.

Q: The quote to move gas line. How is SaskEnergy going to relocate the line?

A: They will abandon the old line totally and cut it right off because the tubing is not up to code. They would just move it over 3 – 6 feet and run a new line to the meter. The meter would stay where it is. They would just move the line over. Not sure how they would run it in. Probably on an angle. The only place the garage is actually encroaching is on the front corner because the gas line is currently on an angle.

**Final comments:**

██████████ feel that they are not asking for something that is major regarding the encroachment into the side yard setback.

The Town Development Officer had no further comments.

The Appellant left at 7:20 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 16, Block 2, Plan 76R05619 in the Town of White City.
- 2) The subject lands are zoned R-2 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 3 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 they were prepared to grant the same privilege to another applicant for the same circumstances.

The [REDACTED] application therefore clears this bar.

Intent: The requested relaxation is a very small amount and the Town is in agreement with this small variance. The Board does not see this relaxation as a material amount and are prepared to approve this relaxation.

The [REDACTED] application therefore clears this bar.

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

The [REDACTED] application therefore clears this bar.

██████████  
**Appeal #03-11**  
**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 23, 2011 at the Town of White City Municipal Office.

**DENNIS GOULD: Moved/Seconded: BILL WOOD:** That Appeal #03-11 made by ██████████ ██████████ for a relaxation of the Zoning Bylaw 541-10, to permit a detached garage to encroach into required 3 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:**

**WES MEMORY: Moved/Seconded: DENNIS GOULD:** That the hearing adjourn at 7:40 PM.

**Carried**

*D. Gould*

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**Dennis Gould, Board Chair**