

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

July 11, 2013

Minutes of the Thursday, July 11, 2013 Development Appeals Board Hearing held in the [REDACTED] White City Municipal Office, 14 Ramm Avenue East to hear Appeal #01-13 [REDACTED], Lot 54, Block 34, Plan 102095692, 20 College Crescent.

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 7:00 PM. The Chairman introduced the members of the Board, the Town [REDACTED] ve 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 #01-13:**

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 submissions along with site plan, dated June 27, 2013.
- Development Officer's Report.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated June 11, 2013.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated June 17, 2013.
- Notice of the appeal sent to 6 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 six (6) 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 didn't have too much to add to his submission. The construction of the detached garage in back yard is going to be used for storage of a boat, yard care equipment and miscellaneous tools. The Appellant won't be using it as the primary garage for parking. When he bought the lot through Great Plains Leaseholds he did not know that there was a 3 meter easement for the rear yard setback. That he was initially planning on putting the garage 1 meter from the rear yard setback, but when he found out about the easement he moved the location of the garage further to the side yard setback in order to get the boat in more easily. The easement is for a gas line. He is seeking approval to build the detached garage 1.5 meters in the 2.5 meter side yard setback.

He doesn't think the garage has any health or safety issues. The garage will be located entirely on the lot and it will accommodate building maintenance. It will not have drainage issue.

Town Development Officer: Debi Breuer

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

Question:

Q: What is the easement? Is it for a gas line? A SaskEnergy gas line easement.

A: It is a 3 metre easement (rear yard setback). Otherwise the rear yard setback would be 1 metre.

Q: How far is it from the back of your house to the garage?

A: It is about 5 metres.

Q: What is the size of garage?

A. 22' x 22' approximately. It falls within that 5% total lot size.

Q. What do you plan to put in garage that you can't get in the attached garage?

A. Primarily the boat. Concerned that I won't be able to get it in. It is a wide boat. Approximately 9 foot width of tires. It's a fishing boat.

Q. Do you know how far your house is from property line?

A. The edge of the attached garage is 3.134 metres.

Final comments:

The Appellant had no further comments.

The Town Development Officer had no further comments.

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 54, Block 34, Plan 102095692 in the Town of White City.
- 2) The subject lands are zoned R-7 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 2.5 metre 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 Appellants lot is zoned R-7, which are smaller lots than in the majority of other Zones in White City.
2. The main reasons presented by the Appellant, in support of his request for the relaxation, were to allow easier access to the Accessory Building to move items in and out of the building, such as their boat and trailer which is about 9 feet wide.

3. There is a gas line easement at the rear of the yard, preventing the Appellant from positioning the building at the 1 metre setback line normally allowed by the Town's Bylaw. The gas line easement is 3 metres.
4. The Appellant estimates that the distance from the proposed building to the back of the house is 5 metres.
5. The distance from the "attached garage" to the side property line is 3.134 metres

During general discussion the Board indicated that the Appellant had not convinced them that it was necessary to grant the requested relaxation. The Board believes that the 5 metre space between the house and the proposed garage is sufficient to allow access to the proposed garage, and a 1 metre side yard setback is not sufficient space to be allowed between adjacent properties in Zone R-7.

Special Privilege:

During general discussion the Board indicated that they were not prepared to grant a relaxation, in this case nor to others in Zone R-7 who would have similar circumstances, to relax the side yard setback to 1 metre.

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

Intent:

In its documentation the Town provided the intent of the bylaw. The Board considers the request for relaxation of the side yard setback to be excessive for Zone R7 and, as such, defeats the intent of the bylaw.

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 #01-13
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 11, 2013 at the Town of White City Municipal Office.

██████ **OOD: Moved/Seconded: WES MEMORY:** That Appeal #01-13 made by ██████ for a relaxation of the Zoning Bylaw 541-10, to permit a detached garage to encroach into required 2.5 metre side yard setback be denied, for the following reasons:

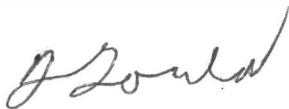
- 1) The relaxation does contravene the Town's Basic Planning Statement and intent of the Zoning Bylaw.
- 2) The requested relaxation is a special privilege as others have not been granted a similar relaxation.

Carried.

Adjournment:

DENNIS GOULD: Moved/Seconded: BILL WOOD: That the hearing adjourn at 7:40 PM.

Carried



Dennis Gould, Board Chair