

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

March 18, 2015

Minutes of the Wednesday, March 18, 2015 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #02-15 [REDACTED], Lot 31, Block 16, Plan 102049635, 18 Churchill Crescent.

Present: Chairman: Dennis Gould
Board Members: Bill Wood, Amanda Sutton, Glenn Weir, Dale Strudwick and 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 7:20 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.

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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
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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 4 page submission dated March 12, 2015.
- Development Officer's Report.
- Refused Development Permit, Development Permit Application, Building Permit Application, Site Plan.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated February 20, 2015.
- Notice of the date for the Development Appeals Board hearing sent to Board and Council members and the Development Officer dated February 20, 2015.
- Notice of the appeal sent to 27 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.

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**Resident
Submissions:**

The Secretary advised that twenty-seven (27) 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.

1. Referring to his written submission the Appellant indicated that Drawing #2 was the preferred placement of the house. Instead of having 2 corners on back of house protruding into rear yard. Only one corner to protrude into the rear yard setback. It was difficult to place this house and the lot is irregular in shape. They did about 5 different drawings to make the fit on the lot.

Town Development Officer: Debi Breuer

The Development Officer stated that the Zoning Bylaw is in the process of being amended and that this is a minor variance that the Development Officer will be able to approve without it being sent to the Development Board for hearing. She indicated she will be able to approve a 10% variance. In this case the Development Officer would have approved the variance of 610 mm.

Question:

- Q: Further on Development Officer's comment that she would have the ability to decide up to a 10% variance. Does she have the flexibility to say yes or no?

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- A: If her answer is no to the variance then it goes to appeal. The Development Officer said that irregular shaped lots always create problems with house placement. That they are difficult to fit on the lot. Site lines have to be taken into consideration as well.
- Q: Is Drawing #2 your preference?
- A. Yes.
- Q. To make it fit you could built up say a 2 storey.
- A. The Client wants to build a bungalow and not a 2 storey.

Final comments:

No final comments.

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 31, Block 16, Plan 102049635 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 single detached dwelling encroached into the required 12 meter rear yard setback.

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Conclusions and Reasons:

Council for the Town of White City has passed a new Zoning Bylaw which will allow the Development Officer to use her discretion to approve minor relaxations to the Setback Requirements. This Bylaw is awaiting Ministerial approval and when that approval is received the Development Officer could approve cases like this one.

Therefore, the only reason that this appeal is before the Development Appeals Board is because this formal approval has not been provided to date, but there is no reason to expect the approval will not be forthcoming.

In an appeal of a development permit refusal, the three “bars to variance relief” as set out in clause 221(d) of the Act are:

- Special privilege
- Intent
- Injurious affection

Special Privilege: The appellant provided an amended lot plan at the hearing, requesting a relaxation of 610 mm, or two feet into the 12 Meter rear yard setback for Principal Buildings. This minor amount is within the guidelines where the Development Officer would use her discretion and stated that she would allow this variance. Assuming that the Ministerial approval is forthcoming, there would be no need for this relaxation request.

During general discussion the Board indicated that they were prepared to grant this application.

Therefore the application does clear this bar.

Intent:

Assuming that the Ministerial approval is forthcoming, there would be no need for this relaxation request.

Therefore the application does clear this bar.

Injurious affection:

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

The application therefore clears this bar.

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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 18, 2015 at the Town of White City Municipal Office.

Dennis Gould: Moved/Seconded: Dale Strudwick: That Appeal #02-15 made by ██████████ for a relaxation of the Zoning Bylaw 541-10, to permit a single detached dwelling to encroach into required 12 meter rear 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:

Bill Wood: Moved/Seconded: Dennis Gould: That the hearing adjourn at 8:00 PM.

Carried



Dennis Gould, Board Chair