

TOWN OF WHITE CITY
DEVELOPMENT APPEALS BOARD

June 21, 2011

Minutes of the Tuesday, June 21, 2011 Development Appeals Board Hearing held in the Town of White City Municipal Office, 14 Ramm Avenue East to hear Appeal #02-11 [REDACTED], Lot 12, Block 26, Plan 101853750, 15 Emerald Vista.

Present: Chairman: Dennis Gould
Board Members: Wes Memory, Bill Wood, Glenn Weir
Alternate Board Member: Lisa Hood

Secretary: Bonnie Stanley

Appellant: [REDACTED]

Absent: Development Officer: Debi Breuer

Introductions:

Chairman Dennis Gould stated that the board had come to order at 6:30 PM. The Chairman introduced the members of the Board, the Development Officer 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 #02-11:**

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 together with site plan and three (3) colour renderings of the proposed development – received June 14, 2011.
- Report submitted by Development Officer.
- E-mail from Mayor Bruce Evans supporting development.
- Refused Development Permit
- Residential Development Permit and Site Plan.
- Notice of the date for the Development Appeals Board hearing sent to the Appellant dated June 4, 2011.
- Notice of the date for the Development Appeals Board hearing sent to Board, Council Members and the Development Officer dated June 4, 2011.
- Notice of the appeal delivered to 10 adjacent property owners.
- A copy of Zoning 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.

The Appellant referring to their written submission and drawings stated that:

1. We are asking for 6 foot encroachment into the side yard setback. The main reason is because we want to have kitchen and bathroom within the structure and also to be able to supervise the children all the time without leaving the pool area.
2. We wanted to make sure to have visual from main home to pool. There are large windows at back of house.
3. The cover for pool automatic cover. Important safety aspect that no one will get under it.
4. The proposed building floor area coverage is 2% of the allotted 5% allowed.
5. It is going to be built by a contractor. It will match existing exterior of house.

Town Development Officer: Debi Breuer

Debi Breuer was not present but her report has been received and entered into the record. All parties have a copy of the report.

Question:

Q: Has the pool already been built?

A: It's in but not hooked up.

Q: Is the pool is being built as per the plan. Does it require a permit?

A: No, a pool permit is not required. They did sign a paper that they were putting in a pool and it was approved.

Q: There were no rules?

A: No. Debi said they were working on something in place to deal with building pools.

Q: There is a permit required for the pool house?

A: Yes.

Q: How far is the pool from each side of the property line?

A. 27 or 28 feet from house. 25 to 30 feet on the north side. South side 45 feet.

Q. Did your contractor tell you that it was encroaching into the setback? When you had this plan done up 2 years ago were you under the impression that it was 3 metres for the sideyard setback?

A. Plan was done 2 years ago. Called town and they said 3 metres.

Q. On diagram of house. What juts out?

A It' the kitchen.

- Q. The overhang of pool house of which is 3'6". What is this for?
- A. It is for the raised bar seating area. The south side of pool house.
- Q. Has designer been recontacted after you found out about encroachment into the side yard setbacks?
- A. They are now working with an architect.
- Q. Are there any obstructions raised seating area?
- A. No.
- Q. Are there any obstructions closer to the pool?
- A. There will be a shed in the back corner. There will be a fence around the entire perimeter and not just the pool area.
- Q. What is the actual distance from house to proposed area.
- A. about 10'.
- Q. Have you spoken to the neighbours.
- A. No objections from neighbours directly to the left or right of them.

Final comments:

The appellants reiterated that they would like the visibility of the pool area, safety and convenience for the kids.

The Appellant left at 7:00 PM.

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

- 1) The subject lands are legally described as Lot 12, Block 26, Plan 101853750 in the Town of White City.
- 2) The subject lands are zoned R-1 as set out in the Town of White City Zoning Bylaw #541-10.
- 3) The development permit was denied because the proposed pool house 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 are:

- Special privilege
- Intent
- Injurious affection

Special Privilege:

It is important to point out key circumstances of this application:

1. The [REDACTED]s lot is a large rectangular lot.
2. The main reasons presented by the Appellant to build their Pool House 6 feet into the 4.8 meter side yard setback are Safety for family and friends as well as an unobstructed view of the pool from within the main living area of the home. It is intended that the pool house will contain kitchen and washroom facilities and some seating under the roof overhang.
3. The appellant indicated that the children would be supervised from pool side rather than being supervised at a distance from within the home.

██████████

The location for the proposed accessory building is a preference. The Board felt that the ██████s do have options to position the accessory building to allow for the intended supervision and safety concerns and still abide with the setback requirements.

During general discussion the Board indicated that they were not prepared to grant this relaxation in this case nor to others who would have similar circumstances.

Therefore the application does not clear this bar.

Intent:

In its documentation the Town provided the intent of the bylaw.

The appellant is requesting a relaxation of 6 feet into the 4.8 meter side yard setback, a relaxation of approximately 40% into the required side yard setback. The Board felt that White City has an appeal to its residents because of the large lot size and the resulting feeling of space and country living.

The Board considers such a request as excessive and, as such, defeats the intent of the bylaw.

Therefore the application does not clear this bar.

Injurious affection:

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

The ██████’s application clears this bar.

**Appeal #02-11
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 June 21, 2011 at the Town of White City Municipal Office.

Dennis Gould: **Moved/Seconded:** **Wes Memory:** That Appeal #02-11, made by [REDACTED] for a relaxation of the Zoning Bylaw #541-10, to permit a pool house to encroach into required 4.8 meter side yard setback be denied for the following reasons:

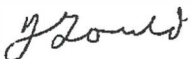
- 1) The requested relaxation is excessive and if allowed would constitute a special privilege.
- 2) The requested relaxation of the side yard setbacks would defeat the intent of the zoning bylaw to require compatible setbacks.

Carried.

Adjournment:

Bill Wood: **Moved/Seconded:** **Dennis Gould:** That the hearing adjourn at 7:35 PM.

Carried



Dennis Gould, Board Chair