



Development Appeals Board  
Appeal Hearing

**DECISION OF THE WHITE CITY DEVELOPMENT APPEALS BOARD REGARDING  
APPEAL NO. 04-23 PERTAINING TO 29 MCKENZIE POINTE, WHITE CITY, SK**

**Panel:** Dennis Gould, Chair  
Larry Grant, Board Member  
Glenn Weir, Board Member  
Bill Wood, Board Member  
Ryan Fletcher, Board Member  
Christine Enmark, Board Member  
Cory Schill, Board Member

**Secretary:** Cassandra Virgin

**Introduction:**

IN THE MATTER OF AN APPEAL under section 219 of *The Planning and Development Act, 2007*, (Act) to the Town of White City Development Appeals Board by:

**Appellant:** [REDACTED]  
**Respondent:** Town of White City – Chace Kozack, Development Officer  
**Appeal Number:** DAB 04-23  
**Date of Hearing:** November 1, 2023  
**Time:** 6:30 p.m.  
**Place:** Town Office Council Chambers - 14 Ramm Avenue East, White City, Saskatchewan

**Reason:** Refusal to issue development permit (clause 219(1)(b) of the Act)  
For an accessory building - carport.

**Relief sought:** The Appellant is requesting a variance to Section 5.5.9 *Accessory Uses, Buildings and Structures* of the Town's *Zoning Bylaw* and is seeking the board's approval to allow development to proceed.

**Rules:** The development appeals board is guided by principles expressed in section 221 of *The Planning and Development Act, 2007*, which reads as follows:

"Determining an appeal 221 In determining an appeal, the board hearing the appeal:

a) is bound by any official community plan in effect;

- b) must ensure that its decisions conform to the uses of land, intensity of use and density of development in the zoning bylaw;
- c) must ensure that its decisions are consistent with any provincial land use policies and statements of provincial interest; and
- d) may, subject to clauses (a) to (c), confirm, revoke or vary the approval, decision, any development standard or conditions, or order imposed by the approving authority, the council or the development officer, as the case may be, or make or substitute any approval, decision or condition that it considers advisable if, in the opinion, the action would not:
  - i. grant to the applicant a special privilege inconsistent with the restrictions on the neighbouring properties in the same zoning district;
  - ii. amount to a relaxation so as to defeat the intent of the zoning bylaw; or
  - iii. injuriously affect the neighbouring properties.”

Notice of this appeal has been provided to property owners within a 75m radius of the subject property to allow them the opportunity to assess whether they will be injuriously affected by the proposed zoning variance.

## 1. Arguments

### Appellant Argument:

The Appellant is seeking approval for a 288 square foot carport, maintaining a 22.0-meter rear yard setback but encroaching 1.2 meters into the required 1.5-meter side yard setback and thereby requesting an 80% relaxation for this encroachment. The structure, designed solely as a roof without walls or gates, utilizes galvanized steel and premium-coated tube framing and is engineered to withstand Saskatchewan's weather conditions with snow loads up to 35 PSF and wind speeds of 100 mph. Due to its nature as a standard manufactured assembly kit, the carport's size is fixed, leading to its proposed placement on the property. Apart from the side yard setback, the structure complies with all other Zoning Bylaw requirements. The Appellant asserts that the proposed structure will not detract from the neighbourhood's aesthetics or inconvenience neighbors.

### Respondent Argument:

The Respondent highlighted that the Planning Report holds the essential details for the application. Additionally, the Development Officer lacks the authority, as per The Zoning Bylaw's section 2.21, to grant minor variances or approve permits that do not comply with the bylaw. He also mentioned the absence of direct residential district property comparisons regarding the Appellants' request for side yard relaxation.

## 2. Analysis

Review of legal framework:

*The Planning and Development Act, 2007*

**Subsection 214(3)**: “A council shall appoint a board within 90 days after the zoning bylaw comes into effect.”

**Clause 219(1)(b)**: “In addition to any other right of appeal provided by this or any other Act, a person affected may appeal to the board if there is a refusal to issue a development permit because it would contravene the zoning bylaw.”

**Section 221**: “In determining an appeal, the board hearing the appeal:

- a) is bound by any official community plan in effect;
- b) must ensure that its decisions conform to the uses of land, intensity of use and density of development in the zoning bylaw;
- c) must ensure that its decisions are consistent with any provincial land use policies and statements of provincial interest; and
- d) may, subject to clauses (a) to (c), confirm, revoke or vary the approval, decision, any development standard or condition, or order imposed by the approving authority, the council or the development officer, as the case may be, or make or substitute any approval, decision or condition that it considers advisable if, in its opinion, the action would not:
  - i. grant to the applicant a special privilege inconsistent with the restrictions on the neighbouring properties in the same zoning district;
  - ii. amount to a relaxation so as to defeat the intent of the zoning bylaw; or
  - iii. injuriously affect the neighbouring properties.”

**Subsection 225(1)**: “The board shall render its decision in writing, together with reasons for the decision within 30 days after the conclusion of the hearing.”

**Subsection 225(6)**: “Subject to section 226, a decision of the board does not take effect until the expiration of 30 days from the date on which the decision is made.”

Reasons and Conclusions:

1. In addition to the material submitted prior to the date of the hearing, the Appellant argued that the car port is not significantly different than a movable storage shed where the Town allows these sheds to be right up against the fence line.
2. In order to secure the carport to withstand wind in the area, the carport is bolted down to concrete piles 7 inches in diameter and about 2 feet into the ground. The carport is light and can be readily moved by unbolting it from the piles. With exception of the piles, the base for the carport is all gravel.

3. The Appellant showed photos of small storage sheds in the area that were positioned right up against the fences between homes. These sheds would be movable if needed to be moved for repairs or emergency services. The Appellant argued that their car port can also be moved if needed.

Issues:

1. Would issuing a development permit grant the Appellant a special privilege in comparison to their neighbours?

During discussion the board agreed that they were prepared to grant the requested relaxation in this case, and they would be prepared to grant a similar relaxation to others in Zone R5 who would have a similar circumstance and structure.

Therefore, the proposed development would not constitute a special privilege.

2. Would issuing a development permit defeat the intent of The Zoning Bylaw?

In its documentation the Town provided the intent of The Zoning Bylaw. The Board contends that the carport is not significantly different than a movable shed positioned near the property line and it too can be moved if needed for repairs or emergency services.

Therefore, the proposed development would not defeat the intent of The Zoning Bylaw

3. Would issuing a development permit cause injury to neighbouring properties?

There were notifications of this appeal sent to 23 neighbouring property owners, only one neighbour responded, and they had no objection to the proposed development.

Therefore, the proposed development would not injuriously affect the neighbouring properties.

## 6. Conclusion

The Board finds that allowing the appeal:

- a. Would not give a special privilege;
- b. Would not defeat the intent of the bylaw; and
- c. Would not negatively impact neighbouring properties.

Motion:

**Weir/Wood:** THAT Appeal 04-23 requesting the development of an accessory building carport be approved.

**CARRIED.**

After consideration of all the presentations at the hearing, and review of the material submitted, the board, by majority, votes that the **appeal be granted**.

**7. Rights to Further Appeal**

The Minister, the Town of White City Council, the Appellant or any other person may, within 30 days after the receipt of a copy of this notice of decision, may appeal a decision of the board to:

Planning Appeals Committee  
Saskatchewan Municipal Board  
480 – 2151 Scarth Street REGINA SK S4P 2H8

For more information, please contact the Saskatchewan Municipal Board at 306-787-6221 or [info@smb.gov.sk.ca](mailto:info@smb.gov.sk.ca).

If no such appeal is made, this decision will take effect on December 29, 2023

Dated this 29 day of NOV, 2023

  
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**Dennis Gould, Board Chair**