

**MINUTES OF THE MEETING OF THE SUBDIVISION  
AND DEVELOPMENT APPEAL BOARD  
THURSDAY, SEPTEMBER 12, 2013 @ 7:00 p.m.**

PRESENT: Members: B. Hawrelak, D. Kilpatrick, V. Lutz,  
E. Reimer, G. Shipley

Development Officer	B. Stehr
Planning Consultant	K. Snyder
Recording Secretary	S. Simon

Appellants	D. Thiessen, Remax C. Briggs, Advance Design & Construction B. Hann, Finley Hann Engineering Ltd. N. O'Reilly, Finley Hann Engineering Ltd.
------------	--

J. Drobot

**1. CALL TO ORDER**

Recording Secretary called the appeal hearing to order at 7:00 p.m., confirmed there was a quorum present to hear this appeal; and opened nominations for Chairman.

**2. ELECTION OF CHAIRMAN**

V. Lutz nominated D. Kilpatrick to be Chairman, seconded by G. Shipley. D. Kilpatrick accepted and assumed control of the appeal hearing.

**3. Appeal No. 1**

**Appeal of Development Application 13-DP-056  
Lot 6, Block 1, Plan 0012975 (2250 South Highway Drive SE)  
Variance of sideyard setback (proposed addition to existing building)**

Chairman D. Kilpatrick asked the appellants if they had any objection to any board members hearing the appeal. B. Hann advised they objected to B. Hawrelak. B. Hawrelak removed himself from the proceedings and left the room at 7:03 p.m.

**a) Presentation of Appellant**

B. Hann addressed the board and outlined the details of the proposed development. He noted that should the zero setback not be allowed that the potential lessees will be seeking an alternative location. B. Hann also noted the plans to install a firewall on the wall of the zero setback. He advised that the adjacent property is owned by the same company and they have no objections.

B. Hann advised that a site drainage plan will be completed once they know if a development permit will be granted.

**b) Presentation of Development Officer**

The Development Officer referenced his report dated August 29, 2013 providing a history of the application and the decision of the Municipal Planning Commission.

**c) Presentation of Municipal Planning Commission (MPC)**

The Development Officer advised he had spoken with the Municipal Planning Commission Chairman who had indicated that MPC had no concerns.

**d) Presentation of Planning Consultant**

The Planning Consultant provided the following background information

- Zoning is C-HWY
- Development in the immediate area generally includes large single buildings located near the front of the site with large rear yards. Sideyards appear to be consistent at 3m.
- There is existing development on either side of the subject site.
- Potentially affected neighbour on the SE appears to have at 3m-5m sideyard setback.
- Grade difference between the subject site and the potentially affected neighbour is approximately 3-4 ft.

The Planning Consultant explained the purpose of the 3 m sideyard setback rule

- Provides a minimum access space to the rear yard – especially with no lane access.
- Provides two access routes (on each side of the building) to/from rear yard during an emergency
- Provides practical and legal working room to maintain building exterior while on their site.
- Breaks up large uniform buildings and streetscapes
- With large sites a 3m sideyard setback assists with:
  - Consistent streetscape and party wall location. Large commercial and industrial sites could have a patchwork of zero setback buildings not sharing party walls.
  - A Zero setback with grade differences between parcels can be complex. Retaining walls to eliminate grade transition areas on large sites are not always practical.
  - Storm drainage could be difficult.

The Planning Consultant commented that the site is large and there appears to be substantial room and flexibility to retain the setbacks in the Land Use Bylaw. Further he would not recommend that a zero side yard setback be the standard for large scale commercial and industrial developments. However, a zero sideyard setback that is sparsely applied could be accommodated with little negative impact.

The Planning Consultant recommended that the SDAB overturn the Development Officer's decision and approve the proposed development as presented with the following conditions:

- Access agreement with the SE neighbour (on title) that allows for practical space to maintain the building exterior (ie. 3m)
- Parking and driveways as presented are okay – driveway width is larger than desired, but due to fixed onsite circulation requirements it is acceptable.

- Parking and driveway areas to be paved or concrete in the front yard or at a minimum 15 m of pavement or concrete from public road into the site for the width of the entrance.
- Provision of a site drainage plan to the satisfaction of the Town's Manager of Engineering.
- Identified landscaped areas be landscaped with soft (grass, trees, etc) or hard landscaping (ie. Rock, etc.) not just concrete to the satisfaction of the Development Officer
- Written proof of ownership or landowner consent.

The Planning Consultant further commented that if the SDAB considers altering the relaxation request to less than 3 m but more than zero, then it is suggested that the Board consider a minimum of 1.5 m+ as an amount less than that would cause more issues than a zero setback (maintenance, drainage etc.)

**e) Presentation of anyone served notice of hearing**

No further comments.

**f) Presentation of anyone claiming to be affected**

No further comments.

**g) Rebuttal of Appellant/Applicant**

B. Hann commented that the situation is unique in that the adjacent property owner to the proposed zero setback is the same owner. He further commented that he did not have any objections to the Planning Consultants comments. B. Hann reiterated that should the zero setback not be allowed then the tenant will look elsewhere. With regard to the grade differential that will be dealt with through a site drainage plan.

C. Briggs, Advance Design & Construction reviewed the drawings and explained the proposed development.

**h) Other**

Nothing further.

**i) Recess**

E. Reimer moved to meet in camera at 7:26 p.m.

The Appellants, Development Officer, Planning Consultant left the meeting at 7:26 p.m.

**j) Decision**

G. Shipley moved that the appeal against the decision of the Municipal Planning Commission, to refuse to issue a permit for Development Permit Application 13-DP-056, Lot 6, Block 1, Plan 0012975 (2250 South Highway Drive SE) for an addition to an existing building be upheld and that the decision of the Municipal Planning Commission be revoked. Further that application for an addition to an existing building at Lot 6, Block 1, Plan 0012975 (2250 South Highway Drive SE) be approved conditional to:

1. Registration of a legal instrument on the southeast adjacent property in favor of the subject lands to ensure continued maintenance access for the building to the satisfaction of the Development Officer. (A minimum 3 m distance from building is required)
2. All off-street parking spaces, maneuvering aisles and accesses in front of the building shall be hard surfaced.
3. An approved site drainage plan to the satisfaction of the Manager of Engineering by December 13, 2013.
4. Identified landscaped areas be landscaped with soft (grass, trees, etc) or hard landscaping (ie. Rock, etc.) not just concrete to the satisfaction of the Development Officer.
5. Written proof of ownership.
6. Provision of a complete set of drawing including site plan, site drainage, landscaping, hard surfacing & building elevations to the satisfaction of the Development Officer.

- Carried.

Further the Board advised the reasons for its decision is that

1. Access to the rear yard area is still available.
2. The proposed development does not negatively impact the surrounding area.
3. The structure is of appropriate sizing for the lot area.

V. Lutz moved to return to regular session at 8:02 p.m.

The Appellants, Development Officer, Planning Consultant returned to the meeting at 8:02 p.m.

Chairman Kilpatrick advised the appellants of the decision and that the written decision would be forthcoming.

D. Thiessen, C. Briggs, B. Hann, N. O'Reilly left the meeting at 8:08 p.m.

B. Hawrelak rejoined the meeting at 8:08 p.m.

**4) Appeal No. 2**  
**Appeal of Development Application 13-DP-058**  
**Lot 17-18, Block 3, Plan 3042AV (505 3 Street SE)**  
**Variance to Sideyard Setback (proposed addition of steps to existing residence)**

**a) Presentation of Appellant**

Chairman D. Kilpatrick asked the appellant if they had any objection to any board members hearing the appeal. No objections were raised.

J. Drobot advised that the residence is for sale and the lack of a second access from the main floor has been an issue in selling the property. She indicated the only feasible option for placing a second access is to put it off the side of the house.

**b) Presentation of Development Officer**

The Development Officer referenced his report dated August 29, 2013 providing a history of the application and his decision and reason for refusal of the permit.

**c) Presentation of Municipal Planning Commission**

No comments.

**d) Presentation of Planning Consultant**

The Planning Consultant provided the following background information.

- Step is higher than 0.3m and thus the maximum allowed encroachment into the side yard is 0.75m.
- Purpose of rule is to protect adjacent property owners from visual and noise encroachment that would be deemed intrusive and uncontrollable.
- Subject lot has adjacent R1 single family homes on either side.
- Potentially affected neighbour (on south) has no side windows, but has a rear door, patio area, and manicured rear yard.
- Step height is estimated as 4 ft?
- Maximum fence height in LUB is 1.8m (6ft).
- Step entrance is located in side yard at rear of the home.

The Planning consultant provided the following analysis

- A 5ft high individual standing on the 4ft step, which is only 1ft from property line – puts this individual on a pedestal that is 3ft clear of the top of the fence – literally on top of rear yard of the adjacent lot.
- Although the step is not a lounging area there is potential unmitigated intrusion possible because a fence to partially screen is not permissible.
- Noise from the door, which faces the neighbour could be an issue as well.

The Planning Consultant recommended that the Subdivision and Development Appeal Board uphold the Development Officer's decision based on the potential for unmitigated negative impact on the south neighbor.

**e) Presentation of anyone served notice of hearing**

Recording Secretary advised that she had spoken with Jim Hall an adjacent landowner who submitted the following comments via email.

*The only issues I have with the proposed development is snow removal, with the steps being in such a small area extra care will have to be taken moving snow away from our homes in the area of the steps to reduce the chances of water leaking into basements.*

*The only other concern I would have is privacy between our two homes, but I think the proposed door may actually improve the privacy issue at our back doors.*

**f) Presentation of anyone claiming to be affected**

No one was in attendance.

**g) Rebuttal of Appellant/Applicant**

The appellant had no further comments.

**h) Other**

Discussion ensued with the type of door to install. The appellant commented that she would like to maintain the natural light. It was commented that the door could have a frosted window.

**i) Recess**

V. Lutz moved to meet In Camera at 8:30 p.m.

The appellant, Development Officer and Planning Consultant left the room at 8:30 p.m.

**j) Decision**

B. Hawrelak moved that the appeal against the decision of the Development Officer, to refuse to issue a permit for Development Permit Application 13-DP-058, Lot 17-18, Block 3, Plan 3042AV (505 3 Street SE) for a variance to the sideyard setback for a proposed addition of stairs/doorway to existing residence be upheld and that the decision of the Development Officer be revoked. Further that the application for a variance to the sideyard setback for a proposed addition of stairs/doorway to existing residence at Lot 17-18, Block 3, Plan 3042AV (505 3 Street SE) be approved conditional to:

1. The Landing to encroach into the setback to a maximum distance of 1.07m (42").
2. The railing around the landing to be visually obscuring.
3. Any glass in the door to be visually impairing.

- Carried.

Further the Board advised the reasons for its decision are

1. No objections received from the adjacent neighbour.
2. Provides an additional egress.

V. Lutz moved to return to regular session at 8:46 p.m.

The Appellant, Development Officer, Planning Consultant returned to the meeting at 8:46 p.m.

Chairman Kilpatrick advised the appellants of the decision and that the written decision would be forthcoming.

4. **ADJOURNMENT**

E. Reimer moved the meeting be adjourned at 8:48 p.m.



---

Chairman



---

S. Simon, Recording Secretary