

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Richard Rendell **Appellant**

AND Town of Bishop's Falls **Respondent**

RESPECTING Order

BOARD MEMBERS Sam Gibbons – Chair
Fred Parsons – Member
Shawn Feener – Member

DATE OF HEARING February 17, 2015

IN ATTENDANCE

Randy Drover – Authority
Richard Rendell – Appellant
Natasha Murthy – Appellant's Representative
Joyce Rendell – Support for Appellant
Nerdon Brown – Interested Party
Krista Sharpe – Interested Party
Sharon Pumphrey – Interested Party
Lisa Pollett – Interested Party
Robert Mills – Interested Party
Christina Morgan – Interested Party
Roy Jeans – Interested Party
Robert Cotter - Secretary to the Central Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Central Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from a decision from the Town of Bishop's Falls to issue an order to Mr. Richard Rendell regarding the horse he keeps at 35 Main Street. The Town received complaints from residents regarding Mr. Rendell's horse. The Town stated that the horse is causing a hazard to public health and safety and is adversely affecting surrounding properties. The Town ordered Mr. Rendell to remove the horse from the Town of Bishop's Falls within fourteen days. The Order further noted the appellant's right and process to appeal Council's decision.

Mr. Rendell filed an appeal with the Central Newfoundland Regional Appeal Board on July 28, 2014 in response to the Order requiring him to remove his horse (Jake) from the Town. The appeal was filed in accordance with section 42 of the *Urban and Rural Planning Act, 2000*.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Advertiser* on February 6, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on January 13, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Municipalities Act, 1999

Town of Bishop's Falls Animal Control Regulations, 2010

Town of Bishop's Falls Municipal Plan and Development Regulations, 2010

Matters presented to and considered by the Board

Does the Town have the authority to issue an order to remove the animal from 35 Main Street under the Animal Control Regulations, 2010?

The Board accepted that the Town does not have the authority to issue an order under the Town of Bishop's Falls Animal Control Regulations, 2010. The Board reviewed section 420(1) of the *Municipalities Act, 1999*, which states that when a person contravenes a regulation made under the *Municipalities Act, 1999*, the owner is liable on summary conviction.

Is a horse considered a “thing”?

The Town issued the order under section 404(1)(l) of the *Municipalities Act, 1999* which states:

A council may make an order that

(l) that the owner or occupier of real property remove from that property, solid waste, noxious substances and substances or things which may be a hazard to public health and safety or which adversely affects surrounding properties.

The Board learned from the Town at the hearing that it referred to the Town’s Animal Control Regulations, 2010 for a definition of “animal” since the *Municipalities Act, 1999* does not define “thing”. The Town’s Animal Control Regulations, 2010 defines animal as “any such living thing other than a human being.” The Town explained at the hearing that since the Animal Control Regulations define “animal” as a *living thing*, then the Town considered an animal to also be a *thing*. The Board accepts that the Town appropriately deemed a horse to be classified as a thing and therefore subject to section 404(1)(l) of the *Municipalities Act, 1999*.

Did the Town have the authority to issue the order to remove the animal from 35 Main Street under section 404(1)(l) of the *Municipalities Act, 1999*?

The Board learned that the Town determined the horse was a threat to public health and safety based on written complaints from neighbouring residents. The role of the Board is not to determine for Council what constitutes a threat to public health and safety, but rather considers whether the Council used its discretion appropriately.

The Board heard from the neighbouring residents regarding their concerns for the safety of their children, irritating odours and loss of property values. While the Town indicated that it could have fined the appellant under section 420 of the *Municipalities Act, 1999* since the appellant committed an offence under section 4 and 5 of the Animal Control Regulations, 2010, the Town decided to order the appellant to remove the animal due to the ongoing public complaints received. While the Board sympathizes with all parties, the Board found that the Town exercised its discretionary powers appropriately by deeming the horse a public health and safety concern.

Did the Town have the authority to order the removal of the horse from the municipal boundary of the Town of Bishop’s Falls?

No. The Board reviewed section 404(1)(l) of the *Municipalities, 1999* and determined that the Town may only order the removal from the owner’s property. The Town did not have the

authority to order Mr. Rendell remove his horse from the municipal boundary of the Town of Bishop's Falls.

Conclusion

In arriving at its decision, the Board reviewed the submissions and evidence presented by all parties along with the technical information and planning advice.

The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation, policy and regulations.

Based on its findings, the Board determined that the Town of Bishop's Falls had the authority under the *Municipalities Act, 1999* to issue the Order to Mr. Rendell, but erred in requiring the animal be removed from the municipal boundary of the Town of Bishop's Falls. Therefore, the Board vacates the Town's July 16, 2014 decision to issue an order to Mr. Rendell.

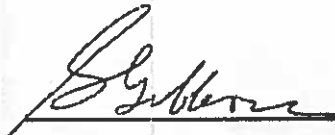
Order

Based on the information presented, the Board orders that the Order issued by the Town of Bishop's Falls to Mr. Richard Rendell regarding the horse kept at 35 Main Street, be vacated.

The Board further orders that the Town of Bishop's Falls pay an amount of money equal to the appeal filing fee of \$113.00 paid by the appellants to the appellants.

The Town of Bishop's Falls and the appellant are bound by this decision of the Central Newfoundland Regional Appeal Board.


DATED at Grand Falls - Windsor, Newfoundland and Labrador, this 17th day of February, 2015.



Sam Gibbons, Chair
Central Newfoundland Regional Appeal Board



Fred Parsons, Member
Central Newfoundland Regional Appeal Board



Shawn Feener, Member
Central Newfoundland Regional Appeal Board

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Brenda Martin **Appellant**
AND Town of St. Alban's **Respondent**
RESPECTING Approval

BOARD MEMBERS Sam Gibbons – Chair
Fred Parsons – Member
Shawn Feener – Member

DATE OF HEARING February 17, 2015

IN ATTENDANCE

Brenda Martin – Appellant
W. Hartery Jr. – Support for Appellant
Sandra Cox – Authority (teleconference)
Jamie LeRoux – Authority (teleconference)
Kylie Collier – Applicant (teleconference)
Sharon Cox – Interested Party (teleconference)
Robert Colter - Secretary to the Central Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Central Newfoundland Regional Appeal Board

DECISION

Facts/Background

This is a third party appeal that arises from a decision made by the Town of St. Alban's to issue a permit to Mr. Kylie Collier. On July 10, 2013, Mr. Kylie Collier, on behalf of the Warehouse Bar and Grill, applied to the Town of St. Alban's for permission to construct a deck and stage at 202 Main Street. The Town considered the application at the July 11, 2013 Regular Meeting of Council and resolved to approve the application subject to approval from all necessary government departments. Approval letters were issued to the applicant on July 23, 2013 as well as April 8, 2013. Mr. Collier received permission from Government Services Centre for the construction of the deck on April 9, 2014. Mr. Collier notified the Town and subsequently received verbal permission from the Town Clerk. The Town issued a written permit to Mr. Collier on April 16, 2014 subject to no work commencing for fourteen (14) days from receipt of the permit.

On April 28, 2014, Brenda Martin filed an appeal with the Central Newfoundland Regional Appeal Board against Council's approval. The appeal was submitted in accordance with section 42 of the *Urban and Rural Planning Act, 2000*.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Coaster* on December 8, 2014 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on January 13, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Minister's Development Regulations, 2000

Town of St. Alban's Municipal Plan and Development Regulations, 2009

Matters presented to and considered by the Board

Did Council approve Mr. Collier's application in accordance with the Town's Development Regulations?

The subject property is located in the Mixed Development zone. The Board reviewed the Mixed Development Use Zone Table in Schedule "C" of the Town's Development Regulations and confirmed that Council must consult with residents prior to approving development applications in the Mixed Development zone. The Town conceded at the hearing that it did not consult with residents before issuing a permit to Mr. Collier for an addition of a deck to the Warehouse Bar and Grill. Therefore, the Board found that the Town did not approve Mr. Collier's application in accordance with the Town's Development Regulations.

Did the Town follow procedure when it notified Mr. Collier of Council's decision?

The Board accepts that a decision of Council must be communicated in writing and the applicant must be notified of their right and process to appeal in accordance with section 5 of the Minister's Development Regulations, 2000. Section 5 states:

Where an authority makes a decision that may be appealed under section 42 of the Act, that authority shall, in writing, at the time of making that decision, notify the person to whom the decision applies of the

- (a) person's right to appeal the decision to the board;*
- (b) time by which an appeal is to be made;*
- (c) right of other interested persons to appeal the decision; and*
- (d) manner of making an appeal and the address for the filing of the appeal.*

While Mr. Collier was issued a permit in writing, the Town did not provide written notice of the right to appeal as required. While the Board acknowledges that the right to appeal was known as an appeal was filed by a third party in accordance with section 42 of the *Urban and Rural Planning Act, 2000*, this does not negate the Town's legislated responsibility to provide written notification of the right and process to appeal a decision as expressed in section 5 of the *Minister's Development Regulations, 2000*.

Conclusion

In arriving at its decision, the Board reviewed the submissions and evidence presented by all parties along with the technical information and planning advice.

The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation, policy and regulations.

Based on its findings, the Board determined that the Town of St. Alban's had the authority to issue a permit to Mr. Collier to construct a deck and stage at 202 Main Street, but did not do so in accordance with the Town's Development Regulations, specifically the conditions set out in the Mixed Development Use Zone Table. The Board will therefore vacate the Town's decision. That is to say, the Town of St. Alban's must reconsider Mr. Collier's application to construct a deck and stage at 202 Main Street.

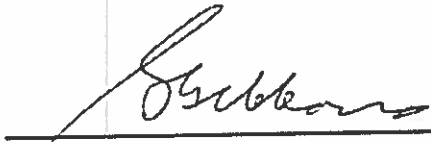
Order

Based on the information presented, the Board orders that the permit issued on April 16, 2014 by the Town of St. Alban's to Mr. Kylie Collier to construct a deck and stage at 202 Main Street, be vacated.

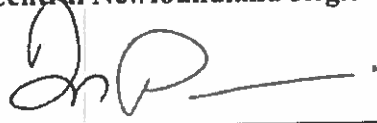
The Board further orders the Town of St. Alban's to pay an amount of money equal to the appeal filing fee of \$113.00 paid by the appellant to the appellant.

The Town of St. Alban's and the appellant are bound by this decision of the Central Newfoundland Regional Appeal Board.

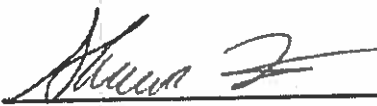
DATED at Grand Falls-Windsor, Newfoundland and Labrador, this 17th day of February, 2015.



Sam Gibbons, Chair
Central Newfoundland Regional Appeal Board



Fred Parsons, Member
Central Newfoundland Regional Appeal Board



Shawn Feener, Member
Central Newfoundland Regional Appeal Board

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Beulah Payne and Ralph Ganzer **Appellant**

AND Town of Pilley's Island **Respondent**

RESPECTING Order

BOARD MEMBERS Sam Gibbons – Chair
Fred Parsons – Member
Shawn Feener – Member

DATE OF HEARING February 17, 2015

IN ATTENDANCE

Ralph Ganzer – Appellant
Beulah Payne – Appellant
Heather Ivany – Authority
Dennis Vincent – Authority
Robert Cotter - Secretary to the Central Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Central Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from a decision made by the Town of Pilley's Island to issue an order to Beulah Payne regarding the extension constructed onto an existing building located at 22 Water Street. The Order was issued under the authority of section 102(1) of the *Urban and Rural Planning Act, 2000* and the subject development is contrary to section 7 of the Town of Pilley's Island Development Regulations. The Order required Ms. Payne to remove the development deemed non-compliant with the *Urban and Rural Planning Act, 2000*, the *Municipalities Act, 1999* and the Town of Pilley's Island Development Regulations, and restore the site to its original condition within two weeks. The Order further noted Ms. Payne's right and process to appeal the Order.

Beulah Payne and Ralph Ganzer appealed the Order issued by the Town of Pilley's Island with the Central Newfoundland Regional Appeal Board. The appeal was filed in accordance with section 42(4) of the *Urban and Rural Planning Act, 2000* on November 6, 2014. The appeal was made in writing and included the following: a summary of the decision being appealed; grounds for the appeal; and the appeal filing fee as required under section 42(5) of the *Urban and Rural Planning Act, 2000*.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Nor'Wester* on January 28, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on January 13, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Town of Pilley's Island Municipal Plan and Development Regulations, 2010

Matters presented to and considered by the Board

Did the appellant have a permit to enclose the porch and deck?

The Board heard arguments from the Town as well as the appellant regarding the footprint of the building and whether it changed. The appellant argued that she did not extend the footprint of the house but enclosed an existing deck and porch for the purpose of a bedroom. To determine whether a permit was necessary for the work completed, the Board reviewed the definition of development as defined in the *Urban and Rural Planning Act, 2000*, which states:

"development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use [...]

The Board determined that enclosing a deck and porch for the purpose of making a bedroom is making a material change in the use. Furthermore, the Board reviewed section 7 of the Town's Development Regulations which states that all development requires prior approval from the Town. While the Board acknowledges the appellant received three permits from the Town, those permits were for general repairs only and not for development.

Did the Town have the authority to issue the Order under section 102(1) of the *Urban and Rural Planning Act, 2000*?

The Board accepts that the Town has the authority to issue an order under section 102(1) of the *Urban and Rural Planning Act, 2000* when development is contrary to the Town's Municipal Plan and/or Development Regulations. The Board determined that the appellant did not have a permit for development, only general maintenance, and therefore contravened section 7 of the Town's Development Regulations.

Additional Information considered by the Board

The Board heard arguments from Ms. Payne regarding issues surrounding the bureaucratic process for obtaining a permit. The Board learned that the Town received a letter from the Department of Environment and Conservation in 2007 which directed the Town to require all development proposals within fifteen (15) metres of the high water mark be referred to the Department first, before the Town issued a permit. The Town indicated that it was following these directives when it requested Ms. Payne seek approval from the Department of Environment and Conservation prior to issuing a permit. While the Board acknowledges these arguments and challenges Ms. Payne encountered, it had no bearing on the Board's decision.

Conclusion

In arriving at its decision, the Board reviewed the submissions and evidence presented by all parties along with the technical information and planning advice.

The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation, policy and regulations.

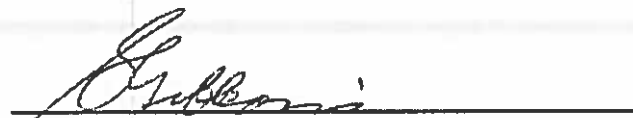
Based on its findings, the Board determined that the Town of Pilley's Island had the authority under the *Urban and Rural Planning Act, 2000* to issue the Order to Ms. Beulah Payne and did so accordingly.

Order


Based on the information presented, the Board orders that the Order of October 28, 2014 issued by the Town of Pilley's Island to Ms. Beulah Payne concerning development at 22 Water Street, be confirmed.

The Town of Pilley's Island and the appellant are bound by this decision of the Central Newfoundland Regional Appeal Board.

DATED at Grand Falls - Windsor, Newfoundland and Labrador, this 17th day of February, 2015.



Sam Gibbons, Chair
Central Newfoundland Regional Appeal Board



Fred Parsons, Member
Central Newfoundland Regional Appeal Board



Shawn Feener, Member
Central Newfoundland Regional Appeal Board

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD
URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN

Richard Freake

Appellant

AND

Town of Gander

Respondent

RESPECTING

Order

BOARD MEMBERS

Sam Gibbons – Chair
Fred Parsons – Member
Norm Austin – Member

DATE OF HEARING

February 18, 2015

IN ATTENDANCE

John Boland – Authority
Kerry Wheeler – Authority
Cst. Oswald Judge – Authority
Addison Quilty – Authority
Tylor Barrett - Authority
Robert Cotter - Secretary to the Central Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Central Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from a decision made by the Town of Gander to issue an order to Mr. Richard Freake regarding his property located at 283 and 287 Elizabeth Drive. The Town ordered Mr. Freake to complete the following by July 16, 2014:

- Repair brick, fascia and canopy
- Clean interior mold and mildew, fix ceiling tiles and other housekeeping issues
- Remove all combustibles in building
- Remove tires
- Remove exposed wiring
- Repair fire separation breaches

The Town issued the Order under section 41(1) of the Town of Gander Occupancy and Maintenance Regulations. While the Order was dated July 2, 2014, it is unclear when the Town served Mr. Freake with the Order.

Mr. Freake initiated the appeals process against the issuance of the Order with the Central Newfoundland Regional Appeal Board on July 18, 2014. Based on the information submitted to the Board, it is unclear whether the appeal was filed in accordance with section 42(4) of the *Urban and Rural Planning Act, 2000*.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Beacon* on January 26, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on January 13, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Occupancy and Maintenance Regulations, (CNLR 1021/96)

Town of Gander Municipal Plan and Development Regulations, 2010

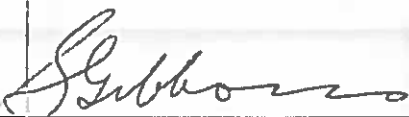
Based on its findings, the Board determined that the appeal was not filed in accordance with section 42(4) of the *Urban and Rural Planning Act, 2000* and, is therefore, invalid.

Order

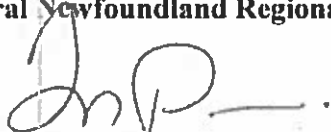
Based on the information presented, the Board dismisses the appeal regarding the Order issued on July 2, 2014 by the Town of Gander to Mr. Richard Freake regarding his property at 283 and 287 Elizabeth Drive.

The Town of Gander and the appellant are bound by this decision of the Central Newfoundland Regional Appeal Board.

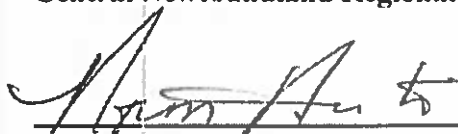
DATED at Gander, Newfoundland and Labrador, this 18th day of February, 2015.



Sam Gibbons, Chair
Central Newfoundland Regional Appeal Board



Fred Parsons, Member
Central Newfoundland Regional Appeal Board



Norm Austin, Member
Central Newfoundland Regional Appeal Board

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Lisa Willcott **Appellant**

AND Town of St. Alban's **Respondent**

RESPECTING Refusal

BOARD MEMBERS Sam Gibbons – Chair
Fred Parsons – Member
Shawn Feener – Member

DATE OF HEARING June 24, 2015

IN ATTENDANCE

Jamie LeRoux – Authority
Augustine Willcott – Representative for Appellant
Elizabeth Willcott – Representative for Appellant
Robert Cotter - Secretary to the Central Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Central Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from a decision made by the Town of St. Alban's to refuse to issue a permit to Lisa Willcott. On December 11, 2014, Ms. Willcott applied to the Town of St. Alban's for permission to develop a single dwelling near Harbour View Road. The Town discussed the application at the December 15, 2014 Regular Meeting of Council but deferred making a decision until the next meeting to allow time to review all relevant municipal policies and regulations. Council resolved to refuse Ms. Willcott's application at the January 5, 2015 Regular Meeting of Council. The Town notified the applicant of its decision in the form of a letter dated January 6, 2015. The letter stated that the application did not comply with section 3.2 and 3.6(ii) of the Town's Municipal Plan or section 57 and 58(3) of the Town's Development Regulations.

In accordance with section 42(4) of the Urban and Rural Planning Act, 2000 (URPA), Lisa Willcott filed an appeal with the Central Newfoundland Regional Appeal Board on January 15, 2015. Additionally, the appeal was made in writing and included the following: a summary of the decision being appealed, grounds for the appeal, and the appeal filing fee as required under section 42(5) of URPA.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Advertiser* on June 1, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on June 4, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Minister's Development Regulations, 2000

Town of St. Alban's Municipal Plan and Development Regulations, 2009

Matters presented to and considered by the Board

Does the subject property front onto a publicly maintained road?

No. The Board found that the property owned by Lisa Willcott is accessible by vehicle via a privately maintained route, commonly referred to as an ATV trail. However, in reviewing the Town's Municipal Plan and Development Regulations, the Board learned that all residential property must front directly onto a publicly maintained road. This requirement is expressed in section 3.6(ii), Servicing and Road Frontage, of the Municipal Plan, which states:

All buildings, with the exception of accessory buildings and non-residential buildings associated with agriculture, forestry, sawmilling, mineral workings or other rural resource or industrial type of uses for which road frontage would be unnecessary or undesirable shall have the minimum required frontage on a publicly maintained road, unless other policies and requirements of this Plan specify otherwise.

This policy is also reiterated in the Town's Development Regulations under section 57, Lot Frontage and Road Frontage, which states:

Unless the development forms part of a Comprehensive Development, is a seasonal residence, or falls under a use class within the Non-Building Use Group of Schedule B, the development must front onto an existing public road or a subdivision road built in conformity with the standards in these Regulations.

Therefore, the Board determined that the appellant's property does not meet the lot frontage requirements as per section 3.6(ii) of the Town of St. Alban's Municipal Plan and section 57 of the Town's Development Regulations.

Did the Town have the authority to refuse Ms. Willcott's application?

Yes. The Board found that the Town must make decisions in accordance with its Municipal Plan and Development Regulations which is outlined in section 6 of the Town's Development Regulations. When an application is contrary to Town policies and/or regulations, the Town has the responsibility to refuse the application.

In this case, the Board found that since the appellant's application did not comply with section 3.6(ii) of the Municipal Plan and Section 57 of the Town's Development Regulations, the Town refused the application accordingly.

Did the Town follow proper procedure when it refused Ms. Willcott's application?

The Board found that a decision of Council must be communicated in writing and the applicant must be notified of their right and process to appeal in accordance with section 5 of the Minister's Development

Regulations, 2000. Section 5 states:

Where an authority makes a decision that may be appealed under section 42 of the Act, that authority shall, in writing, at the time of making that decision, notify the person to whom the decision applies of the

- (a) person's right to appeal the decision to the board;*
- (b) time by which an appeal is to be made;*
- (c) right of other interested persons to appeal the decision; and*
- (d) manner of making an appeal and the address for the filing of the appeal.*

While Ms. Willcott was issued a refusal letter dated January 6, 2015, the Town did not provide written notice of the right to appeal as required. The Board acknowledges that the right to appeal was known as an appeal was filed by Ms. Willcott in accordance with section 42 of the *Urban and Rural Planning Act, 2000*. However, this does not negate the Town's legislated responsibility to provide written notification of the right and process to appeal a decision as expressed in section 5 of the *Minister's Development Regulations, 2000*. During the hearing, the Town acknowledged that it didn't provide notice of appeal in writing to Ms. Willcott. Additionally, the Town stated that a notice of appeal will be included in future decision letters from the Town.

Conclusion

In arriving at its decision, the Board reviewed the submissions and evidence presented by all parties along with the technical information and planning advice.

The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation, policy and regulations.

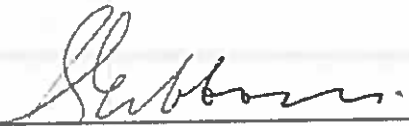
Based on its findings, the Board determined that the Town of St. Alban's had the authority to refuse a permit for a single dwelling near Harbour View Road and did so in accordance with the Town's Municipal Plan and Development Regulations.

Order


Based on the information presented, the Board orders that the refusal issued on January 5, 2015 by the Town of St. Alban's to Lisa Willcott to construct a single dwelling near Harbour View Road, be confirmed.

The Town of St. Alban's and the appellant are bound by this decision of the Central Newfoundland Regional Appeal Board.

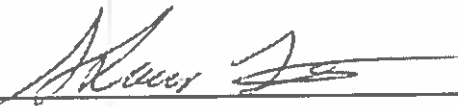
DATED at Grand Falls-Windsor, Newfoundland and Labrador, this 24th day of June, 2015.



Sam Gibbons, Chair
Central Newfoundland Regional Appeal Board



Fred Parsons, Member
Central Newfoundland Regional Appeal Board



Shawn Feener, Member
Central Newfoundland Regional Appeal Board

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Brenda Martin **Appellant**

AND Town of St. Alban's **Respondent**

RESPECTING Approval

BOARD MEMBERS Sam Gibbons – Chair
Fred Parsons – Member
Shawn Feener – Member

DATE OF HEARING June 24, 2015

IN ATTENDANCE

Brenda Martin – Appellant
William Hartery Jr. – Support for Appellant
Sandra Cox – Authority
Jamie LeRoux – Authority
Sharon Cox – Representative for Warehouse Bar & Grill (Teleconference)
Robert Cotter - Secretary to the Central Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Central Newfoundland Regional Appeal Board

hearing that the Town does not dispute the information submitted by Mr. Hartery. Subsequently, the Board vacated the room and recessed briefly to discuss the appellants' request.

The Board considered Mr. Hartery's request and decided to proceed with the hearing for the following reasons:

- The Municipal Plan and Development Regulations that existed in 1992 are no longer in legal effect.
- The decision under appeal was made under the 2009 St. Alban's Municipal Plan and Development Regulations.
- The Board is neither bound by the rules of evidence nor precedent.

What is the role of the Board with respect to this appeal?

The Board acknowledges the comments made by the appellants regarding snow clearing, parking, and day-to-day operations of the Town. However, reviewing the Town's daily operations is not within the Board's jurisdiction. The role of the Board is to determine whether the Town complied with all applicable legislation, policy and regulations when it considered an application to construct a deck at 202 Main Street.

Did Council approve Mr. Collier's application in accordance with the Town's Development Regulations?

The subject property is located in the Mixed Development zone. The Board reviewed the Mixed Development Use Zone Table in Schedule "C" of the Town's Development Regulations and confirmed that Council must consult with residents prior to approving development applications in the Mixed Development zone. Specifically, Condition 2(1), Non-Residential Uses Location, of the Mixed Development Use Zone Table states:

(1) The Town will consult with and consider legitimate concerns of surrounding residents and property owners before granting approval for any development in the Mixed Development Zone. If a proposed development is considered to be unacceptable, a permit may be refused. If measures such as buffering, screening, landscaping and/or property maintenance can render negative effects innocuous they will be required, at the developers cost. Conversely, if someone wishes to build a residence or undertake some other development next or near to a pre-existing but potentially conflicting use, Council may refuse the application or require the applicant to provide mitigated measures. (sic)

The Board found that the Town acted in accordance with Condition 2(1) as it provided written notification to six (6) neighbouring residents, published a notice in the Advertiser on March 23, 2015 and

Order

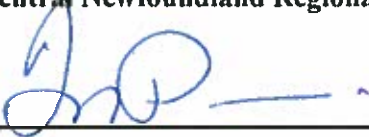
Based on the information presented, the Board orders that the permit issued on May 4, 2015 by the Town of St. Alban's to the Warehouse Bar and Grill to construct a deck at 202 Main Street, be confirmed.

The Town of St. Alban's and the appellant are bound by this decision of the Central Newfoundland Regional Appeal Board.

DATED at Grand Falls-Windsor, Newfoundland and Labrador, this 24th day of June, 2015.



Sam Gibbons, Chair
Central Newfoundland Regional Appeal Board



Fred Parsons, Member
Central Newfoundland Regional Appeal Board



Shawn Feener, Member
Central Newfoundland Regional Appeal Board