

**WEST NEWFOUNDLAND REGIONAL APPEAL BOARD**

**URBAN AND RURAL PLANNING ACT**

**APPEAL**

**BETWEEN** Peter Hughes **Appellants**

**AND** Town of St. Anthony **Respondent**

**RESPECTING** Refusal

**BOARD MEMBERS** Gary Parsons – Acting Chair  
Joseph Guinchard – Member  
Walter Sheppard – Member

**DATE OF HEARING** October 30, 2015

**IN ATTENDANCE**

Peter Hughes – Appellant  
Curtis Richards - Authority  
Lindsay Church - Technical Advisor to the West Newfoundland Regional Appeal Board  
Robert Cotter - Secretary to the West Newfoundland Regional Appeal Board

## **DECISION**

### **Facts/Background**

This appeal arises from the Town of St. Anthony refusing to issue a permit to construct an accessory building on 53 East Street. The Town considered and refused Mr. Peter Hughes' application at the May 26, 2015 Regular Meeting of Council. The Town notified Mr. Hughes of its decision in a letter dated May 27, 2015. The letter indicated the application was refused because it did not comply with the Town's land use zoning regulations pertaining to residential development. The Town further stated in the letter that the regulations do not allow the placement of sheds in front of the main dwelling. The letter noted the appellant's right and process to appeal Council's decision.

Mr. Hughes initiated the appeals process with the West Newfoundland Regional Appeal Board against the Town's decision to refuse his application in accordance with section 42(4) of the Urban and Rural Planning Act, 2000 (the "Act"). Additionally, the appellant included the required information as per section 42(5) of the Act.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Western Star* on October 12, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority on October 5, 2015.

### **Legislation, Municipal Plans and Regulations considered by the Board**

Urban and Rural Planning Act, 2000

Minister's Development Regulations, NLR 3/01

Town of St. Anthony Municipal Plan and Development Regulations, 2010

**Matters presented to and considered by the Board**

**Are accessory buildings allowed within the Residential zone?**

The Board confirmed that accessory buildings are listed as permitted within the Residential Use Zone Table in Schedule “C” of the Town’s Development Regulations:

ZONE TITLE	RESIDENTIAL (RES)	(ST. ANTHONY)
PERMITTED USE CLASSES		
Single dwelling, double dwelling, recreation open space, conservation; accessory building placed in a side yard or rear yard.		

**Can accessory buildings be located in the front yard of a lot?**

The Board referred to section 38(2), Accessory Buildings and Uses, of the Town’s Development Regulations which states, “No accessory building or part thereof shall project in front of any building line except as may be prescribed in the use zone tables in these Regulations.” The Board found that Condition 6 of the Residential Use Zone Table enables Council to use its discretion to approve an accessory building in the front yard if one is unable to construct an accessory building in the side or rear yards due to topography or natural or built features.

Mr. Hughes stated at the hearing that there are other properties within the Town of St. Anthony with accessory buildings located in the front yard. He referred to 275 West Street and his immediate neighbours’ property. The Board viewed these properties on Google Earth and learned that the accessory building at 275 West Street was approved in 2009 and Mr. Hughes’ neighbours’ property was approved in 2007.

**Did Council consider Condition 6 of the Residential Use Zone Table?**

The Board determined that the Council considered Condition 6 of the Residential Use Zone Table, which states:

## 6. Accessory Buildings

Accessory buildings shall have a total maximum lot coverage no greater than 7% and a maximum floor area of 55 m<sup>2</sup> for each accessory building, whichever is the lesser, and a maximum height of 3 metres.

Accessory buildings shall be a minimum of 2 metres from the nearest part of a main building and a minimum of 1 metre from any lot line.

Accessory buildings shall be located in the rear yard or side yard on the lot, except where topography or natural or built features on the lot or the street(s) providing access to the lot make it practically impossible to locate an accessory building in a side or rear yard. In such cases, a discretionary use may be approved which would allow accessory buildings to be built in those portions of the existing front yard which are adjacent to each side lot line, each said portion lying between the side lot line and an extension of the existing side yard line on that side of the lot leading most directly to the street line. To illustrate the concept for simple rectangular and irregularly shaped lots, refer to the following sketches:

While the Town acknowledged that other properties have accessory buildings located in the front yard, the Town's representative stated that Council has decided to prevent accessory buildings in the front yards and based on that reason, the Town refused Mr. Hughes' application. The Board found that this decision was in accordance with section 38(2) of the Town's Development Regulations.

### **Did the Town have the authority to refuse Mr. Hughes' application?**

Yes. The Board reviewed section 6 of the Town's Development Regulations and determined that all development located within the Town of St. Anthony must be in compliance with the Town's Development Regulations. Therefore, the Board found that the Town acted in accordance with section 38 of the Town's Development Regulations when it refused Mr. Hughes' application for an accessory building in the front portion of his property.

### **Did the Town notify Mr. Hughes of its decision appropriately?**

Yes. The Board found that the Town provided Mr. Hughes with its decision in writing and provided reasons why his application was refused as required under section 22 of the Town's Development Regulations. Mr. Hughes was also notified of his right and process to appeal Council's decision in accordance with section 5 of the *Minister's Development Regulations*, NLR 3/01.

## **Conclusion**

In arriving at its decision, the Board reviewed the submissions provided by the appellant and the authority, along with the technical information and planning advice.

The Board is bound by Section 42 of the *Urban and Rural Planning Act* 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. Anthony had the authority, and exercised it appropriately, when it refused a permit for an accessory building in the front yard of property located at 53 East Street.

**ORDER**

Based on the information presented, the Board orders that the decision made by the Town of St. Anthony on May 26, 2015 to refuse the application submitted by Mr. Peter Hughes for the purpose of constructing an accessory building in the front yard of 53 East Street, be confirmed.

The Town of St. Anthony is bound by this decision of the West Newfoundland Regional Appeal Board which is binding on all parties.

**DATED** at Deer Lake, Newfoundland Labrador, this 30<sup>th</sup> day of October, 2015.



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**Gary Parsons, Acting Chair**  
**West Newfoundland Regional Appeal Board**



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**Joseph Guinchard, Member**  
**West Newfoundland Regional Appeal Board**



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**Walter Sheppard, Member**  
**West Newfoundland Regional Appeal Board**