

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN C. Anthony Dwyer **Appellant(s)**

AND Town of Lewisporte **Respondent**

RESPECTING Stop and Removal Order

BOARD MEMBERS Stephen Burbridge, Chair
David Oxford, Member
Gerald Thompson, Member

DATE OF HEARING August 23, 2018

IN ATTENDANCE

Authority: Gary Jacobs, Town of Lewisporte
Brian Peckford, Town of Lewisporte

Appellant(s): C. Anthony Dwyer

Interested Parties: George Small
Chris Dwyer

Secretary to the Central Newfoundland Regional Appeal Board: Robert Cotter
Technical Advisor to the Central Newfoundland Regional Appeal Board: Christopher Hardy

DECISION

Facts/Background

On September 18, 2017 as per Council minutes, it was noted that the Appellant has relocated a shed to the subject property located at 9A Council Road without a permit granted.

On November 16, 2017 the Town of Lewisporte issued a Stop Work and Removal Order for the accessory building located at subject property.

Mr. Dwyer filed an appeal of the order on December 12, 2017. The Appellant is appealing the order on the grounds that the Town did not fulfill an agreement to provide the Appellant property on which to situate the subject shed and therefore forcing the Appellant to temporarily locate the shed at the subject property.

In accordance with the *Urban and Rural Planning Act, 2000*, a public notice of the appeal was published in The Pilot on April 18, 2018.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000 (URPA)

Minister's Development Regulations, NLR 3/01

Municipalities Act, 1999 (MA)

Town of Lewisporte Development Regulations

Matters presented to and considered by the Board

Did the accessory building relocated to 9A Council Road constitute development?

Yes. According to Municipalities Act, 1999 S 194

“A person shall not within a municipality

(b) Extend, repair, relocate or demolish an existing building;
Except in accordance with a written permit from council.

Did the Town of Lewisporte have the authority to issue a Stop Work and Removal Order for the accessory building at 9A Council Road?

The Board finds that the Town of Lewisporte did have the authority to issue a Stop Work and Removal Order. Regulation MA 404(1)(e)(i) of the Town's development regulations gives the Town Council the authority to issue an order against the development that was carried out without a permit from the authority. This authority is confirmed in, URPA S102(1) which reads:

“Where, contrary to a plan or development regulations, a person has undertaken or commenced a building or other development, the council, regional authority or authorized administrator responsible for that plan or those regulations or the minister where he or she considers it necessary, may order that the person pull down, remove, stop construction fill in or destroy that building or development and may order that the person restore the site or area to its original state..”

Did the Town of Lewisporte exercise its authority appropriately in issuing a Stop Work and Removal Order for the accessory building located at 9A Council Road?

Yes. The Board finds that the Town served the Order through Registered Mail which was received by the Appellant on November 17, 2017, in accordance with URPA S107(1).

Conclusion

In arriving at its decision, the Board reviewed the submissions and comments given by all parties present 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 Lewisporte exercised its authority appropriately in issuing a Stop Work and Removal Order to Appellant.

Therefore, the Board confirms the Respondent's decision to issue the Order.

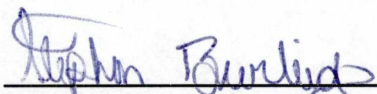
Order

Based on the information presented, the Board orders that the Order issued by the Town of Lewisporte on November 16, 2018 to Mr. Dwyer regarding the accessory building located at 9A Council Rd be confirmed.

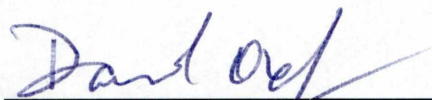
The Respondent and the Appellant(s) are bound by this decision of the Central Newfoundland Regional Appeal Board.

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Central Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days after the Board's decision has been received by the Appellant(s).

DATED at Grand Falls Windsor, Newfoundland and Labrador, this 23 day of August, 2018



Stephen Burbridge, Chair
Central Newfoundland Regional Appeal Board



David Oxford, Member
Central Newfoundland Regional Appeal Board



Gerald Thompson, Member
Central Newfoundland Regional Appeal Board