**URBAN AND RURAL PLANNING ACT, 2000**

**Section 40-46**

Appeal # : 15-006-094-025

Adjudicator: Lorilee A. Sharpe

Appellant(s): George Young

Respondent / Authority: Town of Stephenville Crossing

Date of Hearing: October 15, 2026

**In Attendance**

Appellant: George Young

Appellant Representative(s): Self Represented

Respondent/Authority: Town of Stephenville Crossing- Town Clerk Yvonne Young

Respondent Representative(s): Michael P. O'Keefe, Stewart McKelvey

Appeal Officer: Robert Cotter, Departmental Program Coordinator, Municipal and Community Affairs

Technical Advisor: Tastrophia Pham, Municipal and Community Affairs

**Board's Role:**

The role of the Adjudicator is to determine if the Authority acted in accordance with the Urban and Rural Planning Act, 2000 and the Town of Stephenville Crossing Municipal Plan and Development Regulations when it made a decision to refuse an application to undertake a development at 54 Main Street, Stephenville Crossing on October 15, 2025.

**Hearing Presentations**

Planner's Presentation

The role of the planner is to act as a technical advisor to the appeal process and act as an expert witness.

*Under the Rules of Procedure:*

*(a) there shall be a technical advisor to the Board who shall provide data relative to the Municipal Plan or other Scheme in effect and an interpretation on whether or not the proposal under appeal conforms, is contrary to, or could be discretionarily approved pursuant to the Municipal Plan, Scheme or Regulations.*

*The Planner from Municipal and Provincial Affairs shall provide the framework with respect to the appeals process under the Urban and Rural Planning Act, 2000 and provide an overview of how an application was received from a developer and processed by Council as prescribed in their roles and responsibilities.*

The Adjudicator heard from the planner that this appeal relates to a request to the Authority (Town of Stephenville Crossing) to run a sawmill for personal use at 54 Main Street within the Municipal Planning Area of the Town of Stephenville Crossing which is a property within the Town-Urban (T-URB) and Designated Floodplain Fringe (DFF) use zones where sawmill may be considered as a discretionary use in both zones. The DFF zone requires approval from the provincial ministries responsible for water resources and environmental matters. The property is also in the Town-Wellhead Protected Water Supply Area which requires approval from the Provincial Water Resources Management Division. The application for development was considered at a public meeting of the Town Council on October 15, 2025 and Town Council decided to refuse the application.

**The Appellant's Presentation and Grounds:**

The Appellant's grounds of appeal were focused on the nature of his proposed operations and the lack of impact that the Appellant submitted it would have on neighbouring properties. The Appellant stated that the sawmill was for his personal use only, that he would use only his regular pickup truck to transport logs and would not utilize large commercial vehicles, and that all operations and materials would be contained within the building so there would be very little noise and no negative visual impact to the community.

**Authority's Presentation:**

The Town presented a report and evidence from an independent professional planner, Mr. Jens Jenson. Mr. Jenson advised that he considered the classification of use as a General Industry or Light Industry rather than Forestry due to the operations being contained within the warehouse building and not an outside operation involving foresting of trees. He also provided evidence of the history respecting the discrepancy between the development regulations, wherein sawmill is not listed under the Forestry class, and the municipal plan where sawmill is listed under the Forestry class, and he advised that the use classification applicable to the particular zone in the Development regulations was intended to govern.

The Authority submitted that it is immaterial as to whether the development is classified as a use under forestry or general/light industry as they are all discretionary uses. The Authority submitted that its discretion was exercised lawfully and in good faith and that the Adjudicator does not have authority to overturn the discretionary decision. The Authority had requested input from all applicable provincial government departments but received no response. The Authority took the position that they did not need to receive responses from the provincial referrals prior to Town Council making a discretionary decision, as they could issue the permit conditionally, pending responses from the provincial departments.

**Adjudicators Analysis**

The Adjudicator reviewed *The Urban and Rural Planning Act, 2000*, the *Town of Stephenville Crossing Municipal Plan and Development Regulations*.

There is a discrepancy between the Classification of Uses Table appended to the Municipal Plan and that appended to the Development Regulations. The Municipal Plan lists silviculture, tree nurseries, sawmills, forest products bulk storage and trucking yards, and fuel wood production as examples of Forestry Class uses under group G : Non-Building Uses. The Development Regulations on the other hand list only Tree nurseries and Silviculture as examples of Forestry Class uses under group G non-building uses. Both classification tables list planing mills as examples of a general industry class use and warehouses and workshops as examples of both a general industry and light industry class use in the Industrial Use group F.

The Appellant has described his proposed development as one that would be wholly contained within a building and would not involve harvesting of trees on site, outdoor storage, or require large trucks or equipment to be stored or parked in a yard. As such, I agree with the assessment of Mr. Jensen that the Non-Building Use group does not apply to this development. The use is one of General Industry or Light Industry more akin to a planing mill and warehouse/workshop. General Industry and Light Industry are defined in Schedule "A" of the Development Regulations as follows:

> ***GENERAL INDUSTRY:*** *The use of land or buildings for the purpose of storing, assembling, altering, repairing, manufacturing, fabricating, packing, canning, preparing, breaking up, demolishing, or treating any article, commodity or substance. "Industry" shall be construed accordingly.*
>
> ***LIGHT INDUSTRY:*** *Use of any land or buildings for any general industrial use that can be carried out without hazard or intrusion and without detriment to the amenity of the surrounding area by reason of noise, vibration, smell, fumes, smoke, grit, soot, ash, dust, glare or appearance.*

General Industry and Light Industry are both listed as discretionary uses in the Town-Urban (T-URB) zone. The Designated Floodway Fringe (DFF) zone does not specifically list either general industry or light industry as discretionary or permitted. These uses could however be approved under the discretionary use 9 in the DFF zone table which states:

> *9) Other uses which comply with the provincial government Policy for Flood Plain Management, as amended from time to time, and which comply with the requirements, conditions and standards generally applicable to the Town-Urban (T-URB) Zone if located within the municipal boundary.*

The property is also within the Town-Wellhead Protected Water Supply Area D in the Town's Land Use Zoning Map 2 and as such any use other than Conservation must be approved by the Water Resources Management Division under the Water Resources Act. Condition 2 of the Use Zone and Overlays Table for the Town-Wellhead Protected Water Supply requires compliance with the underlying use zone (in this case T-URB and DFF zones) and that the development be approved by the provincial government:

***2. Development Standards:***
*a. Any development in the Town - Wellhead Protected Water Supply Area - A Zone (T-WPWS - A) and the overlay areas Town - Wellhead Protected Water Supply Area B, C and D and the Barachois Brook Wellhead Protected Water Supply Area overlay, must comply with the requirements of the underlying zone* ***and be referred to the provincial government for approval before the Authority may approve an application,*** *other than for the renovation of an existing structure, fence or minor landscaping.* [Emphasis added]

The Authority states that some contact was made with the provincial government but the Authority proceeded to make a decision with respect to the Development application prior to receiving a response from the Provincial Government. This is a procedural error. The clear intention of Condition 2 is that the Authority would have received the approval or denial from the Province prior to making its own decision. Condition 2 does not leave it open for the Authority to approve the application first, on condition that it be later be approved by the Province. The referral must be made "before" the Authority may approve an application. This is not just a matter of sending off the referral with no intention of receiving or considering a response. Town Council is intended to have the results of the Provincial referral prior to the issue being tabled so that council may give consideration to the position of the provincial government in rendering its own decision.

All three of the applicable zones: DFF, T-URB and T-WPWSA contain condition #1 for discretionary uses:

***Discretionary Use Classes***
*The discretionary use classes listed in this table may be permitted at the discretion of the Authority provided that they are complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses (see Regulations 32 and 90 concerning requirements for public notice and consideration by Council).*

Development Regulations 90(1) and 32 (3) require Council, when considering a discretionary use, to give notice of the development application to all persons whose land is in the immediate vicinity at least ten days prior to Council making its decision and to consider any "objections or representations" that they receive:

***90. Discretionary Uses***

*(1) Subject to these Regulations, the uses that fall within the Discretionary Use Classes set out in the appropriate Use Zone Table in Schedule C* ***may be permitted*** *in that Use Zone if the Authority is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Municipal Plan, or any further scheme or plan or regulation pursuant thereto, and to the public interest, and* ***if the Authority has given notice of the application in accordance with Regulation 32 and has considered any objections or representations which may have been received on the matter.*** [Emphasis Added]

***32. Notice of Application***
*(3) When a proposed development is listed as a discretionary use in Schedule C of the*

> *Regulations, and the Authority wishes to consider whether to approve such a discretionary use,* ***the Authority shall give written notice*** *at the expense of the applicant of the proposed development* ***to all persons whose land is in the immediate vicinity of the land, at least ten days prior to the date upon which Council will consider the matter.*** [Emphasis Added]

The Authority did not provide any notification to other property owners in the vicinity of the property prior to making its decision in this matter as required by Development Regulations 90 and 32. This is another procedural error. Other property owners in the vicinity must be provided with an opportunity to submit their objections and other representations. They may for example wish to lend their support for the development, provide additional information, voice concerns, or make suggestions for conditions.

The discretionary power set forth in Development Regulation 10 is not applicable to a discretionary use application. Regulation 10 provides Town Council with discretionary power to refuse or to apply conditions to a development where that development is in conformity with the Regulations and the property owner would therefore otherwise be entitled to approval of their development. For example, if the application had been for a permitted use in the zone, council could use their discretionary power in Regulation 10 to refuse the use and/or add conditions to that use.

> ***10. Discretionary Powers of Authority***
> *a) In considering an application for a permit or approval in principle to carry out development, the Authority shall take into account the policies expressed in the Municipal Plan and any further scheme, plan or regulations pursuant thereto, and shall assess the general appearance of the development of the area, the amenity of the surroundings, availability of utilities, public safety and convenience, and any other considerations which are, in its opinion, material,* ***and notwithstanding the conformity of the application with the requirements of these Regulations, the Authority may, in its discretion,*** *and as a result of its consideration of the matters set out in this Regulation,* ***approve with conditions, or refuse the application.***

In a discretionary use application, Council does not need to meet the requirements of section 10 in its consideration as to whether or not to approve the use, but it does need to comply with sections 90 and 32 which, as stated above requires Council to :

1) Satisfy itself that approval would not be contrary to the general intent and purpose of their Regulations, Municipal Plan, or any further scheme or plan or regulation pursuant thereto;
2) Satisfy itself that approval is not contrary to the public interest; and
3) Consider any objections or representations that may have been made in response to their notifications to persons whose land is in the immediate vicinity.

Council must also comply with any other conditions set forth in the applicable use zones that may apply to a particular discretionary use application. For the current development, as indicated above, Council must comply with condition #1 which requires Council to ensure that the use is *"complementary to uses within the permitted use classes or that their development will not inhibit or prejudice the existence or the development of such uses".*

In the Technical Report, an issue was raised with respect to lack of certain specifics in the refusal letter, the suggestion being that the letter may not have been in compliance with Regulation 22.

> *22. Reasons for Refusing Permit*
>
> *The Authority shall, when refusing to issue a permit or attaching conditions to a permit, state in writing the reasons for so doing.*

When a discretionary decision is made by elected officials by debate and vote at a public meeting, the letter that follows from the municipality is only a notification that the discretionary decision of council has been made at that public meeting and notification of the right to appeal. The letter need not contain detailed reasons, as each member of council would most often differ in their reasoning for voting in a particular manner. The reasons are given at the time of decision through the public debate. This principal has been well settled in this province since the Newfoundland and Labrador court of appeal decision *St. John's (City) v. Seanic Canada Inc.,* 2016 NLCA 42. In answering issue #4 : *Was Council Required to Give Reasons for its Decision Beyond the Debate Preceding the Vote,* the court stated at paragraph 44:

> *[44] Based on the foregoing, notably the discretionary nature of the rezoning decision and the content of the debate, there is no basis in law to require City Council to provide additional reasons for its decision. The judicial review judge did not err in his conclusion that the debate in the Council chambers was sufficient to comply with the duty to give reasons.*

## Adjudicators Conclusion:

**Urban and Rural Planning Act, 2000**

**Decisions of adjudicator**

**44.** (1) In deciding an appeal, an adjudicator may do one or more of the following:

(a) confirm, reverse or vary the decision that is the subject of the appeal;

(b) impose conditions that the adjudicator considers appropriate in the circumstances; and

(c) direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have the adjudicator's decision implemented.

(2) Notwithstanding subsection (1), a decision of an adjudicator shall not overrule a discretionary decision of a council, regional authority or authorized administrator.

(3) An adjudicator shall not make a decision that does not comply with

(a)this Act;

(b) a plan and development regulations registered under section 24 that apply to the matter being appealed; and

(c)a scheme, where adopted under section 29.

(4) An adjudicator shall, in writing, notify the person or group of persons who brought the appeal and the council, regional authority or authorized administrator of the adjudicator's decision.

After reviewing the information presented, the Adjudicator concludes for the reasons cited above:

1) That where there is inconsistency between the Classification of Use Table appended to the Municipal plan and that of the Development Regulations, the table appended to the Development Regulations govern. As such, the Authority did not err in considering the proposed use as a general industrial or light industrial use rather than a forestry use;
2) The Authority did not err in failing to provide more specifics in its letter, as the letter was not the decision but rather notification of the decision. The decision was made at a public meeting of the Town Council wherein reasons were provided during public debate with each individual elected official voting in accordance with their own reason and conscience;
3) The Authority erred in rendering its decision without first having received a referral response from the Provincial Government pursuant to Condition 2 of the Use Zone and Overlays Table for the Town-Wellhead Protected Water Supply; and
4) The Authority erred in rendering its decision without having first provided at least 10 days notice to all persons whose land is located in the immediate vicinity, and considering any objections or representations that they may receive in response, pursuant to Development Regulations 90 and 32.

## Order

The Adjudicator orders that the decision of the Town of Stephenville Crossing of October 15th, 2025 to be referred back to the Town Council for the Town of Stephenville Crossing for reconsideration following rectification of the following procedural errors:

1) Receipt and consideration of the position of the provincial government pursuant to Condition 2 of the Use Zone for the Town-Wellhead Protected Water Supply zone; and
2) Provision of at least 10 days written notification to all persons whose land is in the immediate vicinity of the proposed development and receipt and consideration of any objections or representations that may be submitted in response to the notice for the Town's Consideration pursuant to Development Regulations 90 and 32.

The Authority and the Appellant(s) are bound by this decision.

In accordance with section 45(2) of the Urban and Rural Planning Act, 2000, the Adjudicator further orders the Authority pay an amount of money equal to the appeal filing fee of $230.00 to the Appellant.

According to section 46 of the Urban and Rural Planning Act, 2000, the decision of this 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 Adjudicator's decision has been received by the Appellant(s).

DATED at Corner Brook, Newfoundland and Labrador, this 8th day of November, 2026.



Adjudicator- Lorilee Lorilee A. Sharpe

Urban and Rural Planning Act, 2000