

URBAN AND RURAL PLANNING ACT, 2000

Section 40-46

<https://www.assembly.nl.ca/legislation/sr/statutes/u08.htm#40>

Appeal #: 15-006-094-023

Adjudicator: Chris Forbes

Appellant: Immacula Loder

Respondent/Authority: Town of St. Lawrence

Date of Hearing: June 24, 2026

Start/End Time: 2:00 p.m. – 3:40 p.m.

In Attendance (Virtually)

Appellant: Immacula Loder

Respondent/Authority: Amanda Edwards, Town Manager
Town of St. Lawrence

Cynthia Hodge, Financial Manager
Town of St. Lawrence

Representatives for the Authority: Robert Bradley, Counsel
Aaron Rhineland, Articled Clerk

Appeal Officer: Sarah Kimball, Appeal Officer
Local Governance and Land Use Planning
Municipal and Community Affairs

Technical Advisor: Setare Vafaei, Planner II
Municipal and Community Affairs

Interested Parties: Kevin Pittman
Ronald Loder

This hearing occurred online.

Adjudicator's Role

Part VI of the *Urban and Rural Planning Act, 2000* (the "Act") authorizes adjudicators to hear appeals and establishes the powers of adjudicators. The role of the Adjudicator is to determine if the Authority acted in accordance with the *Urban and Rural Planning Act, 2000*, and *Town of St. Lawrence Municipal*

Plan and Development Regulations, 2013 when it refused the application of the Appellant for a permit to build a 20' x 30' shed at 69 Laurentian Avenue in the Town of St. Lawrence on September 15, 2025 (the "Property").

Technical Advisor

The role of the planner is to act as a technical advisor to the appeal process and act as an expert witness as outlined in the Appeal Board (Rules of Procedure) Order, 1993. Section 10 of that Order reads:

10. The Hearing will proceed in the following manner:

- (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 in effect, ...

At the hearing, the Technical Advisor outlined a report of the Department by Setare Vafei dated June 4, 2026 (the "Technical Report").

The Technical Advisor outlined the chronology found at page 4 of the Technical Report. In particular, she noted that the Appellant submitted an application for a development permit on June 2, 2025 to build a 20' x 30' shed at the rear of the Property. The application was reviewed by the Department of Public Works, where it was discovered that the proposed location was on top of water and sewer lines servicing 71 Laurentian Avenue, which is a neighbouring property owned by Mr. Pittman. Mr. Pittman is also the Mayor of the Town of St. Lawrence. The matter came up for discussion at the first regular meeting of Council following the submission of the application, wherein Mayor Pittman declared himself to be in a conflict of interest and removed himself from discussions. The Town Manager suggested at that meeting of Council that the Appellant seek an agreement from Mr. Pittman before the application for construction of the shed be approved by the Authority.

Thereafter, on August 19, 2025, the Town Manager advised Council at its regular meeting that the Appellant and Mr. Pittman were not able to reach an agreement. As a result, at a regular meeting of Council on September 2, 2025, Council denied the Appellant's application for a development permit. This result was communicated to the Appellant by letter dated September 15, 2025.

The Technical Advisor referenced the definition of "development" found in the Act as well as the zoning of the Property. She further discussed Regulation 11 of the Town's Development Regulations, which states that, in considering an application for a permit to carry out development, the Town 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" (my emphasis). That Regulation 11 further indicates that, notwithstanding the conformity of the application with the requirements of the Development Regulations, the Town may, "in its discretion, and as a result of its consideration of the matters set out in [Regulation 11], conditionally approve or refuse the application".

The Technical Advisor also outlined relevant provisions of the *Municipal Conduct Act*, the details of which are set out in the Technical Report.

It should be noted that, on September 21, 2025, Mr. Pittman notified the Authority that a shed was being placed on the Property atop the location of the water and sewer lines.

Appellant's Presentation and Grounds

The Technical Advisor noted the following grounds of appeal raised by the Appellant in her Notice of Appeal:

1. The Authority could not provide any documentation confirming there was an easement or encroachment on the Property;
2. The Appellant had offered to reroute the sewer and water pipes that ran under the Property to the edge of that Property at the expense of the owners of the Property; however, the Appellant subsequently received a draft legal document from the Authority on August 7, 2025 that stated the Appellant or any future owner of the Property would be responsible for those pipes forever more;
3. The Property's neighbour is Mayor of the Town of St. Lawrence, and Mr. Pittman had been approached previously by the Town Manager for the Authority to move the pipes to the main street but Mr. Pittman refused because it would be costly;
4. The Town Manager had stated that any new water and sewer lines could be rerouted to the main road in the Town, but that would not work in this instance; and
5. The sections cited by the Authority in its refusal letter (22(2) and 11 of the Development Regulations) were irrelevant.

As a starting point, the Appellant did confirm during the hearing that pipes servicing the neighbouring lot run through the Property. She stated she has incurred significant costs (digging up the yard, surveys, legal, etc.) in attending to the issue.

During the hearing, it became apparent that the Appellant was also placing emphasis in her appeal on the argument that the Town of Marystown allows a property owner to build atop sewer/water lines that serve adjacent properties.

The Appellant testified that, during the course of the events that were the subject of the appeal, she had had discussions with Chris Stamp, Director of Municipal Affairs, who inquired as to whether there was an easement on the Property and, when told by the Appellant there was none registered against the Property, asked why they were even having the conversation. He also advised her to seek legal advice.

She further testified that on August 7, 2025, an email was received by her from the Town Manager attaching a draft agreement. The Appellant felt the draft was "one-sided" and did not result from any consultation with the Appellant. The agreement would have also included a warranty on the pipes, which the Appellant could not give.

The Appellant submitted, in relation to section 11 of the Development Regulations, that the interpretation advanced by the Authority would effectively grant to them a "blank check" to do what they wanted.

She emphasized that her application was likely destined to be rejected because of “who was involved” (presumably, in reference to the Mayor). She mentioned that, while the Mayor may or may not have removed himself from Council’s regular meetings, that did not mean he had not been involved in conversations outside those meetings. She referenced minutes of Council dating back to 2021 and noted that all motions at the meetings documented in those minutes had been carried unanimously except twice, which she found hard to believe.

The Appellant referenced how Mr. Pittman had twice asked her how she would feel if the pipes in issue had been hers, and then how the Town Manager had asked her how she would feel if the roles were reversed. She indicated that neither they nor the councillors that had rejected her permit had put themselves in her place.

She stated she has tried everything humanly possible to resolve the matter.

In relation to the observation made by Mr. Pittman in September, 2025, that a shed had been placed on the Property atop the location of the water and sewer lines, she testified that the shed was movable and had been placed there only temporarily. The shed was not constructed; it was transported to the Property from another part of Town. It was needed to house various tools, snowblowers, lawnmower, etc., which needed to be closer to the house because of her husband’s illness.

Authority’s Presentation

Counsel for the Authority centred his argument primarily on section 11 of the Development Regulations and the broad (albeit not unfettered) discretion it grants to the Authority. Counsel indicated that it grants to the Authority the power to consider things such as the ability of other residents to access their water and sewer lines when approving or refusing an application for a permit.

The Authority took the position that any comments of Mr. Stamp were irrelevant to the proceeding. Likewise, any position taken by the Town of Marystown in relation to issues such as this was irrelevant.

In reference to the draft agreement prepared by the Town, counsel confirmed that it was simply provided as a draft to assist the parties (the Appellant and Mr. Pittman), since a signed agreement between the neighbours was required as a prerequisite to the Town’s approval of the Appellant’s application. Counsel indicated there was no evidence that the Authority took any position as to what the terms of that agreement required. That was left to the neighbours to decide.

Counsel submitted that there was no evidence whatsoever of any bad faith or improper motive on the part of Mr. Pittman or the Authority. Mr. Pittman properly declared a conflict of interest and recused himself from all discussions relating to the Appellant’s application.

Analysis

Did the Authority Have the Discretion to Refuse the Appellant’s Application?

Yes.

Section 11 of the Development Regulation requires the Authority to consider certain factors when considering a development application. The section applies to all applications for permits and applies even where the application conforms to the other sections of the Development Regulations. In addition to the Municipal Plan, section 11 expressly requires the Authority to “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” (emphasis mine).

Section 11 goes even further, however, and states that “the Town may, in its discretion,... conditionally approve or refuse the application” (emphasis mine).

As such, the discretionary power of the Authority to grant or refuse applications for permits is quite clear. I agree with the Authority that it permits the Town to consider the impact of granting the Appellant’s application on a neighbour’s water and sewer lines.

Did the Authority Properly Exercise its Discretion?

Yes.

Since the Town’s decision was a discretionary one, reference must be made to section 44(2) of the *Urban and Rural Planning Act, 2000* which reads that “a decision of an adjudicator shall not overrule a discretionary decision of a council, regional authority or authorized administrator.”

The legal test is not whether the adjudicator agrees or disagrees with the decision of a town council. As the Newfoundland and Labrador Supreme Court pointed out in *Paradise (Town Council) v. Newfoundland and Labrador (Eastern Regional Appeal Board)*, 2010 NLTD 116, an adjudicator must show “a high level of deference to the decision of the town council and/or municipal authority”. The Court noted in that case that such a decision may be overturned where that council:

“(i) acted in clear abuse of statutory authority or disregarded a statutory condition upon which a right to exercise such authority is based.

(ii) there is evidence of misconduct on the part of the town council and/or municipal authority.

(iii) the town council and/or municipal authority has failed to act in good faith.

(iv) there is evidence of improper motive or illegality in the actions of the town council and/or municipal authority.

(v) the town council and/or municipal authority has failed to understand the request contained in the application before it.” [see para. 30]

I find there is no evidence that the Authority acted in “clear abuse of statutory authority” or “disregarded a statutory condition upon which a right to exercise such authority is based.”

Further, while the Appellant questioned the involvement of Mr. Pittman in the decision of the Authority in relation to her application, there is no evidence before me of “misconduct” or a failure to “act in good

faith.” It is clear Mr. Pittman declared a conflict of interest and recused himself from the Authority’s decision-making. It is also clear the Authority made efforts to assist the Appellant and Mr. Pittman with reaching an agreement as to the sewer and water lines by providing a draft agreement to them for their use. I do not find that the provision of this agreement showed any implicit bias against the Appellant. She was free to use or not use that agreement, share it with her lawyer or make her own changes to it. The same was true of Mr. Pittman.

I also find there is no evidence of “improper motive or illegality” on the part of the Authority’s actions here, and no evidence that the Authority failed to understand the Appellant’s request in her application.

I sympathize with the circumstances the Appellant finds herself in. However, the law is quite clear that, in this particular situation, I have no authority to override the decision of the Authority.

Decision of the Adjudicator

As Adjudicator, I am bound by section 44 of the Act, which states:

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.

Order

The Adjudicator orders that the decision to refuse the application of the Appellant for a permit to build a 20' x 30' shed at 69 Laurentian Avenue in the Town of St. Lawrence on September 15, 2025 is hereby confirmed.

The Authority and the Appellant are bound by this decision.

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Adjudicator 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.

DATED at St. John's, Newfoundland and Labrador, this 25th day of July, 2026.



Christopher Forbes
Adjudicator
Urban and Rural Planning Act, 2000