

Eastern Newfoundland Regional Appeal Board

Appeal #	15-006-067-040
Appellant(s)	Shoal Investment Limited
Respondent / Authority	Town of Clarenville
Date of Hearing	November 17, 2021

Board Members

Chair	Carol Ann Smith
Member	Paul Boundridge
Member	Lisa Slaney

Also in Attendance

Representatives for the Appellant(s)	Manuel Ellis Jenny Hounsell
Representatives for the Authority	Rick Wells, Director of Public Works and Planning Davis Harris, Chief Administrative Officer
Secretary to the Boards	Robert Cotter
Technical Advisor to the Boards	Elaine Mitchell, MCIP

The authority for appeals comes from section 42 of the *Urban and Rural Planning Act, 2000* (The Act).

Board's Role

The role of the Regional Appeal Board is to determine if the Town of Clarenville acted in accordance with the *Urban and Rural Planning Act, 2000* and the Clarenville Municipal Plan and Development Regulations when it recommenced refusal with respect to an application made to the Provincial Government by Shoal Investments Ltd. for a provincial quarry permit.

Presentations During the Hearing

1. Planner's Presentation

Elaine Mitchell, MCIP, stated that the material provided did not contain a development application to the Town. She noted that the Town had responded to a referral from the provincial government with respect to a quarry permit. She suggested that there may be a question of jurisdiction that the Board may wish to consider with respect to section 42 of the *Urban and Rural Planning Act, 2000*.

2. Appellant's Presentation

One of the Appellant's representatives, when queried by the Board, confirmed that there were communications relative to the referral letter from the Department of Natural Resources, Mineral Lands Division, but no formal development application for a quarry was submitted to the Town of Clarendville.

3. Authority's Presentation

The Town of Clarendville, via teleconference, confirmed that it had not received a formal development application from the Appellant.

Board's Analysis

Q. Does the Board have jurisdiction to hear this Appeal?

A. The Appellant and the Authority agree that a development application for a quarry was not submitted to the Town of Clarendville. This is consistent with the documentation provided to the Board. On this basis, the Board has determined that it does not have authority under Section 42(1) of the *Urban and Rural Planning Act, 2000* to hear this appeal.

Section 42 (1) of the *Urban and Rural Planning Act, 2000* states:

42. (1) A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate board where the decision is with respect to

- (a) an application to undertake a development;*
- (b) a revocation of an approval or a permit to undertake a development;*
- (c) the issuance of a stop work order; and*
- (d) a decision permitted under this or another Act to be appealed to the board.*

Board's Conclusion

Based upon the evidence presented, the Board concludes that the matter under Appeal is not within the jurisdiction of the Board to hear and make a determination; therefore cannot carry out its duties as per the Urban and Rural Planning Act, 2000:

42. (10) In determining an appeal, a board may confirm, reverse or vary the decision appealed from and may impose those conditions that the board considers appropriate in the circumstances and may direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have its decision implemented.

Board's Order

The Board has determined that it does not have the jurisdiction to hear the appeal filed by Shoal Investments.

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

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 Board's decision has been received by the Appellant(s).

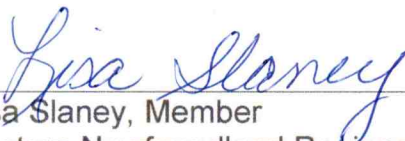
DATED at St. John's, Newfoundland and Labrador, this 17th day of November, 2021.



Carol Ann Smith, Chair
Eastern Newfoundland Regional Appeal
Board



Paul Boundridge, Member
Eastern Newfoundland Regional Appeal
Board



Lisa Slaney, Member
Eastern Newfoundland Regional Appeal
Board