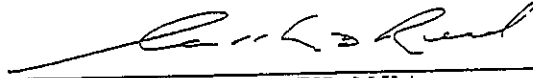


PUBLISHED BY AUTHORITY

Under and by virtue of the powers conferred by subsection (9) of Section 7 of the Urban and Rural Planning Act and of all other powers enabling me in this behalf, I hereby make the following Order.

Dated at St. John's this 10th day of January, 1994



ARTHUR D. REID, M.H.A.
Carbonear District
Minister of Municipal & Provincial Affairs

ORDER

1. This Order may be cited as the Appeal Boards (Rules of Procedure) Order, 1993.
2. This Order shall apply to all Appeal Boards Established under subsection (1) of Section 7 of the Urban and Rural Planning Act.
3. Before hearing an appeal, the members of the Appeal Board hearing that appeal shall thoroughly acquaint themselves with the provisions and intent of the Legislation, Regulations, Plans, Schemes, and Orders that bear upon the case.
4. The proceedings shall be recorded on tape but will not, as a matter of routine, be transcribed. If, within three (3) months of the date of an Appeal Hearing, a transcript is required by the Appellant or the Council/Authority for an appeal to the Court of Appeal, or for any other legitimate purpose in connection with the appeal, this will be provided by the Urban and Rural Planning Division upon request and payment of the cost of providing the transcript.
5. The Chairman shall open the hearing by asking all present who wish to be heard on the matter to identify themselves and state whether they are appearing on their own behalf or representing or supporting either the appellant or the respondent.
6. If either the appellant or the respondent is represented by legal counsel, then that counsel will conduct the client's case and call and introduce witnesses.

7. All witnesses shall be sworn prior to their giving evidence or making statements to the Board. The oath or affirmation shall be administered by the Chairman (Schedule 'A' contains an example of suitable wording for the oath and affirmation).
8. The Chairman shall read out the facts of the case as they are set out on the appeal form and will ask the appellant if there are any changes he/she wishes to make before the appeal proceeds.
9. The Chairman shall ask the respondent whether or not a deferral of the Hearing is requested in order to consider any proposed changes, and shall then decide:
 - (a) either to accept or reject the proposed changes; and
 - (b) whether to proceed with the hearing or defer it to a future time.
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,
 - (b) the appellant (or the appellant's counsel or representative) shall be asked to state the grounds of the appeal and the circumstances and merits of the case, may call witnesses and may cross examine the technical advisor, following which members of the Board may ask questions,
 - (c) the respondent (or the respondent's counsel or representative) may cross examine the appellant, the witnesses, and the technical advisor as each concludes his or her statement, following which the members of the Board may ask questions,
 - (d) other parties present who earlier stated their wish to be heard will in turn be allowed to make a statement and as each concludes his or her statement, the appellant and the respondent, in that order, may cross examine them and the members of the Board may ask questions,
 - (e) the respondent will be asked to state the regulations or legislation authorizing the decision from which the appeal was made and to read any relevant

sections; to state the grounds for the decision being appealed from; to comment on the circumstances and merits of the case, and the respondent may call witnesses,

(f) the appellant (or the appellant's counsel or representative) shall be permitted to cross examine the respondent and the witnesses as each concludes his or her statement, following which the members of the Board may ask questions,

(g) the appellant and then the respondent (or their counsel or representative) shall be asked to make a brief summary statement.

11. At the conclusion of the Hearing, the ~~Chairman~~ shall advise the Parties to the appeal that the decision of the Appeal Board will be communicated to them in writing, in due course.
12. Immediately following an Appeal Hearing or as soon as possible, the Appeal Board shall discuss the appeal and reach a consensus. If, after discussion, it is decided that further information is required before a decision can be reached, the appeal may be deferred until a subsidiary hearing is held or until the required information becomes available, which information shall be communicated to all parties for comment prior to any decision being made.
13. An Appeal Board, in a decision which reverses or varies the decision appealed from, shall state its reasons for so doing and state why the decision appealed from was not in accordance with the intent of the Act or Regulations or any Scheme or Plan adopted under the Act.
14. Every Appeal Board shall record in a minute book the attendance and proceedings of the Board at all Hearings including, in the form prescribed, a record of hearing of every appeal.
15. The Appeal Boards (Rules of Procedure) Order, 1984, Newfoundland Regulation 28/84 is rescinded.

