

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD
URBAN AND RURAL PLANNING ACT

APPEAL

BETWEEN Colin Caines (3rd Party) **Appellants**

AND Town of Burnt Islands **Respondent**

RESPECTING Approval

BOARD MEMBERS Gary Parsons – Acting Chair
Joseph Guinchard – Member
Bill Madore – Member

DATE OF HEARING April 9, 2015

IN ATTENDANCE

Michelle Caines – Representative for the Appellant
Linda Thorne - Authority
Lindsay Church - Technical Advisor to the West Newfoundland Regional Appeal Board
Robert Cotter - Secretary to the West Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from the Town of Burnt Islands approving a permit for Wallace James to construct, alter, demolish or relocate a building on Plant Road. On July 23, 2014, Mr. Colin Caines, an interested third party, filed an appeal with the West Newfoundland Regional Appeal Board against Council's approval regarding Mr. James' accessory building. According to the Appellant's submission, Mr. James placed a fish box on his property for storage purposes. The grounds of appeal can be summarized that the structure is a monstrosity and there is a potential health risk associated with the fish box.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in the *Western Star* on December 8, 2014 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority on March 10, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Minister's Development Regulations, 2000

Municipalities Act, 1999

Matters presented to and considered by the Board

What can be appealed under the *Municipalities Act, 1999*?

Section 42(1) of the *Urban and Rural Planning Act, 2000* outlines what may be appealed to the Board, which states:

- (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.*

According to section 42(1)(d) of the *Urban and Rural Planning Act, 2000*, decisions made under another Act may be appealed to this Board if that Act permits the decision be appealed to a board. The Board determined that Mr. Caines' appealed a decision made under the

Municipalities Act, 1999. The Board reviewed Part XV of the *Municipalities Act, 1999* which outlines what decisions made under the authority of the *Municipalities Act, 1999* may be appealed to the appropriate board. According to Part XV, it does not appear that the decision to approve a permit under section 194 of the *Municipalities Act, 1999* is subject to appeal. In particular, Part XV, section 409 states:

A person aggrieved by the refusal of a council to issue a permit required under section 194 may, within 14 days from the date of that refusal, appeal against the refusal to the appropriate regional appeal board established under the Urban and Rural Planning Act and the board may make an order with respect to the matter that appears just.

Does the Board have the jurisdiction to hear Mr. Caines' appeal?

The Board determined that it is only the refusal of a permit that is subject to appeal, not the approval of a permit issued under section 194 of the *Municipalities Act, 1999*. Therefore, the Board concluded that it does not have the jurisdiction to hear the appeal.

Conclusion

In arriving at its decision, the Board reviewed the submissions provided by the appellant and the authority, along with the technical information and planning advice.

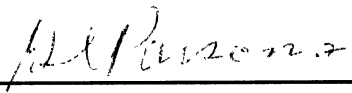
The Board is bound by section 42 of the *Urban and Rural Planning Act, 2000* and therefore must make a decision that complies with the applicable legislation and regulations. The Board determined that it did not have the jurisdiction to hear the appeal as it was not subject to appeal in accordance with Part XV, section 409 of the *Municipalities Act, 1999*.

ORDER


Based on its findings, the Board dismisses the appeal regarding the decision made by the Town of Burnt Islands on July 6, 2014 to approve Mr. Wallace James a permit to construct, alter, demolish or relocate a building on Plant Road.

The Town of Burnt Islands is bound by this decision of the West Newfoundland Regional Appeal Board which is binding on all parties.

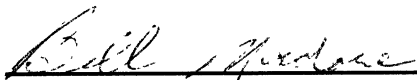
DATED at Deer Lake, Newfoundland and Labrador, this 9th day of April, 2015.



Gary Parsons, Acting Chair
West Newfoundland Regional Appeal Board



Joseph Guinchard, Member
West Newfoundland Regional Appeal Board



Bill Madore, Member
West Newfoundland Regional Appeal Board