

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD
URBAN AND RURAL PLANNING ACT

APPEAL

BETWEEN Edward and Susanna Keats **Appellants**

AND Service NL **Respondent**

RESPECTING Refusal

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

DATE OF HEARING April 10, 2015

IN ATTENDANCE

Jason Young – Support for the Appellant
Susanna Keats – Appellant
Edward Keats – Appellant
Ken Dean – Authority
Carl Hann – Authority
Carla Hayes – 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 Service NL refusing to issue a permit to Edward and Susanna Keats. Mr. and Mrs. Keats applied to Service NL for a permit under the *Protected Road Zoning Regulations (CNLR 996/96)* (the “*Regulations*”) to construct a cottage and accessory building at Alder Brook, Hampden along the White Bay South Highway (Route 420) on July 18, 2014. Service NL notified the appellants that their application was refused in a letter dated July 31, 2014.

According to that letter, Service NL refused the appellants’ application because the proposed development is located in a Rural Conservation zone which does not allow cottages.

In accordance with section 42(4) of the *Urban and Rural Planning Act, 2000 (URPA)*, Mr. and Mrs. Keats filed an appeal with the West Newfoundland Regional Appeal Board on August 7, 2014. The appellants did not submit grounds for the appeal. In accordance with section 42 (5) of the *Urban and Rural Planning Act, 2000*, “[a]n appeal shall be made in writing and shall include (a) a summary of the decision appealed from; (b) the grounds for the appeal; and (c) the required fee.”

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in the *Western Star* on December 20, 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

Matters presented to and considered by the Board

Does the Board have the jurisdiction to hear the appeal?

The Board reviewed Part VI, section 42(5), of the *Urban and Rural Planning Act, 2000*. Section 42(5) outlines what is required in order to file an appeal and states:

An appeal shall be made in writing and shall include

- (a) a summary of the decision appealed from;*
- (b) the grounds for the appeal; and*
- (c) the required fee.*

The Board confirmed at the hearing that Mr. and Mrs. Keats did not submit grounds for the appeal when they initiated the appeals process on August 7, 2014. The appellants conceded at the hearing that they were unaware that they were required to submit grounds for the appeal to the Board. The Board confirmed with the Secretary of the Appeal Board that a confirmation letter was sent by registered mail to the appellants on September 8, 2014. The confirmation letter indicated that the appellants had not submitted their grounds for the appeal. The Board indicated at the hearing that the grounds for the appeal are a legislated requirement that allow the Board and the technical advisor to prepare for the hearings accordingly.

In accordance with section 6(5) of the Minister's Development Regulations, "*[w]here an appeal of a decision and the required fee is not received by a board in accordance with this section and Part VI of the Act, the right to appeal that decision shall be considered to have been forfeited.*" Therefore, the Board determined that the appellants did not satisfy section 42(5) of the *Urban and Rural Planning Act, 2000*.

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.

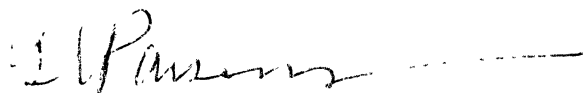
The Board is bound by section 42 of the *Urban and Rural Planning Act* and therefore must make a decision that complies with the applicable legislation, policy and regulations. Based on its findings, the Board determined that since the appeal was not filed in accordance with section 42(5) of the *Urban and Rural Planning Act, 2000*, the appeal is deemed invalid.

ORDER

Based on its findings, the Board dismisses the appeal regarding the refusal by Service NL dated July 31, 2014 issued to Edward and Susanna Keats regarding an application to construct a cottage and accessory building at Alder Brook, Hampden along the White Bay South Highway (Route 420).

Service NL 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 10th 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