

EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Tom Harris **Appellant**

AND Town of Paradise **Respondent**

RESPECTING Refusal

BOARD MEMBERS Vicki Connolly, Chair
Michelle Downey, Member
Mary Thorne- Gosse, Member

DATE OF HEARING June 16, 2015

IN ATTENDANCE

Ann-Marie Cashin – Authority
Alton Glenn – Authority
Tom Harris – Appellant
Robert Cotter - Secretary to the Eastern Newfoundland Regional Appeal Board
Lindsay Church - Technical Advisor to the Eastern Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from the Town of Paradise refusing to issue a permit to Mr. Tom Harris. On September 22, 2014, Tom Harris submitted a General Application to the Town of Paradise for approval to develop a single dwelling at 245 St. Thomas Line. Town Council considered and refused Mr. Harris' application at the October 21, 2014 Regular Meeting of Council. The Town notified Mr. Harris of Council's decision in a letter dated October 23, 2014.

In accordance with section 42 of the Urban and Rural Planning Act, 2000, Mr. Harris filed an appeal with the Eastern Newfoundland Regional Appeal Board against Council's decision to refuse his application to develop a single dwelling. Mr. Harris initiated the appeals process on November 10, 2014. As required, Mr. Harris filed: a summary of the decision being appealed; grounds for the appeal; and the appeal filing fee.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Telegram* on December 13, 2014 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on May 11, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Town of Paradise Municipal Plan and Development Regulations, 2004

Urban and Rural Planning Act, 2000

Matters presented to and considered by the Board

Are single dwellings allowed within the Residential Medium Density zone?

The Board reviewed Schedule "C" of the Town's Development Regulations which outlines what uses are permitted and discretionary within the Town's use zones. The subject site is located within a Residential Medium Density (RMD) Use Zone. Single dwellings are listed as permitted in the RMD zone.

Does the Town of Paradise have the authority to refuse a development application?

The Board found that all development located within the Town's Planning Area boundary must

conform to the Town's Municipal Plan and Development Regulations as per section 6 of the Town's Development Regulations. Section 6, Compliance with Regulations, states:

“Development shall be carried out in accordance with the Municipal Plan , [the Town's Development Regulations], and the conditions stated in a Permit to Develop.”

Did the Town have the authority to refuse Mr. Harris' application?

The Board reviewed section 9, Permit Not to be Issued in Certain Cases, of the Town's Development Regulations, which states:

Neither a permit nor approval in principle shall be issued for development within the Planning Area when, in the opinion of the Council, it is premature by reason of the site lacking adequate road access, power, drainage, sanitary facilities, or domestic water supply, or being beyond the natural development of the area at the time of application unless the applicant contracts to pay the full cost of construction of the services deemed necessary by the Council and such cost shall attach to and upon the property in respect of which it is imposed.

The Town stated at the hearing that the proposed development was premature since the site lacks adequate road access, water supply and sanitary facilities. The Board learned that Mr. Harris applied to develop a single dwelling on an unserviced lot. Maddison Place, the road in which Mr. Harris would use to gain access to his property, has water and sewer services installed. However, these services do not extend as far as the subject property. The Authority stated that the road, and sewer and water services would be required to be extended, at the expense of the developer, if the Town approved the proposed development.

Therefore, the Board accepts that since the proposed development does not comply with the Town's policies and regulations, the Town had the authority to refuse Mr. Harris' application in accordance with section 9 of the Town's Development Regulations.

Did the Town follow proper procedure when it refused Mr. Harris' application?

The Board reviewed section 24 of the Town's Development Regulations which requires the Town to state the reason for refusing a permit. The Board reviewed the Town's refusal letter dated October 23, 2014 and determined that the Town satisfied section 24 by including its reasons for refusal. The refusal letter also indicated the appellant's right and process to appeal Council's decision as per section 5 of the *Minister's Development Regulations, 2000*.

Conclusion

In arriving at its decision, the Board reviewed the submissions and comments given by all parties present 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, policy and regulations.

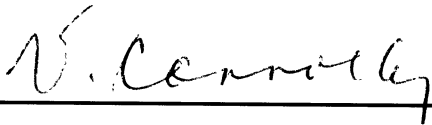
Based on its findings, the Board determined that the Town of Paradise had the authority to refuse the subject application and did so in accordance with the Town's Municipal Plan and Development Regulations. Therefore, the Board confirms the Town's decision to refuse Tom Harris' application to develop an unserviced single dwelling at 245 St. Thomas Line.

Order

Based on the information presented, the Board orders that the decision made by the Town of Paradise on October 21, 2014 to refuse Mr. Tom Harris' application to develop a unserviced single dwelling at 245 St. Thomas Line, be confirmed.

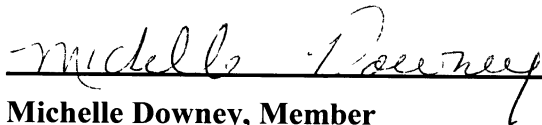
The Town of Paradise and the appellant are bound by this decision of the Eastern Newfoundland Regional Appeal Board.

DATED at St. John's, Newfoundland and Labrador, this 17th day of June, 2015.



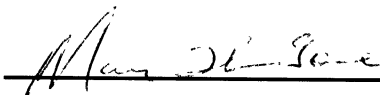
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