

**CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD**

**URBAN AND RURAL PLANNING ACT, 2000**

**APPEAL**

**BETWEEN** Lisa Willcott **Appellant**

**AND** Town of St. Alban's **Respondent**

**RESPECTING** Refusal

**BOARD MEMBERS** Sam Gibbons – Chair  
Fred Parsons – Member  
Shawn Feener – Member

**DATE OF HEARING** June 24, 2015

**IN ATTENDANCE**

Jamie LeRoux – Authority  
Augustine Willcott – Representative for Appellant  
Elizabeth Willcott – Representative for Appellant  
Robert Cotter - Secretary to the Central Newfoundland Regional Appeal Board  
Lindsay Church - Technical Advisor to the Central Newfoundland Regional Appeal Board

## **DECISION**

### **Facts/Background**

This appeal arises from a decision made by the Town of St. Alban's to refuse to issue a permit to Lisa Willcott. On December 11, 2014, Ms. Willcott applied to the Town of St. Alban's for permission to develop a single dwelling near Harbour View Road. The Town discussed the application at the December 15, 2014 Regular Meeting of Council but deferred making a decision until the next meeting to allow time to review all relevant municipal policies and regulations. Council resolved to refuse Ms. Willcott's application at the January 5, 2015 Regular Meeting of Council. The Town notified the applicant of its decision in the form of a letter dated January 6, 2015. The letter stated that the application did not comply with section 3.2 and 3.6(ii) of the Town's Municipal Plan or section 57 and 58(3) of the Town's Development Regulations.

In accordance with section 42(4) of the Urban and Rural Planning Act, 2000 (URPA), Lisa Willcott filed an appeal with the Central Newfoundland Regional Appeal Board on January 15, 2015. Additionally, the appeal was made in writing and included the following: a summary of the decision being appealed, grounds for the appeal, and the appeal filing fee as required under section 42(5) of URPA.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Advertiser* on June 1, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on June 4, 2015.

### **Legislation, Municipal Plans and Regulations considered by the Board**

Urban and Rural Planning Act, 2000

Minister's Development Regulations, 2000

Town of St. Alban's Municipal Plan and Development Regulations, 2009

## **Matters presented to and considered by the Board**

### **Does the subject property front onto a publicly maintained road?**

No. The Board found that the property owned by Lisa Willcott is accessible by vehicle via a privately maintained route, commonly referred to as an ATV trail. However, in reviewing the Town's Municipal Plan and Development Regulations, the Board learned that all residential property must front directly onto a publicly maintained road. This requirement is expressed in section 3.6(ii), Servicing and Road Frontage, of the Municipal Plan, which states:

*All buildings, with the exception of accessory buildings and non-residential buildings associated with agriculture, forestry, sawmilling, mineral workings or other rural resource or industrial type of uses for which road frontage would be unnecessary or undesirable shall have the minimum required frontage on a publicly maintained road, unless other policies and requirements of this Plan specify otherwise.*

This policy is also reiterated in the Town's Development Regulations under section 57, Lot Frontage and Road Frontage, which states:

*Unless the development forms part of a Comprehensive Development, is a seasonal residence, or falls under a use class within the Non-Building Use Group of Schedule B, the development must front onto an existing public road or a subdivision road built in conformity with the standards in these Regulations.*

Therefore, the Board determined that the appellant's property does not meet the lot frontage requirements as per section 3.6(ii) of the Town of St. Alban's Municipal Plan and section 57 of the Town's Development Regulations.

### **Did the Town have the authority to refuse Ms. Willcott's application?**

Yes. The Board found that the Town must make decisions in accordance with its Municipal Plan and Development Regulations which is outlined in section 6 of the Town's Development Regulations. When an application is contrary to Town policies and/or regulations, the Town has the responsibility to refuse the application.

In this case, the Board found that since the appellant's application did not comply with section 3.6(ii) of the Municipal Plan and Section 57 of the Town's Development Regulations, the Town refused the application accordingly.

### **Did the Town follow proper procedure when it refused Ms. Willcott's application?**

The Board found that a decision of Council must be communicated in writing and the applicant must be notified of their right and process to appeal in accordance with section 5 of the Minister's Development

Regulations, 2000. Section 5 states:

*Where an authority makes a decision that may be appealed under section 42 of the Act, that authority shall, in writing, at the time of making that decision, notify the person to whom the decision applies of the*

- (a) person's right to appeal the decision to the board;*
- (b) time by which an appeal is to be made;*
- (c) right of other interested persons to appeal the decision; and*
- (d) manner of making an appeal and the address for the filing of the appeal.*

While Ms. Willcott was issued a refusal letter dated January 6, 2015, the Town did not provide written notice of the right to appeal as required. The Board acknowledges that the right to appeal was known as an appeal was filed by Ms. Willcott in accordance with section 42 of the *Urban and Rural Planning Act, 2000*. However, this does not negate the Town's legislated responsibility to provide written notification of the right and process to appeal a decision as expressed in section 5 of the *Minister's Development Regulations, 2000*. During the hearing, the Town acknowledged that it didn't provide notice of appeal in writing to Ms. Willcott. Additionally, the Town stated that a notice of appeal will be included in future decision letters from the Town.

### **Conclusion**

In arriving at its decision, the Board reviewed the submissions and evidence presented by all parties 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.

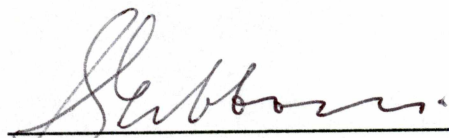
Based on its findings, the Board determined that the Town of St. Alban's had the authority to refuse a permit for a single dwelling near Harbour View Road and did so in accordance with the Town's Municipal Plan and Development Regulations.

**Order**

Based on the information presented, the Board orders that the refusal issued on January 5, 2015 by the Town of St. Alban's to Lisa Willcott to construct a single dwelling near Harbour View Road, be confirmed.


The Town of St. Alban's and the appellant are bound by this decision of the Central Newfoundland Regional Appeal Board.

**DATED** at Grand Falls-Windsor, Newfoundland and Labrador, this 24<sup>th</sup> day of June, 2015.



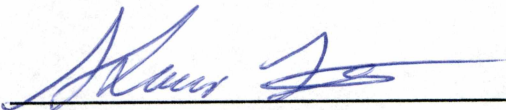
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**Sam Gibbons, Chair**  
**Central Newfoundland Regional Appeal Board**



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**Fred Parsons, Member**  
**Central Newfoundland Regional Appeal Board**



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**Shawn Feener, Member**  
**Central Newfoundland Regional Appeal Board**