

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT

APPEAL

BETWEEN Gerard Lasaga **Appellants**

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

RESPECTING Approval

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

DATE OF HEARING July 7, 2015

IN ATTENDANCE

Gerard Lasaga – Appellant
Ray Chant – Authority
Emily St. Jean – Applicant
Darlene Hawkins - Applicant
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 St. George's issuing a permit to Darlene Hawkins and Emily St. Jean on March 12, 2015 for the purpose of constructing a garage, ramp and fence at 86 Main Street. Also on March 12, 2015, the Town notified Gerard Lasaga of the subject permit. According to the Town's Manager, Mr. Ray Chant, Mr. Lasaga was notified due to the fact he had filed numerous complaints with the Town regarding the subject application. Mr. Lasaga was also notified of his right and process to appeal the Town's decision.

On March 26, 2015, Mr. Lasaga filed an appeal with the West Newfoundland Regional Appeal Board against the Town's issuance of the above noted permit. The appeal was filed within the required timeframe as per section 42(4) of the Urban and Rural Planning Act, 2000 and included the necessary information as outlined in section 42(5) of the Urban and Rural Planning Act, 2000.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in the *Western Star* on June 3, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority on June 5, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Municipalities Act, 1999

Minister's Development Regulations, 2000

Town of St. George's Municipal Plan and Development Regulations, 2011

Town of St. George's Fence Regulations, 2008

Matters presented to and considered by the Board

Where will the proposed garage be located?

The Board was unclear on the exact location of the proposed garage based on the site plan submitted prior to the hearing. Therefore, the Board sought clarification during the hearing. The Authority indicated the submitted site plan was not to scale. Indeed, the Board learned that the

garage will be located close to the applicants' dwelling, on the eastern side of the building. The Board also learned from the Authority that the applicants applied to place the accessory building on the western side of their property but were refused road access from the Department of Transportation and Works due to insufficient site distance. As a result and because of the size and shape of the applicants' property, the proposed site of the garage is the only suitable location.

Will the proposed garage be in compliance with the Town's Development Regulations?

The Board reviewed section 30 of the Town's Development Regulations, which outlines standards for residential accessory buildings within the Town of St. George's. Specifically, section 30(1) states:

General – Accessory buildings shall be clearly incidental and complementary to the use of the dwelling(s) in character, use and size, and shall be contained on the same lot and shall not have a negative effect on neighbouring properties.

The Board sought clarification from the Town to determine if a loss of view is considered a negative effect on neighbouring properties. The Town indicated that the loss of a view is *not* considered a negative effect. The Town's representative further mentioned that the proposed structure will be located on the applicants' property, not on Mr. Lasaga's. The height and location of the building is not considered a negative effect if it complies with the standards outlined in section 30 of the Town's Development Regulations. Therefore, the Board accepts that the proposed garage will be in compliance with the Town's Development Regulations.

Will the proposed fence be in compliance with the Town's Fence Regulations?

The Board learned that the Town of St. George's Fence Regulations outlines standards for residential fences. The Authority indicated at the hearing that the subject property is fully serviced and must comply with the appropriate standards as outlined in the Fence Regulations. Again, the Authority stated that the exact plans for the fence were not submitted to the Town and the permit was issued subject to Town Regulations. The Board accepts that a copy of the Fence Regulations was provided to the applicants by the Town when the permit was issued. The Authority acknowledged the standards outlined in the Fence Regulations pertaining to the height, property line setback, clear view, and materials permissible. Additionally, the Authority submits to the fact that the fence will impede Mr. Lasaga's view. However, if the fence complies with the

Town's Fence Regulations then the Permit is valid. Therefore, the Board accepts that the proposed fence will be in compliance with the Town's Fence Regulations.

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.

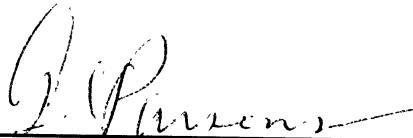
Based on its findings, the Board determined that the Town of St. George's had the authority, and exercised it appropriately, when it issued a permit to Darlene Hawkins and Emily St. Jean for the purpose of constructing a garage, ramp and fence at 86 Main Street.

ORDER

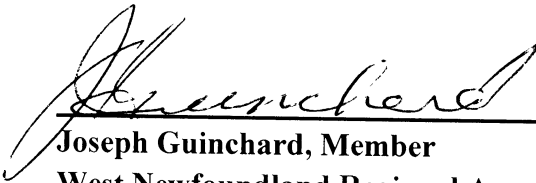
Based on the information presented, the Board orders that the decision made by the Town of St. George's on March 12, 2015 to approve the application submitted by to Darlene Hawkins and Emily St. Jean for the purpose of constructing a garage, ramp and fence at 86 Main Street, be confirmed.

The Town of St. George's is bound by this decision of the West Newfoundland Regional Appeal Board which is binding on all parties.

DATED at Stephenville, Newfoundland and Labrador, this 7th day of July, 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