

EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Fred Woolridge
Cynthia and Bill Whalen
Glen and Theresa Hynes **Appellants**

AND Town of Paradise **Respondent**

RESPECTING Approval

BOARD MEMBERS Michelle Downey – Acting Chair
Bruce Strong
Mary Thorne-Gosse

DATE OF HEARING September 18, 2015

IN ATTENDANCE

Fred Woolridge – Appellant
Glen Hynes – Appellant
Alton Glenn – Authority
Ann-Marie Cashin – Authority
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 issuing a building permit to Mr. Chris Warren for a single dwelling at 63 Round Pond Road. On January 30, 2015, Mr. Chris Warren on behalf of the property owner, Mr. Eugene Warren, applied to the Town of Paradise. The Town considered and approved the application at the March 17, 2015 Regular Meeting of Council subject to sixteen (16) conditions. The Town issued a development permit, subject to conditions, to Chris Warren on March 27, 2015. On May 11, 2015, the Town issued a building permit to Mr. Warren for the construction of a single dwelling.

Three appeals were initiated with the Eastern Newfoundland Regional Appeal Board by interested third parties against the Town of Paradise's approval issued on May 11, 2015 to Mr. Warren. Fred Woolridge filed his appeal on May 25, 2015, Cynthia and Bill Whalen submitted their appeal on May 26, 2015, and Glen and Theresa Hynes initiated their appeal on May 27, 2015. All appellants indicated they received notification of the Town's decision on May 20, 2015. Based on that information, it appears all three appeals were filed in accordance with section 42(4) of the Urban and Rural Planning Act, 2000 (URPA). Additionally, the appeals were made in writing and included the following: a summary of the decision being appealed, grounds for the appeals, and the appeal filing fees 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 Telegram* on August 17, 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 August 18, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Municipalities Act, 1999

Matters presented to and considered by the Board

Does the Board have the jurisdiction to hear the appeal?

The Board reviewed section 42(1) of the *Urban and Rural Planning Act, 2000* which outlines

what matters may be appealed to the Board. Section 42(1) states:

A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate board where the decision is with respect to

- (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.*

The Town of Paradise issued a building permit to Mr. Warren on May 11, 2015. The Board accepts that the Town derives its authority to issue building permits from section 194 of the *Municipalities Act, 1999*. The interested parties appealed this May 11, 2015 decision to the Eastern Newfoundland Regional Appeal Board in accordance with section 42(4) and 42(5) of the *Urban and Rural Planning Act, 2000*. Under section 42(1)(d) of the *Urban and Rural Planning Act, 2000*, decisions allowed under another Act, such as the *Municipalities Act, 1999*, may be appealed. However, the Board found that an approved building permit issued under section 194 of the *Municipalities Act, 1999* is not subject to appeal in accordance with section 409 of the *Municipalities Act, 1999*. 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.

Therefore, the Board determined that the appeal matter is outside its jurisdiction.

Should the Board grant the deferral request?

The Secretary to the Board indicated at the hearing that the Board received two requests for deferral. Since the Board determined that it could not hear the appeal, the Board did not defer the appeal hearing.

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

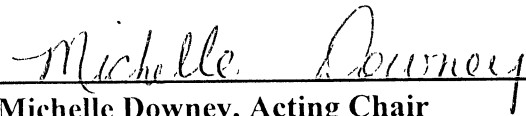
its findings, the Board found that it did not have the authority to hear the appeal as the issuance of a building permit is not subject to appeal under section 409 of the *Municipalities Act, 1999*.

Order

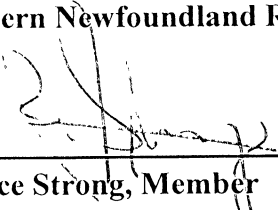
Based on the information presented, the Board orders that the decision made by the Town of Paradise on May 11, 2015 to issue a building permit to Mr. Chris Warren for a single dwelling at 63 Round Pond Road, be dismissed.

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 18th day of September, 2015.



Michelle Downey, Acting Chair
Eastern Newfoundland Regional Appeal Board



Bruce Strong, Member
Eastern Newfoundland Regional Appeal Board



Mary Thorne-Gosse, Member
Eastern Newfoundland Regional Appeal Board