

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT

APPEAL

BETWEEN Dawn Corkum **Appellants**

AND Town of Happy Valley-Goose Bay **Respondent**

RESPECTING Approval

BOARD MEMBERS Gary Parsons – Acting Chair
Joseph Guinchard – Member
Walter Sheppard – Member

DATE OF HEARING October 29, 2015

IN ATTENDANCE

Dawn Corkum – Appellant
Jenice Wiseman – Developer
Wyman Jacque – Authority
Douglas Foster – 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 the Town of Happy Valley-Goose Bay approving an application submitted by Darrell and Jenice Wiseman for a subsidiary apartment at 13 Hefler Street. The Town considered and approved the application subject to conditions at the April 28, 2015 Regular Meeting of Council. The Town notified Mr. and Mrs. Wiseman of its decision in a letter dated May 1, 2015.

On May 11, 2015, Ms. Dawn Corkum, an interested party, filed an appeal with the West Newfoundland Regional Appeal Board against Council's approval of the above noted application. In accordance with section 42(4) of the Urban and Rural Planning Act, 2000 (the "Act"), the appeal was filed within the fourteen (14) day requirement. Additionally, the appellant included the required information as per section 42(5) of the Act.

In accordance with the *Urban and Rural Planning Act, 2000* a public notice of the appeal was published in *The Labradorian* on October 12, 2015 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority on October 5, 2015.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Minister's Development Regulations, NLR 3/01

Town of Happy Valley – Goose Bay Municipal Plan and Development Regulations, 2008

Matters presented to and considered by the Board

How is the property zoned?

The Board reviewed the Town of Happy Valley – Goose Bay Municipal Plan and Development Regulations, 2008 and confirmed that 13 Hefler Street is designated Residential and zoned Residential Low Density (RLD).

Did the Town approve a double dwelling or a subsidiary apartment in a single dwelling?

The Board learned that a permit was issued to Mr. and Mrs. Wiseman for a single dwelling at 13

Hefler Street on August 6, 2014. A subsequent permit was issued by the Town for a subsidiary apartment to the previously approved single dwelling at 13 Hefler Street on April 28, 2015.

The appellant argued that the development was considered a double dwelling, not a single dwelling containing a subsidiary apartment. The Board reviewed the following definitions of a double dwelling as well as a subsidiary apartment, as outlined in Schedule “A” of the Town’s Development Regulations:

***Double Dwelling** means a building containing two dwelling units, placed one above the other, or side by side, but does not include a self-contained dwelling containing a subsidiary apartment.*

***Subsidiary Apartment** means a separate dwelling unit constructed within and subsidiary to a self-contained dwelling.*

The authority indicated at the hearing that a double dwelling could be subdivided to allow each unit land title. A double dwelling would also include two (2) separate driveways. Whereas a dwelling containing a subsidiary apartment is not designed to enable land subdivision and would visibly appear as single dwelling from a design aspect. The authority noted that the conditions attached to the permit dated May 1, 2015 were designed to ensure the apartment was subsidiary to the single dwelling and not construed as a double dwelling. With this information, the Board found that the Town issued a permit for a subsidiary apartment within a single dwelling in accordance with section 70 of the Town’s Development Regulations. Section 70 states:

Subsidiary apartments shall be permitted in single dwellings only, and for the purposes of calculating lot area and yard requirements, shall be considered part of the self-contained dwelling.

Are subsidiary apartments allowed within the RLD zone?

The Board found that subsidiary apartments are listed as discretionary in the RLD Use Zone Table in Schedule “C” of the Town’s Development Regulations.

Did Council consider the discretionary use application appropriately?

The Board determined that the Town acted in accordance with section 23(1) of the Town’s Development Regulations when it provided public notification of the discretionary use application in *The Labradorian* on April 13, 2015. The appellant questioned whether Council

considered the 34 letters that were submitted to Council on April 22, 2015. The authority assured the Board that all input was provided to Council prior to the April 28, 2015 Regular Meeting of Council. Therefore, the Board concluded that the Town considered the discretionary use application as per section 95 of the Town's Development Regulations, which states:

Subject to these Regulations, the uses that fall within the Discretionary Use Classes set out in the appropriate Use Zone Table in Schedule C may be permitted in that Use Zone if the Town is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Municipal Plan, or any further scheme or plan or regulation pursuant thereto, and to the public interest, and if the Town has given notice of the application in accordance with Regulation 23 and has considered any objections or representations which may have been received on the matter.

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*, 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 Happy Valley – Goose Bay had the authority, and exercised it appropriately, when it approved a permit for a subsidiary apartment at 13 Hefler Street on April 28, 2015.

ORDER

Based on the information presented, the Board orders that the decision made by the Town of Happy Valley – Goose Bay on April 28, 2015 to approve an application for a subsidiary apartment at 13 Hefler Street, be confirmed.

The Town of Happy Valley – Goose Bay is bound by this decision of the West Newfoundland Regional Appeal Board which is binding on all parties.

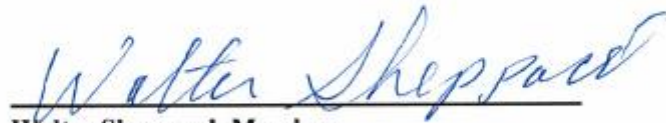
DATED at Deer Lake, Newfoundland Labrador, this 29th day of October, 2015.



**Gary Parsons, Acting Chair
West Newfoundland Regional Appeal Board**



**Joseph Guinchard, Member
West Newfoundland Regional Appeal Board**



**Walter Sheppard, Member
West Newfoundland Regional Appeal Board**