

CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Brian Curlew **Appellant**

AND Town of Lewisporte **Respondent**

RESPECTING Approval

BOARD MEMBERS Sam Gibbons – Chair
Fred Parsons – Member
Wesley Harris – Member

DATE OF HEARING October 18, 2016

IN ATTENDANCE

Brian Curlew – Appellant
Corb Randell – Authority
Brian Peckford – Authority
Randall Smith – Solicitor for the Developer (via teleconference)
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 Lewisporte to issue a permit to C-Gas Management Inc. The Town of Lewisporte received an application on July 7, 2016 for permission to construct a 3000 square feet c-store with gas service and site works at 400 Main Street. The Lands Committee considered and approved this application at its July 27, 2016 meeting and subsequently issued a Building Permit to C-Gas Management Inc. The Building Permit also required a copy of legal deeds and a survey.

Mr. Brian Curlew, an interested third party, received notification of the above noted permit on August 1, 2016 and filed an appeal with the Central Newfoundland Regional Appeal Board against that decision on August 11, 2016. 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 *Act* a public notice of the appeal was published in *The Pilot* on August 31, 2016 and a notice of the time, date, and place of the Hearing was provided to the appellant and authority by registered mail sent on September 16, 2016.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Town of Lewisporte Municipal Plan and Development Regulations, 2005

Matters presented to and considered by the Board

Does the Board have the jurisdiction to hear the appeal?

The Board asked Mr. Curlew if he had any further arguments in addition to his grounds for appeal outlined in the letter dated August 10, 2016 stating his concern regarding the sale of a portion of the rail bed that occurred between the Town and the developer. Mr. Curlew indicated that he did in fact have further arguments. The Board allowed him to proceed before deciding on the matter of jurisdiction.

Upon hearing Mr. Curlew's further arguments, the Board determined that Mr. Curlew's grounds were only related to the sale of land. Therefore, the Board found that it did not have the authority to hear the appeal pursuant to section 42(1) of the *Act*, which 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.*

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 appeal was not filed in accordance with section 42(1) of the *Urban and Rural Planning Act, 2000* and, is therefore, invalid.

Order

Based on the information presented, the Board dismisses the appeal regarding the development Permit issued to C-Gas Management Inc. on July 27, 2016 for the purpose of constructing a c-store with gas service and site works.

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

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Central Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador, Trial Division on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than ten (10) days after the Board's decision has been received by the Appellant.

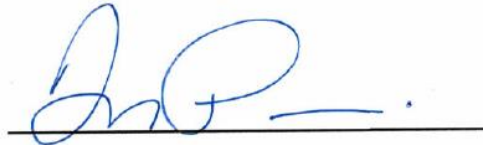
DATED at Gander, Newfoundland and Labrador, this 18th day of October, 2016.



Samuel Gibbons, Chair
Central Newfoundland Regional Appeal Board



Wesley Harris, Member
Central Newfoundland Regional Appeal Board



Fred Parsons, Member
Central Newfoundland Regional Appeal Board