

**CENTRAL NEWFOUNDLAND REGIONAL APPEAL BOARD**

**URBAN AND RURAL PLANNING ACT, 2000**

**APPEAL**

**BETWEEN** Bennett Wellman **Appellant(s)**

**AND** Town of Springdale **Respondent**

**RESPECTING** Approval with conditions

**BOARD MEMBERS** Stephen Burbridge, Chair  
Bill Carter, Member  
Gerald Thompson, Member

**DATE OF HEARING** April 9, 2019

**IN ATTENDANCE**

Appellant(s): Bennett Wellman

Bill Wellman  
Kenneth Oxford

Authority: Jason Sparkes, Town of Springdale  
Matthew Bowers, Town of Springdale

Interested parties Rick Wellman  
Kenneth Oxford

Secretary to the Central Newfoundland Regional Appeal Board: Robert Cotter  
Technical Advisor to the Central Newfoundland Regional Appeal Board: Christopher Hardy

## **DECISION**

### **Facts/Background**

The Town of Springdale (the Authority) approved an application to develop the subject property with conditions. The Town sent correspondence to that effect to the Appellants on May 23, 2018.

- March 2018  
Appellant purchased subject property and demolished the existing house
- May 16, 2018  
Appellant submitted an application for a development permit to build a shed and a house on the subject property
- May 23, 2018  
Appellant received permit for a shed only and information about setbacks that were to be applied to the proposed location for the house
- July 7, 2017  
Appeal registered by the Secretary of the Regional Appeal Boards

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

Urban and Rural Planning Act, 2000  
Town of Springdale Development Regulations

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

The Appellant is appealing the Order on the following grounds:

#### **1. Did the Town of Springdale have the authority to issue a Building Permit Approval with Conditions for proposed shed located the 331 Main Street?**

The Board finds that the Town of Springdale did have the authority to issue Approval with Conditions. Section 35(g) of the Urban and Rural Planning Act 2000 states that”

35. (1) A council or regional authority shall, to ensure that land is controlled and used only in accordance with the appropriate plan or scheme, make development regulations

(g) requiring that a decision of a council or regional authority with respect to a permit be in writing and state reasons for a refusal of or conditions placed upon a permit;

Section 21 of the Town of Springdale Development Regulations reads:

*“The Town may attach to a permit such conditions as it deems fit in order to ensure that the proposed development will be in accordance with the purposes and intent of these Regulations.”*

**2. Did the Town of Springdale have the authority to impose a 2m side yard setback for the proposed development on 331 Main Street?**

The Board finds that the Town of Springdale did have the authority to impose a 2m side yard setback as one of the Building Permit approval condition. Section 31(3) of the Town of Springdale Development Regulations reads:

*31. Side Yard - [...] the minimum side yards (distance from the side lot lines) are as follows:*

- a) Minimum Side Yard - building up to 4 metres in height 1 metre*
- b) Minimum Side Yard - building exceeds 4 metres height 2 metres*

**3. Did the Town of Springdale exercise its authority appropriately in issuing a Building Permit Approval with Conditions for the proposed shed located at 331 Main Street?**

The Board finds that the Town of Springdale did exercise its authority appropriately in issuing a Building Permit Approval with Conditions for the subject property.

**Conclusion**

In arriving at its decision, the Board reviewed the submissions and comments given by all parties present 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 Springdale did exercise its authority appropriately in issuing a Building Permit Approval with Conditions for the property located at 331 Main Street.

Therefore, the Board confirms the Authorities decision to issue a Building Permit Approval with Conditions for the property located at 331 Main Street.

**Order**

Based on the information presented, the Board **confirms** the Town of Springdale's decision to issue a Building Permit Approval with Conditions for the property located at 331 Main Street.

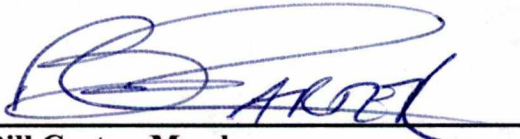
The Respondent and the Appellant(s) are bound by this decision of the Central Newfoundland Regional Appeal Board.

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 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(s).

**DATED** at Grand Falls Windsor, Newfoundland and Labrador, this 9 day of April, 2019



**Stephen Burbridge, Chair**  
**Central Newfoundland Regional Appeal Board**



**Bill Carter, Member**  
**Central Newfoundland Regional Appeal Board**



**Gerald Thompson, Member**  
**Central Newfoundland Regional Appeal Board**