

DECISION

Facts/Background

Richard Lear applied on June 29, 2018 to construct a single dwelling at 21 Calvin Manor Road, Seal Cove, Conception Bay South. The Town of Conception Bay South (the Authority) granted approval with conditions for an application to develop a single residence at 21 Calvin Manor Road, Seal Cove. The Town sent correspondence on November 9, 2018 outlining the following:

- Application 2018-185 had been approved with conditions,
- a building permit would not be issued unless the conditions were complied with,
- no construction and/or excavation is permitted prior to the receipt of the building permit, and twenty-three conditions for development.

The correspondence also outlined that the conditional approval could be appealed and how to file an appeal.

There was a verbal note from Richard Lear at the Appeal Hearing, advising that the property under appeal Lot # 21 does not exist. It was noted by Mr. Lear that the property in question for appeal is Lot # 19.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Minister's Development Regulations

Town of Conception Bay South Municipal Plan & Development Regulations

Matters Considered by the Board

Q: Are single dwellings allowed within the Residential Low Density (R-1) zone?

A: The subject property is located within an R-1 zone. The Board accepts that single dwellings are permitted in the R-1 zone as outlined in Schedule "C" of the Town's Development Regulations.

Q: Does the Town have the authority to impose the conditions relevant to this development?

A: Section 4-11.2 of the Town's Development Regulations states that "the Authority may attach to a development approval 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.

Section 4.6 of the Town's Development Regulations states that "In considering an application to carry out development, the Authority shall take into account the policies discussed in the Municipal Plan and any further scheme, plan or regulations pursuant thereto, and shall assess the general appearance of the development of the area, the amenity of the surroundings, availability of utilities, public safety and convenience, and any other considerations which are, in its opinion, material, and notwithstanding the conformity of the Application with the requirements of these Regulations , the Authority may, in its discretion, and as a result of its consideration of the matters set out in tis Regulation, conditionally approve or refuse the application.

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. The Eastern Newfoundland Regional Appeal Board derives its authority from the Urban and Rural Planning Act 2000. Section 42(11) of the Act states that "Notwithstanding subsection 10, where a council, regional authority or authorized administrator may, in its discretion, make a decision, a board shall not make another decision that overrules a discretionary decision."

Based on its findings, the Board determined that Council had the authority to impose conditions for the approval of the new single dwelling.

Therefore, the Board confirms the November 9, 2018 decision of the Town to approve with conditions, the application of the Appellant to construct a single dwelling located at 19 Calvin Manor Road, Seal Cove, Conception Bay South.

Order

Based on the information presented, the Board orders that the decision made on November 9, 2018 by the Town of Conception Bay South for conditional approval of a single dwelling at 19 Calvin Manor Road, Seal Cove, Conception Bay South be confirmed.

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

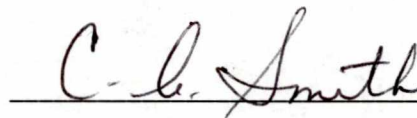
According to section 46 of the Urban and Rural Planning Act, 2000, the decision of the Eastern Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later than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

DATED at Portugal Cove-St. Philips, Newfoundland and Labrador, this 17th day of September, 2019.



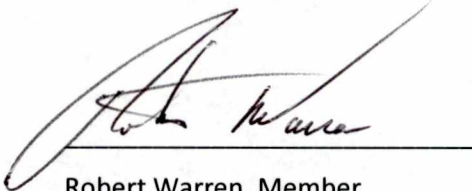
Cliff Johnston, Chair

Eastern Newfoundland Regional Appeal Board



Carol Ann Smith, Member

Eastern Newfoundland Regional Appeal Board



Robert Warren, Member

Eastern Newfoundland Regional Appeal Board