

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN

Jeffrey Clarke

Appellant

Service NL

Respondent

RESPECTING

Refusal of a permit to erect a cottage and accessory building at lot
9 Milan Arm

BOARD MEMBERS

Lloyd Walters, Chair
Leona Gillette, Member
Boyd Noel, Member

DATE OF HEARING

September 24, 2019
Corner Brook, NL

IN ATTENDANCE

Jeffrey Clarke Appellant(via phone)
Aaron Legge, For the Respondent, SNL

Robert Cotter, Secretary to the West Newfoundland Regional Appeal Board
Elaine Mitchell, Technical Advisor to the West Newfoundland Regional Appeal Board

DECISION

Facts/Background

An application to develop the subject property for a cottage and accessory building was refused by Service NL (the Authority). A refusal letter, dated May 15, 2019, was sent to the Appellant outlining the following: “The subject site is located within Protected Road Building Control Lines. According to the Trans-Canada Highway — Route 430 - Protected Road Zoning Plan, the subject site is located within the Rural Conservation zone. Cottages are not a permitted use in the Rural Conservation zone.”

On May 28, 2019 an appeal was filed with the West Newfoundland Regional Appeal Board.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Northern Peninsula Highway Protected Road Zoning Plan

Protected Road Zoning Regulations

Matters presented to and considered by the Board

The Board heard from the appellant, Mr. Clarke and Mr. Aaron Legge, representative for Service Newfoundland and Labrador (SNL) regarding the history of the property.

How is the property zoned?

The subject property is zoned Rural Conservation under the Northern Peninsula Highway Protected Road Zoning Plan.

Is the type of development applied for, allowed in the zone?

Cottage development is not a permitted use in this zone.

Did SNL follow proper procedure when it refused the application?

The representative from SNL outlined the procedures followed with regard to this application. The procedures outlined indicate that the application was processed appropriately and without bias.

Did SNL have the authority to refuse the subject application?

Yes, SNL does have the authority to refuse the application based on the policy that the response from all government departments/agencies was not unanimous in recommending approval.

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 determines that SNL acted appropriately in refusing the application from Mr. Clarke.

Therefore, the Board determined under the *Urban and Rural Planning Act 2000*, to confirm the Respondent's decision to deny a permit to construct a cottage and accessory building at 9 Milan Arm.

Order

Based on the information presented, the Board orders that the decision by SNL be confirmed.

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

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the West 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 Corner Brook, Newfoundland and Labrador, this 24th day of September, 2019



Chair

West Newfoundland Regional Appeal Board



Member

West Newfoundland Regional Appeal Board



Member

West Newfoundland Regional Appeal Board