

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Darren Brake **Appellant(s)**

AND Town of Norris Point **Respondent**

RESPECTING: Refusal of dwelling at 238B Main Street

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

DATE OF HEARING September 25, 2019

IN ATTENDANCE

Appellants:
Darren Brake

Respondent:
James Goudie, solicitor for Town of Norris Point
Jennifer Samms, Town Clerk/Manager, Town of Norris Point

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 from KSAB Construction Ltd. (the Applicant) for a dwelling at 238 B Main Street, Norris Point, was refused by the Town of Norris Point (the Authority). Correspondence from the Authority, dated May 10, 2019, gave the following reason for refusal:

- “The subject property does not comply with Regulation 40 of the Norris Point Development Regulations.”
- Regulation 40 of the Town of Norris Point Development Regulations states:
- “no residential or commercial building shall be erected unless the lot on which it is situated fronts directly onto a street which has been constructed to standards established by the Authority.”

The correspondence from the Authority also mentioned the right to appeal and included section 42 (4) and (5) of the *Urban and Rural Planning Act, 2000*.

Darren Brake (the Appellant) owner of KSAB Construction Ltd., filed an appeal on May 31, 2019.

Matters Considered by the Board

The board heard arguments from the appellant that “Fire Lane” was actually a street under the definition of street in the town’s development regulations because it goes all the way to the ocean. The town asserted that “Fire Lane” has never been maintained as a “street”. It asserts that there is no public road listed for that area. In fact the lane is really a large parking lot for use by the patrons of the nearby buildings. However, the representative for the town indicated in response to a question from the board that consideration was being given to develop the area as a street.

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 decision of the Town of Norris Point to

refuse a development permit for the property at 238B Main Street was in compliance with town regulations. Therefore, the Board confirms the decision of the Town Council of Norris Point to refuse a development permit for the property at 238B Main Street.

Order

Based on the information presented, the Board orders that the decision made by the Town of Norris Point in this matter 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 Deer Lake, Newfoundland and Labrador, this 25th day of September, 2019



Chair
West Newfoundland Regional Appeal Board



Member
West Newfoundland Regional Appeal Board



Member
West Newfoundland Regional Appeal Board