

EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN David Green Appellant(s)
Lana Green

Town of Pasadena Respondent

RESPECTING Council's refusal to issue a development permit for a dwelling to be located at 43 Tippings Drive, Pasadena

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

DATE OF HEARING September 25, 2019
Deer Lake, NL

IN ATTENDANCE
Brian Hudson CAO Town of Pasadena
Adam Baker Solicitor, Town of Pasadena

David Green Appellant
Lana Green Appellant

Joseph Kennedy Interested Party

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 a dwelling at 43 Tipping Drive, Pasadena, was refused by the Town of Pasadena (the Authority) on February 4, 2019. A letter outlining the Authority's decision was sent to Mr. and Mrs. Green (the Appellant) on February 5, 2019 giving the following reason for its decision:

“The application does not meet the minimum lot standards of 4000 square metres required in the Residential Rural zone.”

This letter was returned to the Town undelivered. On February 27, 2019 a refusal letter was sent to the appellant via email. On March 13, 2019 an appeal was filed with the board. The letter from the Town also outlined the right of appeal and how to file an appeal.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Town of Pasadena Development Regulations

Matters presented to and considered by the Board

Are single dwellings allowed within the Residential Rural Zone?

The Board accepts that single dwellings are permitted in the Residential Rural Zone under the Town of Pasadena Development Regulations but requires a minimum lot area of 4,000 Sq. Meters and a minimum frontage of 45m.

Did the town have the authority to refuse the application?

The appellants raised the issue of the town's exercise of its discretion in deciding on this application. However, the board has determined that the town complied with its obligations when making a decision to not issue a permit and exercised its authority appropriately for a dwelling provided that the lot coverage and height are not greater than, and the yards and floor area are not less than the standards.

Did the Town adequately notify the Appellant of Council's decision?

Yes, despite the initial letter to the appellant being returned because it could not be delivered the town followed up with an email to the appellant.

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 Pasadena properly applied the regulations applicable to the Residential Rural use zone table, which requires a minimum lot area of 4,000 square metres and also specifies a minimum frontage requirement of 45 metres when denying the Application for a Permit.

Therefore, the Board confirms the Respondent's decision to deny a permit for new construction of a single family dwelling at 43 Tipping Drive, Pasadena.

Order

Based on the information presented, the Board orders that the decision by the Town of Pasadena to deny the application for a permit to build a dwelling at 43 Tipping Drive, Pasadena is 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