

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD**URBAN AND RURAL PLANNING ACT, 2000****APPEAL****BETWEEN**

Todd Hoyles

Appellant

Service NL

Respondent**RESPECTING**

Refusal of an application to develop a Cottage on Bonne Bay Highway (Route 431)

BOARD MEMBERSLloyd Walters, Chair
Leona Gillette, Member
Boyd Noel, Member**DATE OF HEARING**

September 25, 2019, Deer Lake, NL

IN ATTENDANCETodd Hoyles Appellant
Wayne Hoyles, support for appellant
Aaron Legge, For the Respondent, SNLRobert 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 April 5, 2019 was sent to the Appellant outlining the following:

“Section 6: Development within building control lines (Protected Road Zones with no plans)

A permit for development within the building control lines of a protected road shall not be issued outside a community except for signs which shall be erected and displayed in accordance with the Highway Sign Regulations, premises for the purpose of providing services to the travelling public, development related to public, institutional or commercial recreation, including attraction sites, public utilities, waste disposal sites, cemeteries, development associated with forestry, fishing, agriculture or mining, and purposes incidental to or in conjunction with the above.

The Protected Road zone in which you have proposed a cottage development does not support Residential / Seasonal Dwellings as a permitted use under Section 6. According to Schedule B of the Protected Road Zoning Regulations (the Regulations), the subject site is located within protected road building control lines. The protected road building control line extends 400 metres from the highway centre line.”

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

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Protected Road Zoning Regulations

Matters presented to and considered by the Board

The Board heard from the appellants, Wayne and Todd Hoyles and Mr. Aaron Legge, representative for Service Newfoundland and Labrador (SNL) regarding the history of the property.

What exists on the property today?

The board was informed that Mr. Hoyles, in April or March 2018, demolished the cabin which previously existed on the lot and burned on site or transported to the waste disposal site all other remaining portions of the prior property. There is nothing remaining of the previous property.

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

Cottage development is not a permitted use in the protected road 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. Hoyles.

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 Little Bonne Bay Pond, Route 431,(Bonne Bay Highway).

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 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