

# Central Newfoundland Regional Appeal Board

Appeal #	15-006-064-005
Appellant(s)	Heidi Parsons
Respondent / Authority	Town of Indian Bay
Board Members	Chair: Gerald Thompson (Acting) Member: David Oxford Member: William Carter
Date of Hearing	March 10, 2020

## Also in Attendance

Solicitor for the Appellant(s)	Aaron Mosher
Representatives for the Appellant(s)	Heidi Parsons
Representatives for the Authority	Triffie Parsons, Town Manager/Clerk Deanne Parsons, Deputy Mayor
Secretary to the Boards	Robert Cotter
Technical Advisor to the Boards	Christopher Hardy, MCIP
Interested Parties	

The provision for appeal is enabled under section 42 of the *Urban and Rural Planning Act, 2000*.

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## 1. Board's Role

The role of the Central Newfoundland Regional Appeal Board is to determine if the Town of Indian Bay acted in accordance with the *Urban and Rural Planning Act, 2000*, the Interim Development Regulations 2003 and the Town of Indian Bay Municipal Plan and Development Regulations when it issued an order to Heidi Parsonson April 30, 2019 ordering development cease.

## 2. Background

Heidi Parsons (the Appellant) kept six horses on the subject property. The Town of Indian Bay (the Authority) issued an order on April 30, 2019 (the Order) to remove the horses from the subject property.

The Order outlined the following:

- That the keeping of six horses contravenes the conditions of Development Permit 18-10,
- The permit has been revoked,
- That under section 6 of the *Interim Development Regulations, 2003*, the Town may set development conditions for a permit,
- That under section 8, the Town may cancel a permit where "development ... is carried out that is contrary to terms and conditions imposed under a permit", and
- That the Order could be appealed.

## 3. Validity

Sections 42 (4) and (5) of the Act state:

*42. (4) An appeal made under this section shall be filed with the appropriate board not more than 14 days after the person who made the original application appealed from has received the decision being appealed.*

*42. (5) An appeal shall be made in writing and shall include*

- (a) a summary of the decision appealed from;*
- (b) the grounds for the appeal; and*
- (c) the required fee.*

According to the documents provided, the appeal was filed on June 3, 2019. The Appellant's submission included the grounds of appeal, an appeal summary form and the required fee.

## 4. Grounds of Appeal

This appeal is based on the following section of the Act: Section 42.(1)(b) (a revocation of an approval or a permit to undertake a development).



42. (1) A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate board where the decision is with respect to

- (a) an application to undertake a development;
- (b) a revocation of an approval or a permit to undertake a development;
- (c) the issuance of a stop work order; and
- (d) a decision permitted under this or another Act to be appealed to the board.

The Appellant is appealing the order on the following grounds:

- That the Town Council does not have the authority to regulate the keeping of animals under the *Interim Development Regulations, 2003* (IDR),
- That the keeping of horses does not constitute development under the IDR,
- That the Town Council does not have regulations “restricting the keeping of animals on properties within their jurisdiction”,
- That the keeping of horses was not addressed in the conditions of Permit 18-10,
- That conditions associated with Permit 18-10 were never conveyed to the Appellant,
- That the Town Council imposed regulations without properly adopting them, and
- That there were six horses on the subject property for only a few days.

## 5. Planner’s Technical Analysis

### Legislation and Regulations

The applicable legislation with respect to this appeal is:

*Urban and Rural Planning Act, 2000*  
*Municipalities Act, 1999*  
*Interim Development Regulations, 2003*

### Procedural Compliance

*The Urban and Rural Planning Act, 2000* defines development in section 2(g) as “...operations in, on, over or under land, or the making of a material change in the use, or the intensity of use of land...” The addition of animals (especially large ones) to an area of land would constitute a change in the intensity of use of the land. The Province’s *Interim Development Regulations, 2003* were made under the Act and the same definition of development applies.

The Town indicated that the Appellant signed a document accepting the conditions of Permit 18-10.

The *Interim Development Regulations, 2003* give the Town the authority to control permitting for development within its planning area. The subject land is within that planning area (which was brought into legal effect on June 28, 2017). As of the amendment to the *Interim Development Regulations, 2003* Schedule that added Indian Bay’s planning area, the Municipality was then subject to the Regulations. No additional process is required under the *Municipalities Act, 1999* for the Municipality to be added to the Schedule.

Technical analysis prepared by:

A handwritten signature in black ink, appearing to read 'C Hardy', written over a horizontal line.

**Christopher Hardy, MCIP**

Technical Reviewer for the Newfoundland and Labrador  
Regional Appeal Boards



## 6. Presentations during the Hearing

### Planner

There was no contesting of what was presented by Mr. Hardy by the Appellant or Authority.

### Appellant

It was presented by Heidi Parsons, as represented by Mr. Mosher, that:

- The Town of Indian Bay did not have the authority to create conditions around the development and were not lawfully enacted,
- The keeping of horses does not constitute a development,
- The Town of Indian Bay has not enacted regulations regarding the keeping of animals on properties within their jurisdictions,
- The Town of Indian Bay did not consult Ms. Parsons on a possible solution before issuing the Order.

### Authority

The Town of Indian Bay, as represented by Triffie Parsons, stated that:

- Based on the *Interim Development Plan 2003*, they felt that they had the authority to implement conditions around the development,
- There is a certain amount of land required for each animal which they felt required development,
- The issue at hand was not the keeping of the animals but the development of the land for the animals to use,
- They have had ongoing issues in dealing with Ms. Parsons and the use of her property for development which would potentially impact any meaningful solution.

## 7. Conclusion

Based on information presented during the hearing, it was determined that the original permit of June 18, 2018 that was granted to Ms. Parsons (Permit 18-09) allowed for up to three horses on her property as long as further development was considered to accommodate the extra animals. There were further discussions which led to a contract being created between both parties permitting up to four animals but still requiring this increased land development to accommodate the animals. Ms. Parsons reportedly brought up to 6 horses onto her property exceeding the number of animals that the contract allowed. The Town determined that no further development of land was completed to justify any extra animals which led to the issuance of the Order. Further to that, there is presently a crown land application for consideration yet to be determined.

Based on Section 6(1) of the *Interim Development Plan, 2003*, the Town of Indian Bay has the authority to impose conditions on a permit issued under Section 5 in the interest of the proper development of an area or specific locality within an area.

Further to that, the Town expressed concern that the increased animals would have an adverse impact on the water supply of a nearby property (i.e. well) (Sanitation Regulations).

The Board has determined that the Town was within its authority to issue the Order dated April 30, 2019.

Based on the information presented, the Board determined that the Town of Indian Bay has the authority, and exercised it appropriately, to issue the Stop of Development Order.

In arriving at its decision, the Board reviewed the submissions and comments given by parties present at the hearing along with the technical information. 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.

### Board's Order

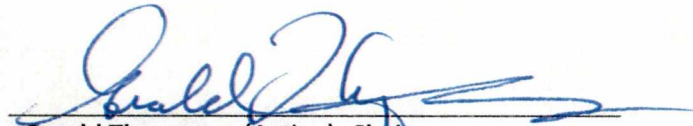
Based on the information presented, the Board orders that the decision by the Town of Indian Bay on April 30, 2019 to issue a Stop Development Order to Ms. Parsons be confirmed.

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

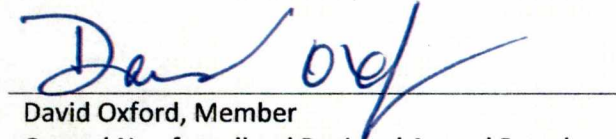
According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Central Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador on a question of law or jurisdiction. If this action is contemplated, the appeal must be filed no later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



DATED at Gander, Newfoundland and Labrador, this 10 of March, 2020.



Gerald Thompson (Acting), Chair  
Central Newfoundland Regional Appeal Board



David Oxford, Member  
Central Newfoundland Regional Appeal Board



William Carter, Member  
Central Newfoundland Regional Appeal Board