

EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Don Campbell (Third Party) **Appellant**

AND Town of Paradise **Authority**

RESPECTING Matter under appeal Respecting Approval in Principle issued for an Application from Green Slate Properties to develop row dwellings and semi-detached dwellings on property at 1764-1766 Topsail Road, Paradise
(MAE File #:15-006-057-022)

BOARD MEMBERS Chair – Cliff Johnston
Member – Paul Boundridge
Member - Robert Warren

DATE OF HEARING October 26, 2018

IN ATTENDANCE

Appellant: Don Campbell

Respondent: Town of Paradise – Alton Glenn, Director of Planning and Development

Interested Party: Dave Clarke, Green Slate Properties

Robert Cotter, Secretary to the Eastern Newfoundland Regional Appeal Board

Kim Blanchard, Technical Advisor to the Eastern Newfoundland Regional Appeal Board

DECISION

Facts/Background

This appeal arises from the Town of Paradise Council issuing an Approval in Principle on September 4, 2018 for an Application from Green Slate Properties to develop row dwellings (Discretionary Use) and semi-detached dwellings (Permitted Use) on property situated at 1764-1766 Topsail Road, Paradise. The subject property is zoned Residential Medium Density (RMD). The Council decision was conveyed to the applicant in a letter dated September 6, 2018. On the same date the Appellant received a copy of the letter dated September 6, 2018.

On September 20, 2018 the Appellant filed an Appeal package with the Secretary of the Appeal Board. The grounds of appeal presented were:

1. The proposed development will increase traffic to unsafe levels in an area that is already suffering from a significant amount of traffic.
2. The Councillors who decided on the subject application are not familiar enough with the subject matter to have made the decision.

In accordance with the *Urban and Rural Planning Act, 2000*, a public notice of appeal was published in The Telegram newspaper and a notice of the time, date and place of the hearing was provided to the appellant and the authority as required by *the Urban and Rural Planning Act, 2000*.

Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Town of Paradise Municipal Plan 2016 and Town of Paradise Development Regulations 2016

Matters presented to and considered by the Board

Q: What consideration did the Town give to the subject of traffic and traffic impacts?

A: In 2011, Hatch Mott MacDonald prepared the Paradise Transportation Study and in 2014 the Town adopted a Transportation Plan. The Transportation Plan was incorporated into the Town's current Municipal Plan and it is the Board's understanding that the development application under appeal was reviewed by the Town in the context of the Municipal Plan's transportation policies.

Also, prior to granting Approval in Principle to the application which is the subject of this appeal, the Town gave written notice to residents within 200 metres of the subject property and

advertised in a local newspaper and on the Town's website that an application to develop a mixture of row and semi-detached dwellings on the subject property was to be considered by Council, and that public comments on this matter were welcomed in advance of this consideration. Written representations received by the Town in response to the public notices touched on the subjects of parking and traffic.

The Town Council subsequently directed the Applicant on August 15, 2018 to conduct a public information session, which he did on August 22, 2018. The Board was advised by the Respondent that several members of the Council attended the information session.

In addition, Section 6.4 of the Town of Paradise Development Regulations 2016 directs that:

“Development approval shall not be issued when, in the opinion of Council, the Development of a Subdivision does not contribute to the orderly growth of the municipality and does not demonstrate sound design principles. In determining an application, Council shall consider:

- e. The transportation network, including Street typologies and traffic densities affecting the site.”

Several other parts of the Town's Development Regulations require Council to consider either traffic or road access before approving a development or issuing an Approval in Principle.

Q: Did the members of Council who decided on the application have sufficient knowledge to make an informed decision on the development application that is the subject of this appeal?

A: Yes, based on the information provided to the Board on the steps undertaken by the Town during the processing of this application, it is the Board's opinion that members of Council were provided with sufficient information to make a decision on this application.

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 was acting within its authority under the Town's Development Regulations 2016 to grant the application an Approval in Principle; and that it did in fact give due consideration to the public representations received and the Town received guidance to the application from the transportation policies contained in the Town's Municipal Plan. Therefore, the Board confirms the Respondent's decision and denies this appeal.

ORDER

Based on the information presented, the Board orders that the decision of the Town of Paradise of September 4, 2018 to grant an Approval in Principle to the application from Green Slate Properties to construct row dwellings and semi-detached dwellings at 1764-1766 Topsail Road, Paradise be confirmed.

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

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of the Eastern 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).

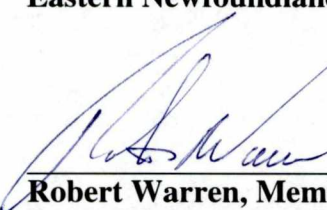
DATED at St. John's, Newfoundland and Labrador, this 30th day of October, 2018.



Cliff Johnston, Chair
Eastern Newfoundland Regional Appeal Board



Paul Bountridge, Member
Eastern Newfoundland Regional Appeal Board



Robert Warren, Member
Eastern Newfoundland Regional Appeal Board