

**WEST NEWFOUNDLAND REGIONAL APPEAL BOARD**

**URBAN AND RURAL PLANNING ACT, 2000**

**APPEAL**

15-006-057-009

**BETWEEN** Neil Pittman (on behalf of Shears' Lane residents) **Appellant(s)**

**AND** Town of Rocky Harbour **Authority**

**RESPECTING** Issuance of a permit for a "Glamping Resort"  
**File Number 15-006-057-009**

**BOARD MEMBERS** Lloyd Walters, Chair  
Boyd Noel  
Derrick House

**DATE OF HEARING** September 19, 2018 at 10:00 AM  
**Holiday Inn, Express Hotel**  
**Deer Lake, NL**

**IN ATTENDANCE**

Respondent, Debbie Reid, Town Clerk/Manager. Town of Rocky Harbour  
Appellant(s): Neil Pittman

Interested Parties: Lisa-Shears Smith  
Candis Pittman  
Shelagh Walsh  
Dawn Pittman

Robert Cotter, Secretary to the West Newfoundland Regional Appeal Board  
Christopher Hardy, Technical Advisor to the West Newfoundland Regional Appeal Board



## DECISION

### Facts/Background

January 16, 2018	Development application for a 6 unit “glamping resort” submitted by Dawn Pittman (applicant)
January 16, 2018	Application deferred by Council to its next regular meeting
January 30, 2018	Application discussed by Council at its regular meeting and deferred to its next regular meeting
February 13, 2018	Council approved application
February 27, 2018	Development Permit issued by Town
May 1, 2018	Council was advised of a change in the application regarding local construction of a building
May 22, 2018	Petition
June 5, 2018	Local residents outlined concerns about application to Council at its regular meeting. Council passed a motion to issue a Stop Work Order
June 13, 2018	Applicant advised in writing of temporary Stop Work Order
June 19, 2013	Council resolved to advise residents of their right to appeal
June 26, 2018	Residents advised by the Town of their right to appeal by email and by letter dated June 27, 2018
July 3, 2018	Appeal filed by appellant on behalf of local residents

### Summary

The appellants filed an appeal on the following grounds:

- The proposed “glamping” resort is commercial development in a residential area;
- Local residents were not notified of the proposed development; and
- The proposed development is contrary to the Rocky Harbour Municipal Plan.

According to the Town’s development regulations, Residential Use Zone Table, all other Division 1 residential uses including home business and subsidiary apartments in any type of residential development are listed as discretionary uses.

According to Schedule B: Classification of Uses of Land and Buildings, Division 1 residential uses include: single dwelling, double dwelling, row dwelling and apartment building and Division 2 residential uses include: Collective Residential, Boarding House Residential, Commercial Residential, Seasonal Residential and Mobile Home. Hotels, motels, hostels and residential clubs are given as examples for the commercial residential class.



Regulation 32 of the Town’s development regulations requires the Town to give notice of an application for a permit for a development listed as a discretionary use. Regulation 90 of the Town’s development regulations states that discretionary uses may be permitted if Council is satisfied that the development is not contrary to the intent of the development regulations or the municipal plan, notice has been given and objections have been considered by Council.

Regulation 91 of the Town’s Development Regulations states that uses that do not fall within a permitted or discretionary use class in the appropriate use zone table are not permitted.

**Permit to be Issued**

Subject to Regulations 10 and 11, a permit shall be issued for development within the Planning Area that conforms to the requirements of these Regulations.

Schedule C – Residential Use Zone Table of the Town of Rocky Harbour outlines the Permitted uses and appears below.

Schedule C – Residential Use Zone Table

ZONE TITLE	RESIDENTIAL (RES)	(ROCKY HARBOUR)
<p><b>Permitted Use Classes</b> - (see Regulation 89)</p> <p>Single dwelling, double dwelling, recreational open space uses</p>		
<p><b>Discretionary Use Classes</b> - (see Regulations 32 and 90)</p> <p>General assembly uses except for passenger, catering, and amusement uses; all other Division 1 residential uses, including home businesses and subsidiary apartments in any type of residential development; medical and professional; and, personal service uses</p>		

In accordance with the *Urban and Rural Planning Act, 2000*, a public notice of the appeal was published in *The Western Star* and a notice of the time, date, and place of the Hearing was provided to the appellant(s) and respondent.

**Legislation, Municipal Plans and Regulations considered by the Board**

- Urban and Rural Planning Act, 2000
- Minister’s Development Regulations, NLR 3/01
- Town of Rocky Harbour Development Regulations
- Town of Rocky Harbour Land Use Zone Tables



## **Matters presented to and considered by the Board**

### **How is the property Zoned?**

The subject property is zoned Residential (RES).

### **Is this development allowed within the Residential (RES) zone?**

The Board has determined upon review that the development proposed at 15 – 17 Shears Lane, Rocky Harbour is not permitted in the RES zone as outlined in Schedule “C” of the Town of Rocky Harbour’s Development Regulations.

### **Did the town have the authority to approve the application?**

Section 91 Uses Not Permitted of the Town of Rocky Harbour Development Regulations, state:

“Uses that do not fall within the Permitted Use Classes or Discretionary Use Classes set out in the appropriate Use Zone Tables in Schedule C, shall not be permitted in that Use Zone.”

No, as per regulation 91 of the Town of Rocky Harbour Development Regulations the town did not have the authority to approve the 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 of Rocky Harbour erred in its interpretation of Schedule C of the Town’s Development Regulations by approving a permit for this development. The board further finds that a development of this nature is not permitted in the RES Zone under the current Town of Rocky Harbour Development Regulations. To accommodate a development of this nature in a RES Zone would require the Town to Change Schedule C of its development regulations.

Therefore, the board has reversed the decision of the Town of Rocky Harbour. That is to say the town now has before it an application which the board directs the respondent to consider the under its current plan, regulations and any other applicable legislation and make a decision in conformance.



**Order**

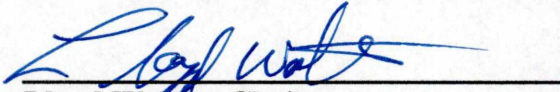
Based on the information presented, the Board orders that the decision by the Town of Rocky Harbour to approve a permit to develop a Glamping Facility at 15-17 Shears' Lane Rocky Harbour be reversed.

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

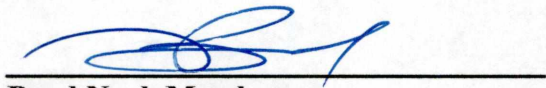
In accordance with section 44(3) of the *Urban and Rural Planning Act, 2000*, the Board further orders the Respondent pay an amount equal to the appeal filing fee of \$230.00 to the Appellant.

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).

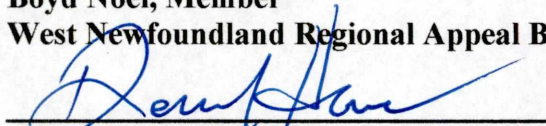
**DATED** at Deer Lake , Newfoundland and Labrador, this 20<sup>th</sup> day of September, 2018.



**Lloyd Walters Chair  
West Newfoundland Regional Appeal Board**



**Boyd Noel, Member  
West Newfoundland Regional Appeal Board**



**Derrick House Member  
West Newfoundland Regional Appeal Board**