

WEST NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN Shawn Woon and Deanna Young **Appellant(s)**

AND Town of Deer Lake **Authority**

RESPECTING Refusal of a single dwelling at 20 Moss's Lane, Deer Lake
File Number 15-006-054-008

BOARD MEMBERS Lloyd Walters, Chair
Boyd Noel
Derrick House

DATE OF HEARING September 19, 2018 at 9:00 AM
Holiday Inn, Express Hotel
Deer Lake, NL

IN ATTENDANCE

Name of Respondent, Damon Clark,
Economic Development Officer/Town Planner
Town of Deer Lake

Appellant(s) name, Judy Manning, Solicitor for the appellant

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

DECISION

Facts/Background

June 8, 2017	Appellants submit subject application to develop 20 Moss's (Mosses) Lane to the town clerk via e-mail. The application appears to have contained an application for a water and sewer connection.
June 22, 2017	Subject application discussed at meeting of the Town's Environment and Housing Committee. The Committee recommended refusal. Applicant (the Appellants) had requested the refusal in writing.
June 28, 2017	Appellants informed of Committee's decision by way of e-mail from the Authority. A hard copy was also mailed to the Appellants in Alberta.
July 4, 2017	Council accepted the recommendation of the Environment and Housing Committee at a regular meeting of the Town Council.
July 12, 2017	Appellants representative submitted appeal package
July 13, 2017	Secretary to the Western Newfoundland Regional Appeal Board acknowledged the receipt of the appeal

Summary

An application to develop a property located at 20 Moss's (Mosses) Lane was refused by the Town of Deer Lake. Correspondence regarding Council's decision was sent to the Appellants on June 27, 2017 outlining the following:

- The subject property does not have 50 feet of frontage on a road that is up to town standards, and
- The subject property does not have access to town water and sewer services.

The correspondence also outlined that some decisions of Council can be appealed, the regulations under which that can happen, and how to file an appeal.

The provision for appeal is enabled under §42 of the *Urban and Rural Planning Act, 2000* (URPA). URPA §42(5) requires that an appeal must be made in writing and shall include a summary of the decision being appealed, the grounds for the appeal, as well as the required fee.

According to the documents provided, the appeal was filed on July 12, 2017. The appellant's submission included the grounds for appeal, and appeal filing fee, and an appeal summary form.

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 Deer Lake Development Regulations

Town of Deer Lake Land Use Zone Tables

Matters presented to and considered by the Board

Are single dwellings allowed within the Residential Floodway Fringe (RES-FF) zone?

The subject property is located within an RES-FF zone. The Board accepts that single dwellings are permitted in the RES-FF zone as outlined in Schedule "C" of the Town's Development Regulations.

Did the town have the authority to refuse the application?

Yes, section 39 of the Town of Deer Lake Development Regulations

States:

Lot Frontage,

Except where specifically provided for in the Use Zone Tables in Schedule C of these Regulations, no residential or commercial building shall be erected unless the lot on which it is situated fronts directly onto a street or forms part of a Comprehensive Development.

Further, section 49 of the Town of Deer Lake Development Regulations states;

Services to be Provided

No permit shall be issued for the development of a subdivision unless provisions satisfactory to the Town have been made in the application for a supply of drinking water, a properly designed sewage disposal system, and a properly designed storm drainage system.

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

Yes, in a letter to the appellant dated June 27, 2018 the Town of Deer Lake, through its Town Manager, Maxine Hayden notified Mr. Woon and Ms. Young of the decision of the town

It came to the attention of the Board during the hearing that the recommendation of the Town's Environment and Housing Committee was communicated to Mr. Woon at that time at the request of Mr. Woon. The respondent's representative stated "we have never done this before and will never do it again". The Deer Lake Town Council at its regular meeting held July 4, 2018

confirmed by a motion of council, the recommendations of the Environment and Housing Committee dated June 22, 2018.

This motion has the effect of confirming the information provided to Mr. Woon and Ms. Deanna Young on June 27. Therefore, the board is satisfied that the Town of Deer Lake adequately notified the appellant of the decision regarding the application.

Did the Town of Deer Lake exhibit bias toward the applicant in considering the Application for Permit?

Solicitor for the appellants in her grounds for appeal at #5 states” The Town of Deer Lake has demonstrated bias as against the Appellants in maintaining a denial of the Appellant’s application but in permitting other persons to construct and inhabit a residential property on the lot adjacent to the subject property at 20 Moss’s Lane.

The board can find no evidence of bias by the Town of Deer Lake in its consideration of the application by Mr. Woon and Ms. Young. The fact that residential properties are currently in existence on Moss’s Lane does not in itself indicate a bias toward the application being considered.

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. In addition all members of the board visited the subject property to determine directly the layout of the land, the street frontage and access to water and sewer services.

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 Deer Lake did properly apply section 39 and section 49 of the Town of Deer Lake Development Regulations in 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 20 Moss’s Lane, Deer Lake.

Therefore, the Board confirms the Respondent's decision to deny a permit for new construction of a single family dwelling at 20 Moss's Lane, Deer Lake, Newfoundland and Labrador.

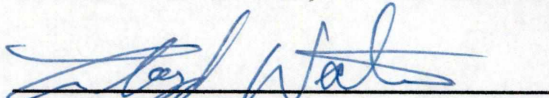
Order

Based on the information presented, the Board orders that the decision by the Town of Deer Lake to deny a permit to build a single family dwelling at 20 Moss's Lane 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).

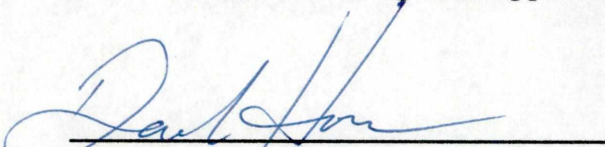
DATED at Deer Lake , Newfoundland and Labrador, this 19th day of September, 2018.



Lloyd Walters Chair
West Newfoundland Regional Appeal Board



Boyd Noel, Member
West Newfoundland Regional Appeal Board



Derrick House Member
West Newfoundland Regional Appeal Board