

# Eastern Newfoundland Regional Appeal Board

Appeal #	15-006-067-028
Appellant(s)	Glenn and Irene Murphy
Respondent / Authority	Town of Placentia
Date of Hearing	March 25, 2021

## Board Members

Chair	Clifford Johnston
Member	Carol Ann Smith
Member	Robert Warren

## Also in Attendance

Solicitor for the Appellant(s)	
Representatives for the Appellant(s)	Glen & Irene Murphy
Representatives for the Authority	Robert Beaupertuis, CAO Adam Greene, Superintendent, Public Works
Secretary to the Boards	Robert Cotter
Technical Advisor to the Boards	Christopher Hardy, MCIP
Interested Parties	Adrian Canning, Developer

The authority for appeals comes from section 42 of the *Urban and Rural Planning Act, 2000* (The Act).

## Board's Role

The role of the Regional Appeal Board is to determine if Town of Placentia made errors when it issued a development permit regarding an extension at 104 Orcan Drive. The Board must determine if the Town of Placentia acted in accordance with the *Urban and Rural Planning Act, 2000* and the Town of Placentia Municipal Plan and Development Regulations when the decision was made.

## Presentations During the Hearing:

### 1. Planner's Presentation

This appeal is based on the following section of the Urban and Rural Planning Act: Section 42.(1)

*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;*

The Appellants are appealing the development permit based on the following grounds:

- a. The Appellants were not notified of the development permit being issued, and
- b. The Authority did not consider the compatibility of the proposed development with adjacent dwellings.

The subject land is zoned 'Heritage Conservation' under the Town of Placentia Development Regulations. A residential single dwelling is a permitted use within that zone type. Development in that zone must adhere to the Town's Municipal Plan and Development Regulations, especially the development standards and conditions of the applicable zoning.

### 2. Appellant's Presentation

The Appellants advised that they were not notified by the Town of the application to extend the dwelling prior to approval be given by the Town. They were not provided an opportunity by the Town to submit feedback prior to approval being given. They further advised they have had difficulty getting information from the Town regarding the application in response to their repeated requests.

### 3. Authority's Presentation

Robert Beaupertuis, CAO indicated that the public becomes aware of Council decisions through the posting of the council meeting minutes on the Town's website, once these minutes are ratified by Council, which normally takes 4 – 6 weeks.

Adam Greene, Superintendent Public Works advised that work on the application site was well underway before the appeal was filed by the Appellants on September 3, 2020.



## Board's Analysis

- Q.** How does the Town make Council decisions public?
- A.** The Town's CAO advised the board that the minutes of the Council meetings are posted on the Town's website after they are ratified by Council. This normally takes 4 – 6 weeks.

- Q.** Was the appeal filed by the Appellants within the prescribed timelines?

- A.** Section 42 (4) and (5) of the Urban and Rural Planning Act state:

*(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.*

*(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, a development permit for the development project was issued by the Town on May 27, 2019 and that the appeal was filed by the Appellants on September 3, 2020. The Board has determined that the appeal was not filed within the prescribed timelines.

## Board's Decision

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.

After reviewing the information presented to this Board, the Board concludes that the Authority has an acceptable mechanism for making the decisions of Council available to the public.

The Board has determined that the appeal which was submitted by the Appellants was filed well beyond the provisions of Section 42(4) of the Urban and Rural Planning Act 2000:

- *"(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."*

## Board's Order

The Board has determined that it has no jurisdiction to hear this appeal, as the appeal was filed by the Appellants well beyond the prescribed period set out in Section 42(4) of the Urban and Rural Planning Act, 2000.

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

According to section 46 of the *Urban and Rural Planning Act, 2000*, the decision of this 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 April 5, 2021.



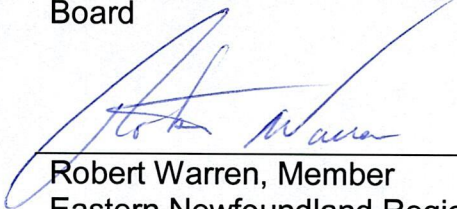
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Cliff Johnston, Chair  
Eastern Newfoundland Regional Appeal  
Board



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Carol Ann Smith, Member  
Eastern Newfoundland Regional Appeal  
Board



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Robert Warren, Member  
Eastern Newfoundland Regional Appeal  
Board