

URBAN AND RURAL PLANNING ACT, 2000

Section 40-46

<https://www.assembly.nl.ca/legislation/sr/statutes/u08.htm#40>

Appeal #: 15-006-087-011

Adjudicator: John R. Whelan Q.Ar.

Appellant(s): Barbara Watson

Respondent / Authority: Town of Small Point Adams Cove

Decision Dated: April 30, 2024

Re: Revocation of a permit to build a garage

Appearances:

For the Appellant: Barbara Watson

For the Respondent: Matthew Raske (Stewart McKelvey)

Date of Hearing: February 29, 2024

Procedural Background

The Parties convened on February 29, 2024 at the Labour Relations Hearing Room in St. John's, NL. The Parties agreed that the matter was properly before the undersigned as an Adjudicator under the *Urban & Rural Planning Act*.

After a discussion between the Adjudicator and the Parties, it was agreed that the hearing would be adjourned so that the Parties could discuss the settlement of the Appeal and other related matters.

On April 10, 2024 I was advised that the Parties had reached a settlement on the appeal.

Jurisdiction Lost - Mootness

Jurisdiction to hear an appeal may be considered lost when the matter becomes moot. The guiding case on the determination of mootness is *Borowski v. Canada (Attorney General)*.¹ Justice Sopinka, writing for The Court, noted:

The doctrine of mootness is an aspect of a general policy or practice that a court may decline to decide a case which raises merely a hypothetical or abstract question. The

¹ [1989] 1 SCR 342. [*Borowski*]

general principle applies when the decision of the court will not have the effect of resolving some controversy which affects or may affect the rights of the parties.²

Section 43(4) of the *Urban and Rural Planning Act*, 2000 states:

43. (4) Where an adjudicator determines that the subject matter of an appeal is not within the jurisdiction of the adjudicator under section 41, the adjudicator may dismiss the appeal without holding a hearing.

In this case, there is no longer a live matter between the Parties. There is no controversy to be resolved as the Parties resolved it between themselves.

Accordingly, I find that I no longer have jurisdiction to hear this matter.

Appeal Fee

Section 45(2) of the *Urban and Rural Planning Act*, 2000 states:

(2) Where an appeal under section 41 is successful, the council, regional authority or authorized administrator that made the decision that was appealed shall pay the person or group of persons who brought the appeal an amount of money equal to the fee paid under subsection 41(4).

Ordinarily, the appeal fee is awarded if the Appellant is successful in a matter. In this instance neither the Appellant nor Respondent were successful as there was no hearing. Accordingly, I do not find it would be appropriate to award the Appellant their Appeal Fee in this instance.

The Authority and the Appellant(s) are bound by this decision.

According to section 46 of the *Urban and Rural Planning Act*, 2000, the decision of this Adjudicator 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 Adjudicator's decision has been received by the Appellant(s).

DATED at St. John's, this 30th day of April, 2024.



John R. Whelan Q.Arb
Adjudicator

² Ibid., at p. 353.