

## URBAN AND RURAL PLANNING ACT, 2000

### Section 40-46

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

Appeal #: 15-006-091-047

Adjudicator: Chris Forbes

Appellant: Doug Greenslade

Respondent/Authority: Town of Conception Bay South

Date of Hearing: July 24, 2025

Start/End Time: 9:00 a.m. – 10:15 a.m.

#### **In Attendance**

Appellant: Doug Greenslade

Respondent/Authority: Corey Davis, Director of Planning and Development  
Town of Conception Bay South

Daniel Barrett, Development Coordinator  
Town of Conception Bay South

Interested Parties: Thomas Daniels  
Roland Anthony

Appeal Officer: Sarah Kimball  
Local Governance and Land Use Planning  
Municipal and Provincial Affairs

Technical Advisor: Setare Vafaei, Planner III  
Municipal and Provincial Affairs

#### **Adjudicator's Role**

Part VI of the *Urban and Rural Planning Act, 2000* (the “Act”) authorizes adjudicators to hear appeals and establishes the powers of adjudicators. The role of the Adjudicator is to determine if the Authority acted in accordance with the *Urban and Rural Planning Act, 2000* and the *Town of Conception Bay South Municipal Plan and Development Regulations 2011-2021* (the “*Development Regulations*”) when it refused the development application of the Appellant to operate a camper and/or trailer storage facility at 151–161 Red Bridge Road and 161–173 Walsh’s Road, Conception Bay South, (the “Property”) on December 17, 2024, pursuant to Council Resolution #24-521.

### **Technical Advisor**

The role of the planner is to act as a technical advisor to the appeal process and act as an expert witness as outlined in the *Appeal Board (Rules of Procedure) Order, 1993*. Section 10 of that Order reads:

10. The Hearing will proceed in the following manner:

- (a) There shall be a technical advisor to the Board who shall provide data relative to the Municipal Plan or other Scheme in effect and an interpretation on whether or not the proposal under appeal conforms, is contrary to, or could be discretionarily approved pursuant to the Municipal Plan, Scheme or Regulations in effect, ...

At the hearing, the Technical Advisor outlined a report she authored dated July 9, 2025 (the “Technical Report”).

The Technical Advisor began her presentation by reviewing the chronology set out at pages 3-4 of the Technical Report.

She then noted the definition of “development” found in section 2(g) of the *Act*. She confirmed that the Property was designated “Rural” under the Authority’s *Municipal Plan* and zoned both “Rural” (RW) and “Mineral working” (MW) under the *Development Regulations*. The Property is comprised of three different sections: 151–155 Red Bridge Road, 157–161 Red Bridge Road, and 161–173 Walsh’s Road, with the Appellant owning only 151-155 Red Bridge Road (the other sections being subject to separate ownership).

The Technical Advisor indicated that the Authority had classified the proposed camper/trailer storage application of the Appellant as “Light Industry Use.” She referenced section 10.9 of the *Development Regulations*, which purport to grant to the Authority the power to interpret a proposed use and determine whether it is permitted, discretionary or prohibited in the applicable use zone. She went on to note that the classification of “Light Industry Use” falls under the “3. Light, Nonhazardous or Non-intrusive Industrial uses” use class of the *Development Regulations*. According to the Technical Advisor, the Authority further stated that this light industry use is not listed as permitted or discretionary uses within the R and/or MW land use zone. Reference was also made to section 10.8 of the *Development Regulations*.

The Technical Advisor referred to sections 4.1 and 4.2 of the *Development Regulations*, which prohibit development except in accordance with those *Regulations*. The Authority has the discretion to refuse a development application under section 4.6 of those *Regulations*.

### **Appellant’s Presentation and Grounds**

In his presentation, the Appellant referenced sections both the Permitted and Discretionary Uses set out in sections 10.26.1 and 10.26.2 of the *Development Regulations*. He also referenced section 10.26.3, which sets out details respecting “General Industry” uses, and section 10.26.4 regarding mineral workings. He confirmed he currently owns the fee simple grant on the Property in relation to mineral rights.

The Appellant currently operates a business of selling travel trailers. He indicated that Trinity Resources, which is referenced in section 10.26.3, has trailers on various locations, and he did not see why the Authority should take a different approach to him than it takes to Trinity Resources. Trinity Resources operates in relation to another mineral grant in another part of the Town of Conception Bay South.

The Appellant also indicated it makes no sense why the Rural zone would permit mineral workings as a discretionary use, but the MW zone does not include any of the discretionary uses permitted in the R zone.

The Appellant confirmed his view that the storage of trailers and campers should fall within section 10.26.3 (re. General Industry Use).

He went on to indicate that, in 2007, the Authority bought mineral rights in land between 136 and 190 Legion Road, which was zoned MW at the time. The Authority subsequently constructed a stadium on that land. He did not understand how the Authority could have overcome the zoning regulations to permit this. He said it would have been preferable for the Authority to issue a conditional approval for his application, such that he could proceed to attempt to change the zoning for the Property.

The Appellant clarified certain details regarding the Property. He indicated that the Authority was incorrect in including the Walsh's Road portion in the application. All of the land that was the subject of his application was zoned MW.

The Appellant asked how Council was going to approach new businesses that arose in the future but were not specifically referenced in the zoning use tables, and asked whether Council would simply prohibit those businesses.

Under questioning of the Appellant, Mr. Davis referenced page 52 of the Appeal Package (a map issued by the Crown Lands Division) and asked the Appellant to confirm this accurately represented the property that was the subject of his application. The Appellant indicated that he confirmed with Mr. Barrett that the Authority could proceed with his application as if the property identified on page 52 was indeed the property that was the subject of the application. This was due to frustration with delays at Crown Lands, who had made an error in the map.

The Appellant could not recall supplying his own map with his application.

### **Authority's Presentation**

Mr. Davis confirmed that the Authority's understanding of the location of the property that was the subject of the Appellant's application was as set out in the Crown map referenced on page 52.

The Authority confirmed that it viewed the application of the Appellant as an application for outdoor storage. They also determined that outdoor storage was best captured by the definition of "Light industry," which is neither a permitted nor discretionary use in either the R or MW zones, regardless of whether the property that is the subject of the application is a combination of R/MW zones or entirely MW. As such, pursuant to section 10.8, outdoor storage must be a prohibited use in those zones. Council thus determined at its regular public meeting that the application should be refused.

Mr. Davis referenced the definition of "Light industry," per Schedule A of the *Development Regulations*. He agreed that the use proposed by the Appellant was minimally intrusive but said outdoor storage is

not listed there. In fact, none of the listed classifications capture that proposed use, which is how it landed in “Light industry.”

The Authority referenced section 10.9 of the *Development Regulations* and noted that it allows the Authority discretionary authority to arrive at a particular classification. The legal test to apply is whether the interpretation given by the Authority was a reasonable one.

Mr. Barrett also confirmed that the Authority was advised by the Appellant to consider his application on the basis of the property as identified by Crown Lands in the aforementioned map, notwithstanding it was incorrect.

Under questioning, Mr. Davis confirmed he was aware of the rezoning by the Authority that had preceded the building of the stadium.

### **Interested Parties’ Presentations**

Both Mr. Daniels and Mr. Anthony live in the neighbourhood of the Property. Each of them expressed concerns in relation to the use of the Property proposed by the Appellant, particularly as the Property has a history of flooding. A water study is ongoing involving the land in that area. They advised that the Property had been a quarry at one point, and they are familiar with the damage that has historically been sustained to the surrounding lands as a result of certain uses of the Property.

### **Analysis**

#### **Did the Authority Have the Discretion to Refuse the Application of the Appellant?**

Yes.

I find that the Property that was the subject of the application before me was zoned a combination of R and MW. While I accept that the property that the Appellant proposes to use for storage of trailers and campers is not the same as that included in the application considered by the Authority, and may be zoned entirely MW, it is not relevant for the purpose of this appeal insofar as the Authority appropriately drew its conclusion about zoning on the basis of what was provided to them by the Appellant and, in particular, as represented in the materials that were provided by Crown Lands.

It was therefore appropriate for the Authority to consider whether the use proposed by the Appellant was either permitted or discretionary in the R and MW zones.

Section 10.9 of the *Development Regulations* provides that the Authority “can interpret a proposed use and determine whether it is permitted, discretionary or prohibited in the applicable use zone.” It is important to note that the uses set out in Schedule A to those *Regulations* are “examples of specific uses for each use class” (per the wording of section 10.9). In other words, the section contemplates that the Authority needs to undertake its own analysis of a particular proposed use and, where the proposed use is not expressly set out in the Schedule, find guidance in the other specific uses referenced in Schedule A. Read in combination with section 10.8 of the *Development Regulations*, I find that the Authority had the discretion to determine whether a particular proposed use is prohibited or not.

The question is therefore whether this discretion was exercised in accordance with its *Development Regulations* and applicable law.

### **Was the Discretion of the Authority Exercised Properly?**

Yes.

While I acknowledge the Appellant's concerns, as an adjudicator I must follow the law as it applies to discretionary decisions of a town council. The Supreme Court of Newfoundland and Labrador Trial Division said in *Paradise (Town Council) v. Newfoundland and Labrador (Eastern Regional Appeal Board)*, 2010 NLTD 116, that "deference is to be shown to decisions of municipal authorities, and this would be particularly so where the authority is exercising its discretionary powers." The Court went on to say that a decision of a municipal authority, when it is "acting in the exercise of its discretionary powers," can only be overturned "where it is demonstrated that without question the municipal authority acted in excess of those powers" (see para. 27). The *Paradise* case sets out a variety of situations in which a municipal authority will be deemed to have exceeded its powers, including where there is evidence of misconduct on the part of the town council, when there is evidence of improper motive or illegality on the part of a council, or where there is a failure on the part of the council to understand a request.

No evidence was brought before me that the Authority's actions fell within any of the types of excesses of authority listed in the *Paradise* case, nor that the Authority acted in excess of its discretionary powers more generally.

The use of the Property proposed by the Appellant does not expressly fall within any of the use categories set out in Schedule A to the *Development Regulations*. I find it was a reasonable exercise by the Authority of its discretionary powers under section 10.9 to find that the use of the Property proposed by the Appellant fell within the "Light industry use" category. Since such use is not permitted or discretionary in either the R or MW zones, it was reasonable for the Authority to determine that the use proposed by the Appellant is prohibited in those zones.

### **Decision of the Adjudicator**

As Adjudicator, I am bound by section 44 of the Act, which states:

44. (1) In deciding an appeal, an adjudicator may do one or more of the following:
  - (a) confirm, reverse or vary the decision that is the subject of the appeal;
  - (b) impose conditions that the adjudicator considers appropriate in the circumstances; and
  - (c) direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have the adjudicator's decision implemented.
- (2) Notwithstanding subsection (1), a decision of an adjudicator shall not overrule a discretionary decision of a council, regional authority or authorized administrator.
- (3) An adjudicator shall not make a decision that does not comply with
  - (a) this Act;
  - (b) a plan and development regulations registered under section 24 that apply to the matter being appealed; and

- (c) a scheme, where adopted under section 29.
- (4) An adjudicator shall, in writing, notify the person or group of persons who brought the appeal and the council, regional authority or authorized administrator of the adjudicator's decision.

### **Order**

The Adjudicator orders that the decision of the Authority to refuse the development application of the Appellant to operate a camper and/or trailer storage facility at 151–161 Red Bridge Road and 161–173 Walsh's Road, Conception Bay South, on December 17, 2024, pursuant to Council Resolution #24-521, be confirmed.

The Authority and the Appellant are bound by this decision.

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

DATED at St. John's, Newfoundland and Labrador, this 20<sup>th</sup> day of August, 2025.



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Christopher Forbes  
Adjudicator  
*Urban and Rural Planning Act, 2000*