Dear [Redacted]:

Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act, 2015 [Our File #: MAE/78/2018]

On August 16, 2018, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

"All information pertaining to appeal # 15-006-057-011 at the Eastern Regional Appeal Board and All information pertaining to Appeal #File 15-006-054-037 - most recent of gazebo on private property"

I am pleased to inform you that a decision has been made by the Deputy Minister for the Department of Municipal Affairs and Environment to provide access to some of the requested information.

However, some of the information contained within the records has been refused in accordance with the following exceptions to disclosure, as specified in the Access to Information and Protection of Privacy Act, 2015 (the Act):

"35(1): The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose
(b) financial, commercial, scientific or technical information that belongs to a public body or to the government of the province and that has, or is reasonably likely to have, monetary value.

40(1): The head of a public body shall refuse to disclose personal information to an applicant where the disclosure would be an unreasonable invasion of a third party’s personal privacy."

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

P.O. Box 8700, St. John’s, NL, Canada    A1B 4J6    ☎ 709 729 5677    📧 709 729 0943    www.gov.nl.ca
The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72-hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-7183 or by e-mail at lisas@gov.nl.ca.

Sincerely,

[Signature]

LISA SULLIVAN
ATIPP Coordinator
Enclosures
Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.

(2) A complaint under subsection (1) shall be filed in writing not later than 15 business days after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.

(4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.

(5) The commissioner may allow a longer time period for the filing of a complaint under this section.

(6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.

(7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.

(8) A complaint shall not be filed under this section with respect to

(a) a request that is disregarded under section 21;

(b) a decision respecting an extension of time under section 23;

(c) a variation of a procedure under section 24; or

(d) an estimate of costs or a decision not to waive a cost under section 26.

(9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.
Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.

(2) An appeal shall be commenced under subsection (1) not later than 15 business days

(a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or

(b) after the date the head of the public body is considered to have refused the request under subsection 16(2).

(3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.

(4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner’s refusal under subsection 45(2).
Government of Newfoundland and Labrador
issued by: Municipal Affairs and Environment
Land Use Planning

Official Receipt

Official Receipt #: 8000MZGB  Payment Date: 2018-02-13

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Tax</th>
<th>Tax Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appeal Fees (H) x 1 @ $200.00</td>
<td>$200.00</td>
<td>HST</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

Sub Total: $200.00 CAD  
Tax Total: $30.00 CAD  
Total: $230.00 CAD

Issued under authority of: Department of Finance  
Expenditure and Revenue Control  
PO Box 8700  
St. John's NL  
A1B 4J6  
709-729-3042

For inquiries please contact: Revenue Control  
709-729-3042  
cs-receivables@gov.nl.ca

15- 006- 054-037.
Regional Appeal Boards  
c/o Department of Municipal Affairs & Environment,  
Government of Newfoundland Labrador

APPEAL SUMMARY FORM

- Your appeal and fee must be filed with the Regional Appeal Board (Attention: Robert Cotter) at the address below within the 14 day appeal period.
- The following information is required. With this form, you must submit:
  - a copy or summary of the decision being appealed
  - statement outlining the grounds for your appeal
  - appeal fee $200.00 plus HST (total $230.00)

In providing the documentation, please check the items indicating that they are submitted with this appeal form.

All information submitted will become part of a public appeal process.

1. (Please check one of the following) Did you,
   - submit a development or building application to the Authority.
   - receive an Order:
   Or, are you
   - an interested third party.

2. I am appealing a decision made under (please check one)
   - Town of Witless Bay Municipal Plan and Development Regulations.
   - Interim Development Regulations
   - Local Area Plan
   - Protected Road Zoning Regulations
   - S. 194 or 404 of the Municipalities Act
   - S. 240 of the City of Mount Pearl / Corner Brook Acts

3. What decision are you appealing? (please check one)
   - Approval
   - Refusal
   - Order
   - Conditions of an Approval

4. What is the street address of the subject property/development? Gallows Cove Rd

5. When did the Authority make its decision? 13/02/2018
   Day Month Year

6. When did you receive notification of this decision? 14/02/2018
   Day Month Year

7. Please include any documentation from the authority related to the appeal.

---

This information is being collected for the purposes of determining and administering an appeal in accordance with Section 42(8) of the Urban and Rural Planning Act, 2000 and the Development Regulations (NLR 3 01).

This information will be managed in compliance with the Access to Information and Protection of Privacy Act.

P.O. Box 8700, St. John's, NL, Canada A1B 4J5 Tel: 709 729-3090 Fax: 709-729-4475
Authority: Eastern Newfoundland Regional Appeal Board (ENRAB)

Town Council Motions 2018-012, 2018-013, 2016-085

Gazebo Permit

Appellant

Respondent

Town of Witless Bay

Memorandum of Appellant

Summary: With respect to passing Motion 2018-012, and Motion 2018-013, The Town Council of Witless Bay failed to follow procedural guidelines, acted on an erroneous set of facts, acted in abuse of statutory condition upon which its authority is based, and acted in excess of its legislative authority. ENRAB has jurisdiction to hear these matters and rule on the validity of the motions.

Procedural Guidelines

1. Motion 2018-012 to rescind motion 2016-085 is a substantive matter involving the Development Regulations of the Town of Witless Bay. In substantive matters, a Notice of Motion is required, and essential, to enable the public to have a reasonable degree of public notice and consultation.

2. As the Town Council has withdrawn the current policy and procedures manual (see minutes) leaving the public without any procedural guidelines to monitor Town Council. Under the circumstances, the public is entitled to hold a reasonable expectation that a greater transparency, and some degree of public notice and consultation is necessary. This matter was decided in mere minutes without any public notice. Town Council has used Robert’s Rules of Order as a basis for motions in the past.

3. Notwithstanding Town Council’s ability to follow the Order of ENRAB issues on December 07, 2017, Council failed to comply with the Order by publicly identifying and informing on the circumstances of when and how Council considered objections or comments received “in response to the advertising already completed.” There was no discussion.
Erroneous Set of Facts

4. When ENRAB delivered a decision on the previous Town Council Motion 2016-085, it was working with an erroneous set of facts. This is in no way the responsibility of ERAB. In May 2016 the property had Rural Zone Rural status. On December 7, 2017 the had Residential Zone status. A new Municipal Plan registered in early 2017 rezoned the property.

5. had requested and was fully aware of this rezoning change, and neglected to amend the ENRAB information on file. The ENRAB decision made with respect to the permit was made without any further research. ENRAB decided the issue before the board based on information available. It has no responsibility for the faulty decision. had a duty to be forthcoming with current information.

Acting in Abuse of Statutory Authority

6. The Town of Witless Bay abused its statutory authority by deciding on a development permit based on an erroneous set of facts. Further, the Town of Witless Bay had a duty of care to ensure ENRAB had a set of facts representative of the zoning circumstances of the property prior to December 7, 2017.

7. The Town of Witless Bay has a duty of procedural fairness to residents. Residents have a right to evaluate a transparent and accurate set of facts when examining Town Council decisions. It is a clear abuse of statutory authority to conceal facts from the public, and to decide a substantive issue based on an erroneous and conveniently structured set of facts.

Acting in Excess of Statutory Authority

8. The Town Council of Witless Bay acted in excess of its statutory authority in issuing a development permit for a structure on the shoreline of Witless Bay. The Town Council has no authority to create new policy to accommodate an invalid decision by ENRAB that disregards Residential Zoning requirements.

9. Any development permit issued in a Residential Zone is a residential development permits and must be considered within the Residential Development Zone Regulations. Town Council applied Rural Zoning Development Regulations in a Residential Zone.
10. All decisions made in this matter are operational decisions subject to review within the jurisdiction of ENRAB. ENRAB unintentionally exceeded its statutory authority in ordering the Town Council of Witless Bay to ignore the public notice requirements under Section 90 of the Town of Witless Bay Development Regulations.

11. The Town Council of Witless Bay is clearly acting in excess of its statutory authority with respect to all aspects of the decision to issue a development permit in a Residential Zone, using Rural Zoning Development Regulations by means of Motion 2018-013.

Appellant seeks a review of all matters herein with respect to the use, abuse, and excess application of statutory authority by the Town Council of Witless Bay relevant to Motions 2016-085, 2018-2012, 2018-2013.

Dated at Witless Bay NL this 144 day of February 2018
1. Call to Order

2. Adoption of January 9, 2018 Agenda

3. Adoption of December 12, 2017 Minutes of Meeting

4. Business Arising from Minutes:
   a. Residential dwelling on Dunn’s Lane
   b. Home extension on [redacted]
   c. [redacted]
   d. Engineer & Commissioner for 2018
   e. Adoption of Budget 2018

5. Public Works & Infrastructure
   a. Single family dwelling [redacted]
   b. Heavy Equipment Repair – 25 Southern Shore Highway
   c. Extension to home on [redacted]
   d. Eastern Newfoundland Reg. Appeal Board – Mullowney’s Lane
   e. Request for snow clearing on Bears Cove Road Ext.

6. Finance
   a. Payables – Information purpose only
   b. O’Brien’s Trucking – Snow clearing invoices
   c. Harbour Construction invoice for upgrade of Swimming Pool as per estimate $604 dated Oct. 6/17
   d. Harbour Construction Invoice for South Side Track shoulder repair
   e. Gregory Stokes – Quote for 2017 Audit
   f. Dexter Invoices

7. Other Business:

8. Adjournment
EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

URBAN AND RURAL PLANNING ACT, 2000

APPEAL

BETWEEN
Appellants

AND
Town of Witless Bay
Respondent

RESPECTING
Refusal of permit of a gazebo on [redacted] in Gallows Cove, Witless Bay

BOARD MEMBERS
Michelle Downey, Chair
Raelene Thomas, Member
Mary Thorne-Gosse, Member

DATE OF HEARING
December 7, 2017

IN ATTENDANCE:

Secretary to the Eastern Newfoundland Regional Appeal Board: Robert Cotter
Technical Advisor to the Eastern Newfoundland Regional Appeal Board: Kim Blanchard
-1-

DEcision

Facts/Background

On August 6, 2015, [红acted information] applied to the Town of Witless Bay for a permit to construct a gazebo on their property located at [红acted information] in Gallows Cove. Council considered and approved [红acted information] application at the August 11, 2015 Regular Meeting of Council. A permit was issued to the applicants on August 12, 2015. [Redacted information] subsequently built the gazebo.

S.40(1)

On August 24, 2015, [Redacted information] an interested party, filed an appeal with the Eastern Newfoundland Regional Appeal Board (ENRAB) against Council’s approval of the above noted application. The appeal was heard by the Eastern Newfoundland Regional Appeal Board (the “Board”) on November 23, 2015. The Board vacated the Town’s decision and ordered the Town to reconsider the application. Specifically, the Board stated that the Town may have the authority to approve the application as a discretionary use but must advertise the application pursuant to section 32 and 90 of the Town’s Development Regulations and the Town, must consider any comments or objections received as a result of the public advertisement prior to making a decision in accordance with section 90 of the Town’s Development Regulations.

The Town council of Witless Bay acknowledged the Board’s November 23, 2015 decision and proceeded to advertise the discretionary use application. Submissions were received and distributed to the council members. At a public council meeting held on May 10, 2016 the Town council of Witless Bay denied the application on the basis that the gazebo was not a permitted use in the Rural Zone as council was no longer treating the application as a discretionary use application.

In accordance with the Act a notice was published in the Telegram on June 18, 2016.
Legislation, Municipal Plans and Regulations considered by the Board

Urban and Rural Planning Act, 2000

Town of Witless Bay Municipal Plan and Development Regulations, 2005

Matters presented to Board

Did the Town implement the decision of ENRAB made on November 23, 2015?

The Board heard that the Town Council of Witless Bay advertised the discretionary use application to construct the gazebo and gave 30 days for public consent.

The Town received comments, however, the Board heard at the December 7, 2017 hearing that the council did not take these comments into consideration because the authority determined the application was to be decided under the permitted use of the “Rural Zone”. By choosing to consider an application under permitted use council did not comply with the Eastern Newfoundland Regional Board’s Order of November 23, 2015.

Did the Town process the application in accordance with Town of Witless Bay Development Regulations?

Schedule C of the Town of Witless Bay Development States:

<table>
<thead>
<tr>
<th>Zone Title</th>
<th>RURAL (R)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PERMITTED Use Classes (See Regulation 85 and Conditions)</td>
<td></td>
</tr>
<tr>
<td>Agriculture, forestry and conservation</td>
<td></td>
</tr>
<tr>
<td>DISCRETIONARY Use Classes (See Regulations 22 and 86 and Conditions)</td>
<td></td>
</tr>
<tr>
<td>Outdoor assembly, single dwelling, veterinary, office, outdoor market, general industry, light industry, mineral working, hazardous industry, recreational open space, cemetery, animal, transportation, antenna</td>
<td></td>
</tr>
</tbody>
</table>

The Board heard from the authority and appellant that no consideration was given to any representations or objections received even though councilors were provided with numerous submissions.

The Board finds the Town of Witless Bay did not comply with section 90 of the Town’s Development Regulations nor did the town carry out the decision of ENRAB dated November 23, 2015.

In arriving at its decision the Board reviewed the submissions and evidence presented by all parties along with technical information and planning advice.
Conclusion

The Board is bound by section 42 of the Urban and Rural Planning Act, 2000 and therefore must make a decision that complies with applicable legislation, policy and regulations. In particular sections 10 and 11 of the Urban and Rural Planning Act 2000 which state:

(10) In determining an appeal, a board may confirm, reverse or vary the decision appealed from and may impose those conditions that the board considers appropriate in the circumstances and may direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have its decision implemented.

(11) Notwithstanding subsection (10), where a council, regional authority or authorized administrator may, in its discretion, make a decision, a board shall not make another decision that overrules the discretionary decision.

The Board determined a valid permit was issued to [REDACTED] on August 11, 2015. That permit was issued as a discretionary decision of council under section 90 of the Town of Witless Bay Development Regulations. The Board finds Section 90 shall continue to apply.

Council is required to make a decision on the discretionary use application in accordance with its Regulations. As the Town has already advertised for this application as a discretionary use application, it now must consider all submissions received as a result of the public advertisement of May 14, 2016-April 5, 2016 and make a decision on the discretionary use application.
Order

The Board orders the decision made by the Town of Witless Bay on May 10, 2016 to deny an application to develop a gazebo in Gallows Cove be reversed.

The Board further orders that the application must be considered as a discretionary use decision as per section 90 of the Town of Witless Bay Development Regulations. The original application dated August 6, 2015 remains valid as it was advertised and responses have been received.

In exercising its discretion council must consider any objections or comments received in response to the advertising already completed.

The Board further orders that the Town of Witless Bay pay an amount of money equal to the appeal filing fee of $226.00 paid by the appellant to the appellant.

The Town of Witless Bay and the appellant are bound by this decision of the Eastern Newfoundland Regional Appeal Board.

According to section 46 of the Urban and Rural Planning Act, 2000, the decision of the Eastern Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador Trial Division 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.

DATED at St. John's, Newfoundland and Labrador, this 7th day of December, 2017

Michelle Downey, Chair
Eastern Newfoundland Regional Appeal Board

Mary Thorne-Gosse, Member
Eastern Newfoundland Regional Appeal Board

Raelene Thomas, Member
Eastern Newfoundland Regional Appeal Board
2018-012 Deputy Mayor Maureen Murphy/Councillor Vince Swain
Be it resolved that Council rescind motion #2016-085 [be it resolved Council deny this application based on the fact that it does not meet the Town's development regulations. More specifically, a gazebo is classified as an accessory building, and schedule A of our present Plan defines an accessory building as: A detached subordinate building not used as a dwelling, located on the same lot as the main building to which it is an accessory, and which has a use that is customarily incidental or complimentary to the main use of the building or land. The Rural Land Use Zone Table does not provide any provision for a stand-alone accessory building. Therefore Council must deny this application.].
Motion carried unanimously.

2018-013 Deputy Mayor Maureen Murphy/Councillor Vince Swain
Be it resolved that Council approve a gazebo on [redacted] under discretionary use of Council under Section 90 of the Witless Bay Development Regulation, and for the Town to pay the appellant the $226.00 as ordered by Eastern Regional Newfoundland Appeal Board.
Motion carried unanimously.

Draft - Minutes to be ratified at Feb 13 Public Meeting
Public Meeting of Council
Witless Bay Town Hall
January 9, 2018

Attending: Mayor Rene Estrada, Deputy Mayor Maureen Murphy, Stratton, Vince Swain and Lucy Carew
Councillor Fraser Paul attended via Remote means

Recording: Geraldine Caul/Barb Harrigan

1. Mayor Rene Estrada called the meeting to order at 7:35 p.m.

2. **2018-001** Deputy Mayor Maureen Murphy/Councillor Neil Stratton
   Be it resolved that the Agenda of January 9, 2018 be adopted.
   Motion carried unanimously.

3. **2018-002** Councillor Lucy Carew/Deputy Mayor Maureen Murphy
   Be it resolved that the December 12, 2017 Minutes of Meeting be adopted.
   Motion carried unanimously.

4. Business Arising from Minutes:

   a. Residential dwelling on Dunn’s Lane –

      **2018-003** Councillor Vince Swain/Deputy Mayor Maureen Murphy
      Be it resolved that Council approve in principle residential dwelling on Dunn’s Lane, under Regulation 47 [Where, at the time of coming into effect of these Regulations, one or more lots already exist in any residential zone, with insufficient frontage or area to permit the owner or purchaser of such a lot or lots to comply with the provisions of these Regulations, then these Regulations shall not prevent the issuing of a permit by the Authority for the erection of a dwelling thereon, provided that the lot coverage and height are not greater than, and the yards and floor area are not less than the standards set out in these regulations], subject to approvals from Services NL, and with the stipulation that the Right-of-Way is not to be blocked, or placement, or structure, or impede, to provide access to the back land.
      Motion carried unanimously.

   b. Home extension on ___________— Councillor Vince Swain reported that this item is deferred pending further information from the lawyer and Crown Land.

   c. ___________— Councillor Fraser Paul declared a conflict of interest due to ___________ and left the Council Chamber at 7:38 p.m.
2018-004 Deputy Mayor Maureen Murphy/Councillor Vince Swain
Be it resolved that Council send a letter to the property owner of [redacted] in response to their email to the town dated Dec. 15, 2017.
Motion carried.

Councillor Fraser Paul, who abstained due to a declaration of conflict of interest, returned to the Council Chamber at 7:39 p.m.

d. Engineer & Commissioner for 2018

2018-005 Deputy Mayor Maureen Murphy/Councillor Fraser Paul
Be it resolved that Council accept DMG Consulting as the Town Engineering Firm.
Motion carried unanimously.

2018-006 Deputy Mayor Maureen Murphy/Councillor Fraser Paul
Be it resolved that Council accept Wayne Thistle as the Town Plan Hearing Commissioner.
Motion carried unanimously.

Council agreed to defer appointing a property appeal commissioner because the request for submissions resulted in just one submission.

e. 2018-007 Councillor Lucy Carew/Deputy Mayor Maureen Murphy
Be it resolved that Council adopt the 2018 Municipal Budget.
Motion carried unanimously.

5. Public Works & Infrastructure

a. Single family dwelling on [redacted]

2018-008 Councillor Chris Brinston/Councillor Fraser Paul
Be it resolved that Council approve in principle residential dwelling on [redacted] subject to approval from Services NL and any other government agencies having jurisdiction.
Motion carried unanimously.

b. Heavy Equipment Repair on 25 Southern Shore Highway –

2018-009 Councillor Vince Swain/Councillor Neil Stratton
Be it resolved that Council approve in principle Heavy Equipment Repair on 25 Southern Shore Highway subject to him paying his business tax.
Motion carried unanimously.

c. Extension to home on [redacted] – This item is covered under 4 b.

d. Eastern Newfoundland Regional Appeal Board – Mullowney’s Lane

Deputy Mayor Maureen Murphy and Councillor Lucy Carew asked that Council make a determination if they were in a conflict of interest on this item, Councillor Murphy because [redacted] and because she made a submission regarding this appeal, and Councillor Lucy Carew
because she also made a submission to the discretionary use notice related to the gazebo application appeal.

Deputy Mayor Murphy and Councillor Lucy Carew left the Council Chamber at 8:43 p.m.

2018-010 Councillor Vince Swain/Councillor Fraser Paul
Be it resolved that Deputy Mayor Murphy is not in a conflict of interest [redacted].
Motion carried.

2018-011 Councillor Fraser Paul/Councillor Vince Swain
Be it resolved that Deputy Mayor Murphy and Councillor Carew are not in a conflict of interest in relation to their submission regarding this appeal.
Motion carried.

Deputy Mayor Murphy and Councillor Carew who abstained because Council was dealing with a question of conflict of interest, returned to the Council Chamber at 8:45 p.m. and were informed Council found them not to be in a conflict of interest.

Deputy Mayor Murphy announced that under the Regional Appeal Board the decision of Council has to be reversed, and she will be making a motion to rescind motion #2016-085.

2018-012 Deputy Mayor Maureen Murphy/Councillor Vince Swain
Be it resolved that Council rescind motion #2016-085 [Be it resolved Council deny this application based on the fact that it does not meet the Town’s development regulations. More specifically, a gazebo is classed as an accessory building, and Schedule A of our present Plan defines an accessory building as: A detached subordinate building not used as a dwelling, located on the same lot as the main building to which it is an accessory, and which has a use that is customarily incidental or complimentary to the main use of the building or land. The Rural Land Use Zone Table does not provide any provision for a stand-alone accessory building. Therefore Council must deny this application].
Motion carried unanimously.

2018-013 Councillor Neil Stratton/Councillor Vince Swain
Be it resolved that Council approve a gazebo on [location redacted] under discretionary use of Council under Section 90 of the Witless Bay Development Regulation, and for the Town to pay the appellant the $226.00 as ordered by Eastern Regional Newfoundland Appeal Board.
Motion carried unanimously.

e. Request for snow clearing on Bear’s Cove Road Extension –

2018-014 Councillor Chris Brinston/Deputy Mayor Maureen Murphy
Be it resolved that Council provide snow clearing on Bear’s Cove Road extension as requested.
Motion carried unanimously.

6. Finance:

a. Payables – For information purpose only.

b. O’Brien’s Trucking – Snow clearing invoices –
2018-015 Councillor Fraser Paul/Councillor Vince Swain
Be it resolved that Council pay the snow clearing Invoices.
Motion carried unanimously.

c. Harbour Construction invoice for upgrades of swimming pool –

2018-016 Councillor Lucy Carew/Deputy Mayor Maureen Murphy
Be it resolved that Council submit a request to ACOA to amend their completion date of the
Playground and Pool Project to January 31, 2018. Be it further resolved that Council request that
ACOA adjust their rate of assistance of $61,250 to bring the total net cost of the project to $161,500.
Motion carried unanimously.

2018-017 Deputy Mayor Maureen Murphy/Councillor Chris Brinston
Be it resolved that Council pay Harbour Construction invoice for $173,650 for the Playground/Pool
project.
Motion carried unanimously.

d. Harbour Construction invoice for Southside Track shoulder repair –

2018-018 Councillor Neil Stratton/Councillor Fraser Paul
Be it resolved that Council pay Harbour Construction invoice for $320.85 for Southside Track
shoulder repair.
Motion carried unanimously.

e. Gregory Stokes – Quote for 2017 audit –

2018-019 Councillor Lucy Carew/Deputy Mayor Maureen Murphy
Be it resolved that Council accept the quote from Gregory Stokes for 2017 audit.
Motion carried unanimously.

f. Dexter invoices –

2018-020 Council Fraser Paul/Councillor Vince Swain
Be it resolved that Council defer this item until we send the information from Dexter and WSP to the
Town’s new engineering firm.
Motion carried unanimously.

7. 2018-021 Councillor Lucy Carew/Deputy Mayor Maureen Murphy
Be it resolved that Council adjourn at 7:55 p.m.
Motion carried unanimously.
February 20, 2018

S.40(1)

BETWEEN

APPELLANT

AND

Town of Witless Bay

RESPONDENT

RESPECTING approval of a gazebo permit: shoreline of Gallows Cove Rd

This acknowledges that an appeal has been registered with the Eastern Newfoundland Regional Appeal Board on February 19, 2018. The Regional Appeal Boards are established in accordance with the Urban and Rural Planning Act, 2000 (the “Act”). In accordance with section 42(3) of the Act, the Board is responsible for making a decision in accordance with applicable plans, schemes and development regulations as it relates to the matter being appealed.

Appeal requirements

Section 42 of the Act outlines the jurisdiction the Board has regarding development decisions, specifically what can be appealed to this Board. As per section 42(5) of the Act, an appeal must be made in writing and shall include the following:

(a) a summary of the decision
(b) the grounds for the appeal
(c) the required fee.

Development shall not proceed

Please note that when an appeal is filed under section 42 of the Act, in accordance with section 45(1) of the Act all work related to the development under appeal shall not proceed. Section 45(1) states:

45(1) Where an appeal is made under section 42, the development with respect to the appeal, work related to that development or an order that is under appeal shall not proceed or be carried out, pending a decision of the board.

Appeal process

The subject matter as stated will also be advertised in the appropriate newspaper. You will be notified of the time, place and date of your hearing not fewer than 7 days before the scheduled hearing and will receive an appeal package prior to the scheduled hearing containing the following:

- Appellant(s) submission;
- Authority(s) submission;
- technical and planning advice (completed by the Department’s Planner); and
- any other public submission(s).

Appeal fees

Under section 44(2) of the Act, the appeal fee paid by the appellant(s) to the board shall be retained by that board. As per section 44(3) of the Act, if an appeal is successful, then the appeal fee will be paid to c/o Department of Municipal and Intergovernmental Affairs. P.O. Box 8700, St. John’s, NL, Canada A1B 4J6

Tel: 709-729-3090 Fax: 709-729-0477
the appellant by the council, regional authority or authorized administrator that made the appealed decision.

Should you have any questions please contact the Secretary at 709-729-3088 or email rcotter@pov.nl.ca

Yours truly,

Robert Cotter
Secretary
Newfoundland Regional Appeal Boards

Copy to: Town of Witless Bay
February 20, 2018

EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

BETWEEN

[Redacted]

AND

Town of Witless Bay

RESPECTING

approval of a gazebo permit: shoreline of Gallows Cove Rd

Dear Town:

This is to inform you that an appeal was registered on February 19, 2018 with the Eastern Newfoundland Regional Appeal Board. Enclosed is a copy of the appellant's submission appeal initiated against the Town.

The Board is bound by section 42 of the Urban and Rural Planning Act, 2000 (the “Act”), which outlines matters that the Board can hear. The Board may determine that an appeal is invalid if the matter is outside its jurisdiction. Therefore, please indicate below in the appropriate box what the decision being appealed is with respect to:

✓ an application to undertake a development;

☐ a revocation of an approval or a permit to undertake a development;

☐ the issuance of a stop work order; and

☐ a decision permitted under this or another Act to be appealed to the board.

The following information is required within 15 days of receipt of this letter. In providing the documentation, please check the items and return this check list along with your submission. The information being collected for the purposes of determining and administering an appeal in accordance with Section 42(8) of the Urban and Rural Planning Act, 2000 and the Development Regulations (CNLR 3/01). To distinguish the authority’s documents, please page number the submission.

✓ a letter outlining the chronological order of events that lead to the decision being appealed omitting other personal information,

✓ a copy of the Authority's development decision letter [Redacted] 

✓ a copy of all council minutes only relating to the matter [Redacted]

✓ a location plan and zoning map indicating the proposed site and/or pictures [Redacted]

✓ a copy of the development application and any supporting information provided by the appellant/developer, do not include letters of support or objections but a statement that council considered such input if applicable

☐ a copy of any comments, approvals or recommendations made by any other Government department or public body [Redacted]

☐ any other relevant correspondence together with a statement outlining any further action taken by the Authority [Redacted]
a list of persons (include mailing addresses) whom the Authority considers particularly affected by this decision and who should be notified.

When an appeal is filed under section 42 of the Act, in accordance with section 45(1) of the Act, all work related to the development under appeal shall not proceed. Section 45(1) states:

45(1) Where an appeal is made under section 42, the development with respect to the appeal, work related to that development or an order that is under appeal shall not proceed or be carried out, pending a decision of the board.

Please take note of section 8 of the Minister's Development Regulations, 2000, which states:

8. (1) Immediately upon notice of the registration of an appeal the appropriate authority shall ensure that any development upon the property that is the subject of the appeal ceases.

(2) Sections 102 and 104 of the Act apply to an authority acting under subsection (1).

(3) Upon receipt of a notification of the registration of an appeal with respect to an order under section 102 of the Act, an authority shall not carry out work related to the matter being appealed.

The authority should ensure that this requirement is enforced and inform any other party that is affected.

Yours truly,

Robert Cotter, Secretary
Newfoundland Regional Appeal Board

Copy to: appellant(s).
Mr. Robert Cotter  
Secretary  
Newfoundland Regional Appeal Board  
Department of Municipal Affairs & Environment  
P.O. Box 8700  
St. John's, NL A1B 4J6

Dear Mr. Cotter:

Re: Appeal File 15-006-054-037

Chronological Order of events that lead to the decision being appealed:

1. At the Town’s public meeting on January 9, 2018, Deputy Mayor Maureen Murphy made reference to the Eastern Regional Appeal Board’s Order from the December 7, 2017 Hearing, stating that, “Under the Regional Appeal Board, the decision of Council has to be reversed.” Deputy Mayor Murphy then proceeded to make a motion to rescind the previous motion of 2016-085 whereby Council had denied the application to construct a gazebo. The motion passed unanimously.

2. At the January 9, 2018 public meeting, Deputy Mayor Murphy made a new motion to approve the gazebo on Mullowney’s Lane under Section 90 of the Witless Bay Development Regulation. The motion passed unanimously.

3. On January 18, 2018 a permit was issued to [redacted] to construct a gazebo on Mullowney’s Lane.

Sincerely,

__________________________  
Geraldine Caul  
Town Clerk-Manager
Town Council
PERMIT GRANTED

DA# 01-18 January 2018
NAME [redacted]
ADDRESS Mullowney's Lane
SPECIFICATION Gazebo
EXPIRES January 2019

B. Harrigan
Town Clerk

No.: 592
because she also made a submission to the discretionary use notice related to the gazebo application appeal.

Deputy Mayor Murphy and Councillor Lucy Carew left the Council Chamber at 8:43 p.m.

2018-010 Councillor Vince Swain/Councillor Fraser Paul
Be it resolved that Deputy Mayor Murphy is not in a conflict of interest.

Motion carried.

2018-011 Councillor Fraser Paul/Councillor Vince Swain
Be it resolved that Deputy Mayor Murphy and Councillor Carew are not in a conflict of interest in relation to their submission regarding this appeal.

Motion carried.

Deputy Mayor Murphy and Councillor Carew who abstained because Council was dealing with a question of conflict of interest, returned to the Council Chamber at 8:45 p.m. and were informed Council found them not to be in a conflict of interest.

Deputy Mayor Murphy announced that under the Regional Appeal Board the decision of Council has to be reversed, and she will be making a motion to rescind motion #2016-085.

2018-012 Deputy Mayor Maureen Murphy/Councillor Vince Swain
Be it resolved that Council rescind motion #2016-085 [Be it resolved Council deny this application based on the fact that it does not meet the Town's development regulations. More specifically, a gazebo is classed as an accessory building, and schedule A of our present Plan defines an accessory building as: A detached subordinate building not used as a dwelling, located on the same lot as the main building to which it is an accessory, and which has a use that is customary, incidental or complimentary to the main use of the building or land. The Rural Land Use Zone Table does not provide any provision for a stand-alone accessory building. Therefore Council must deny this application.].

Motion carried unanimously.

2018-013 Councillor Neil Stratton/Councillor Vince Swain
Be it resolved that Council approve a gazebo on [blank] under discretionary use of Council under Section 90 of the Witless Bay Development Regulation, and for the Town to pay the appellant the $226.00 as ordered by Eastern Regional Newfoundland Appeal Board.

Motion carried unanimously.

e. Request for snow clearing on Bear's Cove Road Extension –

2018-014 Councillor Chris Brinston/Deputy Mayor Maureen Murphy
Be it resolved that Council provide snow clearing on Bear's Cove Road extension as requested.

Motion carried unanimously.

6. Finance:

a. Payables – For information purpose only.

b. O'Brien's Trucking – Snow clearing invoices –
90. Discretionary Uses

Subject to these Regulations, the uses that fall within the Discretionary Use Classes set out in the appropriate Use Zone Table in Schedule C may be permitted in that Use Zone if the Authority is satisfied that the development would not be contrary to the general intent and purpose of these Regulations, the Municipal Plan, or any further scheme or plan or regulation pursuant thereto, and to the public interest, and if the Authority has given notice of the application in accordance with Regulation 32 and has considered any objections or representations which may have been received on the matter.

91. Uses Not Permitted

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.
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
PRELIMINARY APPLICATION TO DEVELOP LAND

Civic address of the proposed development: ____________________________

Estimated cost: $5,000.00

Describe location from the nearest prominent landmark:

*Site must be marked with corner posts, stakes with applicant's name, or other means of identification.*

Describe proposed development: GAZEBO STRUCTURE FOR SUMMER'S STUMPS CAMPING

Land to be developed: Area: 6057 m²  Frontage: 135.8 m X Depth: 44.4 m

(minimum 1860 m² for house)

(Minimum proportions for house: 30m X 60m or 60m X 30m)

Ownership of Land: CROWN / CORPORATION / APPLICANT / OTHER: ____________________________

Area of adjacent land in same ownership: NA m²  Land use zoning of this area: RURAL

Does development conform to zoning? YES / NO

Type of Vegetation (circle all that apply): FOREST / SCRUB / BARREN / CLEARED / OTHER: MIXED TREES & SCRUB

Buildings to be demolished: NA

Present use of all adjacent land (e.g. Residential, Commercial, Unused, etc.)

West side: CROWN  East Side: OCEAN FRONT BEACH

North side: CROWN  South Side: CROWN

Water supply (Type of well): N I L  Sewage Disposal: N I L

Describe proposed means of access to site:

TRADITIONAL ACCESS OCEAN FRONT ALONG FENCE LINE
Building #1 Use: **CAMPING** # of Bedrooms: **NA**
Size: **176.4 m² (4.2 m x 4.2 m)** Height: **4 m**
(House max. 8m) Setback from road: **____ m**
(8m to 32m -OR- 32m to 100m)
Apartment?: **YES (NO)**

Building #2 Use: ____________ # of Bedrooms: ____________
Size: ____________ m² (____ m x ____ m) Height: ____________ m
(House max. 8m) Setback from road: ____________ m
(8m to 32m -OR- 32m to 100m)
Apartment?: **YES / NO**

Building #3 Use: ____________ # of Bedrooms: ____________
Size: ____________ m² (____ m x ____ m) Height: ____________ m
(House max. 8m) Setback from road: ____________ m
(8m to 32m -OR- 32m to 100m)
Apartment?: **YES / NO**

Other items of note: **NA**


gazabo

For leisure purpose fitting with twice legal use

Zoning.

I, ________________ of ________________, in the Province of Newfoundland and Labrador, solemnly declare that the plans, specifications and statements herein conform to the requirements of the Town of Witless Bay and are made with full knowledge of the circumstances connected with same. I declare that all regulations will be complied with, whether specified herein or not. I make this solemn declaration, conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath.

Date: **Aug 15**

Signature of Applicant: ________________

Witness: ________________

Submit to:
Town of Witless Bay
P.O. Box 130
Witless Bay, NF
A0A 4K0
(709) 334-3407

Office use only:
Site zoning: ____________ Permitted use: ____________

Variance required?: ____________ Variance: ____ %

Development standards given to applicant: ____________

Development standards able to be met: ____________

Referrals required: ____________

This form is not valid until all questions are answered correctly and it is signed, witnessed and dated.
Location Plan (to be submitted with all applications to develop land)

In the sketch below or on a copy of your own survey, please include:

- Nearest landmarks
- Size & shape of land (exact dimensions)
- Location of house with floor plan
- Centre line of road
- Location & type of well (dug or drilled)
- Location & type of wells on adjacent properties
- Proposed or existing location of sewage disposal system
- Exact measurements of all buildings from property lines

SEE ATTACHED PLAN
DESCRIPTION

ALL THAT piece or parcel of land situate and being at Witless Bay, in the Electoral District of Ferryland, in the Province of Newfoundland, Canada, abutted and bounded as follows, that is to say by a line beginning at a point in the line of Reservation of the Waters of Witless Bay (33 feet wide), aforesaid; said point being distant four hundred sixty (460) feet as measured on a bearing of south one degree forty minutes west from the southeast angle of land of [Redacted]; thence running by land of the Estate of [Redacted] due west one hundred forty-six decimal seven (146.7) feet; thence turning and running by Crown Land south three degrees forty-three minutes east four hundred forty-five decimal six (445.6) feet; thence turning and running by land of [Redacted] south eighty-four degrees fifty minutes east one hundred forty-five decimal seven (145.7) feet; thence turning and running along the line of Reservation of the Waters of Witless Bay, aforesaid, north three degrees twenty-five minutes west four hundred fifty-eight decimal six (458.6) feet, more or less, to the point of beginning. AND being more particularly described and delineated on the diagram hereunto annexed colored red and containing an area of one decimal five zero (1.50) acres, more or less.

All bearings being Magnetic.
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
5. **Buffer (around waterways and waterbodies)**

No development will be permitted within 15 metres of the high water mark of rivers or streams, or within 15 metres of the shoreline of ponds, with the exception of conservation structures such as those designed to control flooding and erosion as well as bridges, pathways, and public services. Development of marine or water related uses such as wharfs, slipways, boathouse, etc. may be permitted. All development occurring within these limits is subject to the approval of Council and the Department of Environment and Conservation.

6. **East Coast Trail**

The East Coast Trail is a natural walking/hiking trail along Witless Bay Harbour and along the coastline of Atlantic Ocean which forms part of a much larger coastal trail system. Council shall encourage the maintenance of the trail to protect the natural landscape and views from the trial, and to ensure that future development does not negatively impact the trail.

A 15 metre buffer shall be maintained along both sides of the trail where it passes over Crown land to protect the natural landscape and views from the trial. Council, in issuing any development permits within the planning area, shall encourage landowners to take into consideration the effect of development on the East Coast Trail and preservation of the scenic beauty along the Town’s coastline, where the East Coast Trail transverses private property.

\[ \text{Gazedo} + 350 \text{ from ECT} \]

\[ \text{Any Reserve Beauty} \]

\[ \% \text{ area Any P. use} \]

\[ \text{Property (not required but we want to protect beauty & area)} \]
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
Town of Witless Bay
P.O. Box 130
Witless Bay, NL A0A 4K0

DISCRETIONARY USE NOTICE
The Town of Witless Bay has received an application for approval to construct a gazebo that would access off Ragged Beach in Gallows Cove, Witless Bay. The subject property is located within the Rural Land Use Zone Table and is considered under the discretionary use class.

This Notice of Discretionary Use is advertised in accordance with Sections 10 and 32 of the Town of Witless Bay Development Regulations 2005. Further information may be obtained on this matter by contacting the Town Office at (709) 334-3407. Anyone wishing to make representation on this proposed development must do so in writing prior to 4:00 p.m. on Tuesday, April 5, 2016. Please submit all correspondence to:
Geraldine Gaul
Town Clerk/Manager
Town of Witless Bay
P.O. Box 130
Witless Bay, NL A0A 4K0
Fax: (709) 334-2377
townofwitlessbay@nl.rogers.com 7247231
Order

The Board orders the decision made by the Town of Witless Bay on May 10, 2016 to deny application to develop a gazebo in Gallows Cove be reversed.

The Board further orders that the application must be considered as a discretionary use decision as per section 90 of the Town of Witless Bay Development Regulations. The original application dated August 6, 2015 remains valid as it was advertised and responses have been received.

In exercising its discretion council must consider any objections or comments received in response to the advertising already completed.

The Board further orders that the Town of Witless Bay pay an amount of money equal to the appeal filing fee of $225.00 paid by the appellant to the appellant.

The Town of Witless Bay and the appellant are bound by this decision of the Eastern Newfoundland Regional Appeal Board.

According to section 46 of the Urban and Rural Planning Act, 2000, the decision of the Eastern Newfoundland Regional Appeal Board may be appealed to the Supreme Court of Newfoundland and Labrador Trial Division 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.

DATED at St. John's, Newfoundland and Labrador, this 7th day of December, 2017

Michelle Downey, Chair
Eastern Newfoundland Regional Appeal Board

Mary Thorne-Gosse, Member
Eastern Newfoundland Regional Appeal Board

Raelene Thomas, Member
Eastern Newfoundland Regional Appeal Board
Mr. Robert Cotter  
Secretary  
Newfoundland Regional Appeal Board  
Department of Municipal Affairs & Environment  
P.O. Box 8700  
St. John’s, NL A1B 4J6

Dear Mr. Cotter:

Re: Appeal File 15-006-054-037

Chronological Order of events that lead to the decision being appealed:

1. At the Town’s public meeting on January 9, 2018, Deputy Mayor Maureen Murphy made reference to the Eastern Regional Appeal Board’s Order from the December 7, 2017 Hearing, stating that, “Under the Regional Appeal Board, the decision of Council has to be reversed.” Deputy Mayor Murphy then proceeded to make a motion to rescind the previous motion of 2016-085 whereby Council had denied the application to construct a gazebo. The motion passed unanimously.

2. At the January 9, 2018 public meeting, Councillor Neil Stratton made a new motion to approve the gazebo on Mullowney’s Lane under Section 90 of the Witless Bay Development Regulation. The motion passed unanimously.

3. On January 18, 2018 a permit was issued to [Redacted] to construct a gazebo on Mullowney’s Lane.

Sincerely,

Geraldine Caul  
Town Clerk-Manager
Hi Mr. Cotter,

I may be contacted by email at all times should there be a need to communicate on the appeal application related to myself and the Town of Witless Bay. Thank you.

Hi, please review the attached appeal documents and acknowledgment letter(s). Trusting this method of notification is satisfactory.

Regards,

Robert.

Robert Cotter
Secretary
NL Appeal Boards
729 3088

“This email and any attached files are intended for the sole use of the primary and copied addressee(s) and may contain privileged and/or confidential information. Any distribution, use or copying by any means of this information is strictly prohibited. If you received this email in error, please delete it immediately and notify the sender.”
d. Fill in trench on [redacted]

Deputy Mayor Maureen Murphy declared herself in conflict for the reason [redacted]. Deputy Mayor Maureen Murphy left the Chamber at 7:40 and returned at 7:42.

2018-150 Councillor Fraser Paul/Councillor Lucy Carew
Moved to defer applicants request to fill in trench on [redacted] pending the outcome of the Town’s application that was submitted to Crown Lands.
For the motion: Mayor Rene Estrada, Councillors Fraser Paul, Vince Swain, Neil Stratton, Chris Brinston, Lucy Carew
Abstained: Deputy Mayor Maureen Murphy (declared a conflict of interest)
Motion carried.

5. Public Works & Infrastructure

a. Private business signage at intersection of Southern Shore Highway and Southside Track

2018-151 Councillor Vince Swain/
Moved to deny application to erect signage at intersection of Southern Shore Highway and Southside Track as the post will block a public right of way.

Amendment: 2018-152 Councillor Fraser Paul/Deputy Mayor Maureen Murphy
Moved to meet with applicant to work out a solution. If a solution is reached applicant can receive a permit to erect sign at Council's approval via email.
Motion carried unanimously.

b. Residential family dwelling on [redacted]

Councillor Fraser Paul declared himself in conflict for the reason that [redacted]. Councillor Fraser Paul left the chamber at 7:46 and returned at 7:48.

2018-153 Councillor Vince Swain/Councillor Neil Stratton
Moved to approve application to construct single family dwelling on [redacted]

For the motion: Mayor Rene Estrada, Deputy Mayor Maureen Murphy, Councillors Vince Swain, Neil Stratton, Lucy Carew, Chris Brinston
Abstained: Councillor Fraser Paul (declared a conflict of interest)
Motion carried.

c. Fence – [redacted]

2018-154 Councillor Chris Brinston/Councillor Vince Swain
Moved to approve application to erect a fence on property located at [redacted].
Motion carried unanimously.
Regional Appeal Boards  
c/o Department of Municipal Affairs & Environment,  
Government of Newfoundland Labrador

APPEAL SUMMARY FORM

- Your appeal and fee must be filed with the Regional Appeal Board (Attention: Roger Cotter) at the address below within the 14 day appeal period.
- The following information is required. With this form, you must submit:
  - a copy or summary of the decision being appealed
  - statement outlining the grounds for your appeal
  - appeal fee $200.00 plus HST (total $230.00)

In providing the documentation, please check the items indicating that they are submitted with this appeal form.

All information submitted will become part of a public appeal process.

1. (Please check one of the following) Did you,
   - submit a development or building application to the Authority.
   - receive an Order;
   Or, are you
   - an interested third party.

2. I am appealing a decision made under (please check one)
   - Town of WITNESS BAY Municipal Plan and Development Regulations.
   - Interim Development Regulations
   - Local Area Plan
   - Protected Road Zoning Regulations
   - Protected Area Plan
   - Highway Sign Regulations
   - S. 194 or 404 of the Municipalities Act
   - S. 240 of the City of Mount Pearl / Corner Brook Acts

3. What decision are you appealing? (please check one)
   - Approval
   - Refusal
   - Order
   - Conditions of an Approval

4. What is the street address of the subject property/development? MURKOWEYS LANE

5. When did the Authority make its decision?  
   10/07/2018
   Day Month Year

6. When did you receive notification of this decision?  
   ?  
   Day Month Year

7. Please include any documentation from the authority related to the appeal.
July 15, 2018

Robert Cotter
Eastern NL Regional Appeal Board
PO Box 8700 4th Floor Confederation Bldg.

Dear Robert Cotter,

I wish to appeal a decision by the Town Council on two matters directly related and which greatly affect [redacted] property [redacted]. On council decision matter 2018-070 that was deemed to be ratified in the June Public Meeting I have no information on which I can form an understanding. There are no June Minutes of meetings available online as required.

I have been restricted in my monitoring of Town Council matters [redacted] these past months. I had asked a neighbor to find information and he reports he has written council in May regarding 2018-070 and has yet to get a reply. I am also informed that the Town Manager [redacted] and matters will return to normal in early August.

In the June Public Meeting another directly related matter was decided regarding Mullowneys Lane that also directly affects [redacted] property. Both decisions are virtually identical and are only separated to shield publication of a plan to provide additional access to a pathway running between [redacted]. Both these decisions affect the property and drainage matters bordering [redacted]

In short there is a complicated ambiguity concerning these decisions that is not apparent to the public. With respect to motion 2018-070, it involves clearing the pathway [redacted]. The issue with 2018-070 is that the area boundaries to be cleared are not identified as noted by one councilor. Without clear distinction I am unable to understand the decision. This entire area is [redacted]
The decision to develop this property has resulted in the area of land to be cleared. This entire matter has been kept from public scrutiny.

Considering that under direct orders from council subject to severe penalties to maintain drainage on this property draining onto a public road, any clearing of the narrow public pathway bordering

It should be noted that council has not communicated with on any occasion to identify the clearing boundaries that might impact drainage. No inspection of the area has been completed as required.

In the matter of June decision referencing removing drains from to protect the public road. By removing the drains on water draining from land will damage the public road.

The development regulations demand that a roadway must have proper drainage. By removing the drainage ditch the travel access becomes larger. Mullowneys Lane is already a substandard road. There is no public information available on this decision to date. Both decisions regarding Mullowneys Lane are directly related and both impact

I am filing this application now to ensure compliance with time limits, notwithstanding the fact that I have not been provided with sufficient background information. I expect ENRAB will be provided with detailed information sometime in early August 2018.

I will be making a supplemental filing with specific details after I receive full specific details from the Town Manager.
July 24, 2018

BETWEEN

APPELLANT

AND

Town of Witless Bay

RESPONDENT

RESPECTING Approval, Mullowneys Lane, Witless Bay

This acknowledges that an appeal has registered with the Eastern Newfoundland Regional Appeal Board on July 19, 2018. The Regional Appeal Boards are established in accordance with the Urban and Rural Planning Act, 2000 (the “Act”). In accordance with section 42(3) of the Act, the Board is responsible for making a decision in accordance with applicable plans, schemes and development regulations as it relates to the matter being appealed.

Currently, information is being received/colllected for the purposes of preparing appeal packages with respect to the above-noted appeal in accordance with section 42 of the Urban and Rural Planning Act, 2000. Prior to the hearing of an appeal, the Department of Municipal Affairs and Environment (“MAE”) is unable to release information provided by parties to the appeal.

All information submitted to MAE prior to an appeal is managed in compliance with the Access to Information and Protection of Privacy Act (“ATIPPA”).

Appeal requirements

Section 42 of the Act outlines the jurisdiction the Board has regarding development decisions, specifically what can be appealed to this Board. As per section 42(5) of the Act, an appeal must be made in writing and shall include the following:

(a) a summary of the decision
(b) the grounds for the appeal
(c) the required fee.

Development shall not proceed

Please note that when an appeal is filed under section 42 of the Act, in accordance with section 45(1) of the Act all work related to the development under appeal shall not proceed. Section 45(1) states:

45(1) Where an appeal is made under section 42, the development with respect to the appeal, work related to that development or an order that is under appeal shall not proceed or be carried out, pending a decision of the board.

Appeal process

The subject matter as stated will also be advertised in the appropriate newspaper. You will be notified of the time, place and date of your hearing not fewer than 7 days before the scheduled hearing and will receive an appeal package prior to the scheduled hearing containing the following:

- Appellant(s) submission;
• Authority(s) submission;
• technical and planning advice (completed by the Department’s Planner); and
• any other public submission(s).

Appeal fees
Under section 44(2) of the Act, the appeal fee paid by the appellant(s) to the board shall be retained by that board. As per section 44(3) of the Act, if an appeal is successful, then the appeal fee will be paid to the appellant by the council, regional authority or authorized administrator that made the appealed decision.

Should you have any questions please contact the Secretary at 709-729-3088 or email rcotter@gov.nl.ca

Yours truly,

[signature]

Robert Cotter
Secretary
Newfoundland Regional Appeal Boards

Copy to: Town of Witless Bay
15-006-057-011
EASTERN NEWFOUNDLAND REGIONAL APPEAL BOARD

July 24, 2018

S.40(1)

BETWEEN

APPELLANT

AND

Town of Witless Bay

RESPONDENT

RESPECTING Approval, Mullowneys Lane, Witless Bay

Dear Town of Witless Bay:

This is to inform you that an appeal was registered with the Eastern Newfoundland Regional Appeal Board on July 19, 2018. Enclosed is a copy of the appellant’s submission appeal initiated against the Town.

The Board is bound by section 42 of the Urban and Rural Planning Act, 2000 (the “Act”), which outlines matters that the Board can hear. The Board may determine that an appeal is invalid if the matter is outside its jurisdiction. Therefore, please indicate below in the appropriate box what the decision being appealed is with respect to:

☐ an application to undertake a development;
☐ a revocation of an approval or a permit to undertake a development;
☐ the issuance of a stop work order; and
☐ a decision permitted under this or another Act to be appealed to the board.

The following information is required within 15 days of receipt of this letter. In providing the documentation, please check the items and return this check list along with your submission. The information being collected for the purposes of determining and administering an appeal in accordance with Section 42(8) of the Urban and Rural Planning Act, 2000 and the Development Regulations (CNLR 3/01). Take caution when releasing private information. To distinguish the authority’s documents, please page number the submission. Electronic submissions is encourage to the secretary reotter@gov.nl.ca

☐ a letter outlining the chronological order of events that lead to the decision being appealed omitting other personal information,
☐ a copy of the Authority’s development decision letter
☐ a copy of all council minutes only relating to the matter
☐ a location plan and zoning map indicating the proposed site and/or pictures
☐ a copy of the development application and any supporting information provided by the appellant/developer; do not include letters of support or objections but a statement that council considered such input if applicable
☐ a copy of any comments, approvals or recommendations made by any other Government department or public body

c/o Department of Municipal Affairs, P.O. Box 8700, St. John’s, NL, Canada A1B 4J6 Tel: 709-729-3040 Fax: 709-729-0477
any other relevant correspondence together with a statement outlining any further action taken by the Authority

- a list of persons (include mailing addresses) whom the Authority considers particularly affected by this decision and who should be notified

- copy all information to the appellants as identified on appeal form or representative

When an appeal is filed under section 42 of the Act, in accordance with section 45(1) of the Act, all work related to the development under appeal shall not proceed. Section 45(1) states:

45(1) Where an appeal is made under section 42, the development with respect to the appeal, work related to that development or an order that is under appeal shall not proceed or be carried out, pending a decision of the board.

Please take note of section 8 of the Minister’s Development Regulations, 2000, which states:

8. (1) Immediately upon notice of the registration of an appeal the appropriate authority shall ensure that any development upon the property that is the subject of the appeal ceases.

(2) Sections 102 and 104 of the Act apply to an authority acting under subsection (1).

(3) Upon receipt of a notification of the registration of an appeal with respect to an order under section 102 of the Act, an authority shall not carry out work related to the matter being appealed.

The authority should ensure that this requirement is enforced and inform any other party that is affected.

Currently, information is being received/colllected for the purposes of preparing appeal packages with respect to the above-noted appeal in accordance with section 42 of the Urban and Rural Planning Act, 2000. Prior to the hearing of an appeal, the Department of Municipal Affairs and Environment (“MAE”) is unable to release information provided by parties to the appeal.

All information submitted to MAE prior to an appeal is managed in compliance with the Access to Information and Protection of Privacy Act (“ATIPPA”).

Yours truly,

Robert Cotter, Secretary
Newfoundland Regional Appeal Board

Copy to: appellant(s).
August 2, 2018

Mr. Robert Cotter, Secretary
Newfoundland Regional Appeal Board
c/o Department of Municipal Affairs and Environment
P.O. Box 8700
St. John’s, NL A1B 4J6

Dear Mr. Cotter:

Re: Appeal # 15-006-057-011

The appellant, [redacted], has noted on his appeal summary form that he is appealing an approval of [redacted]. He identifies two Council decisions in his letter of July 15, 2018 in which he has issues:

Paragraph 1 – The first issue relates to motion # 2018-070, which is a Crown Land Referral. The Municipal Affairs & Environment's website states that the “Appeal Board does not have the authority to hear matters from Council’s recommendations for the acquisition of Crown Land.”

Paragraph 3 - The second issue relates to what the appellant describes as "removing drains from [redacted]." This application is in actual fact an individual’s request to fill in a trench, damaged by other people, and return it to its original condition. This application was neither approved nor denied, but was deferred.

While the Town respects the appellant’s right to appeal decisions of Council, from the Town’s perspective, it appears that under legislation, this appeal is outside of the Board's jurisdiction. For this reason, the Town is requesting that appeal number 15-006-057-011, be nullified immediately.

For the purpose of the Newfoundland Regional Appeal Board’s request form, please find the chronological order of the items [redacted] is appealing:

At the April 10, 2018 public meeting, Council approved through motion #2018-070, a Crown Land Referral for [redacted] (copy of application documents and minutes are attached).

At the June 12, 2018 public meeting, Council deferred an application to fill in trench and return site to its original condition on [redacted] (copy of application documents and minutes are attached).

Sincerely,

Geraldine Caul
Town Clerk-Manager

[Redacted]
For: Mayor Rene Estrada, Councillors Fraser Paul, Chris Brinston, Neil Stratton, Vince Swain and Lucy Carew
Abstained: Deputy Mayor Murphy [declared a conflict of interest].
Motion carried.

4. **2018-068** Councillor Lucy Carew/Councillor Neil Stratton
   Moved to adopt the March 21, 2018 Minutes of Special Public meeting
   Motion carried unanimously.

5. **Business arising from minutes:**
   a. Submission related to personal use sawmill
      Council acknowledged a letter received from a resident who was concerned about noise, air pollution, and hours of operation. The resident expressed that if noise or air pollution is not going to be an issue, he/she would not have an issue with it.

   **2018-069** Councillor Vince Swain/Councillor Chris Brinston
   Moved to approve the use of a portable sawmill on [location] on the condition that usage is limited to regular day time hours, that it is kept to personal use and not commercial, and if the Town receives complaints of commercial usage, or that it is being used after regular day time hours, the Town will put a stop to it.
   Motion carried unanimously.

   b. Crown Land Referral for Mullowney’s Lane
   Councillor Vince Swain noted that in last month’s meeting there was another application number that he missed that required Council’s approval on opening the public Right-of-Way at the end of Mullowney’s Lane extension (application # E151-285).

   **2018-070** Councillor Vince Swain/Councillor Fraser Paul
   Moved that the Town does not have a problem with opening the public Right-of-Way.
   Discussion: Councillor Lucy Carew reminded Deputy Mayor Maureen Murphy that she should request to step out for this item.
   Deputy Mayor Maureen Murphy stated that she is in a conflict of interest on this item
   
   Councillor Brinston asked for the length of the Right-of-Way, and was informed by Councillor Swain that it was a public Right-of-Way so the length didn’t matter because it should be accessible for everyone to use.
   Councillor Neil Stratton asked if the Town had any maintenance agreement in place.
   Councillor Swain responded saying that anyone can walk on it, and no one asked for any particular lengths or widths.
   For: Mayor Rene Estrada, Councillors Fraser Paul, Neil Stratton, Vince Swain and Lucy Carew
   Against: Councillor Chris Brinston
June 12 Public Meeting

f. Fill in trench and return site to its original condition. – Deputy Mayor Maureen Murphy asked Council to determine if she was in a conflict of interest. Deputy Mayor Murphy left the Chamber at 7:52 and returned at 7:53.

2018-129 Councillor Fraser Paul/Councillor Chris Brinston
Moved that Deputy Mayor Maureen Murphy is in a conflict of interest on this application.
For: Mayor Rene Estrada, Councillors Fraser Paul, Chris Brinston, Neil Stratton, Vince Swain and Lucy Carew.
Abstained: Deputy Mayor Maureen Murphy [abstained due to question of conflict of interest].
Motion carried.

2018-130 Councillor Fraser Paul/Councillor Vince Swain
Moved to defer application to fill in trench pending submission of an updated survey and a detailed description of the work to take place.
For: Mayor Rene Estrada, Councillors Fraser Paul, Chris Brinston, Neil Stratton, Vince Swain and Lucy Carew.
Abstained: Deputy Mayor Maureen Murphy [abstained due to being in a conflict of interest].
Motion carried.

g. Grub driveway on 241A Gallows Cove Road

2018-131 Councillor Fraser Paul/Deputy Mayor Maureen Murphy
Moved to defer application to grub driveway pending clarification of ownership of Right of Way and review of the town’s development regulations for access. [Public members addressed Council with additional information on the property].
Motion carried unanimously.

h. Install culvert on

2018-132 Councillor Fraser Paul/Councillor Vince Swain
Moved to reject installation of culvert on because it does not meet the town standards in that there is no storm sewer or curb and gutter to take water off the road.
Motion carried unanimously.

i. Erect fence on

2018-133 Councillor Fraser Paul/Councillor Vince Swain
Moved to approve fence on Motion carried unanimously.
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atipoffice@gov.nl.ca.
DEVELOPMENT APPLICATION

Civic address of the proposed development: __________________________

Describe location from the nearest prominent landmark: __________________________

Site must be marked with corner posts, stakes with applicant’s name, or other means of identification.

Describe proposed development: ____________________________________________________________________________

Fill in unauthorized

Trench and Return the Area to its original condition. Area = % metres wide x 10 metres wide.

Describe the proposed means of access to the residence (from which publicly maintained road will the property be accessed? Where is the driveway located along this road?):

Machinery would = excavator

Angle and grade change

Total lot size: 10,663 m²

Frontage: _____ m X Depth: _____ m

Area of adjacent land in same owner(s): ______ m²

Land use zoning of this property: __________

Does development conform to zoning? YES / NO

Ownership of Land: APPLICANT / CROWN / CORPORATION / COMPANY / OTHER: __________

Are any buildings to be demolished? YES / NO

Present use of all adjacent land (e.g. Residential, Commercial, Unused, etc.):

West side: RES

East Side: RES

North side: RES

South Side: RES

Type of Vegetation (circle ALL that apply): FOREST / SCRUB / BARREN / CLEARED / OTHER: __________
Dwelling Type: SINGLE DWELLING / DOUBLE DWELLING / ROW DWELLING / APARTMENT BUILDING

# of Bedrooms: Has apartment?: YES / NO Setback from road: ___ m
Size of main building: ___ m² (___ m X ___ m): Height of main building: ___ m

Other buildings already present on the lot (if applicable):

Use of accessory building #1: __________________________ Size: ___ m² (___ m X ___ m)
Use of accessory building #2: __________________________ Size: ___ m² (___ m X ___ m)
Use of accessory building #3: __________________________ Size: ___ m² (___ m X ___ m)

Water supply (Type of well): _______________ Sewage Disposal: _______________
Other details: _______________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

This form is not valid until all questions are answered appropriately and it is signed, witnessed & dated.

Office use only:

Site zoning: _______________ Permitted use?: YES / NO
Is a variance required?: YES / NO Variance: ________%
Have development standards been given to applicant? YES / NO
Can development standards be met? YES / NO / _____________
Referrals required: ____________________________________________
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atippoffice@gov.nl.ca.
DESCRIPTION OF PROPERTY SURVEYED
WITNESS BAY, NEWFOUNDLAND

All that piece or parcel of land situate and being on the Southerly limit of a Cart Road extending from Gallows Cove Road at Witless Bay in the Electoral District of Ferryland abutted and bounded as follows, that is to say, beginning at a point said point being an iron pin on the most Northerly corner of property of [redacted] said point also being two hundred and ninety-six feet, more or less, (296.0') from the centerline of said Gallows Cove Road as measured in a Southwesterly direction along the centerline of said Cart Road; thence turning and running at right angles twelve feet (12.0') to the said point of beginning; thence running along the Westerly boundary of said [redacted] property South 30°54' East one hundred and fifty-seven feet and eight tenths of a foot (157.8') and thence South 51°37' East two hundred and eight feet (208.0'); and thence South 30°44' West one hundred and eighty-two feet and nine tenths of a foot (182.9'); thence running by property of [redacted] South 62°16' West one hundred and sixteen feet and nine tenths of a foot (116.9'); thence turning and running by Crown Land North 57°25' West one hundred and fifty-three feet (153.0'); and thence North 40°11' West one hundred and twenty feet and six tenths of a foot (120.6'); and thence North 24°47' West one hundred and seventy feet and four tenths of a foot (170.4'); thence turning and running along the Southerly limit of said Cart Road North 47°55' East one hundred and twelve feet (112.0'); and thence North 72°00' East one hundred and thirty-four feet and six tenths of a foot (134.6') to the point of beginning and containing in all an area of two decimal six three five (2.635) Acres; this land being more fully
bounded as follows, that is to say, beginning at a point said point being an iron pin on the most Northerly corner of property of [redacted] said point also being two hundred and ninety-six feet, more or less, (296.0') from the centerline of said Gallows Cove Road; as measured in a Southwesterly direction along the centerline of said Cart Road; thence turning and running at right angles twelve feet (12.0') to the said point of beginning; thence running along the Westerly boundary of said [redacted] property South 30°54' East one hundred and fifty-seven feet and eight tenths of a foot (157.8') and thence South 61°37' East two hundred and eight feet (208.0'); and thence South 30°44' West one hundred and eighty-two feet and nine tenths of a foot (182.9'); thence running by property of [redacted] South 62°16' West one hundred and sixteen feet and nine tenths of a foot (116.9'); thence turning and running by Crown Land North 57°25' West one hundred and fifty-three feet (153.0'); and thence North 40°11' West one hundred and twenty feet and six tenths of a foot (120.6'); and thence North 24°47' West one hundred and seventy feet and four tenths of a foot (170.4'); thence turning and running along the Southerly limit of said Cart Road North 47°55' East one hundred and twelve feet (112.0'); and thence North 72°00' East one hundred and thirty-four feet and six tenths of a foot (134.6') to the point of beginning and containing in all an area of two decimal six three five (2.635) Acres; this land being more fully delineated and outlined in red on the plan hereto attached. All bearings are referred to Magnetic North.
THIS DEED OF ASSENT AND CONVEYANCE made at , in the State of New York, United States of America, this day of Aug., 2006;

BETWEEN:

AND:

WHEREAS by Deed of Assent of from the , in the Province of Newfoundland and Labrador, to , dated September 28, 1973, and registered in Volume 1499, Folio 208-209 of the Registry of Deeds for the Province of
Newfoundland and Labrador, *ALL THAT* piece or parcel of land situate at Witless Bay, in the district of Ferryland, in the Province of Newfoundland, including the Property being more particularly described in Schedule "A" annexed hereto and being delineated in the plan in Schedule "B" annexed thereto was conveyed unto the said [REDACTED] to be held as a tenancy-in-common with [REDACTED].

**AND WHEREAS**

[REDACTED] were granted by the Supreme Court of Newfoundland and Labrador to the Executor herein on the 10th day of August, A.D. 1999, which Letters are registered in Volume 18, Folio 9311 of the Acts Book at the Registry of Probate of the Supreme Court of Newfoundland and Labrador:

**AND WHEREAS** in her Last Will and Testament, the said [REDACTED] transferred and conveyed all her right, title and interest in and to the lands and premises hereinafter described in Schedule "A" annexed hereto and delineated in the plan in Schedule "B" attached thereto, unto her children, the Beneficiaries herein, for their own use absolutely, as follows:
4(c) To transfer and convey all my right, title and interest in and to real property situate at Gallows Cove, Witless Bay, in the District of Ferryland, in the Province of Newfoundland, Canada, and bounded by land of and on two sides by a lane or path and containing seven acres or thereabouts in equal shares to my children, as tenants-in-common, absolutely and forever ...

AND WHEREAS the Executor herein is desirous of assenting to the conveyance of property herein referred to in accordance with the provisions of the Last Will and Testament of the said deceased for the Beneficiaries;

AND WHEREAS the Beneficiaries have agreed to give as a gift the aforesaid property to

NOW THEREFORE THIS INDENTURE WITNESSETH THAT the Executor herein, as Executor and Representative of Deceased, by virtue of Letters of Probate hereinbefore recited and for the consideration of the sum of One Dollar ($1.00) (the receipt and sufficiency of which is hereby acknowledged) hereby assents to and conveys into the Beneficiaries ALL THAT piece or parcel of land situate at Witless Bay, in the District of Ferryland, in the Province of Newfoundland and Labrador, Canada, more particularly described in Schedule "A" annexed hereto and more particularly delineated in Schedule "B" annexed thereto (which Schedules form part and parcel of these presents) TOGETHER WITH all
buildings and erections thereon and thereto appertaining AND the Beneficiaries, for the
consideration of the sum of One Dollar ($1.00) (the receipt and sufficiency of which is hereby
acknowledged) hereby assign and convey all their right, title and interest in the Property
described in Schedule “A” and delineated in the plan in Schedule “B” to the Purchaser
absolutely and forever.

IN WITNESS WHEREOF the Executor and Beneficiaries have hereunto their hands and seals
subscribed and set the day and year first before written.

SIGNED, SEALED AND DELIVERED

By the Executor:

in the presence of:

NOTARY PUBLIC

DAVID J. VOLL
NOTARY PUBLIC, State of New York
No. 01VC0420426
Qualified in Suffolk County
Commission Expires February 28, 2007

SIGNED, SEALED AND DELIVERED

By the Beneficiary:

in the presence of:

NOTARY PUBLIC

DAVID J. VOLL
NOTARY PUBLIC, State of New York
No. 01VC0420426
Qualified in Suffolk County
Commission Expires February 28, 2007
SIGNED, SEALED AND DELIVERED

By the Beneficiary: 

in the presence of: 

AT HERNANDO CO., IN THE STATE OF FLORIDA, U.S.A., THIS 3rd DAY OF JULY 2016

RUTH P. WHARTON
NOTARY PUBLIC

SIGNED, SEALED AND DELIVERED

By the Beneficiary: 

in the presence of: 

DAVID J. VOLPI
NOTARY PUBLIC, State of New York
No. 01V34520426
Qualified in Suffolk County
Commission Expires February 28, 2007
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atipoffice@gov.nl.ca.
REVISED REFERRAL

This e-referral has been sent to you for your recommendation. Other referrals have been sent to the Department(s) and/or agencies on the schedule located in the e-referral folder. YOU HAVE TWENTY-ONE (21) DAYS FROM THE DATE OF THIS REFERRAL TO PROVIDE YOUR RECOMMENDATION ON THIS APPLICATION. IF NO RESPONSE IS RECEIVED BY THE END OF 21 DAYS, IT SHALL BE ASSUMED THAT THERE ARE NO OBJECTIONS/RESTRICTIONS TO THIS APPLICATION.

Please be advised that the site on the map, located in the e-referral folder, cannot be altered or relocated in any way without the prior approval of the Regional Lands Office.

APPLICATION FOR CROWN LANDS - REFERRAL

Applicant: 

Telephone: (H): [(Redacted)] (O): [(Redacted)]

Application Number: 150726

Purpose: Residential

Location: Witless Bay

Area (hectares): AREA REDUCED FROM 1.49 HA TO 0.81 HA

Map Number: 01N07

Comments: APPLICANT HAS REQUESTED THE AREA BE REDUCED AS PER THE ATTACHED MAP. MAY WE PLEASE HAVE YOUR COMMENTS / RECOMMENDATIONS ON THE REDUCED AREA. (Also on a separate referral 151285 we are requested any revised comments on his Permission to Construct letter to access this site.)

REFERRAL AGENCY ONLY

Date: [Click here to enter a date.]

Department/Agency: [Click here to enter text.]

Address: [Click here to enter text.]

RECOMMENDATION: [Click here to select your recommendation.]

COMMENTS: [Click here to enter text.]
APPLICATION FOR CROWN LANDS

FOR DEPARTMENT USE ONLY

APPLICATION NO. 5072
RECEIPT NO. 8A725
FILE NO. 105835
AMOUNT $72.50
DATE REGISTERED 20/11/14
DATE INDICATED ON PLAN NO. 
TOPO NO. INITIAL

APPLICANT INFORMATION

SURNAME 

GAME

MIDDLE NAME 

AGE

MAILING ADDRESS

CITY/TOWN 

PROVINCE

Postal Code

BUSINESS TELEPHONE 

HOME TELEPHONE

ARE YOU A RESIDENT OF THE PROVINCE OF NEWFOUNDLAND AND LABRADOR? YES [☑] NO

ARE YOU A EMPLOYEE OF THE DEPARTMENT OF MUNICIPAL AFFAIRS? YES [☑] NO

HAVE YOU, YOUR SPOUSE, OR ANY DEPENDENT CHILDREN EVER APPLIED FOR, OR RECEIVED LAND FROM THE CROWN? YES [☑] NO

IF YES, SPECIFY TITLE NO(s)

PROPOSED TENURE AND USE

TYPE OF APPLICATION

LEASE [☐] GRANT [☑] LICENCE TO OCCUPY [☐]

LAND USE

RESIDENCE [☑] COTTAGE [☐] AQUACULTURE [☐] AGRICULTURE (provide details below) [☑]

COMMERCIAL (provide detailed description below) [☐] OTHER (provide details below) [☐]

DESCRIBE BUILDINGS TO BE ERECTED (if applicable)

DIMENSIONS: LENGTH 40' WIDTH 30'

PROPOSED WATER AND SEWAGE FACILITIES (if applicable)

WELL [☑] SEPTIC [☐] MUNICIPAL WATER [☐] MUNICIPAL SEWER [☐] OTHER (provide details below) [☐]
LAND DESCRIPTION

1. THE LAND IS SITUATED AT WITNESS BAY - MULLOWNEY LAKE

IN THE ELECTORAL DISTRICT OF FERRY LAND

2. IS THE LAND APPLIED FOR LOCATED WITHIN MUNICIPAL BOUNDARIES? [ ] YES [ ] NO

IF YES, YOU MUST ENCLOSE A MUNICIPAL RECOMMENDATION FORM

IF YES, YOU MUST ENCLOSE A MUNICIPAL RECOMMENDATION FORM

NOTE: THIS FORM IS AVAILABLE FROM THE MUNICIPAL COUNCIL, REGIONAL LANDS OFFICE, & GOVERNMENT SERVICE CENTRES

3. APPROXIMATE DIMENSIONS OF THE LAND

LENGTH

4. DISTANCE TO CLOSEST WATERBODY

NAME OF WATERBODY (if applicable)

5. IS THE SITE ACCESSIBLE BY ROAD?

[ ] YES [ ] NO

IF NO, WILL THE SITE REQUIRE NEW ROAD CONSTRUCTION FOR ACCESS?

[ ] YES [ ] NO

IF YES, WHAT WILL BE THE APPROXIMATE LENGTH OF THE ROAD?

6. IS THE SITE PRESENTLY OCCUPIED; FENCES, BUILDINGS, SIGNS, CLEARING, LOCAL UNDERSTANDING?

[ ] YES [ ] NO

IF YES, STATE YEAR OCCUPATION COMMENCED, AREA OCCUPIED, AND NAME OF PERSON WHO DEVELOPED OR OCCUPIED THE LAND

7. ARE YOU AWARE OF ANY EVIDENCE OF PREVIOUS LAND USE, SUCH AS FENCES, BUILDINGS, SIGNS, CLEARING, LOCAL UNDERSTANDING, ETC?

[ ] YES [ ] NO

IF YES, STATE YEAR OCCUPATION COMMENCED, AREA OCCUPIED, AND NAME OF PERSON WHO DEVELOPED OR OCCUPIED THE LAND

DESCRIPTION OF LAND

Please Note: When your application is accepted by this Department you are required to identify the site in the field by clearly marking your corner posts. If there is a discrepancy between the area marked in the field and the area indicated on the map, the latter shall prevail.

Sketch the land applied for showing distance to prominent nearby features such as buildings, fences, road intersections. Map must also be attached.

BOUNDED ON NORTH BY

SEE PLAN

BOUNDED ON SOUTH BY

BOUNDED ON EAST BY

BOUNDED ON WEST BY

PLEASE NOTE: IT IS THE POLICY OF THE CROWN LANDS DIVISION TO ACCEPT APPLICATIONS ON A FIRST COME - FIRST SERVED BASIS. APPLICATIONS MUST BE FULLY COMPLETED, WITH A MAP SHOWING THE EXACT LOCATIONS OF THE LAND APPLIED FOR TOGETHER WITH THE APPLICATION FEE, THE APPROVED MUNICIPAL RECOMMENDATION FORM FROM COUNCIL, IF APPLICABLE, MUST ALSO BE ATTACHED. ONLY THEN WILL THE APPLICATION BE ACCEPTED AND DEEMED REGISTERABLE BY THIS DEPARTMENT.
REVISED REFERRAL

This e-referral has been sent to you for your recommendation. Other referrals have been sent to the Department(s) and/or agencies on the schedule located in the e-referral folder. YOU HAVE TWENTY-ONE (21) DAYS FROM THE DATE OF THIS REFERRAL TO PROVIDE YOUR RECOMMENDATION ON THIS APPLICATION. IF NO RESPONSE IS RECEIVED BY THE END OF 21 DAYS, IT SHALL BE ASSUMED THAT THERE ARE NO OBJECTIONS/RESTRICTIONS TO THIS APPLICATION.

Please be advised that the site on the map, located in the e-referral folder, cannot be altered or relocated in any way without the prior approval of the Regional Lands Office.

APPLICATION FOR CROWN LANDS – REFERRAL

Applicant: 

Telephone: (H): [Redacted] (O): [Redacted]

Application Number: 151285

Application Type: Permission

Purpose: Use: Permission to Construct Right of Way to Access Property

Location: Witless Bay

Area (hectares): 0.41

Frontage (metres): 6

Map Number: 01N07

Comments: THE APPLICANT HAS REVISED HIS RESIDENTIAL GRANT AND PLANS TO USE THE RIGHT OF WAY/ROAD TO ACCESS HIS GRANT APPLICATION. THE TOWN MUST PROVIDE A LETTER THAT ONCE THE RIGHT OF WAY/ROAD IS CONSTRUCTED TO THEIR STANDARDS THE TOWN IS PREPARED TO TAKE OVER THE MAINTENANCE AND CONTROL OF THE RIGHT OF WAY/ROAD.

REFERRAL AGENCY ONLY

Date: [Click here to enter a date.]

Department/Agency: [Click here to enter text.]

Address: [Click here to enter text.]
# Newfoundland Labrador
Municipal Affairs

## Application for Crown Lands

**For Department Use Only**

<table>
<thead>
<tr>
<th>Application No.</th>
<th>151276</th>
<th>Receipt No.</th>
<th>977X9</th>
</tr>
</thead>
<tbody>
<tr>
<td>File No.</td>
<td>1033754</td>
<td>Amount</td>
<td>$925.00</td>
</tr>
<tr>
<td>Date Registered</td>
<td>May 11, 2012</td>
<td>Date</td>
<td>May 11, 2012</td>
</tr>
<tr>
<td>Initial</td>
<td>AH</td>
<td>Topo No.</td>
<td>Initial AH</td>
</tr>
</tbody>
</table>

**Applicant Information**

<table>
<thead>
<tr>
<th>Surname</th>
<th>[Redacted]</th>
<th>Given Name</th>
<th>[Redacted]</th>
<th>Middle Name</th>
<th>[Redacted]</th>
<th>Age</th>
<th>[Redacted]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mailing Address</td>
<td>[Redacted]</td>
<td>[Redacted]</td>
<td>[Redacted]</td>
<td>[Redacted]</td>
<td>[Redacted]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City/Town</td>
<td>[Redacted]</td>
<td>Province</td>
<td>NL</td>
<td>Postal Code</td>
<td>[Redacted]</td>
<td></td>
<td>[Redacted]</td>
</tr>
<tr>
<td>Business Telephone</td>
<td>[Redacted]</td>
<td>Home Telephone</td>
<td>[Redacted]</td>
<td>[Redacted]</td>
<td>[Redacted]</td>
<td></td>
<td>[Redacted]</td>
</tr>
</tbody>
</table>

- Are you a resident of the Province of Newfoundland and Labrador? [X] Yes [ ] No
- Are you an employee of the department of Municipal Affairs? [ ] Yes [X] No
- Have you, your spouse, or any dependent children ever applied for, or received land from the Crown? [X] Yes [ ] No

**Proposed Tenure and Use**

<table>
<thead>
<tr>
<th>Type of Application</th>
<th>Lease [ ] Grant [ ] Licence to Occupy [X]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td>Residence [ ] Cottage [ ] Aquaculture [ ] Agriculture (provide details below) [ ] Commercial (provide detailed description below) [ ] Other (provide details below) [ ]</td>
</tr>
</tbody>
</table>

**Describe buildings to be erected (if applicable)**

<table>
<thead>
<tr>
<th>Dimensions: Length</th>
<th>Width</th>
</tr>
</thead>
</table>

**Proposed water and sewage facilities (if applicable)**

| [ ] Well | [ ] Septic | [ ] Municipal Water | [ ] Municipal Sewer | [ ] Other (provide details below) |
LAND DESCRIPTION

1. THE LAND IS SITUATED IN THE ELECTORAL DISTRICT OF

2. IS THE LAND APPEARED FOR LOCATED WITHIN MUNICIPAL BOUNDARIES? YES NO

3. APPROXIMATE DIMENSIONS OF THE LAND

4. DISTANCE TO CLOSEST WATERBODY

5. IS THE SITE ACCESSIBLE BY ROAD? YES NO

6. WILL THE SITE REQUIRE NEW ROAD CONSTRUCTION FOR ACCESS? YES NO

FOR SITES WITHOUT ROAD ACCESS, PLEASE INDICATE METHOD OF TRANSPORTATION WALKING A.T.V. BOAT SNOWMOBILE AIRCRAFT

FOR SITES WITHOUT ROAD ACCESS, LOCATION OF ACCESS ROUTE MUST BE INDICATED ON THE MAP ATTACHED TO THE APPLICATION AND ACCESS BY A.T.V. MUST BE IN ACCORDANCE WITH A.T.V. REGULATIONS.

5. IS THE SITE PRESENTLY OCCUPIED? FENCES, BUILDINGS, SIGNS, CLEARING, LOCAL UNDERSTANDING? YES NO

IF YES, STATE YEAR OCCUPATION COMMENCED, AREA OCCUPIED AND NAME OF PERSON WHO DEVELOPED OR OCCUPIED THE LAND:

7. ARE YOU AWARE OF ANY EVIDENCE OF PREVIOUS LAND USE, SUCH AS FENCES, BUILDINGS, SIGNS, CLEARING, LOCAL UNDERSTANDING, ETC.? YES NO

IF YES, STATE YEAR OCCUPATION COMMENCED, AREA OCCUPIED AND NAME OF PERSON WHO DEVELOPED OR OCCUPIED THE LAND:

DESCRIPTION OF LAND

Please Note: When your application is accepted by this Department you are required to identify the site in the field by clearly marking your corner posts. If there is a discrepancy between the area marked in the field and the area indicated on the map, the latter shall prevail.

Sketch the land area for showing distance to prominent nearby features such as buildings, fences, road intersections. Map must also be attached.

BOUNDARY ON NORTH BY

BOUNDARY ON SOUTH BY

BOUNDARY ON EAST BY

BOUNDARY ON WEST BY

PLEASE NOTE: IT IS THE POLICY OF THE CROWN LANDS ONS TO ACCEPT APPLICATIONS ON A FIRST COME - FIRST SERVED BASIS. APPLICATIONS MUST BE FULLY COMPLETED WITH A MAP SHOWING THE EXACT LOCATIONS OF THE LAND APPLIED FOR TOGETHER WITH THE APPLICATION FEE. ONLY THEN WILL THE APPLICATION BE ACCEPTED AND DEEMED REGISTERABLE BY THIS DEPARTMENT.
REVISED LOCATION

This e-referral has been sent to you for your recommendation. Other referrals have been sent to the Department(s) and/or agencies on the schedule located in the e-referral folder. YOU HAVE TWENTY-ONE (21) DAYS FROM THE DATE OF THIS REFERRAL TO PROVIDE YOUR RECOMMENDATION ON THIS APPLICATION. IF NO RESPONSE IS RECEIVED BY THE END OF 21 DAYS, IT SHALL BE ASSUMED THAT THERE ARE NO OBJECTIONS/RESTRICTIONS TO THIS APPLICATION.

Please be advised that the site on the map, located in the e-referral folder, cannot be altered or relocated in any way without the prior approval of the Regional Lands Office.

APPLICATION FOR CROWN LANDS - REFERRAL

This e-referral has been sent to you for your recommendation. Other referrals have been sent to the Department(s) and/or agencies on the schedule located in the e-referral folder. YOU HAVE TWENTY-ONE (21) DAYS FROM THE DATE OF THIS REFERRAL TO PROVIDE YOUR RECOMMENDATION ON THIS APPLICATION. IF NO RESPONSE IS RECEIVED BY THE END OF 21 DAYS, IT SHALL BE ASSUMED THAT THERE ARE NO OBJECTIONS/RESTRICTIONS TO THIS APPLICATION.

Please be advised that the site on the map, located in the e-referral folder, cannot be altered or relocated in any way without the prior approval of the Regional Lands Office.

Application:

Applicant: [Name]

Telephone: [Contact Information]

Application Number: 150726

Application Type: Grant

Purpose, Section 4: Use: Extension to Private Property for Backlot development as per email from Applicant: dated Feb 18, 2018

Location: Witless Bay

Area (hectares): 1.62

Frontage (metres):

Map Number: 01N07

Comments:

REFERRAL AGENCY ONLY

Date: Click here to enter a date.

Department/Agency: Click here to enter text.

Address: Click here to enter text.
15. Agriculture

Only home based agriculture may be permitted at the discretion of Council. Home based agriculture, including the keeping of livestock, at a limited and minor scale, may only take place on residential property where the size and general location of the property lot is sufficient to allow such activity to take place in a manner that will be safe and nuisance free, with respect to other areas. Such activity shall not in any way present a nuisance or disturbance to surrounding property owners. Council shall refer any agriculture related applications to the Department of Natural Resources, Agrifoods Branch and the Department of Environment and Conservation, Water Resources Division, for comments.

16. Backlot Development

Where vacant parcels of land exist which have access to a public street and are of sufficient size for a building lot, but which do not have the required frontage on a publicly maintained street, they may be considered on a discretionary basis provided the following conditions are met:

(a) the maximum setback for front lot line or side lot line (depending on lot orientation) from a public street shall be a minimum of 32 metres and a maximum of 100 metres from a public street. The minimum lot area and all other development standards shall be the same as for other residential development in this zone;
(b) only single dwellings may be permitted;
(c) lots must have direct access to, and street line frontage on, a public street;
(d) the development of the lot would not prevent the use of adjoining lands for future development. Where there is potential for additional development in the area, the lot and access shall be developed in a manner which will accommodate future development. As such, the access to the public street to which the owner must have clear title, shall be a minimum width of 15 m to accommodate future public use;
(e) where there is no potential for future development, the access to the public street shall be a minimum of 6 m in width and shall be treated as a private driveway; which the owner must have clear title.
(f) the dwelling is separated from, and oriented, in a manner that does not adversely affect the privacy and enjoyment of adjoining properties. Separation distances may be required by the Council as a condition for development, considering such things as slope, drainage, tree cover and soil conditions.
(g) the development of the backlot does not affect the legal conformity of the primary lot that has frontage on to a public street.

Back lot Policy only applies where there is already an existing residential house on the lot.
Crown Lands Division
Department of Fisheries and Land Resources
Re: Application #150726

Attention:

Last week we visited the Lands branch office in St. John’s to revise our application for a land grant in the Town of Witless Bay, reducing the amount of land requested, on the advice of the local Town Council. We were informed at the counter service in the Howley Building that the revised application will be forwarded to various departments and agencies for comments. We believe it’s important that the context for the application and other pertinent information be included for an informed decision.

Attached is a modified version of the Crown lands map outlining that our request is for a property extension. We have highlighted the following additional information:

The location of our existing property, along with the East Coast Trail location, and the location of the existing recognized Right of Way as shown on the current Ten Year Plan for the Town of Witless Bay. This shows the importance of our application in terms of access from the Right of Way as being the most viable option.

Furthermore, we would like to emphasize the reasons we are applying for this extension to our property:

1. This extension to our land would provide access off the existing Crown Land Right of Way.

2. [Redacted] has agreed to provide an easement through his property for our access. His letter to this effect has already been filed with your department.

3. The land we applied for is landlocked with no public access or possibility of use to the public.

4. Any future application for a new home on our land, would require our land to be considered a backlot. The addition of the Crown Land allows us to meet the requirements for a backlot. It is worth noting that under the existing Ten Year Plan our land is already zoned Residential use.

5. This additional land would be merely an extension of one single family residential lot as shown on the 10-year Plan. It would still only qualify as a single backlot with access from the extended Mullowneys Lane, through the Harte property. There is no attempt to acquire land for any increased development such as a sub-division now or in the future, as only one back-lot application is permitted.

6. We will also be using the additional land to move future home construction further away from the East Coast Trail to maximize privacy for ourselves as well as ensuring a more natural environment for hikers. This enables us to use the existing property along the coast for vegetable gardening, as it was traditionally used in the early 1900’s.
7. We have recently been granted a permit to build a gazebo structure. At present the only access
to the land is using the East Coast Trail at the end of Gallows Cove Road, which requires us to
travel over the east coast trail and use the already tight parking area for construction and visitor
vehicles. Accessing our property off the Right of Way is the best option for everyone.

8. If we can move to the back of our property with the applied for Crown Land, we would agree to
provide a 30m Environmental Protection Zone (double what is required under the existing
protection) from the shoreline to any structure on our land. The E.C.T. trail is eroding at the
shoreline of Ragged Beach, which is an area heavily used by tourists and the public. When the
trail is forced to move in from the erosion in the future, there would be more than adequate
room to expand with this added buffer zone.

We request Crown Lands Branch include our revisions to the previous map and include our letter in your
circulation of material, as this submission would have to be made within context to be best understood.
We think this is a win-win for all involved, respecting private land rights, right of access to property, the
10-year plan, the East Coast Trail, and the shoreline. We would be willing to meet with representatives
of the Lands Branch and Municipal Affairs to discuss further, if required.

Thank You for your consideration,
Dear Mr. Myler,

In relation to our conversation of March 7, 2018, due to a misunderstanding on easement location, this is to inform you there will be no decision made on an easement or diagrams of easement location by Crown Lands Division on [property] Mullowney's Lane, Gallows Cove, Witless Bay concerning [application]. I will contact your Department with further instructions.

Thank you,
Dear Sir/Madam:

This letter is in reference to your applications E 150726 for an extension to your private property for back lot development and application E 151285 for permission to construct a road and upgrade an existing trail to access your proposed development.

The Local Governance and Land Use Planning Division of the Department of Municipal Affairs and Environment (LGLUPD) has recommended refusal of your applications. Regulation 48 of the Town’s Development Regulations require residential development to front onto a publicly owned and maintained road. The site applied for does not have the minimum 30 meter public road frontage required by the Witless Bay Development Regulations and is contrary to municipal standards.

The proposed road does not comply with the Town’s development regulations. Any new road construction must be built to the standards specified in the Witless Bay Development Regulations. In order for LGLUPD to assess a Crown land application, a site plan showing the proposed road and associated development must be prepared by an engineer and accompany the Crown land application for review and recommendations. A letter from the Town of Witless Bay stating they will take over the maintenance and control of the road, including the section through [redacted] private property, with [redacted] permission, must also accompany the application.

Based on these recommendations your applications have been refused and your file closed. Should you become aware that the circumstances pertaining to these refusals have changed and you wish to re-apply for this land, you will be required to submit new applications, together with the applicable application fees. If you require any additional information concerning these applications we suggest you contact the referral agency mentioned above.

Yours truly,

[Signature]

REGIONAL LANDS MANAGER

Cc: Local Governance and Land Use Planning Division, Town of Witless Bay
Cotter, Robert

From: [Redacted]
Sent: Tuesday, July 31, 2018 4:27 PM
To: Town of Witless Bay
Cc: Cotter, Robert; Parsons, Andrew
Subject: Misuse of Appeal Board and Public Resources

I understand and thank you again for responding. My issue is questioning how there can be an appeal on the Town making a recommendation. There was no application to the Town and no decision rendered by the Town—just a recommendation. Crown Lands has the decision making authority on our application to open and use a public right of way. Even more significant is the fact that a decision to turn down our application was made months ago. Therefore, an appeal accepted this week on the Town’s recommendation from last winter is irrelevant, was not made in good faith and serves no purpose except to harass us and obstruct any use of the public right of way. It’s also a significant waste of public funds and resources and blocks up the Appeal Board, which should concern the Town and Municipal Affairs. Regards, [Redacted]

Sent wirelessly from my BlackBerry device on the Bell network.

Envoyé sans fil par mon terminal mobile BlackBerry sur le réseau de Bell.

From: "Town of Witless Bay" <
Date: Tue, 31 Jul 2018 15:43:04 -0230
To: <
Subject: RE: Minutes and motions

Hi:
I realize that it was a Crown Land application but I had to advise you that there was an appeal filed against the Crown Land application and that no work was to take place on the property until the appeal was heard and a decision made by the appeal board.

Barb

From: [Redacted]
Sent: Tuesday, July 31, 2018 3:34 PM
To: Town of Witless Bay
Subject: Re: Minutes and motions

Hi Barb. Thanks. I am somewhat confused. We didn’t make application to the Town it was to Crown land. The town were addressing a recommendation form from Crown lands in those motions

Sent wirelessly from my BlackBerry device on the Bell network.

Envoyé sans fil par mon terminal mobile BlackBerry sur le réseau de Bell.

From: "Town of Witless Bay" <
Date: Tue, 31 Jul 2018 15:16:49 -0230
To: <
Subject: FW: Minutes and motions

Motion # 070 should have read application #E151-285 Sorry the 285 did not copy on scan

Barb
Good morning,

I am attaching copies of Motion #’s 2018-054 and 2018-070. Those are the motions that apply to your Crown Land applications.

Motion # 2017-032 and 2017-038 is attached also. Those motions deal with Fire Dept. issues.

Regards,
Barb

Hi Barb and Geraldine
Can you please provide the text for the motion #2017-032. I can’t find it in the minutes, except a motion #2017-038 from the March meeting, referencing motion #2017-032.

Thanks
Subject: Appeal 15-006-057-011

Mr. Cotter

Appeal: 15-006-057-011

The letter sent by the Town of Witless Bay regarding motion 2018-0702...a legitimate appeal. The Crown Land referral noted as b. Crown Land Referral for Mullowneys Lane is a matter between Lands Branch and and is not related to the decision to clear a "Public Lane". This is a crown land application and is in no way related. The Town of Witless Bay has made no application to obtain the Public Right of Way. The Town's application is for land beyond... It is a historical fact that Mullowneys Lane ends...and the narrow public path between the two private lands is not an extension of Mullowneys Lane but is a Crown land path. This Crown Land path ends at the southern boundary of...land. All the adjacent land is Crown Land and if the Town wants to acquire a public path across the Crown Land they are free to do so. The Town was provided with a map off the public path and by Lands Branch and it is detailed as to the width and length of the public path and where it ends. The Town application is for land beyond Mullowneys land and south of the end of the public path. The public path is intended to provide public access to Crown Lands beyond Mullowneys Lane

The public path ends at the southern...land as indicated on the official map given to the Town. Beyond that all the land east and south of...land is Crown Land. There is no public path beyond...land. The public path runs between...land and the...property and extends approximately halfway down...property. Clearing of the public path owned by the Crown can only be a maintenance matter and in no way is it an acquisition application for Crown Land.
There is no such road as Mullowneys Lane extension. The Lands Branch has not identified any official public path beyond the one described in the official map issued to the Town. The Town of Witless Bay has no authority to apply a municipal address to Crown Land or to create a public path not recognized by Lands Branch. It must acquire the property and can then name it Mullowneys Lane Extension as part of a development under the authority development regulations and the URPA.

The Town application for Crown Land is beyond Mullowneys Lane and beyond the public pathway between [Land] and [Land] as described by the official Lands Branch map. The motion to clear the public path is in no way related to a Crown Land application if the Town wishes to clear the existing public path way it directly affects [Land], as it borders half of the length of [Land]. The existing public path is a means of access to Crown Lands and ends at the northern Crown Land boundary. Logic poses the question, why would Lands Branch need a public path on land it already owns?

Again, there is no Mullowney Lane extension and the pathway terminates at the end of [Land]. This is approximately half way down [Land] property. The motion is clear and as such it has no relation to the Town application beyond the public path. The public path only provides access between [Land] and [Land] land. There is no need for a public path beyond the property line of [Land] property bordering [Land] as Lands Branch holds title to all the land in that area other than [Land].

The Town Council can't create a path where none is needed [Land].

The Town's position is a matter of legal interpretation of a official Lands Branch map.

This appeal is a valid appeal of a decision of Town Council to clear the public path between [Land] and [Land] as indicated on the map from Lands Branch. Paths created on developer surveys that are different than the one provided by Lands Branch. If the Town wishes to clear the existing public path described by Lands Branch they will have to affect [Land] considering the narrow width describes by Lands Branch. The Town will also have to remove the ditch that covers most of the described public path as identified by Lands Branch. The details of this matter were provided and whether they are associated with the other motion or not, the matter is directly associated with 2018-070. This appeal relies mainly on the issue of clearing the public path as described in the official Lands Branch map.

If the Town is clearing or leveling land along the public path leveling of the land and drainage is still a matter for the appeal extending from the decision in 2018-070. As stated, the narrow public path begins where Mullowneys Lane ends at [Land] property line. The introduction of the term "Mullowneys Lane extension" is a matter that places the decision beyond the jurisdiction of the Town's authority. There is no such municipal road and the Town has no current jurisdiction to create one.

The Town cannot create a municipal road or an address on Crown land without municipal ownership. It is agreed that the Town has authority to manage the existing public path or “open up” as stated but it is bound by the development regulations, the URPA, and the Municipalities Act. The Town is clearly acting beyond its authority and the issue is other than the acquisition of crown land. The matter is an appeal from a development decision and legal interpretation the Town’s authority.
Good morning Mr. Cotter

The reference # for the correspondence sent yesterday is 15-006-057-011.

Thank you

From: [Redacted]  >
Sent: August 13, 2018 5:14 PM
To: 'Cotter, Robert' <
Subject: Appeal of Crown Land referral

Dear Mr. Cotter

I am writing as a follow-up to my email of July 31, 2018. This is a request for you to void the Appeal of a Crown land referral regarding a public right of way.

A referral to Crown Lands does not fall under the following requirement:

Appeal
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;
(b) a revocation of an approval or a permit to undertake a development;
(c) the issuance of a stop work order; and
(d) a decision permitted under this or another Act to be appealed to the board.

Also, I realize that you have stated previously that you do not have the authority to refuse an appeal on the basis of timing. However, as I read the legislation it seems that the time requirement is one that must be met for an appeal to be legitimate.

(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.

And 6. (1) The secretary of the board at the Department of Municipal and Provincial Affairs, Main Floor, Confederation Building (West Block), P.O. Box 8700, St. Johns, Nfld., A1B 4J6 is the secretary to all boards in the province and an appeal filed with that secretary within the time period referred to in subsection 42(4) of the Act shall be considered to have been filed with the appropriate board.

The Appeal regarding the Crown Lands referral does not seem to meet the requirements for a legitimate appeal.

Please advise

Sincerely