

RECEIVED: November 12, 2024

Notice of Appeal

(Pursuant to Section 28 of the *Planning Act*)

TO: The Island Regulatory and Appeals Commission
National Bank Tower, Suite 501, 134 Kent Street
P.O. Box 577, Charlottetown PE C1A 7L1
Telephone: 902-892-3501 Toll free: 1-800-501-6268
Fax: 902-566-4076 Website: www.irc.pe.ca

NOTE:
Appeal process is a public process.

TAKE NOTICE that I/we hereby appeal the decision made by the Minister responsible for the administration of various development regulations of the **Planning Act** or the Municipal Council of _____ (name of City, Town or Community) on the _____ day of _____, _____, wherein the Minister/Community Council made a decision to _____

(attach a copy of the decision).

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the **Planning Act**, the grounds for this appeal are as follows: (use separate page(s) if necessary)

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the **Planning Act**, I/we seek the following relief: (use separate page(s) if necessary)

EACH APPELLANT MUST COMPLETE THE FOLLOWING: (print separate sheets as necessary)

Name(s) of Appellant(s): _____
Please Print

Signature(s) of Appellant(s): Thea Jazbec

Mailing Address: _____

City/Town: _____

Province: _____

Postal Code: _____

Email Address: _____

Telephone: _____

Dated this _____ **day of** _____, _____
day month year

IMPORTANT

Under Section 28.(6) of the **Planning Act**, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be.

Service of the Notice of Appeal is the responsibility of the Appellant

Information on this Form is collected pursuant to the **Planning Act** and will be used by the Commission in processing this appeal. For additional information, contact the Commission at 902-892-3501 or by email at info@irc.pe.ca.

APPENDIX “A”

NOTICE OF APPEAL (continued) *Pursuant to section 28 of the Planning Act*

TAKE NOTICE that Thea Jazbec (the “Appellant”) hereby appeals the decision of the Minister responsible for the administration of various development regulations of the *Planning Act* (the “Minister”) on the 21st day of October 2024, wherein the Minister denied the Application made by Edmund Webster (the “Applicant”) to construct a single-family dwelling on the Appellant’s property (PID #749697) (the “Application”).

The Appellant constitutes an aggrieved person pursuant to section 27.1(d) of the *Planning Act*, RSPEI 1988, c P-8 (the “Act”).

AND FURTHER TAKE NOTICE that in accordance with section 28(5) of the *Act*, the grounds for this appeal are as follows:

- the Minister’s decision was based on inaccurate information provided by the Applicant in the Application (particulars of this ground of appeal can be found on page 2);
- the Minister failed to provide sound reasons for their decision;
- the Minister acted arbitrarily and violated its common law duty of procedural fairness and the principles of natural justice; and,
- such further or other grounds as may be revealed upon review of the full record as produced by the Minister

AND FURTHER TAKE NOTICE that in accordance with section 28(5) of the *Planning Act*, the Appellants seeks the following relief:

- the Appellant requests that the Commission allow this appeal and substitute the Minister’s decision for its own.

DATED this 8th day of November 2024.

Additional Particulars

In September 2024, I was fortunate to acquire the property in question which I purchased with the intention of constructing a tiny home on a screw pile foundation. I understood at the time of purchase that the Applicant builder had obtained the necessary approvals for the anticipated development.

On October 18, 2024; however, the Applicant received the letter attached hereto as Appendix "B" indicating that the Application sought to construct a dwelling that was 21' x 82' in size and that if there was insufficient area for development of the property outside of the wetland and buffer zone, the Application would be denied. By way of letter dated October 21, 2024, the Minister denied the Application on that basis (see Appendix "C"). However, the dwelling I am seeking to build is 12' x 28' in size (not 21' x 82' as indicated in the letter dated October 18, 2024).

It is my position that the development I am seeking to construct is not within a wetland or buffer zone. Specifically, I am proposing that the development be constructed in the far Northwest corner of the lot (see Appendix "D").

If however, there continues to be issues associated with the proposed development, I am hopeful that we can achieve a mutual resolution. For example, I would be happy to consider a composting or incinerating toilet with a grey water system, as opposed to a septic system if one cannot be installed. I would be happy to work with an environmental specialist to assist with a resolution.

I strongly believe in protecting the environment by minimizing my footprint and impact on the surrounding environment. In fact, this is why I sought to build a tiny home in the first place. The foundation I have proposed provides minimal soil disturbance compared to a traditional concrete basement.

If this appeal is not granted, or mediation is unsuccessful, I will suffer a great financial loss including the loss of home ownership. I sincerely hope you will consider my appeal.



Environment,
Energy and
Climate Action

Environnement,
Énergie et
Action climatique



PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

INTEROFFICE MEMORANDUM

To: Sarah MacVarish
Subject: C-2024-0335 – Webster, St. Patricks, Road, PID # 749697
Date: October 18, 2024

The Environmental Land Management (ELM) Section has reviewed that portion of the above-noted Development Permit Application provided, date-stamped September 19, 2024. We understand that the applicant proposes to construct/place a 21' x 82' dwelling and associated servicing.

Based on our understanding of the information provided, a desktop watercourse/wetland assessment (using provincial GIS mapping) and an inspection of the site, the ELM Section offers the following comments:

1. The *Environmental Protection Act* provides protection for watercourses and wetlands, and the *Act* requires a 15 meter buffer zone adjacent the wetland which makes up the majority of this property. The applicant is advised that no development (including, but not limited to, the placement/construction of a building or other structure, the cutting of trees/shrubs, the operation of heavy equipment and any excavation/disturbance of the ground) is permitted in a watercourse, wetland or buffer zone without a Watercourse, Wetland and Buffer Zone (WWBZ) Activity Permit. For information on permitting requirements or for assistance in determining the location of a watercourse, wetland or buffer zone, the applicant should contact the Department of Environment, Energy and Climate Action at ELM@gov.pe.ca or (902)368-5700.
2. If there is insufficient area for development of this property outside of the wetland (as per map and GPS coordinates provided) and buffer zone, this application should be denied.

Thank you for submitting the application for review. If you have questions feel free to contact me at dethompson@gov.pe.ca or (902)368-5049.

Dale Thompson
Environmental Assessment Officer

APPENDIX “C”



31 Gordon Drive
PO Box 2000, Charlottetown
Prince Edward Island
Canada C1A 7N8

Housing, Land
and Communities

Logement, Terres
et Communautés



31, promenade Gordon
C.P. 2000, Charlottetown
Île-du-Prince-Édouard
Canada C1A 7N8

October 21, 2024

Edmund Webster
22 Parkman Dr
Charlottetown, PE C1C 0T4

Dear Mr. Webster:

Re: Development application – PID #749697 – St Patricks Road, Mount Stewart

The Department of Housing, Land and Communities has completed the evaluation of your development permit application that you submitted September 19, 2024, requesting permission to construct a single-family dwelling on property #749697 located on the St Patrick's Road in Mount Stewart.

A. Decision

The Subject Property is within a geographic area where land use and development is not regulated by a local official plan or zoning by-law. Therefore, the Subject Property falls within the jurisdiction of this Department. Land use and development are regulated by the *Planning Act* Subdivision and Development Regulations and other provincial laws and regulations.

Pursuant to sections 3(2)(a), 5(a) and 16 (4) of the *Planning Act* Subdivision and Development Regulations, **the above noted application is Denied.** The reasons for this decision are explained in detail below.

B. Reasons

***Planning Act* Subdivision and Development Regulations**

3.(2) No development permit shall be issued where a proposed building, structure, or its alteration, repair, location, or use or change of use would:
(a) not conform to these regulations or any other regulations made pursuant to the Act.

5. No approval shall be given pursuant to these regulations until the following permits or approvals have been obtained as appropriate:

Page 1 of 2

(a) where and environmental assessment or an environmental impact statement is required under the Environmental Protection Act, approval has been given pursuant to that Act.

16. (4) No person shall undertake any development, including a sewage disposal system, within a required buffer.

As stated in section 16. (4) of the *Planning Act Subdivision and Development Regulations* no development can occur within a wetland or buffer zone. The proposed single-unit dwelling is located within the buffer area on property #749697. There is no room for development outside of the buffer zone on the property. You may contact the Department of Environment, Energy and Climate Change to discuss and obtain more details as to where development may be suitable. Please contact 902-368-5049.

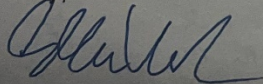
C. Right of Appeal

Notice of this decision will be posted on the PEI Planning Decisions website. We suggest typing "PEI Planning Decisions" into your internet search engine to link to the website.

Please be advised that pursuant to section 28 of the *Planning Act*, this decision may be appealed to the Island Regulatory & Appeals Commission ("IRAC") (PO Box 577, Charlottetown, PE, C1A 7L1: <http://www.irac.pe.ca>). An appeal must be filed within 21 days after the date of this letter or the Commission is under no obligation to hear the appeal. For more information about appeals, please contact IRAC.

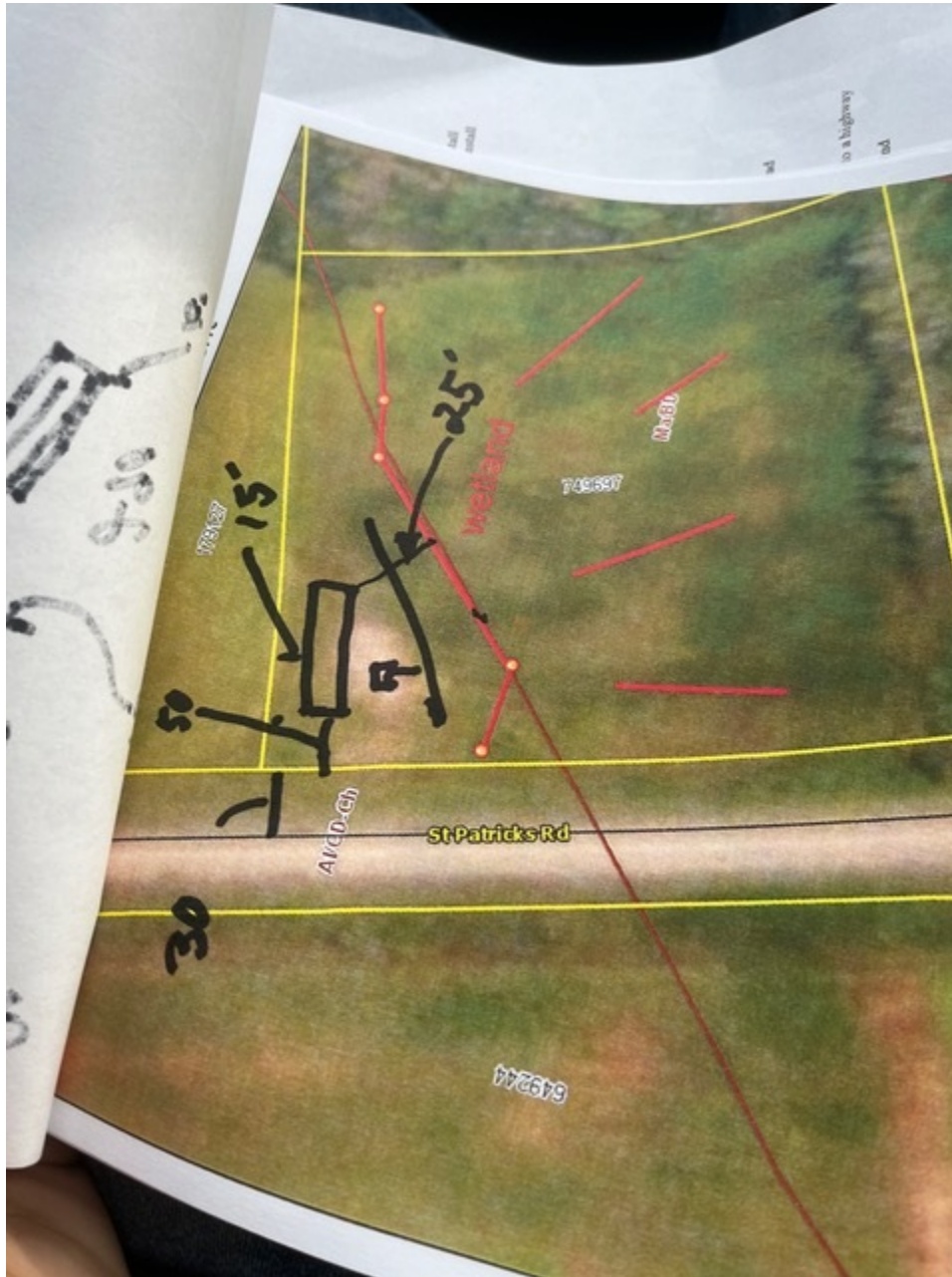
If you have any questions in regards to this decision, contact me at (902) 569-0573 or smacvarish@gov.pe.ca.

Sincerely,



Sarah MacVarish
Property Development Officer

APPENDIX "D"





Environment



October 18, 2024 This map is not intended for legal description or to calculate exact land dimensions.

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community, Statistics Canada

