

From: [Willy Squires](#)
To: [Philip Rafuse](#)
Subject: Re: Appeal #LA22-012- Willemina Squires v. Minister of Agriculture and Land
Date: Wednesday, September 21, 2022 9:38:16 AM
Attachments: [image001.png](#)
[image001.png](#)

If I may, I would like to add to my previous reply.

As development of the property has begun yesterday, September 30, 2022, I would like to add that my land was surveyed in 2018 by Bernard Surveyors and is **NOT** a survey of the land beside me which is owned by Mr. McQuillan.

The sketch submitted with the application for the Development & Building Permit provided by Mr McQuillan shows what he believes is his property line is well within the east side of my property line. I question where the side yard setbacks are measured from, the pinned boundary line of my property or the line Mr McQuillan believes to be his property line. I believe he is measuring from the line he believes to be his property line and if that's the case we have a problem as this would be an overlap of land boundaries.

I'm not asking the Commission to rule on property lines. I understand that is not what the Commission does. I want to be assured that the setbacks are measured from a correct property line.

Has there been a survey done as stated in the letter from Mr Tweel in November 2018, that Mr McQuillan has hired a surveyor to survey their land by end on November 2018? Has his property been pinned by the surveyor? Is this where the setbacks are being measured from? Do you have that survey?

Unfortunately, it all comes back to a legal survey as to where the setbacks come from and, correct me if I'm wrong, it's up to the land owner to have a legal survey commissioned.

Thank you!
Willy

On Sep 2, 2022, at 2:38 PM, Willy Squires <willy.squires@gmail.com> wrote:

Good afternoon Mr Rafuse,

The grounds for the application were not well expressed and the issue we are appealing is the decision to grant a development permit where the applicant has given insufficient or erroneous information when he applied for the development

permit.

The errors on the application for the development permit are apparent when the drawing submitted by the applicant is viewed with the survey prepared by Morris Geomatics & Engineering Ltd. dated 2022-06-29 (previously forwarded to you).

1. Namely the applicant failed to disclose the location of the public road "Curley Lane".
2. The applicant showed an average side yard distance of about 30 feet from his boundary when the actual location of the proposed building staked by the applicant has zero side yard and encroaches into the public road.

Relief requested is to assure the development permit is only granted in compliance with the required setbacks, particularly the 50 foot setback from a public road or right of way.

Regards
Willy

On Aug 12, 2022, at 4:40 PM, Willy Squires
<willy.squires@gmail.com> wrote:

On Aug 12, 2022, at 8:54 AM, Philip Rafuse
<PJ Rafuse@irac.pe.ca> wrote:

Attention:

Willemina and Floyd Squires for the Appellants
Anthony McQuillan for the Developer
Mitchell O'Shea for the Respondent Minister

Good morning,

The Commission has carefully reviewed the submissions received from Counsel for the Minister. See Mr. O'Shea's email of July 18, 2022 below.

The Commission wishes to point out that it is a tribunal with powers to hear appeals specifically set out in various

statutes of the Province of Prince Edward Island. Within the context of a land use planning appeal of a Ministerial decision, the Commission has the power to hear appeals of decisions made by the Minister in regard to certain matters set out in section 28 of the Planning Act. The term “Minister” refers to the Minister responsible for the Planning Act, which presently is the Minister of Agriculture and Land.

The Commission wishes to point out that it has no jurisdiction to hear or deal with boundary disputes. The Supreme Court of Prince Edward Island has the exclusive jurisdiction to deal with such disputes.

The Commission requests that the parties file written submissions on the jurisdictional issue, addressing what remaining jurisdiction the Commission may have with respect to this appeal. These submissions shall be received by the Commission not later than **Friday September 9, 2022**. Receipt by email addressed to myself is fine.

Following this date, the Commission will carefully review all submissions received and make a determination of the matter of the Commission’s jurisdiction in due course.

The Appellants are also free to withdraw their appeal.

If you have any questions, feel free to contact me.

Sincerely,

Philip



Philip J. Rafuse, LL.B, NSBS
Appeals Administrator

T. 902.892.3501
D. 902.368.7850
1.800.501.6268
F. 902.566.4076
irac.pe.ca/about/contact/

From: Mitchell O'Shea [mailto:mxoshea@gov.pe.ca]
Sent: Monday, July 18, 2022 10:09 AM
To: Philip Rafuse <PJRafuse@irac.pe.ca>
Cc: willy.squires@gmail.com;
anthonymcquillan@hotmail.com
Subject: RE: Appeal #LA22-012- Willemina Squires v.
Minister of Agriculture and Land

Mr. Rafuse,

Please find attached the Record of Decision of the Minister of Agriculture and Land.

The Notice of Appeal notes that the grounds for the appeal is that the “boundary line is in dispute.” With respect to the Appellants, it is the Minister’s position that this appeal of the Development Permit is premature as the boundary line must be settled before the matter can be brought before the Commission.

There are competing or conflicting surveys presented by both the Appellants and the Developer. The developer has submitted a Plan of Survey from March, 2018 from Serge J. Bernard (included in the Record) and the Appellants have provided a Plan of Survey from June, 2022 from David Morris (provided by Mr. Rafuse via email on July 4, 2022).

The Minister submits that the proper forum for the boundary line issue to be resolved is in the Prince Edward Island Supreme Court. As noted by the Court of Appeal of Prince Edward Island in *MacKay v MacKenzie*, 2016 PECA 16 deciding a boundary is a legal issue. The court has the final decision with regards to a boundary dispute. The courts, as opposed to IRAC, have the jurisdiction to settle a boundary line dispute and also to award damages and costs in such matters if they may be appropriate.

The Minister requests that the present appeal to IRAC be held in abeyance until the Squires and Mr. McQuillan are able to resolve the boundary line dispute. The Minister would encourage the parties to obtain legal advice around

the proper forum and process for settling the boundary line matter prior to returning to the Commission for a determination on the granting of the development permit.

In the event the Commission denies the Minister's request to hold the appeal in abeyance, I request a reasonable period of time to provide more fulsome submissions on the matter.

Mitch

Mitch O'Shea

Departmental Solicitor, Legal Services

mxoshea@gov.pe.ca

902-368-5145

From: Philip Rafuse <PJRafuse@irac.pe.ca>

Sent: July 4, 2022 8:52 AM

To: Eugene Lloyd <EMLLOYD@gov.pe.ca>; Mitchell O'Shea <mxoshea@gov.pe.ca>

Subject: Appeal #LA22-012- Willemina Squires v. Minister of Agriculture and Land

This email had an attachment that has been modified because it contained a possible threat. It is now safe for use; however some functionality may have been removed.

Good morning Mitch and Eugene,

Attached are documents filed by the Developer and the Appellant. I believe these were provided to Gerald MacMillan recently, but I wanted to make sure that you have them.

From the Developer: written response and two photos

From the Appellant: survey plan

Sincerely,

Philip

Philip J. Rafuse, LL.B, NSBS
Appeals Administrator

T. 902.892.3501

D. 902.368.7850

1.800.501.6268

F. 902.566.4076

irac.pe.ca/about/contact/

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