

June 7, 2024

VIA EMAIL - PJRafuse@irac.pe.ca

Philip J. Rafuse
Appeals Administrator
Island Regulatory and Appeals Commission

Dear Mr. Rafuse:

**Re: Grinton v. Town of Three Rivers LA23-019
Request for Review
Our File No. 35127-001dk**

As a result of the Order that was issued by the Island Regulatory Appeals Commission (the "Commission") on April 29, 2024 regarding Docket LA23-019 (the "Commission Order"), the Appellants, Geraldine Jonston-Grinton and Paul Grinton, are requesting a review of the Commission Order.

Pursuant to section 12 of the *Island Regulatory and Appeals Act* (the "Act"), parties seeking a review of a Commission Order may do so by filing with the Commission, at the earliest date, a written Request for Review, which clearly states the reasons for the review and the nature of the relief sought. Section 12 of the *Act* states:

"The commission may in its absolute discretion review, rescind or vary any order or decision made by it, or rehear any application before deciding it."

The reasons for requesting a review of the Commission Order are as follows:

1. The Commission did not have the best available evidence before it, including, but not limited to,
 - a. The verbatim minutes of the Town of Three Rivers meetings were incorrectly recorded and incomplete, and the audio recordings of the Town of Three Rivers meetings should have been requested;
 - b. There were other witnesses, including, but not limited to, Patrick Donahoe and Danielle Herring, that the Commission should have subpoenaed for further evidence in instances where the parties oral evidence contradicted; and
 - c. The Commission relied heavily on Lee Kenebel's testimony.
2. There was a factual error in the Commission Order, including, but not limited to,

- a. At paragraph 34 of the Commission Order, it states *“An email from Mr. Kenebel to Dr. Johnston-Grinton on June 26, 2023, attached “a range of site/elevation and renderings” and noted that “paper copies will remain available at the office for viewing”.* Please see attached Tab 11 of the Record on Behalf of the Town of Three Rivers – September 11, 2023 which contains said email referenced in the Commission Order; however, the email, and attachments, referenced in Tab 11 was not received by Geraldine Johnston-Grinton as it was sent to the email address geraldinejohnston@msn.com, when Geraldine Johnston-Grinton’s email address was geraldinegrinton@msn.com. Please see attached email correspondence from June 29, 2024 which can be found at Tab 12 and 13 of the Record on Behalf of the Town of Three Rivers – September 11, 2023, which further confirms that a range of site/elevation and renderings were not sent to Geraldine Johnston-Grinton on June 26, 2023.
3. A stormwater drainage pattern plan and stormwater management and management plan appropriate for the size of the Development was not included in the Application as required by the Town of Three Rivers Development Bylaw 2023.

As a result of the reasons above, the Appellants are requesting that the Commission review, rescind or vary the Commission Order, and rehear the Application.

We trust the foregoing to be satisfactory; however, should you have any questions or comments, please do not hesitate to contact the undersigned at your convenience.

Yours truly,

KEY MURRAY LAW



SHEA L. CALLAGHAN
SC/jlg

Encl.

Walsh-Doucette, Michelle (Charlottetown)

From: Lee Kenebel
Sent: June 26, 2023 3:58 PM
To: geraldinejohnston@msn.com
Subject: Application 35.23.DEF at School St. Montague
Attachments: P.2.jpg; P.3.jpg; P.5.jpg; P.9.jpg

Good afternoon Geraldine,

I understand you had requested drawings of the proposed 22-unit mixed development. I have attached a range of site/elevation and renderings in a .jpg format for ease of viewing. Paper copies will remain available at the office for viewing.

Regards

Lee

Lee Kenebel MRTPI
Planning & Development Officer
Town of Three Rivers
172 Fraser Street, Montague PE
902-380-2850

Walsh-Doucette, Michelle (Charlottetown)

From: Lee Kenebel
Sent: July 4, 2023 1:19 PM
To: geraldine grinton
Subject: RE: Letter 26 June 2023 re application 35.23.DEP
Attachments: 221003 - 22 Unit School Street - ARCH (2023-05-12) 2.pdf; 221003 - 22 Unit School Street - ARCH (2023-05-12) 5.pdf; 221003 - 22 Unit School Street - ARCH (2023-05-12) 9.pdf

Geraldine,

A site plan, elevations and renderings for your perusal.

Regards

Lee

—Original Message—

From: geraldine grinton <geraldinegrinton@msn.com>
Sent: Friday, June 30, 2023 2:27 PM
To: Lee Kenebel <lkenebel@threeriverspei.com>
Subject: Re: Letter 26 June 2023 re application 35.23.DEP

I see you must have spoken with the developer because they are down in front of my house, clearing out the lot across the street.

Thanks.

Sent from my iPhone

> On Jun 30, 2023, at 11:19 AM, Lee Kenebel <lkenebel@threeriverspei.com> wrote:

>

> Thurs PM works. Lets say 2pm?

>

> —Original Message—

> **From:** geraldine grinton <geraldinegrinton@msn.com>
 > **Sent:** Friday, June 30, 2023 11:11 AM
 > **To:** Lee Kenebel <lkenebel@threeriverspei.com>
 > **Subject:** Re: Letter 26 June 2023 re application 35.23.DEP

>

> Also, I am off next Friday and possibly Thursday afternoon next week can work as well for me.

> Geraldine

>

> Sent from my iPhone

>

>> On Jun 30, 2023, at 11:07 AM, geraldine grinton <geraldinegrinton@msn.com> wrote:

>>

>> I have a clinic booked next Wednesday and cannot cancel on my patients. I am off today and can come up any time now.

>> Geraldine

>>
>> Sent from my iPhone
>>
>>>> On Jun 30, 2023, at 10:50 AM, Lee Kenebel <lkenebel@threeriverspei.com> wrote:
>>>
>>> Geraldine,
>>>
>>> As requested please find attached a copy of the old Montague Bylaw.
>>>
>>> Also, If you are available we could meet next Wednesday at 11:00 here at the Town Hall Offices. To avoid any confusion that would not be to go through the letter in detail, but we could offer some general commentary and hear your concerns. Please let me know.
>>>
>>> Regards
>>>
>>> Lee
>>>
>>> From: geraldine grinton <geraldinegrinton@msn.com>
>>> Sent: Thursday, June 29, 2023 4:28 PM
>>> To: Lee Kenebel <lkenebel@threeriverspei.com>
>>> Subject: Re: Letter 26 June 2023 re application 35.23.DEP
>>>
>>> Two more questions:
>>> 1-Do you have an hour of time tomorrow sometime after 10 am to meet with me?
>>> 2-what specific date did the zone I reside in officially become a MU zone?
>>> Thanks
>>>
>>> Geraldine
>>> Sent from my iPhone
>>>
>>>
>>>> On Jun 29, 2023, at 3:51 PM, Lee Kenebel
<lkenebel@threeriverspei.com<mailto:lkenebel@threeriverspei.com>> wrote:
>>>>
>>>> Hi Geraldine,
>>>>
>>>> While I am not discounting your questions they are extensive. Unfortunately answering 50+ detailed questions concerning a complicated subject go well beyond what we can offer as a day-to-day service. This is why this information is made freely available for ease of reference.
>>>>
>>>> With respect to your big zoning question. This and many other areas were rezoned during the making of the new plan. That was a very public process, taking place over many years, which I did compile specifically for you in my email.
>>>>
>>>> Re - drawings. I am converting these to an email friendly format as the source file is large. I'll have these to you hopefully before the weeks end now I have your email from your letter as well as some basic dimensions for ease of reference.
>>>>
>>>> Unfortunately, time is a precious resource with short weeks and I cannot commit to a meeting at this time.
>>>>

>>> Regards

>>>

>>> Lee

>>>

>>>

>>>

>>> From: Geraldine

>>> <geraldinegrinton@msn.com<mailto:geraldinegrinton@msn.com>>

>>> Sent: Thursday, June 29, 2023 12:51 PM

>>> To: Lee Kenebel

>>> <lkenebel@threeriverspei.com<mailto:lkenebel@threeriverspei.com>>

>>> Subject: Re: Letter 26 June 2023 re application 35.23.DEP

>>>

>>> Hi. This reply does not come close to addressing my questions. I have read these documents, and these are still my questions. Perhaps a meeting with you would help me?

>>> One big question I have is when was the zone I live in changed from a C to MU- the actual date this happened? Were the residents living my zone notified?

>>>

>>> Also, last week I visited the town hall and asked for a copy of the construction plans for the apt building and was told by Chelsea and Pat that you would email these to me this week when you were back in. I have not received these to date. I want to know the size/dimensions of the building/and surrounding with the set backs- these were questions I had in my letter and I don't think I will find these answers in your email response.

>>>

>>> Let me know if we can meet. I would be available anytime tomorrow after 10am.

>>>

>>> Thanks

>>>

>>> Geraldine

>>>

>>>

>>>

>>>> On Jun 29, 2023, at 10:26 AM, Lee Kenebel

<lkenebel@threeriverspei.com<mailto:lkenebel@threeriverspei.com>> wrote:

>>>

>>> Dear Dr. Johnston-Grinton

>>>

>>> I am in receipt of your letter passed to the Mayor and Council during the meeting of Committee of Council on the 26th of June 2023. I note that your letter and questions concern the proposed mixed residential and commercial development of land at School St. Montague, application reference 35.23.DEP.

>>>

>>> The questions you have set out address a wide range of matters concerning planning policy, existing and expired development bylaws as well as the plan-making process.

>>> Answers to each of the questions you have set out are located within

>>> the Three Rivers Official Plan and Three Rivers Development Bylaw

>>> documents, which are available on the town's website. These

>>> documents form the development plan documents for the town and will

>>> provide answers and context to the issues you have raised. Copies of

>>> the documents are available freely for download at

>>> <https://threeriverspei.com/permits-and-applications/><<https://na01.sa>

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>>> 5 JdSZM5fYIYyFHx7SLFSdc%2Fqg%3D&reserved=0>
>>>
>>> Printed copies of the documents can be made upon request for collection at the town's Montague office. With respect to the proposal, Council will be meeting on July 10, 2023, to discuss and potentially approve the application.
>>>
>>> With respect to the plan making process, I can offer the following timeline of events leading to the Ministerial signing of the documents:
>>>
>>>
>>> 1. Planning consultants Fotenn appointed to produce draft documents, 8 June 2020.
>>> 2. Community survey, November 2020.
>>> 3. Public meetings, King's Playhouse, Georgetown, 9th and 11th of February 2021.
>>> 4. Stakeholder engagements, March 2021.
>>> 5. Draft Issues and Options Report, March 2021.
>>> 6. Community Survey results published, March 2021.
>>> 7. Issues and Options Report, April 2021.
>>> 8. Planning Board meetings with Fotenn, 8th of April, 3rd of May 2021.
>>> 9. Council meetings with Fotenn to discuss land0 report 10th May, 7th of June 2021.
>>> 10. Publication of the draft Official Plan and Development Bylaw in November 2021.
>>> 11. Public meeting held at Montague High School, 29th of November 2021.
>>> 12. Planning Board Official Plan and Development Bylaw review, January to June 2022.
>>> 13. Planning Board extra public information session, King's Playhouse, Georgetown, 28 June 2022.
>>> 14. Planning Board votes to recommend adoption of draft OP/DB, 7 July 2022.
>>> 15. Draft Official Plan and Development Bylaw presented to Council on 11 July 2022 (adoption of Official Plan and first reading Development Bylaw).
>>> 16. Second reading of Development Bylaw, 8 August 2022.
>>> 17. Provincial Submission for Review, August 2022.
>>> 18. Provincial response received December 2022.
>>> 19. Public meeting held at Town Hall to discuss Official Plan and
>>> Development Bylaw amendments March 16, 2023 20. Planning Board
>>> (meeting) votes to recommend adoption of amended Official Plan and
>>> Development Bylaw, March 23, 2023 21. Council adopts Official Plan,
>>> first reading of Development Bylaw on April 11, 2023 22. Council,
>>> reading and adoption of Development Bylaw on April 24, 2023 23. Submission of adopted Official
>>> Plan and Development Bylaw to Municipal Affairs on May 3, 2023 24. Hon. Rob Lantz, Minister for
>>> Housing Land and Communities Signs Official Plan and Development Bylaw on May 25, 2023.
>>> 25. Three Rivers Official Plan and Development Bylaw take effect on May 25, 2023.
>>>