



RECEIVED: July 16, 2025

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.irac.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 Earnscliffe (name of City, Town or Community) on the 26 day of June, 2025, wherein the Minister/Community Council made a decision to deny the development permit.

(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)

The basis of our appeal is that a holding tank which is already present is situated closer to the wetland than the proposed cottage extension. Given this existing condition, we are seeking a grandfather clause that would allow us to proceed with our construction plans.

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)

If the decision does not allow us to continue building the full bedroom, bathroom extension, we would like to propose an alternative. Given the screw piles are already in place and the foundation is almost complete, we would be content with putting down a floor and using the space as a patio.

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

Name(s) of Appellant(s): Daniel & Dorothy Gaudet Signature(s) of Appellant(s): [Signature]
Please Print

Mailing Address: 1462 Shediac River Rd City/Town: Shediac River

Province: NB Postal Code: E4R 1x2

Email Address: drgrt8@gmail.com Telephone: 506-226-6916

Dated this 15 day of July, 2025
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@irac.pe.ca.



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

June 26, 2025

Daniel & Dorothy Gaudet
1462 Shediac River Road
Shediac, NB
E4R 1X2

Dear Mr & Mrs Gaudet:

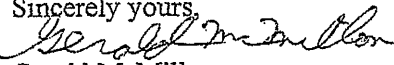
Re: Application for development permit – Property # 416701 – Earnscliffe - PEI

The Department of Housing, Land and Communities has completed evaluation of the application you submitted requesting permission to construct an addition onto your cottage on property # 416701 in the community of Earnscliffe

The proposed addition would be located within the buffer zone adjacent to the wetland area on the western side of the cottage. Therefore, the department has no alternative but to deny your application in accordance with Sections 3(2)(a)(d), 16(4) and 39(5)(c) of the Planning Act Subdivision and Development Regulations. I have attached a copy of these sections of the regulations for your information.

We regret any inconvenience caused by this decision; however, if you feel you have adequate grounds, you may appeal to the Island Regulatory and Appeals Commission. P.O. Box 577, Charlottetown, PE, C1A 7L1. Also, should you wish to appeal, your request for a hearing must be submitted within 21 days of the date of this letter or the Commission is under no obligation to hear your appeal.

If you have any questions with respect to this decision you can call me at (902) 368-4887.

Sincerely yours,

Gerald McMillan
Property Development Officer
Department of Housing, Land & Communities
31 Gordon Dr
Charlottetown, PE
C1A 7N8

Enclosure/

2.1 Exemption for acquisition from Part III, B - Subdivisions

- (1) A parcel or part of a parcel, other than a parcel or part of a parcel to which Part IV of these regulations applies, that is being acquired by the Minister responsible for the *Roads Act* for the purposes of constructing, improving or realigning a public road is exempt from the requirements of Part III, B - Subdivisions, of these regulations.

Exemption for acquisition from Part III, B - Subdivisions, and Part IV

- (2) A parcel or part of a parcel to which Part IV of these regulations applies that is being acquired by the Minister responsible for the *Roads Act* for the purposes of constructing, improving or realigning a public road is exempt from the requirements of Part III, B - Subdivisions, and the provisions of Part IV of these regulations applicable to subdivision of land.

Exemption for acquisitions - Slemon Park future development area

- (3) A parcel or part of a parcel, including a parcel or part of a parcel to which Part IV of these regulations applies, that is being acquired by the Minister responsible for the *Roads Act* for the purpose of taking ownership of a road within the Slemon Park future development area, as that area is described in Appendix B to these regulations, is exempt from the requirements of Part III, B - Subdivisions, of these regulations, and the provisions of Part IV of these regulations applicable to subdivision of land. (EC539/18)

2.2 Exemption for disposition from Part III, B - Subdivisions

- (1) Where the government is disposing of a parcel or part of a parcel, other than a parcel or part of a parcel to which Part IV of these regulations applies, that parcel or part of it is exempt from the requirements of Part III, B - Subdivisions, of these regulations, where the parcel or part of it was

- (a) acquired by the Minister responsible for the *Roads Act* for the purposes specified in subsection 2.1(1) or (3); or
- (b) purchased by the Minister responsible for the *Real Property Tax Act* R.S.P.E.I. 1988, Cap. R-5, pursuant to subsection 19(1) of that Act.

Exemption for disposition from Part III, B - Subdivisions, and Part IV

- (2) Where the government is disposing of a parcel or part of a parcel to which Part IV of these regulations applies, that parcel or part of it is exempt from the requirements of Part III, B - Subdivisions, and the provisions of Part IV of these regulations applicable to subdivision of land, where the parcel or part of it was

- (a) acquired by the Minister responsible for the *Roads Act* for the purposes specified in subsection 2.1(2) or (3); or
- (b) purchased by the Minister responsible for the *Real Property Tax Act* pursuant to subsection 19(1) of that Act. (EC539/18)

PART III - STANDARDS

A - GENERAL

3. General requirements - subdivisions

- (1) No person shall be permitted to subdivide land where the proposed subdivision would

- (a) not conform to these regulations or any other regulations made pursuant to the Act;
- (b) precipitate premature development or unnecessary public expenditure;
- (c) in the opinion of the Minister, place pressure on a municipality or the province to provide services; or
- (d) have a detrimental impact.

Idem, development permits

- (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;
 - (b) precipitate premature development or unnecessary public expenditure;
 - (c) in the opinion of the Minister, place pressure on a municipality or the province to provide services;
 - (d) have a detrimental impact; or
 - (e) result in a fire hazard to the occupants or to neighbouring buildings or structures.

Forested area adjacent to watercourse or wetland

- (3) Revoked by EC137/09.

Entrance ways

- (4) Notwithstanding any other provisions of these regulations, no development permit shall be issued in respect of a development involving the change of use of an entrance way or the creation of an entrance way to any highway where an entrance way permit is required unless an entrance way permit has first been granted by the Minister of Transportation and Public Works. (EC693/00; 137/09)

4. Approval with conditions

- (1) An approved subdivision or development permit may be made subject to any conditions necessary to ensure compliance with these regulations, other regulations made pursuant to the Act, or any relevant sections of the *Environmental Protection Act*, *Roads Act*, *Provincial Building Code Act* R.S.P.E.I. 1988, Cap. P-24, or the *Fire Prevention Act* R.S.P.E.I. 1988, Cap. F-11.

Person ensures compliance

- (2) Where a person is granted an approved subdivision or development permit subject to conditions in accordance with subsection (1), that person shall ensure that the subdivision or development complies with the conditions.

Development agreement

- (3) The conditions of approval may include a requirement that the person granted the permit enter into a development agreement specifying any special measures that must be carried out in order to ensure compliance with the regulations referred to in subsection (1). (EC693/00; 981/23)

5. Other approvals required

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

Number of lots

- (4) For the purpose of determining the number of lots, all parcels to be severed from the original parcel shall be counted.

Incremental subdivision

- (5) All provisions of these regulations for subdivisions of six or more lots shall apply where a parcel has been subdivided incrementally so as to bring the number of lots created since June 12, 1993 to six or more. (EC693/00; 137/09)

15. Open space

- (1) On and after August 1, 2024, except for a residential subdivision having 20 or fewer lots, or a subdivision intended for commercial, industrial or other non-residential uses, the owner of lots being subdivided shall set aside open space in the subdivision for recreation or park use equal to a minimum of 10% of the total area of the lots being subdivided.

Idem, held in common

- (2) Open space set aside in accordance with subsection (1) shall be held in common by the owners of lots in the subdivision.

Common ownership

- (3) Where a buffer required under subsection 16(1) is included as permitted by subsection 16(5), the buffer may be counted as part of the open space required by this section. (EC693/00; 176/03; 655/10; 714/24)

16. Buffer inside coastal area

- (1) Where a subdivision is proposed within a coastal area, the proposed subdivision shall, where applicable, include the following:
- (a) where adjacent to a beach, a buffer having a minimum width of 60 feet (18.3 metres) or 60 times the annual erosion rate for the area, whichever is greater, measured from the top of the bank adjacent to the beach;
 - (b) where adjacent to a sand dune, a buffer having a minimum width of 60 feet (18.3 metres) measured from the inland boundary of the dune;
 - (c) where feasible and appropriate, access to the beach or watercourse for the use of the owners of the lots.

Exception

- (2) Revoked by EC137/09.

Buffer outside coastal area

- (3) Where a subdivision is proposed outside a coastal area and adjacent to a watercourse, the proposed plan of subdivision may include an access to the watercourse for the use of the owners of the lots.

Development prohibited in buffer

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

Ownership of buffer

- (5) Any buffer required under subsection (1) may be included

Section 39

Setback from beach, sand dune, wetland or watercourse

- (5) The nearest exterior portion of a building or structure shall be located no closer than
- (a) 75 feet (22.9 metres), or 60 times the annual rate of erosion, whichever is greater, to a beach, measured from the top of the bank;
 - (b) 100 feet (30.5 metres) to a migrating primary or secondary sand dune, measured from the inland boundary of the dune;
 - (c) 75 feet (22.9 metres) to the inland boundary of a wetland or watercourse.

Where greater setback required

- (6) Notwithstanding subsection (5), if after consultation with the Department of Environment, Energy and Climate Action, it is determined that the setbacks listed in subsection (5) are not sufficient to protect the beach, wetland or watercourse from the adverse impacts of contaminants discharged from the proposed buildings or structures, it may be required as a condition of approval that the development be located at a greater distance from the beach, wetland or watercourse.

Miscellaneous structures

- (7) Subsection (5) shall not apply to buildings or structures used for fishing or bait sheds, aquaculture operations, boat launches, walkways, bridges, or wharves and piers and any associated buildings or structures, except where the Minister requires that these buildings or structures be located at some fixed distance from the top of the bank.

"top of the bank", defined

- (8) For the purposes of this section, the words "top of the bank" mean, where there is no embankment, the landward boundary of the beach. (EC693/00; 981/23)

40. Development, primary and secondary dunes

- (1) No person shall develop or construct a road on a sand dune.

Other dunes

- (2) Revoked by EC222/22.

Conservation officer may enforce

- (3) A conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1 has the power and authority to enforce subsection (1). (EC693/00; 138/10; 222/22; 981/23)

41. Grouped buildings

Other than farm buildings, no person shall build or place more than one building on a parcel of land for commercial, industrial, recreational or institutional use, unless a site plan for such buildings has been approved by the Provincial Fire Marshal. (EC693/00)

42. More than one dwelling on a lot -exception

- (1) No person shall locate more than one building or structure for use as a part-time or year-round dwelling on a lot or existing parcel of land except
- (a) in conjunction with a farm parcel, where the use of the dwelling is clearly incidental to the use of the main building;

