



PRINCE EDWARD ISLAND
Regulatory & Appeals Commission
Commission de réglementation et d'appels
ÎLE-DU-PRINCE-ÉDOUARD

Date Issued: January 9, 2024
Docket: LA22-018
Type: Planning Appeal

INDEXED AS: Arthur and Heather Neill v. Rural Municipality of Miltonvale Park,
2024 PEIRAC 01 (CanLII)

Order No: LA24-01

BETWEEN:

Arthur and Heather Neill

Appellants

AND:

Rural Municipality of Miltonvale Park

Respondent

ORDER

Panel Members:

J. Scott MacKenzie, K.C. Chair

M. Douglas Clow, Vice-Chair

Kerri Carpenter, Commissioner

1. OVERVIEW OF PROCEEDINGS

1. The Appellants, Arthur and Heather Neill, filed a Notice of Appeal with the Commission on October 17, 2022, appealing the decision of the Rural Municipality of Miltonvale Park to deny their application for a permit to sell cars on their property.
2. The Municipality provided their record of that decision, and a written reply to the appeal, on November 17, 2022.
3. On March 1, 2023, Commission Staff presented the parties with the option of mediation. The Municipality indicated their interest in participation in mediation. At that time, Mr. Neill requested via telephone additional time to consider this option.
4. Commission Staff followed up with the Appellants on April 4, 2023, requesting an update. Mr. Neill advised via email on April 5, 2023, that he wished to continue with the appeal and that he was in contact with a lawyer in British Columbia. The Appellants did not provide a name or contact information for the lawyer.
5. On that same day, and again on April 19, 2023, Commission Staff requested that the Appellants or their lawyer contact the Commission directly. No response was received from the Appellants or the lawyer.
6. On April 24, 2023, Commission Staff advised the parties that the Commission had directed compulsory alternative dispute resolution (ADR) and canvassed available dates. The Appellants did not respond to this email and the date for ADR was scheduled for Thursday, June 1, 2023, at 1:30pm.
7. On June 1, 2023, at 11:39am, Mr. Neill advised the Commission via email that he would not be attending the ADR as he was working with his lawyer. He further advised that his lawyer was working on submitting a new application.
8. The Commission did not receive any further communication regarding the status of this appeal from the Appellants after June 1, 2023.
9. Therefore, on August 11, 2023, a letter was sent to the Appellants outlining the history of this matter and attempts to move it forward, and giving notice that if they did not advise of the status of their appeal by September 15, 2023, the Commission may decide to determine the appeal has been abandoned in accordance with Rule 29 of the Commission's Rules of Practice and Procedure.
10. The Commission has not had any communication regarding the status of this appeal from the Appellants since that date.
11. Rule 29 of the Commission's Rules of Practice and Procedure provides:

29. Abandonment of an Appeal or Application

1. The Commission may deem an appeal or application to have been abandoned where, upon notice to the appellant or applicant, they have failed to:
 - (a) communicate with the Commission in a timely manner;
 - (b) respond to Commission inquiries, requests, or direction;

- (c) file submissions or documentation with the Commission when directed to do so; or
- (d) appear at a pre-hearing conference, preliminary hearing, or a hearing.

2. DISPOSITION

- 12. On the basis of the preceding overview, the Commission deems this appeal abandoned in accordance with Rule 29 of the Commission's Rules of Practice and Procedure.
- 13. The Commission gave notice to the Appellants on August 11, 2023, almost four months ago, that their appeal may be deemed abandoned if they did not respond to our requests for updates. The Appellants have failed to: communicate with the Commission in a timely manner, respond to Commission inquiries, and appear at compulsory ADR.

IT IS ORDERED THAT

The appeal is hereby deemed abandoned.

DATED at Charlottetown, Prince Edward Island, January 9, 2024.

BY THE COMMISSION:

(sgd) J. Scott MacKenzie

J. Scott MacKenzie, K.C., Chair

(sgd) M. Douglas Clow

M. Douglas Clow, Vice-Chair

(sgd) Kerri Carpenter

Kerri Carpenter, Commissioner

NOTICE

Section 12 of the *Island Regulatory and Appeals Commission Act* reads as follows:

12. 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.

Parties to this proceeding seeking a review of the Commission's decision or order in this matter 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.

Sections 13(1) and 13(2) of the *Act* provide as follows:

13(1) An appeal lies from a decision or order of the Commission to the Court of Appeal upon a question of law or jurisdiction.

(2) The appeal shall be made by filing a notice of appeal in the Court of Appeal within twenty days after the decision or order appealed from and the rules of court respecting appeals apply with the necessary changes.

NOTE: In accordance with IRAC's *Records Retention and Disposition Schedule*, the material contained in the official file regarding this matter will be retained by the Commission for a period of 2 years.