



**Date Issued:** May 28, 2026  
**Docket:** LA22012  
**Type:** Planning Act Appeal

INDEXED AS: Squires v. Minister of Housing, Land and Communities  
2026 PEIRAC 26(CanLII)

Order No: LA26-06

**BETWEEN:**

Willemina and Floyd Squires

**Appellant**

**AND:**

Minister of Agriculture and Land

**Respondent**

Anthony McQuillan

**Developer**

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## REASONS FOR DECISION

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Panel Members:

Kerri Carpenter, Vice Chair  
Gordon MacFarlane, Commissioner

Compared and Certified a True Copy

(Sgd.) Michelle Walsh-Doucette

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Commission Clerk  
Island Regulatory and Appeals Commission

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## **Written Submissions Filed by:**

**1. For the Appellant:**

**Counsel**

Geoff Connolly, Stewart McKelvey

**2. For the Respondent:**

**Counsel:**

Christiana Tweedy, Legal Services, Department of Justice

**3. For the Developer:**

Anthony McQuillan, Self-represented

# 1. INTRODUCTION

1. This is an appeal of a decision of the Minister of Agriculture and Land<sup>1</sup> to issue a development permit to Anthony McQuillan (the “Developer”) to construct a non-commercial storage building on his property at 903 Village Green Road, Route 272, in the Community of Lake Verde.
2. The Appellants own the property next door to the Developer and appealed the issuance of the permit because, in their submission, the permit authorized construction of the building too close to the boundary line between their property and the Developer’s. The Appellants argue that the permit is not compliant with the required setbacks prescribed by the *Planning Act Subdivision and Development Regulations*.<sup>2</sup>
3. The Commission heard this appeal in writing and dismisses the appeal for the reasons that follow.

# 2. BACKGROUND

4. On March 31, 2022, the Developer applied to the Minister for a development permit to construct a new, detached structure for non-commercial storage on his property located at 903 Village Green Road in Lake Verde (the “Subject Property”). The Minister issued the permit on May 27, 2022 (the “Permit”).
5. The Appellants appealed the Permit on June 17, 2022. The Notice of Appeal lists the single ground of appeal as: “boundary line is in dispute”. The Appellants allege that the building does not meet the required setbacks outlined in the *Planning Act Subdivision and Development Regulations*. The Notice of Appeal requests that the location of the building be confirmed by a licensed surveyor prior to construction. In follow-up submissions the Appellants clarified that they are appealing the decision to grant the development permit where the applicant had given insufficient or erroneous information to support the application. The Appellants are requesting the Permit be granted in compliance with the required setbacks.
6. The parties each made initial submissions in response to the Notice of Appeal, following which the Commission ordered that the matter would be held in abeyance, via Order LA23-07. At that time, the evidence before the Commission was not consistent with respect to the location of the boundary line between the Appellants’ and Developer’s property. The Commission ordered that, because the Commission does not have jurisdiction to determine boundary line disputes,<sup>3</sup> the Commission was unable to consider the appeal on its merits while the location of the boundary line, and consequently the line from which setbacks are measured, was in dispute. Therefore, the Commission ordered the matter held in abeyance while the Appellants sought to settle the location of the boundary line.
7. On May 3, 2024, the Commission extended the abeyance via Order LA24-05, to permit the Appellants to proceed with a judicial determination of the boundary line.

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<sup>1</sup> Currently the Minister of Land and Environment

<sup>2</sup> *Planning Act Subdivision and Development Regulations*, EC693/00.

<sup>3</sup> Order No. LA22-03, *Brian R. MacKay v. Minister of Agriculture and Land*, at para 10. See also, Order LA10-12 and Order LW22-001; and *MacKay v. MacKenzie*, 2016 PECA 16, at para 15.

8. In December 2024, the Appellants advised via their legal counsel that they completed a review of title and found there is no uncertainty with the boundary line and would not be proceeding with the quieting of title application.
9. In November 2025, the Commission advised the parties that upon review of the matter, the Commission had exercised its discretion to determine the appeal in writing, without an oral hearing, pursuant to Rule 41(1) of the Commission's Rules of Practice and Procedure. At that time, the Commission prepared and circulated to the parties a List of Exhibits, listing the submissions and evidence received from the parties to date on this matter. All parties were invited to provide supplementary submissions in respect of the appeal.
10. Both Counsel for the Appellants and Counsel for the Minister advised the Commission that they would not be providing any further evidence or submissions on the matter. The Developer did not respond to the Commission's correspondence.

### **3. ISSUES**

11. This appeal asks the Commission to determine whether the Permit issued to the Developer authorized construction of a non-commercial storage building too close to the boundary line between the Appellants' property and the Subject Property. In other words: is the Permit non-compliant with the required setbacks prescribed by the *Planning Act Subdivision and Development Regulations*?
12. It is well-established that on an appeal pursuant to the *Planning Act* the Commission will consider a two-part guideline. In this case, the Commission will consider:
  - a) Did the Minister follow proper procedure as required by the *Planning Act* and its Regulations and the law in general, including the duty of procedural fairness, in issuing the permit?
  - b) Was the decision of the Minister to issue the permit made in accordance with the *Planning Act* and its Regulations and based on sound planning principles?
13. In any *Planning Act* appeal, after conducting this two-step analysis, the Commission determines whether to exercise its discretion to substitute its own decision for the decision made by the initial planning authority. The Commission has long held that it does not lightly interfere with decisions made by a planning authority.<sup>4</sup>

### **4. DISPOSITION**

14. The appeal is dismissed. The Permit was properly issued and authorized construction of the non-commercial storage building in accordance with the setbacks prescribed by the *Planning Act Subdivision and Development Regulations*. It was reasonable in the circumstances for the Development Officer to issue the Permit in accordance with the information provided by the Developer. In the event that the Developer was wrong about

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<sup>4</sup> *Landfest* at para 32.

the location of the boundary line such that the building does not meet the required setbacks, this is an enforcement issue over which the Commission has no jurisdiction.

## 5. ANALYSIS

15. The Appellants' Notice of Appeal lists the single ground of appeal as: "boundary line is in dispute". The Appellants allege that the Developer's building does not meet the required setbacks outlined in the *Planning Act Subdivision and Development Regulations*. The Appellants are requesting the Permit be granted in compliance with the required setbacks.
16. The Appellants argue that they are appealing the decision to grant a development permit where the applicant has given insufficient or erroneous information to support the application. The Appellants submit that the errors on the application are apparent when the sketch submitted by the Developer is viewed in light of a survey prepared by Morris Geomatics & Engineering Ltd., dated June 29, 2022. The Appellants submit that the actual location of the proposed building staked by the Developer has zero side yard and encroaches into the public road. The Appellants submit that the sketch submitted by the Developer includes a property line that is "well within the east side" of the Appellants' property. The Appellants clarified that they are not asking for a decision in respect of the boundary line, only that the setbacks are measured from a correct property line.
17. The Commission understands the position of the Appellants to be that a permit was granted based on erroneous information and without adequate attention to side yard requirements.
18. In response, the Developer submitted that all information submitted by him for the permit application was taken from the original "community boundary / property boundary line" and is in full compliance with the setbacks required by the *Regulations*. The Developer did submit that he had a survey of the property and boundary line prepared by a surveyor; however, that survey was not provided to the Commission.
19. For their part, the Minister submitted that determining the location of a "community boundary/property line" is not within the purview of the Minister in issuing or denying a development permit application. The Minister submits that the Development Officer properly reviewed and assessed the Developer's application before issuing a permit for development in compliance with the *Regulations*.
20. Section 32 of the *Planning Act Subdivision and Development Regulations* provides that an application for a development permit shall be made on a prescribed form and shall be accompanied by:
  - (a) a copy of a property map;
  - (b) an application fee; and
  - (c) any other information the Minister considers necessary.
21. The Minister submitted that the Developer's application included all information required by section 32 of the *Regulations*.

22. Section 38 of the *Regulations* generally provides that a building cannot be located closer than 15 feet to a side or rear lot line. The Commission notes that section 38 includes certain exceptions; however, no party has argued that any of these exceptions apply in this case. Therefore, the Commission accepts that the building in question must be no closer than 15 feet to the Subject Property's side lot line.
23. The argument of the Appellants is that it was improper for the Minister to issue a development permit where the applicant gave insufficient or erroneous information (in this case the location of the property line) to support the application.
24. The permit application submitted to the Minister was accompanied by a hand-drawn sketch showing that the rear-left corner of the building would be 28' from the "community boundary / property line" – this is the side lot line. The Application indicated the following minimum distances from the proposed structure:
- |                           |      |
|---------------------------|------|
| Front Yard Property:      | 200' |
| Rear Yard Property:       | 640' |
| Left Side Yard Property:  | 28'  |
| Right Side Yard Property: | 166' |
25. The Appeal Record includes a Pre-Development and Subdivision Inspection Report completed by the Development Officer, dated May 25, 2022. The report indicates a date of inspection as May 25, 2022 (i.e. a site visit) and that the proposal meets the required minimum building setbacks.
26. Importantly, the Permit authorizes construction "in accordance with the plans and information submitted" and is subject to compliance with the provisions of all regulations under the *Planning Act* governing and affecting development. In other words, the structure approved for construction in the Permit was required to be constructed a minimum of 28 feet from the left-side property line. Exactly where that property line is located is not within the jurisdiction of the Commission to decide.
27. In the circumstances, the Commission finds that the Permit was issued in accordance with the setbacks prescribed in the *Regulations*. The Permit expressly states it is to be built in accordance with the plans as submitted and in compliance with the *Regulations*.
28. The setbacks disclosed on the Developer's application are greater than those required for side and rear yards per section 38 of the *Regulations*. The Application also includes a declaration from the Developer (applicant) that all statements contained within the application are complete and true. The Pre-Development and Subdivision Inspection Report indicates a site visit was carried out on May 25, 2022.
29. The Minister has discretion to request other information considered necessary per subsection 32(c) of the *Regulations*. In this case, it would appear that the Minister did not exercise that discretion to request a survey plan. The Commission cannot find that choice to be unreasonable in the circumstances. In particular, it would appear to the Commission that it was only after the permit was issued that evidence of a boundary line dispute was raised.

30. Therefore, the Commission concludes that the process followed by the Minister was in accordance with the *Regulations* and the Permit authorized the proposed building to be constructed in compliance with the *Regulations*.

31. The Commission does not have jurisdiction to determine boundary line disputes.<sup>5</sup> The PEI Court of Appeal has said that determining a boundary line is a legal issue, over which the court has the final decision.<sup>6</sup> Therefore, the Commission cannot, on this appeal, settle the location of the boundary line between the Appellants' property and the Subject Property. That is a matter that will have to be settled between the parties.

32. In the event that the Developer was wrong about the location of the boundary line as depicted on his application, then in all likelihood the building will not meet the setbacks and it will be in contravention of the *Regulations*. However, any remedies in respect of non-compliance are within the jurisdiction of the Minister to enforce. The Commission has previously held that it does not have jurisdiction over matters of enforcement.<sup>7</sup>

## 6. CONCLUSION

33. For these reasons, the appeal is dismissed.

34. The Commission thanks the parties for their submissions in this matter.

## 7. ORDER

35. The appeal is denied.

**DATED** at Charlottetown, Prince Edward Island, **May 28, 2026**.

**BY THE COMMISSION:**

*[sgd. Kerri Carpenter]*

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Kerri Carpenter, Vice Chair

*[sgd. Gordon MacFarlane]*

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Gordon MacFarlane, Commissioner

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<sup>5</sup> Order No. LA22-03, *Brian R. MacKay v. Minister of Agriculture and Land*, at para 10. See also, Order LA10-12 and Order LW22-001.

<sup>6</sup> *MacKay v. MacKenzie*, 2016 PECA 16, at para 15.

<sup>7</sup> Order No. LA22-03, at para 12 (citing from Orders LA14-05 and LA13-02).

## **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.