



**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
GENERAL DIVISION**

Citation: *Haas v. Baie Verte (Town)*, 2026 NLSC 20

Date: March 4, 2026

Docket: 202201G1539

BETWEEN:

SHERRY HAAS

APPELLANT

AND:

**TOWN COUNCIL OF THE TOWN
OF BAIE VERTE**

RESPONDENT

Before: Justice Alexander MacDonald

On Appeal From: A Decision of Central Newfoundland Regional Appeal Board under section 46 of the *Urban and Rural Planning Act*, S.N.L. 3000, c. U-8, Appeal # 15-006-072-026 dated May 13, 2022.

Place of Hearing: St. John's, Newfoundland and Labrador

Date of Hearing: January 16, 2026

Summary:

Sherry Haas sought a business permit to buy, dismantle, and sell end-of-life vehicles on her Rural-zoned property in Baie Verte. The Town denied the permit, classifying the operation as a Scrap Yard, a non-permitted use. The Regional Appeal Board upheld the decision, and Haas appealed. Justice MacDonald found that the Board's

decision whether the activity was a Scrap Yard was a factual one and it is not appealable. Even if the decision were appealable, the Board made no palpable or overriding error. Justice MacDonald also rejected Haas's claims that the Town was in a conflict of interest and that its decision was inconsistent with the Town's *Environmental Protection Act* "Certificate of Compliance." He dismissed Haas's appeal with costs.

Appearances: January 16, 2026

Sherry Haas	Appearing on her own behalf
Robert Bradley	Appearing on behalf of the Respondent

Authorities Cited:

CASES CONSIDERED: *Paradise (Town) v. Newfoundland and Labrador (Eastern Regional Appeal Board)*, 2010 NLTD 116; *Housen v. Nikolaisen*, 2002 SCC 33; *Canada (Director of Investigation & Research) v. Southam Inc.*, [1997] 1 S.C.R. 748; *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65; *Benhaim v. St-Germain*, 2016 SCC 48

STATUTES CONSIDERED: *Town of Baie Verte Development Regulations*, Gazetted: Nov. 1, 1985, *Urban and Rural Planning Act, 2000*, S.N.L. 2000, c. U-8; *Town of Baie Verte Development Regulations, 2022-2032*, Nfld. Reg. 3/01, *Urban and Rural Planning Act 2000*; *Environmental Protection Act*, S.N.L. 2002, c. E-14.2

RULES CONSIDERED: *Rules of the Supreme Court, 1986*, S.N.L. 1986, c. 42, Sch. D

REASONS FOR JUDGMENT

MACDONALD, J.:

INTRODUCTION

[1] Sherry Haas wants the Town of Baie Verte to issue her a business permit to run a business at 17 Harborview Terrace in the Town of Baie Verte. She wants to

buy, partially deconstruct, and sell end-of-life motor vehicles. Her property is in the Town's "Rural" zone.

[2] Haas says the business is a "Solid Waste" disposal operation. This is a discretionary use under the Town's development regulations in effect at the time of the Town's decision. The 1985 *Town of Baie Verte Development Regulations*, Gazetted: Nov. 1, 1985, *Urban and Rural Planning Act*, give three examples of such use being: "Solid Waste Disposal, Sanitary Landfill, and Incinerators."

[3] In August 2021, the Town denied the permit because it said that the business was a "Scrap Yard." This use is not a permitted use in a Rural zone. Regulations give three examples of Scrap Yards being, "Car Wrecking Yards, Junkyards, and Scrap Dealers."

[4] Haas appealed the Town's decision to the Central Newfoundland Regional Appeal Board. The Board confirmed the Town's decision that the business was a Scrap Yard and as it is not a permitted use, the Town cannot issue a business permit. Haas appealed this decision to the Supreme Court.

[5] Haas appealed the Board's decision when counsel acted for her. She did not seek judicial review of the Board's decision. She was accompanied by her spouse who is also involved in the business. I will refer to both as Haas.

ISSUES

[6] The issues in this appeal are:

Issue 1 Did the Board make a legal error when it upheld the Town's decision that the operation was a "Scrap Yard"?

Issue 2 Did the Board make a legal error when it did not find that the Town was in a conflict of interest?

Issue 3 Did the Board make a legal error when it did not find that the Town's decision conflicted with the Town's Certificate of Compliance issued under the *Environmental Protection Act*?

[7] I find that it made no errors. I will tell you why. I will first deal with whether it made a legal error when it upheld the Town's decision that the operation was a "Scrap Yard."

DISCUSSION

Issue 1 Did the Board make a legal error when it upheld the Town’s decision that the operation was a “Scrap Yard”?

[8] I find it did not.

Standard of Review

[9] This is a statutory appeal under section 46(1) of the *Urban and Rural Planning Act, 2000*, S.N.L. 2000, c. U-8, as amended. Haas may appeal the Board’s decision to me on a question of law or jurisdiction. *Paradise (Town) v. Newfoundland and Labrador (Eastern Regional Appeal Board)*, 2010 NLTD 116, para. 11.

[10] Haas cannot appeal a factual decision. Haas can appeal some questions of mixed fact and law because the Supreme Court of Canada in *Housen v. Nikolaisen*, 2002 SCC 33, at para. 27 said that these, “can actually be an error of pure law.”

[11] It said, at paragraph 26, “Questions of mixed fact and law involve applying a legal standard to a set of facts ... On the other hand, factual findings or inferences require making a conclusion of fact based on a set of facts. Both mixed fact and law and fact findings often involve drawing inferences; the difference lies in whether the inference drawn is legal or factual.”

[12] In *Canada (Director of Investigation & Research) v. Southam Inc.*, [1997] 1 S.C.R. 748, at para. 39, the Supreme Court illustrated how an error on a question of mixed fact and law can amount to a pure “error of law.”

[13] It said, “if a decision-maker says that the correct test requires him or her to consider A, B, C, and D, but in fact the decision-maker considers only A, B, and C, then the outcome is as if he or she had applied a law that required consideration of only A, B, and C. If the correct test requires him or her to consider D as well, then the decision-maker has in effect applied the wrong law, and so has made an error of law.”

[14] The Supreme Court in *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, said that the standard of review for mixed facts and law is correctness if an extricable legal question or issue of principle is at stake.

[15] Therefore, I must first consider whether the Board's decision that Haas's activity would be a Scrap Yard is a factual decision or one of mixed facts and law.

Was the Board's decision a factual one?

[16] I find that whether the activity proposed by Haas is a Scrap Yard or a Solid Waste disposal yard is a question of fact alone. There is no extricable legal question of principle at stake. Haas cannot appeal this decision.

[17] This is so even if the Board made a "a palpable and overriding error" when it so decided. A palpable and overriding error is a standard of review I am to apply if Haas can appeal a purely factual decision. It is not a legal error, which gives rise to an appeal under the *Act* because the legislature did not give Haas a right to appeal a factual decision.

[18] The primary issue before the Board was whether Haas's proposed operations were a "Scrap Yard."

[19] The Haas property is in a "Rural" zone. Haas argued that they will run a "solid waste" and "recycling/disposal" operation because this a permitted discretionary use under the Town's development regulations.

[20] The Town found, and the Board confirmed, that their proposed use was for a "Scrap Yard." The parties agree that this is not a permitted use in the Rural zone and the Town therefore cannot issue a business permit.

[21] On April 22, 2022, the Town said in a letter to the Board explaining its decision that:

- (a) "in schedule B of the Development Regulations, examples of Solid Waste are listed as 'Solid Waste Disposal,' 'Sanitary Landfill' and 'Incinerators.' These examples indicate that Solid Waste is intended to capture landfills or garbage dumps";
- (b) "The more accurate use type for Ms. Haas' proposed use is 'Scrap Yard' ... A facility to store end of life vehicles is exactly the same thing as the three examples provided ... to describe the 'Scrap Yard' use type, and Ms. Haas could just as easily be described as proposing a car wrecking yard, junk yard, or a scrap dealer's yard" ;

- (c) “that ‘Scrap Yard’ and ‘Solid Waste’ should be interpreted to mean different things. ... Scrap Yard means the storage of end of life vehicles, such as the use proposed by Ms. Haas. Solid Waste means something more akin to a landfill”; and
- (d) Even if the Town was wrong, Solid Waste disposal is a discretionary use and the Board cannot compel the Town to approve it.

[22] The parties agree that in the 1985 *Town of Baie Verte Development Regulations*, in effect in 2021:

- (a) “Scrap Yard” is defined by reference to examples being, “Car Wrecking Yards, Junk Yards, and Scrap Dealers”;
- (b) there is no zone that would allow the development of a Scrap Yard;
- (c) “Solid Waste” is defined by reference to examples being, “Solid Waste Disposal, Sanitary Land Fill, and Incinerators”; and
- (d) Solid Waste is a discretionary permitted use in the “Rural” and “Mineral Workings” zones.

[23] The *Town of Baie Verte Development Regulations, 2022-2032, Nfld. Reg. 3/01, Urban and Rural Planning Act 2000*:

- (a) Article 4.4.16 defines “Salvage/scrap yard means an area of land or lot including any building or structure used for the receipt, storage, sale, re-sale and processing of waste or surplus automobile, transportation vehicles, or industrial equipment, including any parts or pieces that have been removed, but does not include a solid waste recycling/disposal and composting site”; and
- (b) Article 3.2.9 allows a “Salvage/Scrap yard” as a discretionary use in the Towns “Industrial General” zone.

[24] While this 2023 amendment would avoid an ambiguity in the future it does not apply here because its enactment postdates the Town and Board decisions.

[25] The evidence before the Board was that Haas intended to:

- (a) buy end-of-life motor vehicles. Customers either bring the cars to their property, or they will buy them and bring them to thier property;

- (b) strip cars of their catalytic converter and sell them. Haas told me that this represents over 90% of the profit in the entire business transaction;
- (c) remove the batteries, tires and wheels and sell them; and
- (d) sell what is left of the vehicles to a contractor that will come to the property, crush the vehicles on site with a mobile crusher and then remove the crushed vehicle from the property.

[26] The Board considered Haas's use. It decided it was a Scrap Yard. There is no extricable legal principle at play. It is purely a factual decision, and the legislature mandated the Board to make this decision, not me.

Palpable and Overriding Error

[27] Furthermore, even if (i) Haas could appeal a factual decision; or (ii) the Board made a palpable and overriding error when it made its factual decision, Haas still cannot succeed because the Board made no such error

[28] Justice Wagner of the Supreme Court of Canada in *Benhaim v. St-Germain*, 2016 SCC 48, at para. 38 said, "It is equally useful to recall what is meant by 'palpable and overriding error'... Palpable and overriding error is a highly deferential standard of review 'Palpable' means an error that is obvious. 'Overriding' means an error that goes to the very core of the outcome of the case."

[29] The Board's conclusion is not obviously wrong. The Board considered these activities. It confirmed the Town's decision that these activities most closely aligned with the use of a Scrap Yard.

[30] The Board's decision is supported by the evidence. The Board's conclusions are consistent with the ordinary meaning of the word. The Collins English Dictionary defines a "scrapyard" as "a place where old machines such as cars or ships are destroyed and where useful parts are saved."

[31] Furthermore, it does not matter that Haas hired someone else to crush the vehicles. Haas cannot thwart the zoning by subcontracting any or all the prohibited activities.

[32] Thus, the Board made no legal error when it upheld the Town's decision that Haas applied to run a Scrap Yard. My conclusion would be the same if I had concluded that the Board's decision was of mixed fact and law.

[33] I now turn to whether the Board made a legal error when it did not conclude that the Town was in conflict of interest when it made its decision.

Issue 2: Did the Board make a legal error when it did not find that the Town was in conflict of interest?

[34] This is, at best, a decision of mixed fact and law. If I were to decide that there was an extricable legal question or issue of principle at stake, I am to decide this on a correctness standard. I need not defer to the Board's decision. Even if that were the case, I would dismiss this ground of appeal.

[35] Haas said that the Town deconstructed motor vehicles and sold components in a similar type of operation at their waste disposal facility. They say that the waste disposal facility is also in a Rural zone, Therefore, Haas said the Town ran a similar business when it rejected Haas's application. Haas said the Town did so to end Haas as a competitor in the catalytic converter business.

[36] There is no evidence before me that the Town is a competitor. The Town's counsel told me it is not. However, even if the Town's activities violate zoning, this does not allow Haas to ignore their property's zoning.

[37] Haas also alleged in their appeal factum that the Town's Volunteer Fire Department also stored end-of-life vehicles at the "Fireman Training Ground."

[38] I reject this argument on the same basis I did for the Town's use of the Waste Disposal Site.

[39] Because I made this decision, I will not consider whether Haas cannot raise this issue because they did not raise it before the Board.

[40] I now turn to whether the Board made a legal error when it did not find that the Town's decision contradicted its Certificate of Compliance issued under the *Environmental Protection Act*, S.N.L. 2002, c. E-14.2.

Issue 3: Did the Board make a legal error when it did not find that the Town’s decision conflicted with its Certificate of Compliance issued under the *Environmental Protection Act*?

[41] This is, at best, a decision of mixed fact and law. If I were to decide that there was an extricable legal question or issue of principle at stake, I am to decide this on a correctness standard. I need not defer to the Board decision. Even if that were the case, I would dismiss this ground of appeal.

[42] Haas said that the Town has a Department of Environment and Climate Change Certificate of Compliance issued under the *Environmental Protection Act*.

[43] Section 10 of that approval says that “Areas shall be allocated and signs posted designating separate areas for the disposal of wrecked vehicles, scrap metals, construction debris, white goods, household waste materials, and other approve waste.”

[44] I find this irrelevant. A Certificate of Compliance is not legislation or regulation. The Province may or may not allow municipalities to dispose of wrecked cars. This does not either restrict the Town’s ability to control activities in zones or compel it to accept wrecked cars in its disposal site.

DISPOSITION

[45] I dismiss this appeal. Sherry Haas shall pay the Town its costs on a column three basis (*Rules of the Supreme Court, 1986*, S.N.L. 1986, c. 42, Sch. D).

ALEXANDER MACDONALD
Justice