

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

IN THE MATTER OF AN APPEAL by **TIMOTHY PECK, JENNIFER MERRELL GILLIS, CATHERINE PECK, DONALD MOORE, CRYSTAL MOORE, ANGELINE COMEAU, KEVIN EVERETT, CONNIE EVERETT, ELWOOD RAWDING, CARRIE RAWDING, DEBORAH FREEMAN, WILLIAM FREEMAN, KATELYN CROSBY, LAURA LEE CROSBY, WADE CROSBY, PAUL DOUGLAS FISHER, LAURA DELL'AGLIO DAIS DA COSTA, DIRK R. MILNE, TERESA A.A. MILNE, HAROLD DUGAS, PAMELA DUGAS, KEVIN PROCTER and CAITLYN HAYWARD** from a decision of the Town of Digby Council approving a Development Agreement allowing 4576251 Nova Scotia Limited to redevelop lands on Thomas Road for the purpose of constructing three (3) multiple unit residential structures containing a total of seventy-six (76) dwelling units together with the construction of related streets infrastructure on Thomas Road, Digby, Nova Scotia

BEFORE: M. Kathleen McManus, K.C., Ph.D., Panel Chair
Richard J. Melanson, LL.B., Member
Bruce H. Fisher, MPA, CPA, Member

APPELLANTS: **TIMOTHY PECK,**
JENNIFER MERRELL GILLIS, *et al*
Timothy Peck
Jennifer Merrill Gillis

APPLICANT: **4576251 NOVA SCOTIA LIMITED**
James Wallace

RESPONDENT: **TOWN OF DIGBY**
Jonathan G. Cuming, Counsel

HEARING DATE: March 5, 2025

FINAL SUBMISSIONS: **March 11, 2025**

DECISION DATE: **April 10, 2025**

DECISION: **The Motion is denied. The Appellants, Paul Douglas Fisher and Laura Dell'aglio Dais da Costa, Kevin Procter, Caitlyn Hayward and Katelyn Crosby are aggrieved persons and continue as Appellants. Deanna Doucette is added as an Appellant. Connie Everett's last name is changed to Rodgerson. Angeline Comeau's first name is changed to Angelina. Laura Lee Crosby and Wade Crosby, at their own request, are removed as Appellants.**

I INTRODUCTION

[1] On October 17, 2024, Digby Town Council approved entering into a Development Agreement with 4576251 Nova Scotia Limited to permit the redevelopment of lands on Thomas Road for the purpose of constructing three (3) multiple unit residential structures containing a total of seventy-six (76) dwelling units, together with the construction of related street infrastructure, as proposed in the application and associated Site Planning and Building Details dated March 18, 2024 (proposed development).

[2] On January 15, 2025, a Notice of Appeal was filed by Timothy Peck, Jennifer Merrell Gillis, Catherine Peck, Donald Moore, Crystal Moore, Angeline Comeau, Kevin Everett, Connie Everett, Elwood Rawding, Carrie Rawding, Deborah Freeman, William Freeman, Katelyn Crosby, Laura Lee Crosby, Wade Crosby, Paul Douglas Fisher, Laura Dell'aglio Dais da Costa, Dirk R. Milne, Teresa A.A. Milne, Harold Dugas, Pamela Dugas, Kevin Procter, Caitlyn Hayward (Appellants). The Appellants appealed on several grounds including that the Development Agreement approved by Council was not compatible with the existing housing in this area of the Town of Digby (Town), will likely lower property values, cause loss of privacy and security and the construction will cause noise and disruption. The Appellants also state that Council failed to properly engage the community in the process of considering the development proposal.

[3] At a preliminary hearing held on January 29, 2025, to establish hearing and filing dates, the Town advised that it would be filing a motion challenging the standing of several of the Appellants as aggrieved persons to bring the appeal under the *Municipal Government Act*, S.N.S. 1998, c. 18 (*MGA*). The Town requested a preliminary hearing

to determine this issue. The Board set down the hearing of this preliminary motion for March 5, 2025.

[4] In the Notice of Motion, the Town identified the following Appellants as not having standing to bring an appeal under section 247(2) of the *MGA* because they were not aggrieved persons as defined in s. 191(a) of the *MGA*:

- i. Angeline Comeau
- ii. Kevin Everett and Connie Everett
- iii. Elwood Rawding and Carrie Rawding
- iv. Deborah Freeman and William Freeman
- v. Katelyn Crosby, Laura Lee Crosby, and Wade Crosby
- vi. Paul Douglas Fisher and Laura Dell'aglio Dais da Costa
- vii. Dirk R. Milne and Teresa A.A. Milne
- viii. Harold Dugas and Pamela Dugas
- ix. Kevin Procter and Caitlyn Hayward

[5] Prior to the hearing, Timothy Peck, on behalf of the Appellants responding to the Town's submissions, requested that the following changes be made to their Notice of Appeal:

- i. Connie Everett's last name is Rodgerson
- ii. Laura Lee Crosby, Wade Crosby wish to be removed from the list of the aggrieved
- iii. Angeline Comeau should be spelled as Angelina Comeau
- iv. Deanna Doucette be added as an aggrieved person

[6] At the hearing, the Town agreed that Deanna Doucette was an aggrieved person and should be added as an Appellant. The Town also advised that it no longer challenged the standing of the following Appellants as aggrieved persons:

- i. Kevin Everett and Connie Rodgerson
- ii. Elwood Rawding and Carrie Rawding
- iii. Deborah Freeman and William Freeman
- iv. Katelyn Crosby

[7] The Applicant, 4576251 Nova Scotia Limited, was represented by James Wallace. Mr. Wallace advised that he supported all the submissions made by the Town in this motion.

[8] As part of a planning appeal, it is a requirement under *Rule 27(3)* of the Board's *Municipal Government Act Rules*, N.S. Reg. 89/2021, that the Appellants "serve a copy of the Notice of Public hearing to all assessed owners of land within 500 feet of the property which is the subject of the appeal." The Clerk of the Board obtains the list of these assessed owners from Property Valuation Services Corporation (PVSC) and provides it during the proceeding to the Appellants who provide an undertaking that the list remains confidential. While the Clerk had obtained the list of assessed property owners within 500 feet of the proposed development in this appeal, it had not yet been provided to the Appellants at the time of the hearing. The Board did review the list of assessed property owners in preparation for the hearing.

[9] At the hearing, the Board asked if the Town had reviewed the list of the assessed owners within 500 feet of the proposed development. The Town advised that it had not, as it had not seen this list. The Board advised the parties that its reading of the list of assessed owners suggested that all of the Appellants except four individuals were owners of properties or resided in properties on the list. The Board advised of its understanding that the following Appellants were not on the list of assessed owners or residing in a property on the list:

- i. Kevin Procter and Caitlyn Hayward
- ii. Paul Douglas Fisher and Laura Dell'aglio Dais da Costa

[10] After a discussion with the parties, the Board agreed that it would provide the list of assessed owners of property within 500 feet of the proposed development on a confidential basis. The Board further asked that the Town confirm after the hearing if the Town agreed with the Board's determination that only four of the appellants, who's standing the Town challenges, owned or resided in properties more than 500 feet from the proposed development. On March 11, 2025, the Town advised the Board that it determined the following five Appellants were not on the list:

- i. Katelyn Crosby
- ii. Paul Douglas Fisher
- iii. Laura Dell'aglio Dais da Costa
- iv. Kevin Procter
- v. Caitlyn Hayward

[11] The Town advised that rather than there being four proposed appellants whose standing the Town is challenging, there are five (Challenged Appellants). Mr. Cuming had indicated at the hearing he might reconsider certain of the Town's objection to the standing of certain Appellants once he had reviewed the list from PVSC. Therefore, while Mr. Cuming had challenged the standing of Angelina Comeau, Dirk R. Milne, Teresa A.A. Milne, Harold Dugas and Pamela Dugas at the hearing, these challenges were abandoned in Mr. Cuming's March 11, 2025, correspondence.

[12] This appeal was filed with the Nova Scotia Utility and Review Board, and it was this Board which heard the Town's motion. After the hearing of the Town's motion, on April 1, 2025, on proclamation of the *Energy and Regulatory Boards Act*, S.N.S. 2024,

c. 2, Sch. A, the Nova Scotia Utility and Review Board was succeeded by the Nova Scotia Regulatory and Appeals Board for all applications under the *Municipal Government Act*.

II ISSUES

[13] The first issue to be addressed in this motion is whether the following Challenged Appellants are aggrieved persons, with standing, to bring this appeal:

- i. Paul Douglas Fisher and Laura Dell'aglio Dais da Costa
- ii. Kevin Procter and Caitlyn Hayward
- iii. Katelyn Crosby

[14] Next the Board must decide whether Deanna Doucette should be added as an Appellant. Finally, the Board must decide whether to make additional corrections to the Notice of Appeal as requested by the Appellants.

[15] For the following reasons, the Board finds that Katelyn Crosby, Paul Douglas Fisher, Laura Dell'aglio Dais Da Costa, Kevin Procter and Caitlyn Hayward are aggrieved persons and have standing as Appellants. As a result, the Town's motion is denied.

[16] The Board finds, upon the consent of the Town, that Deanna Doucette can be added as an Appellant. The Board also directs the following additional changes to the style of cause:

- i. Connie Everett's last name is changed to Rodgerson
- ii. Laura Lee Crosby and Wade Crosby are removed as Appellants
- iii. Angeline Comeau should be corrected to Angelina Comeau

III ANALYSIS AND FINDINGS

[17] Section 247(2) of the *MGA* limits the parties who may appeal a municipal council's decision to approve a development agreement:

Appeals to the Board

247 (2) The approval, or refusal to approve, and the amendment, or refusal to amend, a development agreement may be appealed to the Board by

- (a) an aggrieved person;
- (b) the applicant;
- (c) an adjacent municipality;
- (d) a village in which an affected property is situated;
- (e) the Director.

[18] The Challenged Appellants do not fall under any of clauses (b) to (e) and may only bring this appeal if each is an aggrieved person under s. 247(2)(a). The Town urged the Board to find that the Challenged Appellants do not meet the definition of an aggrieved person under the *MGA*. The burden of proof is on the Challenged Appellants to show that they are an aggrieved person, on a balance of probabilities (*Re Taylor*, 2015 NSUARB 82).

[19] The Board considered, in detail, the question of who qualifies as an aggrieved person in *Re Thompson*, 2020 NSUARB 52. In that case, the Board discussed the historical development of the law around standing to appeal municipal planning decisions.

[20] That history brings us to the current version of the *MGA*, which defines “aggrieved person” in s. 191(a) as:

191 In this Part and Part IX, unless the context otherwise requires

(a) “aggrieved person” includes:

- (i) an individual who *bona fide* believes the decision of the council will adversely affect the value, or reasonable enjoyment, of the person’s property or the reasonable enjoyment of property occupied by the person,
- (ii) an incorporated organization, the objects of which include promoting or protecting the quality of life of persons residing in the neighbourhood affected by the council’s decision, or features, structures or sites of the community affected by the council’s decision, having significant cultural, architectural or recreational value, and

- (iii) an incorporated or unincorporated organization in which the majority of members are individuals referred to in subclause (i).

[21] The representatives of the Appellants advised that all the Appellants seek to have individual standing. Accordingly, as the Challenged Appellants in this case are individuals, only s. 191(a)(i) in the definition applies.

[22] The adverse effects of a Council decision mentioned in s. 191(a)(i) are rooted in the ownership and use of real property. In *Federation of Nova Scotian Heritage v. Peninsula Community Council*, 2004 NSUARB 108, the Board held that s. 191(a)(i) referred to “real property and not to intellectual or personal property” (para. 55).

[23] In many past cases, the Board has referred to the Supreme Court of Canada decision in *British Columbia Development Cooperation v. Friedmann (Ombudsman)*, [1984] 2 S.C.R. 447 (e.g., *Re Taylor*, 2015 NSUARB 82, *Re Lunenburg Heritage Society*, 2010 NSUARB 224 and *Re Johanson*, 2010 NSUARB 123). In *Friedmann*, Justice Dickson said, on behalf of the court, “a party is aggrieved or may be aggrieved when he genuinely suffers, or is seriously threatened with, any form of harm prejudicial to his interest, whether or not a legal right is called into question” (para. 68).

[24] In *Re Taylor* 2015 NSUARB 82, the Board stated, “It is the objective belief which the Board must examine. This does not require expert evidence, in the view of the Board. It does require the Board to find that an appellant has, in relation to the proposed development or zoning amendment, a “unique status” (*Richardson v. Wolfville*, *supra*), a ‘particular link’ (*Re Northern Construction Enterprises Inc.*, 2012 NSUARB 149), or an ‘intrinsic relationship’ (*Re Ollive Properties Ltd.*, 2012 NSUARB 186)” (para. 41).

[25] In the present case, the Board is reviewing whether the Challenged Appellants are aggrieved persons within the statutory scheme of the *MGA*. The test must

be derived from the context of this appeal. As explained by the Board in *Re Brison*, 2006 NSUARB 113, “[t]he interests therefore that are protected and may cause a person to be aggrieved will be dependent upon the facts of each case, including the Municipal Planning Strategy (MPS), the bylaws or other planning documents at issue in the appeal” (para. 57). This test was considered and applied in past decisions (*Re. Thompson and Re Cameron*, 2020 NSUARB 108) and we will follow the same approach.

[26] The MGA’s definition of aggrieved person tells us that an appellant’s belief that a decision of council will adversely affect their interests must be *bona fide*. This is an explicit requirement for affected interests under s. 191(a)(i) and applies to the Board’s consideration of affected interests under the common law as well (*Re Brison*, para. 59).

[27] The Board accepts that a *bona fide* belief has both subjective and objective elements:

[T]he inclusion of the words “*bona fide*” in front of the word “belief” suggests that there must be some reasonable basis for the belief held by the person claiming to be adversely affected. In other words, there must be an objective aspect to the determination of whether the belief is *bona fide* in addition to the subjective aspect noted by the sincerity with which the belief is held. Otherwise, the belief, no matter how misguided, if sincerely held, would qualify a person as an aggrieved person. The Board does not consider the Legislature could have intended such a consequence.

[*Re Ruffman*, [1995] N.S.U.R.B.D. No. 15, pp.5-6]

[28] The Board discussed the nature of the objective assessment of an appellant’s belief that a planning decision would affect them in detail in *Ollive*. That case involved an appeal from a decision to approve a development agreement for a 27-storey mixed-use building. The owner of an adjoining property, which was itself the subject of a development agreement for a proposed seven-storey mixed use building, brought the appeal.

[29] In general, the Board considered it should assess an appellant's belief in a prompt manner. The Board also discussed the facts it should examine to determine whether an appellant was an aggrieved person:

[120] I find the basic facts to be examined in determining the aggrieved person status are the development, including the type of structure (a dam, waste disposal site, residential, commercial, etc.), its physical characteristics (dimensions, features, etc.), and how it will be used (by whom, numbers, frequency, etc.). It also includes a review of the area affected by the development and the use of the properties within that affected area.

[121] A large dam may affect property owners many kilometers in either direction. At the other extreme is the area affected by a small single family bungalow.

[*Ollive*, paras. 120-121]

[30] In *Ollive*, the Board considered that the impact on an aggrieved party must be distinct from that of the general public:

[153] Considering the facts of this case, the Board generally concurs with *Ollive* that what makes the adjacent property, sharing the same city block, of particular note in planning appeals is its vulnerability to the effects of the future development. These effects are different or distinct from the general public. Any potential effects of the building such as noise, traffic, wind, shadowing, has the most impact and effect on its adjacent neighbor. I note counsel for the Municipality and Can-Euro were unable to provide any case to the Board where the immediate adjacent landowner, sharing the same city block, was found not to be an aggrieved person under the *Charter*.

[154] In addition to being the adjacent neighbour, *Ollive* has a right of way over Can-Euro's privately owned and operated road which every future tenant and visitor/customer must travel to enter/exit the *Ollive* property, except those traveling by foot over the ball field. *Ollive* argues that it and Can-Euro are intrinsically tied together and subject to reciprocity, such that the potential impacts of each one's development affects the other.

[155] Based upon the facts of this case, it is reasonable and logical to infer, without specific empirical evidence, that *Ollive's* enjoyment of its property will be adversely affected by the wind, shadow, traffic and noise from the Can-Euro development. Therefore, the objectivity of its honest beliefs is met.

[*Ollive*, paras.153-155]

Aggrieved Person Status of the Challenged Appellants

[31] Timothy Peck and Jennifer Merrell Gillis represented the Challenged Appellants at the preliminary hearing and made oral submissions on their behalf. Paul Douglas Fisher represented himself and also made representations on behalf of the other Challenged Appellants. Except for Mr. Fisher, none of the Challenged Appellants

attended the preliminary hearing. In advance of the hearing, Mr. Peck and Ms. Gillis filed written submissions, unsworn letters from the Appellants, including the Challenged Appellants, copies of signed petitions to the Town's Council and photos of Appellants' properties looking towards the proposed development site. There were also photos with buildings inserted on the proposed development site. At the hearing, Mr. Peck stated that he digitally altered the photos by inserting the proposed buildings and admitted that these insertions were not done to scale.

[32] Jonathan Cuming, representing the Town, filed written submissions and his affidavit, which were attached as exhibits photos and Property Online printouts from the Province's website providing information about the Challenged Appellants' properties.

The Town made oral submissions challenging the standing of:

- i. Kevin Procter and Caitlyn Hayward
- ii. Dirk R. Milne and Teresa A.A. Milne
- iii. Harold and Pamela Dugas
- iv. Paul Douglas Fisher and Laura Dell'aglio Dais da Costa
- v. Angelina Comeau

The Town did not make oral submissions challenging the standing of Katelyn Crosby.

[33] The Town's letter of March 11, 2025, revised the list of individuals that it was challenging. In essence it removed Angelina Comeau, the Milnes and the Dugas from the list and added Katelyn Crosby back to the list of Challenged Appellants. No explanation was given for the addition of Katelyn Crosby. Thus, there are five remaining names on the list: Katelyn Crosby, Paul Douglas Fisher, Laura Dell'aglio Dais da Costa, Kevin Procter and Caitlyn Hayward.

[34] The Town submitted that the test for an aggrieved person required proof of an objective reasonable basis, as well as a subjective belief, of adverse effect on the appellant's property by the approved development.

[35] At this stage, the Challenged Appellants are not required to prove to the Board that each will suffer a loss in value or enjoyment of their property if the development proceeds. They must show their *bona fide* and objective belief that it has such an impact.

[36] The Board will now examine the standing of each of the remaining five Challenged Appellants.

Katelyn Crosby

[37] As noted above, at the hearing, the Town advised the Board that it accepted that Ms. Crosby had standing as an aggrieved person to bring her appeal. After the hearing, the Town advised that it was challenging the standing of Ms. Crosby as an aggrieved person.

[38] The Town made no oral submissions as to why Ms. Crosby was not an aggrieved person. The representatives of the Appellants, who had been told at the hearing that her standing was accepted, made no submissions on her behalf. Further, the Town made no written submissions specific to Ms. Crosby.

[39] In her letter dated February 5, 2025, which was filed with the Board, Ms. Crosby advised that she resides at 70 St. George Street, Digby which is just up from the proposed site. She said the proposed development would cause her property value to decrease, take away from her quality of life and her ability to enjoy her home and neighbourhood. She also stated that the area was not meant for high-density housing and that construction would cause road closures and movement of heavy equipment. Further,

once completed, the proposed development would cause a surge of traffic in her neighbourhood.

[40] As noted above, at the hearing, the Board identified Ms. Crosby as an owner of an assessed property within 500 feet of the proposed development, according to the information provided by PVSC. From the Property Online information submitted by the Town, it appears that Ms. Crosby's property is a couple of property lots across and up the street from the proposed development. The photo from her property, in the Appellants' submissions, shows an unobstructed view to the water. Even though the photo which digitally imposes the finished proposed development is not to scale, the Board can conclude that she will see the development from her property, and it will obstruct her view of the water. Obstruction of a view is not, in and of itself determinative. The combination of the proximity of the Crosby property to the proposed development, the obstruction of a panoramic ocean view, and the potential for some increased traffic, are important factors in this case. Therefore, the Board finds that there is an objective basis to support that Ms. Crosby has a *bona fide* belief the proposed development could negatively impact the enjoyment of her property. Accordingly, the Board finds that Ms. Crosby is an aggrieved person under s. 191(a)(i) of the *MGA* and has standing to bring her appeal.

Paul Douglas Fisher and Laura Dell'aglio Dais da Costa

[41] Mr. Fisher and Ms. Dais da Costa reside at 33 West Street, Digby. Mr. Fisher stated that they enjoy spectacular views from their property and that the reasonable enjoyment of their property includes walking the trails and coastlines and immersing themselves in the vistas and biodiversity of the surrounding area. The

photograph taken from 33 West Street confirms they currently have a panoramic ocean view.

[42] Mr. Fisher said that the proposed development is contrary to the low-density of the residential zoning of the properties and the architecture is inconsistent with the prevailing style of the area. He also said that the proposed development will significantly increase the population and vehicular traffic and will reduce safety and privacy. He said that the proposed development will decrease the resale value of their home. He said that the Town Council entered into the Development Agreement with insufficient public engagement and insufficient documentation that the existing infrastructure can support the proposed development.

[43] The Town said that walking trails are not related to a specific property, but common to all and therefore not relevant to the aggrieved person test. Further, the Town said that while allowing higher density development may go to compatibility, the property of Mr. Fisher and Ms. Dais da Costa is too far from the proposed development to support a finding of aggrieved persons.

[44] The Town stated that the concerns expressed by Mr. Fisher and Ms. Dais da Costa are speculative and there was no objective evidence which brings their speculation within *bona fide* belief arguments.

[45] Mr. Fisher said, addressing the Town's submission, that if it was speculative that property values would go down if the proposed development was built, that it was equally speculative to say that there would be no change to property values. Mr. Fisher also stated that he considered that enjoyment of his property goes beyond legal boundaries to include the hiking trails and the biodiversity.

[46] Overall, the Board finds the belief of Mr. Fisher and Ms. Dais da Costa that the enjoyment of their property will be adversely affected by Council's decision, is reasonable on an objective basis. While they live a distance more than 500 feet from the proposed development, their property is not very far beyond this perimeter. As discussed at the hearing, the distance from the proposed development does not, in and of itself, determine whether a person is aggrieved. That said, as explained earlier, the proximity to the development, the potential impact of traffic from the development, and whether an ocean view is obstructed by the development, are all relevant considerations when assessing whether a person's subjectively held beliefs are reasonable from an objective point of view.

[47] In this case, while there are no expert opinions on traffic and value, that is not the standard that must be met at this stage in the proceedings. What is clear is that Mr. Fisher and Ms. Dais da Costa enjoy an unobstructed panoramic ocean view on a quiet street. The Board views the scale of the buildings inserted in the photograph accompanying the evidence about 33 West Street purporting to show the post-construction status with a great deal of scepticism. That said, like with Ms. Crosby, based on the photographic evidence available at this stage, the Board finds the proposed development will, more likely than not, create some obstruction of this ocean view. As well, the Site Plan attached to the Development Agreement in the Appeal Record shows that West Street will be an access and egress point for the proposed development. Therefore, proximity to the proposed development, the loss of some ocean view, and some increased traffic has the real potential of negatively impacting the reasonable enjoyment of this property.

[48] The Board notes that while Mr. Cuming did not pursue his challenge of the standing of the Milnes, Dugas and Ms. Comeau, similar considerations, although to varying degrees, would have applied and the Board would have determined they were aggrieved parties in any event. The Board does not see any substantial difference between the potential impact of the development on all these properties whether they are within or just outside the 500-foot notification area.

[49] Accordingly, the Board finds that Mr. Fisher and Ms. Dais da Costa are aggrieved persons under s. 191(a)(i) of the *MGA* and have standing to appeal Council's decision to the Board.

Kevin Procter and Caitlyn Hayward

[50] In their letter dated February 8, 2025, Kevin Procter and Caitlyn Hayward said that they lived at 53 Thomas Road. They wrote that the area was never meant for high-density housing and that the current infrastructure cannot support the proposed development. They said that most streets around Thomas Road do not have sidewalks, and it was hard for two vehicles to pass each other on the area streets. They stated that the construction will mean blocked roads, heavy machinery and poor air quality. They said that if the proposed development proceeded then their quality of life and those of their neighbours would decline tremendously.

[51] Mr. Peck stated that the Town used the railway bed to provide access to the property of Mr. Procter and Ms. Hayward and that there may be a readjustment of the access with the development. He further said that this has always been a low-density area, and that traffic will quadruple with the proposed development. Finally, he said that the Town gave little information or opportunity for participation.

[52] The Town said that none of the concerns expressed in the letter of Mr. Procter and Ms. Hayward were specific to their property and as such they have not established a *bona fide* belief that the proposed development could impact the enjoyment of their property.

[53] The Board has carefully considered the evidence for Mr. Procter and Ms. Hayward. The Board agrees that they live a sufficient distance from the proposed development such that many of the issues they cited, such as the existing infrastructure, sidewalks, air quality and construction effects, are not unique to their specific property and would not cause or threaten “any form of harm prejudicial to [their] interests.” The same however is not true when one considers their road access. Mr. Peck stated that Thomas Road runs coincident with the old railway bed for which there is a Town right-of-way. Mr. Procter was concerned they would “readjust that” and how would he get access to West Street. The Site Plan attached to the Development Agreement within the Appeal Record shows that ‘Building A’ is serviced by a “Private 5.5 m Driveway” that overlaps Thomas Road. This is an issue that directly affects their property. The way they can enter and leave their street, including the level of traffic they will face, is dependent on the design of the proposed development and the West Street extension. Accordingly, the Board concludes that they are personally affected by Council’s decision. They have a *bona fide* belief the proposed development could cause or threaten “harm prejudicial to [their] interests”. This is supported by the basic facts of the future development, for instance the Site Plan, and is specific to their property as distinct from the general public. Hence, that belief is objectively related to the development. As such, the Board finds that

Mr. Procter and Ms. Hayward are aggrieved persons under s. 191(a)(i) of the *MGA* and have standing to appeal Council's decision to the Board.

Adding Deanna Doucette as an Appellant

[54] Mr. Peck said that he made a clerical error in not including Deanna Doucette as an Appellant. Ms. Doucette co-owns 53 St. George Street, Digby with Donald Moore. Mr. Moore is an Appellant in this appeal. The Town did not challenge Mr. Moore's standing. According to PVSC, this property is within 500 feet of the proposed development. The Town stated that it agreed that Ms. Doucette should be an Appellant.

No Impact on Merits

[55] The Board finds, upon the consent of the Town, that Deanna Doucette can be added as an Appellant.

[56] The Appellants made many submissions that went beyond addressing their status as aggrieved persons. They may be more properly viewed as submissions on the merits of the appeal. The Board did not use these submissions to determine standing. The Board expressly does not make any findings as to the relevance of these submissions on the merits of the appeal. The Board would also add, for clarity, that none of its findings on standing, in this expedited process, have any impacts on the merits of the appeal. Whether the approval of the Development Agreement for the proposed development does or does not reasonably carry out the intent of the MPS will be determined in the full hearing on the merits which will be scheduled following the release of this decision.

Additional Changes to the Style of Cause

[57] Mr. Peck requested that the following changes be made to the style of cause:

- i. Connie Everett's last name is changed to Rodgerson
- ii. Laura Lee Crosby and Wade Crosby are removed as Appellants
- iii. Angeline Comeau should be corrected to Angelina Comeau

[58] The Town did not object to these proposed changes.

[59] The Board accepts the changes requested by the Mr. Peck and directs that the style of cause be amended to reflect the changes set out above.

IV SUMMARY AND CONCLUSION

[60] The Board finds that the Appellants Paul Douglas Fisher, Laura Dell'aglio Dais da Costa, Kevin Procter, Caitlyn Hayward, and Katelyn Crosby are aggrieved persons and their appeal will continue.

[61] With the consent of the Town, the Board directs that Deanna Doucette is added as an Appellant.

[62] The Board also directs the style of cause be further amended as follows:

- i. Connie Everett's last name is changed to Rodgerson
- ii. Laura Lee Crosby and Wade Crosby are removed as Appellants
- iii. Angeline Comeau should be corrected to Angelina Comeau

[63] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 10th day of April, 2025.

M. Kathleen McManus

Richard J. Melanson

Bruce H. Fisher