

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE HALIFAX REGIONAL MUNICIPALITY CHARTER

- and -

IN THE MATTER OF AN APPEAL by **MICHAEL VERGE** from a decision of Halifax and West Community Council approving a development agreement to expand the capacity of an existing daycare located at 110 Frederick Avenue, Fairview, Nova Scotia, from 14 to 40 children

BEFORE:



M. Kathleen McManus, K.C., Ph.D., Member

DECISION AND ORDER

On December 14, 2025, Michael Verge appealed to the Nova Scotia Regulatory and Appeals Board, under the *Halifax Regional Municipality Charter*, SNS 2009, c 39 (*HRM Charter*), a decision of the Halifax and West Community Council approving a development agreement to expand the capacity of an existing daycare from 14 to 40 children at 110 Frederick Avenue, Fairview, Nova Scotia. Council approved the development agreement on December 1, 2025, and public notice of this decision was given on the Halifax Regional Municipality (HRM) website on December 2, 2025.

On January 5, 2026, the Board asked the parties to advise of their availability for a preliminary hearing to set the filing dates and hearing date for this appeal. On January 7, 2026, after hearing from all the parties, the Board set down this preliminary hearing for February 4, 2026.

On February 4, 2026, the Board convened the preliminary hearing by teleconference to set hearing dates and address any other preliminary matters. Bernadine MacAulay, representing the Applicant, Jodi Tsitouras, and Meg MacDougall, representing HRM, were in attendance. The Appellant failed to appear at the hearing. Board staff was unsuccessful in its attempt to contact the Appellant. The preliminary hearing was adjourned.

By letter dated February 6, 2026, to all the parties, the Board summarized the events at the preliminary hearing of February 4, 2026. The Board asked the Appellant to advise if he intended to continue with his appeal no later than February 11, 2026.

The Board's letter dated February 6, 2026, also set out the filing date for any motions which the Applicant and/or HRM wanted the Board to consider and a deadline for the Appellant to respond. The Board also stated that all motions would be heard at a preliminary hearing on April 15, 2026, in person, at the Board's hearing room in Halifax.

On March 4, 2026, the Applicant filed submissions in support of three motions to dismiss the appeal on the basis that:

1. The Appellant has effectively abandoned his appeal;
2. The Appellant is not an "aggrieved person" under the *HRM Charter*; and
3. The Notice of Appeal does not raise any grounds that are within the jurisdiction of the Board.

On March 7, 2026, the Appellant advised the Board of his intention to continue with his appeal and submitted his response to the Applicant's motions.

On March 11, 2026, HRM filed its submissions in response to the Applicant's motions.

The Applicant, her counsel, Ms. MacAulay, and Ms. MacDougall, representing HRM, were in attendance for the preliminary hearing on April 15, 2026. The Board opened the hearing at 1:30 pm and waited until 2:00 pm to begin the hearing of the Applicant's motions. The Appellant did not appear.

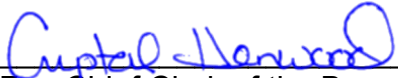
The Applicant made oral submissions on her three motions. HRM, in its oral submissions, supported the Applicant's submissions that the Appellant has abandoned his appeal and that the Notice of Appeal did not disclose any grounds that are within the Board's jurisdiction. HRM did not take a position on whether the Appellant is an "aggrieved person" under the *HRM Charter*.

Section 20 of the *Energy and Regulatory Boards Act*, SNS 2024, c 2, Sch A, gives the Board the power to "make rules respecting practice and procedure in relation to matters coming before it." Under this authority, the Board has set its rules of practice and procedure for planning matters in the *Municipal Government Act Rules (MGA Rules)*. The rules apply to planning appeals under the *HRM Charter*. Under Section 13 of the *MGA Rules*, the Board may consider a preliminary motion for an order dismissing an appeal for enumerated grounds and for "other reasons that may appear." Prior Board decisions have found that the Board may dismiss an appeal if it finds that the appellant has abandoned their appeal because of their failure to participate in the procedural steps of the appeal (see, *McShane (Re)*, 2023 NSUARB 143; *Sanford (Re)*, 2023 NSUARB 30).

The Board finds that the Appellant has abandoned his appeal because of his failure to attend the two preliminary hearings held in this matter. As this finding concludes this matter, there is no need to decide the other two grounds argued by the Applicant.

The Applicant's motion to dismiss the appeal is granted. The Board orders that the appeal be dismissed.

DATED at Halifax, Nova Scotia, this 23rd day of April 2026.



For: Chief Clerk of the Board