

Relevant excerpts from the decision of the Nature and Environment Board of Appeal (now the Environment and Food Board of Appeal) of 26 April 2016 (NMK-34-00525)

“DECISION in the case concerning the request for reconsideration of the Nature and Environment Board of Appeal’s decision to dismiss the appellant's appeal in case NMK-34-00494 regarding the EIA report in connection with the expansion of the rowing stadium at Bagsværd Lake in Gladsaxe Municipality.

...

The remarks and decision of the Nature and Environment Board of Appeal

The request for reconsideration is understood as asserting that the Nature and Environment Board of Appeal, pursuant to the EIA Directive and the Aarhus Convention, is obligated to include a broader range of appellants, including the appellant.

The Nature and Environment Board of Appeal notes that in cases concerning the provision of plans and EIA reports according to practice a wide range of individuals are generally considered to have legal standing. This practice is linked to the central concern in the Planning Act regarding public participation in the planning process.

Affiliation with the relevant local area as a property owner, resident, employee, business operator, or local association, among others, is usually deemed sufficient. Individuals, associations and authorities by law presumed to be involved in the provision of plans are generally considered to have legal standing both regarding compliance with procedural rules and other legal matters concerning the plans.

If an appellant does not reside within the local plan area, the distance to the appellant's property becomes essential. There is no specific requirement for distance; a specific assessment must be made in each case. The assessment takes into account the distance in relation to the project's nature, scope, and significance for the surrounding area. An idealistic interest in nature and the environment, including the impact of a facility on its surroundings, is not sufficient.

In the decision of September 30, 2015, the Nature and Environment Board of Appeal assessed the question of standing in relation to the expansion of the rowing stadium in Bagsværd Lake. The decision emphasized that the appellant's residence is approximately 1.2 km from Bagsværd Lake and approximately 1.7 km from the nearest point on the rowing track.

It is the assessment of the Nature and Environment Board of Appeal that no new factual or legal information has been presented that would lead to a different outcome if the information had been available at the time of the Board's earlier consideration of the case. Furthermore, the Board does not find that significant procedural errors was committed in the Board’s earlier handling of the case. Thus, the Nature and Environment board of Appeal finds no basis for reopening the case.”

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