

Note: In the case title, an asterisk () indicates an appellant and a double asterisk (**) indicates a cross-appellant. Decisions of a three-justice panel are not to be considered as precedent before any tribunal.*

ENTRY ORDER

SUPREME COURT DOCKET NO. 2020-068

OCTOBER TERM, 2020

In re Founder's Hall Act 250 (Sara Dillon*)	}	APPEALED FROM:
	}	
	}	Superior Court,
	}	Environmental Division
	}	
	}	DOCKET NO. 133-12-19 Vtec

Trial Judge: Thomas S. Durkin

In the above-entitled cause, the Clerk will enter:

Appellant Sara Dillon appeals pro se from the Environmental Division's dismissal of her appeal for lack of standing. We affirm.

The record indicates the following. In August 2019, St. Michael's College sought permission under Act 250 to dismantle and remove Founder's Hall from its campus, construct new pedestrian walkways, and establish a new lawn area. Dillon sought party status under 10 V.S.A. § 6085(c)(1)(E) with respect to Criterion 8 of Act 250 and requested a public hearing. Criterion 8 requires a finding (among other things) that a project will not have an "undue adverse effect on . . . historic sites." *Id.* § 6086(a)(8). Dillon is an alumna of the College. She lives in Massachusetts and co-owns a second home in Greensboro, Vermont. Dillon's father also graduated from the College and he was a longtime professor there.

A district commission denied Dillon's request for party status and, consequently, her request for a public hearing. It explained that to be entitled to party status, Dillon needed to demonstrate "a particularized interest protected by [Chapter 151 of Title 10, V.S.A.] that may be affected by an act or decision by a district commission." *Id.* § 6085(c)(1)(E). It found that Dillon failed to explain why her interests were particularized and how they differed from those of the general public. Dillon appealed to the Environmental Division, which dismissed her appeal for lack of standing.

As the Environmental Division explained, its jurisdiction was limited to "actual cases or controversies," *Parker v. Town of Milton*, 169 Vt. 74, 76-77 (1998), an element of which was standing. To have standing, a party must show that he or she "suffered a particular injury that is attributable to the [proposed project] and that can be redressed by a court of law." *Id.* at 77. In a similar vein, § 6085 conferred statutory standing to certain individuals and entities, including, as relevant here, those who demonstrated "a particularized interest protected by [Chapter 151 of Title 10, V.S.A.] that may be affected by an act or decision by a District Commission." 10 V.S.A. § 6085(c)(1)(E). As indicated, the interest must be "particularized" rather than a general policy concern shared with the general public and there must be a causal link between an alleged harm to this interest and a decision on a proposed project.

The Environmental Division considered Dillon’s argument that demolition projects, as opposed to construction projects, called for a different inquiry. It explained that the law provided no alternative definition of an interested party when a demolition was at stake and it could not expand its jurisdiction beyond the expressed intent of the Legislature. It determined that Dillon failed to show any particularized interest under Criterion 8, and she failed to allege any reasonable possibility of harm to any particularized interest. She did not demonstrate why her interest in preserving a historic building was distinct from the interest of other alumni or members of the general public with a familial attachment to the College. This appeal followed.

On appeal, Dillon reiterates her assertion that she should be provided party status given her attendance at the College and her father’s long history with the College. She asks the Court to clarify the meaning of the statute when a demolition project, rather than a construction project, is involved. She questions why other individuals, such as neighboring property owners, are afforded standing while she is not. She finds it unfair that she must show how her interest differs from other alumni. Dillon seeks to explore alternatives to demolishing the building.

We find no error. Section 6085(c)(1)(E) identifies who is entitled to party status in Act 250 proceedings, regardless of whether the project involves construction or demolition. The Legislature has afforded party status to certain classes of individuals, such as adjacent property owners, and it is not the role of this Court to question the fairness of that decision. See In re 204 N. Ave. NOV, 2019 VT 52, ¶ 5 (explaining that Court’s goal in interpreting statute is to give effect to Legislature’s intent and “[i]f the plain language is clear and unambiguous, we enforce the statute according to its terms” (quotation omitted)). To be entitled to party status under the statute, Dillon needed to show that she “has a particularized interest protected by this chapter that may be affected by an act or decision by a District Commission.” 10 V.S.A. § 6085(c)(1)(E). We agree with the tribunals below that she failed to do so. Dillon would like to explore if Founder’s Hall can be preserved because she considers the building significant. While her concerns are rooted in her attendance and family connection to the College, her interest remains a general one. She fails to demonstrate how her interest in historic preservation differs from other alumni and members of the general public who care about such issues. We note that the Vermont Division of Historic Preservation shares this general interest and it could seek party status. See id. § 6085(c)(1)(D) (affording party status to “any State agency affected by the proposed project”). While Dillon does not think it is fair that she must distinguish her interest from that shared by others, the plain language of the statute, reflecting legislative judgment on the issue, requires it. We do not consider who might qualify as a party in a case such as this one, as Dillon urges; we need only decide if she does. We agree with the Environmental Division that she failed to show sufficient evidence of a particularized and concrete interest here and therefore does not have standing in this matter.

Affirmed.

BY THE COURT:

Beth Robinson, Associate Justice

Harold E. Eaton, Jr., Associate Justice

William D. Cohen, Associate Justice