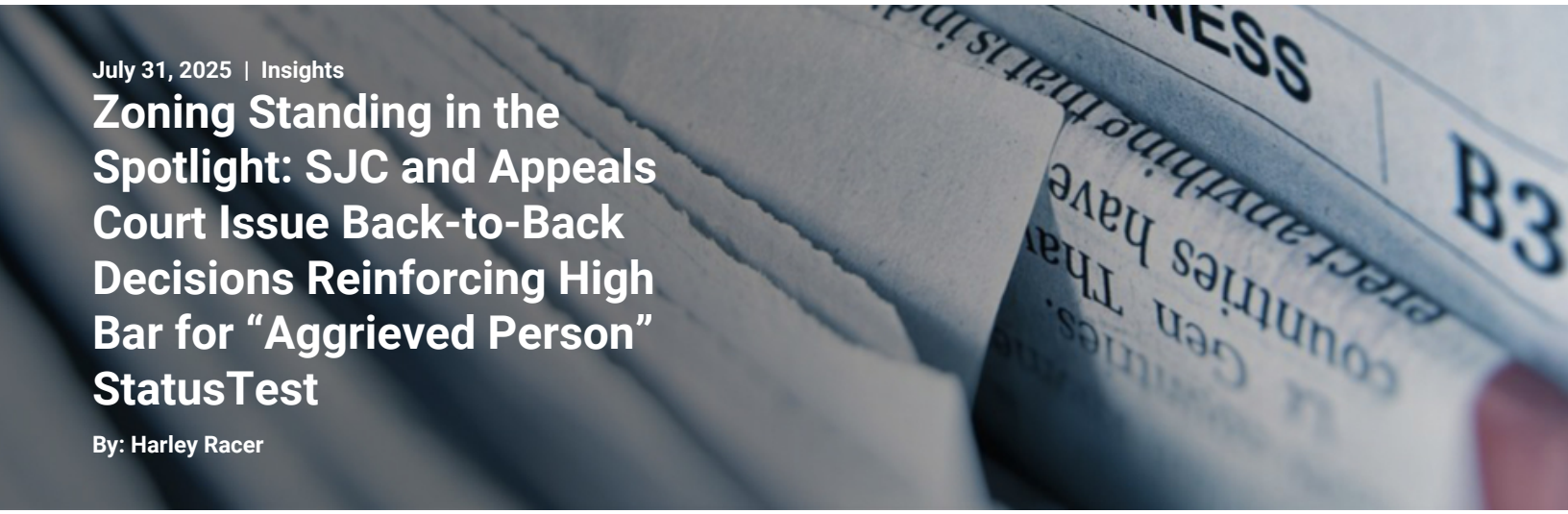


July 31, 2025 | Insights

Zoning Standing in the Spotlight: SJC and Appeals Court Issue Back-to-Back Decisions Reinforcing High Bar for "Aggrieved Person" StatusTest

By: Harley Racer

Two Massachusetts appellate courts released decisions on July 29, 2025 that underscore a familiar but critical threshold in zoning litigation – establishing that a plaintiff is an "aggrieved person" under G. L. c. 40A, § 17. Even with the assumption of standing afforded to an abutter, it can be difficult to survive the aggrieved person analysis.

The Supreme Judicial Court's decision in Stone v. Zoning Board of Appeals of Northborough and the Appeals Court's opinion in Tropical Fay's – II, LLC v. Zoning Board of Appeal of Boston each explore the strict standards courts apply when assessing whether plaintiffs have standing to challenge zoning relief. The cases remind practitioners that proximity and speculative harm are not enough. Instead, the plaintiff must show, with evidence, a credible, individualized harm.



Related Services

Commercial Real Estate

Real Estate Development

Related Attorneys

Harley Racer

Stone v. Zoning Board of Appeals of Northborough (SJC-13734)

Read the opinion

In Stone, the SJC affirmed the dismissal of a zoning appeal by abutters challenging a use variance for a proposed warehouse in a groundwater overlay district. Although the plaintiffs were abutters entitled to a presumption of standing, the developer rebutted that presumption, and the plaintiffs failed to offer sufficient evidence of a specific, protected harm.

©2026 Rich May, P.C. All Rights Reserved

The SJC took up the matter on Further Appellate Review, reversing the Appeals Court decision and rejected consideration of potential future uses as a basis for standing. The plaintiffs had argued that they were aggrieved by the potential use of the building that could someday occur, other than the proposed warehouse use. For instance, if the proposed building later included a restaurant, it might cause traffic, noise, or odors. The Appeals Court found merit to this argument for aggrieved person status, but the SJC did not. The SJC noted that the ground the Appeals Court relied upon – the uses which the warehouse might be put to in the future – was not supported by the summary judgment record.

The SJC first found that the presumption of standing had been rebutted as to each ground argued by the abutters and that the abutters had not overcome that rebuttal. Then, the Court turned to the potential future use, for which it found no support in case law. The Appeals Court panel had strayed, said the SJC, and made clear "[i]n assessing the plaintiffs' standing to challenge the grant of a variance for [the proponent's] proposed actual use, the judge could not consider hypothetical future uses . . . and it was error for the Appeals Court panel to require the judge to do so." Standing as an aggrieved person for a zoning decision challenge is based on the actual use proposed, not the full range of what could hypothetically occur in the future.

Stone further reiterated that generalized concerns about zoning violations or neighborhood impacts do not establish standing. Plaintiffs must demonstrate a particularized injury to a protected interest, such as light, air, traffic, or privacy, with concrete evidence. Mere status as abutters or speculation about future impacts is not enough.

Tropical Fay's – II, LLC v. Zoning Board of Appeal of Boston (2404-P-1019)

Read the opinion

Similarly, in Tropical Fay's, the Appeals Court, in a Rule 23 decision, reviewed a challenge by an abutter business to zoning approvals for an increase in the number of units in a housing development. The business claimed that the project would negatively impact adjacent parking, visibility, and traffic access and that would hurt its operations.

But the Appeals Court sided with the trial judge in finding that none of those alleged harms established standing — because the purported harms were speculative. General allegations

©2026 Rich May, P.C. All Rights Reserved

of increased traffic do not establish standing, nor was the judge required to credit the conclusion of the plaintiff's expert on the matter. Regarding traffic, the Appeals Court rejected an argument made by the plaintiff on appeal where the plaintiffs failed to meet their burden to demonstrate such evidence in the record.

Together, these decisions remind us that plaintiffs, even when enjoying a presumption of standing, must develop the record with actual evidence, not with hypothetical scenarios, to maintain their challenge of a zoning decision. Likewise, developers should be prepared to rebut standing claims with evidence.

Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney Harley Racer.

© 2025 by Rich May, P.C. and Harley Racer. All rights reserved.