

Massachusetts Zoning and Land Use Law Quoted in Reported Decisions

Massachusetts Supreme Judicial Court

Wendy's Old Fashioned Hamburgers of N.Y., Inc. v. Bd. of Appeal of Billerica, 454 Mass. 374, 388 (2009):

See B.C. Levey, *Massachusetts Zoning and Land Use Law* § 7-22, at 195, 196 (1996) ("the general deference afforded actions of a local [special permit granting authority] may yield to a court's sense of fairness" when it appears that special permit granting authority has applied "dramatically different standards to similarly situated applicants").

Standerwick v. Zoning Bd. of Appeals, 447 Mass. 20, 30 (2006):

It is also inconsistent with our long-standing jurisprudence that standing to challenge a zoning decision is conferred only on those who can plausibly demonstrate that a proposed project will injure their own personal legal interests and that the injury is to a specific interest that the applicable zoning statute, ordinance, or bylaw at issue is intended to protect. See *Circle Lounge & Grille, Inc. v. Board of Appeal of Boston*, 324 Mass. 427, 431 (1949) ("we must inquire what peculiar legal rights were intended to be given to the plaintiff by the statute permitting an appeal"). See also *Massachusetts Ass'n of Indep. Ins. Agents & Brokers, Inc. v. Commissioner of Ins.*, 373 Mass. 290, 293 (1977) (party has standing when alleging "injury within the area of concern of the statute or regulatory scheme under which the injurious action has occurred"); B.C. Levey, *Massachusetts Zoning and Land Use Law* § 5-26(b) (1996 & Supp. 1998).

Massachusetts Appeals Court

Cent. St., LLC v. Zoning Bd. of Appeals, 69 Mass. App. Ct. 487, 491 (2007):

A plaintiff is considered a "person aggrieved" if it asserts "a plausible claim of a definite violation of a private right, a private property interest, or a private legal interest." *Harvard Square Defense Fund, Inc. v. Planning Bd. of Cambridge*, 27 Mass. App. Ct. 491, 492-493 (1989). That interest "must be one that the applicable regulatory scheme . . . recognizes. See *Circle Lounge & Grille, Inc. v. Board of Appeal of Boston*, 324 Mass. 427, 430-431 (1949); *Standerwick v. Zoning Bd. of Appeals of Andover*, 447 Mass. 20, 27-28(2006)." *Choate v. Zoning Bd. Of Appeals of Mashpee, supra* at 381. See Levey, *Massachusetts Zoning and Land Use Law* § 5-26(b) (1996) (plaintiff must show that proposed project "will injure his legal or property interest and that the injury is to an interest the zoning law was intended to protect").

Massachusetts Land Court

Yih-Yih Lin v. Jones, 5 LCR 118, 121 (1997):

"This [second] sentence of Section 6 will protect residential lots from increased dimensional requirements [**19] if four requirements are met: (1) There are no more than three adjoining lots held in common ownership for single-family or two-family use; (2) Each lot must have at least 75 feet of frontage and 7,500 square feet of area; (3) The lots must be shown on a plan which is recorded or endorsed before the effective date of the zoning amendment, which would otherwise increase the dimensional requirements; and (4) Each lot must conform to the zoning requirements applicable on January 1, 1976, regardless of when the lot was created." Levey, *Massachusetts Zoning and Land Use Law*, § 4-4(d) (1996).

Mandracchia v. Snyder, 5 LCR 3, 4-5 (1996):

"In general, ... the courts are inclined to uphold conditions except in cases where they are completely outside the applicant's control or so vague as to preclude compliance without further substantive interpretation or action by the board." Brian C. Levey, *Massachusetts Zoning and Land Use Law* § 7-18 (1996).