

RIW's Meghan Hall Secures Land Court Win for Fairhaven School Committee

By RIW on April 6, 2026



RIW Attorney **Meghan Hall** successfully reversed a Zoning Board of Appeals (the "ZBA") decision in Fairhaven, allowing the Fairhaven School Committee (the "School Committee") to move forward with a construction project on school property. The Land Court decided that the abutters who challenged the School Committee's commercial building permit did not have standing under Section 8 of the Zoning Act, Massachusetts General Laws Chapter 40A. The Land Court decision in *Fairhaven School Committee v. Carr et al.* serves as a reminder that abutters who appeal zoning decisions, even at the local level, must show individualized harm to interests protected by the Zoning Act or local zoning code in order to be persons aggrieved and have standing under Section 8. No. 25 MISC 000064 (Mass. L. Ct., Jan. 5, 2026).

For background, the School Committee received a commercial building permit to construct an accessory storage facility for the Fairhaven High School (the "Project"). Several abutters to the Project appealed the building permit to the ZBA under General Law Chapter 40A, Section 8. The ZBA decided in favor of the abutters and revoked the building permit. The School Committee then appealed the ZBA's decision to the Land Court under General Law Chapter 40A, Section 17, arguing in part that the abutters did not have standing to challenge the building permit under Section 8.

Section 8 creates a right for "persons aggrieved" by building inspector actions that violate the Zoning Act or local zoning bylaw to appeal those actions to the zoning board of appeals. G.L. c. 40A, §§ 8, 14 ("A board of appeals shall have the following powers: (1) To hear and decide appeals in accordance with section eight..."). The Court identified that standing under Section 8 (the "aggrieved" status) is the same as for appeals to courts under Section 17. *Chongris v. Bd. of Appeals of Andover*, 17 Mass. App. Ct. 999, 1000 (1984); *Butts v. Zoning Bd. of Appeals of Falmouth*, 18 Mass. App. Ct. 249, 253 (1984). The Court then specified that to be "aggrieved," a person must suffer a more than minimal or slightly appreciable infringement to a right that the Zoning Act or zoning bylaw protects. *Murchison v. Zoning Bd. of Appeals of Sherborn*, 485 Mass. 209, 213 (2020). Concerns over the visual impact of a proposed structure or the general interest in conforming to zoning are not enough for one to be "aggrieved." *Kenner v. Zoning Bd. of Appeals of Chatham*, 459 Mass. 115, 120 (2011); *Denneny v. Zoning Bd. of Appeals of Seekonk*, 59 Mass. App. Ct. 208, 215 (2003).

Here, the abutters' complaint to the ZBA and pleadings before the Court argued that the Project will create an "aesthetic harm" and that the building did not comply with Fairhaven's Zoning Bylaw. The abutters did not further expand their argument, and so the record reflected no "individualized harms . . . from the construction of the storage facility at the high school, nor . . . how they are collectively or individually aggrieved by the alleged dimensional zoning violations." The alleged harms were not to any interests protected by

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Zoning Act or Bylaw and did not “threaten any injury special and different . . . from the rest of the community.”

Failing to demonstrate specific harms to protected interests, the Abutters were not “persons aggrieved” and did not have standing to appeal to the ZBA under Section 8. The ZBA therefore did not have jurisdiction to hear the abutters’ complaints and issue a decision on the School Committee’s building permit. The Court concluded that the ZBA’s decision exceeded their authority and annulled the decision, allowing the School Committee to move forward with their Project.

This successful case serves as an important reminder for project abutters and zoning practitioners to be wary of standing and particularized injury even at the local level. This case also raises the question of General Law Chapter 40A, Section 17’s new language for standing will apply to standing under Section 8. We have **previously reported** that, as of 2024, Section 17 now requires any third-party challenge to a zoning decision to “sufficiently allege and must plausibly demonstrate... measurable injury... through credible evidence.” The new standard borrows from court decisions interpreting Section 17. And as reviewed above, standing for appeals to ZBAs under Section 8 are the same as for appeals to courts under Section 17. *Chongris*, 17 Mass. App. Ct. at 1000. Several cases evaluating standing under Section 8 since 2024 use the same rebuttable presumption standard that informed Section 17’s new standard, but none expressly apply the new Section 17 language yet. *Byrne v. Mellish*, 33 L.C.R. 422, 424 (2025); *Dibona v. Quincy Zoning Bd. App.*, 32 L.C.R. 376, 379 (2024); see *Bruno v. Kristal*, 32 L.C.R. 640 (2024). RIW’s attorneys will continue to monitor, report, and litigate on this potential crossover and other critical developments in Massachusetts zoning.

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