

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A26-0060**

In the Matter of the Application of Michael Schuster and Lonny Witkofsky for a
Conditional Use Permit.

**Filed August 10, 2026
Appeal dismissed
Ede, Judge**

Itasca County Planning Commission

William M. Burns, Amalia B. Ellison, Hanft Fride, P.A., Duluth, Minnesota (for relators
High Banks Resort, LLC, Tamarack Lodge, and The Pine Resort)

Michael Schuster, Hanover, Minnesota (self-represented respondent)

Lonny Witkofsky, Deer River, Minnesota (self-represented respondent)

Jacob P. Fauchald, Itasca County Attorney, Thomas M. Oja, Assistant County Attorney,
Grand Rapids, Minnesota (for respondent Itasca County Planning Commission / Board of
Adjustment)

Considered and decided by Connolly, Presiding Judge; Worke, Judge; and Ede,
Judge.

NONPRECEDENTIAL OPINION

EDE, Judge

In this certiorari appeal, relators challenge a decision by respondent county planning
commission / board of adjustment to approve respondents permit holders' conditional-use-
permit (CUP) application to operate an access road for commercial ice fishing. We

conclude that relators lack standing because they have not established that they are aggrieved parties. Accordingly, we dismiss this appeal.

FACTS

In August 2025, respondents Michael Schuster and Lonny Witkofsky¹ applied for a CUP to operate an access road for commercial ice fishing on Lake Winnibigoshish, which respondent Itasca County Planning Commission / Board of Adjustment (the commission) denied in September.² The commission nonetheless later voted to hold a public hearing and authorized a 60-day extension to review the application.

Before the public hearing, the commission received several comments. An email submitted by Jeffrey Starck cited concerns that the proposed conditional use was not a “good fit for the neighborhood due to traffic congestion, noise, litter and all the other negative things that go along with large crowds.” Among other things, Starck noted: that six vehicles “went through the ice on [Schuster and Witkofsky’s] roads the first year they were operating”; that Schuster and Witkofsky had posted online comments “blam[ing] . . . legitimate business owners for [a trail] closure” that was purportedly due to their own conduct, and that those “defamatory remarks . . . [had] hurt[] the reputation and business of the legitimate operators”; and that, if the commission was going to approve the application, Starck “hope[d] that [the commission] would first ensure that [Schuster and Witkofsky] secure[d] adequate insurance coverage, proper licensing, and proper tax filings

¹ Neither Schuster nor Witkofsky have filed briefs or otherwise participated in this appeal.

² Schuster and Witkofsky had submitted a similar CUP application in May 2024, which the commission denied in July of that year.

so as not to provide them with a substantial advantage over the businesses that have been following the rules and operating on the lake for decades.” Starck’s comments did not reference relators High Banks Resort, LLC, Tamarack Lodge, and The Pine Resort.

The matter proceeded to a public hearing in November 2025. Tyler Stark³ was present at the hearing and submitted a written statement opposing the application. Stark’s concerns related to Schuster and Witkofsky’s methods of operation, traffic, and safety. In particular, Stark asserted: that he had “worked out on the ice the last three seasons while [Schuster and Witkofsky’s] company ha[d] been operational”; that Schuster and Witkofsky had “intentionally plow[ed] into resort roads with zero communication [while] plowing aimlessly”; that they had “refuse[d] to work with the resorts to coordinate efforts[,] . . . minimize confusion[,] and maximize safety for the public”; and that he “maintain[ed] a property” in the area of the proposed conditional use and had experienced traffic delays of “at least 10 minutes” because of Schuster and Witkofsky’s business operation. But like Starck, Stark did not reference relators in his statement. By a majority vote of three in favor, two against, the commission approved the application, with certain conditions. The commission subsequently issued findings of fact, conclusions of law, a resolution, and an order outlining the reasons for its approval of the application.

This certiorari appeal follows.

³ Relators and the commission refer to Stark—who is not a party to this appeal—as “Tyler Starck.” We use the spelling of Stark’s name as it appears in the record.

DECISION

Relators challenge the commission's decision to approve Schuster and Witkofsky's CUP application to operate an access road for commercial ice fishing. The commission counters that, among other things, relators do not have standing "under the 'injury-in-fact' or 'aggrieved person' rubric" because "they have not demonstrated any cognizable interest in the issuance of the CUP in this matter." In response, relators maintain that they "are aggrieved persons with standing to challenge the commission's decision," including "under the Itasca County Zoning Ordinance" and because they "have independently suffered an injury-in-fact." As explained below, we conclude that relators lack standing because they have not established that they are aggrieved parties.⁴

Appellate courts "require that a party have standing before [they] will exercise jurisdiction." *In re Minn. Racing Comm'n's Approval of Running Aces Casino, Hotel & Racetrack's Request to Amend Plan of Operation*, 30 N.W.3d 285, 290 (Minn. 2026). This is because "standing is essential to a court's exercise of jurisdiction." *In re Block*, 727 N.W.2d 166, 174 (Minn. App. 2007) (footnote omitted) (citing *Annandale Advocate v. City of Annandale*, 435 N.W.2d 24, 27 (Minn. 1989)). "Standing is a legal requirement that a party have a sufficient stake in a justiciable controversy to seek relief from a court." *Running Aces Casino*, 30 N.W.3d at 290 (quotation omitted); *see also Block*, 727 N.W.2d at 174 ("The entity seeking standing must have 'a sufficient stake in a justiciable controversy to seek relief from a court,' and the goal of this requirement 'is to ensure that

⁴ In light of this conclusion, we do not reach the arguments advanced by relators and the commission regarding the merits of the commission's decision to approve the application.

issues before the courts will be vigorously and adequately presented.” (quoting *State by Humphrey v. Philip Morris Inc.*, 551 N.W.2d 490, 493 (Minn. 1996) (some quotation marks omitted))).

“Standing to appeal may be conferred by a statute or by the appellant’s status as an aggrieved party.” *In re Custody of D.T.R.*, 796 N.W.2d 509, 513 (Minn. 2011). It is “well-settled law” that, under Minnesota Rule of Civil Appellate Procedure 120 and Minnesota Statutes section 606.01 (2024), “an aggrieved party has the common law right to petition for a writ of certiorari” when “no right of discretionary review has been provided by statute or appellate rules for the quasi-judicial decision of an administrative agency.” *In re Haymes*, 444 N.W.2d 257, 259 (Minn. 1989); *see also Interstate Power Co. v. Nobles Cnty. Bd. of Comm’rs*, 617 N.W.2d 566, 574 (Minn. 2000) (explaining that a “[r]uling on a [CUP] application is a quasi-judicial act” and that, when “a quasi-judicial zoning decision is made by a county board, it is reviewable by writ of certiorari” (footnote omitted)); *see also Block*, 727 N.W.2d at 177 (“Quasi-judicial decisions by a county board regarding a CUP are reviewable by certiorari to this court.” (citing *Interstate Power Co.*, 617 N.W.2d at 574, 574 n.5) (other citation omitted)). And under the Itasca County Zoning Ordinance, “[a]ny aggrieved person” may obtain judicial review of a CUP decision by writ of certiorari. Itasca, Minn., Zoning Ordinance § 18.4.1 (2025).⁵

⁵ We have also explained that “[a] party has standing if it suffers an injury in fact or if the legislature has conferred standing.” *Block*, 727 N.W.2d at 174 (citing *Humphrey*, 551 N.W.2d at 493; *In re Sandy Pappas Senate Comm.*, 488 N.W.2d 795, 797 (Minn. 1992)). “An injury in fact is a concrete and particularized invasion of a legally protected interest.” *Running Aces Casino*, 30 N.W.3d at 291 (quotation omitted). “A party may establish that an agency action caused them injury in fact based on interference with the party’s

“[S]tatus as an aggrieved party depends on whether there is injury to a legally protected right.” *D.T.R.*, 796 N.W.2d at 513 (quotation omitted). In other words, an aggrieved party is one who is injuriously or adversely affected by a decision that operates on their property rights or bears directly upon their personal interest. *In re Getsug*, 186 N.W.2d 686, 689 (Minn. 1971). A “person must articulate with a degree of clarity some legally cognizable interest of [theirs] which has sustained injury in fact by the agency action—i.e., that [they have] in fact sustained injury to some interest which differs from injury to the interests of other citizens generally.” *Sandy Pappas Senate Comm.*, 488 N.W.2d at 797. But “standing cannot come into existence solely by participation in agency proceedings,” nor can a “mere ‘interest’ in the problem, regardless that the interest is longstanding, . . . confer standing on an individual or organization.” *Id.* at 798. The parties seeking to invoke our jurisdiction bear the burden of demonstrating that they have standing. *See Webb Golden Valley, LLC v. State*, 865 N.W.2d 689, 693 (Minn. 2015) (instructing that the appellant “must establish an injury-in-fact to have standing”).

Here, relators assert that “[t]he record documents particularized injuries to Tamarack Lodge that satisfy [the aggrieved-party] standard” by pointing to Starck’s email and Stark’s written statement. More specifically, relators maintain that Starck is “the owner of Tamarack Lodge,” that Stark is “also of Tamarack Lodge,” and that their comments

competition-restricted environment.” *Id.* Because the Itasca County Zoning Ordinance requires that the party seeking judicial review be aggrieved by the commission’s CUP decision, the considerations in determining whether such a party has standing by legislative enactment “are similar to the considerations of the ‘injury-in-fact’ test for standing.” *Minn. Educ. Ass’n v. Indep. Sch. Dist. No. 404*, 287 N.W.2d 666, 669 (Minn. 1980).

“document concrete and particularized injuries bearing directly on Tamarack Lodge’s property rights and personal business interests.” And relators contend that “[t]he same record facts that establish aggrieved-person standing satisfy the injury-in-fact test as well[,]” arguing that “Tamarack Lodge has a legally protected interest in the undisturbed operation of its commercial business, in the physical accessibility of its property, and in its business reputation.”

But neither Starck’s email nor Stark’s written statement reference relators, let alone their relationship to them. Indeed, rather than discussing relators, the comments generally mention “legitimate business owners,” “legitimate operators,” “businesses,” and unspecified “resort roads” and “resorts.” Relators suggest that “Starck informed the commission that the applicants had been operating unlawfully without the insurance and safety compliance burdens that Tamarack Lodge and other lawful operators carried, giving the applicants a substantial advantage over businesses that had been following the rules for decades.” But Starck’s email merely expresses his “hope” that, if the commission approved the application, it “would first ensure that [Schuster and Witkofsky] secure[d] adequate insurance coverage, proper licensing, and proper tax filings so as not to provide them with a substantial advantage over the businesses that have been following the rules and operating on the lake for decades.” And while relators claim that Stark complained of “impaired ingress and egress to Tamarack Lodge’s property” because of “traffic congestion on Winnie Drive so severe that he had to wait at least ten minutes to leave the road,” Stark stated only that he “maintain[ed] a property” in the area of the proposed conditional use—

not that the property belonged to Tamarack Lodge—and that he had experienced traffic delays of “at least 10 minutes” because of Schuster and Witkofsky’s business operation.

On this record, we are not convinced that relators have met their burden of demonstrating that they have been injuriously or adversely affected by a decision that operates on their property rights or bears directly upon their personal interest. *See Getsug*, 186 N.W.2d at 689; *see also Webb Golden Valley*, 865 N.W.2d at 693. This is because relators have not shown that they have “in fact sustained injury to some interest which differs from injury to the interests of other citizens generally.” *Sandy Pappas Senate Comm.*, 488 N.W.2d at 797. Neither Starck and Stark’s participation in the proceedings before the commission nor relators’ mere interest in any purported problems confer individual or organizational standing on relators. *See id.* at 798. Consequently, we reject relators’ contention that “Tamarack Lodge’s standing, established by . . . [Starck’s email and Stark’s written statement], is sufficient to permit this court to reach the merits of the appeal” and that, “[b]ecause all relators seek the same relief, this court may proceed to the merits without further individualized standing analysis.”

We are similarly unpersuaded by relators’ request that we “consider additional facts bearing on High Banks Resort and The Pine Resort,” i.e., relators’ unsupported allegations of “impaired ingress and egress caused by customer confusion and traffic generated by [Schuster and Witkofsky’s] operation; regulatory asymmetry in insurance requirements that gives the permitted use an unfair cost advantage; reduction in ice stability from unregulated vehicle traffic on areas where relators had determined the ice was not safe for use; and direct customer diversion resulting in reduced business.” These assertions simply

reiterate the generalized statements made by Starck and Stark, without satisfying relators' burden of establishing that High Banks Resort and The Pine Resort, as well as Tamarack Lodge, are aggrieved parties. *See Webb Golden Valley*, 865 N.W.2d at 693. As stated in their reply brief, “[r]elators do not ask this court to expand the record[,]” and they have not supplied any other evidence of their standing.

In sum, we conclude that relators lack standing to challenge the commission's decision to approve Schuster and Witkofsky's CUP application to operate an access road for commercial ice fishing because they have not established that they are aggrieved parties. Because appellate courts “require that a party have standing before [they] will exercise jurisdiction,” we must dismiss this appeal. *Running Aces Casino*, 30 N.W.3d at 290.

Appeal dismissed.