



Town of Carlisle

MASSACHUSETTS 01741

Office of
TOWN CLERK
66 Westford Street
Tel. (978) 369-6155



February 22, 2021

MIDDLESEX,SS:

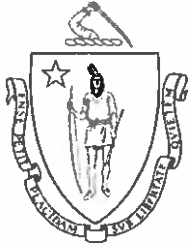
On the above date, I posted an attested copy of the Amendment to the General Bylaws, Article 9, which was approved at the Special Town Meeting convened on October 17, 2020. The article mentioned was approved by Maura Healey, Attorney General, on February 11, 2021 and is posted at the following locations in the Town of Carlisle:

CARLISLE POST OFFICE, TOWN HALL POSTING BOARD, GLEASON PUBLIC LIBRARY VESTIBULE, POLICE STATION, TOWN WEBSITE

CONSTABLE

CLAIMS OF INVALIDITY BY REASON OF ANY DEFECT IN THE PROCEDURE OF ADOPTION OR AMENDMENTS OF THIS BYLAW MAY ONLY BE MADE WITHIN NINETY (90) DAYS PER CHAPTER 40, SECTION 32, OF THE GENERAL LAWS OF THE COMMONWEALTH

MARGARET WANG
TOWN CLERK



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
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ATTORNEY GENERAL

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www.mass.gov/ago

February 11, 2021



Margaret Wang, Town Clerk
Town of Carlisle
66 Westford Street
Carlisle, MA 01741

Re: **Carlisle Special Town Meeting of October 17, 2020 -- Case # 9974**
Warrant Article # 10 (Zoning)
Warrant Article # 9 (General)

Dear Ms. Wang:

Article 9 - We approve Article 9 from the October 17, 2020 Carlisle Special Town Meeting amending the general by-laws to incorporate gender neutral terms.¹

Article 10 – Under Article 10 the Town sought to amend the zoning by-laws by: (1) striking the term “Board of Selectmen” wherever it may appear in the zoning by-laws and inserting the term “Select Board;” and (2) striking the term “Selectmen” wherever it may appear in the zoning by-laws and inserting the term “Select Board.” However, because the zoning amendments adopted under Article 10 were not adopted in compliance with the procedures established by G.L. c. 40A, § 5, we must disapprove and delete Article 10 in its entirety. **(Disapproval # 1 of 1).**

General Law Chapter 40A, Section 5 establishes specific procedure that the Town must follow when amending its zoning by-laws, as follows:

No zoning...by-law or amendment thereto shall be adopted until after the planning board in a...town has...held a public hearing thereon...at which interested persons shall be given an opportunity to be heard...Notice of the time and place of such hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the...town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the...town hall for a period of not less than fourteen

¹ Specifically, Article 9 amends Section 3.1.1 to add text addressing the Select Board’s authority. Article 9 also amends the general by-laws to change: (1) Board of Selectmen to Select Board; (2) Selectmen to Select Board and (3) Chairman to Chair, wherever those terms appear in the general by-laws.

days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting city and town.

The Planning Board did not hold a hearing on the proposed amendments to the zoning by-law or follow any of the notice requirements set forth in G.L. c. 40A, § 5. The Town Clerk confirmed to us in an email that “the Planning Board did not hold any hearings regarding the Article.” (Email from Town Clerk Wang to AAG Caprioli, February 10, 2021). The failure to hold the Planning Board hearing required under G.L. c. 40A, § 5, is a fatal defect that renders the adoption of a zoning by-law amendment inconsistent with state law.² For this reason, we must disapprove and delete the amendments adopted under Article 10. The Town should consult with Town Counsel with any questions on this matter.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

MAURA HEALEY
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4418

cc: Town Counsel Thomas J. Harrington

² Although G.L. c. 40, § 32 (as amended by Chapter 299 of the Acts of 2000), grants this Office the discretion to waive certain defects in the Planning Board notice in certain circumstances, the Attorney General does not exercise that discretion in a situation such as this where the Planning Board did not hold a hearing as required by G.L. c. 40A, § 5.



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EXCERPT OF THE SPECIAL TOWN MEETING HELD SATURDAY, OCTOBER 17, 2020, 10:00 A.M.

CARLISLE PUBLIC SCHOOL PARKING LOT

Pursuant to the Governor's Executive Order concerning open meetings during the COVID-19 crisis, the meeting was held outdoors with the proper distancing and facial coverings of those who attended.

NUMBER OF REGISTERED VOTERS ATTENDING TOWN MEETING

116

Under the authority granted in Section 7(a) of An Act Relative to Municipal Governance During the COVID-19 Emergency, the Board of Selectmen lowered the Meeting quorum requirement pursuant to Town Bylaw Article II Section 2.3 from 150 voters to 75 voters.

ARTICLE 9 – Amend the Carlisle General Bylaws

Barney Arnold

– Selectmen to Select Board:

(Majority Vote)

To see if the Town will vote to amend the General Bylaws as follows:

A. By inserting, to the beginning of Section 3.1.1, the following definition:

1. The term "Select Board" shall mean the "Board of Selectmen." The Select Board shall have all the powers and duties granted to Boards of Selectmen by the Constitution and General Laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be provided by these Bylaws, by the Zoning Bylaws or by Town Meeting vote.

B. By striking the term "Board of Selectmen," wherever it may appear in the General Bylaws, and inserting, in place thereof, the term "Select Board."

C. By striking the term "Selectmen" wherever it may appear in the General Bylaws, and inserting, in place thereof, the term "Select Board."

D. By striking the terms "Chairman" wherever it may appear in the General Bylaws, and inserting, in place thereof, the term "Chair."

or to take any other action related thereto. (BOARD OF SELECTMEN)

(Summary: Passage of Articles 9 and 10 would change any and all references to the term

"Selectmen" in either the General or Zoning Bylaws to the gender-neutral term, "Select Board". Many communities all over the Commonwealth have made this change and the Board believes it is time for Carlisle to do so as well.)

MOTION: Wayne Davis, on behalf of Barney Arnold, moves (seconded from the floor) Article 9 as printed in the warrant and Motions handout.

Selectmen unanimously support this Article (5-0 vote)

MOTION CARRIES UNANIMOUSLY

A TRUE COPY ATTEST.

Margaret Wang

TOWN CLERK

CARLISLE, MASSACHUSETTS