

ATM 33 – ZBA – Amend Charter

minutes from 2/10/16 A&F meeting

Steve Striar, Petitioner, presented ATM Article 33. This article seeks to amend section 3-12-1 of the Town Charter to read as follows: “The Board of Selectmen shall appoint a Zoning Board of Appeals of five members and two associate members for three year overlapping terms. Persons not registered to vote in the town of Plymouth and Representative Town Meeting Members shall not eligible for appointment to or service on the Zoning Board of appeals.”

He pointed out that Chapter 2 Section 12-1 of the Town Charter prohibits town meeting member from serving on the Advisory & Finance Committee and said it part of our Charter for good reason. Among other things, it is meant to place a barrier between those we have elected to make decisions on our behalf and those who serve as their advisors. By this simple act we are able to reduce the likelihood of both real conflicts of interest and the mere appearance of one. Also having ZBA members who are in essence our local judges actively participating as our legislators runs counter o the separation of powers doctrine. Each branch of government has its own certain and separate responsibilities which should not be co-mingled. He also indicated he would request a revision which would delay the implementation of this prohibition, if enacted, for up to one year to allow for a more orderly transition period.

Questions:

- Would this affect any current ZBA members? (E Kusmin) Yes, several members of ZBA are also Town Meeting members.
- Has this been discussed with ZBA? (H Salerno) It has been discussed only briefly with one ZBA member, other than that no.
- Do any other municipalities have the same bylaw? (C Merrill) Could not find any, Plymouth could lead the way.
- If they have to choose between ZBA and Town Meeting they might pick Town Meeting and there isn't a line of qualified people waiting to get on ZBA. (E Kusmin) This should not be about individuals and should not be about lack of volunteers.

Peter Connor, Chair of ZBA, said he is not sure what the problem is. This has never come up before, never been a concern and there has never been a suggestion of any kind of conflict. There is no great reason to do this. He joined Town Meeting 23 years ago and ZBA 15 years ago. He has been reappointed 4-5 times for ZBA and has offered to step down if anyone else is interested in taking his spot, no one wants to. Also why is the ZBA being singled out? If you do it for one board, do it for all including Conservation and the Board of Health, etc.

- Is there a time crunch serving on both? Do meeting schedules conflict? (S Joyce) Mr. Connor answered that being Chair does take a lot of time but that is self employed so has an advantage to setting his own schedule. That Town Meeting only happens twice each year so he can prepare for that and not feel any crunch.
- Will the committee have a mass exodus if this is implemented? (E Kusmin) That should not be the basis for your decision but last time no one new applied and the time before that only 1 applied who had a personal agenda.

Ethan Kusmin made a motion to recommend ATM Article 33 to Town Meeting. Patricia McPherson, second.

Discussion:

- Decisions should be made on what is the right thing to do, not what is the easiest. (P McPherson)
- Advisory & Finance members can't be Town Meeting members. Why is it one board can't and another board like ZBA can? Hard to wrap head around the reason. (S Joyce)
- Would like to see consistency, it is needed in our town government. (B Cavacco)
- You are comparing apples to oranges. Advisory and Finance is part of the Town Meeting branch, we are the eyes and ears of Town Meeting. Can't make blanket statements because not every board is the same. Can not support this article. If a conflict does arise at Town Meeting, ZBA members can recuse themselves from the vote. Can't legislate morality. ZBA is a dedicated, involved and knowledgeable group, if that is disrupted we could end up with trouble. Think it is great that someone so knowledgeable and dedicated serve as a

Town Meeting member as well. (M Sirroco)

- I agree with Mr. Sirroco. Advisory & Finance is an agent of Town Meeting. ZBA is different. With the risk of losing 4 ZBA members, practical implications could be significant. Trying to fix a problem that does not exist may create larger problems. (K Canty)
- ZBA is judiciary. Not aware of any other judge that also sits on boards. I support this article, it makes sense. (M Lincoln)
- It is common to see the same faces serving on 2, 3 or 4 boards. The town should expand its volunteer base and this is a good start. I support this article. (P O'Brien)
- On paper this looks good. I served on the Charter Review Committee and did not hear about any problems with ZBA members also being Town Meeting members. I don't see why we would change it. (S Stephenson)
- If we end up with a ZBA that is incomplete, unqualified, or without institutional knowledge it would be dangerous. I do not support this article. (E Kusmin)
- I can not support this article. I do support separation of powers but it is not practical here given the circumstances. (H Salerno)
- I support it if nothing else but to spur the debate, at some point there is going to be turnover, the town has to get more people involved. This is an opportunity. (P O'Brien)
- What would happen if here was a problem? We should be proactive here. (P McPherson)
- I understand the principle and what Patrick O'Brien and Patricia McPherson are getting at, but there should be a better fix to encourage recruitment of new volunteers. (H Salerno)
- I do not support this. Town Meeting members can be voted out if a problem does arise. This is opening a can of worms. (C Merrill)
- Remember not everyone may resign from ZBA, some might resign from Town Meeting, it could go either way. (S Joyce)

The motion fails (5-8-0). Patricia McPherson, Shelagh Joyce, Betty Cavacco, Mike Lincoln, Patrick O'Brien, in favor.