

## ARTICLE 24:

ARTICLE 24: To see if the Town will vote to authorize the Board of Selectmen to petition the General Court for special legislation to amend the Town Charter as recommended by the Charter Review Committee as follows; provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Board of Selectmen approve amendments to the bill before enactment by the General Court, and authorizing the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition,

Amend Chapter 3-12-1 by deleting the existing section and adding a new Chapter 3-12-1 as follows:

### Section 3-12-1 Zoning Board of Appeals

(a) Composition, Term of Office. There shall be a zoning board of appeals composed of five members elected for terms of 5 years each with their terms consisting of 5 overlapping terms, such that one term expires each year. There may be 3 associate members of the zoning board of appeals appointed jointly by the Board of Selectmen and Zoning Board of Appeals. The terms for the three associate members shall be for 3 year overlapping terms, such that one term expires each year.

(b) Powers and Duties.

The Board of Appeals shall have and exercise all the powers granted to it by G.L. c. 40A, 40B, 41, and by this chapter. The Boards powers are as follows:

(1) To hear and decide applications for special permits. Unless otherwise specified in the Zoning Bylaw, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of G.L. c. 40A, Section 9 and the Zoning Bylaw.

(2) To hear and decide appeals or petitions for variances from the terms of the Zoning Bylaw, with respect to particular land and structures, to act in all matters in accordance with the provisions of G.L. c. 40A, Section 10 and the Zoning Bylaw. The Board of Appeals shall not grant use variances.

(3) To hear and decide appeals taken by any person aggrieved by reason of his or her inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, Section 8 and 15.

(4) To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, Sections 20 to 23.

(c) Existing appointed members of the Zoning Board of Appeals as of the date of enactment of this section may serve out their term. Following the expiration of the terms of the existing appointed members, members of the Zoning Board of Appeals shall be elected. In order to implement section (a) above, the Town Clerk shall be authorized to place on subsequent annual election ballots such full and partial terms as required to result in overlapping terms, with all subsequent terms for each position to be for 5 years. In the event that an appointed member shall vacate his or her office prior to the end of the appointed term, such vacancy shall be filled by the Board of Selectmen and Zoning Board of Appeals in accordance with G.L. c.41, Section 11.

Or take any other action relative thereto.

CHARTER REVIEW COMMITTEE

**RECOMMENDATION: Not Approved (4-8-1)**

The Advisory & Finance Committee recommends Town Meeting NOT approve Article 24.

The majority of the Committee believes, in the final analysis, that an appointed Zoning Board of Appeals better serves the interests of Plymouth and its residents. The basis for that finding is the ability to populate the board with a variety of knowledge and skill sets that ensure the board has a broad and balanced approach to its adjudicatory role – an outcome that may be less probable through an electoral process. Additionally, the Committee believes the expansion of terms from three (3) years to five (5) years, one of the substantial changes that required the committee to re-hear the article, represents a risk to the community – specifically in terms of precedents that may be established by decisions of the ZBA -- should one or more individuals that are ill-suited for the role be elected to the board.

A variety of other arguments raised by both proponents and opponents – generally revolving around the relative ability to influence an elected board member versus an appointed one and the process transparency in populating the board – were not compelling since it seems an appointed official could be influenced as readily as an elected one and that there are pros and cons on the question of transparency in both the electoral and appointment processes.

<b>ADVISORY &amp; FINANCE COMMITTEE - ROLL CALL VOTING CHART</b>																			
<b>ARTICLE</b>		<i>Belinda Brewster Kevin Canty Betty Cavacco Richard Gladdys Harry Helm Shelagh Joyce Ethan Kusmin Mike Lincoln Marcus McGraw Patricia McPherson Christopher Merrill John Moody Patrick O'Brien Harry Salerno Marc Sirrigo</i>															<b>VOTE TOTAL</b>		
																	<b>FOR-AGAINST-ABSTAIN</b>		
<b>24</b>	Charter Review - Elect ZBA	N	N	Y	Y	N	Y	N	A	X	N	N		Y	N	N	<b>4 - 8 - 1</b>		

## Plymouth Charter Review Committee 2015

### **ARTICLE 24:**

To see if the Town will vote to amend Chapter 3-12-1 as follows:

**3-12-1** ~~The Board of Selectmen~~ Town of Plymouth shall ~~appoint~~ elect a Zoning Board of Appeals of five (5) members and two (2) associate members for three-year (3) overlapping terms.

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The Zoning Board of Appeals is currently appointed by the Board of Selectmen. The Selectmen are more likely to appoint members to the Zoning Board who support the development preferences, of the current Board of Selectmen and who may have assisted them in the election process. (This does not suggest it happens with the current board but does give the appearance it can.), not the entire community at large. Therefore, if a majority of the Selectmen are pro development or anti- development it is likely that citizens appointed to the Zoning Board will have similar views of the current appointing authority.

In contrast, elected Zoning Board members will tend to have preferences that are consistent with a majority of over 60,000 Plymouth citizens, not just three members (number of votes currently needed for the Selectmen to appoint) of the Board of Selectmen. The current appointment system is flawed as there is no confirmation process through the legislative branch of our current system of government.

The advantage to an elected zoning board is that they would be loyal to the people. By being a member of an adjudicate board and one of the most important boards in the Town of Plymouth it is important they answer to the voting public not the appointing authority. A judiciary board has power, prestige and influence over the zoning bylaws. The zoning board should be elected and represent the people who are affected by their decisions, this would ensure the elected members ultimately answer to the people they serve and not the appointing authority. Elections of board members involve the people in the judicial form of our government as our founding fathers suggested. Through the election process, debates and discussion will help the public understand the judicial process. The election of the board would keep them honest, fair, impartial and only beholden to the people who elect them and not the appointing authority. The zoning board should have autonomy as it relates to important decisions affecting the residents of our entire community.

### CHARTER REVIEW COMMITTEE 2015

- Tom Baratka
- Tiffany Cessero
- Tim Grandy
- Karen Keane, Committee Clerk
- Mike Lincoln, Committee Chair
- Douglas O'Roak, Committee Vice Chair
- Anita M. Rocheteau
- Craig Sander
- Scott Stephenson