

TOWN OF BELMONT
WARRANT FOR 2006
ANNUAL TOWN MEETING
APRIL 24, 2006
7:30 P.M.
BELMONT HIGH SCHOOL AUDITORIUM



2006

**TOWN OF BELMONT
WARRANT FOR 2006 ANNUAL TOWN MEETING
APRIL 24, 2006
COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss.

To either of the Constables in said County:

Greetings:

In the name of the Commonwealth of Massachusetts you are required to notify and warn the Inhabitants of the Town of Belmont, qualified as the law requires to vote in elections and Town Affairs, to meet at the Belmont High School Auditorium on MONDAY, APRIL 24, 2006, at 7:30 P.M., and to notify and warn the Town Meeting Members to meet and act at said time and place on the following Articles, viz:

ARTICLE 1: Reports

To hear the report of the Selectmen and other Town Officers. To hear the report of any Committee heretofore appointed and to act thereon.

This article accepts the reports of Town departments appearing in the Annual Town Report and allows the Board of Selectmen and other town officers, boards and committees to report orally to the Town Meeting on appropriate matters not otherwise appearing on the Warrant. This article stays "on the table" throughout the Town Meeting to allow town officials and committees to report when necessary.

Majority vote required for passage Yes _____ No _____

No action is necessary by the Warrant Committee.

ARTICLE 2: Authorization to Represent Town's Legal Interests

To see if the Town will authorize the Selectmen to bring and defend actions for and against the Town, to submit any such claims to arbitration and to enter into settlement on account of the same in behalf of the Town, as and when they deem it for the best interest of the Town so to do.

This article is traditional and authorizes the Board of Selectmen to represent the Town's legal interests. This authority is clearly identified in the Massachusetts General Laws and the General By-laws of the Town of Belmont.

Majority vote required for passage Yes _____ No _____

The Warrant Committee recommends approval.

ARTICLE 3: Authorization to Transfer Balances

To see if the Town will authorize the transfer of certain balances on the Treasurer's books and Accountant's books.

This article authorizes the transfer of balances from various sources necessary to achieve the Town's financial plan for Fiscal Year 2007 (the Budget) as contained in Article 5.

Majority vote required for passage Yes _____ No _____

The Warrant Committee and Capital Budget Committee will report orally on this Article.

ARTICLE 4: Budget Appropriation

To determine what sums of money shall be granted to pay Town expenses for the fiscal year beginning July 1, 2006 and to make the necessary appropriations for the same for the support of schools and for other Town purposes, determine how the same shall be raised, or in any way act thereon.

This article is the appropriation of the Town's Fiscal Year (FY) 2007 budget, commencing on July 1, 2006. Typically, the Budget is broken down into several major categories of expenditures, each requiring a separate vote of Town Meeting.

Majority vote(s) required for passage Yes _____ No _____

The Warrant Committee will report orally on this Article.

ARTICLE 5: GIS Bond De-Authorization

To see if the Town will vote to rescind the unused borrowing authority in the amount of \$56,250 that was appropriated under Article 10 of the June 13, 2005 Special Town Meeting for acquisition of a GIS mapping and modeling application, or to do or act thereon.

This article formally rescinds the authority to borrow funds that were not needed for the GIS mapping project. The Town received a grant from the MWRA for \$56,250, lessening the amount that was borrowed.

Majority vote required for passage Yes _____ No _____

The Warrant Committee recommends approval.
The Capital Budget Committee will report orally on this Article.

This is a standard article appearing in the Warrant. Classification and compensation of all permanent Town (non-school) positions are included in a plan adopted by Town Meeting pursuant to section 108A of Chapter 41 of the Massachusetts General Laws. The classification and compensation of unionized employees is bargained collectively and inserted into the Plan. In 2000, the Town completed a study of the classification of all Town employees, except for civil service police officers and firefighters. The new Plan was bargained with affected Town unions and implemented. The new Plan is posted on the Town's web site and will be distributed to Town Meeting Members at Town Meeting. The compensation reflects current (FY 2006) rates unless noted. Funds necessary to implement changes associated with the Plan are included within the budget.

Majority vote required for passage Yes _____ No _____

The Warrant Committee will report orally on this article.

ARTICLE 11: Appropriation of Capital Expenditures

To see if the Town will vote to appropriate sums of money to purchase Public Safety Equipment, Computer Equipment (including consulting work), Public Works Equipment and Furnishings and Equipment for Town Facilities, construct public ways, and for Building and Facility and Public Works Construction, Major Maintenance and Alterations (including design work); to determine whether these appropriations shall be raised by borrowing or otherwise and by whom expended, or in any way act thereon.

This is a standard article appearing on the Warrant to appropriate funds to support capital expenditures. While the article is general as to the categories of capital expenditures, the motion shall be explicit. The recommendations of the Capital Budget Committee for FY 2006 capital expenditures will be provided in advance of the June Town Meeting.

Majority vote required for passage (two-thirds if borrowing) Yes _____ No _____

The Warrant Committee and the Capital Budget Committee will report orally on this article.

ARTICLE 12: Appropriation for Water and Sewer and Stormwater Services

To see if the Town will vote to appropriate a sum of money from the accounts classified as an "Enterprise Fund", pursuant to Chapter 44, Section 53F½ of the General Laws for water service, and for sewer and stormwater service, determine by whom expended, or in any way act thereon.

This is a standard article appearing on the Warrant to appropriate funds to support the operations of the Town's water and sewer functions. Each of these functions has an enterprise fund that receives revenues from user fees. These funds then are used to fund the utility's operations. These operations are entirely self-supporting from user fees and do not receive any funding from property taxes.

Majority vote required for passage (two-thirds for borrowing) Yes _____ No _____

The Warrant Committee will report orally on this Article.

ARTICLE 13: Authorization of Expenditure from Revolving Funds

To see if the Town will vote, pursuant to Chapter 44, Section 53E½, of the General Laws, to authorize the expenditure from revolving funds by various Town Departments, or in any way act thereon.

This article seeks authorization to establish a revolving fund(s) for certain operations of the Town. A revolving fund allows the expenditure of user fees for program expenses without further Town Meeting appropriation. However, the Town Meeting must annually renew the funds. At this time, the Board of Selectmen and Warrant Committee are considering the use of revolving funds for programs of the Council on Aging, the Board of Health, and the Belmont Gallery of Art located on the top floor of the Homer Town Hall Annex Building.

Majority vote required for passage Yes _____ No _____

The Warrant Committee will report orally on this Article.

ARTICLE 14: Roads Stabilization Fund

To see if the town will vote, pursuant to Chapter 40, Section 5B of the Massachusetts General Laws, to establish a special purpose stabilization fund for road, street, and sidewalk capital projects and maintenance; and further to raise and appropriate the sum of \$3 million for said fund, or to do or act thereon.

This article would allow the creation of a new special purpose stabilization fund for the reconstruction of the Town's major roadways. This fund would be created using \$3 million in additional tax revenue from a Proposition 2 1/2 override authorized by the voters specifically for this purpose in the April 3, 2006 Town election. In the fund, balances are carried over from year to year and interest income remains in the fund. The Selectmen must vote annually to appropriate money to the fund.

Two-thirds vote required for passage Yes _____ No _____

The Warrant Committee and Capital Budget Committee will report orally on this Article.

ARTICLE 15: Veterans' Benefits Act Acceptance

To see if the town will vote to adopt the provisions of Sections 1 and 2 of Chapter 157 of the Acts of 2005, providing that M.G.L. c.32 Section 7 accidental disability retirees in Groups 1,2 and 4 who are veterans as defined in M.G.L. c.4, Section 7, clause 43 as amended by Chapter 166 of the Acts of 2004, will receive an additional yearly retirement allowance of fifteen dollars for

Section 1. *As used in this act, the following words shall have the following meanings:-*

“GASB 43 and 45”, Statements 43 and 45 of the Governmental Accounting Standards Board as amended from time to time and their successors

“Other Postemployment Benefits”, (OPEB) – Postemployment benefits other than pensions as that term is defined in GASB 43 and 45 including postemployment healthcare benefits, regardless of the type of plan that provides them, and all postemployment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

Section 2. *(a) There shall be in the Town of Belmont an OPEB Trust Fund, which shall be under the supervision and management of the town’s contributory retirement board established under paragraph (b) of subdivision (4) of section 20 of chapter 32 of the General Laws. The town treasurer shall be the custodian of the OPEB Trust Fund and may employ an outside custodial service.*

(b) Beginning in fiscal year 2008, the OPEB Trust Fund shall be credited with all amounts appropriated or otherwise made available by the town for the purposes of meeting the current and future OPEB costs payable by the town. The OPEB Trust Fund shall be credited with all amounts contributed or otherwise made available by employees of the town for the purpose of meeting future OPEB costs payable by the town. Amounts in the OPEB Trust Fund, including any earnings or interest accruing from the investment of these amounts, shall be expended only for the payment of the costs payable by the town for OPEB in consultation with the town’s contributory retirement board. Subject in each instance to the approval of the town’s contributory retirement board, the town treasurer shall invest and reinvest the amounts in the OPEB Trust Fund not needed for current disbursement consistent with the prudent person rule, but no funds may be invested directly in mortgages or in collateral loans. The OPEB Trust Fund shall be subject to the public employee retirement administration commission’s triennial audit.

(c) The board may employ any qualified bank, trust company, corporation, firm or person to advise it on the investment of the OPEB Trust Fund and may pay from the OPEB Trust Fund for such advice and such other services determined by the town’s contributory retirement board. Procurement for these services shall be subject to the procurement procedures and rules followed by the town’s contributory retirement board for services to the town’s contributory retirement system.

(d) If any civil action is brought against a member of the retirement board, the defense or settlement of which action is made by an attorney employed by the retirement board, the member shall be indemnified for all expenses incurred in the defense of this action and shall be indemnified for damages to the same extent as provided for public employees in chapter 258 of the General Laws if the claim arose out of acts performed by the member or members while acting within the scope of his official duties, but no member of a retirement board shall be indemnified for expenses incurred in the defense of an action, or damages awarded in an action, in which there is shown to be a breach of fiduciary duty, an act of willful dishonesty or an intentional violation of law by the member.

The Warrant Committee recommends approval.

ARTICLE 22: Home Rule Petition - Authorization for the Town of Belmont to Hold a Referendum on a License for the Retail Sale of Alcoholic Beverages

To see if the Town will vote to authorize and direct the Board of Selectmen to petition the General Court for the enactment of a special law in the following form, provided the General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of the petition:

HOME RULE PETITION FOR BELMONT

AN ACT AUTHORIZING A BALLOT QUESTION IN THE TOWN OF BELMONT RELATIVE TO THE GRANTING OF LICENSES FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES.

Be it enacted by the Senate and the House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding sections 11, 11A, and 17 of chapter 138 of the General Laws or any other special or general law to the contrary, the selectmen of the town of Belmont shall cause to be placed on the official ballot used for the election of officers in the town of Belmont at the Annual Town Meeting to be held in the year 2007 the following question:

“Shall the board of selectmen be authorized to grant licenses for the sale of all alcoholic beverages not to be drunk on the premises, provided that not more than one such license shall be in effect?”

Yes _____

No _____”

If the majority of the votes cast in town in answer to said question is in the affirmative, the town shall be taken to have authorized the sale in said town of all alcoholic beverages not to be drunk on the premises, provided, however, that not more than one such license shall be in effect. The license shall be subject to all the other provisions of said chapter 138 of the General Laws.

SECTION 2. The board of selectmen shall include a summary of the aforesaid question on the ballot with said question.

SECTION 3. This act shall take effect upon its passage.

or in any way act thereon.

ARTICLE 25: Wetlands Protection By-Law

To see if the Town will vote to add a new By-law to the Belmont General By-laws as follows:

Article 31

Belmont Wetlands Protection By-Law

31.1 Purpose

The purpose of this By-Law is to maintain the quality of surface water, the quality and level of the ground water table and water recharge areas for existing or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundation; and to provide for the reasonable protection and conservation of irreplaceable natural features, resources, and amenities for the benefit and welfare of the present and future inhabitants of the Town of Belmont.

This By-Law is intended to protect additional resource areas, for additional values, with additional standards and procedures to augment those of the Wetlands Protection Act, Chapter 131, Section 40, of the General Laws and Regulations thereunder.

Therefore this By-Law protects the wetlands, water resources, flood prone areas, and adjoining land areas in the Town by controlling activities deemed by the Belmont Conservation Commission likely to have a significant effect, immediate or cumulative, upon resource area values including, but not limited to, the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, and recreation values deemed important to the community (collectively, the "resource area values protected by this By-Law").

31.2 Definitions

The following definitions shall apply in the interpretation and implementation of this By-Law:

31.2.1 Alter

The term "alter" shall include, without limitation, the following activities when undertaken to, upon, within, or affecting resource areas protected by this By-Law:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind;*
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;*
- C. Drainage, or other disturbance of water level or water table;*
- D. Dumping, discharging, or filling with any material which may degrade water quality;*

E. Placing of fill, or removal of material, which would alter elevation;

F. Driving of piles, or erection, expansion, or repair of buildings or structures of any kind;

G. Placing of obstructions or objects in water;

H. Destruction of plant life including the cutting of trees;

I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters;

J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater including without limitation any activities which may cause surface water runoff contaminated with sediment, chemicals, or animal waste; and

K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this By-Law.

31.2.2 Bank

The term "bank" shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

31.2.3 Land subject to flooding or inundation

Land subject to flooding or inundation shall mean land within the estimated maximum lateral extent of flood water which will theoretically result from the statistical 100-year frequency storm, said boundary shall be that determined by reference to the most recently available flood profile data prepared for the geographical area including Belmont within which the work is proposed under the National Flood Insurance Program ("NFIP"). Where NFIP data are unavailable or outdated, the boundary of said land shall be based on the maximum lateral extent of floodwater which has been observed or recorded, or other evidence presented and considered by the Commission. Said land shall also include isolated areas which frequently or seasonally hold standing water; such areas may or may not be characterized by wetland vegetation or soil characteristics.

31.2.4 Person

The term "person" shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town By-Laws, administrative agency, public or quasi-public corporation or body, this Town, and any other legal entity, its legal representatives, agents, or assigns.

31.2.5 Pond

The term "pond" shall follow the definition of the Wetlands Protection Act Regulations.

31.2.6 Rare Species

The term "rare species" shall include, without limitation, all vertebrate and invertebrate animal and all plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless of whether the site in which they occur has been previously identified by the Division.

31.2.7 Vernal Pool

The term "vernal pool" shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas, or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be 100 feet outward from the mean annual high-water line defining the depression, but shall not include existing lawns, gardens, landscaped, or developed areas.

31.2.8 Consistency with Wetlands Protection Act

Except as otherwise provided in this By-Law or in associated regulations of the Commission, the definitions of terms and procedures in this By-Law shall be as set forth in the Wetlands Protection Act, Chapter 131, Section 40, of the General Laws and Regulations thereunder.

31.3 Jurisdiction

Except as permitted by the Commission or as provided in this By-Law, no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas: any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, intermittent streams, lakes, ponds, and lands under water bodies: lands adjoining these resources (except vernal pools) out to a distance of 100 feet, known as buffer zone; perennial rivers, streams, brooks and creeks: lands adjoining these resource areas out to a distance of 200 feet, known as the riverfront area; lands subject to flooding or inundation by groundwater or surface water (collectively the "resource areas protected by this By-Law"). Said resource areas shall be protected whether or not they border surface waters.

The jurisdiction of this By-Law shall not extend to uses and structures of agriculture that enjoy the rights and privileges of law and regulations of the Commonwealth governing agriculture, including work performed for normal maintenance or improvement of land in agricultural uses as defined by the Wetlands Protection Act Regulations, found at 310 CMR10.04.

Nor, for a period of six years from the effective date of this By-law, shall this By-law apply in any way to any development projects located within the McLean District established pursuant to the Town of Belmont Zoning By-law.

31.4 Exemptions and Exceptions

31.4.1 Agriculture

The application and permit required by this By-Law shall not be required for work performed for normal maintenance or improvement of land which is lawfully in agricultural use as defined by the Wetlands Protection Act Regulations.

31.4.2 Utilities

The application and permit required by this By-Law shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sanitary sewer system, storm water drains, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

31.4.3 Emergency Project

The application and permit required by this By-Law shall not be required for emergency projects necessary for the protection of the health and safety of the public, provided that: the work is to be performed by or has been ordered to be performed by an agency of the Commonwealth of Massachusetts, hereinafter referred to as "the Commonwealth" or a political subdivision thereof; provided that advance notice, oral or written, has been given to the Commission prior to commencement of work or within 24 hours after commencement; provided that the Commission or its agent certifies the work as an emergency project; provided that the work is performed only for the time and place certified by the Commission for the limited purposes necessary to abate the emergency; and provided that within 21 days of commencement of an emergency project a permit application shall be filed with the Commission for review as provided by this By-Law. Upon failure to meet these and other requirements of the Commission, the Commission may, after notice and a public hearing, revoke or modify an emergency project approval and order restoration and mitigation measures.

31.4.4 Exceptions

Other than stated in this section the exceptions provided in the Wetlands Protection Act, GLC131, Section 40, and its regulations thereunder at 310 CMR 10.00 et seq. shall not apply under this By-Law; however the Minor Activities stated in those Regulations shall apply under this By-Law

31.5 Applications and Fees

31.5.1 Application

Written application shall be filed with the Commission to perform activities affecting resource areas protected by this By-Law. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this By-Law. No activities shall commence without receiving and complying with a permit issued pursuant to this By-Law.

The Commission in an appropriate case may accept as the application and plans under this By-Law any application and plans filed under the Wetlands Protection Act, Chapter 131, Section 40, of the General Laws and Regulations thereunder, but the Commission is not obliged to do so.

31.5.2 Request for Determination of Applicability

Any person desiring to know whether or not a proposed activity or an area is subject to this By-Law may in writing request a determination from the Commission. Such a Request for Determination of Applicability (RDA) or Abbreviated Notice of Resource Area Delineation (ANRAD) filed under the Act shall include information and plans as are deemed necessary by the Commission.

31.5.3 Filing Fee

At the time of an application, the applicant shall pay a filing fee specified in Regulations of the Commission. The fee is in addition to that required by the Wetlands Protection Act and Regulations.

31.5.4 Consultant Fee

Pursuant to General Laws Chapter 44 Section 53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon applicants for the purpose of securing outside consultants including engineers, wetlands scientists, wildlife biologists or other experts in order to aid in the review of proposed projects. Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account and expenditures may be made at the sole discretion of the Commission.

Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide applicants with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is

mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or expenses. The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and DEP of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the Board of Selectmen who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and it must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

31.6 Notice and Hearings

31.6.1 Notice

Any person filing a permit or other application or RDA , ANRAD or other request with the Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters.

An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a determination is other than the owner, the request, the notice of the hearing, and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

31.6.2 Public Hearing

The Commission shall conduct a public hearing on any permit application, RDA, or ANRAD with written notice given at the expense of the applicant, at least five business days prior to the hearing in a newspaper of general circulation in the Town.

The Commission shall commence the public hearing within 21 days from receipt of a completed permit application, RDA, or ANRAD unless an extension is authorized in writing by the applicant.

The Commission shall issue its permit, other order, or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission in an appropriate case may combine its hearing under this By-Law with the hearing conducted under the Wetlands Protection Act, Chapter 131, Section 40, of the General Laws and Regulations thereunder.

31.6.3 Continuation of Hearing

The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in Section 31.7.

31.7 Coordination with Other Boards

At the request of the Commission, any person filing a permit application, Notice of Intent (NOI), ANRAD or RDA with the Commission, or any amendment thereof, shall provide a copy thereof, at the same time, by certified mail (return receipt requested) or hand delivery, to the Board of Selectmen, Board of Appeals, Planning Board, Board of Health, or Town Engineer, or to such other Town boards and officials as the Commission or its administrator may request. A copy shall be provided in the same manner to the Conservation Commission of the adjoining municipality, if the application or RDA pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

31.8 Permits and Conditions

31.8.1 Issuance of Permit

If the Commission, after a public hearing, determines that the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect upon the resource area values protected by this By-Law, the Commission, within 21 days of the close of the hearing, shall issue or deny a permit for the activities requested. The Commission shall take into account the extent to which the applicant has avoided, minimized and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities.

If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be done in accordance with those conditions.

Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing. The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

31.8.2 Denial of Permit

Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this By-Law. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this By-Law.

The Commission may deny a permit if the applicant has not submitted all components related to the proposed project, including but not limited to utilities, roadways, and sewers. The project shall not be segmented to avoid review of its total impact.

The Commission shall in no event be required to accept an application until all permits required by Town boards have been applied for.

31.8.3 Presumptions

In reviewing activities within the buffer zone the Commission shall presume the buffer zone is important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss of wildlife habitat.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this By-Law, has proved by a preponderance of the evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no

significant adverse impact on the areas or values protected by this By-Law. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g. residential, institutional, commercial, or industrial,) logistics, existing technology, costs of the alternatives and overall project costs.

The Commission establishes a no-alteration zone of the first 25 feet of the 100-foot buffer zone where no alteration is allowed during or after the work and landscaping limits are clearly identified. The Commission may require strips of continuous, undisturbed vegetative cover within the 100-foot area, or other form of work limit or setback to buildings, roads, landscaping, and other features, unless the applicant convinces the Commission that the area or part of it may be disturbed without harm to the values protected by the By-Law.

The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards.

31.8.4 Avoidance of Resource Area Loss or Alteration

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible, minimize alteration, and, where alteration is unavoidable, and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with specific plans, proper safeguards, adequate security, professional design, and professional monitoring and reporting to assure success, because of the high likelihood of failure of replication.

31.8.5 Wildlife Habitat

The Commission may require a wildlife survey and wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision shall be based upon the Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife corridors in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations.

31.8.6 Vernal Pools

The Commission shall presume that all areas meeting the definition of "vernal pools" under Section 31.2 of this By-Law, including the adjacent area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential habitat functions. Any formal evaluation should be performed by an individual who at least meets the qualifications set out in the wildlife habitat section of the Wetlands Protection Act Regulations.

31.8.7 Expiration of Permit

A permit, Determination of Applicability, or Order of Resource Area Delineation (ORAD) shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed once for an additional one year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

31.8.8 Revocation of Permit

For good cause the Commission may revoke any permit, Determination of Applicability, or ORAD, or any other order, determination, or other decision issued under this By-Law after notice to the holder of the permit, the public, abutters, and Town boards, pursuant to Section 31.6 and Section 31.7, and after a public hearing. Amendments to Permits or Determinations or ORADS shall be handled in the manner set out in the Wetlands Protection Act Regulations and policies thereunder.

31.8.9 Coordination of Permit with Order of Conditions

The Commission in an appropriate case may combine the decision issued under this By-Law with the Order of Conditions, ORAD, Determination of Applicability, or Certificate of Compliance issued under the Wetlands Protection Act and Regulations.

31.8.10 Recording of Permit

No work proposed in any application shall be undertaken until the Permit, ORAD, or Determination of Applicability issued by the Commission with respect to such work has been recorded in the Registry of Deeds or, if the land affected is registered land, in the Registry Section of the Land Court for the district wherein the land lies, and until the holder of the Permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a Certificate of Compliance.

31.9 Regulations

After public notice and public hearing, the Commission shall promulgate rules and regulations to effectuate the purposes of this By-Law, effective when voted and filed with the Town or Town Clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this By-Law.

At a minimum these regulations shall reiterate the terms defined in this By-Law, define additional terms not inconsistent with the By-Law, and impose filing and consultant fees.

31.10 Security

As part of the permit issued under this By-Law, in addition to any security required by any other municipal or state board, agency, or official, the Commission may require that the performance and observance of the conditions imposed thereunder including conditions requiring mitigation work be secured wholly or in part by one or both of the methods described below:

A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a Certificate of Compliance for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this Town whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

31.11 Enforcement

31.11.1 Prohibition

No person shall remove, fill, dredge, build upon, degrade, or otherwise alter resource areas protected by this By-Law, or cause, suffer, or allow such activity, or leave in place unauthorized fill, or otherwise fail to restore illegally altered land to its original condition, or fail to comply with a permit or an enforcement order issued pursuant to this By-Law.

31.11.2 Entry on Property

The Commission, its agents, officers, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this By-Law and may make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitutions and laws of the United States and the Commonwealth.

31.11.3 Enforcement

The Commission shall have authority to enforce this By-Law, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, enforcement orders under the Town's non-criminal disposition section of the General By-Laws (Section 20.12), pursuant to citations under Chapter 40, Section 21D, of the General Laws, and civil and criminal court actions. Any person who violates provisions of this By-Law may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Board of Selectmen shall take legal action for enforcement under civil law.

Municipal boards and officers shall have authority to assist the Commission in enforcement.

31.11.4 Fine

Any person who violates any provision of this By-Law, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the By-Law, regulations, permits, or administrative orders violated shall constitute a separate offense.

31.12 Burden of Proof

31.12.1 Preponderance of Evidence

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this By-Law. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

31.13 Appeals

A decision of the Commission shall be reviewable in the superior court in accordance with Chapter 249, Section 4, of the General Laws.

31.14 Relation to the Wetlands Protection Act

31.14.1 Home Rule Authority

This By-Law is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act, Chapter 131, Section 40, of the General Laws and Regulations thereunder. It is the intention of the By-Law that the purposes, jurisdiction, authority, exemptions, exceptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and Regulations.

31.15 Severability

31.15.1 Invalidity

The invalidity of any section or provision or phrase of this By-Law shall not invalidate any other section or provision or phrase thereof, nor shall it invalidate any permit, approval, or determination which previously has been issued.

or in any way act thereon.

This proposed general by-law seeks to augment the state's Wetlands Protection Act by expanding the definition of wetland areas under the Conservation Commission's authority and increasing protection of those areas.

Majority vote required for passage Yes _____ No _____

The By-Law Review Committee will report orally on this article.

ARTICLE 26: Senior Property Tax Deferral

To see if the town will vote to reduce the rate of interest that accrues on property taxes deferred by eligible seniors under chapter 59, section 5, Clause 41A of the Massachusetts General Laws from 8% per year to 4½ %, or take any other action thereon.

Majority vote required for passage Yes _____ No _____

The Warrant Committee will report orally on this Article.

ARTICLE 27: Home Rule Petition – Modification of Authorization to Institute Quarterly Tax Billing

To see if the Town will vote to authorize the Board of Selectmen to file a home rule petition with the General Court in the following form, provided the General Court may only make clerical or editorial changes of form to the bill, unless the Board of Selectmen approves amendments to the bill before enactment by the General Court; and to authorize the Board of Selectmen to approve amendments which shall be within the scope of the general public objectives of this petition:

AN ACT AUTHORIZING THE MODIFICATION OF THE FORM OF PROPERTY TAX BILLING IN THE TOWN OF BELMONT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Section 1 (g) of chapter 195 of the Acts of 2004 is hereby amended by inserting, after the words, "November 1" following: - or 30 days after the date of mailing, whichever is later,

Section 2. Section 1(g) of chapter 195 of the Acts of 2004 is further amended by inserting at the conclusion of the section the following: - A real estate tax bill sent out for fiscal year 2006 or any subsequent period pursuant to this act shall contain a statement that there exists a delinquency if any tax, betterment assessment or apportionment thereof, water rate, annual sewer use, or other charge which may constitute a lien is overdue more than 90 days.

- b. Delete from "Setback" the phrase "... or projection of two feet or less such as belt courses, chimneys, eaves, gutters, sills, pilasters, lintels, or ornamental features...." so that the definition reads as follows:

"Setback - An area open to the sky, located between a street or other property line and any structure or element thereof other than a fence, wall, or other customary yard accessory. Setback is measured perpendicular to the street or property line."

- c. Delete the definition for SPGA in its entirety and insert a new definition as follows:

"Special Permit Granting Authority (SPGA) – The Board specifically designated in this Zoning By-Law to act upon a particular Special Permit. Where no Board is specifically designated herein for a particular Special Permit, the Board of Appeals shall act as the Special Permit Granting Authority."

2. Section 3.1, "General Requirements"

Under "SP (Special Permit)", delete the phrase "Board of Appeals as provided hereafter" and insert the phrase "designated Special Permit Granting Authority" as follows:

"SP (Special Permit) - Use allowed under a Special Permit by the designated Special Permit Granting Authority."

3. Section 3.3, "Schedule of Use Regulations"

- a. Under "Public and Semi-Public", separate "Day care center and family day care home" into two separate uses with "Day care center" permitted ("Y") in all districts and "Family day care home" permitted by Special Permit ("SP") in all districts except prohibited ("N") in the PL district as follows:

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LBI	LBII	LBIII	GB	PL
<u>PUBLIC AND SEMI-PUBLIC</u>								
Day care center	Y	Y	Y	Y	Y	Y	Y	N
Family day care home	SP	SP	SP	SP	SP	SP	SP	N

- b. Under "Accessory Uses", delete the phrase "none of which shall exceed 150 square feet of floor area or a height of 10 feet" from "noncommercial greenhouse, tool shed..." and add a reference to Section 4.3.5 as follows:

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LBI	LBII	LBIII	GB	PL

USES	DISTRICTS							
	SR-A,B,C,D	GR	AH	LBI	LBII	LBIII	GB	PL
ACCESSORY USES A noncommercial greenhouse; a tool shed used for the storage of tools, yard and household equipment or other similar accessory buildings (see §4.3.5)	Y	Y	Y	N	N	N	Y	N

4. Section 4.2.2, "Schedule Footnotes, Footnote 8"

Delete footnote 8) in its entirety and insert a new footnote 8) as follows:

"8) Ornamental features, such as belt courses, chimneys, eaves, gutters, sills, pilasters, or lintels, may project up to two feet into the side yard setback."

5. Section 4.3.5, "Location of Accessory Buildings"

Delete the section in its entirety and replace it with the following new Section 4.3.5 "Accessory Buildings":

"4.3.5 Accessory Buildings

a. General Requirements

1. Except as provided in subsection c.2 below, a private one-story garage for not more than three automobiles, a noncommercial greenhouse, or a tool shed used for the storage of tools, yard and household equipment, or other similar accessory buildings, may be built to within five feet of the side line and rear line of the lot and to within five feet of the principal building to which it is accessory.
2. An accessory building or structure shall be on the same lot as the principal building to which it is accessory.
3. A garage shall have a vehicular access from the street.

b. Dimensional Regulations

1. Accessory Buildings shall not exceed the following –
150 square feet of floor area (660 square feet for a garage) or
a height of 10 feet (15 feet for a garage)
2. Accessory Buildings shall be setback at least five feet from the side line and rear line of the lot and five feet from the principal building to which it is accessory.

c. Rear Yard Restrictions

1. *A garage accessory to a dwelling shall cover not more than 40% of the rear yard of the lot. The rear yard for this provision is defined as the area between a line obtained by extending the rear line of the dwelling to each of the sidelines of the lot and the rear line of the lot.*
2. *If any part of the garage is forward of the rear line of the dwelling, the garage shall conform to the setback, sideline and rear line requirements for a dwelling in the district in which the garage is located.*
3. *Additions to existing dwellings may extend beyond the front line of existing unattached garages provided said additions meet the requirements for setback, sideline, rearline setbacks and lot coverage and open space requirements for the respective zoning district.*

d. Satellite Antennae

1. *Satellite antenna with a receiving dish with a visually coherent surface of 8.5 square feet or less or a diameter of one meter or less may be built:*
 - i. *no closer than 5 feet from any lot line or*
 - ii. *on the structure to which it is accessory provided it is at least 5 feet from any lot line and,*
 - iii. *if pole mounted, is not more than 10 feet above the adjacent grade.*
2. *Satellite antenna with a receiving dish with a visually coherent surface of more than 8.5 square feet or over one meter in diameter may be built:*
 - i. *no closer than 5 feet from the rear and side lines of a lot and*
 - ii. *not within the required front setback of the lot.*
 - iii. *Any satellite dish located within a commercial or industrial zone and adjacent to a residential district shall be no closer than the required setbacks in that district."*

6. *Sections 5.2.4.b) 1), "Attached Signs", and 5.2.4.b) 3), "Standing Signs"*

Substitute "Planning Board" for "Board of Selectmen" in both sections so that the sections read as follows:

"1) Attached Signs. One sign for each exterior wall of an establishment if such wall faces a public way, private way, or contains a public entrance. The area of the sign may not exceed the lesser of 10% of the wall area of such establishment or 65 square feet (12 square feet if projecting perpendicular to the wall). The Planning Board may grant a Special Permit authorizing more than one identifying sign on an exterior wall

provided that the aggregate area of such signs does not exceed the limits set forth herein.”

“3) Standing Signs. The Planning Board may grant a Special Permit for erection of a standing sign not to exceed 30 square feet in area or 15 feet in height above the ground if it finds that the sign complies with the purposes of this By-Law. The Special Permit shall specify the size, type, and location of the sign and impose such other terms and conditions as deemed necessary to promote the purposes of this By-Law. Such signs shall be permitted for a term not to exceed five years, which may be renewable if so specified in the Special Permit.”

7. *Section 6.6, “Floodplain District”*

Delete Section 6.6.3, District Delineation and insert at the end of Section 2 as Section 2.4, Floodplain District Delineation and renumber the remaining sections in Section 6 accordingly.

8. *Section 6.6.2, “Definitions”*

Insert the phrase “Unless otherwise defined below, the terms used throughout this section shall have the meaning as defined by 780 CMR” at the beginning of the section and delete from the Section all terms that are presently “defined by 780 CMR” so that the revised Section 6.6.2 will read as follows:

“Unless otherwise defined below, the terms used throughout this section shall have the meaning as defined by 780 CMR.

- *AREA OF SPECIAL FLOOD HAZARD is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, V1-30, VE, or V.*
- *DEVELOPMENT means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.*
- *DISTRICT means floodplain district.*
- *FLOOD BOUNDARY AND FLOODWAY MAP means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done in 1987 and later, the floodway designation is included on the FIRM.)*
- *FLOOD HAZARD BOUNDARY MAP (FHBM) means an official map of a community issued by FEMA where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A or E.*

General Residence/Local Business I to GENERAL RESIDENCE -
430 Common Street (6 – 178), 135-137 Trapelo Road (12 – 129)

Local Business III to GENERAL RESIDENCE
7 Ericsson Street (1 – 3)

General Residence/General Business to GENERAL RESIDENCE
15 Pearl Street (29 – 108), 17-19 Prince Street (29 – 118), 27 Waverley Terrace (29 – 97)

Single Residence C/Local Business III to SINGLE RESIDENCE C
65 Beckett Road (20 – 6), 4 Dana Road (21 – 123), 8 Dana Road (21 – 124), 12 Dana Road (21 – 125), 16 Dana Road (21 – 126), 328 Pleasant Street (45 – 42A), 367 Pleasant Street (46 – 58), 330 Pleasant Street (45 – 43)

Single Residence C/Local Business I to SINGLE RESIDENCE C
14 Cushing Avenue (6 – 232), 20 Cushing Avenue (6 – 231), 6 Willow Avenue (5 – 103)

General Residence/Single Residence C/Local Business III to SINGLE RESIDENCE C
55-57 Beckett Road (20 – 7)

General Residence/Local Business I to LOCAL BUSINESS I
531R Belmont Street (5 – 130), 490-492 Common Street (5 – 127), 494-500 Common Street (5 – 128), 375 Concord Avenue (35 – 35), 60 Trapelo Road (5 – 160), 112 Trapelo Road (12 – 211)

Single Residence C/Local Business I to LOCAL BUSINESS I
9-11 Alexander Avenue (34 – 171), 432-444 Common Street (6 – 176), 527 Common Street (12 – 233), 54 Leonard Street (34 – 164A), 60-62 Leonard Street (34 – 165), 66 Leonard Street (34 – 166), 68 Leonard Street (34 – 167), 18 Moore Street (34 – 13), 3-5 Williston Road (12 – 212)

General Residence/Local Business III to LOCAL BUSINESS III
137-143 Belmont Street (1 – 17), 143-145 Belmont Street (1 – 39A), 147-151 Belmont Street (1 – 38A), 185-187 Belmont Street (1 – 105), 271-275 Belmont Street (2 – 141), 275-285 Belmont Street (2 – 167), 258 Blanchard Road (22 – 133), 280 Blanchard Road (22 – 126), 2 Brighton Street (22 – 127), 12 Brighton Street (22 – 128), 16-18 Brighton Street (22 – 131), 26 Brighton Street (22 – 132), 55 Brighton Street (39 – 27), 67 Concord Avenue (22 – 64), 81-85 Concord Avenue (22 – 63), 82 Concord Avenue (21 – 72), 90 Concord Avenue (21 – 73), 19 Flett Road (14 – 36), 11 Grove Street (1 – 116), 5-9 Lexington Street (33 – 13), 11 Lexington Street (33 – 12), 29 Lexington Street (33 – 10), 5 Newton Street (2 – 139), 3 Oxford Avenue (1 – 38), 6 Springfield Street (2 – 88), 32 Trapelo Road (5 – 154), 40-42 Trapelo Road (5 – 156), 256 Trapelo Road (14 – 227), 263 Trapelo Road (14 – 40), 264-276 Trapelo Road (14 – 228), 276-278 Trapelo Road (14 – 231), 363-365 Trapelo Road (27 – 1), 367-393 Trapelo Road (27 – 25), 395 Trapelo Road (27 – 26), 397-399 Trapelo Road (27 – 53)

Single Residence B /Local Business III to LOCAL BUSINESS III
325-329 Pleasant Street (46 – 38), 363 Pleasant Street (46 – 59)

Single Residence C/Local Business III to LOCAL BUSINESS III
334 Pleasant Street (45 – 44), 368 Pleasant Street (44 – 20)

Apartment House/Local Business III to LOCAL BUSINESS III
45 Brighton Street (39 – 68), 55 Brighton Street (39 – 27)

- b. To see if the Town will vote to amend the Zoning By-law of the Town by deleting Section 2.3.3, “Dividing Existing Lots” in its entirety.

This article seeks to eliminate split zoned lots by amending the Town’s Zoning Map by re-zoning such lots and by deleting the corresponding section from the Zoning By-law.

Two-thirds vote required for passage Yes _____ No _____

The Planning Board will report on this Article.

ARTICLE 30: Amendment to Zoning By-law: Historic Accessory Building Preservation

To see if the Town will vote to amend the Zoning By-law of the Town as follows:

1. Section 1.4, “Definitions and Abbreviations”

Insert a new definition for “Accessory Dwelling Unit” between “Accessory building” and “Accessory Use” as follows:

“Accessory Dwelling Unit – A dwelling unit which is incidental to the use of the principal single family dwelling on the same lot and located in a Historic Accessory Building pursuant to a Special Permit issued under Section 6.11 of this By-Law.”

2. Section 3.4.2, “Home Occupations”

Delete the phrase “(but not its accessory buildings)” at the beginning of the Section and insert the substitute phrase: “but are not permitted in accessory buildings unless permitted in a Historic Accessory Building pursuant to Section 6.11” so that the first part of the Section will read as follows:

“Home occupations are permitted within a dwelling but are not permitted in accessory buildings unless granted a Special Permit pursuant to Section 6.11.”

3. Section 6. “Special Regulations”

At the end of Section 6, add a new Section, "Section 6.11, Historic Accessory Building Preservation", as follows:

"6.11 Historic Accessory Building Preservation

6.11.1 Purpose

The purpose of this Section is to promote the preservation of unique Historic Accessory Buildings by permitting their adaptive reuse for uses that may not otherwise be permitted under this Zoning By-law, thereby making their functional preservation and restoration feasible.

6.11.2 Definition

A "Historic Accessory Building" is an accessory building such as a free-standing barn, greenhouse or carriage house built before 1921, which is located on the same lot as the principal building to which it is accessory, and which is either:

- a) listed on the Inventory of the Historic and Archaeological Assets of the Commonwealth as maintained by the Massachusetts Historic Commission; or*
- b) listed on the National Register or State Register of Historic Places; or*
- c) specifically designated as a "Historic Accessory Building" by the Belmont Historic District Commission, using the criteria for evaluation established for determining eligibility for the National Register of Historic Places.*

6.11.3 Applicability

The Planning Board may grant a Special Permit for the reuse of a Historic Accessory Building in any residential district of the Town, allowing the adaptation of such Building for use as one accessory dwelling unit, or for a home occupation.

6.11.4 Procedure

- a) An Application for a Special Permit under this Section shall comply with the procedures and requirements set forth in Section 7.4 of this Zoning By-law, and the Planning Board's Special Permit Regulations:*
- b) Upon receipt of an Application, the Planning Board shall forward a copy of the Application to the Historic District Commission for its review and recommendations concerning the proposed exterior treatments of the Building, including such things as windows, roofing and siding materials, and landscaping. Such recommendations shall include: (1) the Commission's assessment as to whether the proposed reuse and associated exterior alterations would adversely affect the historic landscape or the architectural and historic integrity of the principal building or the Historic Accessory*

Building itself; and (2) specific conditions which the Commission believes should be imposed on the Special Permit in order to prevent any adverse effects. Failure of the Historic District Commission to provide recommendations to the Planning Board within thirty-five (35) days of the Commission's receipt of the Application shall be deemed a lack of opposition thereto.

- c) *The Planning Board may issue a Special Permit under this Section only if it finds that the proposed reuse and any related building alterations and site development meet all of the applicable Special Permit criteria set forth in Section 7.4, and*
- 1) *are generally in harmony with the neighborhood;*
 - 2) *will neither generate excessive traffic, parking, noise or density impacts on the abutters, nor create other detrimental effects on the neighborhood;*
 - 3) *will preserve and/or restore the original architectural features of the Building to the maximum extent practicable;*
 - 4) *will not adversely affect the historic landscape or the architectural and historic integrity of the principal building or the Historic Accessory Building itself; and*
 - 5) *will not result in any enlargement or relocation of the Historic Accessory Building.*
- d) *If the Historic Accessory Building is proposed to be used for a home occupation, the Planning Board must find that the following criteria are or will be met in addition to the criteria set forth in Section 6.11.4(c):*
- 1) *There will be no exterior display or visible storage of supplies or equipment to be used on or off the premises, or other variation from the residential character of the premises;*
 - 2) *Not more than one person who is not a member of the household will be employed on the premises;*
 - 3) *There will be no production of offensive noise, vibration, odors, fumes, smoke, dust or other particulate matter, heat, humidity, glare, or other objectionable effects;*
 - 4) *No articles will be sold or offered for sale on the premises;*
 - 5) *Traffic generated, including pick up and deliveries, will not exceed that normally expected in the residential neighborhood in which the Historic Accessory Building is located; and*
 - 6) *All parking will be provided on-site, and not within a required front yard.*

- e) *If the Historic Accessory Building is proposed to be used for an accessory dwelling unit, the Planning Board must find that the following criteria are or will be met in addition to the criteria set forth in Section 6.11.4 (c):*
 - 1) *The accessory dwelling unit use will be incidental to the ownership and use of the principal single-family dwelling on the same lot; and*
 - 2) *The accessory dwelling unit or the principal single-family dwelling will be occupied by the owner of the subject premises, except for bona fide temporary absences.*

6.11.5 Conditions of Approval

In granting a Special Permit under this Section, the Planning Board may impose such conditions, safeguards and limitations on time or use that it determines to be appropriate to assure compliance with the applicable criteria set forth in Section 6.11.4 including, but not limited to conditions:

- a) *requiring continued ownership of the subject building by the Applicant until and unless a change in ownership is approved by the Planning Board;*
- b) *specifying the required number of on-site parking spaces and their location;*
- c) *limiting the business operations of a home occupation, such as the number of patrons/clients visiting the premises, hours of operations, and hours and location of deliveries;*
- d) *requiring installation of additional landscaping;*
- e) *requiring continuing maintenance of landscaping;*
- f) *requiring a restrictive covenant to be imposed on the subject property, prohibiting the division or reduction in size of the lot on which the Historic Accessory Building is located.*

6.11.6 Nonconforming Historic Accessory Buildings

Any exterior or interior alteration to a preexisting nonconforming Historic Accessory Building made pursuant to a Special Permit issued under this Section shall be deemed not to constitute an "alteration to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent" requiring consideration and a Special Permit by the Board of Appeals under Section 1.5.3.

6.11.7 Compliance with Applicable By-Laws

Except as expressly provided in this Section, the grant of a Special Permit for the reuse of a Historic Accessory Building shall not relieve the applicant from the need to comply with all other applicable Town By-laws and Regulations.

or to do or act thereon.

This article seeks to amend the Town's Zoning By-law to promote the preservation of unique Historic Accessory Buildings by permitting their adaptive reuse for home occupation or accessory dwelling uses that may not otherwise be permitted under the Zoning By-law.

Two-thirds vote required for passage Yes _____ No _____

The Planning Board will report on this Article.

ARTICLE 31: Amendment to Zoning By-law: Corner Setback

To see if the Town will vote to amend the Zoning By-law of the Town by deleting Section 4.3.7, "Corner Setback" in its entirety and inserting the following new text:

"4.3.7 Corner Setbacks for Fences and Other Landscaping

a) Corner lots and intersecting streets

- 1. No building or structure in any district may be erected and no fence and no vegetation, except tree trunks, may be maintained or allowed to remain between a height of three feet and eight feet above the plane through their center line grades between the property lines of intersecting streets and a line joining points on such lines 20 feet distant from their point of intersection or, in the case of a rounded corner, the point of intersection of their tangents.*
- 2. However, in a Local Business I, Local Business II, Local Business III or General Business District, no part of a building shall be built closer to the point of intersection of right-of-way lines than 10 feet.*

b) Driveways and Sidewalks or other pavement

No fence and no vegetation, except tree trunks, shall be located within a site triangle so as to obstruct visibility between a height of three feet and a height of eight feet above the plane through their curb grades. The site triangle is that area at the intersection of street rights of way or pavement with other streets, driveways or walkways, formed by the side lines of street rights of way or pavement, driveways or walkways and a line joining points on such lines ten feet distant from their point of intersection."

or to do or act thereon.

This article seeks to amend the Town's Zoning By-law to prohibit the installation of plantings, tall fences or other landscaping materials at the edge of driveways

and sidewalks or corners in a way that impairs visibility and creates a safety hazard.

Two-thirds vote required for passage Yes _____ No _____

The Planning Board will report on this Article.

ARTICLE 32: Amendment to Zoning By-law: Nonconforming Structures

Under Section 1.5.3 entitled nonconforming structures after section b. add the following:

The Zoning Board of Appeals may grant a special permit to add an additional non-conforming use in a two family residential structure if the initial nonconforming use is for professional office space and the additional nonconforming use is for residential use, provided that the additional use is not substantially more detrimental to the character of the district in which the property is located.

This article seeks to amend the Town’s Zoning By-law to authorize the granting of a special permit for a specific type of nonconforming use in a two-family residence.

Two-thirds vote required for passage Yes _____ No _____

The Planning Board will report on this Article.

ARTICLE 33: Amendment to Zoning By-law: Nonconforming Uses

To see if the Town will vote to amend the Zoning By-law of the Town by adding at the end of Section 1.5.2 (“Nonconforming Uses”) the following text:

The Board of Appeals may grant a special permit to add an additional non-conforming use in a two family residential structure only if the existing nonconforming use is for professional office space and the additional nonconforming use is for residential use, and if it determines that such additional nonconforming use shall not be substantially more detrimental than the existing nonconforming use to the neighborhood and that it shall be in keeping with the character of the district in which the property is located.

or to do or act thereon.

This article seeks to amend the Town’s Zoning By-law to authorize the granting of a special permit for a specific type of additional nonconforming use in a two-family residence.

Two-thirds vote required for passage Yes _____ No _____

The Planning Board will report on this Article.

ARTICLE 34: Disposition of Harvard Lawn Fire Station Property

To see if the Town will vote to transfer, pursuant to Chapter 40, Section 15A of the General Laws, to the Board of Selectmen the care, custody, management, and control of the real property known as the Harvard Lawn Fire Station shown on Assessors' Map 10, Parcel 79A, to be held for the purpose of conveyance, such transfer to be effective on the date the Fire Department vacates the Harvard Lawn Fire Station, and to authorize the Board of Selectmen to sell or otherwise dispose of said real property, in accordance with Chapter 30B of the General Laws, on such terms and conditions as the Board of Selectmen determine to be in the best interests of the Town, or to do or act thereon.

This article authorizes the Board of Selectmen to sell the Harvard Lawn Fire Station building and land for redevelopment.

Two-thirds vote required for passage

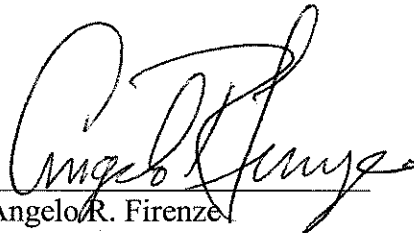
Yes _____ No _____

Given under our hands this 3rd day of April, 2006.

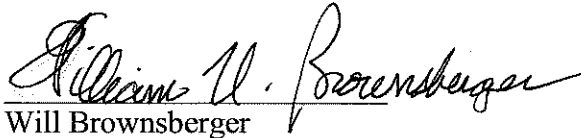
BOARD OF SELECTMEN



Paul Solomon



Angelo R. Firenze



Will Brownsberger

