

TOWN OF BROOKLINE

ADVISORY COMMITTEE

PLANNING AND REGULATION SUBCOMMITTEE

ARTICLE 17: ELECTION DAY SIGNS

The Planning and Regulation Subcommittee convened a public hearing on Monday, September 14, at 7 p.m. via Zoom to consider WA 17. The hearing was duly noticed. Present were P&R members Steve Kanés (chair), Ben Birnbaum, David Pollak, Carlos Ridruejo, Lee Selwyn, and Neil Wishinsky. Also: petitioner Neil Gordon, TMM (10) Scott Ananian, and Patricia Correa, first assistant Town counsel.

Warrant Article 17 would regularize the display of Election Day signs on Town property and public ways adjacent to polling places. At present, the Town has no by-law pertaining specifically to the placement of Election Day signs. The current relevant by-law runs one paragraph within Article 5.8, which deals with the general regulation of signs. The paragraph reads: “No person shall erect, display or maintain a temporary or permanent sign upon any property owned by the Town of Brookline or upon the public way of any other governmental body.”

State law, by contrast, under Title 8, chapter 54, Section 65, “Activities at Polling places: Regulations; Penalties,” treats Election Day as a special matter: “[No] poster, card, handbill, placard, picture or circular intended to influence the action of the voter shall be posted, exhibited, circulated or distributed in the polling place, in the building where the polling place is located, on the walls thereof, on the premises on which the building stands, or within 150 feet of the building entrance door to such polling place.”

As anyone who has voted in Brookline will know, both the state law and the law under Brookline’s Article 5.8 are generally flouted and, except when a complaint is registered, ignored by those in charge of enforcement. By adding some 75 words to the Town by-law, WA 17 first offers a definition of an “Election Day sign.” Then, drawing from state law, it proposes regulations regarding such signs. These regulations would limit the display of Election Day signs on public property to no closer than 150 feet from a polling place, and no further from the polling place than 500 feet. Additionally, signs could only be posted beginning at sunset on the evening prior to Election Day and would be considered abandoned property when the polls close. The WA also notes that such signs may not interfere with public order or safety.

The WA also proposed that Election Day signs should be allowed within 500 feet of a school or library that isn’t a polling place, and “at any other place.”

Discussion

The intention of the WA 17 petitioner is to bring order and legality to Election Day signage by inserting an exception for Election Day into the current sign by-law and by defining the terms of

sign placement on that day. WA 17 also brings Brookline into conformance with state regulations.

The major points raised by P&R members were:

- 1) That “the location of the polling place” is not sufficiently precise to serve as the point from which measurements would be taken. It was suggested that the article be amended to include the language within state law—which references the polling place’s “building entrance”. The petitioner had no objection to this amendment.
- 2) While recognizing the virtue of the petitioner’s intent to generally promote Town elections by permitting sign posting elsewhere in Town on Election Day, the subcommittee found the expansion of sign posting privileges too broad, possibly leading to a unsightly profusion of Election Day signs on Town property, the removal of which would place a new burden on DPW. It was also noted that under State law, the posting of signs on Election Day could not legally be restricted to signs related to the election but would be applicable to commercial signs so long as they observed the strictures as to size, place and time of placement. It was suggested that the words “(ii) within 500 feet of a school or library which is not a polling place, and (iii) at any other place” be removed from the article. The petitioner had no objection to this amendment.

The matter of who would be responsible for enforcement was also raised, to which the petitioner responded that the Town Clerk’s Office, the DPW, or the BPD could be notified regarding violations.

In favor of WA 17, it was noted by several P&R members that the proposed by-law would permit a routine Brookline practice currently illegal under Town and State law.

The P&R sub-committee voted 5-0 in favor. of WA 17, as amended.

WA 17 as amended on 9/14/20 by P&R subcommittee

ARTICLE ELECTION DAY SIGNS

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To see if the Town will vote to amend Article 5.8, Sections 5.8.2 and 5.8.3, of the General By-laws, as follows (additions in **bold underline**; deletions in ~~strike-through~~):

SECTION 5.8.2 DEFINITIONS

Election: A regular Town election, a Town special election, or any general or special State election or primary.

Election Day sign: Any non-illuminated sign not more than 24 inches in height, 30 inches in width, and one inch in depth.

Sign: Any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or writing to advertise, attract attention to or announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

For the purposes of this by-law, the term "sign" shall not include the following:

- i. Official traffic control devices required, maintained, or installed by a Federal, State or local governmental agency.
- ii. Town of Brookline government signs, and signs permitted by the Town on Town property.
- iii. Building markers indicating the name of a building and date and incidental information about its construction, which marker is cut into a masonry surface or made of other permanent material.
- iv. Flags, holiday lights and decorations.

SECTION 5.8.3 SIGNS

Signs shall be permitted as regulated and permitted by the Zoning By-law. The Zoning By-law is incorporated herein by reference.

No person shall erect, display or maintain a temporary or permanent sign upon any property owned by the Town of Brookline or upon the public way of any other governmental body, **except that temporary Election Day signs may be erected, displayed and maintained (i) within 500 feet but no closer than 150 feet of the building entrance to the door of a polling place, (ii) within 500 feet of a school or library which is not a polling place, and (iii) at any other place, from sunset on the night prior to an Election until the closing of the polls for such Election, at which time any such Election Day signs shall be considered abandoned.**

Election Day signs shall not interfere with any traffic control device, any Town of Brookline government sign, or any sign permitted by the Town, and no such sign shall be erected in a manner that obstructs a public way or is a hazard to public safety.

Or take any other action relative thereto.