

ARTICLE 27

**MOTION OFFERED BY LINDA OLSON PEHLKE, TMM 2 AND  
JONATHAN J. MARGOLIS, TMM 7**

MOVED: TO REFER THE SUBJECT MATTER OF ARTICLE 27 AND FURTHER HOUSING RELATED ZONING CHANGES TO A SELECT BOARD PLANNING AND ZONING OVERSIGHT COMMITTEE

WHEREAS, discussion of Article 27 has revealed that its subject matter is substantially more complex than many members of Town Meeting had realized; and

WHEREAS, the Article could have significant and long-term effects upon the Town that may not be well-anticipated; and

WHEREAS, additional zoning amendments concerning residential parking requirements and housing are being contemplated, which are unavoidably interrelated to the Article; and

WHEREAS, the current pandemic creates particular uncertainty over the way in which Brookline will change and develop over the next five to ten years,

NOW, THEREFORE, the subject matter of Article 27 (Micro-Unit Dwellings), and the other special housing uses created within the Emerald Island Special District Zoning (Age restricted and Live/Work), as well as residential parking requirements, and housing generally, which are unavoidably interrelated to the subject matter of Article 27, shall be referred to a SELECT BOARD appointed PLANNING AND ZONING OVERSIGHT COMMITTEE. The charge to the Committee shall include recommending and commencing a process for Brookline to systematically complete a comprehensive plan update and zoning review process, with such funding as shall be necessary to complete the process. An interim report shall be delivered to Town Meeting before the Fall 2021 Special Town Meeting.

PETIONERS EXPLANATION

In the run-up to Town Meeting, Article 27 was proven to be multi-faceted and more complex than initially thought. Several different motions were put forward by the Advisory Committee Sub-Committee on Planning and Regulation, due in part to shifting interpretations of the original Emerald Island Special District by-law, as well as an

alternative motion preferred by the Planning Board. In addition, Planning Department staff had their own areas of concern.

During the vetting process of Article 27, it became apparent that the Town would benefit from a more comprehensive analysis of the potential impacts, potential benefits and unintended consequences of adopting the proposal as written. It also became apparent that in combination with the other zoning amendment proposals currently being contemplated, such as removal of residential parking requirements, possible zoning incentives for fossil fuel free construction, and significant housing production (as contemplated by WA 34), the Town needed to be able to assess these proposals comprehensively, to understand their consequences and long-term impacts on Brookline's built environment.

When larger scaled development has occurred during the past 30-plus years, Brookline has been able to negotiate significant developer monetary and other types of contributions that aid in mitigating the impacts of that development and contribute to the enhancement of our infrastructure, public realm, neighborhoods, Town services and affordable housing. To facilitate the continuation of that process, the Brookline community needs to proactively identify those target areas, including infrastructure, public realm, parks and nature areas, etc. for which we should seek contributions. It is also vital that the Town work to determine the priorities of the wider community, including our residents, businesses, non-profits, employees, cultural institutions, and Brookline Housing Authority, who historically have been left out of our planning processes. It is time for Brookline to take the first steps toward equipping ourselves with the regulatory tools and strategies to put us in the driver's seat, as opposed to merely reacting to development proposals.

As proposed, a newly formed Select Board-appointed Planning and Zoning Oversight Committee would be charged with determining the appropriate elements and framework to comprehensively identify primary goals and priorities for Brookline's built environment and landscapes. It is anticipated that this would involve significant public participation. The Committee will also be charged with identifying the necessary scope of work, process time line, personnel and financial resources, and consulting services needed to translate the previously identified Town priorities into appropriate zoning by-law proposals. Town staff and prior planning studies will be utilized to inform this work. The Committee will work with and inform the work of the Housing Advisory Board and other Town Boards and Commissions who are involved in independent planning studies. The process of additional data collection, analysis, scenario testing and drafting by-law proposals will be initiated within one year of the start of the Committee's work.

The goal of this committee will be to comprehensively analyze and balance the community's many competing goals and priorities that relate to the built environment.

ARTICLE 27

**MOTION OFFERED BY CHRIS DEMPSEY, TMM6**

MOVED: That the subject matter of Warrant Article 27 (Micro Unit Dwellings) shall be referred to the Planning Department for development of a revised Warrant Article to be considered at the 2021 Annual Town Meeting.

ARTICLE 28

**AMENDMENT TO THE ADVISORY COMMITTEE MOTION  
OFFERED BY REP. TOMMY VITOLO**

MOVED: To delete the following paragraph from Section 2.1.14, Mandatory Educational Training for Town Meeting Members, of the Advisory Committee motion:

Further, all Town Meeting Members shall attend a fiscal educational training seminar within six months of becoming a Town Meeting Member, and thereafter at least once every three years. Such seminars will address financial information about both the Town and the Public Schools of Brookline, and will be organized at least annually by the Chair of the Advisory Committee and supported by Town Staff, members of the Advisory Committee, and other knowledgeable parties. This Article shall not apply to Town Meeting Members who have fulfilled the training requirements set forth in Article 3.20.

ARTICLE 28

**AMENDMENT TO THE ADVISORY COMMITTEE MOTION  
TO BE CONSIDERED BY THE SELECT BOARD ON 11/30**

MOVED: To amend the Advisory Committee motion as follows:

1. Delete the word “MANDATORY” from the title of 2.1.14, so that the following remains:

SECTION 2.1.14 EDUCATIONAL TRAINING FOR TOWN MEETING MEMBERS

2. Substitute the second paragraph (containing “Further, all Town Meeting Members shall, within one hundred and twenty (120) ... attend a fiscal educational training ...”) with the following text:

Further, twice annually, all Town Meeting Members shall be offered a fiscal educational training seminar addressing financial information about both the Town and the Public Schools of Brookline, organized by the Chair of the Advisory Committee and supported by Town Staff, members of the Advisory Committee, and other knowledgeable parties.

3. Replace the words “Compliance and Non-Compliance” with the word “attendance” in the third paragraph (containing “Within one week ... Town website”) so that the text is:

Within one week of the conclusion of any training session identified in this section, the training session organizer shall transmit in writing the names of all attendees to the Office of the Town Clerk. The Office of the Town Clerk shall then update within four weeks the Public Record of attendance by Town Meeting members, which should be publicly accessible on the Town website.

These sections have been marked up against the AC motion as follows: (additions in **bold and underlined**, deletions ~~bolded and struck~~)

SECTION 2.1.14 ~~MANDATORY~~ EDUCATIONAL TRAINING FOR TOWN MEETING MEMBERS

~~Further, all Town Meeting Members shall attend a fiscal educational training seminar within six months of becoming a Town Meeting Member, and thereafter at least once every three years. Such seminars will address financial information about both the Town and the Public Schools of Brookline, and will be organized at least annually by the Chair of the Advisory Committee and supported by Town Staff,~~

~~members of the Advisory Committee, and other knowledgeable parties. This Article shall not apply to Town Meeting Members who have fulfilled the training requirements set forth in Article 3.20.~~

**Further, twice annually, all Town Meeting Members shall be offered a fiscal educational training seminar addressing financial information about both the Town and the Public Schools of Brookline, organized by the Chair of the Advisory Committee and supported by Town Staff, members of the Advisory Committee, and other knowledgeable parties.**

~~Within one week of the conclusion of any training session identified in this section, the training session organizer shall transmit in writing the names of all attendees to the Office of the Town Clerk. The Office of the Town Clerk shall then update within four weeks the Public Record of Compliance and Non-Compliance by Town Meeting members, which should be publicly accessible on the Town website.~~

**Within one week of the conclusion of any training session identified in this section, the training session organizer shall transmit in writing the names of all attendees to the Office of the Town Clerk. The Office of the Town Clerk shall then update within four weeks the Public Record of attendance by Town Meeting members, which should be publicly accessible on the Town website.**

A clean version of the motion is as follows:

MOVED: That the Town he Town will amend its Section 2.1.14 and its Article 2.2 and its Article 3.20 of its General By-Laws to establish a fiscal education requirement for all Town Meeting Members, Advisory Committee Members and other elected officials and individuals appointed to any Board or Commission that has or could reasonably be expected to have input into any matter affecting the financial situation of the Town.

#### **SECTION 2.1.14 EDUCATIONAL TRAINING FOR TOWN MEETING MEMBERS**

All Town Meeting Members shall, within one hundred and twenty (120) days after the effective date of this by-law for Town Meeting Members incumbent on that date, and within one hundred and twenty (120) days after their initial election for Town Meeting Members elected subsequent to that date, complete the on-line Conflict of Interest Law training provided by the State Ethics Commission. In the alternative, Town Meeting Members may attend an educational training seminar hosted by the Office of Town Counsel. This Article shall not apply to Town Meeting Members who have fulfilled the training requirements set forth in Article 3.20. Town Meeting Members shall not be required to receive such training more than once, unless they are otherwise required to do

so as special municipal employees under the provisions of G.L. c. 268A. This by-law provision became effective on May 1, 2016.

Further, twice annually, all Town Meeting Members shall be offered a fiscal educational training seminar addressing financial information about both the Town and the Public Schools of Brookline, organized by the Chair of the Advisory Committee and supported by Town Staff, members of the Advisory Committee, and other knowledgeable parties.

Within one week of the conclusion of any training session identified in this section, the training session organizer shall transmit in writing the names of all attendees to the Office of the Town Clerk. The Office of the Town Clerk shall then update within four weeks the Public Record of attendance by Town Meeting members, which should be publicly accessible on the Town website.

#### **Article 2.2.2 TERMS OF APPOINTMENT**

Members shall hold office from July 1st, in the year of their appointment, for three-year staggered terms and until their successors are appointed. All vacancies shall be filled by the Moderator for the unexpired remainder of the term of the appointee's predecessor. A member of the Committee shall cease to be a member upon the occurrence of any of the following events:

1. Removal of residence from the Town of Brookline.
2. Absence from seven or more duly called and held meetings of the Committee during any year of the member's term, considering each period from July 1 to the following June 30 as a year for this purpose.

A member of the Committee who is a Town Meeting Member shall cease to be a member of the Committee effective the 30th day of June following the occurrence of any of the following events:

1. Removal of residence from the precinct from which [they were] elected a Town Meeting Member.
2. Failure of re-election as a Town Meeting Member.
3. Expiration of term as a Town Meeting Member.

Upon ascertaining that any of events 1-5 has occurred, the Chairman of the Committee shall notify the Secretary of the Committee who shall give written notice to the member in question. A copy of such notice shall be sent promptly to the moderator.

Further, all Advisory Committee Members shall, within one hundred and twenty (120) days after the effective date of this by-law for Advisory Committee Members incumbent on said effective date, and within one hundred and twenty (120) days after their initial appointment he Advisory Committee subsequent to said effective date, attend a fiscal educational training seminar. Such seminars will address financial information about both the Town

and the Public Schools of Brookline, and will be organized at least annually by the Chair of the Advisory Committee and supported by Town Staff, members of the Advisory Committee, and other knowledgeable parties. This Article shall not apply to Advisory Committee members who have fulfilled the training requirements set forth in Article 3.20. Advisory Committee Members shall be required to receive such training at least every three years.

#### **ARTICLE 3.20.2 MANDATORY EDUCATIONAL TRAINING**

All Elected and Appointed Officials shall within one hundred and twenty (120) days before or after their election or appointment to a Committee or Subcommittee, attend an educational training seminar hosted by the Office of Town Counsel which shall include the requirements of the Open Meeting Law and Conflict of Interest Law. In the alternative, members may meet with Town Counsel, or a member of his/her staff, to receive such information and training.

Further, all Elected and Appointed Officials appointed to any Board or Commission that has or could reasonably be expected to have input into any matter affecting the financial situation of the Town shall, within one hundred and twenty (120) days after the effective date of this by-law if incumbent on said effective date, and within one hundred and twenty (120) days after their initial election or appointment subsequent to said effective date, attend a fiscal educational training seminar. Such seminars will address financial information about both the Town and the Public Schools of Brookline, and will be organized at least annually by the Chair of the Advisory Committee and supported by Town Staff, members of the Advisory Committee, and other knowledgeable parties. Elected and Appointed Officials appointed to any Board or Commission that has or could reasonably be expected to have input into any matter affecting the financial situation of the Town shall be required to receive such training at least every three years.

If any portion or provision of these By-Law changes are declared invalid or unenforceable by a court of competent jurisdiction or by the Office of the Attorney General, the remaining provisions shall continue in full force and effect.



ARTICLE 30

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

SUMMARY:

Article 30 changes the requirement for the Advisory Committee to make “reports *and* recommendations” to Town Meeting on all articles to a requirement that the Committee make “reports *or* recommendations.” The significance is that the Committee would not be required to make a recommendation on articles that did not have a significant bearing on Town finances or operations, e.g., articles focused on issues such as foreign policy or trade.

The article also requires that the Advisory Committee take roll call votes on matters of substance (but not on procedural matters), and report the roll call results to Town Meeting. Petitioner’s motion would require the reporting of roll call votes in the Combined Reports. The Advisory Committee amendment would require that they be included only in the Committee’s minutes, which are available to the public on the Town’s website.

By a vote of 17-2 with 7 abstentions, the Advisory Committee recommends FAVORABLE ACTION on Article 30, **as amended by the Committee.**

BACKGROUND:

Reports or Recommendations

Members of the Advisory Committee have questioned the value to Town Meeting of the Committee’s recommendations with regard to warrant articles that have little impact on Town finances or operations. Examples include articles opining on trade policy, and even articles of local interest, such as the renaming of the Coolidge Corner School.

The current bylaw states that “The Committee shall consider any and all municipal questions, including appropriation requests and proposed action under all articles in the warrant for a Town Meeting, for the purpose of making reports AND recommendations to the Town.” This is in contrast with state law, which uses identical language but for using the words “... reports OR recommendations...” (In each case, emphasis added.)

The proposed change, which would conform the general bylaw to state law, would clarify the charge of the Advisory Committee regarding its consideration of warrant articles. The Advisory Committee would still be required to consider all warrant articles, but it could decide whether to (i) make a recommendation to Town Meeting, or more simply, (ii) report to Town Meeting without making a recommendation.

Recorded Votes:

Articles in the May 2002 and November 2010 Town Meetings asked that roll call votes from each member of the Advisory Committee be reported along with the Committee's recommendation. The Advisory Committee opposed both Articles, and they failed to gain a majority Town Meeting. Article 30 proposes much the same requirement. It builds on the experience of the Committee during the COVID-19 emergency, when meetings have been conducted via videoconference and roll call votes have been taken in order to conform to the Open Meeting Law requirement that roll call votes be taken when a public body includes members who are participating remotely.

DISCUSSION:

Reports or Recommendations

Although some Advisory Committee members take the position that the Committee should continue to have an obligation to make recommendations on any and all articles, most members prefer to have some flexibility. The workload of the Committee has increased in the last few years, as witnessed by the fact that there were 30 articles on the May 2019 warrant, 34 on the November 2019 warrant and 42 on the November 2020 warrant (including STM2 and the articles deferred from May/June 2020).

Moreover, the report of the Brookline Fiscal Advisory Committee, a committee that was created at the request of the Advisory Committee, recommended that the Advisory Committee focus on issues that have a fiscal or operational impact on the Town. The BFAC report even suggested that there could be a Finance Committee that dealt exclusively with these matters, and that a separate committee could make recommendations on articles dealing with other matters.

State law allows municipalities to have either a finance committee or an advisory committee. Committee members did not look favorably on the idea of splitting the functions, but they did recognize the advantages of being able to make short reports on articles to which the Committee could add little value.

Recorded votes

In November 2019, in response to a proposal by the AC Chair (not a warrant article), the Committee voted almost two to one against reporting roll call votes. Since then, sentiment has shifted, likely due in part to the experience of required roll call votes during the meetings and hearings held remotely during the COVID-19 emergency. While no members expressed substantive objections to roll votes in general, many continue to believe that including them in the Advisory Committee's reports in the Combined Reports may encourage some Town Meeting members to focus on how an individual Advisory Committee member voted, rather than on the substance of the report. Further, members asserted that the recommendation of the Committee is more important than the

votes of specific individuals and that including the recorded votes of members (who, unlike the Select Board, are appointed) adds nothing positive to what is often a highly politicized environment. Concern for increasing politicization was emphasized in other comments.

In response, it was noted that what the Committee does is political, because budgets and budget priorities, in particular, are inherently political. Moreover, some members felt that the Advisory Committee needs to be more transparent in an era when popular trust in government has eroded, and that recorded votes would help provide such transparency. The Committee has made several efforts to make its work more accessible, and recorded votes is a further step in that direction.

A consensus was reached, with a majority of members agreeing that Advisory Committee votes on matters of substance, such as recommendations to Town Meeting and on requests for Reserve Fund and Liability Fund transfers should be recorded, that such votes should be made public, and specifically, that they should be included in the Advisory Committee meeting minutes, which are posted on the Town's website.

By a vote of 16-4-8, the Advisory Committee recommends FAVORABLE ACTION on the following motion:

VOTED:

That the Town amend Article 2.2 of the General By-laws, by (i) amending SECTION 2.2.5, and adding a new SECTION 2.2.6, and amending SECTION 2.5.2, as follows (**additions in bold underline**, deletions in strikeout):

#### SECTION 2.2.5 GENERAL DUTIES

The Committee shall consider any and all municipal questions, including appropriation requests and proposed action under all articles in the warrant for a Town Meeting, for the purpose of making reports ~~and or~~ recommendations to the Town. The Committee shall submit a budget at the Annual Town Meeting. It may examine the books and records of any board, committee or officer of the Town so far as permitted by law. The Superintendent of Schools (in the case of school appropriations) and the Town Administrator (in the case of all other appropriations) shall submit their requests for appropriations to the Committee by February 15th or the next town business day if said date falls on a weekend or holiday; or seven days after the Governor submits the annual budget to the General Court, whichever is later.

#### SECTION 2.2.6 RECORDED VOTES

**Whenever the Advisory Committee shall have voted on a recommendation to Town Meeting, or on a transfer of funds, and unless such vote is unanimous, the record of**

**such vote be included in the minutes of the Advisory Committee, in each case showing those members who voted in favor, opposed, or abstained.**

SECTION 2.5.2. Combined Reports (third paragraph)  
No recommended change(s).

On October 27, 2020, the Advisory Committee amended its original recommendation under Article 30 and by a vote of 17-2-7, the Committee voted FAVORABLE ACTION on the following amended version of Section 2.2.5 (deletion in strikeout and **addition in bold and underlined**, as compared to the original recommendation):

Section 2.2.5 GENERAL DUTIES

The Committee shall consider any ~~and~~ or all municipal questions, including appropriation requests and proposed action under all articles in the warrant for a Town Meeting, for the purpose of making reports or recommendations to the Town. The Committee shall submit a budget at the Annual Town Meeting. It may examine the books and records of any board, committee or officer of the Town so far as permitted by law. The Superintendent of Schools (in the case of school appropriations) and the Town Administrator (in the case of all other appropriations) shall submit their requests for appropriations to the Committee by February 15th or the next town business day if said date falls on a weekend or holiday; or seven days after the Governor submits the annual budget to the General Court, whichever is later.

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ARTICLE 34

ADVISORY COMMITTEE'S SUPPLEMENTAL RECOMMENDATION

Advisory Committee – Article 34 as amended on November 18, 2020  
Additional language in **boldface** and underlined.

Upon reconsideration of its previous motion under Article 34, by a vote of 12-6-4, the Advisory Committee recommends FAVORABLE ACTION on the following:

VOTED that the Town adopt the following resolution:

WHEREAS Brookline's housing unaffordability negatively impacts low-, middle-, and upper-middle income residents, particularly renters;

WHEREAS Brookline's housing shortage may add to the unaffordable nature of the market;

WHEREAS an estimated 47% of renters in Brookline are cost-burdened (spending more than 30% on housing), and 23% of renters pay more than 50% of income on housing;<sup>(37)</sup>

WHEREAS the 2016 Housing Production Plan identified 18 strategies to enhance Brookline's housing supply;

WHEREAS The Brookline Fiscal Advisory Committee recommends changes to zoning to promote economic growth and prosperity;

WHEREAS decreasing car trips by increasing access to walkable, transit-oriented communities via more housing can significantly reduce per capita carbon impact for the Boston region, which is a significant town priority as expressed by Town Meeting during November 2019's Special Town Meeting;

WHEREAS building more housing in Brookline may allow new residents to live closer to job centers and decrease the amount of time spent driving and idling in traffic;

WHEREAS Brookline is a generally transit connected community via the Green Line and multiple major bus routes traversing the majority of town, and more housing near transit allows current car commuters to shift to greener transportation methods;

<sup>37</sup> According to the United States Department of Housing and Urban Development: "Families who pay more than 30 percent of their income for housing are considered cost burdened." "Affordable Housing," HUD.GOV, [https://www.hud.gov/program\\_offices/comm\\_planning/affordablehousing/](https://www.hud.gov/program_offices/comm_planning/affordablehousing/)

WHEREAS a study has shown that “anti-density zoning increases black residential segregation in U.S. metropolitan areas by reducing the quantity of affordable housing in white jurisdictions”(38);

WHEREAS Boston area businesses struggle to recruit and retain employees due to high housing costs;

WHEREAS more people living near Brookline business districts could increase local businesses’ customer base;

WHEREAS housing instability and un-affordability have negative impacts on health outcomes; (39)

WHEREAS today’s market rate housing may become more affordable as long as additional housing is being built over time;

WHEREAS the dramatic rise in housing costs have created financial challenges for seniors and other longtime residents. Addressing affordability will help increase the likelihood of seniors aging in place and downsizing within the community;

WHEREAS creating the zoning and regulatory space for new market rate housing may increase the possibility that Brookline's current stock of moderately priced housing may be maintained, preserving the limited naturally occurring affordable housing that does exist in town;

WHEREAS Brookline has a moral and ethical responsibility to contribute its fair share toward the vital goal of housing development;

NOW, THEREFORE, BE IT RESOLVED that Town Meeting urges the Select Board, and any other board or committee that might consider the built environment of Brookline:

6. To engage in a planning process to expand on the specific analyses and recommendation of 2016 Housing Production Plan and determine whether making

38 Rothwell, Jonathan, and Douglas S Massey. “THE EFFECT OF DENSITY ZONING ON RACIAL SEGREGATION IN U.S. URBAN AREAS.” Urban affairs review (Thousand Oaks, Calif.) vol. 44,6 (2009): 779-806. doi:10.1177/1078087409334163

39 University of Wisconsin Population Health Institute. County Health Rankings Key Findings 2019. <https://www.countyhealthrankings.org/reports/2019-county-health-rankings-key-findings-report>

changes to our Zoning Bylaw to encourage and incentivize additional housing units, including where and at what levels would be beneficial to the Town, after considering the impact costs, including the additional costs in public works, parks and open space, education and other infrastructure, that such additional housing would necessitate, as well as its impact on open space and historic streetscape, **, traffic, carbon emissions, mass transit capacity, reductions in street level commercial space, evictions of commercial and residential tenants, and non-renewals of commercial and residential leases by lessors or developers.**

7. To develop and propose concrete zoning and regulatory changes to implement the strategies arising from and subsequent to the aforementioned planning process, and to the extent that the strategies permit higher density and the building of additional housing units, that there should be a focus on ensuring a mix of housing at different income levels: subsidized low-income housing, workforce housing developed through various means including developer incentives and Inclusionary Zoning (40), and market rate housing.

8. To consider strategies that acknowledge and address racial and economic equity throughout the Town.

9. To support Brookline's Zero Emissions goal by developing zoning strategies that maximize Brookline's public transportation usage and minimize the need for car trips.

10. To consider providing the necessary budget allocation to execute the studies recommended by this Resolution.

40 The Inclusionary Zoning by-law in Brookline currently requires projects with 6 to 15 units to contribute a cash contribution to the Affordable Housing Trust and projects with more than 15 units to allocate 15% of onsite units as affordable.

ARTICLE 34

**MOTION OFFERED BY LINDA OLSON PEHLKE, TMM 2 AND  
JONATHAN J. MARGOLIS, TMM 7**

MOVED: To refer the subject matter of article 34 to the committee to be established under the article 27 referral motion, subject to the conditions set forth in that motion.