

## **STATEMENT OF THE PLAISTOW BOARD OF SELECTMEN**

It has come to the Select Board's attention that allegations have been made that the Town's handling of petitioned warrant articles during the 2024 Town Meeting was and has been improper.

The first allegation is that a petitioned warrant article that sought to "amend the Zoning Ordinance" to make the members of the Zoning Board of Adjustment elected, as opposed to appointed ("the ZBA Petitioned Article"), was improperly amended at the Town's deliberative session. The allegation is that, as an "amendment" to the Town's Zoning Ordinance, the ZBA Petitioned Article had to be placed on the Town's ballot as submitted. The second allegation is that a petitioned warrant article that sought to amend the Zoning Ordinance to establish a new "Agricultural Overlay District" ("AOD Petitioned Article") was improperly summarized when it was placed on the Town's warrant.

The Board disagrees with these allegations.

To provide a brief overview of the law, RSA chapter 675 provides specific protocols for amending "[z]oning ordinances proposed under RSA 674:16." A zoning ordinance adopted under RSA 674:16 is one that "regulate[s] and restrict[s]:"

- (a) The height, number of stories and size of buildings and other structures;
- (b) Lot sizes, the percentage of a lot that may be occupied, and the size of yards, courts and other open spaces;
- (c) The density of population in the municipality; and
- (d) The location and use of buildings, structures and land used for business, industrial, residential, or other purposes."

A zoning ordinance can also include innovative land use controls under RSA 674:21, housing moratoriums under RSA 674:22, and regulations on accessory uses.

If there is a proposal to amend a regulation or restriction related to the use of land as reflected in RSA 674:16, then the Town must follow a statutory process for the amendment of the zoning ordinance to place that article on the ballot. That process includes conducting public hearings with the Planning Board under RSA 675:3.

If there is a petitioned article that seeks to amend a zoning ordinance enacted under RSA 674:16, the Planning Board must still hold a public hearing and that petitioned article must be put on the ballot in the same manner provided in RSA 675:3, VII. RSA 675:3, VII allows for the placement of a zoning ordinance amendment either (a) as written in its entirety or (b) using a "topical description of the substance of the amendment."

This process does not apply to all petitioned warrant articles, even those that are inaccurately labeled as an "amendment" of the Zoning Ordinance.

On the first allegation, regarding the ZBA Petitioned Article, how a municipality chooses its members of its Zoning Board of Adjustment is not a zoning ordinance amendment subject to the laws discussed above. Rather, that process is governed by RSA 673:3, which states, in part:

**A local legislative body which has previously provided for the appointment of zoning board of adjustment members may rescind that action by majority vote and choose to elect board members.**

The ZBA Petitioned Article, therefore, was not an amendment of the zoning ordinance that had to be put on the ballot as presented and it was subject to amendment by the deliberative session in the same manner as any other non-zoning warrant article.

Regarding the allegation that the Town could not summarize the AOD Petitioned Article, the Town also disagrees. As described above, RSA chapter 675 allows for the Town to use a “topical description” for even petitioned amendment. When a proposed amendment is lengthy, using a topical description is appropriate. To do otherwise, would require the Town to use a ballot that is nearly double the original size and which would involve printing costs that are far higher.

The Board understands that there may be some disagreement with how the AOD Petitioned Article was summarized and that it was summarized at all. The AOD Petitioned Article clearly identifies the various locations where the full text of the article can be reviewed. Printing the AOD Petitioned Article in its entirety would have added 12 pages to the Town’s ballot that the Town would have to print thousands of times over. The Board, therefore, believes that it prudently exercised its discretion in using an appropriate topical description of the AOD Petitioned Article and keeping the ballot manageable and concise for the voters.