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April 9, 2020

Carol Nelson, Interim Town Clerk
Town of Nahant
334 Nahant Road
Nahant, MA 01908

**Re: Nahant Special Town Meeting of November 23, 2019 -- Case # 9734
Warrant Article # 4 (Zoning)**

Dear Ms. Nelson:

Article 4 seeks to amend the Town’s zoning by-law by, among other things, prohibiting “Nonprofit Religious or Educational Purposes” in the Natural Resource (NR) District. We partially approve the by-law amendments under Article 4 as follows: we disapprove and delete the by-law text that conflicts with G.L. c. 40A, § 3, the so-called “Dover Amendment,” but we approve the remaining text.

This decision briefly describes the by-law amendments adopted under Article 4; discusses the Attorney General’s limited standard of review of town by-laws under G.L. c. 40, § 32; and explains why, governed as we are by that standard, we must disapprove part (but not all) of the by-law amendments because they violate the Dover Amendment, which provides, in part, that “[n]o zoning ordinance or by-law shall...*prohibit*, regulate or restrict the use of land or structures...for educational purposes...on land owned or leased...by a nonprofit educational corporation...”. G.L. c. 40A, § 3, ¶ 2. (emphasis supplied).

We emphasize that our partial disapproval in no way implies any agreement or disagreement with the policy views that led to the passage of the by-law amendments. The Attorney General’s limited standard of review requires her to approve or disapprove by-law text based solely on its consistency with state law and not on any policy views she may have on the subject matter or wisdom of the by-law text. Amherst v. Attorney General, 398 Mass. 793, 795-96, 798-99 (1986). The proper focus of our review of a zoning enactment is whether the by-law violates state law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety, or general welfare. Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). We also make no determination regarding how the by-law amendments at issue here might affect any proposed project. The application of zoning by-laws to particular projects is beyond the scope of the Attorney General’s by-law review under the General Laws.

Nor can our analysis take into account or consider suggestions that the by-law amendments may have been adopted to counter-act a proposed expansion of property owned by Northeastern University in the NR District, as the scope of the Attorney General’s review does not extend to evaluating the town meeting action based upon the alleged motive of the town. *See Andrews v. Amherst*, 68 Mass. App. Ct. 365, 368 (2007); *see also W.R. Grace & Co. v. Cambridge City Council*, 56 Mass. App. Ct. 559, 568 (2002) (the validity of a zoning amendment does not turn on the motives of their supporters).

During our review, we received correspondence from special counsel to the Town as well as counsel for the Nahant Preservation Trust urging the Attorney General to approve the by-law amendments. We also received correspondence from counsel for Northeastern University advocating that the Attorney General disapprove the amendments. We appreciate the input from the various parties, as it has assisted in our review.

I. Description of Article 4

Article 4 amends the Town’s zoning by-laws in three designated “items.”

Item 1 seeks to amend the by-law’s existing definition of “Nonprofit Religious or Educational Purposes” as follows (deletions in strike-through and new text in bold):

Nonprofit Religious or Educational Purposes: Land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth of Massachusetts or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation shall be permitted in any district **only to the extent required by M.G.L. c. 40A, § 3**; provided, however, that such land or structures shall be subject to the regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, ~~parking~~ and building coverage requirements as described in Table 2 of Section 4-5 for each district **and parking as described in Table 6-1.**

Item 2 seeks to amend, in two ways, the existing Table of Use Regulations regarding the described use of “Non-profit religious or educational purposes (see definition)” in the Natural Resource (NR) District. First, to insert the words “and Note 3 below” following the words “see definition” in the “Description of Use” column. Second, to change the designation letter from “P” (permitted) to “N” (not permitted).” These proposed edits are shown below (deletions in strike-through and new text in bold):

Description of Use	Zoning Districts							
	R-1	R-2	B-1	B-2	NR	P		
Non-profit religious or educational purposes (see definition and Note 3 below)	P	P	P	P	P N	P		

Item 3 proposes to amend the existing Table of Use Regulations by inserting a new “Note 3” as follows (new text in bold):

3. Uses or structures for Nonprofit Religious or Educational Purposes are allowed in a Natural Resource District to the extent provided in Section 4.10 of this by-law or to the extent required by M.G.L. c. 40A, § 3.

II. The Dover Amendment (G.L. c. 40A, § 3, ¶ 2)

The Dover Amendment provides that a town cannot “prohibit, regulate or restrict the use of land or structures for...educational purposes...” as follows (emphasis added):

No zoning . . . by-law shall **prohibit, regulate or restrict** the use of land or structures for religious purposes or for **educational purposes** on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, **or by a nonprofit educational corporation**; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements

“The Dover Amendment bars the adoption of a zoning ordinance or by-law that seeks to prohibit or restrict the *use* of land for [religious or] educational purposes.” Trustees of Tufts College v. Medford, 415 Mass. 753, 757 (1993). In this respect, “the Dover Amendment represents a specific exception to the general power of municipalities to *adopt* and *enforce* zoning regulations and by-laws.” Regis College v. Town of Weston, 462 Mass. 280, 289 (2012) (emphasis supplied). However, the Dover Amendment does allow a municipality to adopt reasonable regulations in eight specific areas: bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements. G.L. c. 40A, § 3, ¶ 2. “The whole of the Dover Amendment, as it presently stands, seeks to strike a balance between preventing local discrimination against (religious and educational uses) and honoring legitimate municipal concerns that typically find expression in local zoning laws.” Tufts College, 415 Mass. at 757. As the court stated in Boyajian v. Gatzunis, 212 F. 3d 1 (1st Cir. 2000) in the context of a constitutional challenge to the statute under the Establishment Clause of the First Amendment:

While the original Dover Amendment was directed solely at religious uses of property, the provision now includes a variety of uses linked together by the legislature’s apparent judgment that these uses, though important to all communities, would be at risk of exclusion from certain zoning areas because of local prejudice unrelated to their compatibility with the essential nature of the existing community.

Id. at 7.

Many cases construing the Dover Amendment deal with the question whether a facially neutral by-law may lawfully be enforced against a certain use in light of the statute. *See, e.g.,*

McLean Hospital Corp. v. Town of Lincoln, 483 Mass. 215 (2019) (McLean Hospital’s proposed residential project for treatment of adolescent males was exempt from certain town zoning by-laws because the program fell within the “broad and comprehensive” meaning of “educational purposes” under the Dover Amendment.); *see also* Regis College, 462 Mass. at 293-94 (unresolved factual issues precluded determination whether Regis’ proposed development for residential and educational facilities for older adults qualified for the education protection under the Dover Amendment and thus whether it was exempt from certain town zoning by-laws); Bay Farm Montessori Academy v. Town of Duxbury, 75 Mass. App. Ct. 1103 (2009) (town’s site plan review by-law could not be applied to an exempt use under the Dover Amendment); Southern New England Conference Ass’n of Seventh-Day Adventists v. Burlington, 21 Mass.App.Ct. 701, 710 (1986) (wetlands by-law could be applied to property protected by the Dover Amendment).

The question presented by this by-law is different: whether a town may adopt a certain by-law at all in light of the prohibitions in the Dover Amendment. There is, nonetheless, some guidance from Massachusetts courts on this question. In Attorney General v. Inhabitants of the Town of Dover, 327 Mass. 601 (1951) the court considered the Dover by-law that prompted the Legislature to adopt the Dover Amendment.¹ The by-law prohibited religious schools in a residential district in the town. Construing the original statute that conferred protections for religious land uses (then G.L. c. 40, § 25, ¶ 1), the court determined there was a clear conflict between the by-law and the statute:

We think it plain that the statute and subdivision 4 of the by-law as amended cannot stand together. The statute says that ‘No by-law or ordinance which prohibits or limits the use of land for any *** religious, sectarian or denominational educational purpose shall be valid.’ The amended by-law attempts to admit to residence districts educational uses only ‘if non-sectarian.’ The conflict is apparent.

Id. at 604. The court thus allowed the Attorney General’s complaint to have the by-law declared invalid.

Relying on the Dover Amendment’s protections for religious and educational uses, the court in The Bible Speaks v. Board of Appeals of Lenox, 8 Mass. App. Ct. 19, 33 (1979) invalidated a town by-law that required an application for a special permit for all new religious and educational uses, or changes in such uses, in residential districts. As the court explained, the by-law conflicted with the Dover Amendment because the special permit process granted wide discretion to the zoning board of appeals to deny the application, therefore enabling the zoning board to nullify the zoning protections for educational uses:

¹ “[The] provision is commonly known as the Dover Amendment because its religion-focused component was enacted in 1950 in response to a zoning by-law passed by the town of Dover, Massachusetts, prohibiting religious schools within that town’s residential neighborhoods. The protections for other types of uses were added in later years.” Boyajian, 212 F.3d at 5. The various land use protections are now codified at G.L. c. 40A, § 3.

In our opinion, the provisions of the by-law taken together invest the board with a considerable measure of discretionary authority over an educational institution's use of its facilities and create a scheme of land use regulation for such institutions which is antithetical to the limitations on municipal zoning power in this area prescribed by G.L. c. 40A, § 3. The Legislature did not intend to impose special permit requirements, [that are] designed under c. 40A, § 9, to accommodate uses not permitted as of right in a particular zoning district, on legitimate educational *uses which have been expressly authorized as of right in any zone.*

Id. at 33 (emphasis added).

III. Existing By-law Text Regarding Nonprofit Religious or Educational Purposes

To put the proposed amendments in context, it is important to note what the existing zoning by-law provisions say about nonprofit religious or educational purposes in the NR District.

First, the by-law's definition of nonprofit religious or educational purposes mirrors the definition in the Dover Amendment. Section 2.02, "Definitions" of the by-law defines "Nonprofit Religious or Educational Purposes" as follows:

Nonprofit Religious or Educational Purposes: Land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth of Massachusetts or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation...

The Dover Amendment protections extend to the following uses:

[T]he use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation...

G.L. c. 40A, § 3, ¶ 2.

Therefore, every potential land use captured by the current by-law's definition of "nonprofit religious or educational purpose" is protected by the Dover Amendment. And, consistent with the Dover Amendment, the by-law's definition of "Nonprofit Religious or Educational Purposes" clearly states that such uses "*shall be permitted* in any district." (Zoning Bylaw, Section 2.02, "Definitions") (emphasis supplied). This text reflects the Dover Amendment's requirement that such uses must be allowed by right in every district. *See, e.g., Boyajian v. Gatzunis*, 212 F.3d 1, 10-11 (1st Cir. 2000) ("The by-law was later amended to reflect the requirements of the Dover Amendment, and the Schedule of Use Regulations that now constitutes § 3.3 permits in all zoning districts "Religious or educational use exempted from prohibition by [the Dover Amendment].").

Finally, the existing Section 4.10 describes those uses that are allowed, allowed by special permit, or prohibited in the NR District, but Section 4.10 is silent as to nonprofit religious or

educational purposes. (Zoning Bylaw, Section 4.10, “Uses Permitted in a Natural Resource District”). The designated use of “Nonprofit Religious or Educational Purposes” is not listed in Section 4.10 as an allowed use, a use allowed by special permit, or a prohibited use in the NR District. This is important in our discussion of the new Note 3 below (see pp. 7-8) that purports to allow “nonprofit religious or educational purposes “to the extent provided in Section 4.10 of this by-law or to the extent required by M.G.L. c. 40A, § 3.”

IV. The Attorney General’s Standard of Review

Pursuant to G.L. c. 40, § 32, the Attorney General has a “limited power of disapproval,” and “[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws.” Amherst, 398 Mass. at 795-96. The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 (“Neither we nor the Attorney General may comment on the wisdom of the town’s by-law.”) Rather, in order to disapprove a by-law (or any portion thereof), the Attorney General must cite an inconsistency between the by-law and the Constitution or laws of the Commonwealth. Id. at 796. “As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid.” Bloom v. Worcester, 363 Mass. 136, 154 (1973) (emphasis added). “The legislative intent to preclude local action must be clear.” Id. at 155.

Article 4, as an amendment to the Town’s zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) (“With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders.”). Because the adoption of a zoning by-law by the voters at town meeting is both the exercise of the Town’s police power and a legislative act, the vote carries a “strong presumption of validity.” Id. at 51. “Zoning has always been treated as a local matter and much weight must be accorded to the judgment of the local legislative body, since it is familiar with local conditions.” Concord v. Attorney General, 336 Mass. 17, 25 (1957) (*quoting* Burnham v. Board of Appeals of Gloucester, 333 Mass. 114, 117 (1955)). “If the reasonableness of a zoning bylaw is even ‘fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.’” Durand, 440 Mass. at 51 (*quoting* Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). In general, a municipality “is given broad authority to establish zoning districts regulating the use and improvement of the land within its borders.” Andrews v. Amherst, 68 Mass. App. Ct. 365, 367-368 (2007). However, a municipality has no power to adopt a zoning by-law that is “inconsistent with the constitution or laws enacted by the [Legislature]...” Home Rule Amendment, Mass. Const. amend. art. 2, § 6. When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General’s standard of review is equivalent to that of a court. “[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare.” Durand, 440 Mass. at 57.

V. Legal Analysis

A. Part of Article 4 Conflicts with the Dover Amendment

1. Proposed Change to Table of Use Regulations

As explained above, Item 2 of Article 4 seeks to change the use “Non-profit religious or educational purposes” from “P” (permitted) to “N” (not permitted) in the NR District. This proposed change violates the Dover Amendment because it would prohibit a protected educational use in one of the town’s zoning districts. As in The Bible Speaks, this by-law amendment, if allowed to stand, would “‘nullify’ the use exemption permitted to an educational use.” 8 Mass. App. Ct. at 31. The statute bars a town from prohibiting a nonprofit religious or educational use in any zoning district:

No zoning . . . by-law shall **prohibit, regulate or restrict** the use of land or structures for religious purposes or for **educational purposes** on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, **or by a nonprofit educational corporation...**

G.L. c. 40A, § 3, ¶ 2 (emphasis added). As in Attorney General v. Dover, there is a clear conflict between this section of the by-law and G.L.c. 40A, § 3 and the two “cannot stand together.” 327 Mass. at 604. “The Dover Amendment...exists, in part, to protect educational institutions from a municipality’s exercise of preferences as to what kind of educational facilities it will welcome, ‘the very kind of restrictive attitude which the Dover Amendment was intended to foreclose.’” McLean Hospital Corp. v. Town of Lincoln, 483 Mass. 215, 226, n. 5 (2019) (*quoting The Bible Speaks v. Board of Appeals of Lenox*, 8 Mass. App. Ct. 19, 33 (1979)). Because the change from “P” (permitted) to “N” (not permitted) for nonprofit religious or educational purposes in the NR District violates the Dover Amendment, we disapprove and delete this text from Article 4.²

Special counsel to the Town urges us to approve the amendment to the Table of Use Regulations because of the new proposed text in the Description of Use column that references the new Note 3. Counsel contends that the new Note 3 clarifies the “not permitted” designation for the use of “Non-profit religious or educational purposes” and limits the prohibition to uses that are not protected by the Dover Amendment. We disagree that the new Note 3 saves the prohibition from its conflict with the statute. As noted above, the by-law’s definition of “non-profit religious or educational purposes” mirrors the Dover Amendment protections and there are thus no uses captured by the by-law definition that are not protected by the Dover Amendment. It therefore cannot be argued that the prohibition is limited to uses not protected by the Dover Amendment.

Moreover, as drafted, the new Note 3 states that “non-profit religious or educational purposes” are allowed to the extent provided in Section 4.10 of the bylaw *or* to the extent required by the Dover Amendment. We note that Section 4.10 of the by-law does not list “non-profit religious or educational purposes” as an allowed, prohibited or allowed by special permit use in the NR District. This is important because Section 4.01, “Purpose and Intent” states that “[a]ny use not listed herein is prohibited.” This language in Section 4.01 arguably establishes Nahant’s

² We disapproved similar text in decisions issued to the towns of Uxbridge (Case # 9627 issued January 21, 2020) and Auburn (Case # 9633 issued January 27, 2020).

zoning by-law as a “prohibitive” by-law rather than a “permissive” by-law. *See, e.g. APT Asset Mgmt. Inc. v. Board of Appeals of Melrose*, 50 Mass. App. Ct. 133, 138 (2000) (zoning by-law was prohibitive where it stated “[a]ny use not listed [in the table of use regulations] shall be construed to be prohibited”); *Tanner v. Board of Appeals of Boxford*, 61 Mass. App. Ct. 647, 648 (2004) (zoning by-law was prohibitive where it stated that “[a]ny use not specifically listed herein or otherwise permitted in a district shall be deemed as prohibited”). Because “non-profit religious or educational purposes” is not listed as an allowed use in Section 4.10, and because Section 4.01 states that any use not listed is prohibited, the new Note 3 as drafted could be construed as prohibiting the use. In this respect, the new Note 3 creates an additional conflict with the statute (as explained below) rather than curing the conflict.³

2. Proposed New Note 3

Item 3 of Article 4 seeks to add the following new Note 3 (emphasis supplied):

Uses or structures for Nonprofit Religious or Educational Purposes are allowed in a Natural Resource District *to the extent provided in Section 4.10 of this bylaw or* to the extent required by M.G.L. c. 40A, § 3.

We disapprove and delete the words “*to the extent provided in Section 4.10 of this bylaw or*” from the new Note 3 as reflected in bold, underline and italics above. As drafted, the new Note 3 appears to provide the enforcing entity or official the choice to follow *either* Section 4.10 of the Town’s by-law *or* the Dover Amendment in determining whether a Nonprofit Religious or Educational Purpose is allowed in the NR District. However, it is the statute, not Section 4.10 of the Town’s by-laws, that dictates the answer, and the statute establishes religious and educational uses as allowed by right in all districts. *Trustees of Tufts College v. Medford*, 415 Mass. 753, 757 (1993). The Town cannot prohibit such uses from any district because the Dover Amendment dictates that “legitimate educational uses [are] expressly authorized to exist as of right in any zone.” *The Bible Speaks*, 8 Mass. App. Ct. at 33. Because this text (“*to the extent provided in Section 4.10 of this bylaw or*”) conflicts with the Dover Amendment, we disapprove and delete it from the proposed by-law amendments adopted under Article 4.

B. Potential Conflict with the Federal Religious Land Use and Institutionalized Persons Act

Although not a basis for our partial disapproval of the by-law text, we also caution the Town that the proposed prohibition of religious uses in the NR District could also be challenged as a violation of the federal Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”), 42 U.S.C. 2000cc *et seq.* The statute “bars governments from imposing a ‘substantial burden’ on religion with respect to certain land use regulations.” *Mintz v. Roman Catholic Bishop of Springfield*, 424 F. Supp. 2d 309, 317 (D.Mass. 2006) (zoning ordinance’s density, setback and

³ For this reason, we also disapprove and delete a portion of the text in the new Note 3, as explained herein.

parking regulations could not be applied to the proposed construction of parish center in light of RLUIPA). The RLUIPA analysis requires a determination whether a land use regulation may impose a substantial burden on the religious exercise of a religious group without advancing a compelling governmental interest. Id. This determination requires consideration of evidence well beyond the record submitted for by-law review pursuant to G.L. c. 40, § 32 and thus we cannot decide the RLUIPA issue on this record. However, the Town should consult with Town Counsel regarding this issue if the Town considers a future amendment to the by-law.

C. Other Legal Issues

During the course of our review of Article 4 we received a letter from counsel to the petitioners asserting that all of the proposed by-law amendments should be approved by this Office based on the court's decision in Southern New England Conference Ass'n of Seventh-Day Adventists v. Burlington, 21 Mass. App. Ct. 701, 710 (1986). Although we are unable to agree that this court decision mandates our approval of the by-law amendments in their entirety, we greatly appreciate this submission, which has substantially assisted us in our review.

In Southern New England Conference Ass'n, the court determined that G.L. c. 40A, § 3 did not exempt the church from the town's wetlands by-law. As the court explained, "[t]he question comes down to whether the boundary established by the by-law is valid, *as applied* to the church's land..." Id. at 710. The Southern New England case did not construe a by-law that purported to *prohibit* a use protected by the Dover Amendment, as the proposed amendment in Article 4 does here. Rather, the case dealt with the question whether the Burlington wetlands by-law fell within the carveout to the Dover Amendment that "authorizes a municipality to adopt and apply 'reasonable regulations' concerning bulk, dimensions, open space and parking to land and structures for which an educational use is proposed." Tufts College, 415 Mass. at 757. As Justice Greaney (who authored both the Southern New England and the Tufts College decisions) explained, "Local zoning requirements adopted under the proviso to the Dover Amendment which serve legitimate municipal purposes sought to be achieved by local zoning, such as promoting public health or safety, preserving the character of an adjacent neighborhood, or one of the other purposes sought to be achieved by local zoning...may be permissibly enforced, consistent with the Dover Amendment, against an educational use." Id. at 757-58 *citing* Southern New England Conference Ass'n of Seventh-Day Adventists, 21 Mass. App. Ct. at 710. Because the Southern New England case does not analyze the validity of a by-law that would, as Article 4 does, prohibit an educational use, we do not agree that it mandates an approval of the amendments adopted under Article 4 in their entirety. ⁴

⁴ Counsel to the petitioners and the Town's special counsel also assert that we should approve the proposed amendments because we have approved various other by-law amendments adopted by other communities. We disagree that the listed decisions on other town by-laws mandate that we approve the proposed amendments here. Each of the cited by-law amendments differs from the text here in ways too numerous to recite. As just one example, the Webster by-law amendments that were approved in Case # 7404 (February 10, 2015) differ from the amendments here because in Webster the designated use of "religious and education" included uses that are not protected by the Dover Amendment. This is reflected in the Table of Uses by the addition of the note "*** Use may be protected under

VI. Conclusion

To summarize our review of Article 4, we approve the amendments except for the text in bold, underlined and italics below because it conflicts with the Dover Amendment:

Description of Use	Zoning Districts							
	R-1	R-2	B-1	B-2	NR	P		
Non-profit religious or educational purposes (see definition and Note 3 below)	P	P	P	P	<u>N</u>	P		

* * * * *

3. Uses or structures for Nonprofit Religious or Educational Purposes are allowed in a Natural Resource District ***to the extent provided in Section 4.10 of this bylaw or*** to the extent required by M.G.L. c. 40A, § 3.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) **general** by-laws and amendments take effect on the date these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) **zoning** by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,

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MGL 40A, § 3.” We thus approved the by-law amendments but cautioned the town that they could not be applied so as to conflict with G.L. c. 40A, § 3.

