



August 28, 2025

Norton Select Board
72 East Main Street
Norton, MA, 02766

Re: Fall 2025 Town Meeting Article

Dear Select Board Members,

I hope this message finds you well. I am writing regarding the agenda for your meeting on August 28, 2025, which includes a discussion item titled “Fall Annual Town Meeting - List of Warrant Articles.” Specifically, I urge the Select Board to exclude from the Fall Town Meeting warrant, the zoning bylaw article submitted by the Planning Board (“Zoning Bylaw Updates”).

This article was transmitted to the Select Board following a Planning Board hearing that, by the Planning Board’s own implicit admission, was conducted in violation of the Massachusetts Open Meeting Law (OML). Additionally, my understanding is that the proposed bylaw language has not even been finalized yet.

As you are aware, under G.L. c. 30A, § 20, public bodies are required to post meeting notices at least 48 hours in advance (excluding weekends and legal holidays), with a clear and specific listing of the topics the chair reasonably anticipates will be discussed. The Attorney General’s Office has consistently interpreted this provision to require sufficient detail to reasonably inform the public about the matters under consideration. This is central to the statute’s purpose: promoting transparency, informed public engagement, and accountability in governmental decision-making.

The agenda for the July 22, 2025 Planning Board hearing stated the only discussion that would take place was “Zoning Bylaw Recodification.” However, during that meeting, the Board engaged in substantial discussion and deliberation on substantive zoning amendments, which were not included on the agenda and were known in advance to be part of the meeting. By characterizing the hearing solely as a recodification matter, the Board failed to provide fair notice to the public that actual zoning language amendments - not just formatting or structural revisions - would be considered.

Such an omission is not a trivial procedural oversight. I believe that courts in Massachusetts have recognized that defective notice can invalidate zoning actions. For example, in *Town of Randolph v. Town of Stoughton*, the Appeals Court found that improper notice deprived the plaintiffs of a

meaningful opportunity to participate in the legislative process and thus conferred standing to challenge the resulting zoning amendment. As that case illustrates, compliance with procedural safeguards - particularly regarding notice - is not optional. It is essential to the legal integrity of zoning legislation.

The Planning Board, through Town Counsel, has responded to my formal OML complaint with a contradictory letter that essentially concedes the violation while attempting to downplay its legal significance. Proceeding with this article under such circumstances may expose the Town to considerable legal risk. If a bylaw were to be enacted under these procedurally defective conditions, it may be vulnerable to legal challenges, unnecessary costs, delays, and damage to the town's credibility.

The Planning Board, through Town Counsel, has essentially admitted the purpose of the proposed bylaw is not merely recodification as claimed during the Spring Town Meeting, but in fact represents a substantial overhaul of the existing zoning bylaw. Therefore, further explanation and notice to the public should be required from the Planning Board.

First, the Planning Board should issue a public, written statement clearly outlining the purpose of the proposed revision, its specific objectives, and the rationale for undertaking such a comprehensive change at this time. They should provide a detailed section-by-section explanation identifying what changes are being proposed and why each one is necessary.

The Board should explain the amendments within the context of the current bylaw so that the public can see and understand the changes as they relate to the existing text. For each substantive change, the Planning Board should offer a clear summary of the potential benefits and drawbacks, along with an analysis of how it may affect residents and property owners. All these recommendations should be added to the existing website created by the Planning Director.

Given the profound impact these changes may have on property rights throughout Norton, the Planning Board should go beyond minimal legal requirements for public notice. At a minimum, mailed notices should be sent to all residents and landowners – twice - to ensure broad awareness and participation. Relying solely on notices published in newspapers, which few residents regularly read, is inadequate, even if technically compliant with outdated state regulations.

In short, the Planning Board's proposed zoning bylaw constitutes a major challenge to property rights with significant implications for the people of Norton. It must therefore be handled with transparency, care, thoughtful analysis, and a genuine commitment to public involvement.

For these reasons, I respectfully request the Select Board decline to place this article in the Fall Town Meeting warrant. This article should be returned to the Planning Board with instructions that it will not be considered as an article in any future town meeting warrant until the Planning Board first conducts a new public hearing under a properly noticed agenda that fully complies with the Open Meeting Law and applicable zoning procedures. Because the proposed bylaw represents a significant revision of the current regulations, Norton residents deserve direct

notification of the Planning Board's intentions through mailed notice. No meetings to discuss or advance the proposed bylaw should be held until the Planning Board has fully implemented the recommendations outlined above. What the Planning Board is undertaking is a substantial and complex effort - one that cannot be responsibly completed in just a few meetings or within a matter of months.

This course of action should help to uphold the principles of transparency, ensure legal compliance, and protect the Town from avoidable litigation risk. It should also help to protect the property rights of Town residents. Conversely, knowingly placing a procedurally flawed article in the warrant may be construed as a willful disregard of known legal defects and may trigger further scrutiny by the Attorney General's Office under the enforcement provisions of the Open Meeting Law.

Thank you for your attention to this matter.

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[REDACTED]
[REDACTED]
[REDACTED]

Attachments: 8-20-25 Open Meeting Law Complaint Form,
NORT_response_to_[REDACTED]_OML_complaint_re__Planning_Bd