

October 29, 2025

Wayne Davis, Moderator
Town of Carlisle
66 Westford Street
Carlisle, MA 01741

**RE: Quantum of Vote Required for Carlisle Special Town Meeting Article 1
MBTA Communities Zoning Bylaw**

Dear Wayne,

On November 2, 2025, the Town of Carlisle Special Town Meeting will consider Warrant Article 1, to adopt a zoning bylaw permitting multi-family housing in an overlay district for the purpose of complying with G.L. c. 40A, §3A, the *MBTA Communities Act*. In anticipation of such action, you have requested an opinion from Town Counsel regarding the quantum of vote required to adopt the zoning bylaw proposed by the Planning Board.¹ As described below, and following consultation with the Massachusetts Attorney General's Office, it is my opinion that Special Town Meeting Article 1 may be adopted by Town Meeting by a simple majority vote.

G.L. c. 40A, §5, defines the procedure necessary for the adoption or amendment of zoning bylaws. Historically, §5 required a two-thirds vote of Town Meeting to take action on such a proposal. However, §5, as recently amended, now permits certain types of zoning bylaws to be adopted by a simple majority vote. Specifically relevant to the Town's consideration of Article 1 is the following part of §5:

Except as provided herein, no zoning...by-law or amendment thereto shall be adopted or changed except...by a two-thirds vote of a town meeting; provided, however, that the following shall be adopted...by a vote of a simple majority of town meeting:

(1) an amendment to a zoning ordinance or by-law to allow any of the following as of right:

(a) multifamily housing or mixed-use development in an eligible location...

(3) zoning ordinances or by-laws or amendments thereto that... (b) modify regulations concerning the bulk and height of structures, yard sizes, lot area, setbacks, open space, parking and building coverage requirements to allow for additional housing units beyond what would otherwise be permitted under the existing zoning ordinance or by-law....

¹ This opinion is based upon the text of the proposed Motion for Article 1 as of the date of this letter and available on the Town's website at: <https://www.carlislema.gov/259/Upcoming-Town-Meeting>.

With respect to multifamily housing in so-called eligible locations, G.L. c. 40, §1A, defines “eligible locations” as follows:

“Eligible locations”, areas that by virtue of their infrastructure, transportation access, existing underutilized facilities or location make highly suitable locations for residential or mixed use smart growth zoning districts or starter home zoning districts, including without limitation: (i) areas near transit stations, including rapid transit, commuter rail and bus and ferry terminals; or (ii) areas of concentrated development, including town and city centers, other existing commercial districts in cities and towns and existing rural village districts.

At its meeting on October 20, 2025, the Planning Board discussed whether the proposed locations it advanced for consideration by Town Meeting have the above characteristics such that they are eligible locations. The Planning Board specifically found that, among other things, each site has transportation access and existing infrastructure which makes them appropriate locations for multi-family residential housing.² I concur with this conclusion, and it is my opinion that the zoning bylaw proposed by Article 1 provides for multifamily housing in an eligible location and may be adopted by a simple majority vote.

Additionally, the zoning overlay district proposed by Article 1 has the effect of modifying existing applicable dimensional regulations for the purpose of allowing a greater number of housing units than would be allowed by the underlying single-family residential zoning. On this additional basis, it is my opinion that the zoning bylaw proposed by Article 1 may be adopted by a simple majority vote.

In short, it is my opinion that both identified provisions G.L. c. 40A, §5, define the zoning bylaw proposed by Article 1 as an amendment which “[may] be adopted...by a vote of a simple majority of town meeting.” On October 28, I spoke with Margaret Hurley, of the Attorney General’s Office, who confirmed her agreement with the above analysis, and the conclusion that the Town’s MBTA zoning proposal requires only a simple majority vote of Town Meeting.

Sincerely,



Ethan B. Dively

² See the Planning Board’s Site Eligibility Statements for each property at:

https://www.carlislema.gov/DocumentCenter/View/7972/SiteEligibilityStatement_187East-StIrenes;
https://www.carlislema.gov/DocumentCenter/View/7973/SiteEligibilityStatement_WoodwardVillage.