



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

MARTHA COAKLEY
ATTORNEY GENERAL

(508) 792-7600
(508) 795-1991 fax
www.mass.gov/ago

August 12, 2014

Carlene C. Hamlin, Town Clerk
Town of South Hadley
116 Main Street
South Hadley, MA 01075

RE: South Hadley Annual Town Meeting of May 10, 2014 - Case # 7229
Warrant Articles # 17 and 18 (Zoning)
Warrant Article # 15 (General)

Dear Ms. Hamlin:

Articles 15, 17 and 18 - We approve Articles 15, 17 and 18 from the May 10, 2014 South Hadley Annual Town Meeting. Our comments regarding Article 17 are provided below.

Article 17 - Article 17 amends the Town's zoning by-laws, in part, to add to Section 7, "Supplemental District Regulations," a new Subpart (Z), "Multi-Family and Multiple Dwellings." Section 7 (Z) (5) (b), "Exceptions," provides:

Developments for which a permit has been granted or which have been developed prior to May 10, 2014, shall not be subject to the provisions of this subpart 7(Z).

The Town should apply Section 7 (Z) (5) (b) in a manner consistent with G.L. c. 40A, § 6, which provides protections to structures or uses "lawfully begun" (as opposed to already developed"), as follows:

Except as hereinafter provided, a zoning...by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such...by-law required by section five, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction,

extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.

We suggest consulting further with Town Counsel on this issue.

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,

MARTHA COAKLEY
ATTORNEY GENERAL

Nicole B. Caprioli

By: Nicole B. Caprioli
Assistant Attorney General
Municipal Law Unit
10 Mechanic Street, Suite 301
Worcester, MA 01608
(508) 792-7600 ext. 4418
nicole.caprioli@state.ma.us

cc: Town Counsel Edward J. Ryan, Jr.