

**ARTICLE \_\_\_\_ To prohibit uses that are not specified in the Zoning Bylaws**

To see if the Town will vote to amend the provisions of the Zoning Bylaws under Section VI. G. 1. by prohibiting use variances in all zoning districts, or take any action relative thereto.

**MOTION:** I move to delete **Section VI. G. VARIANCES 1. Limitation of Use Variances** in its entirety and substitute the following language:

A variance authorizing a use or activity not otherwise permitted in the district in which the land is located shall be prohibited in all zoning districts including, but not limited to, all of the uses listed in Section II.C. of this By-law as expressly prohibited.

**SPONSOR:** Susan P. Bernstein

**BACKGROUND:** The Zoning Board of Appeals is authorized by state statute to grant two types of variances – Dimensional Variances and Use Variances. Dimensional variances include parameters such as building height, frontage, setback and lot area, and cities or towns may not eliminate the ZBA’s authority to grant such variances.

The second type of variance – a Use Variance – allows a use in a zoning district that is not specified in the Town’s Zoning By-law. State statute stipulates that Use Variances must be specifically authorized in the zoning by-law for the ZBA to be able to grant such variances.

**The citation in MGL 40A Section 10 is as follows:**

“Except where local ordinances or by-laws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located;”

The existing language in Framingham’s Zoning By-law Section VI.G.1, as follows, prohibits use variances only in select districts.

## **Existing Bylaw Language:**

### **VI. G. VARIANCES**

#### **I. Limitation of Use Variances**

“ A variance authorizing a use or activity not otherwise permitted in the district in which the land is located shall be prohibited in Geriatric Care/Elderly Housing Districts, Central Business (CB) Zoning District, single residence and general residence districts, but may be allowed by the Board of Appeals in other zoning districts in accordance with G.L. c. 40A, §10 except as otherwise prohibited in Section II.C of this By-law.”

Passage of this motion will delete the current language in Section VI.G.1. and replace it with a new Section VI.G.1. that will expand the current prohibition of Use Variances to all zoning districts in Town. The permitted uses in the Zoning By-law adopted by Town Meeting will then not be allowed to be superseded by a Use Variance granted by the ZBA.