



Report of the Arlington Redevelopment Board to the 2014 Annual Town Meeting April 28, 2014

The Arlington Redevelopment Board (the “Board”), acting as the Town’s planning board, is required to issue a report with recommendations to the Town Meeting on each warrant article that proposes to amend the “Town of Arlington Zoning Bylaw.” The Board must first hold an advertised public hearing on each such warrant article. The advertisements appeared in the “Arlington Advocate” as required on February 13 and 20, 2014. The public hearing was held on Monday, March 3, 2014. At its meeting on March 17, 2014, the Board voted on the recommended bylaw language shown below. For each of the warrant articles, the Board’s vote was unanimous.

Appearing below are the three articles that propose amendments to the Zoning Bylaw. The intent of each article is briefly explained, followed by the Board’s vote on each article, which constitutes its recommendation. Town Meeting members should take particular note of the fact that the recommendations of the Board, and not the original warrant articles, are the actual motions that will be considered by the Town Meeting.

Warrant article language may be quite general or very specific. The vote, however, must be specific in order to precisely set forth how the Zoning Bylaw will be modified. Even when the language in the warrant is specific, the vote or recommendation shown in this report may differ from the warrant language. This occurs when errors are discovered, or testimony at the public hearing convinces the Board that a change from the original warrant article should be recommended. In such cases, the recommended change cannot exceed the scope of the original warrant article. When there is a question about the scope of the change, the Town Moderator will determine whether the change exceeds the scope of the original warrant article. Changes to the Zoning Bylaw text are shown beneath the recommended votes. Additions to the original Bylaw text appear as underlined text, while any deletions to the original Bylaw text appear as ~~strike through~~ text.

ARTICLE 6

ZONING BYLAW AMENDMENT/MEDICAL MARIJUANA TREATMENT CENTERS, REGISTERED MARIJUANA DISPENSARIES SITING

To see if the Town will vote to amend the Zoning Bylaws to govern the use of land and buildings within the Town for “medical marijuana treatment centers” as defined in Chapter 369 of the Acts of 2012, adopted through the state initiative-petition process in November 2012; or take any action related thereto.

(Inserted at the request of the Arlington Redevelopment Board)

In November 2012 the voters of the Commonwealth adopted a law permitting qualifying individuals to obtain and use marijuana to address medical issues without threat of state criminal prosecution. The Commonwealth of Massachusetts Department of Public Health then began to develop regulations for Medical Marijuana Treatment Centers. Annual Town Meeting 2013 adopted a temporary moratorium on siting Medical Marijuana Treatment Centers until the dissolution of the Annual Town Meeting 2014 in order to allow time for the Commonwealth to issue its regulations.

During the winter, a working group made up of the Chief of Police, Director of Health and Human Services, Director of Inspectional Services, Director of Planning, Town Manager and the Chairman of the Board met to discuss zoning for Medical Marijuana Treatment Centers. The working group recommended that the Zoning Bylaw be changed to allow for Medical Marijuana Treatment Centers by special permit in the B3 and B5 zones subject to environmental design review. In considering the working group’s recommendation, the Board discussed the B3 and B5 zones, which are located in the three main commercial zones (East Arlington, Arlington Center and Arlington Heights) on the Mass Ave. spine, in the context of health and safety of the patients and the public. After discussion, the Board voted unanimously to change the Zoning Bylaw to allow for Medical Marijuana Treatment Centers by special permit in the B3 and B5 zones subject to environmental design review

Proposed Vote:

VOTED: That the Zoning Bylaw be and hereby is amended by:

(a) adding the definition of “Medical Marijuana Treatment Center” to Article 2 (Definitions) immediately after “Marquee,” as follows:

“Medical Marijuana Treatment Center:

A not-for-profit establishment registered with the Commonwealth, also known as a “registered marijuana dispensary” (RMD) that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical purposes”;

(b) amending Section 5.04 (Table of Use Regulations) by adding a new use numbered 7.10 as follows: “Medical Marijuana Treatment Center, permitted as such by the Arlington Board of Health” and “SP” under the B3, B5 column for Use 7.10;

(c) amending Section 11.06 (“Environmental Design Review”) by adding to the end of Section 11.06(b) the following new numbered paragraph 4, “Use 7.10 (Medical Marijuana Treatment Center) shall be subject to the environmental design review procedures and standards hereinafter specified.”

PROPOSED TEXT:

ARTICLE 2

DEFINITIONS

Section 2.01 - General

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Marquee:

A rigid surface canopy structure projecting from a building over an exterior entrance thereto and used as a shelter from rain or sun.

Medical Marijuana Treatment Center:

Medical Marijuana Treatment Center:

A not-for-profit establishment registered with the Commonwealth, also known as a “registered marijuana dispensary” (RMD) that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, offers for sale, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical purposes.

Membership Club:

A social, sports, or fraternal association or organization which is used exclusively by members and their guests.

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SECTION 5.04 - TABLE OF USE REGULATIONS (Continued)

		District																		
ART 15, ATM 5/91; ART 4, STM 5/97; ART. 14, ATM 4/01; ART. 2, STM 9/04; ART. 11, ATM 4/09		R0	R1	R2	R3	R4	R5	R6	R7	B1	B2	B2A	B3	B4	B5	MU	PUD	I	T	OS
Principal Use																				
7.04	Yards and buildings of general contractor, subcontractor or other building tradesman. Junkyards are specifically prohibited													SP						Yes
7.05	Stone cutting, shaping and finishing in enclosed buildings													SP						Yes
7.06	Autobody or paint shop, provided that all work is carried out inside the building																			SP
7.07	Truck service and repair, exclusive of bodywork and painting													SP						SP
7.08	Establishments devoted to research and development activities								SP		SP	SP	SP	SP	SP		SP			Yes
ART. 107, ATM 3/84																				
7.09	Light non-nuisance manufacturing providing that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor is effectively confined in a building or disposed of in a manner so as not to create a nuisance or hazard to safety or health; and further provided that no noise or vibration is perceptible without instruments at a distance greater than 50 feet														SP					SP
7.10	Medical Marijuana Treatment Center, permitted as such by the Arlington Board of Health												SP		SP					
Accessory Use																				
ART. 6, ATM 5/91																				
8.01	Renting of not more than three rooms to not more than three persons within a dwelling unit									Yes	Yes	Yes	Yes	Yes	Yes					Yes
ART. 5, ATM 4/00																				
8.02	Dormitory of a permitted nonprofit educational or religious institution									SP	SP	SP	SP	SP	SP	SP	SP			SP

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Section 11.06 - Environmental Design Review

a. PURPOSE. The purpose of this section is to provide individual detailed review of certain uses and structures which have a substantial impact upon the character of the town and upon traffic, utilities and property values therein, thereby affecting the public health, safety and general welfare thereof. The environmental design review process is intended to promote the specific purpose listed in Section 1.03 of this Bylaw. For the purpose of implementation of this Section, the ARB is designated as the Special Permit Granting Authority in accordance with the provisions of Chapter 40A, Section 1.

b. APPLICATION.

ART. 74, ATM 3/77; ART. 80, ATM 4/80; ART. 8, ATM 4/94; ART. 11, STM 5/97; ART. 9, ATM 4/98,
ART. 8, ATM 4/11

1. In any instance where a new structure, or a new outdoor use, or an exterior addition or a change in use a) requires a building permit, b) is subject to a special permit in accordance with Section 5.04, Table of Use Regulations, or alters the facade in a manner that affects the architectural integrity of the structure, and c) is one of the uses included in subparagraphs (a), (b), (c), (d), (e), (f), (g), or (h) below, the aforementioned special permit shall be acted upon by the Arlington Redevelopment Board in accordance with the environmental design review procedures and standards hereinafter specified.

- (a) Construction or reconstruction on a site abutting
Massachusetts Avenue
Pleasant Street
Mystic & Medford Streets between Massachusetts Avenue and Chestnut Street
Broadway
Minuteman Bikeway

ART. 16, ATM 4/01; ART. 5, ATM 4/05

- (b) Six or more dwelling units on the premises, whether contained in one or more structures or on one or more contiguous lots, constructed within a two year period.
- (c) Gasoline service stations.

ART. 13, ATM 5/91

- (d) Lodging house, bed and breakfast, bed and breakfast home or a rehabilitation residence with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.
- (e) Nonresidential uses and hotels or motels in a nonresidential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces.
- (f) Nonresidential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

ART. 6, ATM 4/02

- (g) Outdoor uses.

ART. 17, ATM 5/11

- (h) Temporary, seasonal signage in accordance with an overall signage plan at a fenced athletic field with one or more permanent structures to seat more than 300 persons, which signage may be in effect between March 15 and December 15 of any calendar year.

ART.2, STM 9/04

2. Any use permitted as a right or by special permit in the Planned Unit Development District and the Multi-Use District shall be subject to the environmental design review procedures and standards hereinafter specified.

ART. 7, ATM 5/07

3. Parking in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified.
4. Use 7.10 (Medical Marijuana Treatment Center) shall be subject to the environmental design review procedures and standards hereinafter specified.

ARTICLE 7 ZONING BYLAW AMENDMENT/ COMPREHENSIVE PERMIT APPLICATIONS

To see if the Town will vote to or take any action related thereto: to amend Section 11.08(d) of the Zoning Bylaws to increase the required percentage of Residential Units designated as Affordable Units within any new Project.

(Inserted at the request of John V. Belskis and ten registered voters)

The sponsor of this article intended to increase the Town's required percentage of affordable housing units in new residential developments subject to the Town's inclusionary Zoning Bylaw when and if the Commonwealth of Massachusetts increases the number of units required under Massachusetts General Law Chapter 40B. The sponsor declined to specify a percentage by which Arlington would increase its affordable housing requirement in Section 11.08 of the Zoning Bylaw under a recommended vote. Among other things, the Board considers it important that the Town's current 15% affordable housing inclusionary zoning requirement is less than that required under 40B giving developers a commercial reason to build under the inclusionary Zoning Bylaw rather than 40B. It should be noted that the current 15% requirement is in line with neighboring cities and towns and that the Master Plan process will be considering the issue of affordable housing.

Proposed Vote:

No action.

ARTICLE 8 ZONING BYLAW AMENDMENT/REGULATION OF OUTDOOR LIGHTING – DARK SKIES BYLAW

To see if the Town will vote to amend the Town and Zoning Bylaws to further regulate outdoor lighting; to reduce or eliminate light pollution (artificial light which causes a detrimental effect on the environment, interferes with the enjoyment of the night sky, causes undesirable glare, or unnecessary illumination of adjacent properties); determine the penalty for violation there of; or take any action related thereto.

(Inserted at the request of Paul Schlichtman and ten registered voters)

This warrant article was originally submitted to the Board as a Zoning Bylaw amendment. Given that this is an amendment to an existing Bylaw outside the Zoning Bylaw, it was determined that

Article 8 should be considered by the Board of Selectmen and not the Board. Accordingly, it is the Board's understanding that this Article will be reported out by the Board of Selectmen.

ARTICLE 9 ZONING BYLAW AMENDMENT/RESTAURANT OUTDOOR SEATING

To amend the Zoning Bylaw of the Town of Arlington by the creation, within Article 11, Special Regulations, of a new Section 11.10 entitled Outdoor Seating for Restaurants; or take any action related thereto.

(Inserted at the request of Michael Ruderman and ten registered voters)

The Board has been informed by Town Counsel that the temporary private occupancy of public ways is under the authority and jurisdiction of the Selectmen and is therefore not a matter for zoning or the Board. It is important to note that this article appears to duplicate an application and review process for outdoor seating already in use by the Board of Selectmen. In addition, the current regulations provide for the same or greater clear space for pedestrian passage than the proposed bylaw amendment, and the current regulations require the applicant to place a bond or insurance certificate to safeguard the Town.

Proposed Vote:

No action.

ARTICLE 22 ACCEPTANCE OF LEGISLATION/COMMUNITY PRESERVATION ACT

To see if the Town will vote to accept Sections 3 to 7, inclusive, of Chapter 44B of Massachusetts General Laws, the Community Preservation Act, to establish a dedicated funding source to enable the Town to, including without limitation: (1) acquire and preserve open space; (2) create and restore land for recreational uses; (3) preserve and rehabilitate historic buildings and sites; and (4) create and support affordable housing; to determine and approve a surcharge on real property for the purposes permitted by said Act; to determine whether the Town will accept any of the exemptions from such surcharge permitted by the Act; or take any action related thereto.

(Inserted at the request of Susan Stamps and ten registered voters)

At its April 7, 2014 Meeting, the Board voted unanimously to support the Board of Selectmen's recommended vote and rationale for accepting the Community Preservation Act.