

ZONING BYLAW WORKING GROUP

Comments in Advance of 11/9 Meeting | Zoning Audit Feedback

Christian Klein

- 5.3.9(A) - add porches, confirm which can be approved by special permit, can some be approved by right
- 6.1.10(A) - many clarifications needed, maybe split into separate sections, "foundation wall"
- 5.4.2(B)6 - "whichever is smaller", how is area of addition calculated, "foundation wall"
- 2.1: Half Story - area relative to what
- 8.1.5 - procedure for declaring a structure unsafe, maybe 3.1.E, reference 780 CMR 116/R116?
- 8.1.6.A - should this apply to private garages for one-and-two family homes
- 8.1.6.C - should this limit adding more parking than required
- 2.1: Foundation Wall - need definition
- Index: Abandonment, 2-1, 8-1-7 (not 8-4)
- Index: why hyphens and not periods like rest of ZBL
- 3.2.3(A) - ZBA now has rules and regulations, so this could be pared down
- Section 5 - any better way to cross reference special regulations and tables

Pam Heidell

Resilience Review, especially regarding Boston's Coastal Flood Resilience Zoning Overlay District. Boston's Overlay District covers areas of the city that could be inundated during a major coastal storm event with 40 inches of sea level rise. The zoning overlay creates new standards and exceptions relating to building height, setbacks, lot coverage, required open space, and other criteria. Buildings that undergo Resilience Review with the city have their height measured from two feet above the "Sea Level Rise Base Flood Elevation" instead of at grade. Only certain uses are allowed below the flood elevation, such as flood prevention measures, storage, and parking.

Specific Zoning Page: [See Boston's Article 25A: Coast Flood Resilience Overlay District \(additional information here\)](#)

<http://realestate.boston.com/news/2021/10/27/new-boston-building-rules-set-standards-for-areas-at-risk-of-flooding/>

John Worden

Here are some items I believe we should be focusing on:

1. Put page numbers on the text of the Zoning Bylaw (ZBL) to facilitate finding things
2. Limit discretion of ARB to reduce open space required by the ZBL
3. If a mixed use development is more than 50% residential, then residential open space, setbacks etc. should be observed
4. Impose FAR standards on structures in R0, R1, & R2 zones, so as to minimize huge houses on tiny lots. I suggest .3 would be appropriate to present a reasonable balance of house to lot
5. Recalculate affordable housing land occupation percentages to determine if we have not yet met the 1.5% standard considering the pending approvals of Mugar & Mirak

6. Defend the ZBL, enacted by our Town Meeting, and do not encourage, support, or advocate for 40Bs giving unscrupulous developers the right to disregard what we have chosen for development in our Town
7. Before proposing further residential development. Determine where a new elementary school would be placed. And how it could be financed without an even more crushing burden on Arlington's taxpayers
8. Moratorium on further residential development until the non-residential tax base reaches say 10% of the total assessed value of the Town
9. Keep in mind that the Master Plan, approved by Town Meeting said that the only additional residential development we need is affordable and senior housing
10. Address climate change issues by, *e.g.*:
 - (a) Enact strict laws to protect trees, public & private
 - (b) Require that all new construction of multi family housing be net zero
 - (c) Enact strong laws to prevent new construction from shadowing solar panels, in place or possible, on neighboring buildings
11. Amend ADU bylaw to create some protection of neighbors
12. Address the tear-down/mansionization epidemic
13. Reform the large additions by law to eliminate the "two walls standing" charade
14. Craft a bylaw for the MBTA overlay district that preserves both the present commercial area on Massachusetts Avenue and the basically well developed two family neighborhood (we are already ahead of the statutory standard of 15 units per acre). Maybe our legislators could get us an exemption for this reason

...to be continued

Steve Revilak

I'm writing to suggest areas where the Zoning Bylaw Working Group might direct its efforts during the coming months. I'd like to see the group focus on Arlington's Business districts with the goal of encouraging commercial growth and attracting new businesses to town.

Commercial development is booming in Greater Boston; Somerville is undergoing significant revitalization in Union Square¹ and Boynton Yards², while Cambridge has Cambridge Crossing³ and a range of possibilities outlined in their Alewife District Master Plan.⁴ I would like to see Arlington receive some benefits from this regional growth, such as jobs, broadening the commercial tax base, and infrastructure improvements. In the longer term, I'm concerned that Arlington will have difficulty attracting and retaining businesses, as our neighboring communities become increasingly business-friendly and have more to offer.

I think this effort has to start with a critical look at Arlington's Zoning Map, and some history may be useful for context. Prior to 1975 Arlington had two business districts which ran along

¹ <https://discoverusq.com/>

² <https://boyntonyards.com/>

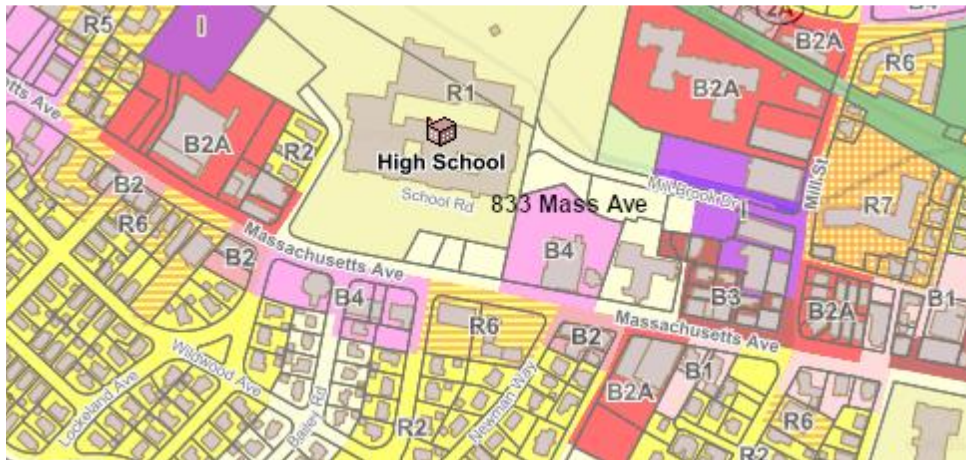
³ <https://www.cambridgecrossing.com/>

⁴ https://www.cambridgema.gov/-/media/Files/CDD/compplan/envisioncambridgefinalplan/20191022_Alewife.pdf

Massachusetts Avenue and Broadway, 100-150' deep on each side. In addition, we had an industrial district that followed the Boston-Maine Railroad (now Minuteman Bikeway) from Arlington center to the Lexington line.⁵ It was a logical and almost form-based approach, where larger and more intensive uses were allowed in the industrial district and along the main corridors, with the remainder of the town designated for smaller and less intensive residential uses.⁶

Contrast this with our current zoning map, where most of the former commercial districts have been eliminated and what remains is a fragmented quilt. It appears that our current map is simply a codification of land uses that existed in the early 1970s. Former commercial district parcels that contained apartments became residential apartment zones, while parcels used for commercial purposes were placed in one of six business districts that tightly conformed to their use at the time.

The area around 833 Mass Ave provides a good illustration of this fragmentation. 833 Mass Ave is a single-parcel B4 district (I believe it used to be an auto dealership). The next parcel to the right is R1, and the one after that is B3. There's an R6 across the street to one side and a B2 across the street to the other. As one continues west along Mass Ave, there's a B4, a B2, a B2A, another R6, and another B2—all within the span of a few blocks. Because these districts have different use regulations, it's not terribly apparent (to someone unfamiliar with Arlington's zoning history) what should go where, and why.



In general, I would favor having substantially more land zoned for business use, even if only to support corner stores and more opportunities for fifteen-minute neighborhoods. Beyond the zoning map, I believe the use table for business districts is another critical area to consider. Uses are allowed in one of two ways: by right or by special permit. By right means "this use is encouraged" and by special permit means "this use might be okay, but we will have to think

⁵ 1946 Zoning Map of the Town of Arlington. <https://www.sreuilak.net/wiki/images/0/0a/ZonMap1946.pdf>

⁶ See <https://www.sreuilak.net/wiki/images/6/6f/ZonBylaw195410.pdf> for a copy of the Zoning Bylaw from 1954, which provides district regulations.

about it first". Of course, a large number of the uses allowed in our business district are only allowed via the granting of a special permit.

If one were to read the use table as a guideline for what kinds of businesses that Arlington hopes to encourage, one could reasonably conclude that the town wants:

- Banks and restaurants that are smaller than 2000 square feet
- Retail, office, and service establishments that are smaller than 3000 square feet
- Businesses with five or fewer employees
- Single- and two-family homes (which aren't businesses at all, but are allowed by right in all business districts).

Which is to say, we do not encourage much.

Tying this back to the Master Plan Zoning Audit and October 27th memo from the Department of Planning and Community Development, the areas that I would like to see the ZBWG focus on are:

- Attracting development that supports and expands the economic, cultural, and civic purposes of Arlington's commercial areas.
- Maximizing the build-out potential of commercial and industrial properties.
- Reducing the overall number of zoning districts to address infill development and ease of use of the bylaw: address setbacks, dimensional standards, building height maximums, FAR, and minimum lot area per dwelling unit (with emphasis on the commercial corridors and business districts)
- Reducing the number of uses requiring special permits which makes the bylaw overly restrictive, confusing, and impractical for the purposes of determining build out and growth
- Amend EDR. In particular, I'd be interested in seeing options for by-right development with performance standards and site plan review, particularly in the business districts.

I would also like to note Ali Carter's October 21 memo to the Select Board,⁷ which states A revamped ATED committee would assist with the critical work of filling commercial vacancies and work with staff and the Arlington Redevelopment Board on considering larger commercial and mixed-use developments in town. ATED will also participate in discussions with the ARB and Zoning Bylaw Working Group as they advance zoning amendments that focus on improved development opportunities along the town's major corridors and industrial areas.

I would be very interested in learning about the kinds of changes that members of the business community would find beneficial.

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⁷ <https://arlington.novusagenda.com/agendapublic/AttachmentViewer.ashx?AttachmentID=>

Ralph Willmer

- Reduce the overall number of zoning districts to address infill development and ease of use of the bylaw: address setbacks, dimensional standards, building height maximums, FAR, and minimum lot area per dwelling
- Reduce the number of uses requiring special permits which makes the bylaw overly restrictive, confusing, and impractical for the purposes of determining build out and growth
- Address parking issues throughout bylaw, including parking in front setbacks, maximums instead of minimums, greater reductions for residential and some commercial
 - I note that the 2014 memo also seems to reference parking management issues outside of zoning such as enforcement of parking limits on residential streets in East Arlington. And I encourage the adoption of parking maximums in addition to the traditional minimum standards.
- Regulations for short-term rentals
 - There are a number of examples we can review from other communities

One item that I think should be put on the back burner is TDR. It is interesting that the 2014 memo identified the lack of a TDR bylaw in Arlington as a “noteworthy omission”. That said, the memo also acknowledged that there are few remaining vacant parcels and that admin capacity is needed to administer the program. I am not sure it is worth the investment in time and energy, but I wonder what others think about it.

Gene Benson

These are my comments in response to the items listed in the October 27, 2021, memorandum from the Department of Planning and Community Development to the Zoning Bylaw Working Group:

- Reduce the overall number of zoning districts to address infill development and ease of use of the bylaw: address setbacks, dimensional standards, building height maximums, FAR, and minimum lot area per dwelling (2014 pg. 3, 14-17; 2017 pg. 3)

Comment: Yes. The current number and location of business districts along the commercial corridors is a historic relic. Having a rational number, distribution, and definition is long overdue. Encouraging more commercial development in town and increasing the commercial tax base would include reducing number and type of business districts and allowing for greater heights, FAR, and adjusted setbacks and open space requirements.

- Reduce the number of uses requiring special permits which makes the bylaw overly restrictive, confusing, and impractical for the purposes of determining build out and growth (2014 pg. 3, 12-14)

Comment: This makes sense for three family and apartment buildings, and townhouses, where no advantage is served by the special permit process -- provided there are design standards that must be met. I have not seen any evidence that requiring special permits for commercial projects has resulted in fewer such projects.

- Amend the Special Permit for Large Additions section for clarity and update to conform with current practice (2014 pg. 5)

Comment: Agree

- Address parking issues throughout bylaw, including parking in front setbacks, maximums instead of minimums, greater reductions for residential and some commercial (2014 pg. 3, 17-18; 2017 pg. 5)

Comment: Recent bylaw amendments now allow for a reduction and elimination in onsite parking that is required in the business district based on the availability of parking onsite. A proposed bylaw amendment for Town Meeting 2022 would reduce the parking requirements multi-family residences to one space per unit, the current requirement for single family homes. In residential areas people often park in front setbacks, often when they do not use their garage, have multiple vehicles, or prefer to park closer to the street. Allowing this in other circumstances, but perhaps not directly in front of the house, would result in more green space preserved on parcels and remove a requirement seldom met.

- Amend EDR, including conducting a study of special permits granted, incorporating staff review of smaller projects, and creating an easier to use table to determine appropriate criteria (2014 pg. 3, 17)

Comment: I think the EDR criteria are clear, although some are arguably somewhat vague, with perhaps good reason. Staff currently have the authority to administratively approve signs that are consistent with the ZBL signs requirement, and for "Dover Amendment" projects. No reason was given why staff review of smaller projects would yield a benefit.

- Amend standards for townhouses (2014 pg. 15)

Comment: Agree. The current standards for townhouses have the effect of preventing townhouses from being built. Townhouses can help fill in the "missing middle" in new home construction in town, as well increase environmental efficiency.

- Add regulations for short term rentals (2017 pg. 7)

Comment: This was done by town bylaw after the 2017 memo was written.

- Add regulations for solar (2017 pg. 7)

Comment: The 2017 memo mentions a lack of regulations for solar facilities, with no more information than that. Accordingly, I cannot determine what is lacking. I have been coordinating with some members of the Clean Energy Future Committee on proposed ZBL amendments re the Net Zero Plan and solar requirements. The Committee is not pursuing those this coming year. They are in a separate attached document for consideration by the ZBWG.

- Add transfer of development rights (2014 pg. 19)

Comment: This could be interesting for the town to pursue. There are many issues to resolve, including whether TDRs are feasible in town, how to implement (sending and receiving zones, etc.), and what the town would hope to accomplish with TDRs. I suggest a study would be required on this.

[Amend 3.4.4.L to include consistency with the Net Zero Action Plan](#)

3.4.4. Environmental Design Review Standards

L. Sustainable Building and Site Design [and Climate Protection](#). Projects are encouraged to incorporate best practices related to sustainable sites, water efficiency, energy and atmosphere, materials and resources, and indoor environmental quality. Applicants must submit a current Green Building Council Leadership in Energy and Environmental Design (LEED) checklist, appropriate to the type of development, annotated with narrative description that indicates how the LEED performance objectives will be incorporated into the project. [In addition, projects shall be consistent with the town's Net Zero Action Plan as appropriate and practicable.](#)

[Add definitions and add Section 6.3 for solar energy systems](#)

Section 2. Definitions

[Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generation, or water heating.](#)

[Solar Ready Zone: Fifty percent or more of a roof area that is either flat or oriented between 110 and 270 degrees of true north, exclusive of mandatory access or setbacks required by the Massachusetts Fire Code.](#)

Section 6. Site Development Standards

[6.3 Solar Energy Systems](#)

[6.3.1. Requirement for Solar Energy Systems](#)

[Projects requiring Environmental Design Review per section 3.4.2 of this Bylaw shall include a solar energy system that is equivalent to at least fifty percent of the roof area of the building or buildings that are the subject of the review. Where a site includes a covered parking structure, the structure shall also have a solar energy system that covers at least ninety percent of its top level.](#)

[6.3.2. Solar Energy System Assessment](#)

[A solar energy system assessment shall be submitted with an application for Environmental Design Review and shall include at a minimum:](#)

- [A. An analysis for solar energy system\(s\) for the site detailing layout and annual production.](#)
- [B. The maximum feasible solar zone area of all structures and potential ground mounted canopies.](#)
- [C. Drawings showing the solar energy system proposed by the applicant, with a narrative describing the system and the reasons the system was chosen, or a detailed explanation of why the project meets an exemption of Section 6.3.3 for a solar energy system.](#)

6.3.3. Exemptions

A solar energy system on the roof of a building or other structure is not required where there is no solar ready zone or the solar ready zone is shaded for more than fifty percent of daylight hours annually, or for building conversions with insufficient structural load capacity. Further, in the case of a mixed or ground mounted installation, the requirement may be reduced or waived if the assessment determines there is not a viable location to meet the solar requirement.

6.3.4. Location and Safety

- A. Emergency Access. Solar energy systems shall be mounted to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation systems, and as provided by the Massachusetts Fire Code.
- B. Safety. A roof mounted solar energy system shall be located so that it does not result in shedding of ice or snow from the roof onto a porch, balcony, stairwell, or pedestrian travel area.
- C. Solar Energy Systems shall not be counted in determining the height and gross floor area of buildings, the amount of impervious surface and open space, and shall be exempt from setback requirements.

6.3.5 Shading of solar energy systems

- A. An application for Environmental Design Review per section 3.4.2 of this Bylaw shall include detailed information on the shadows the project would cast and any resulting shading of solar energy systems on other properties. Projects requiring Environmental Design Review per section 3.4.2 of this Bylaw shall not ~~cast-shade on~~ more than ten percent of a functioning solar energy system on another property for more than ten percent of daylight hours annually unless the project includes a solar energy system that exceeds the amount required by sections 6.3.1 – 6.3.3 of this Bylaw by an amount equivalent to the amount shaded on the other properties to the extent feasible, and pays compensation to the other property for the shading. The amount of compensation shall be set forth in the special permit issued for the project based on the loss of solar energy generation for the expected useful life of the solar energy system that is shaded.
- ~~A.~~B. In the residential districts, a new residential dwelling, a partial or full tear-down and ~~new construction~~ rebuild, as well as any addition to an existing dwelling, and any accessory building, shall not ~~cast-shade on~~ more than ten percent of a functioning solar energy system on an adjacent property for more than ten percent of daylight hours annually.