



Town of Arlington

ARLINGTON REDEVELOPMENT BOARD

2022 Annual Town Meeting Draft Zoning Bylaw Amendments

February 17, 2022

Introduction and Overview

The Arlington Redevelopment Board (ARB) is the Town's Planning Board, under M.G.L. Chapter 41 § 81. There are five members of the Board. Four are appointed by the Town Manager and the fifth is a gubernatorial designee appointed by the Massachusetts Department of Housing and Community Development. The Board serves as the Town's special permit granting authority for projects which require an Environmental Design Review (EDR) as identified in the Zoning Bylaw. The ARB is also the Town's Urban Renewal Authority under M.G.L. Chapter 121; with Town Meeting approval, the Board may hold property to improve and rehabilitate them to meet community development goals.

The members of the ARB are as follows:

Rachael Zsembery, Chair (Term through 6/30/2023)

Kin Lau, Vice Chair (Term through 1/31/2022)

Eugene Benson (Term through 1/31/2023)

Stephen Revilak (Term through 9/22/2023)

Melisa Tintocalis (Term through 1/31/2023)

Jennifer Raitt, Director of the Department of Planning and Community Development, serves as Secretary Ex-Officio to the ARB.

In accordance with the provisions of the Town of Arlington, Massachusetts Zoning Bylaw and Massachusetts General Laws Chapter 40A, a public hearing will be held by the Arlington Redevelopment Board (ARB) on:

1. **Monday, March 7, 2022**, beginning at 7:30 PM, to hear Articles A, B, C, and D via Zoom at <https://town-arlington-ma-us.zoom.us/j/84733721863>, Meeting ID: 847 3372 1863, or by calling (646) 876-9923 Meeting ID 84733721863#;
2. **Monday, March 14, 2022**, beginning at 7:30 PM, to hear Articles E, F, G, H, I, and J via Zoom at <https://town-arlington-ma-us.zoom.us/j/83637785824>, Meeting ID: 836 3778 5824, or by calling (646) 876-9923, Meeting ID 83637785824#;
3. **Monday, March 21, 2022**, beginning at 7:30 PM, to hear Articles K, L, M, N, and O via Zoom at <https://town-arlington-ma-us.zoom.us/j/81516112379>, Meeting ID: 815 1611 2379, or by calling (646) 876-9923, Meeting ID 81516112379#; and
4. **Monday, March 28, 2022**, beginning at 7:30 PM, to hear Articles P, Q, and R via Zoom at <https://town-arlington-ma-us.zoom.us/j/86753219003>, Meeting ID: 867 5321 9003, or by calling (646) 876-9923, Meeting ID 86753219003#.

The articles are presented in the order in which they appear in the Legal Notice and as shown in the meeting details above. The ARB will hear public comments on the proposed amendments to the Zoning Bylaw. After receiving public comments, the ARB will make recommendations on the proposed amendments for Annual Town Meeting, which will begin on Monday, April 25, 2022.

The draft language of the proposed amendments to the Zoning Bylaw is available on Thursday, February 17, 2022 may be viewed at the front counter of the Department of Planning and Community Development at 730 Massachusetts Avenue, at the main desk of the Robbins Library at 700 Massachusetts Avenue, or

viewed and downloaded from the Redevelopment Board webpage of the Town's website at www.arlingtonma.gov/arb.

Please note that the Zoning Bylaw Amendments have not yet been assigned Article numbers as of February 17, 2022.

Contact Kelly Lynema, Assistant Director of Planning and Community Development, at 781-316-3096 or klynema@town.arlington.ma.us with any questions or comments.

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Summary of Recommended Votes of the Redevelopment Board

This page is reserved for a listing of all final votes taken by the Board.

Zoning Bylaw Amendments: Two Family Construction Allowed by Right in R0 and R1 Residential Zones
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE A **ZONING BYLAW AMENDMENT / TWO FAMILY CONSTRUCTION**
ALLOWED BY RIGHT IN R0 AND R1 RESIDENTIAL ZONES

To see if the Town will vote to amend Section 5.4 of the Zoning Bylaw by amending definitions and expanding allowable residential uses in the R0 Large Lot Single-Family District and R1 Single-Family District with the goal of diversifying the housing stock; or take any action related thereto.

(Inserted at the request of Annie LaCourt and 10 registered voters)

The petitioner provided the following:

Voted, that the Zoning Bylaw of the Town of Arlington be amended as follows:

By making the following changes to the definitions of the R0 and R1 districts in Section 5.4.1(A):

- (1) R0: Large Lot ~~Single-Family Residential~~ District. The Large Lot ~~Single-Family Residential~~ District has the lowest residential density of all districts and is generally served by local streets only. The Town discourages intensive land uses, uses that would detract from the ~~single-family~~ residential character of these neighborhoods, and uses that would otherwise interfere with the intent of this Bylaw.
- (2) R1: ~~Single-Family Residential~~ District. The predominant uses in R1 are single-family, two-family, duplex dwellings, and public land and buildings. The Town discourages intensive land uses, uses that would detract from the ~~single-family~~ residential character of these neighborhoods, and uses that would otherwise interfere with the intent of this Bylaw.

By making the following changes to 5.4.2A. Table of Dimensional and Density Regulations, R District Building Height and Floor Area Ratio Regulations, so that the first line for R0, R1 would read as follows:

R District Building Height and Floor Area Ratio Regulations (see 5.4.2(B) for exceptions)

District	Use	Maximum Allowed		
		Maximum Height (ft.)	Maximum Height (stories)	Maximum Floor Area Ratio (FAR)
R0, R1	Single Family detached dwelling, <u>two family dwelling, duplex dwelling</u>	35	2 ½	----

By adding the letter "Y" to the "Use Regulations for Residential Districts" table in Section 5.4.3, in the rows labeled "Two family dwelling, duplex" under the columns labeled "R0" and "R1"; so that the first two columns of said rows read as follows:

Zoning Bylaw Amendments: Two Family Construction Allowed by Right in R0 and R1 Residential Zones
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

5.4.3 Use Regulations for Residential Districts

Class of Use	R0	R1	R2	R3	R4	R5	R6	R7
Residential								
Single-family detached dwelling	Y	Y	Y	Y	Y	Y	Y	Y
Six or more single family dwellings on one or more contiguous lots	SP	SP	SP	SP	SP	SP	SP	SP
Two-family dwelling, duplex	<u>Y</u>	<u>Y</u>	Y	Y	Y	Y	Y	Y

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Zoning Bylaw Amendments: Enhanced Business Districts

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE B

ZONING BYLAW AMENDMENT/ ENHANCED BUSINESS DISTRICTS

To see if the Town will vote to amend the Zoning Bylaw to update Section 5 DISTRICT REGULATIONS to encourage pedestrian activity, maintain an active street, and limit the amount of ground floor retail space occupied by banks, offices, lobbies, and other non-active uses, when feasible; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 5.5.2:

Add section 5.5.2(B)

5.5.2(B) Development Standards

In the Business Districts, new construction, additions over 50% of the existing footprint, or redevelopment with frontage on Massachusetts Avenue or Broadway subject to review by the Arlington Redevelopment Board shall be required to provide the following:

(1) Transparency and Access

- The required minimum transparency of the ground floor principal façade visible from a public right-of-way is 60% of the area measured between 2 and 8 feet in height from the level of the finished sidewalk.
- All façades visible from a public right-of-way shall be given equal treatment in terms of architectural detailing. No blank façades are permitted. Façades shall be articulated a minimum of every 30 feet.
- Each building shall have a clearly defined primary entrance that faces the principal street. A corner door may be used for a building that faces two public streets.
- The primary building entry shall be connected by an accessible surface to the public sidewalk.
- Lobby entrances for upper story uses should be optimally located, well defined, clearly visible, and separate from the entrance for other ground floor uses. Buildings should use any combination of articulation, a double-height ceiling, a distinctive doorway, a change in wall material, a change in paving material within the frontage area, or other architectural element(s) to make lobbies visually and materially distinctive.
- Lobbies should be limited in both width and total area to preserve floor space and façade frontage for other ground floor uses.
- Existing commercial spaces with frontage exceeding the above dimensional requirements are exempt.

Zoning Bylaw Amendments: Street Trees

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE C

ZONING BYLAW AMENDMENT/ STREET TREES

To see if the Town will vote to amend the Zoning Bylaw to update Section 2 DEFINITIONS and Section 6 SITE DEVELOPMENT STANDARDS to require street tree plantings for every 25 feet of property facing a street, when feasible; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 2:

Public Shade Tree: A tree planted within the furnishing zone of a sidewalk as an element of a thoroughfare consistent with [G.L.c. 87, § 1](#).

Amend Section 6:

6.3 PUBLIC SHADE TREES

6.3.1 Purpose

The purpose of this Section 6.3 is to:

- A. Provide for adequate shade tree coverage along Arlington’s main corridors;
- B. Implement carbon neutral policies of the Town of Arlington;
- C. Address heat island effects emanating from Arlington’s main corridors;
- D. Enhance public health and walkability with proper shading.

6.3.2 Applicability

In the Business Districts, new construction, additions over 50% of the existing footprint, or redevelopment with frontage on Massachusetts Avenue or Broadway subject to review by the Arlington Redevelopment Board shall provide one shade tree every 25 linear feet of lot frontage along the public right of way.

6.3.3 Administration

- A. This Section 6.3 shall be administered subject to Section 3.4, Environmental Design Review Special Permit by the Arlington Redevelopment Board.
- B. After the effective date of this Bylaw, public shade trees shall be provided for any applicable use noted above and subject to Section 3.4, Environmental Design Review and in accordance with the Standards established in this Section.

6.3.4 Standards

- A. Street trees shall be planted within existing and proposed planting strips, and in sidewalk tree wells on streets without planting strips.

Zoning Bylaw Amendments: Street Trees

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

- B. Trees shall be selected from the approved tree list set forth by the Tree Committee and approved by the Tree Warden.
- C. When planted, trees must be a minimum height of ten (10) feet or two (2) inches in caliper.
- D. All new trees shall be maintained in accordance with American Standard for Nursery Stock standards for a period of no less than 36 months from the date of planting. Properties in which there are preexisting shade trees at the required spacing along the public right of way are exempt.

The Arlington Redevelopment Board may grant an increase in spacing between plantings where a new planting would conflict with existing trees, retaining walls, utilities, and similar physical barriers, or other curbside uses.

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Zoning Bylaw Amendment: Solar Energy Systems

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE D

ZONING BYLAW AMENDMENT/ SOLAR ENERGY SYSTEMS

To see if the Town will vote to amend the Zoning Bylaw to update Section 2 DEFINITIONS and Section 6 SITE DEVELOPMENT STANDARDS to allow for and require installation of solar energy systems for buildings subject to Environmental Design Review with certain exceptions; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 2 by creating category “Definitions Associated with Solar Energy Systems”: _____

Photovoltaic System (also referred to as Photovoltaic Installation): A solar energy system that converts solar energy directly into electricity.

Roof-Mounted Solar Photovoltaic System: A solar photovoltaic system that is structurally mounted to the roof of a building or structure.

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.

Solar Thermal System: A solar energy system that uses collectors to convert the sun’s rays into useful forms of energy for water heating, space heating, or space cooling.

Amend Section 6: _____

6.4 Solar Energy Systems

6.4.1. Requirement for Solar Energy Systems

A project 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, unless the Redevelopment Board determines that using a smaller percentage of the roof area is viable. Where a site includes a parking structure, the structure shall also have a solar energy system that covers at least ninety percent of its top level.

The Arlington Redevelopment Board may adopt rules and regulations to specify the information required to be in an application for Environmental Design Review to implement Section 6.3 of this Bylaw.

6.4.2. Exemptions

A solar energy system on the roof of a building or other structure is not required:

- A. Where there is no solar ready zone or the solar ready zone is shaded for more than fifty percent of daylight hours annually;
- B. For an existing building or building conversion with insufficient structural load capacity;

Zoning Bylaw Amendment: Solar Energy Systems

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

- C. For a building in a Historic District when the relevant Historic District Commission has denied a certificate of appropriateness, non-applicability, or hardship to allow a solar energy system on the building under the standards and procedures set forth in the Town Bylaws Title VII, Historic Districts;
- D. When an application for an Environmental Design Review is for
 - (1) A change of use alone;
 - (2) An alteration to the façade that does not affect the architectural integrity of the structure per Section 3.4.2 of this Bylaw;
 - (3) Outdoor uses per Section 3.4.2(H) of this Bylaw;
 - (4) Temporary, seasonal signage per Section 3.4.2(I) of this Bylaw; or
 - (5) Sign approval per Section 6.2 of this Bylaw.
- E. When inconsistent with reasonable regulation of religious, non-profit educational, and childcare facilities used primarily for such purposes as set forth in G.L. c. 40A, §3, as implemented by section 3.5 of this Bylaw and the regulations adopted thereunder.

The requirements of this Section may be reduced or waived when the applicant proposes and the Arlington Redevelopment Board determines there is a better alternative that meets the goals of this Section 6.3.

6.4.3. 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 provide emergency egress from the roof, as required 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.

Zoning Bylaw Amendment: Administrative Amendments

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE E

ZONING BYLAW AMENDMENT/ ADMINISTRATIVE AMENDMENTS

To see if the Town will vote to amend the Zoning Bylaw to make the following administrative corrections:

1. Amend Section 3.4.3. (D) Arlington Redevelopment Board procedures to update simple majority voting quantum pursuant to M.G.L. c.40A sec 9.
2. Amend Section 6.1.5. C (6) to add "if otherwise not required" or similar to the end of the clause;
3. Strike Section 8.1.4. (E) to eliminate duplication between Section 8.1.4(E) and Section 8.1.5;
4. Add "Group Home" to the "Definitions Associated with Dwelling" in Section 2 DEFINITIONS;
5. Add "Accessory Dwelling Unit" to the "Definitions Associated with Dwelling" in Section 2 DEFINITIONS; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 3.4.3(D):

- D. A favorable decision by the Board shall require the votes of at least four members, ~~with the exception of special permits in compliance with M.G.L. c.40A § 9 requiring a simple majority vote.~~

Amend Section 6.1.5(C)(6):

- C. Transportation Demand Management (TDM): Any request for parking reduction must include a plan to reduce demand for parking. TDM provides incentives to reduce the use of Single Occupant Vehicles and encourages the use of public transit, bicycling, walking, and ridesharing. All projects requesting a parking reduction must employ at least three TDM methods described below:

- (1) Charge for parking on-site;
- (2) Pay a stipend to workers or residents without cars;
- (3) Provide preferential parking for carpooling vehicles;
- (4) Provide a guaranteed emergency ride home;
- (5) Provide transit pass subsidies;
- (6) Provide covered bicycle parking and storage, if otherwise not required;

Amend Section 8.1.4(E):

- ~~E. Except as covered under Section 8.1.7, any structure determined to be unsafe may be restored to a safe condition, provided the work on any nonconforming structure shall be completed within one year of the determination that the structure is unsafe and the restoration work shall not place the structure in greater nonconformity. A structure may be exempted from this provision by a special permit from the Board of Appeals or, in cases subject to Environmental Design Review in Section 3.4, the Arlington Redevelopment Board.~~

Zoning Bylaw Amendment: Administrative Amendments

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

Amend Section 2:

Definitions Associated with Dwelling

Accessory Dwelling Unit: A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling.

Apartment Building: A multi-family building designed or intended or used as the home or residence of four or more households, each in a separate dwelling unit, living independently of each other and who may have a common right in halls and stairways.

Dormitory: A dwelling, under the ownership or control of an educational, charitable or philanthropic organization which provides separate rooms or suites for the semi-permanent occupancy of individuals or groups of up to four individuals per room, with common bath and toilet facilities and without individual cooking facilities.

Dwelling: A privately or publicly owned permanent structure, whether owned by one or more persons or in condominium, or any other legal form which is occupied in whole or part as the home residence or sleeping place of one or more persons. The terms "efficiency," "single-family," "two-family," "duplex", "three-family" or "multi-family" dwelling, or single-room occupancy building, shall not include hotel/motel, bed and breakfast, hospital, membership club, mixed-use, or mobile home.

Dwelling Unit: A separated portion of a building containing living, sleeping, housekeeping accommodations, and sanitary facilities for occupancy by one household.

Duplex Dwelling: A building containing two dwelling units joined side by side or front to back, sharing a common wall for all or substantially all of its height and depth; that is, in which no part of one dwelling unit is over any part of the other dwelling unit. A duplex shall be considered as one principal building occupying one lot for the purposes of determining yard requirements.

Group Home: A dwelling, owned or leased by a state agency or a non-profit organization on behalf of a state agency, operated as a supervised residence for adults with severe disabilities, which may include educational, social, health care, and other supportive services.

Multi-family Dwelling: A building containing 4 or more dwelling units.

Single-Family Dwelling: A building containing only one dwelling unit.

Single-Room Occupancy Building: A building with four or more rooms for occupancy by individuals not living as a single housekeeping unit, with shared cooking and living facilities and which may have individual or shared sanitation facilities. The term "single-room occupancy building" shall not include apartment buildings, hotels, nursing homes, dormitories, or assisted living residences

Three-Family Dwelling: A building containing three dwelling units.

Zoning Bylaw Amendment: Administrative Amendments

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

Townhouse Structure: A row of at least three single-family attached dwelling units whose sidewalls are separated from other dwelling units by a fire separation wall or walls, and where each unit has its own at-grade access.

Two-Family Dwelling: A building containing two dwelling units, in which part of one dwelling unit is over part of the other dwelling unit.

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Zoning Bylaw Amendments: Expand Business Districts

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE F

ZONING MAP AMENDMENT / EXPAND BUSINESS DISTRICTS

To see if the Town will vote to remap the parcels identified in the affixed table and represented by the proposed map affixed hereto from their current respective Residential zoning districts to the Business District 3 (B3); or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

The petitioner provided the following:

I have filed a petition to rezone a part of Capitol Square from residential to business. The effect is that a business could start there, or the building could be converted or redeveloped to be mixed use—homes above a commercial space.

The specific properties to be rezoned are below. My intent of the rezoning is to allow the neighborhood to improve. I want to see more storefronts because it makes for a more interesting place to live, and I want more residents in the neighborhood because it makes for a more active neighborhood and better support for existing businesses. Currently, businesses cannot establish on these properties, and the proposed rezoning would change that.

Rezoning does not mean that these properties must change. What exists there now may continue to exist without violating any town law. Rezoning also does not mean the properties will change immediately. Rezoning gives the property owner the *ability* to change their property to include business use. If, how, and when they do so would be up to them.

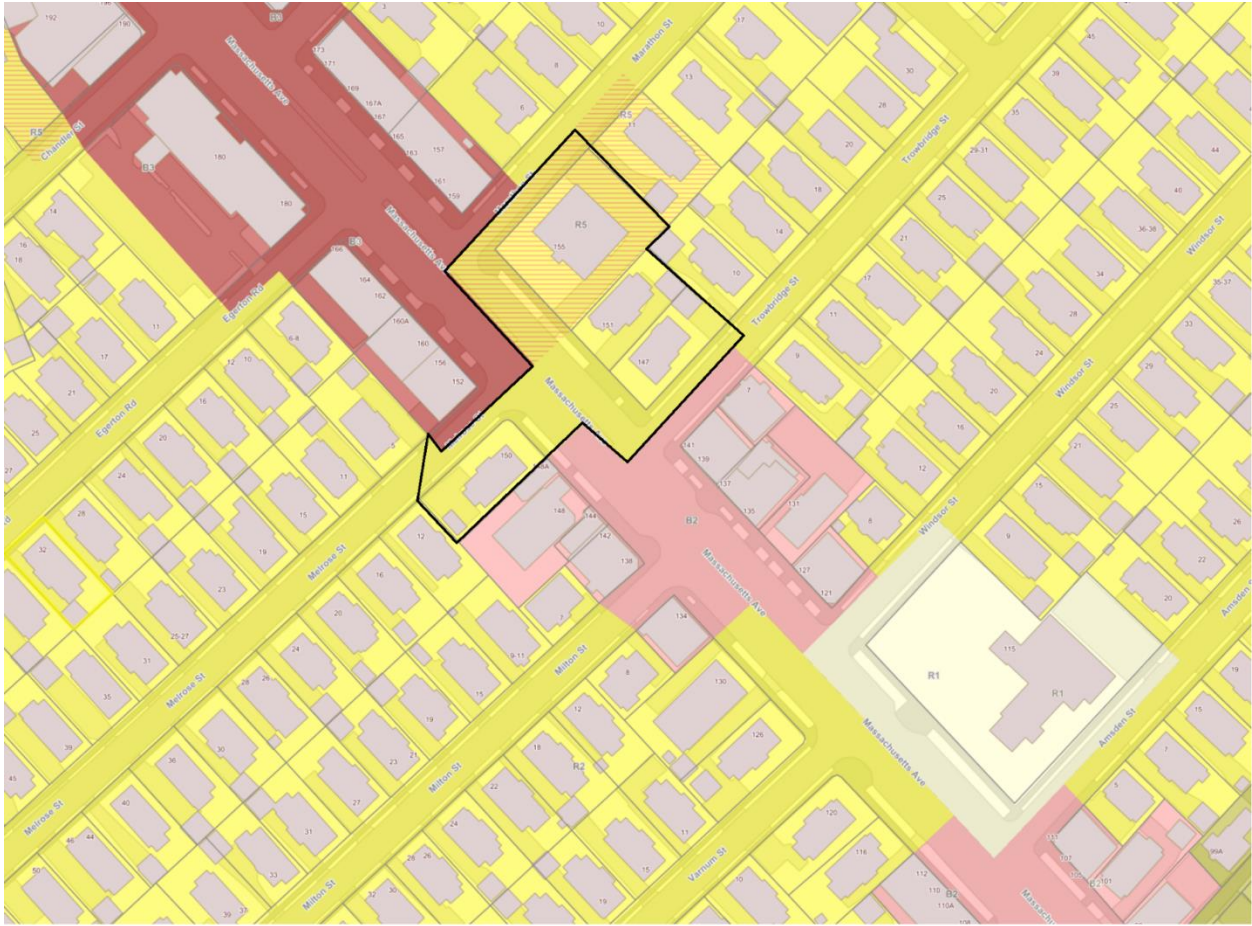
I have asked the interim director of assessment for the Town (Dana Mann) about the tax impacts of rezoning these properties. Unless a property were to change (larger building, adding commercial use, etc.), the rezoning itself would have no impact on the assessed value, and therefore the taxes.

Properties to be rezoned from their current zoning district to Business District 3 (B3):

Identifiers				Current Zoning ¹	Street Address
Parcel ID	Map	Block	Lot		
25-4-9	25	4	9	R5	155 Mass Ave
25.A-4-151.1	25.A	4	151.1	R2	151 Mass Ave, Unit 1
25.A-4-151.2	25.A	4	151.2	R2	151 Mass Ave, Unit 2
25-4-7	25	4	7	R2	147 Mass Ave
3-3-1	3	3	1	R2	150 Mass Ave

¹ R5 is the Apartment District/Low Density District; R2 is the Two-Family District.

Zoning Bylaw Amendments: Expand Business Districts
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.



Zoning Bylaw Amendments: Map Amendment Requirements

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE G ZONING BYLAW AMENDMENT / ZONING MAP AMENDMENT REQUIREMENTS

To see if the Town will vote to amend Section 1.5 of the Zoning Bylaw to modify or remove the requirement to notify abutters of a zoning map amendment; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

The petitioner provided the following:

That the Zoning Bylaw be and hereby is amended as follows:

- By making the following changes to Section 1.5 "Amendment":

This Bylaw may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided for in G.L. c.40A, § 5. When a petition for a change in the zoning map is filed, such petition shall show that copies of the petition have been sent by registered or certified mail to all owners and immediate abutters of the land referred to in the petition.

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Zoning Bylaw Amendments: Apartment Parking Minimums

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE H ZONING BYLAW AMENDMENT / APARTMENT PARKING MINIMUMS

To see if the Town will vote to amend the Zoning Bylaw to reduce or remove minimum vehicular parking requirements for Apartment Building uses; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

The petitioner provided the following:

That the Zoning Bylaw be and hereby is amended as follows:

- By making the following changes to the rows labeled “Single-, two-, or three-family dwelling” and “Apartment building” in the table “Table of Off-Street Parking Regulations” in Section 6.1.4:

Use	Minimum Number of Spaces
Residential Uses	
Single-, two-, or three-family dwelling, <u>or</u> <u>Apartment building</u>	1 space per dwelling units
Apartment building <u>Public housing for the elderly</u>	1 space per efficiency dwelling unit; 1.15 space per 1 bedroom dwelling unit; 1.5 spaces per 2 bedroom dwelling unit; And 2 spaces per 3 or more bedroom dwelling unit; And 1 space per 5 units of public housing or the elderly.

Zoning Bylaw Amendments: Open Space Uses

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE I

ZONING BYLAW AMENDMENT / OPEN SPACE USES

To see if the Town will vote to amend the Zoning Bylaw to expand the allowed uses in the Open Space district; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

The petitioner provided the following:

That the Zoning Bylaw be and hereby is amended as follows:

- By making the following changes to the table, “Use Regulations for MU, PUD, I, T, and OS Districts” in Section 5.6.3:

Class of Use	MU	PUD	I	T	OS
Accessory Uses					
Temporary food or beverage concession for <u>or not for profit</u> at an event		Y	Y		SP <u>Y</u>
Fundraising event conducted by an Arlington based non-profit organization, with no automated amusements	Y	Y	Y		SP <u>Y</u>
<u>Temporary outdoor recreation, for or not for profit</u>					<u>Y</u>
<u>Temporary cultural arts and/or entertainment activity for or not for profit</u>					<u>Y</u>

Zoning Bylaw Amendments: Restaurant Uses

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE J

ZONING BYLAW AMENDMENT / RESTAURANT USES

To see if the Town will vote to amend the Zoning Bylaw to change the square footage threshold above which a restaurant use requires a special permit; or take any action related thereto.

(Inserted at the request of James Fleming and 10 registered voters)

The petitioner provided the following:

That the Zoning Bylaw be and hereby is amended as follows:

- By making the following changes to the “Restaurant” class of use in the table “Use Regulations for Business Districts” in Section 5.5.3:

Class of Use	B1	B2	B2A	B3	B4	B5
Eating & Drinking Establishments						
Restaurant						
< 2,000 <u>4,000</u> sq. ft. gross floor area	SP	Y	Y	Y		Y
=> 2,000-4,000 sq. ft., and any restaurant that is principal use on lot of 10,000 sq. ft. or more		SP	SP	SP	SP	SP

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Zoning Bylaw Amendments: Appeals

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE K

ZONING BYLAW AMENDMENT / APPEALS

To see if the Town will vote to amend Section 3.1 of the Zoning Bylaw to provide for a right of appeal for any person who has requested enforcement of the Zoning Bylaw, in cases where the alleged violation has not been abated, and/or to require civil proceedings to enforce the Zoning Bylaws be initiated; or take any action related thereto.

(Inserted at the request of Sophie Migliazzo and 10 registered voters)

The petitioner provided the following:

Amend Section 3:

SECTION 3. ADMINISTRATION AND ENFORCEMENT

3.1 BUILDING INSPECTOR; ENFORCEMENT

- A. The Building Inspector appointed under the provisions of G.L. c. 143 is hereby designated and authorized as the officer charged with the administration and enforcement of this Bylaw.
- B. No person shall erect, construct, reconstruct, convert, or alter a structure, or change the use or lot coverage, increase the intensity of use, or extend or displace the use of any structure or lot without applying for and receiving the required permit(s) from the Building Inspector. No such permit shall be issued until the Building Inspector finds that the applicant is in compliance with the applicable provisions of Title VI, Article 7 of the Town Bylaws.
- C. No premises and no building erected, altered, or in any way changed as to construction or use of any building or of any parcel of land under a permit or otherwise, shall be occupied or used without a certificate of occupancy issued by the Building Inspector. No certificate of occupancy shall be issued until the premises, structure, and its uses and accessory uses comply in all respects with this Bylaw. If applicable, a site plan certificate of completion shall be issued.
- D. All special permits, variances, and other relief granted by the Arlington Redevelopment Board and Board of Appeals are conditioned upon compliance with the conditions set forth in such permits and other forms of relief, the State Building Code, and, where applicable, the Massachusetts Architectural Access Board regulations.

3.1.2 Enforcement

- A. Any person may file a written request to the Building Inspector for enforcement of this Bylaw with reference to an alleged violation, as provided in G.L. c. 40A, § 7. Within fourteen (14) days of receipt of the request, the Building Inspector shall investigate the facts and inspect the alleged violation and, if the Building Inspector finds evidence of a violation, the Building Inspector shall give written notice to the owner and occupant of said premises and demand that such violation be abated within such time as the Building Inspector deems reasonable. The notice and demand may be given by mail, addressed to the owner at the address as it then appears on the records of the Board of Assessors, and to the occupant at the address of the premises.

Zoning Bylaw Amendments: Appeals

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

- B. If after notice and demand the violation has not been abated within the time set by the Building Inspector and in any case no later than [] days of such request, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Arlington to prevent, correct, restrain, or abate such violation.
- C. If the Building Inspector determines that there is no violation, the Building Inspector shall give written notice of the decision to the complaining person within 14 days after the receipt of such request.

3.1.3 Appeal

An appeal to the Board of Appeals may be taken by any person aggrieved due to inability to obtain a permit or enforcement action from the Building Inspector, or by any other agency or person as provided in G.L. c. 40A, § 8, as amended, including without limitation by any person who has filed a request per Section 3.1.2(A) in the event the violation has not been abated and proceedings have not been instituted within the time set forth in Section 3.1.2(B).

3.1.4 Penalty

- A. If the notice of violation is not complied with according to the time specified in the notice, the Building Inspector may, in accordance with G.L. c. 40, § 21D, institute a non-criminal complaint(s) with penalty. Each day in which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this Bylaw shall be \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense.
- B. The Building Inspector may, with the approval of the Select Board, institute the appropriate criminal action or proceeding at law or in equity to prevent any unlawful action, use or condition, and to restrain, correct or abate such violation. Penalties for violations may, upon conviction, be affixed in an amount not to exceed three-hundred dollars (\$300.00) for each offense. Each day, or portion of a day, in which a violation exists shall be deemed a separate offense.

Zoning Bylaw Amendments: Mixed Use in Business Districts

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE L ZONING BYLAW AMENDMENT / MIXED USE IN BUSINESS DISTRICTS

To see if the Town will vote to amend the Zoning Bylaw in Section 5.5.2 to increase the Maximum Floor Area Ratio (FAR) allowed for mixed use structures in the Business districts, or take any action related thereto.

(Inserted at the request of Xavid Pretzer and 10 registered voters)

The petitioner provided the following:

That the zoning bylaw be amended by modifying the floor area ratio (FAR) requirements in the "B District Building Height and Floor Area Ratio Regulations" table of section 5.5.2(A) as follows:

B District Building Height and Floor Area Ratio Regulations

	Maximum Allowed
District Use	Maximum Floor Area Ratio (FAR)
B2	
Mixed-use <= 20,000 sq. ft.	1.50 <u>4.00</u>
Mixed-use > 20,000 sq. ft.	1.00 <u>4.00</u>
B2A	
Mixed-use <= 20,000 sq. ft.	1.50 <u>4.00</u>
Mixed-use > 20,000 sq. ft.	1.00 <u>4.00</u>
B3	
Mixed-use <= 20,000 sq. ft.	1.50 <u>4.00</u>
Mixed-use > 20,000 sq. ft.	1.40 <u>4.00</u>
B4	
Mixed-use <= 20,000 sq. ft.	1.50 <u>4.00</u>
Mixed-use > 20,000 sq. ft.	1.00 <u>4.00</u>
B5	
Mixed-use <= 20,000 sq. ft.	1.80 <u>4.00</u>
Mixed-use > 20,000 sq. ft.	1.40 <u>4.00</u>

Zoning Bylaw Amendments: Porch

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE M

ZONING BYLAW AMENDMENT / PORCH

To see if the Town will vote to amend the Zoning Bylaw to update Section 2 DEFINITIONS and Section 5.3.9 Projections into Minimum Yards to further define what constitutes a porch and include porches to the list of allowable projections into minimum yards; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 2:

Porch: A covered area, open on at least one side, projecting from and structurally connected to a building.

Amend Section 5.3.9:

5.3.9 Projections into Minimum Yards

- A. Projecting eaves, chimneys, bay windows, balconies, open fire escapes, porches, and enclosed entrances not more than 25 square feet in floor area or more than one story high, which do not project more than three and one-half feet beyond the line of the foundation wall may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built. ~~Porches and enclosed entrances larger than that allowed above may extend into the minimum yard regulations otherwise provided for the district by special permit.~~

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Zoning Bylaw Amendments: Yard Encroachment

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE N

ZONING BYLAW AMENDMENT / YARD ENCROACHMENT

To see if the Town will vote to amend the Zoning Bylaw to update Section 5.3.9 Projections into Minimum Yards to require a special permit before floor area in a setback is enclosed; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 5.3.9:

5.3.9 Projections into Minimum Yards

- A. Projecting eaves, chimneys, bay windows, balconies, open fire escapes, and enclosed entrances not more than 25 square feet in floor area or more than one story high which do not project more than three and one-half feet beyond the line of the foundation wall may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built. Enclosed entrances larger than that allowed above may extend into the minimum yard regulations otherwise provided for the district by special permit.
- B. Unenclosed steps, decks, and the like, which do not project more than 10 feet in the front yard, or more than five feet in the side yard beyond the line of the foundation wall may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built. Unenclosed steps, decks, and the like which do not project more than 10 feet into the required rear yard and are not closer to the lot line than half the size of the required yard, may extend beyond the minimum yard regulations otherwise provided for the district in which the structure is built
- C. Second story additions within the required front yard setback may extend no more than one foot beyond the existing building wall.
- D. Unenclosed porches, decks, steps, and landings in the required setback are not considered to be within the foundation wall and may not be enclosed, extended, or built upon except by special permit. Enclosing a porch, deck, steps, or landing shall not allow for any further projection into the required setback by later enclosed or unenclosed additions.

Zoning Bylaw Amendments: Large Additions

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE O

ZONING BYLAW AMENDMENT / LARGE ADDITIONS

To see if the Town will vote to amend the Zoning Bylaw to update Section 5.4.2 Large Additions to clarify how the applicable area is to be calculated; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 5.4.2:

5.4.2 Dimensional and Density Requirements

- B. Exceptions to Minimum Lot Area, Minimum Front Yard Lot Width, Frontage, Open Space, Side Yard, and Height Requirements in the R0, R1, and R2 Districts.
- (1) The following applies to any lot shown on a subdivision plan approved by the Board of Survey or on a plan or deed recorded with the Registry of Deeds prior to May 15, 1924. If such lot did not contain a principal building or a building permit was not issued prior to August 28, 1975, the minimum lot size, frontage, open space, and side yard requirements for a residential use shall not apply, and the lot may be built upon with a single- or two-family residential use if permitted in the applicable district, provided that:
 - The lot contains at least 5,000 square feet of area and 50 feet of frontage, and
 - The lot was not held in common ownership with any adjoining land, and
 - The lot conformed to then-existing dimensional and density requirements at the time that it was shown on an approved plan or by recorded deed or plan, and
 - The minimum open space requirements of this section are satisfied.
 - (2) Exemption for particular streets. The following shall apply to lots on Sunnyside Avenue, Gardner Street, Silk Street, Marrigan Street, and Fremont Street if shown on separate subdivision plans recorded with the Registry of Deeds prior to August 28, 1975. The minimum lot size, minimum frontage, and minimum side yard requirements for residential uses in the R2 district shall not apply, and a single-family dwelling attached to one other single-family dwelling on an adjoining lot as of August 28, 1975, shall be considered a building lot.
 - (3) R0 District Minimum Lot Area Exception. Any lot shown on the Zoning Map as proposed by the zoning bylaw change first advertised on February 21, 1991, as being in the R0 district, and which was recorded with the Registry of Deeds on or before February 21, 1991, and which did not contain a principal building, or for which a building permit was not issued, may be built upon with a single family residential use provided that the lot contains not less than 6,000 square feet of area and 60 feet of frontage.
 - (4) Front Yard Minimum Lot Width Requirements and Exceptions. The minimum front yard lot width shall be 50 feet at all points between the front lot line and the nearest building wall, except that such minimum front yard lot width shall not apply to (i) any lot excepted under Section 5.4.2(B)(1) or 5.4.2(B)(2) or 5.4.2(B)(8) or (ii) restoration of any principal building that existed on a lot or for which a building permit was issued prior to February 1, 1988.
 - (5) Calculation of Building Height. On a lot with a slope more than 5%, building height is the vertical distance of the highest point of the roof above the average finished grade of the ground using grade plane as defined in the State Building Code.

Zoning Bylaw Amendments: Large Additions

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

(6) Large Additions. No alteration or addition which increases the gross floor area of a building by the lesser of (a) 750 square feet or more, or by (b) 50% or more of the building's gross floor area on the date of application for a permit, or because of cumulative alterations or additions during the previous two years, shall be allowed unless:

- The addition is constructed entirely within the existing foundation walls, or
- The Board of Appeals, acting pursuant to Section 3.3, finds that the alteration or addition is in harmony with other structures and uses in the vicinity.

In making its determination, the Board of Appeals shall consider, among other relevant facts, the proposed alteration or addition's dimensions and setbacks in relation to abutting structures and uses. The increase in gross floor area used to determine the applicability of this section shall include all proposed sources of increased gross floor area.

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Zoning Bylaw Amendments: Zoning Board of Appeals Rules and Regulations
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE P

**ZONING BYLAW AMENDMENT /
ZONING BOARD OF APPEALS RULES AND REGULATIONS**

To see if the Town will vote to amend the Zoning Bylaw to update Section 3.2.3 Rules and Regulations to allow the Zoning Board of Appeals to amend its own rules and regulations; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 3.2.3:

3.2.3 Rules and Regulations

The Board of Appeals shall adopt rules and regulations for the administration of its powers and shall file a copy of such regulations with the Town Clerk. The Board's regulations shall include rules for hiring outside consultants.

A. ~~The Chair of the Board of Appeals, or in their absence the Acting Chair, may administer oaths, but must do so for hearings involving G.L. c. 40B, summon witnesses and call for the production of papers. All hearings shall be open to the public. The Board of Appeals and all permit and special permit granting authorities shall hold hearings and render decisions in accordance with the applicable time limitations as set forth in G.L. c. 40A §§ 9 and 15. The Board of Appeals shall cause to be made a detailed record of its proceedings which in the case of G.L. c. 40B hearings shall require that all testimony be electronically recorded, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reasons for its decisions, and of its other official actions, copies of all of which shall be filed within 14 days in the office of the Town Clerk and the office of the Arlington Redevelopment Board and shall be a public record, and notice or decisions shall be mailed immediately to the petitioner and to the owners of all property deemed by the Board of Appeals to be affected thereby, including the abutters and the owners of land next adjoining the land of the abutters, notwithstanding that the abutting land or the next adjoining land is located in another city or town, as they appear on the most recent local tax list, and to every person present at the hearing who requests that notice be sent to them and states the address to which such notice is to be sent. Upon the granting of a limited or conditional zoning variance or special permit, the Board of Appeals shall issue to the land owner a notice, certified by the chair or clerk, containing the name and address of the land owner, identifying the land affected, and stating that a limited or conditional variance or special permit has been granted which is set forth in the decision of the Board on file in the office of the Town Clerk. No such variance or permit shall take effect until such notice is recorded in the Middlesex County Registry of Deeds.~~

~~The fee for recording such notice shall be paid by the owner and the notice shall be indexed in the grantor index under the name of the owner of record.~~

~~The concurring vote of all members of the Board shall be necessary to reverse any order or decision of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Bylaw, or to effect any variance in the application of this Bylaw.~~

Zoning Bylaw Amendments: Half Story

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE Q

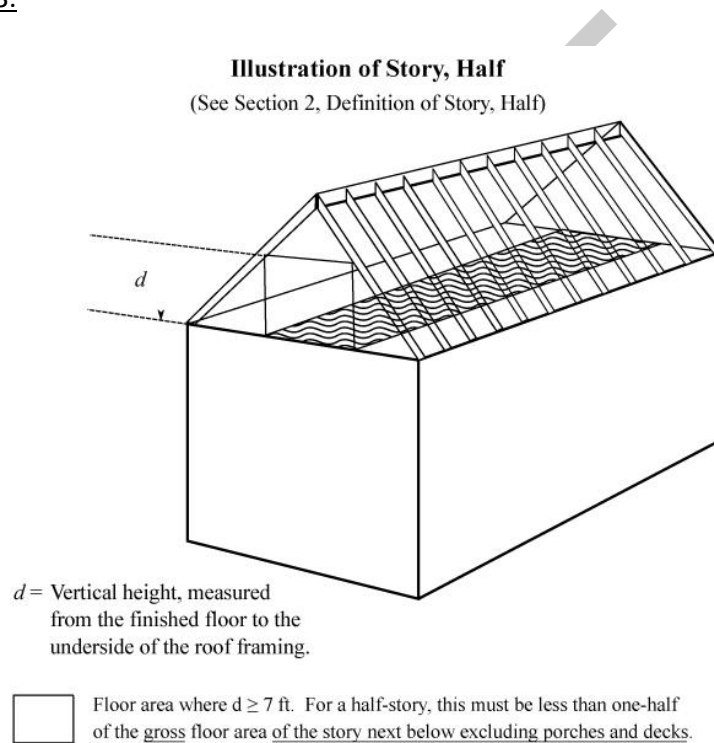
ZONING BYLAW AMENDMENT / HALF STORY

To see if the Town will vote to amend the Zoning Bylaw to update Section 2 DEFINITIONS and add a new subsection under Section 5.3 to clarify how the area of a half story is to be calculated; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 2:

Story, Half: A story ~~which is under a gable, hipped, gambrel roof, or other sloped roof with a minimum slope of 2:12, where less than one half the floor area measured from the underside of the roof framing to the finished floor below~~ has a clear height of 7 feet 0 inches or more as regulated under Section 5.3.23.



This diagram is included for illustrative purposes only. It is not part of the Arlington Zoning Bylaw.

Amend Section 5.3:

5.3.23 Half Story

- A. To be considered a half story, the proposed area must be under a gable, hipped, gambrel, or other sloped roof with a minimum slope of 2:12. The proposed clear height is to be taken from the underside of the roof structural framing to the top of the finished floor below. The proposed area is to be measured relative to the gross floor area of the story next below excluding porches and decks.

Zoning Bylaw Amendments: Unsafe Structure

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE R

ZONING BYLAW AMENDMENT / UNSAFE STRUCTURE

To see if the Town will vote to amend the Zoning Bylaw to update Section 8.1.5 Unsafe Structure to define who may make the determination that a structure is unsafe; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend Section 8.1.5:

8.1.5 Unsafe Structure

Except as covered under Section 8.1.7, any structure determined to be unsafe by the Director of Inspectional Services may be restored to a safe condition, provided such work on any nonconforming structure shall be completed within one year of the determination that the structure is unsafe, and it shall not place the structure in greater nonconformity. A structure may be exempted from this provision by a special permit granted by the Board of Appeals or, in cases subject to Environmental Design Review, Section 3.4., the Arlington Redevelopment Board.

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