



Report of the Arlington Redevelopment Board to the 2012 Annual Town Meeting April 23, 2012

The Arlington Redevelopment Board (ARB), 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 ARB must first hold an advertised public hearing on each such warrant article. The advertisements appeared in the “Arlington Advocate” as required on February 16 and 23, 2012. The public hearing was held on Monday, March 12, 2011. At its meetings on March 26, 2012 and April 9, 2012, the ARB voted on the recommended bylaw language shown below. For each of the warrant articles, the Board’s vote was unanimous.

Appearing below are the six articles that propose amendments to the Zoning Bylaw. The intent of each article is briefly explained, followed by the ARB’s vote on each article, which constitutes its recommendation. Town Meeting members should take particular note of the fact that the recommendations of the ARB, and not the original warrant articles, are the actual motions that will be considered by the Town Meeting. An ARB vote of “no action” means that the Town Meeting will be asked to vote that no action be taken on the proposed warrant article.

Warrant article language may be quite general or very specific. The vote, however, must be specific in order to precisely tell 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 slightly from the warrant language. This occurs when errors are discovered, or testimony at the public hearing convinces the ARB 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 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 below 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
DEFINITION**

ZONING BYLAW AMENDMENT/AMEND SIGN

To see if the Town will vote to amend Section 2.01 of the Zoning Bylaws to delete from the first sentence of the definition of “Sign” the words, “or is designed to attract the eye”; or take any action related thereto.

The phrase “designed to attract the eye” is vague, yet it has the unintended effect of prohibiting displays such as works of art, sculpture, or murals that are not signs. The sign bylaw need not outlaw art. Removing the phrase “designed to attract the eye” would have no effect on the regulation of signs, it would only end the regulation of art as signage. Arlington property owners, arts groups, and Vision 2020 have collaborated on efforts to display art and sculpture in Arlington. This bylaw amendment would allow their efforts to move forward, and allow Arlington to continue its legacy of displaying public art as represented by the display of the works of sculptor Cyrus Dallin.

Proposed vote:

VOTED: That Section 2.01 of the Zoning Bylaws be and hereby is amended by deleting from the end of the first sentence of the definition of “Sign” the words, “or is designed to attract the eye.”

TEXT:

“Sign: Any permanent structure, device, letter, word, model, insignia, trade flag, streamer, display, emblem, or representation used as, or which is in the nature of, an advertisement, announcement, or direction, ~~or is designed to attract the eye.~~ This definition shall include signs located within a window when illuminated. Marquees, canopies, clocks, thermometers and calendars shall be subject to the provisions when used in conjunction with signs as defined above.

A sign shall be painted, posted, or otherwise securely affixed to a substantial intermediate removable surface and, except for free-standing signs, such surface shall be securely affixed to the face of the building front, which can be street or parking lot frontage, but shall be in a single, unbroken plane. The foregoing shall not prevent installation of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth or projection or one-fourth of an inch. The material of the sign and intermediate surface and the manner of affixation of the sign to the intermediate surface and of the intermediate surface to the wall of the

building shall be subject to the approval of the Building Inspector for the purpose of protecting the safety of the public.”

ARTICLE 7 **ZONING BYLAW**
AMENDMENT/BUSINESS USE

To see if the Town will vote to amend the zoning bylaw to preserve business use in business districts by replacing, in certain instances, housing by special permit with mixed use by special permit; or take any action related thereto. (Inserted at the request of the Redevelopment Board)

This article seeks to preserve and encourage business use in most business districts by creating a new Special Permit use, Mixed Use, allowing business use on the ground level and residential use above. Although many older Arlington business properties take this form, it is almost impossible to develop or redevelop a Mixed Use building in Arlington under today’s zoning bylaw, because the developer must meet all of the residential requirements and all of the business requirements. In recent years, forcing developers into a choice of residential OR business has led to significant parcels zoned for business having been converted to residential use by Special Permit. The continuation of this trend could further erode the business tax base and reduce available real estate opportunities to recruit new business to Arlington. It is important to note that the amendment does not remove the right to convert business-zoned parcels to residential use through the Special Permit process. The amendment would, however, encourage property owners to keep a significant business use when developing a residential use by Special Permit in business districts. If passed, the amendment would not apply to the B1 Neighborhood Office District. With this amendment Mixed Use will be possible in the Arlington business districts. Without this amendment, the Town could continue to have difficulty saving business-zoned land from conversion to residential use.

Proposed vote

VOTED:

That the Zoning Bylaw be and hereby is amended by:

(1) adding to Article 2, Definitions, Section 2. General, the following definition: “Mixed Use: A combination of business use (including but not limited to retail, service, office, research, light industry, technology, product development, and business incubator) and residential use in the same building (or in multiple buildings on the same lot), provided that the ground floor frontage be primarily devoted to the business use.”;

(2) deleting the fourth sentence of Article 3, Establishment of Districts, Section 3.02 Description of Zoning Districts, B2A - Major Business District and replacing it with the following sentence: “ Medium density mixed use is also permitted due to the proximity of the zone to residential uses.”;

(3) deleting the phrase, “Multi-use” from the third sentence of Article 3, Establishment of Districts, Section 3.02 Description of Zoning Districts, B3 – Village Business District, and replacing it with the phrase “Mixed use”;

- (4) deleting the word “residential” from the last sentence of Article 3, Establishment of Districts, Section 3.02 Description of Zoning Districts, B4 - Vehicular Oriented Business District and replacing it with the word “mixed”;
- (5) deleting the phrase “Multi-use” in the fourth sentence of Article 3, Establishment of Districts, Section 3.02 Description of Zoning Districts, B5 - Central Business District and replacing it with the phrase “ Mixed use”;
- (6) amending and replacing Section 4.04 – Mixed Uses of Article 4 as follows:

Section 4.04 - Multiple Business Uses

Other than Mixed Use, in cases of multiple business uses, the regulation for each use shall apply to the portion of the building or land so used.

- (7) amending Section 5.04, Table of Use Regulations, of the Zoning Bylaw by adding a new use numbered 1.14, “Mixed use” and by adding “SP” under the columns B1, B2, B2A, B3, B4, and B5;
- (8) amending Article 6, Section 6, Table of Dimensional and Density Regulations by (9) amending Article 6, Section 6.05 Exceptions to Dimensional Requirements for Uses 2.05 and 2.07 by inserting into the header and into Section 6.05 b. the text “Use 1.14 and” before “Uses 2.05,
- (10) amending Section 8.01 –Off-Street Parking Requirements by deleting the term Mixed Use and replacing it with the term Multiple Business Uses under the Table of off-street parking requirements and inserting after Multiple Business Uses in the table the phrase Mixed Use with the number of off-street parking spaces per unit set at “One per dwelling unit and one space per 750 square feet of area used for business”; and
- (11) amending section 11.06 b. 1. by deleting from the first sentence “(g), or (h)”, replacing it with “(g), (h), or (i)” and adding a new subparagraph “(i) Mixed Use”.

Proposed text change:

*Lot, Through:

A lot, the front and rear lot lines of which abut streets; or a corner lot, two opposite lines of which abut streets.

Marquee:

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

Membership Club:

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

Mixed Use: A combination of business use (including but not limited to retail, service, office, research, light industry, technology, product development, and business incubator) and residential use in the same building (or in multiple buildings on the same lot), provided that the ground floor frontage be primarily devoted to the business use.

Office:

A place in which functions such as directing, consulting, record keeping, clerical work, and sales (without the presence of merchandise) of a firm are carried on; also, a place in which a professional person conducts his professional business.

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B2 - Neighborhood Business District

The Neighborhood Business District is composed of all those areas so designated on the official zoning map. Predominant uses include small retail and service establishments serving the needs of adjacent neighborhoods and oriented to pedestrian traffic. Locations are almost all along Massachusetts Avenue or Broadway. Uses which would detract from this small-scale business character, or otherwise interfere with the intent of this bylaw are discouraged.

B2A - Major Business District

ART. 4 B2AATM 4/97

The major Business District is composed of all those areas so designated on the official zoning map. Located along Massachusetts Avenue, Mill Street, Summer Street and Broadway, these areas generally contain uses that are retail and service to serve the needs of a large neighborhood area. Customers generally arrive by car so there is ample parking to serve the retailer. ~~Housing is also permitted at a medium density due to the proximity of the zone to residential uses.~~ Medium density mixed use is also permitted due to the proximity of the zone to residential uses. Automotive uses; some office uses, wholesale business and storage uses are prohibited.

B3 - Village Business District

The Village Business District is composed of all those areas so designated on the official zoning map. Predominant uses include retail, service and office establishments catering to both convenience and comparison-goods shoppers and oriented to pedestrian traffic. ~~Multi-use~~ Mixed use development is encouraged, such as retail with office or business and residential. The three locations include portions of the principal business areas of Arlington: Lake Street, Arlington Center, and Arlington Heights. Businesses which consume large amounts of land and activities which interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this bylaw are discouraged.

B4 - Vehicular Oriented Business District

ART. 83, ATM 4/80

The Vehicular Oriented Business District is composed of all those areas so designated on the official zoning map. Uses include establishments primarily oriented to automotive traffic which require large amounts of land in proportion to building coverage; or establishments devoted to the sale or servicing of motor vehicles, the sale of vehicular parts and accessories, and service stations. Arlington has an overabundance of automotive and automotive accessory sales and service establishments; thus when one of these businesses closes, the conversion of the property to other retail, service, office or ~~residential~~ mixed use is encouraged.

B5 - Central Business District

ART. 6, ATM 4/88

The Central Business District is composed of all those areas so designated on the official zoning map in Arlington Center. It includes retail, service, and office uses, and provides for large-scale development. The scale is intended to reinforce the Center's role as the focus of activity in

Arlington. ~~Multi-use~~ Mixed use development is encouraged, such as the combining of residential and business uses. Activities shall be oriented to pedestrian traffic and to centralized parking. Businesses which consume large amounts of land and interrupt pedestrian circulation and shopping patterns or otherwise interfere with the intent of this bylaw are discouraged.

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Section 4.04 – ~~Mixed Use~~Multiple Business Uses

~~Other than Mixed Use,~~ In in cases of mixed-occupancy multiple business uses, the regulation for each use shall apply to the portion of the building or land so used.

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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:

Principal Use		R0	R1	R2	R3	R4	R5	R6	R7	B1	B2	B2A	B3	B4	B5	MU	PUD	I	T	OS			
ART. 13, ATM 5/91																							
1.12	Conversion of one or two-family dwelling or structure originally designed as one or two-family dwelling to licensed bed and breakfast home	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP								
ART. 2, STM 12/98, ART.2, STM 9/04																							
1.13	Assisted Living							SP					SP							SP			
1.14	Mixed Use											SP	SP	SP	SP								
Institutional & Educational																							
ART.2, STM 9/04																							
2.01	Community center, youth club, adult education center, settlement house or other similar facility operated by an educational, religious or non-profit institution	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP		SP		SP				SP	SP			
ART.2, STM 9/04																							
2.02	Private club or lodge operated not for profit and for members only					SP		SP	SP	SP			SP	SP	SP	Yes	SP		SP	SP	SP		
2.03	Hospital																				SP		
ART. 84, ATM 4/80																							
2.04	Licensed nursing home, rest home, convalescent home	SP ^c	SP ^c	SP ^c	SP	SP	SP	SP	SP												SP	SP	
ART. 15, ATM 5/91; ART. 5, ATM 4/00																							
2.05	Church, place of worship or other religious purpose	SP	SP	SP	SP	SP	Yes	Yes	Yes												SP	SP	SP
2.06	Day nursery, nursery school, kindergarten, day care center, after school programs or other similar uses related to the education, cultural enrichment or care of children	SP	SP	SP	SP	SP	SP	SP	SP												SP	SP	
ART. 5, ATM 4/00																							
2.07	Educational purpose including religious, sectarian and non-sectarian, denominational, private or public school, not conducted as a private gainful business	SP	SP	SP	SP	SP	SP	SP	SP												SP	SP	SP

SECTION 6.00 - TABLE OF DIMENSIONAL AND DENSITY REGULATIONS (Continued)

Dis- trict	Use	Intensity of Development										Open Space	
		Lot Requirements, Minimum ^M		Fl. Area Ratio Maximum	Lot Coverage Maximum Percent	Minimum Lot Area per Dwelling Unit, Sq. Ft.	Minimum Yard, Ft. ^P			Height Maximum		Percent of Gross Floor Area	
		Size, Sq. Ft.	Frontage, Ft.				Front ^E	Side ^E	Rear ^E	Stories	Feet ^G	Landscaped	Usable
ART. 8, STM 3/85; ART. 11, ATM 4/98													
B2 (cont.)	Mixed Use	-	50	1.50	NA	550	-	-	(H)1.2	5	50		

	Any other permitted use	-	50	1.00	NA	1,450	0	0	10+(L/10)	3	35	10%	-. ^H

ART.6, ATM 5/04													
B2A	Single-family detached dwelling, two-family dwelling, duplex house, three-family dwelling ^{OR}	6,000	60	0.75	NA	2,500	20	10	20	2-1/2	35	10%	30%

ART. 4, ATM 4/97													
	Apartment house fronting on a street with a right-of-way width of 50 feet or less	20,000	100	0.80	NA	1,450	15	10+(L/10)	30	3	35	10%	25%

	Apartment house fronting on a street wider than 50 feet	20,000	100	1.20 ^F	NA	700	15+(H/10)	(H+L)/6	(H+L)/6	4	40 25	10%	20%

	Mixed Use	-	50	1.50	NA	550	-	-	(H)1.2	5	50		

	Any other permitted use	-	50	1.00	NA	NA	-	-	10+(L/10)	3	35	10%	-. ^H

ART.6, ATM 5/04													
B3	Single-family detached dwelling, two-family dwelling, duplex house, three-family dwelling ^{OR}	6,000	60	0.75	NA	2,500	20	10	20	2-1/2	35	10%	30%

SECTION 6.00 - TABLE OF DIMENSIONAL AND DENSITY REGULATIONS (Continued)

District	Use	Intensity of Development					Minimum Lot Area per Dwelling Unit, Sq. Ft.	Minimum Yard, Ft. ^P			Height Maximum		Open Space Minimum Percent of Gross Floor Area	
		Lot Requirements, Minimum ^M Size, Sq. Ft.	Frontage, Ft.	Fl. Area Ratio Maximum	Lot Coverage Maximum Percent	Front ^E		Side ^E	Rear ^E	Stories	Feet ^G	Landscaped	Usable	
B3 (cont.)														
ART.81, ATM 4/80														
	Building with a principal use of a town house structure or apartment house	20,000	100	1.40	NA	600	15+(H/10)(H+L)/6(H+L)/6			5 3	60 40	10%	20%	
	<u>Mixed Use</u>	-	50	1.50	NA	550	-	-	(H)1.2	5	50			
Any other permitted use														
		-	50	1.00	NA	600	-	-	(H+L)/6	5 3	60 40	20%	-	
		20,000	100	1.40	NA	600	-	-	(H+L)/6	5 3	60 40	10%	- ^H	
ART.6, ATM 5/04														
B4 Single-family detached dwelling, two-family dwelling, duplex house, three-family dwelling ^{QR}														
		6,000	60	0.75	NA	2,500	20	10	20	2-1/2	35	10%	30%	
	Apartment house fronting on street with a right-of-way width of 50 ft. or less	20,000	100	0.80	NA	1,450	15	10+(L/10) 30		3	35	10%	25%	
ART. 92, ATM 3/79														
	Apartment house fronting on street wider than 50 ft.	20,000	100	1.20 ^F	NA	700	15+(H/10)(H+L)/6(H+L)/6 at least 30 ft.			4	40 25	10%	20%	
	<u>Mixed Use</u>	-	50	1.50	NA	550	-	-	(H)1.2	5	50			
Any other permitted Use														
		-	50	1.00	NA	NA	-	-	10+(L/10)	3	35	10%	- ^H	

SECTION 6.00 - TABLE OF DIMENSIONAL AND DENSITY REGULATIONS (Continued)

Dis-trict	Use	Lot Requirements, Minimum ^M		Intensity of Development			Minimum Yard, Ft. ^P			Height Maximum		Open Space Minimum Percent of Gross Floor Area	
		Size, Sq. Ft.	Frontage, Ft.	Fl. Area Ratio Maximum	Lot Coverage Maximum Percent	Minimum Lot Area per Dwelling Unit, Sq. Ft.	Front ^E	Side ^E	Rear ^E	Stories	Feet ^G	Landscaped	Usable
ART. 8, STM 3/85; ART. 11, ATM 4/98													
B5	Single-family detached dwelling, two-family dwelling, duplex house, three-family dwelling ^{OR}	6,000	60	0.75	NA	2,500	20	10	20	2-1/2	35	10%	30%
ART. 92, ATM 3/79; ART. 81, ATM 4/80; ART. 16, STM 3/87													
	Building with a principal use of a town house structure or apartment house	20,000	100	1.50	NA	550	15+(H/10) at least 20 ft.	(H+L)/6 at least 20 ft.	(H+L)/6	NA	75 ^N 40	10%	15%
	Mixed Use	-	50	2.00	NA	550	-	-	(H)1.2	5	50		
ART. 5, STM 3/81													
	Any other permitted use	-	50	1.40 ^I	NA	600	-	-	(H+L)/6	5 3	60 40	10%	- (20% for residen- tial use)
ART. 16, STM 3/87													
		40,000	100	1.50 ^J	NA	550	-	-	(H+L)/6	NA	75 ^N 40	10%	- ^H
ART. 16, STM 3/87													
		80,000	150	1.80 ^I	NA	550	-	-	(H+L)/6	NA	75 ^N 40	10%	- ^H
ART. 2, STM 9/04													
MU	All permitted Uses	40,000	-	1.00	40%	NA	(H+L)/6	(H+L)/6	(H+L)/6	NA	70 ^{N, S}	50%	15%
...													

Section 6.05 - Exceptions to Dimensional Requirements for Use 1.14 and Uses 2.05 and 2.07

- a. The floor area ratio requirements as applied to Uses 2.05 and 2.07 listed in Section 5.04 shall be less restrictive than as specified in Section 6.00 in the following respects:
 - 1. Where several lots in the same ownership and also in the same use district are separated from each other only by an adjacent street or intersecting adjacent streets, the area of all such lots may be aggregated in calculating floor area ratio.
 - 2. The floor area ratio shall be increased by one percent for each 2,000 square feet of lot area exceeding the lot size minimum for the district under consideration, up to 50 percent.

ART. 12, ATM 5/91

- b. Under a special permit, the ZBA, or in cases subject to Section 11.06, the ARB may permit further modifications in the dimensional requirements specified in Article 6 as applied to Use 1.14 and Uses 2.05 and 2.07 to the extent necessary to allow reasonable development of such a use in general harmony with other uses permitted and as regulated in the vicinity.

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Section 8.01 - Off-Street parking Requirements

Other school.	Two (2) per classroom in elementary and junior high school; four (4) per classroom in a senior high school, plus space for auditorium or gymnasium, whichever has the larger capacity.
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ART. 70, ATM 3/77

Community facility (town building, recreation, etc.).	One per each three employees on the largest shift.
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Public utility.	One for each four hundred (400) sq ft of gross floor area devoted to office use.
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One for each eight hundred (800) sq ft of gross floor area per other use.

Transportation terminal establishment.	One for each six hundred (600) sq ft of gross floor area.
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<u>Multiple Business Uses-Mixed Use.</u>	Sum of various uses computed Separately
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<u>Mixed use</u>	<u>One per dwelling unit and one space per 750 square feet of area used for business.</u>
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Any use permitted by this Bylaw not interpreted to be covered by this schedule	Closest similar use as shall be determined by the Inspector of Buildings.
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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)~~ (h), or (i) 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.

- (i) Mixed Use

ARTICLE 8 ZONING BYLAW AMENDMENT/ACCESSORY APARTMENTS

To see if the Town will vote to amend the Zoning Bylaws to allow accessory apartments in single-family residences located in R0 and R1 zoning districts; or take any action related thereto. (Inserted at the request of the Redevelopment Board)

For many years, members of the public and property owners have sought to allow small accessory apartments within existing single family homes in Arlington, all while preserving the character and owner-occupied nature of the single-family zoning districts. These community members have argued, among other things, that accessory apartments allow generations to live separately in the same home, allow single parents to receive rental income and childcare in order to keep their children in the family home, or allow an elderly homeowner to afford to stay in their home or accommodate a live-in caregiver. This amendment would allow homeowners in the R0 and R1 single-family districts to apply for a Special Permit to convert up to 1/3 of the existing interior space (but not more than 700 square feet) into an accessory apartment. To help preserve the character of the single family neighborhoods, the amendment requires that the owner occupies the home (one absence of 12 months every 60 months is allowed), the home complies with all zoning at the time the application is made, and that three parking spaces are provided on-site. The accessory apartment would also have to have its own kitchen, bathroom, and two means of egress, which would enable better safety for tenants of any such arrangement. Given the nature of this amendment, the ARB surveyed Town Meeting Members on the subject and, while Members held strong and differing views on the proposal, the majority of those who responded expressed an interest in being afforded an opportunity to consider such a warrant article at Town Meeting.

Proposed Vote:

VOTED: That Section 11 of the Zoning Bylaws be and hereby is amended by inserting a new section 11.09 Accessory Apartments and by amending Section 5.04, Table of Use Regulations, of the Zoning Bylaw by adding a new use numbered 8.00 Accessory Apartments and by adding "SP" in the R0 and R1 columns.

Proposed text changes:

Section 11.09 Accessory Apartments

- a. DEFINITION. An Accessory Apartment is a second dwelling unit located within a structure built as a single family dwelling, subordinate in size to the principal dwelling unit, and physically separated from it, with its own kitchen, bathroom, and two means of egress, and held under common ownership with the primary dwelling unit.

b. **CONDITIONS AND REQUIREMENTS.** The Zoning Board of Appeals may grant a Special Permit for an Accessory Apartment in a single family dwelling in an R0 or R1 zoning district provided that all of the following conditions and requirements are met:

1. There shall be no more than one Accessory Apartment on a lot.
2. The lot area shall be at least the minimum required under Section 6 of the current version of the Zoning bylaw at the time the Special Permit application is filed.
3. The gross floor area of an Accessory Apartment cannot exceed 33% of the gross floor area of the entire dwelling, as defined in Article 2. In no case shall the gross floor area of the Accessory Apartment exceed 700 square feet.
4. There shall be provided at least three (3) off street parking spaces, two for the primary dwelling unit and one for the Accessory Apartment. Parking spaces shall meet all criteria within the Zoning Bylaw and Town Bylaws as they exist at the time the Special Permit application is filed.
5. The Accessory Apartment unit and the dwelling in which it is located must comply with all of the provisions of the Zoning Bylaw and Town Bylaws at the time the Special Permit application is filed. Pre-existing non-conforming structures or lots shall not be deemed in compliance with the zoning bylaw for the purpose of applications under this section 11.09.
6. The Accessory Apartment must be contained within the gross floor area of the dwelling existing at the time of the Special Permit application, except for addition of a second means of egress or other modification to meet the state Building Code, and shall not encroach into any of the required yard setbacks, or in other ways violate the zoning bylaw.
7. The owner(s) of the structure in which the Accessory Apartment is located must occupy one of the dwelling units as their primary residence, except for temporary absences of no more than 12 months in any 60 month period.

c. **PROCEDURES**

1. No Accessory Apartment shall be constructed or altered without issuance of a Special Permit by the Zoning Board of Appeals, pursuant to Section 10.11—Special Permits, and a building permit issued by the Inspector of Buildings.
2. No Accessory Apartment shall be occupied prior to issuance of a Certificate of Occupancy by the Building Inspector.
3. Prior to issuance of a Certificate of Occupancy, the owner must submit to the Building Inspector a notarized affidavit signed under pains and penalties of perjury stating that the owner currently occupies one of the dwelling units on the premises as the owner's primary residence.
4. When a dwelling containing an Accessory Apartment previously permitted under this section is sold or otherwise conveyed, the special permit for that Accessory Apartment shall remain in force only if (a) all requirements of this section continue to be met; and (b) the new property owner submits to

the Building Inspector a notarized affidavit, signed under the pains and penalties of perjury, stating that he or she intends to occupy one of the units in the structure as their primary residence, and will continue to do so, except for temporary absences of up to 12 months in any 60 month period.

Section 5.04--Table of Use Regulations

Accessory Use		R0	R1	R2	R3	R4	R5	R6	R7	B1	B2	B2A	B3	B4	B5	MU	PUD	I	T	OS
8.00	Accessory apartment	SP	SP																	
ART. 6, ATM 5/91																				
8.01	Renting of not more than three rooms to not more than three persons within a dwelling unit	SP	SP	SP	SP	SP	SP	SP	SP	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	SP	SP	SP	SP	SP	SP	SP			

ARTICLE 9

ZONING BYLAW AMENDMENT/MEMORIAL PARK

To see if the Town will vote to (1) amend Section 5.04, Table of Use Regulations, of the Zoning Bylaw by adding a new use numbered 2.09(a), “Burial and Immurement of Cremated Remains on Conservation Commission land with the approval of the Cemetery Commission and the Conservation Commission, provided that no structures will be erected or used to contain or cover any remains other than landscape-design elements such as low walls, flat paving work, or curbs,” and “SP” under the “OS” column; and (2) amend Section 11.06, Environmental Design Review, of the Zoning Bylaw by adding the following words to the end of Section 11.06(b)(1)(g) (“Outdoor uses”): “, including burial/immurement of cremated remains as provided in Section 5.04, Table of Use Regulations”; or take any action related thereto.

(Inserted by the Board of Selectmen)

Under existing zoning, cemetery use is allowed in the R0 and R1 zoning districts, subject only to the special permit process. This vote, if adopted, would allow the burial and immurement only of cremated remains and only on parcels in the OS district under the control of the Conservation Commission. In addition, under the amendment such use in the OS district would be subject not only to an Environmental Design Review Special Permit from the Redevelopment Board but also to the approval of the Cemetery Commission, the Conservation Commission and, to the extent applicable, the Historical Commission. The Conservation Commission, the Cemetery Commission, and the Historical Commission collaborated on a joint plan in 2010 to meet mutual pressing needs: the restoration of natural resources at historic Cooke’s Hollow Conservation Area which lies in the OS district, and securing alternatives to burial options outside of near-capacity Mount Pleasant Cemetery. The plan design would create a natural landscape with low fieldstone walls with niches for cremated remains. The landscape plan was designed to avoid compromising the natural setting and visual appearance of Cooke’s Hollow. No cremated remains would be buried below the surface within Cooke’s Hollow under this plan. Areas in the plan proposed for cremated remains would be outside of the 100-year floodplain.

Proposed Vote

VOTED: That the Zoning Bylaw be and hereby is amended by (1) adding to Section 5.04, Table of Use Regulations (a) a new Use 2.09(a) as follows: “Burial and immurement of cremated remains on Conservation Commission land with the approval of the Cemetery Commission, the Conservation Commission, and, to the extent the land has historic or archeological significance, the Historical Commission, provided that no structures will be erected or used to contain or cover any remains other than landscape-design elements such as low walls, flat paving work, or curbs”; and (b) inserting “SP” under the “OS” column for Use 2.09(a); and (2) adding to Section 11.06, Environmental Design Review, the following words to the end of Section 11.06(b)(1)(g) (“Outdoor uses”): “, including burial/immurement of cremated remains on Conservation Commission land as provided in Section 5.04, Table of Use Regulations, Use 2.09(a).”

Proposed Text Changes:

Public, Recreational and Entertainment

ART. 14, ATM 4/01

4.01	Park, playground, or outdoor recreation facility not conducted as a private gainful business	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4.02	Recreation building, not conducted as a private gainful business				Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4.03	Fire station				Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
4.04	Police station				Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

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

(j) Outdoor uses “, including burial/immurement of cremated remains on Conservation Commission land as provided in Section 5.04, Table of Use Regulations, Use 2.09(a).

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ARTICLE 10 ZONING BYLAW AMENDMENT/BANNERS FOR HISTORIC SITES

To see if the Town will vote to amend the Zoning Bylaw to permit placement and display of promotional, informational and/or directional signage relative to Town historic sites; or take any action related thereto.

(Inserted by the Board of Selectmen)

This warrant article is intended to allow the Town to place signs and banners, typical of changing museum exhibits, at the Dallin Museum and other historic sites by right. If passed, it would clarify internal tensions within the bylaw regulating signs placed for a public purpose, banners, and signs at historic sites. This article was advanced by the Selectmen’s Tourism and Economic Development Committee.

Proposed Vote

VOTED: That the Zoning Bylaw be and hereby is amended by adding to the end of the first sentence of Section 7.03(a) the following words: “, including, notwithstanding any other provision of these Bylaws, promotional, informational and/or directional signage placed by the Town relative to historic sites.”

Proposed Text Changes

Section 7.03 - General Regulations

ART. 14, ATM 4/01

The provisions of Section 7.03 shall be the general controlling section for all signs. Specific regulations by zoning district are set forth in Sections 7.071 to 7.076.

ART. 6, ATM 4/01

- a. Any traffic, directional, informational, educational or identification sign owned and installed by a governmental agency shall be permitted, including, notwithstanding any other provision of these Bylaws, promotional, informational and/or directional signage placed by the Town relative to historic sites. Acknowledgement of any commercial sponsorship on such a sign shall not exceed 3% of the sign area.

ARTICLE 11 ZONING BYLAW AMENDMENT/COMPREHENSIVE PERMIT APPLICATIONS

To see if the Town will vote to amend Section 10.10 of the Zoning Bylaws with respect to procedures for hearing applications for comprehensive permits under G.L. c. 40B to require that hearing testimony be under oath and transcribed by a certified court reporter provided at the applicant’s expense, or take any action related thereto.

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

The warrant article is related to hearing proceedings in cases of comprehensive permit applications. A comprehensive permit under Massachusetts General Law Chapter 40B allows a developer to exceed a community’s zoning requirements in order to construct a multi-family housing development with 25% of the units priced to be affordable. In cases

where a comprehensive permit is appealed to the Massachusetts Housing Appeals Committee, testimony must be made under oath. If passed, this bylaw amendment would require that testimony given during Arlington Zoning Board of Appeals hearings for comprehensive permit applications be given under oath, and that the hearing be electronically recorded.

Proposed Vote

VOTED: That the Zoning Bylaw be and hereby is amended by inserting in the first sentence, after the word “oaths,” the phrase “but must do so for hearings involving MGL Chapter 40B” and by inserting into the fourth sentence after the word “proceedings” the following text: “which in the case of MGL 40B hearings shall require that all testimony be electronically recorded.”.

Proposed Text Changes:

4. The Chairman of the ZBA, or in his absence the Acting Chairman, may administer oaths, but must do so for hearings involving MGL Chapter 40B, summon witnesses and call for the production of papers. All hearings shall be open to the public. The ZBA 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 Sections 9 and 15 of the Zoning Act. The ZBA shall cause to be made a detailed record of its proceedings which in the case of MGL 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 fourteen (14) days in the office of the Town Clerk and the office of the ARB and shall be a public record, and notice or decisions shall be mailed immediately to parties in interest as designated in paragraph e.3. above, and to every person present at the hearing who requests that notice be sent to him 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 ZBA shall issue to the land owner a notice, certified by the chairman 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 ZBA 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.