



Report of the Arlington Redevelopment Board to the 2011 Annual Town Meeting April 25, 2011

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 24 and March 3, 2011. The public hearing was held on Monday, March 14, 2011. At its meetings on March 28, 2011 and April 4, 2011, 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 twelve 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

Zoning Map Amendment/ Add Town-Owned Land On Pond Lane To The Open Space District

To see whether the Town will vote to amend the Zoning Map to change the zoning district of the Town-owned parcel of land on Pond Lane shown as Lot 8 on Assessors Map 10, Block 3 from the Residence 2 (R2) to the Open Space (OS) district, or take any action related thereto. (Inserted at the request of the Redevelopment Board)

This article was requested for submission by the Arlington Redevelopment Board in the belief that the Town-owned parcel specified in this article was inadvertently excluded from the open space (OS) district when that district was created. It has since been learned that the Town Meeting vote that created the OS district, as approved by the Attorney General, did include this parcel. The parcel simply needed to be shown correctly on the zoning map, which has since been corrected.

VOTE:

No action

ARTICLE 7

Zoning Bylaw Amendment/Allow Cemetery Use in the Open Space District

To see if the Town will vote to amend the Zoning Bylaw in Articles 5, 6, and 11, and elsewhere as may be required, to allow cemetery use solely for cremated remains on land under the jurisdiction of the Conservation Commission by special permit subject to Environmental Design Review; or take any action related thereto. (Inserted at the request of the Redevelopment Board)

Under existing zoning, cemetery use is not allowed in the open space (OS) zoning district. This vote, if adopted, would allow cemetery use in the OS district for cremated remains only, subject to an Environmental Design Review Special Permit from the Redevelopment Board. This change would allow the Conservation Commission, the Cemetery Commission, and the Historical Commission to implement a joint plan developed in 2009 to restore the Cooke's Hollow Conservation Area while creating a landscape with low fieldstone walls to include family niches for cremated remains.

VOTE:

That the Town vote to amend the Zoning Bylaw in Article 5 by adding to Section 5.04, Table of Use Regulations, a new use, 8.24 "Cemetery use solely for cremated remains on land under the jurisdiction of the Conservation Commission", and "SP" under the "OS" district column, and at the end of section 6.18 by adding the text, "Accessory structures for cemetery use solely for cremated remains in the open space district shall be limited to landscape elements such as low walls, curbs, and/or flat stone paving work which in combination constitute a landscape or garden design rather than building structures." and in section 11.06 b. by adding a new subsection, "4. Cemetery use solely for cremated remains in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified."

TEXT:

SECTION 5.04 - TABLE OF USE REGULATIONS (Continued)

		District																			
Principal Use		R0	R1	R2	R3	R4	R5	R6	R7	B1	B2	B2A	B3	B4	B5	MU	PUD	I	T	OS	
8.18	Activities, accessory to a principal use permitted as a right, that are necessary in connection with scientific research or scientific development or related production																				
ART. 68, ATM 3/77; ART. 7, ATM 4/09										SP	SP	SP	SP	SP	SP					SP	SP
8.19	Up to three dwelling units in a building containing a business or service use in accordance with the residential standards for that district																				
ART. 68, ATM 3/77; ART. 5, ATM 4/00						SP	SP	Yes	Yes	SP	SP	SP	SP	SP	SP					SP	
8.20	Fraternal, civic, entertainment, professional, or health or similar clubs or organizations as on accessory use to other than a single-family detached, two- or three-family dwelling, or duplex use																				
ART. 17, STM 5/80		SP	SP	SP	SP	SP	Yes	Yes	Yes	SP	Yes	Yes	Yes	Yes	Yes					SP	Yes
8.21	Cable television studio and/or head end site including antenna and satellite reception facility																				
ART. 5, ATM 4/02		SP	SP	SP	SP	SP	SP						SP								
8.22	Catering Service									Yes											
ART. 11, ATM 4/09										Yes	Yes	Yes	Yes	Yes	Yes						
8.23	Keeping of no more than six hen chickens (but no roosters) permitted by the Arlington Board of Health for egg-laying, pet, or other non-commercial purposes in an enclosure in the rear yard of a property at least six feet from all property lines and at least 25 feet from residences on adjacent lots																				
		Yes	Yes	Yes																	
8.24	<u>Cemetery use solely for cremated remains on land under the jurisdiction of Conservation Commission</u>																				SP

Yes - permitted as a right, SP - special permit, Blank - not permitted

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

^a Projects with six or more residential units (defined as uses 1. 01a, 1.02a, 1.03, 1.04, 1.05, 1.07, 1.10, and 1.13) are subject to the Affordable Housing requirements in Section 11.08.

ART. 87, ATM 4/80

^b One exception is made for attached single-family dwellings on Sunnyside Avenue, Gardner Street, Silk Street, Marrigan Street, and Fremont Street. Attached single-family dwellings existing in August, 1975, on these streets are permitted as a right.

ART. 84, ATM 4/80; ART. 6, ATM 4/92 ^c In the R0, R1 and R2 districts no new facilities under use 2.04 shall be constructed except at sites whereon these facilities existed as of August, 1975. These existing facilities may be reconstructed to meet code requirements in accordance with a special permit under Sections 10.11 and 11.0

Section 6.18

Accessory buildings in the OS district shall be located on the property so as to maintain the harmonious relationship to the neighborhood, and so as not to detract from the primary goal of the open space use.

Accessory structures for cemetery use solely for cremated remains in the open space district shall be limited to landscape elements such as low walls, curbs, and/or flat stone paving work which in combination constitute a landscape or garden design rather than building structures.

Section 11.06 b. 3.

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

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

....

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

ART. 7, ATM 5/07

3. Parking in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified.

4. Cemetery use solely for cremated remains in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified.

ARTICLE 8

Zoning Bylaw Amendment/Wireless Communication Facilities

To see if the Town will vote to amend Section 11.06 of the Zoning Bylaw to remove “wireless communication facility” from the list of special permit uses subject to Environmental Design Review; or take any action related thereto. (Inserted at the request of the Redevelopment Board)

Under the current Zoning Bylaw, any new rooftop wireless antenna equipment or replacement equipment requires a Special Permit subject to Environmental Design Review

(EDR). In the experience of the Redevelopment Board and the wireless communications permit applicants, the application for, and standards applied in EDR review are excessive for rooftop wireless antenna installations. Standards such as the relation of buildings to the environment, impact on surface water drainage, traffic circulation, and preservation of landscape are usually not factors in rooftop equipment installations. If approved by Town Meeting, this vote would mean the Zoning Board of Appeals (ZBA) will be the Special Permit granting authority for applications for rooftop wireless installations. The ZBA will review the wireless antenna applications using the same standards for other Special Permits it grants, which the ARB believes are sufficient for wireless communications facilities.

VOTE:

That the Town vote to amend Section 11.06(b)(1) of the Zoning Bylaw by deleting subsection "(h) Wireless communication facility." from the list of special permit uses subject to Environmental Design Review.

TEXT:

Section 11.06

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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

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

(a) Construction or reconstruction on a site abutting

Massachusetts Avenue

Pleasant Street

Mystic & Medford Streets between Massachusetts Avenue and Chestnut Street

Broadway

Minuteman Bikeway

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

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

(c) Gasoline service stations.

ART. 13, ATM 5/91

(d) Lodging house, bed and breakfast, bed and breakfast home or a rehabilitation residence with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

(e) Nonresidential uses and hotels or motels in a nonresidential district with more than 10,000 square feet of gross floor area or with 20 or more parking spaces.

(f) Nonresidential uses in a residential district with more than 5,000 square feet of gross floor area or with 10 or more parking spaces.

ART. 6, ATM 4/02

(g) Outdoor uses.

ART. 11, STM 5/97

~~(h) Wireless communication facility.~~

ARTICLE 9

Zoning Bylaw Amendment/Minimum Lot Size

To see if the Town will vote to amend Section 6.06 of the Zoning Bylaw to limit the grandfathering of undersized lots for one and two-family residential uses to those lots that have not previously been built upon; or take any action related thereto. (Inserted at the request of the Redevelopment Board)

Section 6.06 of the Zoning Bylaw addresses exceptions to minimum size and other zoning requirements for lots that were laid out and approved or recorded prior to the first passage of the Zoning Bylaw on May 15, 1924. This section of the bylaw currently addresses such exceptions for both undeveloped (vacant) nonconforming lots and nonconforming lots with principal buildings. Over the past few years, however, Town Meeting has amended Article 9 of the Zoning Bylaw to address exceptions for lots with principal buildings on them, where either the lots are nonconforming or the principal buildings are nonconforming in structure or use. The purpose of this Article is twofold. First, if adopted by Town Meeting, section 6.06 would apply only to undeveloped (vacant) nonconforming lots. The removal of references in Section 6.06 to lots with principal buildings would allow Article 9, as recently amended by Town Meeting, to address in full such lots and to avoid any inconsistency between Section 6.06 of the Zoning Bylaw and Article 9. Property owners could still alter or rebuild a nonconforming structure, or rebuild on nonconforming lots under the provisions of Article 9 of the Zoning Bylaw. Second, the article looks to clarify the language and the requirements of the exceptions provided in Section 6.06 for building on nonconforming undeveloped (vacant) lots. Moreover, the current language of Section 6.06 does not follow the language of Section 6 of the State Zoning Act. The changes proposed in this Article make the Zoning Bylaw consistent with Section 6 of the State Zoning Act and the case law associated with it.

VOTE:

That the Town vote to amend Section 6.06 of the Zoning Bylaw by deleting the second sentence and in the third sentence, by inserting the words “single or two-family” before the word “residential”, inserting after “residential use” the phrase “as permitted in such zoning district”, inserting “(i)” after the word “provided”, inserting after the word “frontage,” the text “(ii) was not held in common ownership with any adjoining land, and (iii) 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 (iv)”, and deleting the text “and each side yard is not less than 7 feet 6 inches or 15 percent of the lot frontage whichever is the greater, and”.

TEXT:

Section 6.06 - Exceptions to Minimum Lot Size, Frontage, Open Space, and Side Yard Requirements in R0, R1 and R2 Districts

ART. 15, ATM 5/91; ART. 15, ATM 5/91; ART. 74, ATM 3/85

a. The minimum lot size, frontage, open space and side yard requirements set forth in the Table of Dimensional and Density Regulations for residential uses in the R0, R1 and R2 Zoning districts may not apply to lots which prior to the passage of the Zoning Bylaw on May 15, 1924, were shown as separate parcels on subdivision plans approved by the Board of Survey or on plans or deeds duly recorded with the Registry of Deeds. ~~Such lots on which a principal building presently exists or for which a building permit has been issued prior to the date of the first advertisement of this Section in August 1975 shall be considered building lots provided, however, that each side yard is not less than 7 feet 6 inches or 15 percent of the lot frontage, whichever is the greater.~~

Such lots which did not contain a principal building or for which a building permit was not issued prior to the first advertisement of this section in August, 1975, may be built upon with a single or two-family residential use as permitted in such zoning district provided (i) the lot contains not less than 5,000 square feet of area and 50 feet of frontage, (ii) was not held in common ownership with any adjoining land, (iii) 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 (iv) ~~and each side yard is not less than 7 feet 6 inches or 15 percent of the lot frontage whichever is the greater, and~~ the open space requirements and the requirements of Section 9.03, are satisfied.

ARTICLE 10

Zoning Bylaw Amendment/Floodplain District and Inland Wetland District Special Permits

To see if the Town will vote to amend Sections 11.04 and 11.05 of the Zoning Bylaw to allow the Redevelopment Board to act on requests for Floodplain District and Inland Wetland District special permits in cases subject to Environmental Design Review; or take any action related thereto. (Inserted at the request of the Redevelopment Board)

The purpose of this article is to allow applicants for Special Permits subject to Environmental Design Review (EDR) to apply to a single board, rather than two boards, for projects that also require a Floodplain District or Inland Wetland District Special Permit. Currently projects that are subject to both types of review must apply to the Redevelopment Board for a Special Permit under Environmental Design Review and apply separately to the Zoning Board of Appeals (ZBA) for Floodplain District or Inland Wetland District Special Permits. This can have the unintended effect of applicants having to go back and forth between Boards as designs are changed to meet review standards. If approved by Town Meeting, this vote would allow applicants who need either a Floodplain District or Inland Wetland District Special Permit and a Special Permit subject to Environmental Design Review to seek both at once from the Redevelopment Board. (For projects not subject to Environmental Design Review, the ZBA would remain the Special Permit granting authority for the Floodplain District and Inland Wetland District Special Permits.)

VOTE:

That the Town vote to amend Article 11 of the Zoning Bylaw as follows: by inserting after the phrase "Special Permit by the ZBA" in Section 11.04 d.2. the phrase "or, in cases subject to Environmental Design Review, the granting of a Special Permit by the ARB:"; by inserting in the first sentence of Section 11.04 e. after the letters "ZBA" the phrase "or, in cases subject to Environmental Design Review, to the ARB," and by deleting in the fourth sentence of Section 11.04 e. each instance of the phrase "to the ZBA" and inserting in the same sentence the phrase ", if applicable," after the word "and"; by inserting in Section 11.04 j. after the first instance of the letters "ZBA" the phrase "or the ARB, as the case may be," and after the second instance of the letters "ZBA" the phrase "or the ARB in cases subject to Environmental Design Review,"; by inserting in each of Section 11.05 d. 1, Section 11.05 d. 2, and Section 11.05 d. 3 after the letters "ZBA" the phrase "or, in cases subject to Environmental Design Review, a Special Permit from the ARB,"; by inserting in the first sentence of Section 11.05 e after the letters "ZBA", the phrase "or, in cases subject to Environmental Design Review, to the ARB,"; and by deleting in the fourth sentence of Section 11.05 e each instance of the phrase "to the ZBA" and inserting in the same sentence the phrase ", if applicable," after the word "and".

TEXT:

Section 11.04 Floodplain District

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d. PERMITTED USES

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2. By Special Permit.

ART. 46, STM 3/82; ART. 4, ATM 5/91; ART. 7, ATM 5/04, ART. 2, STM, 5/10

No structure or building shall be erected, constructed, substantially improved, enlarged (except as provided in 11.04(d)(1)(b)), or otherwise created or moved, no earth or other material dumped, filled, excavated, or transferred, unless all the following conditions are found to exist as part of the granting of a Special Permit by the ZBA or, in cases subject to Environmental Design Review, the granting of a Special Permit by the ARB:

2.1 The proposed use, including filling or excavating, when combined with all existing uses, will not increase the water surface elevation of the 100-year flood;

2.2 The proposed use shall comply with the regulations as amended in Massachusetts Wetlands Protection Regulations, Department of Environmental Protection (DEP), 310 CMR 10.00 and Inland Wetlands Restriction (DEP) 310 CMR 13.00 and in the Conservation Commission's Wetlands Regulations promulgated under the Arlington Wetlands Bylaw (Title V, Article 8).

2.3 Base Flood Elevation Data is required for proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.

The provisions of this subsection 11.04(d)(2) shall not apply to the reconstruction or repair of a structure, unless it constitutes substantial improvements as defined in 11.04 (d)(1.b), existing at the time of advertisement of this section (August 1975) after a fire or other casualty as provided in Section 9.06 of this Bylaw. However, major repairs shall use construction materials and utility equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage.

2.4 In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2.5 In Zones AE along watercourses in the Town of Arlington that have a regulatory floodway designated on the Middlesex County FIRMs, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. ART. 10, ATM 4/88, ART. 2, STM, 5/10

e. PERMIT AND PROCEDURE. Any person(s) desiring such a permit shall submit an application to the ZBA or, in cases subject to Environmental Design Review, to the ARB, which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Conservation Commission, the Massachusetts Department of Environmental Protection, and the Massachusetts Highway Department under Chapter 131 of the General Laws, Acts Relating to the Protection of the Inland Wetlands of the Commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for Special Permit ~~to the ZBA~~ with accompanying plans shall also be sent at the same time by the applicant to the Inspector of Buildings, Board of Health, the

Conservation Commission, Town Engineer, and, if applicable, the ARB for their recommendations to the ZBA as to their approval, disapproval or appropriate recommendations.

j. EXEMPTIONS IN THE FLOODPLAIN DISTRICT. Where a proposed use is determined to fall within the limits of the Floodplain District, but the applicant for the proposed use determines that the location for his proposed use is not included in the definition of the Floodplain District, said use may be exempt by the ZBA or the ARB, as the case may be, from the provisions of this section if the applicant provides sufficient evidence for the ZBA or the ARB in cases subject to Environmental Design Review, to clearly determine that the land in question should not be subject to the provisions of this Section.

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Section 11.05 - Inland Wetland District

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d. PERMITTED USE. Municipal use, such as waterworks, pumping stations, and parks, is permitted under this section. Land in the Inland Wetland District may be used for any purpose otherwise permitted in the underlying district except that:

1. No structure intended for human occupancy or use on a permanent basis having water and sewerage facilities and no other building, wall, dam or structure (except flagpoles, signs, and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued. However, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty, as provided in Section 9.06 of this Bylaw.

2. Dumping, filling, excavating, or transferring of any earth material within the district is prohibited unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw becomes effective.

3. No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, agricultural uses, scenic features, or drainage improvements or any other uses unless a Special Permit from the ZBA or, in cases subject to Environmental Design Review, a Special Permit from the ARB, is issued.

ART. 10, ATM 4/88

e. PERMIT AND PROCEDURE. Any person(s) desiring such a permit shall submit an application to the ZBA or, in cases subject to Environmental Design Review, to the ARB, which shall comply with the conditions and submittal requirement as listed in the following subsections. (Such conditions shall include, where applicable, approval by the Conservation Commission, the Massachusetts Department of Environmental Quality Engineering, and the Massachusetts Department of Public Works under Chapter 131 of the General Laws, acts relating to the protection of the inland wetlands of the Commonwealth.) The application procedure shall be the same as for special permits. Copies of the application for special permit ~~to the ZBA~~ with accompanying plans shall also be sent to the Inspector of Buildings, Board of Health, the Conservation Commission, Town Engineer, and the ARB, if applicable, for their recommendations to the ZBA, as to their approval, disapproval or appropriate recommendations.

ARTICLE 11

Zoning Bylaw Amendment/Floodplain District Protection

To see if the Town will vote to amend Section 11.04.d of the Zoning Bylaw in conformance with the Federal Emergency Management Agency Flood Insurance Rate Maps by (1) deleting the phrase “Floodway as defined on the Wetland and Floodplain Overlay Map” and substituting therefore the phrase “regulatory floodway as defined by the Middlesex County FIRMS”; and (2) deleting Section 11.04.d.2.5 thereof; or take any action related thereto. (Inserted by the Board of Selectmen)

The purpose of this warrant article is to (i) restore the formerly clear “no-build in the floodway” policy that existed in the Zoning Bylaw prior to adopting new flood maps at Annual Town Meeting 2010 and (ii) to change an incorrect reference to the earlier map. The model Bylaw offered by the Massachusetts Department of Environmental Protection and adopted by Town Meeting inadvertently created an inconsistency in two subsections of the Bylaw. Adopting this vote will restore the consistency and clarity that existed previously on the prohibition of building in the floodway by eliminating subsection 2.5 which erroneously suggested that building could occur in a regulatory floodway under certain conditions. These changes are supported in principle by Massachusetts Department of Environmental Protection staff.

VOTE:

That Section 11.04 (“Floodplain District”) of the Zoning Bylaw be and hereby is amended by (1) deleting from Section 11.04(d) the words, “Floodway as defined on the Wetland and Floodplain Overlay Map” and replacing them with the words, “regulatory floodway as defined in the Middlesex County FIRMS”; and (2) deleting Section 11.04(d)(2)(2.5) in its entirety.

TEXT:

Section 11.04 - Floodplain District

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ART. 46, STM 3/82; ART. 4, ATM 5/91, ART. 2, STM, 5/10

d. PERMITTED USES. Mobile homes shall not be permitted at any location in the Floodplain District, and no construction, development, or filling shall be permitted in the ~~Floodway as defined on the Wetland and Floodplain Overlay Map~~ regulatory floodway as defined in the Middlesex County FIRMS. Certain uses may be permitted in the Floodplain District as follows:

...

2. By Special Permit

No structure or building shall be erected, constructed, substantially improved, enlarged (except as provided in 11.04(d)(1)(b)), or otherwise created or moved, no earth or other material dumped, filled, excavated, or transferred, unless all the following conditions are found to exist as part of the granting of a Special Permit by the ZBA:

2.1 The proposed use, including filling or excavating, when combined with all existing uses, will not increase the water surface elevation of the 100-year flood;

2.2 The proposed use shall comply with the regulations as amended in Massachusetts Wetlands Protection Regulations, Department of Environmental Protection (DEP), 310 CMR 10.00 and Inland Wetlands Restriction (DEP) 310 CMR 13.00 and in the Conservation Commission's Wetlands Regulations promulgated under the Arlington Wetlands Bylaw (Title V, Article 8).

2.3 Base Flood Elevation Data is required for proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A zones.

The provisions of this subsection 11.04(d)(2) shall not apply to the reconstruction or repair of a structure, unless it constitutes substantial improvements as defined in 11.04 (d)(1.b), existing at the time of advertisement of this section (August 1975) after a fire or other casualty as provided in Section 9.06 of this Bylaw. However, major repairs shall use construction materials and utility equipment that are resistant to flood damage, and construction methods and practices that will minimize flood damage.

2.4 In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

~~2.5 In Zones AE along watercourses in the Town of Arlington that have a regulatory floodway designated on the Middlesex County FIRMs, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.~~

ARTICLE 12

Zoning Bylaw Amendment/Wetland and Floodplain Overlay Map

To see whether the Town will vote to amend Section 3.03 of the Zoning Bylaw ("Zoning Map") by adding to the "Wetland and Floodplain Overlay" map referenced therein the following wetlands and water resources:

- 1. Ryder Brook from the bike path to behind 15 Ryder Street*
 - 2. wetland and stream behind 86 Coolidge Road;*
- or take any action related thereto. (Inserted at the request of the Conservation Commission)*

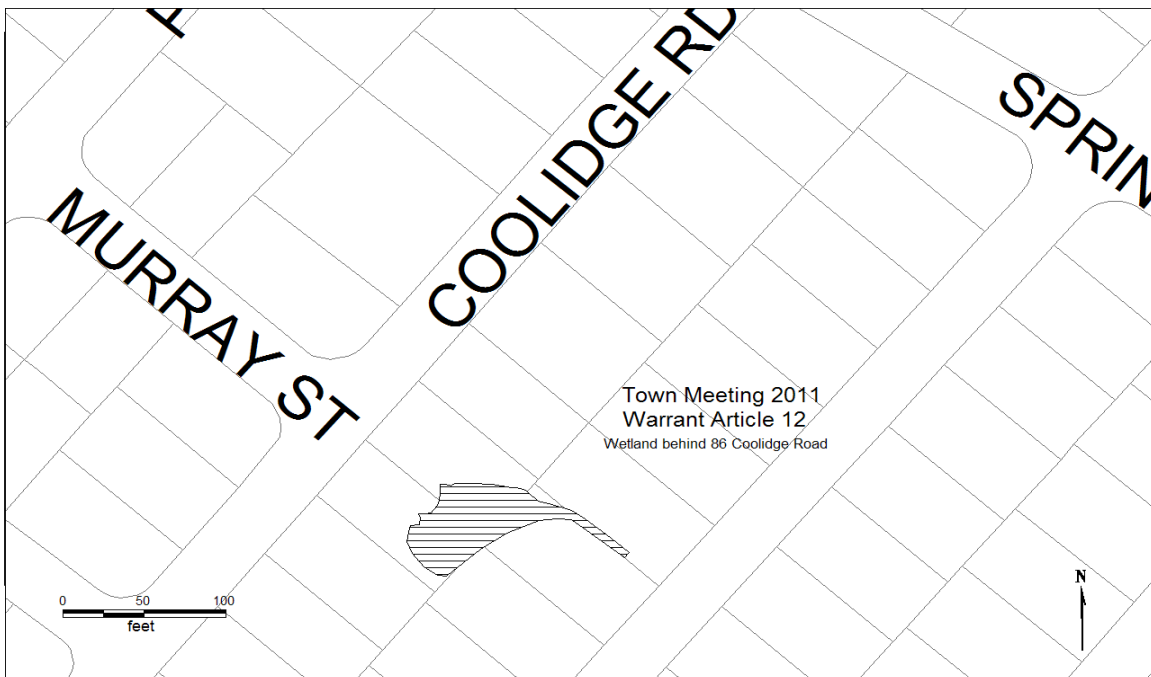
This article was submitted by the Conservation Commission with the support of the Redevelopment Board. It proposes to amend the Wetland and Floodplain Overlay (map). The Wetland and Floodplain Overlay is an official part of the Zoning Map and displays known wetlands and floodplains in Arlington. Wetlands that meet the State definition are subject to State Wetlands Protection. Wetlands that appear on Arlington's Wetland and Floodplain Overlay are also covered by Arlington's Wetland Protection Bylaw (Town Bylaw, Title V Article 8). This article seeks to include two known wetlands that already meet State standards on the overlay map. The inclusion of known wetlands on the overlay serves to alert the public and the Building Inspector to the presence of protected wetlands.

Any development that is proposed within 100 feet of a wetland (or other water resource) is subject to review by the Conservation Commission. The map serves to alert property owners to the location of a wetland. The precise location and the determination that a property is within the 100 foot limit must be made by observation at the site and measurements done in the field. The water resources that are proposed to be added are shown on the map.

This article was submitted in the belief that the Ryder Brook wetland specified in this article was not previously added to the Wetland and Floodplain Overlay. It has since been learned that Town Meeting voted in 2004 to add the Ryder Brook wetland to the overlay map, but the map was not amended to show this addition. The Ryder Brook wetland simply needs to be shown correctly on the Wetland and Floodplain Overlay map, which shall be corrected. Therefore, only the Coolidge Road wetland is included in the ARB's recommended vote

VOTE:

That the Town vote to amend the Zoning Bylaw in the Wetland and Floodplain Overlay to the Zoning Map by adding the wetlands and water resources shown on the map entitled "Proposed additions to the Wetland and Floodplain Overlay, Warrant Article 12, Annual Town meeting, April 2011".



Proposed additions to the Wetland and Floodplain Overlay, Warrant Article 12, Annual Town meeting, April 2011

ARTICLE 13

Zoning Bylaw Amendment/Affordable Housing Requirements

To see if the Town will vote to amend the Zoning Bylaw, Article 11, Section 11.08, (d) Requirements, (4)(a) by adding after the phrase "the ARB may allow the Developer to make a financial contribution" "for use in creating Affordable Units and/or provide Affordable Units off site" and deleting the phrase "Affordable Housing Trust Fund"; and in (i), following the phrase "it is in the best interest of the Town to do so", deleting "or" and inserting "and"; in (ii), following the phrase "the provision of Affordable Units would" delete the words "result in a hardship such as" and replace it with "render"; and following the phrase "the project economically infeasible" add the word "or"; and add "(iii) the Project is located in an area designated as an Urban Renewal Area and provides significant

public benefits”; and renumber the existing subsection (b) to be called (c), and existing (c) to become (d); and add a new (b) to read “In a Project located in an area designated as an Urban Renewal Area that also provides significant public benefits, the ARB may reduce the number of Affordable Units required to be provided, but in no circumstance may the number of Affordable Units be less than 10% of the total number of Residential units in the Project”; or take any action related thereto. (Inserted at the request of the Town Manager)

The purpose of this article is to allow the Redevelopment Board the flexibility to consider a request to reduce the amount of affordable housing provided in urban renewal projects that are subject to the Town’s inclusionary zoning bylaw (e.g., the Symmes project) to no less than 10% in projects that provide significant public benefits. After receiving comments from the affordable housing community that this article should require that any reduction in affordable units below the currently-required 15% onsite should require at least an equal number of units offsite or a financial contribution to provide them, the Town Manager requested that staff draft one or more votes to that effect. After reviewing these proposed votes, the Town Moderator determined that he could not consider them within the scope of the detailed language of original warrant article. Therefore, the Redevelopment Board has recommended no action on this article.

VOTE:
No action

ARTICLE 14

Zoning Bylaw Amendment/Affordable Housing Requirements, Definitions, Units

To see if the Town will vote to amend the Zoning Bylaw, Article 11.08 Affordable Housing Requirements, c. Definitions, Units, by adding, following the phrase “Dwelling Units”, “or”, and following the phrase “Lodging Units”, deleting “or units within Assisted Living Facilities”; or take any action related thereto. (Inserted at the request of the Town Manager)

The purpose of Article 14 is to remove assisted living facilities from the requirements of the affordable housing bylaw. In discussing the requirements with other towns and with providers of assisted living, it has been reported that up to 90% of the monthly cost of assisted living is related to the provision of services, rather than residential use, as demonstrated by the high monthly payments but small square footage for units. For this reason, it is not economically feasible for developers to build assisted living facilities and conform to the requirement to subsidize 15% of the rooms. It has also been reported that there are often governmental subsidies available for residents not able to afford such costs. The ARB strongly believes that assisted living developments should be encouraged in the town and believes that the removal of such facilities from the requirements of the affordable housing bylaw would help in this endeavor.

VOTE:
That Section 11.08 (“Affordable Housing Requirements”) of the Zoning Bylaw be and hereby is amended by, in Section 11.08(c) (“Definitions”), (1) in the definition of “Residential,” inserting the word, “and” between Use item 1.07 and Use item 1.10 and deleting Use item 1.13; and (2) in the definition of “Units,” deleting both commas, inserting

the word, “or” between the words, “Dwelling Units” and the words, “Lodging Units,” and deleting the words, “or units within Assisted Living Facilities.”

TEXT:

Section 11.08 - Affordable Housing Requirements

....

c. Definitions.

....

Residential:

Use items 1.01a, 1.02a, 1.03, 1.04, 1.05, 1.07, and 1.10, ~~and 1.13~~ listed in Table 5.04.

Units:

Dwelling Units, or Lodging Units ~~or Units with Assisted Living Facilities.~~

ARTICLE 15

Zoning Bylaw Amendment/Use Regulations, Assisted Living

To see if the Town will vote to amend the Zoning Bylaw, Article 5, Section 5.04—TABLE OF USE REGULATIONS, to change the use category of “Assisted Living” from “Residential” to “Institutional & Educational” by renumbering the use “Assisted Living” and its allowed districts from 1.13 to 2.11; or take any action related thereto. (Inserted at the request of the Town Manager)

This article was submitted as part of the proposal to remove assisted living facilities from the affordable housing bylaw. Because the ARB made these changes in Article 14, no action is needed on this article.

VOTE:

No action

ARTICLE 16

Zoning Bylaw Amendment/Definition, Assisted Living

To see if the Town will vote to amend the Zoning Bylaw, Article 2, Definitions, by changing the definition of “Assisted Living” by adding the following italicized and underlined words: “Assisted Living: A residential care institutional development subject to certification under G.L. Chapter 19D...”, or take any action related thereto. *(Inserted at the request of the Town Manager)*

This article was submitted as part of the proposal to remove assisted living facilities from the affordable housing bylaw. Because the ARB made these changes in Article 14, no action is needed on this article.

VOTE:

No action

ARTICLE 17

Zoning Bylaw Amendment/Outdoor Advertising at Peirce Field

To see if the Town will vote to amend the Zoning Bylaws to allow the temporary display of advertising/sponsorship signs at Peirce Field; or take any action related thereto. (Inserted at the request of Stephen Harrington and 10 registered voters)

The purpose of this warrant article is to allow temporary signs at the high school athletic fields to raise additional funds for the schools. After careful consideration, the Board agreed to the recommended vote shown below.

VOTE:

That a new definition be added to Article 2, Section 2.01 Definitions, "Sign, School Sponsorship: Any sign installed, placed or erected on public high school athletic fields under the jurisdiction of the Arlington School Department that advertises or indicates one or more of the following: the business or organization sponsoring the public school property on which it is located and the name or graphical symbol of the high school being sponsored, or any part thereof.", and that the following subsection be added to section 7: "7.12 Signs on Public School Playing Fields allowed by Special Permit. Athletic fields at public high schools under the jurisdiction of the Arlington School department shall be allowed temporary, school sponsorship signs in designated locations consistent with an overall signage plan approved by special permit issued by the Redevelopment Board. Temporary school sponsorship signs placed in accordance with the approved plan may be erected/installed only after March 15 and must be removed by December 1 of any calendar year. Each sign shall contain the name and/or graphical symbol of the school under sponsorship and may contain the name and or trademark of the organization sponsoring the school.

Any applicant under this provision shall provide information required in section 7.08 above, in addition to specific information in the form of perspectives, renderings, photographs, models or other representations sufficient to show the nature of the proposed signage plan and its effect on the immediate surroundings. The ARB will evaluate signage plan applications to ensure that the overall design is specifically related to the athletic fields and does not create a visual presence detrimental to the surrounding neighborhoods.

Prior to the granting of a special permit under this provision, the ARB shall receive comments on the application from the Department of Planning & Community Development. The ARB shall not act until it receives comments from the Department of Planning & Community Development.", and by inserting after section 11.06 b. 3. the text, "4. Signage plans for public school playing fields allowed by special permit under Section 7.12 of the Zoning Bylaw shall be subject to the environmental design review procedures and standards hereinafter specified."

TEXT:

Sign, Primary Wall:

A sign on the building face fronting on a street or parking lot frontage.

Sign, School Sponsorship:

Any sign installed, placed or erected on public high school athletic fields under the jurisdiction of the Arlington School Department that advertises or indicates one or more of the following: the

name or graphical symbol of the high school being sponsored, or any part thereof.

Sign, Secondary Wall:

A sign located on any building face fronting on a street or parking lot frontage other than that of the primary wall sign. The cumulative area of all secondary wall signs shall not exceed fifty (50) percent of the maximum possible area of the primary wall sign.

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Section 7.11 Nonaccessory signs

....

....advertising devices legally maintained, at the time of its approval by the Attorney-General, until one year from the first date of July following such approval.

7.12 - Signs on Public School Playing Fields allowed by Special Permit.

Athletic fields at public high schools under the jurisdiction of the Arlington School department shall be allowed temporary, school sponsorship signs in designated locations consistent with an overall signage plan approved by special permit issued by the Redevelopment Board. Temporary school sponsorship signs placed in accordance with the approved plan may be erected/installed only after March 15 and must be removed by December 1 of any calendar year. Each sign shall contain the name and/or graphical symbol of the school under sponsorship and may contain the name and or trademark of the organization sponsoring the school.

Any applicant under this provision shall provide information required in section 7.08 above, in addition to specific information in the form of perspectives, renderings, photographs, models or other representations sufficient to show the nature of the proposed signage plan and its effect on the immediate surroundings. The ARB will evaluate signage plan applications under to ensure that the overall design is specifically related to the athletic fields and does not create a visual presence detrimental to the surrounding neighborhoods.

Prior to the granting of a special permit under this provision, the ARB shall receive comments on the application from the Department of Planning & Community Development. The ARB shall not act until it receives comments from the Department of Planning & Community Development.

...

Section 11.06 Environmental Design Review

...

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

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. 7, ATM 5/07

3. Parking in the Open Space District shall be subject to the environmental design review procedures and standards hereinafter specified.
4. Signage plans for public school playing fields allowed by special permit under Section 7.12 of the Zoning Bylaw shall be subject to the environmental design review procedures and standards hereinafter specified.