



Town of Arlington

Report to 2021 Annual Town Meeting

Rachel Zsembery, Chair

Kin Lau, Vice Chair

Eugene Benson

Melisa Tintocalis

David Watson

Jennifer Raitt

Secretary Ex-Officio

Director of Planning and Community Development

voted as amended April 8, 2021

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Introduction and Overview

The Arlington Redevelopment Board (ARB) has statutory authority over M.G.L. c. 40A as the Town's planning board (Section 2 of Section 17 of the Town Manager Act) and M.G.L. c. 41 § 81 as the Redevelopment Authority. The ARB was created by a Town Meeting-adopted home rule petition, followed by a State Legislature act to form the ARB in 1971. The Department of Planning and Community Development was created in 1969. The authority and role of the ARB is included in Article 17 of the Town Manager Act. As a planning board, the ARB is charged with developing Arlington's Master Plan; proposing bylaws, regulations, and rules to implement the Master Plan; and applying those bylaws, regulations, and rules. Lastly, the ARB serves as a special permit granting authority. The ARB is also a duly constituted redevelopment authority formed under the authority of M.G.L. c. 121B. As a redevelopment authority, the ARB can buy, sell and hold property and it is because of these powers that the ARB acts as landlord, responsible for many properties that the Town Meeting has seen fit to put under the Board's jurisdiction. With Town Meeting approval, the Board may hold property to improve and rehabilitate to meet community development goals.

The members of the ARB are as follows:

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

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

Eugene Benson (Term through 1/31/2023)

Melisa Tintocalis (Term through 1/31/2023)

David Watson (Term through 9/22/2023, Gubernatorial designee)

Jennifer Raitt, Secretary Ex-Officio and Director of Planning and Community Development

Effective April 16, 2021, David Watson will be stepping down from the Board after serving for four and one-half years. The Board thanks Mr. Watson for his service and contributions as a member of the Master Plan Implementation Committee's Zoning Bylaw Working Group, including the most significant recodification of the Zoning Bylaw since 1975 and contributions to the design of a bylaw for Bicycle Parking helping the Town to achieve net zero and sustainable transportation goals. The Board is also grateful to Katherine Levine Einstein for her service on the Board from September 2020 through January 2021. The Board and Director of Planning and Community Development would like to say a special thank you to Erin Zwirko, AICP, LEED AP, Assistant Director of Planning and Community Development for excellent service to the Town, advancing numerous planning goals and processes and leading the Master Plan Implementation Committee and Housing Plan Implementation Committee. Thank you to Kelly Lynema, Senior Planner, for her assistance with research and analysis for staff reports and assistance in the preparation of this report.

Zoning Articles Overview

The ARB review process for 2021 Annual Town Meeting began in January with the close of the Warrant, and will culminate after Town Meeting with a submission by the Town Clerk of any approved zoning amendments to the Attorney General. A detailed description of the submission, review process, and schedule is posted on the [ARB website](#).

When any warrant article proposes to amend the "Town of Arlington Zoning Bylaw," the ARB is required to issue a report with recommendations to Town Meeting. Appearing below are articles that propose to amend the Zoning Bylaw and Zoning Map. This report includes a brief discussion of the intent of each proposed amendment followed by a recommended vote of the ARB. The ARB's vote constitutes its recommendation to Town Meeting. 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 Town Meeting will be asked to vote that no action be taken on the proposed warrant article. Changes to the Zoning Bylaw text are shown beneath the recommended votes. Additions to the original Zoning Bylaw text appear as underlined text, while any deletions to the original Zoning Bylaw text appear as strike through text.

The ARB advertisement for the public hearings on the Warrant Articles proposed to amend the Zoning Bylaw appeared in the *Arlington Advocate* as required on February 11 and February 18, 2021. In accordance with the provisions of the Arlington Zoning Bylaw and Massachusetts General Laws Chapter 40A, the ARB held public hearings and heard public comments remotely on Zoom on the proposed amendments on Monday, March 1, 2021, Monday, March 15, 2021, Monday, March 29, 2021, and Monday, April 5, 2021. The ARB voted on recommended bylaw language at their meeting on April 5, 2021. At the ARB meeting on April 8, 2021, on a roll call vote, this report was approved as amended (4-0), with Ms. Tintocalis absent

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Summary of Recommendations by the Arlington Redevelopment Board

| Article No. | Date of ARB Hearing | Recommendation to Town Meeting |
|-------------|--------------------------------|--------------------------------|
| Article 28 | March 1, 2021 | Action |
| Article 29 | March 1, 2021 | Action |
| Article 30 | March 1, 2021 | Action |
| Article 31 | March 1, 2021 | Action |
| Article 32 | March 1, 2021 | Action |
| Article 33 | March 1, 2021 | Action |
| Article 34 | March 1, 2021 | Action |
| Article 35 | April 5, 2021 | Action |
| Article 36 | April 5, 2021 | Action |
| Article 37 | March 29, 2021 | No Action |
| Article 38 | March 15, 2021 | Action |
| Article 39 | March 1, 2021 | No Action |
| Article 40 | March 1, 2021 | No Action |
| Article 41 | March 15, 2021 | No Action |
| Article 42 | March 15, 2021 | No Action |
| Article 43 | March 15, 2021 | Action |
| Article 44 | March 29, 2021 | Action |
| Article 45 | March 15, 2021 | No Action |
| Article 46 | March 29, 2021 | No Action |
| Article 47 | March 29, 2021 | No Action |
| Article 48 | March 29, 2021 | Action |
| Article 49 | March 29, 2021 | No Action |

Zoning Bylaw Amendments: Affordable Housing Requirements

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

ARTICLE 28

ZONING BYLAW AMENDMENT/ AFFORDABLE HOUSING REQUIREMENTS

To see if the Town will vote to amend the Zoning Bylaw to increase the time during which the affordable housing requirements apply from a two-year period to a three-year period in alignment with G.L. c.40A § 9 by amending SECTION 8.2.2. APPLICABILITY; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: Section 30 of Chapter 219 of the Acts of 2016 broadened Chapter 40A, § 9, by extending the term of a Special Permit from two years to three years. When this law was passed, the goal was to provide more flexibility in construction schedules to adapt to changing economic, labor, and market conditions without having to seek an extension from the special permit granting authority.

The Zoning Bylaw, Section 3.3.5.B, references the correct three-year term in accordance with this law; it was updated as part of the Zoning Bylaw recodification completed in 2018. Section 8.2, however, continues to reference the two-year term of special permits and should be updated to be consistent with Chapter 40A Section 9. The ARB believes that this amendment is necessary for consistency with the state's Zoning Act (MGL c.40A).

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 28. That the Zoning Bylaw be and hereby is amended as follows:

8.2.2. Applicability

The provisions of this Section 8.2 shall apply to all new residential development with six or more units subject to Section 3.4, Environmental Design Review, comprised of any or all of the following uses:

- Single-family detached dwelling
- Two-family dwelling
- Duplex dwelling
- Three-family dwelling
- Townhouse structure
- Apartment building
- Apartment conversion
- Single-room occupancy building

Any residential development of the uses listed above involving one lot, or two or more adjoining lots in common ownership or common control, for which special permits or building permits are sought within a ~~two-year~~ three-year period from the first date of special permit or building permit application shall comply with the provisions of this Section 8.2.

Zoning Bylaw Amendments: Apartment Conversion

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

ARTICLE 29

ZONING BYLAW AMENDMENT/ APARTMENT CONVERSION

To see if the Town will vote to amend the Zoning Bylaw to include a definition of apartment conversion by amending SECTION 2 DEFINITIONS; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: Apartment conversion is a use listed in the Table of Uses, but has no definition associated with it, although there are standards listed in the Table of Uses: “Conversion to apartments, up to 18 units per acre, with no alteration to the exterior of the building.” Apartment conversion is allowed with a Special Permit in the R4 and R5 districts and the B1 district. The Table of Dimensional and Density Regulations also provides specific regulations.

Apartment conversions are referenced in the description of the R4 Townhouse District. Section 5.4.1.B(1) notes that “the predominant uses in the R4 district are one- and two-family dwellings in large, older houses. Conversions of these old homes to apartments or offices are allowed to encourage their preservation.” The description of the B1 Neighborhood Office District also references the predominant uses as one- and two-family dwellings.

The ARB believes that defining “apartment conversion” brings clarity to the term that is used in various locations in the Zoning Bylaw. It does not alter the substance of the Bylaw.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 29. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 2:

Apartment Conversion: The conversion of an existing structure originally designed for one-family or two-family use to an apartment building with no addition to or expansion of the exterior of the structure.

Zoning Bylaw Amendments: Gross Floor Area

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

ARTICLE 30

ZONING BYLAW AMENDMENT/ GROSS FLOOR AREA

To see if the Town will vote to amend the Zoning Bylaw to clarify how landscaped and usable open space is calculated relative to gross floor area by amending SECTION 5.3.22. GROSS FLOOR AREA to add subsection C; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: The ARB believes that the amendments to the definitions of Landscaped Open Space and Usable Open Space will bring clarity to how users of the Zoning Bylaw need to calculate Landscaped Open Space and Usable Open Space. The amendment to Section 5.3.22, Gross Floor Area, provides additional clarification regarding the standard by which these two requirements are calculated. These amendments provide clarity to the Zoning Bylaw; they do not alter the substance of the Bylaw.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 30. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 2:

Open Space, Landscaped: Open space designed and developed for pleasant appearance in trees, shrubs, ground covers and grass, including other landscaped elements such as natural features of the site, walks and terraces, and also including open areas accessible to and developed for the use of the occupants of the building located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes. Refer to Section 5.3.22.C. for how to calculate landscaped open space.

Open Space, Usable: The part or parts of a lot designed and developed for outdoor use by the occupants of the lot for recreation, including swimming pools, tennis courts, or similar facilities, or for garden or for household service activities such as clothes drying; which space is at least 75% open to the sky, free of automotive traffic and parking, and readily accessible by all those for whom it is required. Such space may include open area accessible to and developed for the use of the occupants of the building, and located upon a roof not more than 10 feet above the level of the lowest story used for dwelling purposes. Open space shall be deemed usable only if at least 75% of the area has a grade of less than 8%, and no horizontal dimension is less than 25 feet. For newly constructed single-, two-family, and duplex dwellings with surface parking, no horizontal dimension shall be less than 20 feet. Refer to Section 5.3.22.C. for how to calculate usable open space.

Amend SECTION 5.3.22:

5.3.22. Gross Floor Area

- A. For the purposes of this bylaw, the following areas of buildings are to be included in the calculation of Gross Floor Area:
- (1) Elevator shafts and stairwells on each floor;
 - (2) Attic areas with headroom, measured from subfloor to the bottom of the roof structure, of seven feet three inches or more, except as excluded in (4) below;
 - (3) Interior mezzanines;

Zoning Bylaw Amendments: Gross Floor Area

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

- (4) Penthouses;
 - (5) Basement areas except as excluded in (2) below;
 - (6) Cellars in residential uses;
 - (7) All-weather habitable porches and balconies; and
 - (8) Parking garages except as excluded in (1) below.
- B. For the purposes of this bylaw, the following areas of buildings are to be excluded from the calculation of Gross Floor Area:
- (1) Areas used for accessory parking, or off-street loading purposes;
 - (2) Basement areas devoted exclusively to mechanical uses accessory to the operation of the building;
 - (3) Open or lattice enclosed exterior fire escapes;
 - (4) Attic and other areas used for elevator machinery or mechanical equipment accessory to the operation of the building; and
 - (5) Unenclosed porches, balconies, and decks.
- C. For the purposes of this bylaw, the district dimensional requirements for Usable Open Space and Landscaped Open Space are calculated based on Gross Floor Area.

Zoning Bylaw Amendments: Prohibited Uses

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

ARTICLE 31

ZONING BYLAW AMENDMENT/ PROHIBITED USES

To see if the Town will vote to amend the Zoning Bylaw to indicate that uses without a "Y" or "SP" in the Tables of Uses are prohibited by amending SECTION 5.2.2. PROHIBITED USES to add subsection C; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: The ARB believes that this amendment provides clarification to the Tables of Uses provided in the Zoning Bylaw. The amendment indicates that a use without a "Y" (Yes, use allowed) or "SP" (Special Permit required) is a use that is not permitted unless it is authorized elsewhere in the Bylaw. It does not alter the substance of the Bylaw.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 31. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 5.2.2:

5.2.2. Prohibited Uses

- A. Any use not listed in the Tables of Uses for various districts in Section 5 or otherwise allowable under the provisions of this Bylaw is prohibited.
- B. All uses that pose a present or potential hazard to human health, safety, welfare, or the environment through emission of smoke, particulate matter, noise or vibration, or through fire or explosive hazard, or glare, are expressly prohibited in all districts.
- C. Any use not designated with a "Y" (Yes, use allowed) or "SP" (Special Permit required) in the Tables of Uses for various districts is prohibited in that district, unless otherwise authorized by this bylaw.

Zoning Bylaw Amendments: Other Districts Dimensional and Density Regulations
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 32

**ZONING BYLAW AMENDMENT/ OTHER DISTRICTS DIMENSIONAL
AND DENSITY REGULATIONS**

To see if the Town will vote to amend the Zoning Bylaw to include the legend for tables by amending SECTION 5.6.2. DIMENSIONAL AND DENSITY REGULATIONS; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: The ARB believes that carrying the legend to Section 5.6.2 for the MU, I, T, PUD, and OS Districts will assist in interpreting the shorthand notations in the tables of that section. The amendment does not alter the substance of the Bylaw.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 32. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 5.6.2:

5.6.2. Dimensional and Density Regulations

The dimensional and density requirements in this Section apply to principal and accessory uses and structures in the MU, I, T, PUD, and OS districts. Additional dimensional and density regulations affecting all districts can be found in Section 5.3.

LEGEND FOR TABLES

Sq.ft. Square feet

ft Feet

L Length

H Height

W Width

ROW Right-of-Way

SP Special Permit

Y Yes (use allowed)

Zoning Bylaw Amendments: Administrative Amendments

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

ARTICLE 33

ZONING BYLAW AMENDMENT/ ADMINISTRATIVE AMENDMENTS

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

1. Correcting references to Board of Selectmen in subparagraph B of SECTION 3.1.4. PENALTY and in Section 3.2.1. ESTABLISHMENT;
2. Removing gendered terms in subparagraph A of SECTION 3.2.3. RULES AND REGULATIONS and subparagraph D of SECTION 6.2.7. NONCONFORMING SIGNS;
3. Correcting reference to August, 1975 in subparagraphs C and D in SECTION 5.4.2. DIMENSIONAL AND DENSITY REQUIREMENTS;
4. Correcting reference to Section 7 in SECTION 3.3.4.A SPECIAL PERMIT CONDITIONS; and
5. Correcting reference to seven feet three inches in subsection A(1) in SECTION 5.3.22. APPLICABILITY;

or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: The ARB supports these administrative amendments for clarity and consistency, including: updating references to the Select Board; removing gendered terms in the Zoning Bylaw; inserting a date; correcting a section reference; and making a cross reference update consistent with an article passed at the 2019 Annual Town Meeting. They do not alter the substance of the Bylaw.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 33. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 3.1.4.B:

- B. The Building Inspector may, with the approval of the ~~Board of Selectmen~~ 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.

Amend SECTION 3.2.1.:

3.2.1. Establishment

There shall be a Zoning Board of Appeals ("Board of Appeals") consisting of five members and two associate members appointed by the ~~Board of Selectmen~~ Select Board. All members of the Board of Appeals shall be Arlington residents, one member shall be an attorney-at-law, and at least one of the remaining members shall be a registered architect or a registered professional engineer. The appointment, service, and removal or replacement of members and associate members and other actions of the Board of Appeals shall be as provided for in G.L. c. 40A.

Amend SECTION 3.2.3.A:

- A. The ~~Chairman~~ Chair of the Board of Appeals, or in ~~his~~ their absence the Acting ~~Chairman~~ Chair, may administer oaths, but must do so for hearings involving G.L. c. 40B, summon witnesses and

Zoning Bylaw Amendments: Administrative Amendments

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

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 ~~him~~ 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 ~~chairman~~ 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.

Amend SECTION 6.2.7.D:

- D. Removal of a nonconforming sign, or replacement of a nonconforming sign with a conforming sign, is required when the use of the sign and/or the property on which the sign is located has been abandoned, ceased operations, become vacant, or been unoccupied for a period of 180 consecutive days or more as long as the period of non-use is attributable at least in part to the property owner, tenant, or other person or entity in control of the use. For purposes of this Section, rental payments or lease payments and taxes shall not be considered as a continued use. In the event this should occur, these conditions will be considered as evidence of abandonment, requiring removal of the nonconforming sign by the owner of the property, ~~his/her~~ their agent, or person having the beneficial use of the property, building or structure upon which the nonconforming sign or sign structure is erected within 30 days after written notification from the Building Inspector. If, within the 30-day period, the nonconforming sign is not removed, enforcement action consistent with Section 3.1 shall be pursued.

Zoning Bylaw Amendments: Administrative Amendments

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

Amend SECTION 5.4.2.:

- C. 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 28, 1975, on these streets are permitted as a right.
- D. In the R0, R1 and R2 districts no new licensed nursing home, rest home, convalescent home facilities shall be constructed except at sites whereon these facilities existed as of August 28, 1975. These existing facilities may be reconstructed to meet code requirements in accordance with a special permit under 3.3 and 3.4.

Amend SECTION 3.3.4.A:

- E. Dimensional standards more restrictive than those set forth in ~~Section 7~~Section 5 of this Bylaw;

Amend SECTION 5.3.22.A(2):

- A. For the purposes of this bylaw, the following areas of buildings are to be included in the calculation of Gross Floor Area:
 - (1) Elevator shafts and stairwells on each floor;
 - (2) Attic areas with headroom, measured from subfloor to the bottom of the roof structure, of seven feet ~~three inches or more~~, except as excluded in (4) below;
 - (3) Interior mezzanines;
 - (4) Penthouses;
 - (5) Basement areas except as excluded in (2) below;
 - (6) Cellars in residential uses;
 - (7) All-weather habitable porches and balconies; and
 - (8) Parking garages except as excluded in (1) below.

Zoning Bylaw Amendments: Marijuana Uses

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

ARTICLE 34

ZONING BYLAW AMENDMENT/ MARIJUANA USES

To see if the Town will vote to amend the Zoning Bylaw to allow Marijuana Delivery-Only Retailers and other amendments for consistency with the state regulations for the adult use of marijuana and the medical use of marijuana by amending SECTION 2 DEFINITIONS, SECTION 5.5.3. USE REGULATIONS FOR BUSINESS DISTRICTS, SECTION 5.6.3. USE REGULATIONS FOR MU, PUD, I, T, AND OS DISTRICTS, and SECTION 8.3 STANDARDS FOR MARIJUANA USES; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: On November 30, 2020, the Cannabis Control Commission approved new medical- and adult-use regulations, which brought more parity to the two programs. The regulations approved by the Commission were promulgated and published on January 8, 2021. Specifically, the new regulations created a “Marijuana Delivery Operator” license allowing an operator to buy product wholesale from growers and manufacturers, store the product, and sell to their own customers. Marijuana Delivery Operators are not allowed a public retail presence.

The main purpose of the amendment is to define and provide for the new license type, Marijuana Delivery Operator License. The amendment creates a new use “Marijuana Delivery-Only Retailer” and defines it consistent with the Cannabis Control Commission’s regulations. Because this use requires a warehouse facility to store products, its land use is similar to the existing Marijuana Production Facility use defined and allowed in the Zoning Bylaw. As such, the amendment proposes to allow this use, with a Special Permit from the ARB, in the B4 and Industrial Zoning Districts. The ARB believes that these districts are the most appropriate district for this new use.

The ARB notes that the demand for this type of use may be limited. The regulations make delivery licenses exclusively available to Economic Empowerment Applicants and Social Equity Program Participants for a minimum of three years. Neither Apothca or Eskar, the two marijuana retailers licensed in Arlington, are Economic Empowerment Licensees or Social Equity Program Participants. The ARB acknowledges however that as a community that has allowed adult use marijuana uses, the Town and the Zoning Bylaw should reflect the current license types in a proactive manner.

Other amendments bring Section 8.3 in alignment with the Cannabis Control Commission regulations at 935 CMR 500 and 935 CMR 501.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 34. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 2:

Marijuana Delivery-Only Retailer: An entity licensed by the Massachusetts Cannabis Control Commission to deliver directly to consumers from a Marijuana Retailer or a Medical Marijuana Treatment Center and that does not provide a retail location accessible to the public.

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Delivery-Only Retailer, Independent Testing Laboratory, Marijuana Research Facility, or any other type of licensed marijuana-related business except not a Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary or RMD.

Zoning Bylaw Amendments: Marijuana Uses

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

Marijuana Microbusiness: A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, pursuant to 935 CMR 500.00, in compliance with the operating procedures for each license, and if in receipt of a Delivery Endorsement issued by the Cannabis Control Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to consumers in compliance with establish regulatory requirements for retail sale as it relates to delivery. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments, pursuant to 935 CMR 500.00.

Marijuana Production Facility: An establishment authorized to cultivate, manufacture, process or package marijuana products, in accordance with applicable state laws and regulations. A Marijuana Production Facility may be licensed to operate as a Marijuana Microbusiness, Marijuana Cultivator or Marijuana Product Manufacturer, or registered as Medical Marijuana Treatment Center (also known as a Registered Marijuana Dispensary or RMD), or a co-located medical and non-medical establishment, in accordance with applicable state laws and regulations.

Marijuana Retailer: An entity licensed to purchase and transport Marijuana Products from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. ~~Retailers are prohibited from off-site delivery of Marijuana Products to consumers; and from offering Marijuana Products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.~~ A Marijuana Retailer can deliver Marijuana or Marijuana Products to consumers in accordance with the regulations at 935 CMR 500.00. A Marijuana Retailer may not allow on-site social consumption by consumers on the premises of the Marijuana Establishment.

Marijuana Use: A Marijuana Production Facility (See “Marijuana Cultivator”, “Marijuana Product Manufacturer”, “Marijuana Microbusiness”, and “Marijuana Production Facility”), Marijuana Research and Testing Facility (See “Independent Testing Laboratory” and Marijuana Research Facility”), Marijuana Retailer, Marijuana Delivery-Only Retailer, or Medical Marijuana Treatment Center as defined in this Zoning Bylaw.

Medical Marijuana Treatment Center: ~~An establishment registered with the Commonwealth pursuant to 105 CMR 725.100,~~ An entity licensed under 935 CMR 501.101, also known as a “registered marijuana dispensary” (RMD), that acquires, cultivates, possesses, processes (including development of related products such as ~~food edibles~~, marijuana-infused products, tinctures, aerosols, oils, or ointments), repackages, ~~transfers~~, transports, sells, ~~offers for sale~~, distributes, delivers, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical ~~use purposes in accordance with applicable state laws and regulations.~~ Unless otherwise specified, Medical Marijuana Treatment Center refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Zoning Bylaw Amendments: Marijuana Uses

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

Amend SECTION 5.5.3.:

| Retail | B1 | B2 | B2A | B3 | B4 | B5 |
|---|----|----|-----|----|-----------|----|
| <u>Marijuana Delivery-Only Retailer</u> | | | | | <u>SP</u> | |

Amend SECTION 5.6.3.:

| Retail | MU | PUD | I | T | OS |
|---|----|-----|-----------|---|----|
| <u>Marijuana Delivery-Only Retailer</u> | | | <u>SP</u> | | |

Amend SECTION 8.3:

8.3 Standards for Marijuana Uses

For all marijuana uses, the following standards apply:

A. General

- (1) Marijuana Establishments and Medical Marijuana Treatment Centers shall be allowed only after the granting of an Environmental Design Review Special Permit by the Arlington Redevelopment Board, subject to the requirements of Section 3.4 and this Section.
- (2) Marijuana Retailers, Marijuana Delivery-Only Retailers, and Marijuana Production Facilities, as defined in Section 2, may be established to provide Marijuana Products for medical use, non-medical use, or both, in accordance with applicable state laws and regulations.
- (3) Marijuana Establishments and Medical Marijuana Treatment Centers shall be located only in a permanent building and not within any mobile facility, with the exception that Marijuana Microbusiness with a Delivery Endorsement and Marijuana Delivery-Only Retailers may conduct mobile deliveries in accordance with 935 CMR 500.000. All sales, cultivation, manufacturing, and other related activities shall be conducted within the building, except in cases where home deliveries are authorized to serve qualified medical marijuana patients pursuant to applicable state and local regulations and except that Marijuana Microbusiness with a Delivery Endorsement and Marijuana Delivery-Only Retailers may conduct sales in accordance with 935 CMR 500.000.
- (4) Marijuana Production Facilities shall not be greater than 5,000 square feet in gross floor area, and shall be licensed as a Marijuana Microbusiness if Marijuana Products are cultivated or produced for non-medical use.
- (5) A Marijuana Retailer or Marijuana Production Facility that has previously received an Environmental Design Review Special Permit from the Arlington Redevelopment Board for a Medical Marijuana Treatment Center shall be required to amend its previously issued Special Permit to authorize the conversion to or co-location of a Marijuana Establishment for the non-medical use of marijuana.

Zoning Bylaw Amendments: Marijuana Uses

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

B. Location

- (1) Pursuant to 935 CMR 500.110, Marijuana Establishments shall not be permitted within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades one through 12. This standard also applies to Medical Marijuana Treatment Centers not already permitted by the date of this bylaw.
- (2) Marijuana Establishments and Medical Marijuana Treatment Centers, not already permitted by the date of this bylaw, shall not be located within 300 feet of Town-owned playgrounds and recreational facilities and 200 feet of public libraries, unless a finding of the Arlington Redevelopment Board determines that the location, based on site-specific factors, or if the Applicant demonstrates, to the satisfaction of the Arlington Redevelopment Board, that proximity to the aforementioned facilities will not be detrimental based upon criteria established in 3.3.3 and 3.3.4.
- (3) A Marijuana Retailer shall not be permitted within 2,000 feet of another Marijuana Retailer; A Medical Marijuana Treatment Center shall not be permitted within 2,000 feet of another Medical Marijuana Treatment Center.
- (4) The distances referred to in this section shall be measured as defined in 935 CMR 500.110(3)(a).

C. Cap on the number of Special Permits for Marijuana Retailers

- (1) The Arlington Redevelopment Board shall not grant a special permit if doing so would result in the total number of Marijuana Retailer licenses to exceed a maximum of three.

Zoning Bylaw Amendments: Industrial Uses

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

ARTICLE 35

ZONING BYLAW AMENDMENT/INDUSTRIAL USES

To see if the Town will vote to amend the Zoning Bylaw to update and modernize the Industrial Zoning Districts by amending SECTION 2 DEFINITIONS to define new uses; SECTION 5 DISTRICT REGULATIONS to clarify the applicability of the upper story building step back, to redefine the Industrial Zoning District, to clarify amenity requirements in the Table of Maximum Height and Floor Area Ratio and to add development standards, to include new uses and amend existing uses in the Table of Uses, and to provide additional standards for uses; and SECTION 6 SITE DEVELOPMENT STANDARDS to adjust the parking requirement for light manufacturing to include standards for the Industrial Zoning Districts; and to adjust the bicycle parking standards for light manufacturing and office, medical or clinic uses; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: The proposed amendments for the Industrial District are first and foremost to address the antiquated table of uses and density and dimensional requirements that are preventing the attraction of new and modern uses to Arlington's Industrial Districts. The uses allowed in the Industrial District are wide ranging and are either hyper-specific by dedicating how floor area may be used or vague categories of uses that are necessary businesses but not reflective of the needs of potential industrial users. Now, many industrial users desire large flexible space with high ceilings in order to enable businesses to pivot their work as emerging markets and research change over time. The proposed amendments reflect specific recommendations from the Master Plan that reflect the current market needs for the wide range of industrial users.

The proposed zoning amendment adds new uses to the Table of Uses to include uses such as flex uses, artist live/work spaces, food production, vertical agriculture, breweries and the similar, larger restaurants, and storage facilities. These uses are in addition to and expand on the existing artistic and creative production uses that are currently allowed either by right or by special permit in the district. The proposed zoning amendment includes development standards for any new construction or additions greater than 50%, which acknowledge and support other efforts that are important to the Town. There is a significant emphasis placed on incorporating sustainability measures and stormwater management measures. Acknowledging that the industrial districts are in close proximity to residential districts, the standards also emphasize the need to develop human-scale buildings, pedestrian amenities, and consider building height within the context of the surrounding, often residential, neighborhood.

The proposed amendments are also aligned with the needs of the creative economy as described in the Arts and Culture Action Plan.¹ Like the modern industrial business that desire flexible spaces, the proposed zoning amendments allow the creation of live/work spaces for the creative economy where the artist or maker can adjust their space to their current creative needs. The proposed zoning also acknowledges differences between artists and makers, ranging from a painter or a writer who may only need a small studio to someone who works with materials that by their nature requires a larger space by acknowledging these differences in the definitions and uses.

The ARB acknowledges that there were significant discussions about the desirability of including residential in mixed-use projects in the Industrial District. The Master Plan recommendation described

¹ Arlington Arts and Culture Action Plan (2017): <https://www.arlingtonma.gov/home/showpublisheddocument?id=36849>

Zoning Bylaw Amendments: Industrial Uses

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

above indicated that residential uses should be allowed in mixed-use projects where the associated commercial/industrial space comprises the majority of the usable space. Currently, the Zoning Bylaw strictly prohibits residential uses in mixed-use projects in the Industrial District. At the ARB meeting on December 21, 2020, representatives from RKG Associates and Harriman made a presentation that included a pro forma analysis.² RKG completed the pro forma analysis to determine whether the proposed amendments are realistic requirements to set on property owners and developers. RKG found that a new development of industrial and commercial uses alone may not pencil out for a property owner's investment to develop or redevelop a site. When including residential uses, the pro forma does show profitability.

The ARB notes that since the first quarter of 2017, no industrial properties have been listed for sale in Arlington. With so much owner-occupied property and so little turnover in the industrial districts either through sale or lease, there has been little incentive for property owners to consider redeveloping their property to create opportunities to bring new and modern light industrial, research and development, manufacturing, and the creative economy to the Industrial Districts. The ARB determined that by allowing limited residential in mixed-use projects, property turnover may be incentivized by balancing the investment and requirements with some profitability, thus avoiding long term stagnation in the districts. The ARB believes that appropriate limitations are in place to not supplant industrial or commercial uses. The proposed zoning requires commercial and industrial uses to be the ground floor uses in any mixed-use project in the Industrial District. Additionally, residential floor area is tied to the floor area of the Light Industrial uses at a 1:1 ratio; any additional residential uses require further financial review by the ARB. Light industrial as written includes brewery, distillery, and winery, flex space, food production in addition to what is already allowed in the zoning. Therefore, residential cannot be included in any mixed-use project; it must be proportional to modern industrial uses.

Finally, the ARB notes that the proposed zoning amendments connect recommendations in the Arlington Heights Neighborhood Action Plan³, the Arts and Culture Plan, the Mill Brook Corridor Report⁴, and the Net Zero Action Plan⁵ with the Town's Industrial Districts. The Arlington Heights Neighborhood Action Plan, in particular, recognized the fragmented nature of the Industrial Districts and recommended relaxing the Zoning Bylaw's restrictive use and dimensional guidelines, including for "artistic/creative production." The ARB notes that each of these plans were developed through strong participatory planning processes subsequent to the adoption of the Master Plan.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 35. That the Zoning Bylaw be and hereby is amended as follows:

² The presentation and the recording of the ARB's December 21, 2020, meeting can be viewed on the ZBWG page: <https://www.arlingtonma.gov/town-governance/boards-and-committees/master-plan-implementation-committee/zoning-bylaw-working-group>

³ Arlington Heights Neighborhood Action Plan (2019): <https://www.arlingtonma.gov/home/showpublisheddocument?id=46654>

⁴ Mill Brook Corridor Report (2019): <https://www.arlingtonma.gov/home/showpublisheddocument?id=46513>

⁵ Net Zero Action Plan (2021): <https://www.arlingtonma.gov/home/showpublisheddocument?id=55139>

Zoning Bylaw Amendments: Industrial Uses

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

Amend SECTION 2:

Definitions associated with Art/Cultural Uses

Artists' Mixed-use: The use of all or a portion of a building for both habitation and Artistic/Creative Production use, or a combination thereof. Refer to Section 5.6.4.

Co-working Space: A building or portion thereof consisting of a shared office environment, which contains desks or other workspaces and facilities, including but not limited to, dedicated workstations, office suites, meeting rooms, event space, resource libraries, and business or administrative support services, and is used by a recognized membership who share the site to interact and collaborate with each other. Refer to Section 5.6.4.

Maker Space: A building or portion thereof used for the on-site production of parts or finished products by individual or shared use of hand-tools, mechanical tools, and electronic tools. Maker Spaces may include space for design and prototyping of new materials, fabrication methodologies, and products, as well as space for packaging, incidental storage, sales, and distribution of such projects. Typical uses include but are not limited to: electronic goods; printmaking; leather products; jewelry and clothing/apparel; metal work; furniture; woodworking and cabinet shops; glass or ceramic production; and paper design and production. Refer to Section 5.6.4.

Work Only Artist Studio: A space used by an artist for the creation of any visual art or craft, including but not limited to, painting, drawing, photography, sculpture, and pottery; of written works of fiction or nonfiction; or any performing art, whether for live or recorded performance, including music, dance, and theater. Retail sales of art produced on-site and arts instruction by the artist are allowable accessory uses.

Definitions associated with Light Manufacturing

Brewery, Distillery, and Winery: A small, independently owned facility in which alcoholic beverages produced on-site are bottled and sold, typically in conjunction with a bar, tavern, or restaurant use. This includes the substantial equivalent to breweries, distilleries, and wineries. Refer to Section 5.6.4.

Flex Space: A combination of commercial activities under a single commercial entity, such as light manufacturing, office, distribution, research and development, or retail uses. Refer to Section 5.6.4.

Food Production Facility: Food and beverage manufacturing plants that transform raw materials into products for intermediate or final consumption by applying labor, machinery, energy, and scientific knowledge. Food production facilities do not include marijuana establishments or medical marijuana treatment centers. Refer to Section 5.6.4.

Self-Service Storage Facility: A building consisting of small, individual self-contained units that are leased or owned for the storage of business and household goods or contractor supplies, but precluding individual storage units that have at grade and direct vehicular access.

Zoning Bylaw Amendments: Industrial Uses

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

Vertical Farming: A building used for the practice of producing food on vertically inclined surfaces in vertically stacked layers. Vertical farming does not include marijuana establishments or medical marijuana treatment centers. Refer to Section 5.6.4.

Amend SECTION 5.3.7.:

D. In Industrial Districts, screening along the Minuteman Bikeway shall be limited to a vegetative screen, guardrail, and/or low fence under 4 feet in height only. Such screening shall either have gaps or vary in height to provide lines of sight from the Minuteman Bikeway to the adjoining property to promote safety for pedestrians and bicyclists. Pedestrian amenities such as seating, bins for recycling and refuse collection, and appropriate supplementary lighting shall be integrated within the landscaped area of the buffer.

Amend SECTION 5.3.17.:

For buildings in excess of three (3) stories in height, an additional seven and one half (7.5) foot step back (upper story building setback) shall be provided beginning at the fourth (4th) story. The upper story stepback shall be provided along all building elevations with street frontage, excluding alleys. This requirement shall not apply to buildings in the Industrial District.

Amend SECTION 5.6.1.B.:

B. The Industrial District in the Mill Brook Valley allows uses requiring the manufacture, assembly, processing, or handling of materials and requires additional measure to prevent traffic, noise, appearance, odor, or hazards from becoming disruptive to residential and other business uses. In this district, the Town ~~discourages residential uses, retail business uses, or uses which would otherwise interfere with the intent of this Bylaw. Mixed-use development is allowed without residential space~~ allows residential uses, retail business uses, and restaurants if they are accessory to an industrial use to support the continuation of industrial uses in Arlington. Mixed-use development is allowed with all uses.

Amend SECTION 5.6.2.A.:

All Other District Maximum Height and Floor Area Ratio

| | Requirement | | |
|-----|-----------------------|----------------------------------|--------------------------------|
| | Maximum Height (ft.) | Maximum height (stories) | Maximum Floor Area Ratio (FAR) |
| MU | 70 ^{A,B} | ----- | 1.00 |
| I | 52 ^C 39 | 4 ^C 3 ^C | 1.50 |
| T | 35 | 2 ½ | 0.35 |
| PUD | 85 | ----- ^D | 0.80 |
| OS | ----- ^E | ----- ^E | ----- |

Zoning Bylaw Amendments: Industrial Uses

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

| | Requirement |
|--|-------------|
| Notes: | |
| ^A The maximum height in feet of any building or buildings may be modified per Section 3.4 of this Bylaw, provided that the total roof area exceeding either maximum height shall be equal to an equal roof area, within the part of the project to which the same height limit applies, that is less than the maximum height so that the total of the products of the horizontal roof area of all roofs times their respective heights shall not exceed the product of the horizontal area of the total roof times the applicable maximum height permitted in the district, and provided further that the height of any roof shall not exceed the applicable maximum height permitted in the district by more than 12 feet. | |
| ^B See Section 5.3.17. | |
| ^C Upper-story building setbacks required on structures with more than three stories. See Section 5.3.24. Subject to amenity requirements in Section 5.6.2.D(7). | |
| ^D In a mixed-use building, residential uses shall be limited to five stories. | |
| ^E Accessory buildings in the OS district shall be located on the property so as not to detract from the primary goal of the open space use. | |

Amend SECTION 5.6.2.:

A. Development Standards.

In the Industrial District, the following requirements apply to all new development or additions over 50% of the existing footprint:

(1) Renewable Energy Installations

- The Redevelopment Board may, by special permit, allow adjustments to the height and setbacks in order to accommodate the installation of solar photovoltaic, solar thermal, living and other eco-roofs, energy storage, and air-source heat pump equipment. Such adjustments shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site, consistent with the other requirements of this section.
- All new commercial and mixed-use buildings shall be solar ready.
- Additions over 50% of the footprint of existing buildings shall be solar ready to the extent feasible.

(2) Yards

- Where feasible, the principal façade of the principal building on the site shall be no more than 10 feet from the front lot line.
- The use of rain gardens, bioswales, and wetlands restoration to control runoff and manage stormwater on-site within setbacks is strongly encouraged. Such systems shall be integrated with the surface water drainage systems in Section 3.4.4.E. See Section 6.1.11.F(3) for relationship to parking areas.

Zoning Bylaw Amendments: Industrial Uses

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

- Fences greater than 4 feet tall within the abutting setback to the Minuteman Bikeway shall be prohibited. See Section 5.3.7.D. for additional requirements.

(3) Transparency and Access

- The required minimum transparency of the ground floor principal façade visible from a public right-of-way is 50% 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 every 50 to 80 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.

(4) Lighting

- All luminaires shall be consistent with the requirements of Title V, Article 14 of the Town Bylaws, unless noted below.
- All site and building lighting shall be downcast (75-degree cutoff or fully shielded). Lighting for walkways or parking lots shall be adequately spaced to create even light distribution.
- Site luminaires shall minimize overspill onto an adjacent property and glare when viewed from the public right-of-way or abutting properties.

(5) Pedestrian Amenities. All new development or additions over 50% of the existing footprint shall provide the following:

- A shade tree every 35 linear feet of lot frontage along a public right of way, and to the extent practicable, irrigated planter boxes every 15 linear feet of frontage along a public right of way:
- And one of the following; however, for lots that abut the Minuteman Bikeway, this amenity should be located within the yard adjacent to the Bikeway:
 - One (1) piece of interactive art accessible to the public;
 - One (1) artful rainwater collection system, an above ground stormwater management system that includes artistic elements to collect and divert stormwater;

Zoning Bylaw Amendments: Industrial Uses

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

- Two (2) benches or similar permanent seating accessible to the public; or
- Historic marker indicating important historic event or former uses on the site.
- (6) Implement a temporary erosion and sedimentation control plan for all new construction activities associated with the project.
- (7) Exceptions to Maximum Height Regulations in the Industrial District

For new development or additions that would otherwise be subject to Section 5.3.19, a maximum height of 52 feet or four stories is allowed subject to the following development standards:

- Demonstrate that new buildings or additions shall allow for full sun at least half the time or 50% sun coverage all the time on March 21, June 21, September 21, and December 21 on the lots within the required residential buffer as defined in Section 5.3.19. The Redevelopment Board or Board of Appeals, as applicable, shall find that any shadow on abutters with existing solar panels would be negligible to allow the higher height limit.
- Provide one (1) of the following sustainable roof infrastructure components. In the case of a building that is solar ready per Section 5.6.2.A(1), the component should cover the remaining roof area where appropriate:
 - Install a vegetated or green roof over 50% of the roof area.
 - Use diffuse, highly reflective materials on 75% of the roof area.
 - Install solar energy panels tied to the electrical system of the building. For new commercial or mixed-use building, provide solar PV and/or solar thermal on a minimum of 50 percent of the roof area.
 - Provide 100% highly reflective concrete topping.
 - Install a blue roof over 50% of the roof area to provide initial temporary water storage and then gradual release of stored water.
- Retain and treat 100% of stormwater on site.

Amend SECTION 5.6.3.:

| Class of Use | I |
|---------------------------|-----------|
| Residential | |
| <u>Artists' Mixed-use</u> | <u>SP</u> |
| Agricultural | |
| <u>Vertical Farming</u> | <u>SP</u> |

Zoning Bylaw Amendments: Industrial Uses

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

| Class of Use | I |
|---|-----------|
| Commercial & Storage Uses | |
| <u>Self-service storage facility</u> | <u>SP</u> |
| Eating & Drinking Establishments | |
| Restaurant | |
| => 2,000 sq. ft., and any restaurant that is principal use on lot of 10,000 sq. ft. or more | <u>SP</u> |
| Retail | |
| Retail, general, >3,000 sq. ft. of gross floor area | <u>SP</u> |
| Retail, local; <3,000 sq. ft. or gross floor area | <u>Y</u> |
| Office Uses | |
| Including but not limited to professional, business, or medical or dental offices. | |
| Less than 3,000 <u>5,000</u> sq. ft. gross floor area per building | Y |
| 3,000 <u>5,000</u> sq. ft. or more gross floor area per building | SP |
| Office, display or sales space providing not more than 25% of floor space is used for assembling, packaging and storing commodities; percentage of space used for office, assembling, packaging and storing commodities is flexible. | Y |
| <u>Co-working Space</u> | |
| <u>Less than 5,000 sq. ft. gross floor area per building</u> | <u>Y</u> |
| <u>5,000 sq. ft. or more gross floor area per building</u> | <u>SP</u> |
| Wholesale Business & Storage | |
| Office, display or sales space of a wholesale, jobbing, or distributing establishment provided that no more than 25% of floor space is used for assembling, packaging and storing of commodities; percentage of space used for office, assembling, packaging and storing commodities is flexible. | Y |
| Research, Laboratory, Related Uses | |
| Offices with data processing facilities or laboratories and testing facilities, which may include minor assembly or fabrication activities limited to 25% of the floor area. | SP |
| Light Industry | |
| <u>Brewery, distillery, winery</u> | <u>SP</u> |
| <u>Flex space</u> | <u>SP</u> |
| <u>Food production</u> | <u>SP</u> |
| Other Principal Uses | |
| <u>Work-only Artist Studio</u> | <u>Y</u> |

Zoning Bylaw Amendments: Industrial Uses

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

| Class of Use | I |
|---|----------|
| <u>Maker Space</u> | <u>Y</u> |
| Accessory Uses | |
| <u>Tasting, accessory to a commercial brewery, winery, distillery</u> | <u>Y</u> |
| Notes | |
| <p>^A Six or more units on one or more contiguous lots requires a special permit. ^B But permitted by right if accessory to a use exempt under G.L. c. 40A, § 3. See Section 3.5. ^C If customers or pupils do not come to the house for business or instruction. ^D Mixed-use in Industrial Zones shall not include residential uses. <u>Mixed use in Industrial Zones may include residential uses, subject to the requirements of Section 5.6.4.H.</u></p> | |

Add Section 5.6.4:

5.6.4 Uses in the Industrial Districts.

- A. Artists' Mixed-Use. Any portion of a building devoted to such use shall be subject to the following conditions:
- (1) Occupied by persons certified as artists pursuant to the Arlington Commission for Arts and Culture (ACAC) Artist Certification Process,
 - (2) Designed in accordance with ACAC standards and guidelines for artists' mixed-use space, and
 - (3) Subject to an agreement for artists' housing as part of the conditions of a special permit granted by the Redevelopment Board or Board of Appeals, as applicable.
- B. Co-working Space. Rules for membership and participation in the co-working space shall be explicit, transparent, and available to the public. Co-working spaces may host classes or networking events which are open either to the public or to current and prospective members.
- C. Maker Space. Maker Spaces may host classes or networking events which are open to the public. Maker Spaces may also include a membership component.
- D. Brewery, distillery, and winery, including functional equivalents. Tap room hours of operation open to the public shall not represent disturbance to adjacent residential uses and such hours must follow the Commonwealth of Massachusetts requirements for licensing and operations.
- E. Flex Space. The firm using the Flex Space must meet the following criteria:
- (1) All of the uses on the site must be specifically allowed as principal uses within the Arlington Industrial Zone.
 - (2) Changes in products, services, and square footage of uses will not require further approval for use if the Building Inspector determines the uses and property are otherwise in conformance with the Bylaws.

Zoning Bylaw Amendments: Industrial Uses

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

- (3) The floor area of each use is unrestricted except for uses where a limitation on size or density is present. In this case, the floor area of such use shall be at or below the given limitation.
- F. Food production facility. Food and beverage facilities shall:
- (1) Properly store equipment and remove litter and waste within the immediate vicinity of the plant buildings or structures as to avoid becoming a breeding place, or harborage for pests.
 - (2) Constantly check for pests and pest infestation
 - (3) Locate and operate fans and other air-blowing equipment in a manner that minimizes noise levels and the potential for contaminating the building and its surroundings to avoid health hazards to the public.
 - (4) Not locate vents on the façade adjacent to sidewalks or the Minuteman Bikeway to avoid exposure to the public.
- G. Vertical Farming. This use shall be approved by a special permit from the Redevelopment Board or Board of Appeals, as applicable. to make sure operations such as lighting, gases, humidity, and temperature do not affect the surrounding microclimate and the well-being of adjacent uses.
- H. Mixed-Use Building in the Industrial District. Mixed-use development may be integrated vertically, within a single building, or horizontally, in multiple buildings on the same site. The ground floor use of the principal building on the site must be industrial or commercial. Further, residential uses may be a component of a mixed-use development and are limited to no more than the gross floor area of the principal ground floor Light Industrial use. The Redevelopment Board may allow an increase of residential floor area to no more than twice the gross floor area of the principal ground floor Light Industrial use upon a finding of financial infeasibility.

Amend SECTION 6.1.4.:

| Use | Minimum Number of Spaces |
|----------------------|--|
| Manufacturing, Light | 1 space per 600 1,000 sq. ft. of gross floor area or 0.75 spaces per employee of the combined employment of the two largest successive shifts, whichever is greater |

Amend SECTION 6.1.10.:

- F. Parking in Industrial Districts. In an Industrial District, all parking and loading areas shall be subject to the following requirements in addition to the applicable requirements of Section 6.1.10:
- (1) The parking area shall be located to the rear or side of the primary building. No parking shall be permitted in the front yard nor shall any driveways directly in front of a structure be permitted without a finding by the Board of Appeals or the Redevelopment Board, as applicable, that the parking or driveway is necessary and convenient to the public interest.

Zoning Bylaw Amendments: Industrial Uses

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

- (2) Any loading and/or delivery access shall be located at the rear of the building or in an alley between buildings on the same lot. In the case of demonstrated hardship, an alternative may be approved by the Redevelopment Board.

Amend SECTION 6.1.11.:

F. Parking in Industrial Districts. In an Industrial District, all parking and loading areas shall be subject to the following requirements in addition to the applicable requirements of Section 6.1.11.:

- (1) Parking spaces above the minimum number required by Section 6.1.4. shall be surfaced with a permanent pervious material or binder.
- (2) For parking areas not covered with pervious surfaces, one of the following options must be chosen to reduce the heat given off by the paved surface of the parking area:
 - Install a highly reflective surface using one of the following options:
 - Roller-compacted concrete
 - Concrete over asphalt (white topping and ultra-thin white topping)
 - Use of light-colored aggregate in asphalt.
 - Asphalt, concrete and pavers with modified colors
 - Increase shade of the impervious pavement to a minimum of 50% of the surface by one or both of the following methods:
 - Installing trees within the landscaped areas required by Section 6.1.11.D(6).
 - Solar panels over parking spaces allowing cars to park underneath.
- (3) Rain gardens, bioswales, and wetlands restoration, as appropriate to control runoff and manage stormwater on-site, are strongly encouraged and should act as a transition between parking and open space.
- (4) Electric vehicle charging stations are strongly encouraged.
- (5) All parking surfaces shall comply with requirements of Section 3.4.4(E).

Zoning Bylaw Amendments: Industrial Uses

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

Amend SECTION 6.1.12.D:

| Use | Minimum Number of Long-Term Bicycle Parking Spaces | Minimum Number of Short-Term Bicycle Parking Spaces |
|-----------------------------------|--|---|
| Business or Industrial Use | | |
| Manufacturing, Light | 0.80 spaces <u>1 space</u> per 1,000 sq. ft. of gross floor area or 0.75 spaces per employee of the combined employment of the two largest successive shifts, whichever is greater | 0.60 spaces per 1,000 sq. ft. of gross floor area |
| Office, medical or clinic | 0.30 spaces <u>1 space</u> per 1,000 sq. ft. of gross floor area | 0.50 spaces per 1,000 sq. ft. of gross floor area |

Zoning Bylaw Amendments: Zoning Map Adoption

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

ARTICLE 36

ZONING BYLAW AMENDMENT/ DATE OF ZONING MAP

To see if the Town will vote to amend the Zoning Bylaw to update the date of the Zoning Map of the Town of Arlington, Massachusetts, to November 16, 2020; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: The November 2020 Town Meeting adopted a zoning map change that rezoned a portion of the Department of Public Works Yard from R1 to Industrial. The date of the zoning map needs to be updated in Section 4.2 of the Zoning Bylaw as a result of this adopted and now-approved map amendment.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 36. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 4.2:

4.2 ZONING MAP

Zoning districts are shown on a map entitled "Zoning Map of the Town of Arlington, MA" and dated ~~May 19, 2015~~ November 16, 2020 (the Zoning Map) on file in the Office of the Town Clerk and the Department of Planning and Community Development. The district boundaries shown on the Zoning Map, including an overlay map entitled "Wetland and Floodplain Overlay" are part of this bylaw. The Zoning Map may include geographical features, streets, notations, and such other information to keep the map current and to facilitate orientation.

Zoning Bylaw Amendments: Multifamily Zoning for MBTA Communities

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

ARTICLE 37

ZONING BYLAW AMENDMENT/ MULTIFAMILY ZONING FOR MBTA COMMUNITIES

To see if the Town will vote to amend the Zoning Bylaw to comply with M.G.L. c. 40A to allow multifamily housing to be permitted as of right with a minimum gross density of 15 units per acre without age restrictions and suitable for families with children in the districts within one half-mile from the Alewife MBTA Station by amending SECTION 2 DEFINITIONS, SECTION 3 ADMINISTRATION AND ENFORCEMENT, SECTION 4 ESTABLISHMENT OF DISTRICTS, SECTION 5 DISTRICT REGULATIONS, SECTION 6 SITE DEVELOPMENT STANDARDS, and SECTION 8 SPECIAL REGULATIONS; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: The Economic Development Bond Bill was signed into law by Governor Baker on January 15, 2021. Included in the law is a requirement for MBTA Communities, including Arlington, to zone for multifamily housing by right. These requirements are now codified in Section 3A of c. 40A, the Zoning Enabling Act. The zoning must allow multifamily housing without age restrictions and be suitable for families with children, be of a reasonable size, have a minimum gross density of 15 units per acre and be located not more than a half-mile from a commuter rail station, subway station, ferry terminal, or bus station. This requirement became effective 90 days from when the Governor signed the bill. If a MBTA Community does not comply with this requirement, it will no longer be eligible for funds from the Housing Choice Initiative, the Local Capital Projects, or the MassWorks Infrastructure program.

Due to the timeline and the approaching Town Meeting, on January 25, 2021, the ARB voted to submit this article to the 2021 Annual Town Meeting warrant, which happened by the deadline of January 29, 2021. On January 29, 2021, the state indicated that the eligibility for the above-referenced programs would not be affected for the upcoming grant round in 2021. Subsequently, the state released additional guidance⁶ relative to the requirement, although it is still lacking in specificity to equip the Town with necessary guidance to proceed with an amendment.

On February 8, 2021, the DPCD staff presented a proposal to the Redevelopment Board for consideration under this requirement. At that meeting, the ARB, weighing the proposal, public testimony, the lack of clear guidance from the MBTA and Massachusetts Department of Housing and Community Development (DHCD), and the confidence that eligibility for the above-referenced grant programs will be maintained for the upcoming grant round, voted to defer action on this requirement until a future Town Meeting. The ARB will await further guidance from DHCD on this topic.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 37.

⁶ <https://www.mass.gov/info-details/housing-choice-and-mbta-communities-legislation#preliminary-guidance-for-mbta-communities->

Zoning Bylaw Amendments: Energy Efficient Homes on Nonconforming Lots
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 38

**ZONING BYLAW AMENDMENT/
ENERGY EFFICIENT HOMES ON NONCONFORMING LOTS**

To see if the Town will vote to amend the Zoning Bylaw to allow new construction of energy efficient foundations and homes on nonconforming lots in the R0, R1, and R2 Districts that meet certain energy efficiency industry standards; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Discussion: This Article seeks to address the issue identified by the Net Zero Plan by establishing industry standards as thresholds and a reasonable process to address the limitations of the existing Zoning Bylaw for residential structures in the R0, R1, and R2 Zoning Districts. The amendment will only affect existing residential structures in those zoning districts. It does not enable the creation of new non-conforming lots. It does not enable new home construction where an existing principal structure does not already exist.

Property owners who seek to reconstruct their home and foundation to the identified industry energy efficiency standards are allowed to reconstruct the foundation if the parcel has at least 5,000 square feet. If the property owner wants to include an addition of up to 750 square feet, the home and foundation can be reconstructed. If the property owner wants to include an addition of 750 square feet or more, the property owner will still need a special permit from the ZBA in accordance with Section 5.4.2.B(6) on Large Additions. A special permit is also needed if the lot has less than 5,000 square feet and there is an existing structure.

The Clean Energy Future Committee noted that the amendment makes Arlington property owners of non-conforming lots equally eligible as property owners of conforming lots for certain federal and state incentives and tax credits that are only available to those who build high efficiency homes.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 38. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 5.4.2.B(4):

- (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.

Add SECTION 5.4.2.B(8):

- (8) Exemption for energy efficient homes on R0, R1 or R2 lots with an existing principal building. The minimum frontage and lot area requirements shall not apply to homes constructed to the lower of either (i) Home Energy Rating System (HERS) Score of 44 or below, or (ii) the maximum allowed HERS Score defined in the International Energy Conservation Code as adopted and amended by Massachusetts, and:
- The new structure is built within the existing foundation footprint, or with an addition that is not a Large Addition as defined in Section 5.4.2.B(6), or
 - The lot has at least 5,000 square feet of area, or
 - By special permit.

Zoning Bylaw Amendments: Clarification of Definition of Mixed-Use

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

ARTICLE 39

ZONING BYLAW AMENDMENT/ CLARIFICATION OF DEFINITION OF MIXED USE

To see if the Town will vote to amend the definition of Mixed Use in the Zoning Bylaw to clarify that as enacted by Town Meeting, land uses individually prohibited in any particular zoning district are also prohibited as part of Mixed Use developments in the same zoning district; or take any action related thereto.

(Inserted at the request of Christopher Loreti and 10 registered voters)

Discussion: This amendment would limit the types of uses that the Zoning Bylaw currently allows in mixed-use projects. It would require that the uses in a mixed-use structure are only those that are allowed in the applicable Zoning District. The ARB believes that this article would limit flexibility in creating beneficial and creative projects that also fulfill community goals. Mixed-use projects are reviewed by the ARB through a discretionary Special Permit process. Compatibility of proposed uses is considered in relationship to the surrounding neighborhood as part of that process. The Master Plan recommends supporting vibrant commercial areas by encouraging mixed-use redevelopment. By limiting the uses that could be considered as part of a mixed-use development, this Warrant Article is inconsistent with the goals of the Master Plan. For example, providing housing units as part of a mixed-use development increases the economic viability of developments, allows the town to meet consumer demand by integrating a variety of uses into a single development project, improves the walkability of Arlington's commercial districts, and allows with some constraints the ARB to incorporate locally strong performing sectors into projects.

The ARB does not believe that there is any ambiguity in the definition and, as such as, does not need any clarification. The ARB also notes that a substantive change to requirements should not be in the definitions section of the Zoning Bylaw, as is proposed in this article, but should be in a substantive section of the Bylaw.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 39.

Zoning Bylaw Amendments: Conversion of Commercial to Residential

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

ARTICLE 40

ZONING BYLAW AMENDMENT/ CONVERSION OF COMMERCIAL TO RESIDENTIAL

To see if the Town will vote to amend the Zoning Bylaw in Section 5.2.4, by inserting in the last sentence of said section, after the word footprint, the words “if allowed by special permit” and by inserting, after the words residential use, the words “provided that the addition or expansion is for affordable housing” so that said sentence will read as follows: In the case of an existing commercial use, the addition or expansion of residential use within the building footprint if allowed by special permit shall not require adherence to setback regulations for residential uses, provided that the addition or expansion is for affordable housing, even if the residential use becomes the principal use of the building; or take any action related thereto.

(Inserted at the request of the Redevelopment Board on behalf of John L.
Worden III and 10 registered voters)

Discussion: This Article would deter a property owner with an existing mixed-use building from converting unused commercial or office space to residential space, or creating more residential uses, with the unintended consequence of saddling the Town and property owners with vacant commercial or office space that could be converted to housing. Instead, this article mandates the creation of only affordable housing for such conversion or expansion. As such, this Article would not achieve Arlington’s affordable housing or commercial development goals. Without offering any incentives, this Warrant Article would appear to deter rather than encourage the creation of affordable housing. This chilling effect is caused by limiting the flexibility property owners now have in reinvesting in properties in Arlington. If the only option available for residential space is to create affordable housing, a property owner may not be able to balance a pro forma to see a return on their investment in their property. Small-scale development of any type is challenging and costly, particularly creating a development with only affordable housing units. Further, the added requirement to seek a Special Permit creates another barrier to property owners reinvesting in buildings in Arlington, increasing time and costs. Lastly, the seemingly mandatory nature of requiring that one to five units of housing must be affordable in most mixed-use development is in direct conflict with the existing Zoning Bylaw’s Inclusionary requirements found in Section 8.2.

The cost of developing affordable housing often exceeds available local and state funding sources, even for projects that only have 10-20% of total housing units designated as affordable. Private developers recoup the cost of developing affordable housing in several ways: using inclusionary housing bonuses (e.g., height bonuses, unit bonuses) to offset the costs of providing affordable housing, charging more in rent or purchase costs for housing not designated as affordable housing, and applying for public subsidies (e.g., CDBG funding, CPA funding, housing trust funds, federal tax credits). These development scenarios include primarily market rate housing in order for a private developer to break even on a project, especially given limited public funding resources and subsidies.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 40.

Zoning Bylaw Amendments: Definition of Foundation

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

ARTICLE 41

ZONING BYLAW AMENDMENT/ DEFINITION OF FOUNDATION

To see if the Town will vote to amend the Zoning Bylaw in Section 2, by adding a new definition as follows:
Building Foundation: The masonry or concrete structure in the ground which supports the building. It does not include porches, decks, sheds, patios, one story attached garages, carports, or the like; or take any action related thereto.

(Inserted at the request of the Redevelopment Board on behalf of Patricia
B. Worden and 10 registered voters)

Discussion: Section 2 (Definitions) of the Zoning Bylaw defers to the State Building Code for “terms and words not defined herein but defined in the State Building Code. Words not defined in either place shall have the meaning given in the most recent edition of Webster’s Unabridged Dictionary.” The Massachusetts State Building Code (780 CMR) does not have a single definition for foundations, but rather devotes an entire chapter to this building component. This is due to the complex and multifactored conditions that require variations in regulations instead of a single blanket definition. The dictionary defines a foundation as “an underlying base or support.”

The ARB is concerned about what might be excluded in the definition proposed by this article and the unintended consequences of this addition to the definitions due to the imprecise language used in the warrant article. The ARB notes that municipalities refrain from cross referencing building code definitions in their zoning regulations. No comparative municipalities provide a definition of a foundation in their zoning bylaws or ordinances, and most explicitly defer to the State Building Code and then the dictionary for industry-specific terminology.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 41.

Zoning Bylaw Amendments: Affordable Housing on Privately Owned Parcels of “Non-Conforming” Size
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

ARTICLE 42

**ZONING BYLAW AMENDMENT/ AFFORDABLE HOUSING
ON PRIVATELY OWNED PARCELS OF “NON-CONFORMING” SIZE**

To see if the Town will vote to allow the development of new sources of permanently affordable housing (affordable in perpetuity and affordability as defined in Arlington Zoning By-Laws) by modifying the requirements for constructing housing units to enable construction on smaller lots as long as those units are permanently committed to be available for rental or ownership according to official regional guidelines (see (Zoning Bylaw Section 2, Basic Provisions, Definitions Associated with Affordable Housing) of affordability.

Such construction would be permissible in all zoning districts allowing residential use, providing the tracts were laid out prior to July 1, 2019, and receive a special permit from the ZBA. Ownership, sale, repurchase and rentals of each property would be overseen by the Arlington Housing Trust Fund or a comparable entity that would have the authority to enforce the affordability guidelines in perpetuity; or take any action related thereto.

(Inserted at the request of the Redevelopment Board on behalf of
Barbara Thornton and 10 registered voters)

Discussion: The petitioner withdrew the proposal at the hearing on the article on March 15, 2021. As such, the ARB did not discuss this article.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 42.

Zoning Bylaw Amendments: Article to Propose the Adoption of Accessory Dwelling Units
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

ARTICLE 43

**ZONING BYLAW AMENDMENT/
ARTICLE TO PROPOSE THE ADOPTION OF ACCESSORY DWELLING UNITS**

To see if the Town will vote to the purpose of this article is to see if the Town will amend the Zoning Bylaw to allow Accessory Dwelling Units (ADUs) on the property of single family, two-family, and duplex dwellings; or take any action related thereto.

(Inserted at the request of Barbara Thornton and 10 registered voters)

Discussion: Chapter 358 of the Acts of 2020 made a series of revisions to Chapter 40A, including lowering the voting threshold for amendments that allow ADUs by-right either within the principal dwelling or within a detached structure on the same lot to a majority vote.⁷ Town Meeting can enact this amendment using a simple majority vote rather than a 2/3 supermajority vote.⁸ The amendment is aligned with the other standards outlined in Chapter 358 of the Acts of 2020 for ADUs, including the definition and standards.⁹

This amendment is substantially different than the previous accessory dwelling unit proposals considered by Town Meeting, most recently at the 2020 Special Town Meeting and the 2019 Annual Town Meeting. In particular, the amendment considered by the 2019 Town Meeting required a special permit for the use and was limited to the R0 and R1 Zoning Districts; this amendment allows Accessory Dwelling Units (ADUs) by right in single- family, two-family, and duplex dwellings in any residential and commercial district. The amendment considered by the 2020 Special Town Meeting included a very different definition for ADUs that specified the number of rooms necessary and provided scant limits on the size of the ADU. This amendment brings together pieces of the 2019 and 2020 amendments that have been identified by the ARB previously. It also includes many safeguards to ensure that the small accessory units that would be authorized are safe and used only as the Bylaw intends.

ADUs provide many benefits to property owners: allow additional flexibility on using space within the home; allow for options that may create supplementary income; allow aging in place or multigenerational families on the property; and increase long-term rental housing opportunities while balancing potential impacts to existing neighborhoods. These benefits are consistent with the goals of the Housing Production Plan and are encouraged to facilitate a range of housing types to help meet the needs of specific demographics, such as seniors, multi-generational households, individuals with disabilities, low-to-middle income family households, and singles (p. 60).

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 43. That the Zoning Bylaw be and hereby is amended as follows:

Amend Section 2:

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

⁷ See c.40A, Section 5.

⁸ <https://www.mass.gov/doc/guidance-on-zoning-act-voting-thresholds-02-26-21/download>

⁹ <https://malegislature.gov/Laws/SessionLaws/Acts/2020/Chapter358>

Zoning Bylaw Amendments: Article to Propose the Adoption of Accessory Dwelling Units
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

Amend Section 5.4.3:

| Class of Use | R0 | R1 | R2 | R3 | R4 | R5 | R6 | R7 |
|---------------------------|----------|----------|----------|----------|----------|----------|----------|----------|
| Accessory Uses | | | | | | | | |
| <u>Accessory Dwelling</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> |

Amend Section 5.5.3:

| Class of Use | B1 | B2 | B2A | B3 | B4 | B5 |
|---------------------------|----------|----------|----------|----------|----------|----------|
| Accessory Uses | | | | | | |
| <u>Accessory Dwelling</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> | <u>Y</u> |

Add Section 5.9.2:

5.9.2 Accessory Dwelling Units

A. Purpose. The purpose of this Section 5.9.2 includes:

- (1) Promoting the use of accessory dwelling units as a means of providing Arlington property owners with an opportunity to age in place, to create independent living space for elderly, disabled or other family or household members, to downsize or to earn supplemental income from investing in their properties.
- (2) Helping Arlington residents to conserve and grow their own property values.
- (3) Encouraging housing for persons of all income levels and ages.
- (4) Encouraging an orderly expansion of the tax base without detracting from the existing character of the affected neighborhoods.

B. Requirements.

- (1) In any Residential District or Business District, an accessory dwelling unit is permitted as an accessory use to any single-family dwelling, two-family dwelling, or duplex dwelling, if all of the following conditions are met:
 - An accessory dwelling unit shall be not larger in floor area than one-half the floor area of the principal dwelling or 900 square feet, whichever is smaller. For the avoidance of doubt, where an accessory dwelling unit is created by converting a portion of an existing principal dwelling to an accessory dwelling unit, the floor area of the resulting accessory dwelling unit shall be measured relative to the floor area of the resulting principal dwelling (as affected by or in connection with the conversion).
 - Any alteration causing an expansion of or addition to a building in connection with an accessory dwelling unit shall be subject to the provisions of Section 5.4.2.B(6) if and to extent section 5.4.2.B(6) is otherwise applicable to such alteration or addition.

Zoning Bylaw Amendments: Article to Propose the Adoption of Accessory Dwelling Units
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

- An accessory dwelling unit shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling, sufficient to meet the requirements of the State Building Code for safe egress.
 - No more than one (1) accessory dwelling unit is allowed per principal dwelling unit.
 - An accessory dwelling unit may be located in (i) the same building as the principal dwelling unit or as an expansion to such building; (ii) a building that is attached to the principal dwelling unit; or (iii) an accessory building, which accessory building shall not constitute a principal or main building by the incorporation of the accessory dwelling unit, provided that if such accessory building is located within 6 feet of a lot line then such accessory dwelling unit shall be allowed only if the Board of Appeals, acting pursuant to Section 3.3, grants a special permit upon its finding that the creation of such accessory dwelling unit is not substantially more detrimental to the neighborhood than the use of such accessory building as a private garage or other allowed use.
 - An accessory dwelling unit shall not be used as a short-term rental, in accordance with Title V, Article 18, Section 3 of the By-Laws of the Town of Arlington.
 - An accessory dwelling unit shall be subject to all applicable requirements of the State Building Code and State Fire Code (including any such requirements, if and as applicable, which prohibit openings, including windows, in exterior walls of dwellings located within a certain distance from the property line).
- (2) The creation or addition of an accessory dwelling unit shall not change the zoning classification of the property in question and shall not affect any zoning relief previously obtained for such property. By way of example only (and without limitation), a single-family dwelling having an accessory dwelling unit shall continue to be classified as a single-family dwelling for single-family use under the Zoning Bylaw; a two-family dwelling having an accessory dwelling unit shall continue to be classified as a two-family dwelling for two-family use under the Zoning Bylaw; and a duplex having an accessory dwelling unit shall continue to be classified as a duplex dwelling for duplex use under the Zoning Bylaw.
- (3) No off-street parking spaces are required in connection with the creation or addition of an accessory dwelling unit.
- (4) An accessory dwelling unit shall not be owned separately from the principal dwelling unit with which such accessory dwelling unit is associated.

C. Administration

- (1) Prior to the issuance of a building permit for an accessory dwelling unit, the owner must deliver an affidavit to the building inspector stating that the owner or a family member of the owner will reside in either the principal dwelling unit or the accessory dwelling unit upon completion of the accessory dwelling unit.

Zoning Bylaw Amendments: Article to Propose the Adoption of Accessory Dwelling Units
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

- (2) The creation or addition of an accessory dwelling unit to a principal dwelling unit shall not be subject to the foregoing paragraph 5.9.2.C(1) if the principal dwelling unit and accessory dwelling unit are owned by a non-profit or governmental entity and the accessory dwelling unit is restricted as an affordable unit.
- (3) This Section 5.9.2 shall be effective as of the date on which it is enacted at Town Meeting in accordance with applicable law, except for clause (iii) of Section 5.9.2.B.(1), fifth bullet, which clause (iii) shall be effective as of the date occurring six (6) months after the date on which this Section 5.9.2 is enacted at Town Meeting.
- (4) In the event of any conflict or inconsistency between the provisions of this Section 5.9.2 or Section 8.1.3.E, on the one hand, and any other provisions of this Bylaw, the provisions of this Section 5.9.2 and Section 8.1.3.E shall govern and control.

Amend Section 8.1.3:

- E. The creation or addition of an accessory dwelling unit within an existing single-family dwelling, two-family dwelling, or duplex dwelling, or within an existing accessory building on the same lot as any such dwelling, does not increase or affect the nonconforming nature of said existing dwelling or accessory building, and shall not cause such dwelling or accessory building to become non-conforming or result in any additional dimensional requirements with respect to such dwelling or accessory building, provided that such creation or addition of an accessory dwelling unit neither expands the footprint nor the height of said dwelling or accessory building, in each case except (i) for changes necessary to provide for required egress or other modification to meet the State Building Code and State Fire Code, (ii) for any projects allowed under Section 5.3.9, and (iii) to the extent authorized by a special permit issued pursuant to clause (iii) of Section 5.9.2.B(1), fifth bullet.

Zoning Bylaw Amendments: Parking Minimums

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

ARTICLE 44

ZONING BYLAW AMENDMENT/ PARKING MINIMUMS

To see if the Town will vote to amend the Zoning Bylaw for the Town of Arlington to reduce or remove minimum vehicular parking requirements in some or all business zoning districts; or take any action related thereto.

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

Discussion: In 2020, Special Town Meeting voted to give Special Permit Granting Authorities the ability to reduce or eliminate the amount of parking required for a business in the B3 or B5 Zoning Districts through the granting of a special permit, should the applicant be able to demonstrate that there is adequate on-street or municipal parking nearby and no ability to create additional parking onsite. Article 44 extends this provision to the remaining business districts (B1, B2, B2A, and B4). The B1, B2, B2A, and B4 Zoning Districts are primarily located along Massachusetts Avenue and Broadway, with a few scattered parcels on Chestnut, Summer, Mystic, and Lowell Streets.

The existing parking requirements in the Zoning Bylaw can create a situation where the space required for off-site parking for a development or change of use can be almost as large the use itself. Private on-site parking also works against the Town's commercial development goals. The bylaw requires approximately 153 square feet of parking space per vehicle—255 square feet if a driving aisle is required. Under this requirement, the owner of a 1,700 square foot property without on-site parking who wanted to change an existing use to "other retail or service use" would be required to provide six off-street parking space. The resulting parking lot would need to be 1,530 square feet, or 90% of the total Gross Floor Area (GFA) of the property.

Further, the current supply of on-street parking is often sufficient to meet or even exceed demand, even in the three primary commercial districts. The B1, B2, B2A, and B4 districts are located along the periphery or between of these busier commercial areas, with an adequate supply of on-street parking.

This article does not grant a reduction or completely remove parking requirements by right. Applicants must demonstrate a shared parking, off-site parking, and/or Transportation Demand Management (TDM) plan per Section 6.1.5 of the Zoning Bylaw. Shared parking and TDM measures can help address employee parking; off-site parking can help address the need for customer or visitor parking. Through a Special Permit request, the ARB or ZBA can assess the applicant's proposals, determine whether an applicant's plan will offset the parking requirements, and evaluate over time if there will be a cumulative effect on parking availability in the business districts. This Article simply provides the Boards with greater flexibility and case-by-case consideration of parking adjustments beyond the currently allowable parking reduction, especially for a commercial change of use within existing storefronts.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 44. That the Zoning Bylaw be and hereby is amended as follows:

6.1.5. Parking Reduction in Business, Industrial, and Multi-Family Residential Zones

When the applicable Special Permit Granting Authority determines that a business in ~~the B3 or B5 a~~ Business District has no ability to create new parking onsite and that there is adequate nearby on-street parking or municipal parking, it may reduce to less than 25 percent or eliminate the amount of parking required in the Table of Off-Street Parking Regulations. In those circumstances, the applicable Special Permit Granting Authority may require the applicant to incorporate methods set forth in subparagraphs

Zoning Bylaw Amendments: Parking Minimums

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

A., B., and C. of this section. The reductions described in this paragraph do not apply to residential use classes identified in Section 5.5.3. and are in addition to the exemption from the parking requirements for the first 3,000 square feet of non-residential space in a mixed-use development as set forth in Section 6.1.10.C.

Zoning Bylaw Amendments: To Increase the Percentage of Affordable Housing Units
Additions to the Zoning Bylaw shown in underline format. Deletions shown in strikeout format

ARTICLE 45

**ZONING BYLAW AMENDMENT/
TO INCREASE THE PERCENTAGE OF AFFORDABLE HOUSING UNITS**

To see if the Town will vote to amend Section 8.2.3A of the Zoning Bylaw to increase the percentage of affordable housing units required in any development subject to Section 8.2 of the Zoning Bylaw from 15% to a percentage between 25 and 30%; or take any action related thereto.

(Inserted at the request of John Sanbonmatsu, Laura Kiesel, and 10 registered voters)

Discussion: The ARB recognizes the need for more affordable housing in Arlington, but for the reasons stated below, believes that this proposal will not achieve that goal and may actually reduce the development of affordable housing in Arlington.

Section 8.2 of the Zoning Bylaw sets forth the affordable housing requirements for residential development in Arlington. Adopted by a vote of Town Meeting in 2001, the bylaw requires that 15% of any new residential development of six or more units (which is subject to Environmental Design Review) must be affordable to households earning 70% or 80% of Area Median Income (AMI) for rental units and ownership units, respectively. Housing units created through this measure must be affordable in perpetuity, built on site, and integrated into the development. To incentivize developers to build affordable units, the bylaw allows for reduced parking requirements. Since 2001, the bylaw has resulted in the development of 59 affordable housing units.

This Warrant Article seeks to raise Arlington's affordable housing requirement for developments of six or more units from 15% to 25% without any corresponding changes to the incentive structure and without any supporting documentation that such a large increase would be viable in Arlington. At the Town's current requirements, five market rate units cover the subsidy for the remaining affordable unit in a six-unit development. Under the proposed amendment, the four market rate units would need to cover the subsidy. This is a significant change, and one that economic analysts for other communities have suggested could discourage private investment, particularly for smaller multi-unit projects, or even backfire, resulting in fewer affordable units being built.

For Arlington, where the inclusion of affordable housing for developments of six or more units is already mandatory, the appropriate balance between incentives and requirements must be sought. If a pro forma for a project does not balance out, the affordable housing requirement, special permit requirements, and other conditions can undermine a development or lead a developer to choose to build something sufficiently small to not require the development of affordable units. If developing affordable housing through inclusionary zoning is overly restrictive, it may be more practical for a developer to apply for a permit through the Comprehensive Permit process (Chapter 40B) than through local inclusionary zoning provisions, or not work in Arlington at all as there are significant costs (time and money) to pursue a Comprehensive Permit.

In short, Arlington's affordable housing requirements need to provide meaningful benefits and incentives to offset developers' revenue losses. A threshold set too high, especially when accompanied by an extensive review and permitting process, may actually incentivize developers to build elsewhere. The ARB also notes this Board and the Select Board adopted the existing Housing Production Plan (HPP) in 2016, which laid out housing needs and demand, the development constraints, capacity, and opportunities, and an implementation plan consisting of housing goals and strategies to achieve them. The Housing Production Plan (HPP) update has kicked off. The broad engagement envisioned as part of that process would enable the community to have wide ranging conversations about what housing

Zoning Bylaw Amendments: To Increase the Percentage of Affordable Housing Units
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

production in Arlington might look like, how it could be implemented, and where it should be focused in the community. It is expected that the HPP Update will take a close look at the structure of Arlington's inclusionary housing bylaw and provide recommendations on how to balance the thresholds, percentages, and incentives for produce affordable housing. That is the appropriate process to determine if the percentage of required affordable housing can be increased, and, if so, to what new percentage.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 45.

Zoning Bylaw Amendments: Teardown Moratorium

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

ARTICLE 46

ZONING BYLAW AMENDMENT/ TEARDOWN MORATORIUM

To see if the Town will vote to amend the Zoning Bylaw by adding to Section 8 a new provision substantially as follows: there is hereby established a temporary moratorium on the demolition, in whole or in part, of older small affordable houses, for a period of two years from the date of final adjournment of this Town Meeting, or when the Town establishes a method of protecting such houses in order to promote the Town's goals of economic diversity and affordability, whichever first occurs. For Purposes of this provision, the term "older small affordable houses" shall mean houses built before 1950 with a footprint of less than 1,000 square feet; or take any action related thereto.

(Inserted at the request of Lynette Culverhouse and 10 registered voters)

Discussion: A moratorium like the one proposed in this article is a temporary protective measure to prevent a property owner's right to obtain development approvals while the community considers and potentially adopts more permanent, comprehensive changes to its regulations. A recent local example of a moratorium was the Town's temporary moratorium on recreational marijuana establishments, which was effected in April, 2017 and retired in December, 2018 when Town Meeting approved Section 8.3, Standards for Marijuana Uses, of the Zoning Bylaw. Moratoria are typically reserved for instances where new or changing circumstances are not adequately dealt with by current regulations. Careful attention is needed in adopting such moratoria ensure that they are able to withstand court challenges. As described in the Handbook of Massachusetts Land Use and Planning Law Third Edition, Mark Bobrowski (Wolters Kluwer, 2011), moratoria should be accompanied by 1) an interim zoning provision, 2) a specific scope or plan for what is to be studied during the moratorium to develop appropriate revisions to protect the public health, safety, or welfare, 3) a clear timeline and 4) a clearly defined outcome that will result from the proposed moratorium.

The interim zoning provision is a substitute bylaw which outlines what shall be permitted over the duration of the moratorium and to which zoning districts and areas the provisions apply. The interim zoning provisions should incorporate factors such as intent of the moratorium, interim district boundaries or area subject to the moratorium, permitted uses, special provisions, appeal procedures, and so on. Without providing this information, it is unclear if all demolition in town is prohibited, or if property owners will be allowed to commence additions, renovations, or partial demolition projects. Under the proposed amendment, a restriction on complete or partial demolition would be in place for two years.

The petitioner provided a scope describing what is to be studied during the moratorium. It was inconclusive on how the data and questions proposed by the petition relate to the moratorium. The following reports, resulting from unique participatory processes, address various items related to the petitioner's scope.

- Regarding collection of statistics on teardowns, a comprehensive study of the impacts of demolitions and replacement homes was recently conducted by DPCD and resulted in the 2019 Report on Demolition and Replacement Homes.¹⁰ The report was created in response to 2018 request at Town Meeting to expand Arlington's Demolition Delay bylaw, in part to meet historic preservation goals

¹⁰ Report on Demolition and Replacement Homes (2019):
<https://www.arlingtonma.gov/home/showpublisheddocument?id=47415>

Zoning Bylaw Amendments: Teardown Moratorium

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

but also to address the perception that demolitions of smaller, older homes were driving a loss of affordability in Arlington. The report explores the demolition of Arlington residential structures and associated impacts on several factors in Arlington's residential neighborhoods, such as housing affordability, historic preservation, neighborhood demographics, neighborhood character, and the impact of construction activity on abutters.

- Regarding the environmental impact of new construction versus renovation and reuse, the Net Zero Plan¹¹, which was completed earlier this year, has outlined a plan and actions to guide the Town toward its goal of net zero by 2050, which includes policy changes.
- Regarding establishing a plan to preserve housing that represents an era of architectural history, the Historic Preservation Survey Master Plan¹², completed in 2019, lays out a plan for future historic preservation activities. The plan identifies areas and neighborhoods for future inventory projects, which if voted to the local inventory by the AHC would preserve housing that represents different eras of Arlington's architectural history.
- Regarding surveying the community about housing, the 2020 Envision Arlington Annual Town Survey asked a series of questions about housing. A full report on this survey is available on arlingtonma.gov/envision.¹³
- Regarding developing and implementing a plan to increase our quota of affordable housing to the 10% state recommendation, the Town, through DPCD and specifically the Housing Plan Implementation Committee with this year's update to the Housing Production Plan, is actively working to address the loss of affordability in Arlington through the diversification of housing stock and support the creation and preservation of affordable housing development. The Plan lays out clear housing goals, including creating and preserving permanently deed-restricted affordable housing.

The petitioner did not acknowledge this Article would have a financial impact on current property owners, future property owners, residents, or revenue collection by the Town.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 46.

¹¹ Arlington's Net Zero Action Plan (2021): <https://www.arlingtonma.gov/home/showpublisheddocument?id=55139>

¹² Historic Preservation Survey Master Plan (2019): <https://www.arlingtonma.gov/home/showpublisheddocument?id=48668>

¹³ Envision Arlington 2020 Town Survey: Report on Survey Responses:
<https://www.arlingtonma.gov/home/showpublisheddocument?id=54498>

Zoning Bylaw Amendments: Establishing Requirements for Off-Street HP (Handicap Placard) Parking Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

ARTICLE 47

**ZONING BYLAW AMENDMENT/
ESTABLISHING REQUIREMENTS FOR OFF-STREET HP (HANDICAP PLACARD) PARKING**

To see if the Town will vote to amend the Arlington Zoning Bylaws, Section 6.1.5. ("Parking Reduction in Business, Industrial, and Multi-Family Residential Zones") to establish a minimum HP parking space criteria based on pre-reduction parking requirements; or to take any action related thereto.

(Inserted by the Select Board at the request of the Disability Commission)

Discussion: This Article was filed to address concerns relative to the supply of HP parking spaces in Arlington. The parking requirements in the Zoning Bylaw can create situations where the space required for off-site parking for a development or change of use can be almost as large the use itself. As such, the Redevelopment Board often sees requests for reductions to balance the space available with the appropriate supply for a proposed use. This amendment intended to create a standard that would exceed Massachusetts Architectural Access Board (MAAB) regulations for parking found in 521 CMR 23.00.

The Redevelopment Board appreciates the Disability Commission raising issues related to HP parking spaces. The Board noted that many of Arlington's peer communities allow reductions in the number of required parking spaces when various conditions apply, similar to Section 6.1.5 of the Arlington Zoning Bylaw. In reviewing peer community zoning bylaws and ordinances, no examples of a local HP parking standard were found for parking. Where a reference was made, it was to 521 CMR 23.00.

After conversations with a representative of the Disability Commission, the Board voted No Action to be able to work with the Disability Commission to devise a warrant article to submit to a future Town Meeting. As such, this vote reflects that the ARB and the Disability Commission agree to engage in a more comprehensive and holistic process to understand how the Town is managing the existing HP parking system. This approach will help the Town better understand the supply and demand of HP parking on-street and off-street. Understanding the supply and access issues that exist in the community and addressing those proactively in the public realm can help address the needs of the entire community, including those who need it the most. This information will also prove useful for future Special Permitting processes when parking reductions are requested.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 47.

Zoning Bylaw Amendments: ADA/MAAB Standards in Administration and Enforcement
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

ARTICLE 48

**ZONING BYLAW AMENDMENT/
ADA/MAAB STANDARDS IN ADMINISTRATION AND ENFORCEMENT**

To see if the Town will vote to or take any action related thereto: To see if the town will vote to amend the Arlington Zoning Bylaws, Section 3.1 ("Administration and Enforcement") to add a new clause inserting additional language asserting that all permits, including Special Permits, are conditioned upon compliance with all applicable Massachusetts Architectural Access Board and Americans with Disabilities Acts standards for accessibility, or take any action related thereto.

(Inserted by the Select Board at the request of the Disability Commission)

Discussion: Including a reference in the Zoning Bylaw may be redundant as compliance with the MAAB regulations is required. This may explain why no references outside of the off-street parking standards were found in peer communities' zoning bylaws and ordinances. Additionally, one of the goals of the 2018 recodification effort was to move administrative tasks out of the Zoning Bylaw. However, where this amendment provides a cross reference to these laws and regulations, it is an acceptable addition to the Zoning Bylaw. It is important to note this paragraph is added to the Building Inspector and Enforcement section of the Zoning Bylaw, which describes the responsibilities of the Building Inspector as enforcing the State Building Code, including the requirements of the MAAB Regulations. The Office of the Attorney General Municipal Law Unit, in their approval of the 2020 Special Town Meeting zoning amendments, advised the Town that a Building Permit cannot be withheld for failure to comply with non-Zoning Bylaw requirements.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend Action on Article 48. That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 3.1 to add paragraph D:

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.

Zoning Bylaw Amendments: Sideyard Sky Exposure Planes

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

ARTICLE 49

ZONING BYLAW AMENDMENT/ SIDEYARD SKY EXPOSURE PLANES

To see if the Town will vote to or take any action related thereto: To amend Section 5.3 of the Zoning Bylaw by inserting, at the end thereof, a new sub-section 5.3.23 which describes the Purpose & Intent, Applicability, Definitions, Standards by District, Dimensional and Density Regulations and Exceptions for Sideyard Sky Exposure Planes to accommodate new construction while protecting public health, safety and welfare in Residential Zoning Districts.

(Inserted by the Redevelopment Board at the request of Ted Fields and 10 registered voters)

Discussion: The Warrant Article attempts to regulate the hypotenuse of a triangle created with the other two legs being the side yard setback and the height of the structure. The ARB expressed concern that this blanket provision did not adequately address unique situations and the varying topography in Arlington. The ARB did not believe that the Petitioner adequately analyzed the ramifications of the proposed amendment, which might cause remarkable change to Arlington neighborhoods. For example, it would result in many existing homes becoming nonconforming structures, it would require new homes to be shorter than next door homes in some circumstances, and it does not take into account the many small lots in Town where new construction would be significantly constrained. The ARB believed that this Article exceeds what is needed to meet the stated purposes of this article.

The simpler way to address the mass of structures might be to adjust the required heights and setbacks of various structures in each zoning district, or simply regulate the size of dormers, which this article does in part as well. The ARB believes that the current requirements for height and setbacks are sufficient to protecting the Warrant Article's stated purposes. In addition, the exemption for additions seems to be at odds with the purpose of the article as well. Although a large addition needs further review by the ZBA, even a modest sized addition could result in the same condition that this article seeks to address.

The ARB also notes that, during 2020, the Design Review Working Group (DRWG) and DPCD staff worked with Harriman to develop residential design guidelines for single- and two-family structures in the R0, R1, and R2 Zoning Districts. The Arlington Residential Design Guidelines¹⁴ were released in December 2020, with support from the ARB, ZBA, and the DRWG. The Residential Design Guidelines provide area-specific strategies to balance creative freedom with guidelines to encourage welcoming and walkable neighborhoods. Rather than regulating through hard numbers, the design guidelines can give designers and community stakeholders more flexibility to find creative solutions.

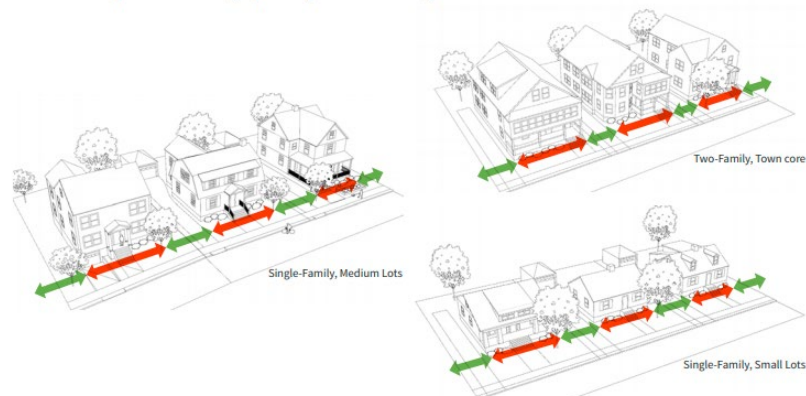
The ARB believes that the Residential Design Guidelines provide clear guidance for specific areas of town and for specific types of houses, as well guidance for a specific home's relationship to other houses on the block and to the streetscape. For example, and strongly related to this article, the design guidelines recommend "new houses and significant additions should be oriented and located in a way that is consistent with their Neighborhood Block Category" with the accompanying graphic (see page 19):

¹⁴ <https://www.arlingtonma.gov/home/showpublisheddocument?id=54518>

Zoning Bylaw Amendments: Sideyard Sky Exposure Planes

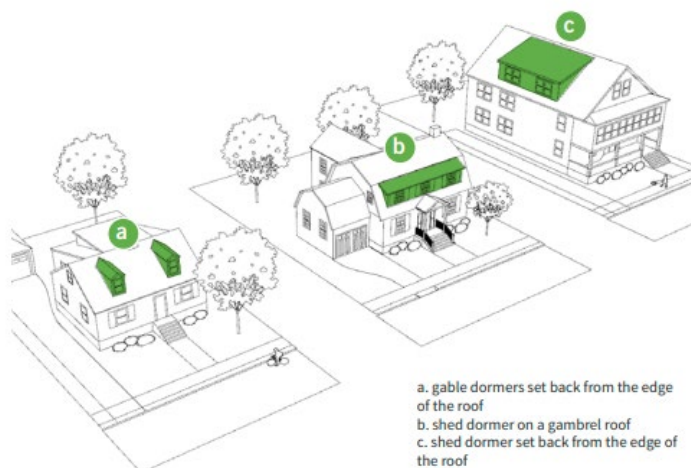
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~

Side Yards should reinforce the existing spacing between houses and provide enough privacy between neighbors.



Further, the design guidelines provide clear recommendations for dormers (page 36):

Dormers and other Roof Elements



Overall, the Residential Design Guidelines provide clear and concise information and detailed recommendations that are clear to understand.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (5-0) to recommend No Action on Article 49.