

111 Sunnyside Ave
Arlington, MA 02474
October 7, 2020

Arlington Redevelopment Board
Town Hall Annex
730 Mass Ave.
Arlington, MA 02476

Dear Arlington Redevelopment Board,

I'm writing in regard to a warrant article that I've submitted for the 2020 special town meeting, which reads:

ARTICLE B: ZONING BYLAW AMENDMENT/DEFINITIONS RELATED TO OPEN SPACE

To see if the Town will vote to amend the Zoning Bylaw of the Town of Arlington by renaming the terms "Open Space", "Open Space, Usable" and "Open Space, Landscaped" in Section 2 - Definitions, or take any action related thereto.

This memo explains my motivation for bringing this article forward, and proposes a new set of terms.

Motivation

Arlington's Zoning Bylaw uses the words "open space" in two different contexts, with two different meanings. The first use comes from the Open Space (OS) district, which our bylaw defines as

... parcels under the jurisdiction of the Park and Recreation Commission, Conservation Commission, Arlington Redevelopment Board, Massachusetts Department of Conservation and Recreation (DCR), or Massachusetts Bay Transportation Authority (MBTA). Structures, where present, are clearly accessory to the principal open space and recreation functions of the property.¹

By this definition, parcels in the OS district are public property, and any structures must be accessory to the primary use of "open space". Where the OS district is concerned, open space is generally green space and provides a public benefit.

The Section 2 definitions related to open space have different meanings. I'd like to unpack these definitions one at a time. Section 2 defines Open Space as

A yard including sidewalks, swimming pools, terraced areas, decks, patios, play courts, and playground facilities; and not devoted to streets, driveways, off-street parking or loading spaces, or other paved areas.

1 Arlington Zoning Bylaw, Section 5.6.1(E).

where the term "yard" is defined as follows:

An open space unobstructed from the ground up, on the same lot with a principal building, extending along a lot line or front lot line and inward to the principal building.

According to these definitions, Open Space is a portion of a lot, and an adjunct to a principal building. Where the principal building is privately-owned, the open space ("yard") will also be privately-owned; unlike open space in an Open Space District, it is not a public benefit. While the definition does not preclude green spaces, it does not require open spaces to be green, or even pervious. Decks, patios, sidewalks, swimming pools, and play courts are explicitly named as examples of what Open Space can be.

The dimensional regulations in Section 5 are not based on this definition of Open Space; rather, the definition merely provides a framing for "Open Space, Usable", and "Open Space, Landscaped" which do appear in the dimensional tables.

Open Space, Usable is

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.

Thus, the primary function of Usable Open Space is "outdoor use" for "recreation", "garden(s)", or "household service activities" by "occupants of the lot". This type of open space is explicitly intended for private use. While the definition does not preclude green or pervious spaces, it certainly does not require them.

Finally, we have 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.

Landscaped Open Space is arguably the form of open space that's most oriented to greenery and vegetation, but again the definition stops short of making this a requirement.

In summary, I believe that the Open Space District satisfies the common-language expectations of what people understand open space to be, but the Open Space definitions in Section 2 do not. In the long term, I hope that we can revisit the way our Zoning Bylaw regulates yards², but for the moment, my

2 Indeed, because our dimensional regulations for "Open Space" are based on gross floor area, I would argue that the regulations are oriented more towards minimizing the interior square footage of new construction and conforming buildings, as opposed to encouraging yards of a minimum size.

goal is to have (new) terms with that better fit the text of the definitions, while leaving the definitions as they currently are.

Proposal

I would propose to rename the terms "Open Space", "Open Space, Landscaped" and "Open Space, Usable" to "Yard Space", "Yard Space, Secondary", and "Yard Space, Primary". Since Open Space is defined as "a yard", the term "Yard Space" seems more appropriate.

The adjectives "Primary" (in place of "Usable") and "Secondary" (in place of "Landscaped") are intended to refer to relative area. What we currently call Usable Open Space has a minimum horizontal dimension and is likely to be the largest area of a conforming yard; hence, the term "Primary". What we currently call Landscaped Open Space tends to consist of smaller areas; hence, the term "Secondary".

The core change I am proposing is as follows:

Definitions Associated with ~~Open Space~~ Yard Space

~~Open Space~~ Yard Space: A yard including sidewalks, swimming pools, terraced areas, decks, patios, play courts, and playground facilities; and not devoted to streets, driveways, off-street parking or loading spaces, or other paved areas.

~~Open Space, Landscaped~~ Yard Space, Secondary: ~~Open~~ Yard 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.

~~Open Space, Usable~~ Yard Space, Primary 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~~ Yard space shall be deemed ~~usable~~ Primary 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.

Of course, each occurrence of these terms will be need to be changed in the section of the bylaw where it appears. I believe that changing the occurrences should be covered by the warrant article language "and any action related thereto".

Thank you for your time and consideration.

Stephen A. Revilak