



## **Town of Arlington**

### **Report to 2020 Special Town Meeting**

Rachel Zsembery, Chair

Kin Lau, Vice Chair

Eugene Benson

Katherine Levine-Einstein

David Watson

Jennifer Raitt

Secretary Ex-Officio

Director of Planning and Community Development

voted as amended November 2, 2020

## **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)

Katherine Levine-Einstein (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

At the end of the summer, longstanding member, Andrew Bunnell, vacated his seat. Mr. Bunnell served the Board from 2013 through 2020. The Board is grateful for his service, particularly his leadership overseeing the development the community's first Master Plan since 1966 and its implementation. The Board also thanks Erin Zwirko, AICP, LEED AP, Assistant Director of Planning and Community Development who provided excellent service to the Department and Board.

## **Zoning Articles Overview**

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 a number of articles that propose to amend the Zoning Bylaw and Zoning Map. This report includes a brief discussion of the intent of amendments 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 Special Town Meeting appeared in the *Arlington Advocate* as required on October 8, 2020, and October 15, 2020. 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 on the proposed amendments on Thursday, October 22, 2020, Monday, October 26, 2020, and Wednesday October 28, 2020, held on remotely on Zoom. The ARB voted on recommended bylaw language at their meeting on October 28, 2020. The ARB approved this report on November 2, 2020.

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## **Zoning Bylaw Amendments: Definitions Related to Open Space**

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

### **ARTICLE 16**

### **ZONING BYLAW AMENDMENT/ DEFINITIONS RELATED TO OPEN SPACE**

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

(Inserted by the Redevelopment Board at the request of Stephen A. Revilak and 10 registered voters)

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#### **Discussion:**

The petitioner proposed replacing the term “open space” with “yard space”. The petitioner also proposed referring to usable open space and landscaped open space as primary and secondary, respectively. This differs from open space included in the Open Space District on the Zoning Map. Open Space in the Open Space District includes parcels under the jurisdiction of the Park and Recreation Commission, Conservation Commission, Arlington Redevelopment Board, Massachusetts Department of Conservation and Recreation, or Massachusetts Bay Transportation Authority (MBTA). This open space has a public benefit compared to private open space.

The ARB appreciates the intention of the petitioner to clarify who benefits from open space on private property (the landscaped open space and the useable open space), which is designed to benefit the owner and occupants of private property, compared to public open space. However, the ARB noted that “open space” is a term of art that municipalities use in Zoning Bylaws and Ordinances throughout the Commonwealth. The ARB suggested that using “private open space” would be a better option than “yard space” to remain consistent with the term of art. The ARB is concerned that departing from the generally accepted term for describing private open space on a parcel would create confusion among users of Arlington’s Zoning Bylaw. As such, the ARB did not believe that the wording proposed is the solution to describe the differences between private open space and public open space.

#### **ARB Vote:**

The Redevelopment Board voted (5-0) to recommend no action on Article 16.

## **Zoning Bylaw Amendments: Notice of Demolitions**

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

### **ARTICLE 17**

#### **ZONING BYLAW AMENDMENT/ NOTICE OF DEMOLITION, OPEN FOUNDATION EXCAVATION, NEW CONSTRUCTION, OR LARGE ADDITIONS**

To see if the Town will vote to amend the Zoning Bylaw in Section 3.1.B. by appending to the end of this section the sentence: “No such permit shall be issued until the Building Inspector finds that the applicant is in compliance with the applicable provisions of Title VI, Article 7 of the Town Bylaws.”; or take any action related thereto.

(Inserted by the Redevelopment Board at the request of Michael Ruderman and 10 registered voters)

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#### **Discussion:**

The petitioner indicated that the implementation of Title VI, Article 7 of the Town Bylaw, the Arlington Residential Construction Agreement, also known as the “Good Neighbor Agreement”, has been inconsistent. The Good Neighbor Agreement, adopted by Town Meeting in 2017 and amended in 2019, applies to residential construction, including demolitions, open foundation excavation, new construction, and large additions, and requires notification by the contractor or property owner to abutters within a set period of time prior to any activities that may trigger the bylaw, including tree removal. The Good Neighbor Agreement establishes certain construction standards that must be maintained throughout the construction period. The addition of a cross reference in the Zoning Bylaw would improve implementation of the Good Neighbor Agreement.

The ARB found this addition to the Zoning Bylaw was unnecessary and determined that the proposed language does not align with the Town Bylaw. The ARB is concerned that this language may result in the application of the Good Neighbor Agreement to more projects than what the Town Bylaw indicates is required to comply with the Good Neighbor Agreement. The ARB recommended revising the language of Article 7 of Title VI to improve the implementation of the Good Neighbor Agreement before revising the Zoning Bylaw.

#### **ARB Vote:**

The Redevelopment Board voted (5-0) to recommend no action on Article 17.

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

## ZONING BYLAW AMENDMENT/ IMPROVING RESIDENTIAL INCLUSIVENESS, SUSTAINABILITY, AND AFFORDABILITY BY ENDING SINGLE FAMILY ZONING

To see if the Town will vote to or take any action related thereto: To amend the Zoning Bylaw for the Town of Arlington by expanding the set of allowed residential uses in the R0 and R1 Zoning Districts with the goal of expanding and diversifying the housing stock by altering the district definitions for the R0 and R1 Zoning Districts.

(Inserted at the request of Benjamin Rudick and 10 registered voters)

**Discussion:**

The petitioner explained that this article, to allow the two-family and duplex use in the R0 and R1 districts, should be adopted for four key reasons: addressing the racist legacy of single-family zoning in Arlington; improving environmental sustainability; increasing housing choice; and allowing for more affordable homes. The petitioners pointed to a number of actions that allowed Arlington to develop into a community consisting of predominantly single-family homes occupied by white owners, and proposed this article as a way to reverse previous actions.

The ARB believes that this article can address the important issues that the petitioner refers to in the presentation. The ARB also believes that it is important for the Town of Arlington to consider the past actions of both the Town and private entities, reflect on those actions, and determine a way to mitigate and reverse those actions. The ARB understands that this article reflects a larger policy conversation that the town should have, and is interested in hearing from Town Meeting Members on this topic after hearing a wide variety of opinions during the course of public dialogues. However, the ARB recognizes that there has been no broad research relative to the impact of similar rezonings in other States and no public engagement regarding this article.

The ARB discussed changes to the proposed motion that would improve the article and potentially address topics heard during the public hearings. Those items include:

1. Requiring that any two-family or duplex home that is built appears as a single-family home;
2. Codifying certain design requirements to maintain the appearance of a single-family home as well as minimizing changes that may alter the streetscape view; and
3. Capturing the value gained by building two homes versus one home by requiring a percentage payment to a municipal affordable housing trust fund based on the sales price or assessed value.

The ARB recognized that regulating appearance is a subjective proposition and the language of these three points would need further research and review that would be difficult to complete within the timeframe for Special Town Meeting. As such, the majority of the ARB recommended no action on this article and referred the topic to the Department of Planning and Community Development to identify an existing or new study committee for further study. The minority opinion believed that the right course of action would be to allow Town Meeting discussion on the article prior to referring the topic for further study.

**ARB Vote:** The Redevelopment Board voted (4-1) to recommend No Action on Article 18 and refer to the topic to the Department of Planning and Community Development to identify an existing or new study committee for further study.

## Zoning Bylaw Amendments: Accessory Dwelling Units

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

### ARTICLE 19

### ZONING BYLAW AMENDMENT/ ACCESSORY DWELLING UNITS

To see if the town will vote to allow Accessory Dwelling Units (ADUs) in single and two-family dwellings in residential districts, or take any action related thereto by amending the Zoning Bylaw as follows:

**Section 1.2 Purposes** to add “to encourage housing for persons at all income levels *and stages of life*”:  
and

**Section 2 5 Definitions Associated with Dwelling:** to add *An ACCESSORY DWELLING UNIT, OR ACCESSORY APARTMENT, “Accessory dwelling unit”, four or more rooms constituting a self-contained accessory housing unit, inclusive of sleeping, cooking and sanitary facilities on the same premises as the principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains 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 and state fire safety code; (ii) is not larger in floor area than 1/2 the floor area of the principal dwelling.* and

**Section 3.3.3 Special Permits** to add “in the case of requests for special permits for Accessory Dwelling Units, the use will add to the need for a range of affordable housing opportunities for the Town.” and

**Section 5.2.3 Districts and Uses:** to add “to allow for the creation of accessory dwelling units in all zoning districts which allow residential use. (Include in Section 5.4 Residential Districts);  
or take any action related thereto.

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

### Discussion:

The petitioner indicated that the article is substantially different than the ARB’s 2019 warrant article, which was short nine votes and failed at Town Meeting. The petitioner noted that the primary difference between these articles is that this one allows accessory dwelling units (ADUs) by-right in any residential zoning district. The ARB’s article proposed ADUs by Special Permit in the R0 and R1 residential zoning districts. The petitioner indicated that allowing ADUs in the community would be beneficial in four main ways: providing flexibility for families, as needs change over time; increasing range of housing choices; providing a form of housing generally less costly and more affordable than similar units in multifamily buildings; and adding units to Arlington’s total housing stock with minimal effects on neighborhoods.

The ARB agrees that this article is substantially different from the 2019 article. However, the ARB does not believe that this article is the best vehicle to allowing ADUs in Arlington. The ARB believes that there is inconsistency and ambiguity in the proposed motion. Further, the petitioner wrote the article in such a way that makes it difficult to revise while staying within scope. The ARB strongly supports the as-right basis of this article. However, there are a number of items from the 2019 article that the ARB would want to see included in an ADU bylaw such as requiring that one of the units is owner-occupied, limiting the gross floor area of the ADU at a percentage lower than 50%, and prohibiting short-term rentals.

The ARB also discussed a proposal presented by the public during the hearing, required that the rent charged for the non-owner-occupied unit not exceed an affordable rent as defined in the Zoning Bylaw. The ARB disagrees with this approach to creating ADUs. The ARB discussed a similar proposal in 2019 and maintains that this requirement would have unintended consequences including being burdensome to the owner and resulting in few if any ADUs constructed as a result. A majority of the ARB members voted no action on this article and discussed presenting an article at a future Town Meeting that will incorporate many of the best elements of this article and the 2019 article. The minority opinion believed that no action continues to delay meaningful progress in the town increasing a range of housing choices.

**ARB Vote:** The Redevelopment Board voted (3-2) to recommend No Action on Article 19.

## **Zoning Bylaw Amendments: Parking Reductions**

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

### **ARTICLE 20            ZONING BYLAW AMENDMENT/ PARKING REDUCTIONS IN THE B3 AND B5 DISTRICTS**

To see if the Town will vote to amend the Zoning Bylaw to allow the Board of Appeals or Arlington Redevelopment Board, as applicable, to reduce the parking requirement to as low as zero in the B3 and B5 Districts through Special Permit where businesses have no ability to create new parking by amending SECTION 6.1.5. PARKING REDUCTION IN BUSINESS, INDUSTRIAL, AND MULTI-FAMILY RESIDENTIAL ZONES; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

#### **Discussion:**

The B3 and B5 Zoning Districts make up the three major businesses districts: Capital Square in East Arlington, Arlington Center, and Arlington Heights. Based on Town GIS data, there are 83 parcels in the B3 Zoning District and 26 in the B5 Zoning District; the Article would affect 109 parcels. The attached maps identify the location of the parcels in the B3 and B5 Zoning Districts. There are no other properties zoned B3 or B5 outside of these areas.

As stated in the definition and purpose in the Zoning Bylaw, the intent of the B3 and B5 Zoning Districts includes allowing for uses oriented to pedestrian traffic. This is both to encourage commercial activity from neighborhood residents, and to encourage visitors who drive to park once and visit multiple locations on foot in a single visit. In each business district, on-street parking is available and in many cases, municipal parking is available.

Additionally, the average lot size in the B3 and B5 Districts is approximately 6,100 square feet and lot coverage (the amount of a building covering a lot) is at or near 100%. Due to these conditions, property owners and business tenants cannot create new parking on lots in the B3 and B5 districts without significant building or lot reconfiguration, or the conversion of existing parcels to surface or structured parking lots. Many of these parcels are also under the jurisdiction of the Arlington Historical Commission and may disturb historic structures making proposals that adhere to strict parking requirements both impracticable and not in the overall best interest of the community.

The ARB indicated that the Article would allow the Special Permit Grant Authorities to have greater flexibility and case-by-case consideration of adjustments to parking requirements beyond the currently allowable parking reduction, especially for a commercial change of use within existing storefronts.

#### **ARB Vote:**

The Redevelopment Board voted (5-0) to Recommend Action on Article 20 as amended. That the Zoning Bylaw be and hereby is amended as follows:

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

The Board of Appeals or Arlington Redevelopment Board, as applicable, may allow the reduction of the parking space requirements in the R5, R6, R7, Business, and Industrial Zones to 25 percent of that required in the Table of Off-Street Parking Regulations if the proposed parking is deemed adequate and where Transportation Demand Management practices are incorporated, as evidenced by a Transportation Demand Management Plan approved by the Special Permit Granting Authority. Methods to reduce parking on site may include but are not limited to:

- A.        Shared Parking: To implement shared on-site parking, the applicant shall demonstrate that proposed uses are non-competing. In mixed-use developments, applicants may propose a



## **Zoning Bylaw Amendments: Parking Reductions**

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

reduction in parking requirements based on an analysis of peak demand for non-competing uses. In these cases, the parking requirement for the largest of the uses (in terms of parking spaces required) shall be sufficient.

- B. Off-site Parking: An applicant may use off-site parking to satisfy their parking requirements as provided in Section 6.1.10. The applicant shall document efforts to promote use of off-site parking by customers, residents, or employees.
- C. Transportation Demand Management (TDM): Any request for parking reduction must include a plan to reduce demand for parking. TDM provides incentives to reduce the use of Single Occupant Vehicles and encourages the use of public transit, bicycling, walking, and ridesharing. All projects requesting a parking reduction must employ at least three TDM methods described below:
  - (1) Charge for parking on-site;
  - (2) Pay a stipend to workers or residents without cars;
  - (3) Provide preferential parking for carpooling vehicles;
  - (4) Provide a guaranteed emergency ride home;
  - (5) Provide transit pass subsidies;
  - (6) Provide covered bicycle parking and storage;
  - (7) Provide bicycle or car sharing on site;
  - (8) Provide showers for business or industrial uses;
  - (9) Other means acceptable to the applicable Special Permit Granting Authority.

When the applicable Special Permit Granting Authority determines that a business in the B3 or B5 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 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.

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

## ARTICLE 21

## ZONING MAP AMENDMENT/REZONE TOWN PROPERTY

To see if the Town will vote to rezone a parcel of land belonging to the Town of Arlington with access from Grove Street and being identified by Map 54, Block 3, Lot 2.B from R1 to I, or take any other action related thereto.

(Inserted at the request of the Town Manager)

**Discussion:**

The majority of the planned Department of Public Works (DPW) Yard Renovation will take place on the parcels, shown below and zoned as Industrial at 49 and 51 Grove Street. However, the proposed new salt shed will straddle the lot line to the south and be located partially in the R1 Zoning District (noted with a star in the image of the Arlington Zoning Map). A fuel island will also be located on the R1 parcel. Neither the salt shed nor the fuel island are allowed to be located in the R1 zoning district. The ARB supports the rezoning of this parcel from R1 to Industrial in order to create a consistent campus supporting DPW.

**ARB Vote:** The Redevelopment Board voted (5-0) to recommend Article 21 to amend the Arlington Zoning Map, to rezone a parcel of land belonging to the Town of Arlington with access to Grove Street at Map 54, Block 3, Lot 2.B from Residential District 1 to Industrial.

