

**Responses to Comments Received from Citizens' Group and public
compiled by Zoning Recodification Working Group members and Town staff**

Please note that the following concerns are stated as they were presented by the commenter.

- 1. Concern:** Changes to Map 1.5 Removed language regarding registration for nonresident property owners; the Town Clerk informs us that no one has ever registered under this provision. New 1.5 appears to combine existing 12.01 (changes to Bylaw) and 3.04 (changes to zoning map).
Response: Not required under MGL Chapter 40A and we would not object to this being added back in, but we view this as unnecessary.
- 2. Concern:** Permitted Uses 5.2 Government uses allowed in all districts added for usability and consistency with State Law. No longer includes criteria where use is only permitted by special permit. No longer mentions criteria defining principal and accessory uses, and other issue where a commercial property may become a residential property.
Response: This is not necessary. The Town does permit certain government uses and that is why it is allowed in all districts.
- 3. Table of Use Regulations 5.4.3 Residential Districts.** Table has been rearranged and a few uses consolidated. Religious and educational uses have been removed, in conformance with case law.

 - a. Concern:** Original Table footnotes A through D appear to be missing.
Response: Footnote A is in Exceptions to Minimum Lot Size, Frontage, Open Space, and Side Yard Requirements in R0, R1 and R2 Districts are in 5.4.2 (B) as noted on all tables. Footnote B is in R District Yard and Open Space Requirements and also 5.4.3. Footnote C is noted in Table R District Yard and Open Space Requirements. Footnote D is 5.3.14.
 - b. Concern:** Single-Room Occupancy Bldg added to R3 thru R7. Should it remain?
Response: Currently allowed but not included in definitions. Three terms were grouped to allow Single-Room Occupancy Buildings.
 - c. Concern:** Group Home added to R0 thru R7. Should it remain?
Response: Required under MGL Chapter 40A, S 3
 - d. Concern:** Dormitory added to R2. Should it remain?
Response: Permitted MGL Chapter per 40A S3.
 - e. Concern:** Rehabilitation Residence. R3 to R5 not listed. Not added. Need to reconcile with existing bylaw.
Response: Deleted per Fair Housing laws.
 - f. Concern:** Need to add footnote C from current ZB to Nursing Home, Rest Home item.
Response: See a. above. Changed per ARB hearing from 1/22/18.
 - g. Concern:** New item under Wireless Communication re: bldgs. Exempt under MGL Chapter 40A. Should it remain?
Response: Allowed under MGL Chapter 40A.
 - h. Concern:** Office with less than 50 ft. front right of way (item 6.22a current ZBL) is omitted. Was all SP in R4 to R7, so it's probably a moot point.
Response: This is listed under Office Uses in Table 5.4.3. This was addressed during the January 22nd ARB meeting.
 - i. Concern:** "Enclosed entertainment and recreation facilities...." with SP required in R0 to R5 In the current ZBL is missing? New item?

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Response: This is listed under Commercial Entertainment, Amusement, Assembly Uses in Table 5.4.3.

- j. *Concern:* Item 8.07, Dr.'s / Clergy Home office, appears to be missing.
Response: This is listed under Office Uses in Table 5.4.3. This was addressed during the January 22nd ARB meeting.
4. 5.5.3 Use regulations for six business districts (B1, B2, B2A, B3, B4, B5). The allowed uses either by right or by Special Permit are grouped into major categories of similar types of land uses for ease of searching.
- a. *Concern:* Item 1.07 Licensed Lodging House, B1, B5. SP appears to be missing. Could be the Single Room Occupancy item listed? If so, need to add 'Licensed' before Single Room to be consistent with Table 5.4.3
Response: Single-Room Occupancy Building consolidated three previous definitions: Lodging Unit, Rooming or Lodging House, and Boarding House/ Boarding Home. Licensed Lodging House is not currently defined in the existing bylaw. Final license is issued by the Board of Selectmen. A final Certificate of Occupancy would not be issued without the license. This issue is addressed in the ARB's Amendment to Warrant Article 2 for Special Town Meeting.
- b. *Concern:* Item 1.08, Rehabilitation Residence, B1 SP appears to be missing.
Response: This definition has been deleted and replaced with Group Home to align with MGL Chapter 40A.
- c. *Concern:* Group Home, permitted in all districts, seems to be new addition.
Response: This definition is added to align with MGL Chapter 40A.
- d. *Concern:* Dormitory, SP in all B districts, appears to be a new item.
Response: This use is allowed in all districts to align with MGL Chapter 40A.
- e. *Concern:* Conservation Land now Yes all B districts, appears to be a new item.
Response: Conservation is allowed in all districts.
- f. *Concern:* Municipal radio or television studio, SP B2, appears to be new.
Response: This was addressed during the January 22nd ARB meeting and subsequently deleted.
- g. *Concern:* Home Occupation should reference Sec. 5.9 not 5.8
Response: The reference is 5.9.1 as currently stated in the proposed Bylaw.
5. Table of use regulations 5.6.3 Use Regulations for MU, PD, I, T, and OS Districts. The allowed uses either by right or special permit are grouped into major categories of similar types of land uses for ease of searching.
- a. *Concern:* Conservation Land now Yes all districts, not just OS. Still a question.
Response: Conservation is allowed in all districts.
- b. *Concern:* Item 6.22a of current ZBL needs to be addressed in all Use Tables.
Response: Added in 5.4.3 and 5.6.3 under Office uses. Appears in last row under Office uses of 5.5.3.
- c. *Concern:* Mixed-Use (under light industry) needs to add footnote D. Still open question?
Response: This is described in the District section and added footnote D.

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- d. *Concern:* Accessory structure not used as part of business – SP for T district added.
Response: There are no accessory uses allowed in Transportation District. Page 5-41 clarifies this.
 - e. *Concern:* Home Occupation footnote C should reference Sec. 5.9, not 5.8. Footnote NA?
Response: This was addressed during the January 22nd ARB meeting.
 - f. *Concern:* Footnote C says SP required if customers or pupils come to house. Current ZBL says Yes, not SP.
Response: This is correct in the Table as presented in the proposed zoning bylaw.
6. Table of Dimensional and Density Regulations 5.4.2 Regulations for residential districts are grouped together for ease of searching. Accessory structures are grouped with other residential structures by zone.
- a. *Concern:* R0,1,2 Height/Floors/FAR adds “minor accessory structure” < and > than 80 sq. ft.
Response: This was correct and consistent with 6.18 from existing bylaw. FAR does not apply to accessory buildings.
 - b. *Concern:* R3 FAR combines dwelling, duplex, and townhouse.
Response: All dwellings in R3 have same FAR for principal structures.
 - c. *Concern:* Adds “detached accessory structure” < and > than 80 sq. ft.
Response: Consistent with existing zoning bylaw. Existing 6.18 provides front and side setback requirements which is why this was added. Existing 6.15 was also consolidated into this Table.
 - d. *Concern:* Changes “other permitted structure: from 2.5 to “3 – 2.5” stories.
Response: This was addressed during the January 22nd ARB meeting.
 - e. *Concern:* Adds “detached accessory structure” < and > than 80 sq. ft.
Response: Consistent with existing bylaw. Existing 6.18 provides front and side setback requirements which is why this was added. Existing 6.15 was also consolidated into this Table.
 - f. *Concern:* R5 FAR combines all residential structures; Adds “detached accessory structure” < and > than 80 sq. ft.
Response: Consistent with existing bylaw. As Table 6.00 states, all principal uses have a FAR of 0.8 therefore only one row is required.
 - g. *Concern:* R6 FAR added – Accessory Bldgs and Garage Structures with setbacks F20’, S10’, R10’
Response: From existing 6.18.
 - h. *Concern:* R7 FAR added – Under R7 Accessory Bldgs and Garage Structures with setbacks F none, S20’, R20’ Now missing?
Response: This issue is addressed in the ARB’s Amendment to Warrant Article 2 for Special Town Meeting.
 - i. *Concern:* R6 FAR added – Accessory Bldgs (>80 sq. ft. and <80 sq. ft.) w/Max ht of 20ft (2 stories) and 7ft (1 story) respectively. Height/story now missing –Think original comment was that Accessory Bldgs were added to R6. Height/story looks like it’s still

there.

Response: This is consistent with the existing zoning bylaw.

- j. *Concern:* 5.4.2.A Table should describe the uses the listing in the R0-R2 sections apply to. Right now, most are blank. If the bylaw currently says "permitted principal structure" this terminology should be maintained, and not changed to "permitted structure." Regulation of small accessory buildings is still incomplete and inconsistent--sometimes listed "minor accessory building (<80 sq. ft.)" others as "detached accessory structure (<= 80 sq. ft.)". Sometimes limited to one story, other times, no story limit is given. In R7, not listed at all; in R0-R2, 7 foot height limit is on the wrong line. More importantly, these aren't listed at all in the tables giving the yard setback requirements.
- Response:* These matters are addressed in the ARB's Amendment to Warrant Article 2 for Special Town Meeting.
7. Table of Dimensional and Density Regulations 5.5.2 Tables for dimensional and density requirements for principal and accessory uses and structures are presented for all six business districts (B1,B2, B2A, B3, B4 and B5)
- a. *Concern:* B2, Open Space row for Mixed Use >20,000 sq. ft. is missing.
Response: This was addressed during the January 22nd ARB meeting. Mixed-use in B2 has the same open space requirements, regardless of lot size.
- b. *Concern:* B2 Mixed Use Height Max. should reference 5.3.21C, not 5.3.20 Now reads 5.3.17 (C).
Response: This issue is addressed in the ARB's Amendment to Warrant Article 2 for Special Town Meeting.
- d. *Concern:* B3 mixed-use useable open space was defined in footnote H, now supposedly in 5.3.20 but this only defines max. ht. exceptions?
Response: This was addressed during the January 22nd ARB meeting. Footnote H states "Open space requirements for residential uses (computed from their floor area only) shall be 10 percent landscaped and 20 percent usable in the B1, B2, B2A, B3, and B4 districts, and 15 percent usable in the B5 district." This language appears in 5.3.21(D).
- e. *Concern:* B4 Mixed-Use Front, side, rear was 0, 10+(L/10), 5,now 0, 0, 10+(L/10).
Response: This was addressed during the January 22nd ARB meeting. Values in existing and proposed zoning are 0, 0, 10+(L/10). "5" is max height in stories, not a yard setback.
- f. *Concern:* B5 Mixed Use rear was 10+(L/10), now (H+L)/6 .
Response: This was addressed during the January 22nd ARB meeting. In this section of the existing zoning bylaw, the table alignment is off by a tab. The commenter may have misread that table.
8. *Concern:* Spacing of a Residential building on the same lot with another principal building. 5.3.3. Minor editing. Deleted 6.03 (c), dealing w/setbacks for side-by- side res and non-res bldgs. on same lot.
Response: 6.03(b) addresses inter-lot spacing of buildings and 6.03(c) deals with spacing between buildings and "assumed lot lines".
9. *Concern:* Buildings in floodplains 5.7 Conservation Commission rules are more restrictive. No structure, no activity is allowed within 50 feet of the 100 Ft. floodplain boundaries. Buildings in

Floodplains) should be covered under review of Sec. 11.04 of current permit.

Response: Section 5.7.3(A) in the proposed zoning bylaw states that review and determination is required by the Conservation Commission and that a permit is needed.

- 10. Concern:** Large additions 5.4.2(B)(6) Clarifying language regarding when floor area is measured. Substance is unchanged. Cross-reference for the Board "acting pursuant to Section 10.11" is missing. Now reads Acting pursuant to Section 3.3.

Response: The existing zoning bylaw section 10.11 covers special permits; special permits are covered in section 3.3 of the proposed zoning bylaw.

- 11. Concern:** Exceptions to Maximum Floor Area Ratio Regulations 5.3.6 Changes "Plans and Policies" to "Master Plan". Uses simplified def. of affordable housing units. 5.3.6.C should read "except for buildings in section 5.3.6A3 above," not "except for buildings in Subsection C above" now reads: In Subsection A (3) above.

Response: The "development plans and policies of the Town of Arlington" are part of the "Arlington Master Plan". Section 5.3.6(C) does refer to subsection (A)(3), which is correct. In 5.3.6(D)(2) change second "affordable" to "such" to include age-restricted.

- 12. Concern:** Setback of Accessory Buildings and Other Structures 5.4.2 Incorporated into Tables of Dimensional & Density Regulations. R7 was 20' front and 10' side and rear, now expressed as $15+(H/10)$ and $(H+L)/6 > 20'$.

Response: This was addressed during the January 22nd ARB meeting. Yard setbacks in the proposed zoning bylaw match the values in Table 6.00 and Section 6.18 of the existing zoning bylaw. Table reads "20' front and 10' side and rear".

- 13. Concern:** Lost definition of "accessory buildings" Noted elsewhere?

Response: Refer to "Building, Accessory".

- 14. Concern:** Lost regulations for above-ground pools:

Response: This language appears in section 5.3.13(B)(4) of the proposed zoning bylaw.

- 15. Concern:** The revised version is missing any mention of accessory building limits for R0 - R3, implying that all accessory buildings are subject to the same 10' and 20' side and rear setbacks of primary structures. There is no exception for sheds/minor accessory buildings. Now indicated as "Other Permitted Structure".

Response: 5.3.13(B)(1) in the proposed zoning bylaw notes exemptions in Residential Districts.

- 16. Concern:** 6.20a Minimum Lot Width in R0, R1 and R2 Districts 5.4.2(b)(4) No change in wording. Typo to be corrected ("above" to "below").

Response: Neither "above" nor "below" appear in this section.

- 17. Concern:** Deleted reference to R1 and R2.

Response: 5.4.2(B)4 occurs in this section for exceptions in the R0, R1, and R2 district. Text for subsection 5.4.2(B)(4) does not mention any districts, while 6.20a explicitly mentioned R0, R1, R2. The title of 5.4.2(B) is "Exceptions to Minimum Lot Area, Minimum Front Yard Lot Width, Frontage, Open Space, Side Yard, and Height Requirements in the R0, R1, and R2 Districts." The districts are listed in the title of 5.4.2(B).

- 18. Concern:** Deleted details of measurement calculation Substantive change? 6.20a was there to prevent someone from doing an hourglass shaped or greatly tapered front yard. (The whole front yard cannot be less than 50' wide— this is not the same a frontage.). The new section is an

old section that provided exceptions to the R0 zoning district for older lots. 6.20a needs to be restored as written to prevent even goofier- shaped lots than are now allowed.

Response: 6.20a in the existing zoning bylaw states that, "Each lot shall have a width of not less than fifty feet at all points between the front lot line and the front line of the nearest building wall." 5.4.2(B)(4) in the proposed zoning bylaw states that, "The minimum front yard lot width shall be 50 feet measured along lines parallel to the front lot line." Within the context of the definition of *Yard, Front*, both versions of the regulation require a width of 50 feet or more.

- 19. Concern:** There are significant changes in wording, and measurement specs have been deleted.

Response: This comment may be related to existing zoning bylaw section 6.20a, therefore, the measurement specs were redundant.

- 20. Concern:** Exceptions to Min Lot Size, etc., was 6.06. Now 5.4.2 (b) (4) states that "The minimum lot width of 50 feet shall not apply to (i) any lot excepted under Section 5.4.2(B)(3)" But 5.4.2.(B)(3) is very different from 6.06 in wording, start dates of applicability, and minimum sq. ft. and frontage. Reworded, now reads: "The minimum front yard..."

Response: 5.4.2(B) (4) in the proposed zoning bylaw excepts sections 5.4.2(B)(1) and 5.4.2(B)(2) which include dates, minimum lot size, and frontage.

- 21. Concern:** Other District Lot Regulations Table seems to confuse "lot width" with "frontage."

Response: Delete "Lot Width" from last column in Table 5.6.2(A).

- 22. Concern:** Residential Lot of Record Removed. Statutory. Removal might be OK since the language refers back to and largely mimics the Zoning Act. Note, however, the related Section 6.06a (current bylaw) is relaxed in the new bylaw Section 5.4.2(B)(1), making it easier to do teardowns on lots of 5000-6000 square feet. Revised bylaw removes the requirement that non-conforming lot be vacant. Was removed because it restates MGL 40A.

Response: Section 5.4.2(B)(1) of the proposed zoning bylaw still requires that the lot not contain a principal structure.

- 23. Concern:** Permit Time Limits. Defined by Building Code. Need to indicate where this is spelled out.

Response: Permit Time Limits are noted in 780 CMR Sections 105.4-1.05. Section 10.07 in the existing zoning bylaw states that, "Any work for which any permit has been issued by the Inspector of Buildings shall be commenced within the time period specified in the Massachusetts State Building Code." This means that the Inspector shall follow State law. The Attorney General did not approve an earlier version of Section 10.07 from the October, 1975 recodification, because it was inconsistent with State law. The version advertised in the paper essentially said "you must start within 90 days and finish within one year".

- 24. Concern:** Consumer Service Establishment: Business such as lawnmower or bicycle repair, upholsterer, small tool and equipment rental, or small appliance repair. New Definition OK, but note policy changes in Table 5.5.3 related to such establishments in B1 and B2.

Response: The proposed zoning bylaw reflects what is currently allowed in the existing zoning bylaw.

- 25. Concern:** Index still refers to "apartment house".

Response: This issue is addressed in the ARB's Amendment to Warrant Article 2 for Special Town Meeting.