



Town of Arlington, MA Redevelopment Board

Agenda & Meeting Notice July 1, 2019

The Arlington Redevelopment Board will meet Monday, July 1, 2019 at 7:30 PM in the **Town Hall Annex, 2nd Floor Conference Room, 730 Massachusetts Avenue, Arlington, MA 02476**

1. ARB Rules and Regulations draft amendment

- 7:30 p.m. - • Staff and board members will discuss amended Rules and Regulations –
- 7:45 p.m. added Rule 19 for Review of religious and Educational Uses.
- Board may vote on amended language

2. Draft ARB annual goals

- 7:45 p.m. - • Staff and board will review draft goals and may vote to adopt them
- 8:00 p.m.

3. Arlington Heights Action Plan Implementation Committee (committee charge and membership)

- 8:00 p.m. - • Board will discuss and may vote on creation of committee
- 8:10 p.m.

4. Training – Affirmatively Furthering Fair Housing compliance for local land use decisions

- 8:10 p.m. - • Staff will lead the training
- 9:10 p.m.

5. Meeting Minutes (4/24, 5/20, 6/3)

- 9:10 p.m. - • Board will review draft minutes and may vote to approve them
- 9:20 p.m.

6. Open Forum

- 9:20 p.m. - • Except in unusual circumstances, any matter presented for
- 9:40 p.m. consideration of the Board shall neither be acted upon, nor a decision made the night of the presentation. There is a three minute time limit to present a concern or request.

7. Adjourn

- 9:40 p.m. - Adjourn



Town of Arlington, Massachusetts

ARB Rules and Regulations draft amendment

Summary:

- 7:30 p.m. - • Staff and board members will discuss amended Rules and Regulations – added Rule
7:45 p.m. 19 for Review of religious and Educational Uses.
• Board may vote on amended language

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	Agenda_Item_1_-_ARB_Rules_and_Regs_with_Dover_Review_062619.pdf	ARB Rules and Regs with Dover Review 062619
▢ Reference Material	Agenda_Item_1A_-_Follow_up_on_Dover_Review_Process_Letter_from_Heim_to_Raitt_062719.pdf	Follow up on Dover Review Process Letter from Heim to Raitt 062719

Arlington Redevelopment Board Rules and Regulations



Town of Arlington Redevelopment Board Rules & Regulations

On August 6, 2018, pursuant to M.G.L. Chapter 40A § 9, the Arlington Redevelopment Board held a Public Hearing to solicit comments on proposed Rules and Regulations and voted 5-0 to adopt Rules and Regulations as the official Arlington Redevelopment Board Rules and Regulations.

For questions regarding these rules and regulations, please contact the Department of Planning and Community Development at 781-316-3090 or go to www.arlingtonma.gov/arb.

TABLE OF CONTENTS

RULE	ITEM	PAGE
1	Amendment and Revision	3
2	Board Officers	3
3	Role of the Chairperson	3
4	Presiding Officer	3
5	Meetings	3
6	Meeting Format	3
7	Parliamentary Guidelines	3-4
8	Quorum	4
9	Record Keeping	4
10	Filing Deadlines and Submittals for Regular Meetings	4-6
11	Legal Notification	6
12	Fees for Appearing Before the Redevelopment Board	6
13	Application Timetables and Expiration	7
14	Environmental Design Review Submittal Requirements	7-8
15	Board Decisions	8
16	Code of Ethics Conduct	8-9
17	Rules for Hiring Outside Consultants under M.G.L. c. 44 § 53G	9-10
18	Sign Applications/ Review Procedures Administrative Approval	10-11
19	Review of Religious and Educational Uses	11-12

Formatted: Space After: 0 pt, Line spacing: single

RULE 1 : AMENDMENT AND REVISION

These Rules may be replaced, revised or amended at any time by a majority vote of the Redevelopment Board, where permissible under Federal, State, and local law.

RULE 2 : BOARD OFFICERS

The first Redevelopment Board meeting in January shall begin as an organizational meeting. At that time, the Board shall elect a Chairperson and a Vice Chairperson. If a vacancy occurs in the office of Chairperson, the board shall elect a new Chairperson from among its members before two (2) regular meetings have passed. If a vacancy occurs in the office of Vice Chairperson, the board shall elect a new Vice Chairperson from among its members before two (2) regular meetings have passed.

RULE 3 : ROLE OF THE CHAIRPERSON

The Chairperson shall coordinate with the Secretary Ex-Officio to schedule meetings and submit agendas to the Town Clerk in accordance with M.G.L. c. 30A, §§ 18-25 ("Massachusetts Open Meeting Law"). The Chairperson shall serve as ex-officio member of all Redevelopment Board committees, and as such shall have full power and authority to attend all meetings of such committees and subcommittees, including any portions of such meetings held in closed or executive sessions but shall have the right to vote only in the case of a tie.

RULE 4 : PRESIDING OFFICER

The Chairperson of the Redevelopment Board shall preside at the meetings of the Redevelopment Board. In the absence of the Chairperson, the Vice Chairperson shall preside. In the absence of both, the members present will elect a board member to preside over the meeting. In the event that the Chairperson can no longer serve, the Vice Chairperson shall assume the powers and duties of the Chairperson.

RULE 5 : MEETINGS

The Redevelopment Board will meet on the 1st and 3rd Mondays of each month, at 7:30 p.m., except not on federal and state holidays, in the Town Hall Annex, Second Floor Conference Room, unless otherwise posted with proper notice in accordance with the Massachusetts Open Meeting Law. The frequency, time, and place may be changed by a majority vote of the Board. Executive sessions shall be authorized and governed by M.G.L. c. 30A, § 21. Any three members of the Redevelopment Board may schedule a meeting of the Redevelopment Board and must submit the agenda to the Town Clerk in accordance with the Massachusetts Open Meeting Law.

RULE 6 : MEETING FORMAT

During meetings or Public Hearings at which the Redevelopment Board is considering applications for approvals or special permits, the applicant shall be recognized for presentation, followed by staff comments, questions and comments by Board Members, questions and comments by abutters and other members of the public as addressed to the Chair, and additional questions and comments by Board Members and comments by staff. In presentations by abutters and the public, the Board may grant wide latitude in allowing people to speak, while reserving the right to limit presentations which are not relevant to the matters being discussed or are repetitive. Presentations by abutters and the public are always directed to the Board; it is not intended to allow discussion between those in attendance and the applicant. Time limits may be set by the Redevelopment Board prior to the beginning of a meeting or whenever necessary to facilitate discussion and deliberation in an orderly manner.

No person shall address a meeting of the Redevelopment Board without the permission of the presiding officer, and all persons shall, at the request of the presiding officer, be silent. No person shall disrupt the proceedings of the Redevelopment Board. If, after clear warning from the presiding officer, a person continues to disrupt the proceedings, the presiding officer may order the person to withdraw from the meeting and if the person does not withdraw, the presiding officer may authorize a constable or other officer to remove the person from the meeting per M.G.L. c. 40A.

RULE 7 : PARLIAMENTARY GUIDELINES

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth and the Town Manager Act or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order. In determining any parliamentary questions, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Robert's Rules of Order, but guidance may also be provided by other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

RULE 8 : QUORUM

Four members of the Redevelopment Board shall constitute a quorum for M.G.L. c. 40A § 9 to grant a special permit.

RULE 9 : RECORD KEEPING

Unless otherwise provided for by the Redevelopment Board, the Secretary Ex-Officio shall keep a record of the proceedings and perform such duties as may be assigned by other Redevelopment Board vote. The Secretary Ex-Officio shall transmit copies of the previous meeting's minutes to all Board members prior to the next scheduled meeting. After the minutes have been approved by the Redevelopment Board, a copy shall be forwarded to the Town Clerk. Copies of the minutes of each meeting of the Redevelopment Board shall be posted online and may be requested through the Town Clerk who will provide copies of the requested minutes. Audio and visual recordings of meetings may be made and kept at the discretion of the Secretary Ex-Officio. If audio or visual recordings of meetings are made, the Chair shall notify the Board, participants, and the public at the start of the meeting.

RULE 10 : FILING DEADLINES AND SUBMITTALS FOR REGULAR MEETINGS

The submission of materials, incorporating materials into the agenda, the delivery of materials to the Board, and the posting of materials to the Town Clerk and on the website are all time sensitive and dependent on one another. The following chart outlines the responsible party and timeframe that each action shall occur:

ARLINGTON REDEVELOPMENT BOARD SUBMITTALS SCHEDULE			
1	<i>Agenda material submission</i>	Department of Planning and Community Development (DPCD) Director, staff, ARB members, general public	Any time prior to submission deadline
2	<i>Agenda material submission ends</i>	DPCD Director, staff, ARB members, general public	12 p.m. Friday of the week prior to the week before the

			meeting date
3	<i>Agenda finalized</i>	DPCD staff, ARB chair	4 p.m. Monday of the week prior to meeting; if holiday, then Tuesday of the week prior to meeting date
4	<i>Meeting packet finalized</i>	DPCD staff	4 p.m. Tuesday of the week prior to meeting date
5	<i>Agenda posted to Clerk and website</i>	DPCD administrative assistant	12 p.m. Wednesday of the week prior to meeting date
6	<i>Meeting packet made available to ARB members and members of the public</i>	DPCD administrative assistant	12 p.m. Wednesday of the week prior to meeting date

This workflow ensures effective and efficient business practices, accountability, and consistency in the ARB meeting process. “Material Submitters” are considered anyone who submits an agenda item or agenda item reference materials, including ARB members, DPCD staff, and the general public. All material submitters shall: submit reference materials for inclusion in the agenda packet as early in the process as possible; notify DPCD Administrative staff if reference materials will not meet that deadline; and submit reference and all supporting materials digitally as a Microsoft Office compatible file, a PDF, a common image format, or as an email. If any deadline cannot be met, the DPCD staff has the right to enforce the workflow policy; agenda items and reference materials that do not meet the deadline will not be included and will be moved to the following meeting. Further, the Board will not accept new supplemental application materials anytime between the posting of a meeting notice and the night of the meeting.

The DPCD Director and staff shall review and develop agenda items and reference materials at any time prior to the deadline for any ARB meeting; request a Material Submitter to submit reference materials in digital format as described above; post the agenda prior to the meeting in accordance with the schedule; distribute or notify the appropriate parties when the agenda packet is finalized and available; and print agendas, certain reference materials, or entire agenda packets as needed for meetings. Printed agendas, certain reference materials, or entire agenda packets may be requested from the DPCD Administrative Staff by 10 a.m. on Friday prior to the meeting date.

RULE 11 : LEGAL NOTIFICATION

Before granting a special permit, the ARB shall hold a public hearing, notice of which shall be given by the Department of Planning and Community Development in a local newspaper once in each of two successive weeks with the first publication to be not less than fourteen (14) days before the date of hearing, and to owners of all property abutting the proposed development or land in the same ownership or contiguous ownership, and to all property owners deemed by the ARB to be affected specifically thereby. The ARB shall upload all application materials through NovusAgenda and make one copy available at the Department of Planning and Community Development.

RULE 12 : FEES FOR APPEARING BEFORE THE REDEVELOPMENT BOARD

The Redevelopment Board has the authority to set and adjust the fees periodically for appearing before the Redevelopment Board. The current fee schedule as of August 2018 is:

Minimum Fee for any application	\$500.00
New Construction fee	\$0.20/square ft. of new construction

RULE 13 : APPLICATION TIMETABLES AND EXPIRATION

All Special Permits before the Redevelopment Board are subject to the following timelines. Within 10 days of receipt of application, copies of the application must be transmitted by the Department of Planning and Community Development to Inspectional Services. Following staff evaluation of the proposal, the DPCD may determine that any of the following Boards, Departments, or Commissions need to be notified as part of project review: Board of Health; Conservation Commission; Public Works; Engineering; Historical Commission; Historic Districts Commission; Fire Department; Police Department; and Zoning Board of Appeals. All other boards, commissions, or departments will be given 35 days to respond. Failure to respond will be deemed to be lack of opposition. Additionally:

1. Hearings must start within 65 days of application submission.
2. Once the hearing has commenced, it may be continued. If continued beyond 90 days, the petitioner must receive a written agreement from the ARB in order to continue the hearing.
3. Final action must be taken by the Redevelopment Board within 90 days of the hearing's closure. If decision is not reached within 90 days after closure of the hearing, petitioner may notify the Town Clerk and abutters within 14 days after the 90th day that they are seeking approval of its application for failure of the Redevelopment Board to act on its application within 90 days, or any extended time period beyond the 90 days, pursuant to M.G.L. c.40A, § 9, and comply with the requirements set forth therein.
4. Within 14 days of the Board's final action, the Board must file a record of its Decision in the Town Clerk's Office pursuant to M.G.L. c. 40A, § 9.

RULE 14 : ENVIRONMENTAL DESIGN REVIEW SUBMITTAL REQUIREMENTS

For any project subject to an Environmental Design Review Special Permit, applicants and the Board shall reference and apply the Town of Arlington's Design Standards. These were developed to provide direction for the design of new development and redevelopment primarily in commercial and industrial areas (Business Districts, Industrial Districts, Multi-Use Districts, and for Mixed-Use Development). The Standards focus on development along Massachusetts Avenue, Broadway, the Minuteman Bikeway, and the Mill Brook areas.

All applications shall include plans certified by the land surveyor conducting the boundary survey and professional engineer or architect on the location of the building(s), setbacks, and all other required dimensions, elevations, and measurements. Plans shall be signed under the penalties of perjury. Corner points of a lot (or lots under common ownership) and the change of direction of lines to be marked by stone monuments, cut in stone, stake and nail, iron pin, or other marker shall be marked on plans. The site plan shall be subject to the standards of the Arlington Zoning Bylaw Section 3.4 and the ARB shall make a determination that the project meets these standards.

Submittals include but are not limited to the following:

1. **3-D Rendering.** 3-D renderings are required showing the parcel, abutting streets, proposed contours, proposed buildings, and the massing of abutting buildings. This requirement may be waived by DPCD staff for small projects. Proposals may also be required to provide computer-generated overlays on existing photographs.

2. **Physical Model.** The Board may request a physical model.
3. **Drawing of Existing Conditions.** A drawing (at a minimum of 1" = 20' unless another scale is found suitable by DPCD) showing the location, type, size, or dimension of existing trees, rock masses, existing topography at 2' contours, and other natural features with designations as to which features will be retained. In order to meet the conditions for approval of a Special Permit, all existing trees, rock masses, and other natural features shall be retained until a special permit is approved.
4. **Drawings of Proposal.**
 - i. Building/ Structure: Drawings illustrating the color and type of exterior materials including front, rear, and side elevations where there are no adjoining buildings. Floor plans are required for all floor levels.
 - ii. Landscape: Drawings showing the location, dimensions, and arrangements of all open spaces and yards, including type and size of planting materials, the color and type of surface materials, methods to be employed for screening, and proposed topography at 2' contours.
 - iii. Site Plan: A site plan is required including drainage, utilities, location of parking, and other site features.
5. **Photographs.** Photographs showing the proposed building site and surrounding properties. Applications for alterations and additions shall include photographs showing existing structure or sign to be altered and its relationship to adjacent properties.
6. **Samples.** The Board may request that the applicant provide physical samples of building materials.
7. **Impact Statement.** Applicant shall explain how each of the environmental design review standards is incorporated into the design of the proposed development. Where a particular standard is not applicable, a statement to that effect will suffice. An environmental impact report or statement prepared in accordance with state or Federal regulations may be accepted as a substitute in lieu of this statement, provided it explains how each of the environmental design review elements is incorporated into the design
8. **Signs.** Application for permit and accompanying plans as specified in Rule 14 for each sign that is to be erected on the proposed structure(s). In lieu of the required submittals listed above, an application for a special permit for a temporary sign per the Arlington Zoning Bylaw 6.2.4(M) shall include an overall signage plan comprised of the information required under the Arlington Zoning Bylaw Section 6.2.10 as well as perspectives, renderings, photographs, models, or other representation sufficient to show the nature of the proposed overall signage plan and its effect on the immediate surroundings.

All materials must be submitted in an electronic format. Additionally, two full sets of plans, submittal documents, and any supplemental documents are required for submission. The Board may request additional documents during the review and approval process, as well as following special permit approval.

RULE 15 : BOARD DECISIONS

The ARB shall review the plans and may grant a special permit subject to the conditions and safeguards listed in the Arlington Zoning Bylaw Section 3.3 and 3.3.4. For stated reasons the ARB may deny approval of a special permit or may approve a special permit without a finding of hardship. As required by M.G.L. c. 40A, §9, a positive vote of at least four members of the Redevelopment Board is needed to issue a special permit. Upon the Board's approval, the Secretary Ex-Officio may sign decisions following a vote of the Board and file decisions per requirements of M.G.L. c. 40A. The final decision shall be emailed and may receive administrative corrections following the Board's votes.

RULE 16 : CODE OF ETHICS CONDUCT

A. Generally

In supplement to and above State and Town ethics, public records, open meeting and non-discrimination laws, the Redevelopment Board requires an atmosphere of professional conduct and civility among its members, and shall not tolerate harassment, discrimination, or offensive behavior based on race, color, religion, national origin, gender, gender identify, age, disability, or sexual orientation, nor shall any member of the Redevelopment Board use profanity, insulting, threatening, or abusive language in the course of public debate or in testimony before any Town Department, Board or Commission. Furthermore, this code of ethics conduct shall apply whenever a Redevelopment Board Member is in any public setting representing said Board.

B. Internal Board Relations

A Redevelopment Board member, in their relations with fellow Board members, should:

1. Recognize that action at official legal meetings is binding and that they alone cannot bind the Board outside of such meetings;
2. Refrain from public statements or promises of how they will vote on matters that will come before the Board until he or she has had an opportunity to fully vet the issue during a Board meeting;
3. Make decisions only after all facts on a question have been presented and discussed;
4. Uphold the intent of executive session and respect the privileged communication that exists in executive session;
5. Refrain from communicating the position of the Redevelopment Board to anyone unless the full Board has previously agreed on both the position and the language of the statement conveying the position;
6. Treat with respect the rights of all members of the Board despite differences of opinion;
7. Afford members of the Board the opportunity to speak on matters in Board meetings and hearings without interruption.

C. Board-Town Staff Relations

A member of the Redevelopment Board, in their relations with Town staff, should:

1. Treat all staff as professionals that respects the abilities, experience, and dignity of each individual;
2. Exercise caution and discretion in public criticism of any individual Town employee. Member concerns about performance of staff reporting to the Town Manager should, under ordinary circumstances only be articulated to the Town Manager, or, in limited circumstances, other appropriate Town personnel, such as the Director of Planning and Community Development, Town Counsel or other Department heads.
3. Keep requests for staff support to a minimum wherever possible, and ensure that all requests go through the Director of Planning and Community Development's Office.
4. To the extent practicable, insure that any materials or information provided to an individual member from a staff member be made available to all members of the Redevelopment Board.

These principles shall be enforced by public admonition through resolution, censure, and other action deemed appropriate by the Board or its appointing authorities. Jurisdiction rests with the Redevelopment Board as a whole, and therefore any member may motion for a finding of a violation of this Rule.

RULE 17 : RULES FOR HIRING OUTSIDE CONSULTANTS UNDER M.G.L. c. 44 §53G

A. Purpose

As provided by M.G.L. c. 44 §53G, the Redevelopment Board may impose reasonable fees for the employment of outside consultants, engaged by the Redevelopment Board for specific expert services. Such services shall be deemed necessary by the Board to come to a final decision on an application submitted to the Redevelopment Board pursuant to the regulations and requirements of the Arlington Zoning Bylaw or any other Town bylaw, regulation, or rule as they may be amended or enacted from time to time.

B. Special Account

Funds received pursuant to these rules shall be deposited with the Treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Redevelopment Board without further appropriation as provided in M.G.L. c. 44 §53G. Expenditures from this account shall be made only in connection with a specific project or projects for which a consultant fee has been collected from the applicant. Expenditures of accrued interest may also be made for these purposes. At the completion of the Board's review of a project, any excess amount in the account, including interest, attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. For the purposes of this rule, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation acceptable to the Board establishing such succession in interest.

C. Consultant Services

In hiring outside consultant(s), the Redevelopment Board may engage engineers, planners, lawyers, urban designers, or any other appropriate professional who can assist the

Redevelopment Board in analyzing the project and to ensure compliance with all relevant federal, state, and local laws, statutes, ordinances, and regulations. Specific consultant services may include, but are not limited to, site plan review, stormwater review, traffic analysis, or land use law. Services may also include on-site monitoring during construction, or other services related to the project deemed necessary by the Redevelopment Board. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three (3) or more years of practice in the field at issue, or a related field. The consultant shall be chosen by, and report only to, the Redevelopment Board and/or its administrator. Hiring outside consultants shall comply with the Uniform Procurement Act, M.G.L. c. 30B §§ 1-19.

D. Notice

The Redevelopment Board shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed by first class United States Postal Service or delivered by e-mail. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five (5) business days of the date notice is given.

E. Payment of Fee

The fee must be received prior to the initiation of consulting services. The Board may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Redevelopment Board within ten (10) business days of the request for payment, or refusal of payment, shall be cause for the Redevelopment Board to deny the application based on lack of sufficient information to evaluate whether the project meets applicable performance standards in the Arlington Zoning Bylaw. The Redevelopment Board will state as such in a letter to the applicant. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee, other than a denial based on insufficient evidence. When the Redevelopment Board's review of a project is completed and a permit issued, any balance in the special account attributable to that project shall be returned within 30 days. The excess amount, including interest, shall be repaid to the applicant or their successor.

F. Appeals

The applicant may appeal the selection of the outside consultant to the Town Manager, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. Such an appeal must be in writing and received by the Town Manager within ten (10) days of the date consultant fees were requested by the Redevelopment Board with a copy received by the Redevelopment Board on the same date as received by the Town Manager. The required time limits for action upon the application shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Town Manager within one month following the filing on an appeal, the selection made by the Redevelopment Board shall stand.

RULE 18 : SIGN APPLICATIONS AND REVIEW PROCEDURES FOR ADMINISTRATIVE APPROVAL

Sign modifications on properties subject to Environmental Design Review (EDR) may be considered for administrative approval by the Director of Planning and Community Development provided the applicant demonstrates that the following criteria are met:

1. The ARB previously approved a sign through the Environmental Design Review Special Permit process or a prior sign permit was approved by Inspectional Services;
2. The sign(s) meet zoning requirements;
3. There are no known zoning or general bylaw violations outstanding on the property;
4. All of the following conditions are met:
 - a. The same number or fewer signs are proposed;
 - b. The same size or smaller sign(s) or sign area is proposed; and
 - c. The sign(s) proposed is in the same locations as the existing sign(s).
5. The sign(s) illumination is the same illumination as for existing sign(s);
6. The new sign(s) are not internally illuminated;
7. The sign(s) are legible from the public way in the Director or their designees' opinion; and
8. There are not any sign(s) proposed for storefront windows.

If sign proposals do not meet all of the criteria above, then the applicant must submit a full Environmental Design Review application for the Redevelopment Board's review and approval. The Department of Planning and Community Development is not required to provide administrative approval and may at any time refer the application to the Board.

Procedure: Submit a \$500 fee payable to the Town of Arlington and one copy of the following documents to the Department of Planning and Community Development

1. Photos of existing signs maintained on the premises;
2. Drawing of building facade indicating location of the proposed sign(s).
3. Drawing to scale of proposed sign(s) with dimensions and construction specifications, materials, mounting method, lighting, and wiring;
4. Cut sheet for any lighting; and
5. Photo simulation, perspectives, renderings, or other representations sufficient to show the nature of the proposed sign(s) and its effect on the immediate surroundings.

RULE 19 : Review of Religious and Educational Uses

A. Purpose

The purpose of Rule 19 is to provide for reasonable regulation of religious, non-profit educational, and child care facilities used primarily for such purposes consistent with G.L. c. 40A, §3. Specifically, reasonable regulation refers to the bulk and height of structures and in determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements. When applying reasonable regulation, the Town shall not unreasonably impede the protected use without appreciably advancing the purposes of the Zoning Bylaw, goals of the Arlington Master Plan, or other development plans and policies of the Town.

B. Procedures

1. Building Inspector Review: To determine whether a religious, non-profit educational, or child care facility use is protected under G.L. c. 40A, §3, the property owner or agent of

an owner shall submit to the Building Inspector such information necessary to make the following findings:

- That the applicant has sufficiently demonstrated that the proposed use of the property or structures is for a religious, non-profit educational, or child care purpose, or appropriate combination thereof; and
- That the applicant has sufficiently demonstrated that the proposed use of the property or structure for these purposes is the principal use.

If the applicant has satisfied the Building Inspector as outlined above, the Building Inspector shall inform the Department of Planning and Community Development ("Department") that a given application is appropriate for administrative review for the purposes set forth by Rule 19 within 30 days.

2. Department of Planning and Community Development Review: The Department shall apply those requirements allowed by G.L. c. 40A, §3, in a reasonable fashion within the specific context of the proposed project as an administrative permitting process with the following responsibilities:

- The applicant bears the burden of establishing that the application of a given regulation should be waived, reduced, or altered as unreasonable within the specific facts of both the site and the proposed use; and
- The Department shall apply only those regulations in accordance with the purposes of the Zoning Bylaw, the goals of the Arlington Master Plan, or other development plans and policies of the Town.

The Department shall prepare an administrative decision outlining any conditions within 30 days, and provide copies to the applicant and the Building Inspector. The applicant may then pursue a permit from the Department of Inspectional Services which shall be issued by the Building Inspector.

C. Appeals

An appeal to the Board of Appeals may be taken by any person aggrieved due to the determination of the Building, as provided in G.L. c. 40A, § 8 and § 15.



**Town of Arlington
Legal Department**

Douglas W. Heim
Town Counsel

50 Pleasant Street
Arlington, MA 02476
Phone: 781.316.3150
Fax: 781.316.3159
E-mail: dheim@town.arlington.ma.us
Website: www.arlingtonma.gov

To: Arlington Redevelopment Board;
Jennifer Raitt, Director of Planning & Community Development

From: Douglas W. Heim, Town Counsel

Date: June 27, 2019

Re: Follow up on Dover Review Process

I write in follow-up to my previous memo regarding review of “Dover Amendment” uses covered under c. 40A sec. 3, and in response to member questions regarding same. In short, the Town cannot require a Special Permit for Dover Amendment protected uses; may apply reasonable regulations in those categories enumerated by c. 40A sec. 3; and should either vest staff with the authority to conduct such “Dover Reviews,” or consider the development of comprehensive Site Plan Review standards not limited to Dover-protected uses only.

Dover Amendment & Special Permits

By way of further background, permit me to note that the Dover Amendment was adopted in 1950 because a Town of Dover bylaw had prohibited educational uses in a residential district. *See. e.g., The Bible Speaks v. Board of Appeals of Lenox*, 8 Mass. App. Ct. 19, 27, n. 10 (1979)(discussing the legislative history of the Amendment. Forty years later, G.L. c. 40A sec. 3 was amended to include child care facilities and certain other uses. In sum, a Town may not “prohibit, regulate or restrict the use of land or structures for religious purposes or for educational [or child care facility] purposes...[but] such land or structures may be subject to reasonable regulations” in eight categories enumerated in the statute. *Trustees of Tufts College v. Medford*, 415 Mass. 753, 757 (1993)

Courts have interpreted c. 40A sec. 3 to prohibit the requirement of a party pursuing a religious or educational use to obtain a special permit because the special permit process grants “a considerable measure of discretionary authority over an educational [or religious] institution's use of its facilities and create[s] a scheme of land use regulation for such institutions which is antithetical to the limitations on municipal zoning power in this area prescribed by G.L. c. 40A, § 3.” *The Bible Speaks*, 8 Mass. App. Ct. at 33; *Campbell v. City Council of Lynn*, 616 N.E.2d 445, (Mass. 1993);¹ Moreover, while towns may adopt reasonable regulations with respect to limited categories of concern – bulk and height of structures and determining yard sizes lot area, setbacks, open space, parking and building coverage, those regulations may not serve to nullify the Dover Amendment’s protections. *See Trustees of Tufts College*, 415 Mass. at 757; *The Bible Speaks*, 8 Mass. App. Ct. at 33 (prohibited bylaw “would enable the board to exercise its preferences as to what kind of educational or religious denominations it will welcome, the very kind of restrictive attitude which the Dover Amendment was intended to foreclose.”)

The 1990 Amendment to “Dover” added childcare facilities to the list of protected uses and was codified with the benefit of the 1979 *Bible Speaks* decision, reading:

No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. As used in this paragraph, the term “child care facility” shall mean a child care center or a school-aged child care program, as defined in section 1A of chapter 15D.

G.L. c. 40A sec. 3, paragraph 3(emphasis added).

However, the 1990 Amendment’s explicit prohibition on a special permit for child care facilities should not be mistaken to imply that a special permit may be required for other Dover uses in light of Courts’ holdings in *The Bible Speaks* and *Trustees of Tufts College*. Indeed while numerous Dover cases discuss special permits, it is often the case that Dover-eligible applicants sought multiple avenues for the relief, leading to avoidable confusion.

For example in *Martin v. Corp. of Presiding Bishop of the Church of Jesus Christ of Latter Day Saints*, 434 Mass. 141 (2001), the Church “applied for a special permit to exceed the height limit [relative to their steeple] and, alternatively, a determination that application of the bylaw's height restriction to the steeple would violate the Dover Amendment.” *Martin* 434 Mass. 141 at 143-44. After months of hearings, the Belmont Board of Appeals granted the

¹ Permit to again note that some cities and towns may have maintained the technical requirement of a special permit under their zoning bylaws for religious or educational uses under certain circumstances. However in such instances Courts have found that they often have “no discretion” to deny such special permits. *See Forster v. Bd. of Appeals of Belmont* (14 Mass. L. Rep. 463, 2002 Mass. Super. L. Rep. 463 (Mass. Super. Ct. Mar. 15, 2002)(School required to apply for “special permit” under certain facts, but Dover Amendment afforded zoning board no discretion to deny a special permit application as submitted).

special permit request on the dual grounds that the steeple height was reasonable “as a Dover type regulation of height” and reasonable as a “special permit matter.” *Id.* at 144.

Plaintiff abutters successfully challenged the issuance of the special permit in Superior Court, in part because the Court found the steeple height non-essential to the practice of the Mormon religion, and in part because the Board of Appeals had abused its discretion given special permit criteria in the Zoning Bylaw. *Id.* at 144-45. The Superior Court was ultimately reversed on the grounds that the proper question was whether or not the structure was to be used for a religious purpose, and therefore the Court’s inquiry (and by implication the Board’s) into the genuine religious need for a steeple exceeding the Zoning Bylaw’s height restriction was improper. *Id.* at *passim*.

Hence, in addition to questions about whether or not a special permit should have been considered in the first place under the holdings of *The Bible Speaks*, months of hearings yielded a finding of an abuse of discretion against the Board by the Superior Court, as well as a reversal of the lower court on the grounds that Dover-eligibility precluded a determination as to how central the steeple was to the religious use of the applicant anyway. Both findings provide reasons to be wary of a quasi-special permit hearing process on Dover uses under the Zoning Bylaw of Arlington.

ARB Review vs. Staff Review Considerations

As noted in my previous memorandum, municipalities implement a wide range of strategies for Dover eligibility and regulation “Reviews,” with some vesting authority entirely within the Building Inspector or Commissioner as Arlington has traditionally done, and others having their Planning Director, Planning Board, Board of Appeals, or other similar entities engage in so-called “Site Plan Review” or “Limited Plan Review.”² A Site Plan Review however is not a product of c. 40A. Rather, it is entirely created by local ordinance to further regulate permitted uses (often focusing on design), not determine whether a given use should be allowed as with special permits or a variances. *Bowen v. Board of Appeals of Franklin*, 36 Mass. App. Ct. 954, 954-55 (1994). Moreover, any process for examining a Dover-protected use cannot be tantamount to a special permit process under a different name. *See e.g., Jewish Cemetery Ass’n of Mass. v. Bd. of Appeals of Wayland*, 18 LCR 428, 432 (Mass. Land Ct. 2010)(discussing Site Plan Review’s limitations under Dover)(internal citations omitted).

In addition to concerns about the potential for Site Plan Review to venture into the realm of special permit considerations, the *Martin* case highlights the difficulties of a public hearing process applied to controversial uses where the use itself by law is not the proper subject of discussion. In that vein, it also bears noting that other elements and requirements of c. 40A for special permits and variances – abutter notifications for example – are not typical of Site Plan

² Site Plan Review processes themselves vary widely in scope, application, and administration. In some communities, Site Plan Review is conducted by staff. In others, it is conducted in a hearing-like process. In still others, the requirements of Site Plan Review depend of the project.

Review ordinances. Thus, the transparency afforded by a Board-driven Site Plan Review-style Dover Review is mitigated by the far more limited scope of consideration and process of same.

In light of the foregoing opportunities for complication and misunderstanding, Dover Reviews (as well as other Site Plan Reviews) are often administratively conducted by the Building Commissioner and/or Planning Department. As such, this Department's initial recommendation was to vest the Building Inspector with the authority to determine eligibility for Dover protection consistent with the Zoning Bylaw's designation of the Inspector as the Zoning Enforcement Officer; and further to share responsibility to ensure reasonable regulations are applied between the Inspector and the Department of Planning and Community Development. In such a process, the Zoning Board of Appeals could hear an appeal of the decision of a Building Inspector, and of course retains substantial access to both offices relative to the application of reasonable regulations.

If the Board is inclined however to have a greater role in Dover Reviews, I strongly recommend the development of a more comprehensive Site Plan Review process, which could include, but not limit itself to Dover protected uses. For one, such a comprehensive process ameliorates concern that a Site Plan Review is a special permit process by a different name for religious, educational, and child care uses only. More importantly, it would provide opportunity to clearly delineate the substantive and procedural goals and metrics of a public review process designed not to consider the uses themselves, but the design conditions of those uses consistent with both c. 40A sec. 3, and the Zoning Bylaw.



Town of Arlington, Massachusetts

Draft ARB annual goals

Summary:

7:45 p.m. -
8:00 p.m.

- Staff and board will review draft goals and may vote to adopt them

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	Agenda_Item_2_-_ARB_Draft_2019-2020_Goals.pdf	ARB Draft 2019-2020 Goals



ARLINGTON REDEVELOPMENT BOARD

TOWN HALL, 730 MASSACHUSETTS AVE., ARLINGTON, MASSACHUSETTS 02476

TELEPHONE 781-316-3090

2019-2020 GOALS

1. ZONING BYLAW AMENDMENT

a. Advance Zoning Bylaw amendments to future Town Meetings, ATM 20, and STM Fall, 20

- i. Action – Encourage development and redevelopment opportunities to generate a full range of housing options for all incomes and housing types and also encourage mixed-use development, including new commercial development
 - a) Engage in dialogue about the regional Metro Mayors Housing Task Force work, including development of local housing goals, discussion about housing needs and demand in Arlington, understanding about options and approaches to address housing needs and demand, and barriers to the creation and preservation of housing in Arlington. (Summer 2019 through Fall 2020)
- ii. Action - Review and amend Environmental Design Review criteria (Spring 2020)
- iii. Action –Add apartment conversion to definitions (Spring 2020)
- iv. Action – Review forthcoming stormwater management strategy for the Town to improve surface water quality and related bylaw amendments (Spring 2020)
- v. Action – Review forthcoming Energy Working Group recommendations and Net Zero Plan zoning recommendations to reduce energy consumption (Fall 2020)

2. LONG-RANGE PLANNING

a. Review progress on implementation of the Master Plan

- i. Action - Review work of Master Plan Implementation Committee and Working/ Study Groups and modify as needed (Fall 2019)
- ii. Action – Develop process to amend Master Plan goals and objectives (Fall 2019)
- iii. Action - Develop annual Action Plan (Spring 2020)

b. Ensure transparent, welcoming, and efficient permit review and delivery system

- i. Action – Convene All Board meeting to make recommendations to amend permitting process with boards and commissions, including Select Board, Conservation Commission, Historical Commission, Historic Districts Commission, Zoning Board of Appeals, and Board of Health (Fall 2019/ Spring 2020)

c. Ensure that economic development goals are achieved in Arlington's business districts

- i. Action – The DPCD Director will provide quarterly updates on progress meeting goals, including planning goals, business retention and attraction goals, and new mixed-used development (Ongoing)

3. ARB PROPERTY ASSET MANAGEMENT AND MAINTENANCE

a. Ensure that ARB properties are fully-tenanted and financially stable and that physical assets are maintained and improved

- i. Action – The ARB designee will work with DPCD Director and Permanent Town Building Committee to oversee FY20-FY21 Central School renovation. (2020)
- ii. Action - DPCD Director will provide quarterly property updates on improvements to other properties in portfolio. (Quarterly)

4. SUPPORT COMMUNITY PLANNING GOALS

a. Participate in range of Town committees and initiatives that advance community planning goals

- i. Action - Appoint/ re-appoint committee members serving on ARB committees and ARB designees to committees. (Fall 2019)
- ii. Action - Collaborate with committee implementing Arlington Heights Action Plan (Ongoing)
- iii. Action – Receive updates from ARB designees to Envision Arlington Standing Committee, Open Space Committee, Housing Plan Implementation Committee, Community Preservation Committee, and others on an ongoing basis. (Ongoing)



Town of Arlington, Massachusetts

Arlington Heights Action Plan Implementation Committee (committee charge and membership)

Summary:

8:00 p.m. -

- Board will discuss and may vote on creation of committee

8:10 p.m.

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	Agenda_Item_3_-_AHNAP_committee.pdf	AHNAP Committee



TOWN OF ARLINGTON

DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

2019

Arlington Heights Neighborhood Action Plan Implementation Committee **Committee charge and membership**

The Arlington Heights Neighborhood Action Plan Implementation Committee will oversee the implementation of the Arlington Heights Neighborhood Action Plan (AHNAP), including the recommendations related to zoning, design standards, parking, wayfinding, streetscape improvements, placemaking at the MBTA-owned Arlington Heights Busway, and other local regulations.

The Committee will include up to eleven members. Arlington Redevelopment Board members shall consider for appointment, but need not appoint, persons who were members of the Steering Committee that developed the AHNAP. One member must represent the following: Planning and Community Development, Public Works, Park and Recreation Department, Arlington Chamber of Commerce, and the Housing Corporation of Arlington. There shall be at least two owners of businesses located in Arlington Heights and two representatives of non-profit organizations based in Arlington Heights. There shall be at least two members who are Arlington Heights residents. The Committee term shall be one year.

Key recommendations of the AHNAP are as follow:

- create one entirely new business district to replace the existing four business districts;
- re-zone part of the existing Industrial District, the four acre "Gold's Gym" site, as a Planned Unit Development (PUD);
- review the existing Design Standards to ensure they reflect neighborhood specifics;
- work with the MBTA to better utilize the bus turn-around lot; and
- explore ways in which creative place-making projects, both temporary and medium/long-term, can bring vitality to the Heights and foster a more active and vibrant street life.



Town of Arlington, Massachusetts

Meeting Minutes (4/24, 5/20, 6/3)

Summary:

- 9:10 p.m. -
9:20 p.m.
- Board will review draft minutes and may vote to approve them

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	04242019_Draft_Minutes_Arlington_Redevelopment_Board.pdf	ARB Draft Minutes 4/24/19
▢ Reference Material	05202019_Draft_Minutes_Arlington_Redevelopment_Board.pdf	ARB Draft Minutes 5/20/19
▢ Reference Material	06032019_Draft_Minutes_Arlington_Redevelopment_Board.pdf	ARB Draft Minutes 6/3/19

Arlington Redevelopment Board

April 24, 2019, 7:45 p.m.

Town Hall

PRESENT: Andrew Bunnell (Chair), David Watson, Eugene Benson, Kin Lau

STAFF: Jennifer Raitt, Director, Planning and Community Development

The Board remained in session during Town Meeting. The Chair convened a meeting among ARB members to discuss Town Meeting business regarding the continued Town Meeting discussion of Article 16. Staff was present for the first portion of the meeting and was excused during deliberations and decision.

Members discussed that they listened intently to Town Meeting's concerns on Monday night and Town Meeting Members' desire for more information and involvement and additional discussion with members of Town Meeting. The ARB should therefore reconsider its position and choose to recommend a vote of No Action on articles 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, and 16. With a No Action vote, these articles will be referred back to the ARB and staff for further study and recommendation to a future Town Meeting.

The Board still believes these recommendations are a net positive for the town, and that the encouragement and growth of mixed-use and affordable housing development is critical to Arlington's progress and growth, but understand that Town Meeting would like more information.

The Board discussed the importance of delivering this message to Town Meeting prior at the opening of Article 16 tonight and that we encourage Town Meeting Members and their constituents to remain informed and to take part in the discussion and to fully participate as the conversation continues to final ZBL recommendations. It is also important to convey that this discussion is part of a broader conversation as a part of the ongoing master plan implementation process and that the board looks forward to a town-wide discussion.

_____ moved to accept a vote of No Action, _____ seconded. All voted in favor.

Adjourned to Town Meeting.

Arlington Redevelopment Board
Monday May 20, 2019, 7:30 p.m.
Town Hall Annex, Second Floor Conference Room
Meeting Minutes

This meeting was recorded by ACMI.

PRESENT: Andrew Bunnell (Chair), David Watson, Eugene Benson, Kin Lau

STAFF: Jennifer Raitt, Director, Planning and Community Development

The Chair called the meeting to order and notified the attendees that ACMI is recording the meeting. The Chair then introduced the first agenda item, Presentation by Arlington High School Building Committee (HSBC).

HSBC members introduced themselves: Sandy Pooler, Deputy Town Manager, Kent Worst, teacher at Arlington High School (AHS), John Cole former chair of the Permanent Town Building Committee, Jeff Thielman, Chair of the HSBC. Mr. Thielman reviewed the proposal approved by Town Meeting. As of 2013, the state placed AHS on warning because the facilities are deficient and the layout is very complicated. AHS was built in 1914 with additions in 1938, 1960, and 1961. In 1970, a proposal to build a new high school was voted down, leading to the 1980 and 1981 additions. The building serves multiple uses as well as the High School, including the Lab Collaborative, Adult Community Education, and Town offices. In 2014 the process started, was accepted by the Massachusetts School Building Authority (MSBA) in 2015, and the HSBC formed in 2016. The HSBC has been working with MSPA for several years now on this project. The HSBC expects to receive \$86 million from the State for this project.

Mr. Thielman explained that there are some site issues that increase the project costs. The high school site is compact, there are grade changes, the Mill Brook runs under the site, and some of the site is contaminated. Mr. Thielman explained that some Town offices in the current High School will not be located in the new High School building. The Information Technology Department will be moving to Public Works building, the Comptroller's office will be moved to Town Hall. Payroll, District Administration, and Menotomy preschool will remain at AHS. MSBA will be reimbursing the Town for the cost of the pre-school.

Mr. Worst reviewed the educational plan written by AHS principal. Mr. Worst reviewed the layout central spine that connects Mass Ave. from 55 doors down to 2 public entries and exits. The four major components of the school will be along the "spine" of the building.

The HSBC decided to build a new school because it is the best option for children, viability/sustainability for the school, and a faster construction cycle. The other option would also require longer time with modular classrooms which are not reimbursable by the Commonwealth. The design will also allow more green space around of the school and more capacity for fields behind the school. Mr. Worst said the design will save the lawn and all mature trees on the lawn. Historical aspects and legacy of the site should be commemorated and will be incorporated into the new campus.

Mr. Pooler explained that the new High School will be a green building, a net zero building with geothermal heating. It will be determined what the mix of geothermal and other elements to make the building as green as possible. The plans currently meet silver LEED certification with a high likelihood to hit gold. The new High School will be carbon neutral, the utilities provided and energy consumption analyses of building plans versus current building find the energy use will be at least a third less than the existing building.

Mr. Thielman said if there is a 'no' vote on the debt exclusion on June 11th, the design process will have to start over. The HSBC would have a new design firm contracted within two years, will identify a new OPM, and request a new debt exclusion. With that option the Town will have an inferior school with some undersized spaces and some windowless education spaces and will cost more money. The HSBC is holding a forum at town hall with give a longer presentation to allow for more dialogue with the community.

Mr. Watson asked if the HSBC will need anything formally reviewed and approved by the ARB. Ms. Raitt stated there would not be any formal Special Permit review. Mr. Watson asked about how much more green space would be on site after the 3rd and 4th wings are built and the fields are completed. Mr. Thielman stated there will be more green space, an amphitheater on the side of the building, a courtyard, green space in front and back of the building, softball, baseball, soccer fields, and connection to the bikeway. Mr. Watson asked about the involvement of the neighboring Schouler Court residents. Mr. Thielman said the Schouler Court residents have been attending meetings and have been updated.

Mr. Lau asked who will be overseeing the construction. Mr. Thiemann said the oversight committee requested proposals and could have a construction company as soon as early June. Skanska is the Construction Manager (CM) at Risk.

Mr. Benson asked how the staff is reacting to these changes. Mr. Worst said the staff is very excited about working in a new building; the current building design is confusing, there is poor temperature control in the building, and the building is in a state of poor repair.

The Chair introduced the 2nd agenda item, ARB Property Portfolio updates. Ms. Raitt reviewed her memo to the Board. She explained that the ARB has to decide if they will grant an extension for the tenants at 23 Maple Street for an additional five years, up to 6/30/2025. The ARB has to notify the tenant by 6/30/19 of their decision. Ms. Raitt recommends not extending their lease understanding the building and capital needs throughout the ARB's portfolio. The Town is also looking for options for additional space during upcoming construction at the Central School and other Town buildings. The Board will have the option to lease the space to a future tenant through a Request for Proposals process managed by the Town. The Chair stated his support to not renew the lease for 23 Maple. Mr. Lau motioned to approve the recommendation not to renew the lease. Watson seconded. All voted in favor 4-0.

Ms. Raitt reviewed the next property, the STEP Program (Schools for Children), housed at Central School. Their lease ends on 6/30/19 with an option to extend monthly for an additional 6 months, until 12/31/19. That will have an impact on the Central School renovation plan causing a two-month construction delay. The plan was to start the renovation on the second floor so the ground floor tenants can move to the second floor and then move the renovation to the ground floor. STEP currently plans to stay through the end of summer 2019.

Ms. Raitt then discussed Christine Bongiorno's, Director of Health and Human Services (HHS), memo requesting a name change for the Arlington Senior Center. Many communities have moved towards more age-friendly terminology. They propose renaming the building the Arlington Community Center. Ms. Raitt said that the Building should remain the Central School since it is historically known as the Central School, but to support the HHS's request to allow the Senior Center to change their name to the Community Center. Mr. Benson asked if the Council on Aging (COA) board and Arlington Seniors Association (ASA) support the name change. It is Ms. Raitt's understanding that they are in support. Mr. Lau said he feels this decision is up to the COA and ASA. The Chair moved to retain the name Central School for the building but allow the HHS to rename the space being used as the Senior Center to the Arlington Community Center. Mr. Lau seconded. All voted in favor 4-0.

The Chair introduced the 3rd agenda item, Debrief Annual Town Meeting/ Special Town Meeting, next steps. Ms. Raitt provided the Board with a summary of what was adopted during town meeting, other bylaw amendments of interest and funding appropriations made. Ms. Raitt announced that Rachel Zsembery will start as a member of the ARB and will be attending the 6/3/19 meeting. Ms. Raitt asked for any additional thoughts and ideas before the 6/3/19 meeting to assist with the ARB's goal setting. Mr. Watson stated he would like to take into account community priorities when setting goals for next year.

The Chair moved to adjourn the meeting. Mr. Lau seconded. All voted in favor 4-0.

Meeting adjourned.

Arlington Redevelopment Board
Monday, June 3, 2019, 7:30 p.m.
Town Hall Annex 2nd Floor Conference Room
Meeting Minutes

This meeting was recorded by ACMi.

PRESENT: Andrew Bunnell (Chair), David Watson, Eugene Benson, Kin Lau, Rachel Zsemsbery

STAFF: Jennifer Raitt, Director, Planning and Community Development, and Erin Zwirko, Assistant Director

The Chair opened the meeting and notified the attendees that the meeting is being recorded by ACMi. The Chair welcomed new ARB member, Rachel Zsemsbery.

The Chair introduced Agenda Environmental Design Review, 189 and 191 Broadway, Arlington, MA - Docket #3598 Public Hearing. Mr. Annese introduced the Dr. Jennifer Schickler and Dr. Catherine Cole, owners of the Arlington Animal Clinic and gave an overview of the project. Arlington Animal Clinic includes veterinary medicine and surgery and has been in operation since 1975 and would like to acquire the building at 189 Broadway to expand the practice. There is no parking at 191 Broadway if 189 is acquired then that would include five parking spaces. There will be six bicycle parking spaces on the exterior of the building and three bicycle parking spaces inside the building for Arlington Animal Clinic staff. No additional pervious area will be added or construction will take place with this project, meaning that a stormwater management plan is not required.

The architect reviewed the project plans and explained how they would create continuity between the two buildings. The plan is to incorporate design elements to clean up the façade and benches for outdoor seating. An overview of the site was provided, including bike and vehicle parking locations and screening for the existing dumpster. The existing trees will remain and landscaping will be added in the buffer between the rear lot and abutting properties. The HVAC will be placed on top of the roof; the unit is 3.5 feet tall. The existing transformer will be repainted and no additional equipment will be added.

The Chair said that he supports the proposal and is glad this business can expand and remain in town. Mr. Lau asked if there would be a diesel or gas generator on the roof and if there will be screening on the residential side of the building, and how they would access the roof. The architect explained there would be a gas generator and will explore a screen on the residential side of the building. There will be a ladder installed to access to the roof. Mr. Watson said he likes the project and that a longstanding business will stay in town. He said he is concerned about bike rack placement where it is in the driveway there is possibility of maneuvering cars hitting the parked bikes. He stated that bike racks are typically placed closer to a building entrance. The bike rack style used in the plans requires bikes to be lifted into the bike racks. The new bylaw states that the style of bike rack would not require a bike to be lifted into bike racks. Ms. Zsemsbery said she appreciates the material choices for this project. She asked about the signage reflectivity of the metal sign with the overhead lights, and if the sign will have a matte or polished finish. The sign will be made of steel with a patina to the material and coated to make the material more matte. Ms. Zsemsbery asked if there will be additional signage for the business at the entrance. There will be logos on the window and business hours on the doors.

The Chair opened the meeting to public comment. Catherine McKinnon 36 Warren Street said that her property is on the other side of the fence and wanted to know what kind of waste will be going into the dumpster. She is also concerned about noise emissions from the AC unit. The applicant will explore acoustical screening options to help direct the sound away from neighbors. James Chen 38 Warren Street said he is concerned about the noise and aesthetics. He asked if there will be more windows on the back of the building. Windows will not be added. Ms. McKinnon added that the existing fence is old and asked if there will be landscaping to cover the fence. Dr. Cole explained that the fence will be repaired.

The Chair moved to approve the project with the following stipulations. Any final building signage, including additional clinic branding and clinic hours shall be reviewed and approved by the Department of Planning and Community

Development and Inspectional Services. The Owner will work with the Department of Planning and Community Development to explore placing the exterior bike rack to the front of the parking lot. More bicycle parking is provided within the interior of the building, which will require further review by the Department for consistency with bicycle parking regulations. The Owner shall provide to the Department of Planning and Community Development for review and approval specifications of the rooftop units and appropriate screening and noise abatement for said units. Location of roof access and related safety features shall also be reviewed and approved by the Department. The Owner shall install soundproofed windows along the Broadway facade. Mr. Lau moved to approve. Mr. Watson seconded. All voted in favor 5-0.

The Chair introduced the second agenda item, Construction of the Egerton–Herbert Green Infrastructure Project presentation by Mystic River Watershed Association. Patrick Herron, Director of the Mystic River Watershed Association presented. Mr. Herron provided an overview of the project implemented at Egerton and Herbert and the path for Arlington for stormwater abatement. Mr. Herron said stormwater carries a lot of pollutants that impact the Mystic River. High nutrient levels due to the pollutants have led to a bloom of invasive plants like the Water Chestnut plant that covered up to 70% of the river in 2018. Bacteria or harmful algal blooms turn the river green which also shows that the river has too many nutrients. All impaired for nutrients on not enough dissolved oxygen in the local MRWA watershed. Stormwater currently runs directly to the rivers collecting nutrients from pavement. Phosphorus from pavement run off 10-30% or the phosphorus load comes from fertilizer; the remaining amount comes from the erosion, organic materials, and litter. Mr. Herron said another option is infiltrating water into the ground, since the ground has a high capacity to absorb nutrients. Feeding the ground water leads to a healthier river.

The intersection of Egerton and Herbert was identified as a good location for a bioretention basin, or rain garden, on either side of the street. The project was funded by DEP with a grant of \$50,000.00 which went towards project management, construction, and design for the two basins. The type of materials used to fill the basins allow for infiltration and storage. The basins are designed to not have standing water to avoid a potential mosquito breeding area. Mr. Herron said that the MRWA will continue to apply for grants for similar projects in the future. Mr. Herron said he would like the ARB to encourage developers and builders to integrate these types of bioretention structures to help the Town reduce the nutrient load. In the future it is possible that towns will be held responsible for reducing nutrient run off by 50-60% and it would be in the interest of the Town to shift the burden to developers.

Mr. Lau asked how the ARB could pass this information and standards on to developers. Mr. Watson said a design guide may be needed. Ms. Raitt explained that the Department of Planning and Community Development is working with Engineering and Conservation staff to update the town's stormwater bylaws. They will be updating the best practices guide; the raingarden could serve as an illustrative project. Mr. Herron noted that the Massachusetts stormwater handbook is being updated hopefully within 18 months with some of those resources included. Some states are including standard design details in those guides. Mr. Lau asked about the square footage needed for this type of stormwater basin, developers tend to only put water retention structures under parking garages. Mr. Herron said that the Town's compliance with the MS4 permit will require development of an acre or more to infiltrate one inch of water on site into the ground. Ms. Raitt said once the new stormwater bylaw is completed it will provide boards and commissions with the proper guidance about how to prescribe any solutions and will comply with the MS4. The Department of Planning and Community Development is working in collaboration with Mystic River Watershed Association.

Mr. Herron mentioned that we do not necessarily need to build very big rain basins, the first .1 inches of stormwater carries about 90% of the pollutants down the street. After that initial .1 inches of rainwater that the water becomes much cleaner, so capturing the beginning of the storm does a lot of good. Commitment to maintain the water retention basins is also required. Mr. Watson asked how road salt impacts the bioretention basins. Mr. Herron said that they chose salt resistant plants for this project; salt stunts plant growth. There are findings that salt levels are also increasing in the Mystic.

The Chair introduced the next agenda item, ARB Property Portfolio update. Ms. Raitt explained that the lease between the ARB and Arlington Retirement Board expires on 6/30/19. Mr. Raitt said the plan is to have the Retirement Board stay in the same location for six months and then move upstairs to the second floor of the Central School Building, to a portion of the office that is now the Weatherization office. Ms. Raitt proposed that the ARB amend the lease term through an extension keeping them in current space through 12/31/19 and extend their lease to 6/30/2021 and change their lease schedule.

Ms. Raitt said it would be best to keep the Retirement Board in the building because there is overlap between people using the Council on Aging and those visiting the Retirement office. The rent will be staying the same after the move, the Retirement board will be moving into a smaller space at 450 square feet. Mr. Lau moved to approve. Mr. Watson seconded. All voted in favor 5-0.

The Chair introduced the next agenda item, ARB Rules and Regulations draft amendment. Ms. Raitt explained the addition of a Dover review process via rule 19. Mr. Benson reviewed his concerns about wording and suggestions for the proposed changes. Mr. Benson said he has a policy concern where the proposal would allow waiver of placement by the Department of Planning and Community Development without a public hearing. Mr. Benson said he would not want to lose the opportunity for public input. Mr. Benson suggested that the ARB build a public input process into the administrative process or instead of the administrative process it should go to the ZBA or ARB and have a public hearing. Mr. Lau asked if that would be contrary to Massachusetts General Law. Ms. Raitt explained that Town Counsel recommended moving to an administrative process. Massachusetts General Law and case law makes it clear that these uses cannot be required to file special permits or public hearing processes. The Chair suggested tabling the conversation until the Board learns more from Town Counsel.

The Chair introduced the next agenda item, Next steps regarding mixed-use and multi-family use zoning. Ms. Raitt explained the plan to engage the Select Board and the ARB for conversations about what to do next regarding the need for many types of housing, working with the Metro Mayors Coalition Housing Task Force discussing local goals going forward, and all options for addressing housing issues in Arlington. Ms. Raitt expects to have those conversations and presentations culminate sometime in September at a joint Select Board and ARB meeting to review options for moving forward. Ms. Raitt said both boards will address needs and demand for housing, commercial space, mixed-use, and decide a path to guide staff moving forward. Ms. Raitt and the Town Manager also will be meeting with all Department Heads. This will potentially mean that there will be a Special Town Meeting in the fall 2020. Mr. Watson said he likes the overall process and asked if the meetings will be open to the public. Ms. Raitt said all meetings are public and the boards can determine the best community engagement plan moving forward. Mr. Benson said he is a little worried about moving ahead just focusing on housing without also including a commercial component. The Chair agreed and said he expressed that concern to the Town Manager. Ms. Raitt stated that the mixed-use, industrial zoning, and Arlington Heights action plan will remain important and help to continue that discussion and move forward with recommended actions.

The Chair moved on to the next agenda item, ARB Meeting Minutes (4/1, 4/8, 4/22). Mr. Lau moved to approve 4/1 minutes. Mr. Benson seconded. Approved 4-0. Ms. Zsembery abstained. Mr. Watson moved to approve 4/8 minutes. Mr. Lau seconded. Approved 4-0. Ms. Zsembery abstained. Mr. Benson moved to approve 4/22 minutes. Mr. Watson seconded. Approved 4-0. Ms. Zsembery abstained.

The Chair introduced the last agenda item, Upcoming ARB schedule and announcements. Ms. Raitt said that the Hazard Mitigation Plan is being developed with MAPC, which is an update to the 2012 plan. There will be a public meeting on June 13, 2019 in the Senior Center to discuss the plan. Mr. Benson asked if there will be any zoning bylaw changes that come from this plan. Ms. Raitt said that she does not expect the plan to recommend any proposed bylaw amendments. Ms. Zwirko said that the update will maintain the Town's eligibility to access Federal Emergency Management Agency (FEMA) grants to mitigate disasters or to prevent future disasters. Ms. Raitt notified the Board that the June 17th ARB meeting will be cancelled.

The Chair then opened the meeting to public comment. Don Seltzer acknowledged what Mr. Watson said about resident participation in housing discussions going forward. He looks forward to finding common ground going forward. Mr. Seltzer asked about the Board's decision to vote No Action on Article 16 during Town Meeting. He asked when the decision was made and if there will be meeting minutes. Ms. Raitt said that the minutes of that meeting will be put together if the Board so desires. Steve Revilak commented on Mr. Herron's MRWA presentation that Arlington has good soil for infiltration. Mr. Revilak hopes that the Town can follow the guidance of reducing impervious surface in Town going forward. Charles Harcorn commented that he paved over his cobblestone driveway and now he realizes that that may not have been the best option after listening to the presentation on infiltration. Mr. Harcorn said perhaps there should be public outreach so residents are aware that there are more options for their driveways.

The Chair asked for a motion to adjourn. Mr. Lau moved to adjourn. Mr. Watson seconded. All approved 5-0.

Meeting adjourned.

DRAFT