

Arlington Redevelopment Board
Monday, March 2, 2020, 7:30 PM
Senior Center, Main Room, 1st Floor, 27 Maple
Street, Arlington, MA 02476
Meeting Minutes

This meeting was recorded by ACMI.

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

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

The Chair called the meeting to order and notified all attending that the meeting is being recorded by ACMI.

The Chair introduced the first agenda item, Warrant Article Public Hearings 2020 Annual Town Meeting. The Chair gave an overview of the warrant article public hearing process. The Board will hear from each proponent and then the public will be provided time to comment, the Board will not take any action until all of the articles have been presented and all public comment have been received. The Board will then deliberate at a separate meeting, tentatively scheduled for 3/26/2020 (The meeting was later rescheduled for the evening 3/30/2020). The Board will continue to collect written comments up until the end of the warrant article review hearings and there will be open forum at each of the review meetings available for comments.

The Chair introduced Chris Loreti the proponent of Article 34 Zoning Bylaw Amendment/Clarification of the Definition of Mixed-Use. Mr. Loreti stated that definition of mixed-use is two or more distinct land uses. Article 34 would add the following phrase to the definition of mixed use: provided that any such distinct uses are not otherwise prohibited by this bylaw as individual land uses in the same district. Mr. Loreti stated that for each zoning district Town Meeting approves zoning for land uses and the ARB has no flexibility to change designations and the ZBA cannot allow use variances for prohibited use because Arlington does not allow use variances. The ARB or ZBA can only decide whether a special permit is merited for those uses that are designated as special permit uses. 3.3.3a of the Zoning Bylaw requires the Boards to make a determination that the designated use is a special permit use.

Mixed-use is allowed in every business district but that does not allow for prohibited uses across those business districts. For example, gas stations are only allowed in a B4 zoning district according to the bylaw. Mr. Loreti suggests that as part of mixed-use zoning a gas station with a convenience store could be allowed in districts other than just B4. The amendment applies to development in both single and multiple zoning districts and reaffirms that within a zoning district the uses in a mixed-use development have to be allowed as a single use in that same zoning district. Mr. Loreti said that his amendment does not reduce any flexibility the ARB currently has. Mr. Loreti said that his amendment is consistent with the Master Plan and would clarify what is defined as allowed uses. Mr. Loreti said that he feels this will help to avoid permit appeals.

The Chair opened the floor to comments regarding Article 34.

Don Seltzer said that this amendment should be classified as a routine administrative correction. Mr. Seltzer said that this amendment does not change the intent of the bylaw but only adds needed clarification. Mr. Seltzer played an excerpt from the 2016 Town Meeting regarding the use in mixed-use districts on his phone. The Chair said that Mr. Loreti already submitted the transcript from 2016 Town Meeting with his proposal and posted on NovusAgenda. Mr. Seltzer said that he feels it was made clear in 2016 that mixed-use was to fit what is already allowed by zoning.

Patricia Worden said that this is a necessary housekeeping article. Mixed-use must fit with uses allowed in that district and uses must comply with zoning for that district.

John Worden said that there is no harm adding clarity so there is no possibility for error, confusion, or dispute.

The Chair introduced John Worden proponent of Article 28 Zoning Bylaw Amendment/Conversion of Commercial to Residential. Mr. Worden said if a mixed-use development with commercial and residential units decides to change one or more of the commercial units to residential units they just do that as a right. Mr. Worden explained that he feels that if a mixed-use development is built, taking advantage of the mixed-use zoning allowances such as reduced set-backs, minimal side yards, and minimal back yards, there is no recourse if the developer then converts the building to entirely residential units. Mr. Worden said that he feels that this is a violation of the intent of the law and if commercial units are

to be converted they should only be approved for affordable housing.

Mr. Benson said he agrees that the Town needs more affordable housing. There are many different levels of affordable housing besides the level of affordable housing as defined in the bylaw. Mr. Benson asked if when Mr. Worden says "affordable housing" if he means affordable housing as defined in the zoning bylaw. Mr. Worden said that the housing should just be at the level of affordable housing defined in the bylaw. Mr. Worden said that people who fit that criterion need the help and people at other levels of affordability can somehow find housing. Mr. Benson asked how a police officer or a firefighter would be able to find housing in Town if not eligible for affordable housing and theoretically not planning to buy an expensive home.

Mr. Benson said this article would actually prevent someone from converting units to be affordable. Mr. Benson said to have affordable housing built means that usually a larger project is needed; projects require scale to access state low-income housing tax credits with other funds to build the actual housing. Mr. Benson said those funds would not be available to convert a storefront to one or two affordable housing units. Mr. Benson said that inclusionary zoning starts with 6 units because 5 market rate units are needed to subsidize the cost of the one affordable unit. Mr. Benson said Mr. Worden would have to show how one could convert one or two units to affordable units. Mr. Benson said that this will not result in additional affordable housing; it will result in buildings not being converted or fixed up, which is a recipe for things remaining static.

Mr. Lau asked if this proposal is for new buildings or existing mixed-use buildings. Mr. Lau said that new construction would not work because new mixed-use construction would not be approved if it is all housing. Mr. Worden said a special permit should be required to be able convert the commercial space to affordable housing units. Mr. Worden said that the commercial spaces in mixed-use buildings are taxable non-public service expenses and this article would allow the Town to make money where money would be lost. Mr. Lau asked if the article is geared towards all mixed-use buildings or just existing buildings. Mr. Worden said it should apply to all.

The Chair opened the floor to questions from the public.

Don Seltzer asked for the Town's definition of affordability. Ms. Zwirko said that the definition for rental properties is rent is 30% of a household at 60% of the median income. Ms. Zwirko said the affordability ruling for people purchasing is 70%. Mr. Seltzer said that the AMI that applies now is around \$120,000.00 so saying that these affordable apartments are geared for those families making \$72,000.00 per year, which is not low income more like moderate income. The Chair said that unless we have some hard numbers it is irresponsible to have this discussion. Ms. Raitt said that gross household income varies by household size. Mr. Seltzer said that his point is that we are not talking about low-income families we are talking about moderate-income, typical of what a teacher may make.

Chris Loreti asked to clarify that in a mixed-use development there is no possibility of converting commercial space to residential without the Board's approval. We would like to avoid the situation where a mixed-use building has the commercial space converted to residential. Would they just ask the building inspector and get a building permit. The Chair said if they had to get a special permit in the first place, then they would need to reopen the special permit to change the use. Mr. Loreti said then prohibits the conversion unless the residential units would be for low to moderate incomes. Mr. Loreti suggested a by-law change in the future to prevent conversion of commercial space in mixed-use buildings without approval from the Board.

Steve Moore asked if a developer builds a mixed-use project if there is a limitation on conversion for that particular developer. The Chair said special permit is required to change the use the special permit would have to be reopened for the Board's review and approval. Mixed-use projects require a special permit.

The Chair introduced articles 43, 35, and 36 and said the Board will discuss all three articles together because they all are pursuant to similar subject matter. Regarding Article 35, Zoning Bylaw Amendment/Parking Requirements, the Chair said Gami Maislin asked the Board to vote no action on since it is similar to Article 43, as proposed by the Board.

The Chair introduced Marvin Lewiton proponent of Article 36, Zoning Bylaw Amendment/ Parking Regulations. Mr. Lewiton said his article is different to the article proposed by the Board because it is less restrictive. As a Town Meeting Member, Mr. Lewiton said he has heard the town express the importance of increasing the commercial tax base and the desire to have three vigorous business districts. Mr. Lewiton said restaurants have been a driver of business in the town and to have people coming to the town, which may have a positive effect on other businesses as well. Mr. Lewiton said the town is more desirable looking when there are not so many empty storefronts. Mr. Lewiton said the article proposed by the Board is restrictive and may not support the opening of new businesses.

Mr. Lewiton said that he submitted a list of approximately 25 restaurants as examples of businesses that would not meet at least three of the Transportation Demand Management requirements in the zoning bylaw. Mr. Lewiton would like to see parity for new businesses coming in, which at this time have to meet requirements that are not met by existing businesses. Mr. Lewiton said he feels this may discourage new development in town. The provision for special permit seems to be an arbitrary process with no guidelines dictating who will get a pass when it comes to parking restrictions.

Mr. Benson said he has concerns about the wording of this article. Mr. Benson said that the article states that it is to encourage "new business". He asked Mr. Lewiton what if an existing business would like to move or expand. Mr. Lewiton said that he would like to have current businesses included. Mr. Benson said his second concern is where in the table it says "any other use included in this bylaw" by deleting restaurant will default to any other use in this bylaw.

The Chair said that the Board could suggest a vote that would illustrate the Board's preference. Mr. Lau asked if the article only pertains to restaurants. Mr. Lau said other businesses should be included since the town can only support a limited number of restaurants. Mr. Lewiton said it would be great to encourage other businesses to come to town, he said he drafted his article after the ZBA denied approval for a particular establishment and wanted to limit the approach so as not to get rid of all parking restrictions.

The Chair then introduced the Board's article and said the Board will take public comment for both articles at the same time. Ms. Raitt said that article 43 Zoning Bylaw Amendment/Parking Reductions in the B3 and B5 Districts. Ms. Raitt said this article only pertains to B3 and B5 districts, the key difference between this article and Mr. Lewiton's article, which is applicable to any business district. B3 and B5 Districts include the business districts of Capital Square, Arlington Center, and Arlington Heights where there is plenty of on-street parking and parking lots, especially in Arlington Center. There is some flexibility that is possible in these business districts and, in most cases, it is impractical to create additional parking.

The Board and the community would like to encourage commercial development; parking requirements may be getting in the way of that. The Board deferred a recent case to the ZBA because it did not meet parking requirements, which was ultimately approved and is currently under the appeal period. Businesses should not have to go through that level of scrutiny to open a business in Arlington. A further example of the impracticality of creating new parking would be in locations where a building saturates an entire building lot and historically significant buildings which should not be altered to create more parking. There are also topographical issues that create significant constraints to the creation of new parking.

As noted by the prior petitioner, this article does require Transportation Demand Management plan but the article includes the word "may", so a TDM may be required. The Board may want to look at when they choose to waive such requirements in the future. The Arlington Heights Neighborhood Action Plan illustrated that there are many constraints on new commercial development in the business district, including parking. Ms. Raitt said in summary that this article would limit parking reductions to B3 and B5 business districts, is more expansive than the previous article as it includes more businesses than just restaurants, and the word "may" does not immediately require TDM.

The Chair opened the floor to public comment.

Chris Loreti recommended not going forward with either parking reduction article. He noted that both articles are a result of the experience of a recent applicant who applied to open a pub in the Heights. Mr. Loreti said the article needs a lot more thought than what has gone into it. Mr. Loreti said he was surprised that the applicant was referred to the ZBA for a variance. Mr. Loreti said that the Board was fully empowered to grant parking relief after the applicant established an off-site parking agreement with another business in the area. Mr. Loreti suggested a different way of enforcing parking restrictions for these types of places is to have the applicant be given the grandfathered spaces that the previous business had. The Board may want to look into that type of procedure so the only time the applicant would have to provide more parking is if the new use would require more parking than the old use. The bylaw that exists now already allows for flexibility. Mr. Loreti said another concern is why this article only allows for parking restrictions in B3 and B5 districts and does not include B2 and B4, which includes smaller businesses on Broadway. Mr. Loreti said he suggests coming back next year with an article that includes all business districts and takes into account the flexibility in the current bylaw.

The Chair closed the public hearing portion of the meeting. Hearings will continue at the next ARB meeting.

The Chair introduced the second agenda item, Organizational meeting – ARB Rules and Regulations Rule 2 - Board Officers. The Chair asked for nominations for Chair and Vice-Chair. Mr. Lau nominated The current Chair, Mr. Bunnell, Mr. Benson seconded, Mr. Bunnell accepted, approved 4-0 (Mr. Bunnell abstained from voting). The Chair nominated Mr. Lau as Vice-Chair, Mr. Benson seconded approved 4-0 (Mr. Lau abstained from voting).

The Chair introduced the third agenda item, Director's Updates. Ms. Raitt said that the Select Board would like the Board to provide an opinion on the following warrant articles: Article 13, Bylaw Amendment/Fossil Fuel Infrastructure Bylaw Amendment, Article 19, Acceptance of Legislation/Bylaw Amendment/Municipal Affordable Housing Trust Fund, Article 20, Home Rule Legislation/ Real Estate Transfer Fee and CDBG are scheduled to be heard during the Select Board's March 23, 2020 meeting. Ms. Raitt said the Select Board also asked that the Board discuss article 15, Vote/Establishment of Town Committee on Residential Development. The Select Board had a hearing and voted on the Article on February 25, 2020. The Select Board will also be talking about the parking reduction articles discussed at this meeting and will relay their opinions back to Ms. Raitt. The Chair said the Board will not discuss the article voted on by the Select Board. At the Board's March 16, 2020 meeting, the Board will discuss the other three articles, vote, and provide their opinion to the Select Board.

The Chair introduced the fourth agenda item, Open Forum and opened the floor to members of the public. Chris Loreti asked about the documentation used for the Atwood House hearing that was not posted with the February 24, 2020 Board meeting. The Chair said that that documentation was information was received the night of the February 24, 2020 hearing. Mr. Loreti asked the Board to cancel hearings in the future if the applicant does not provide documentation in advance for members of the public to review. Ms. Zsembery said that there was no expectation that there would be any documentation for that hearing. The applicant had issues to discuss outside of the documentation, the applicant was there to review their timeline and hear what progress has been made. Ms. Zsembery said the Board declined to take any action or discuss what was included in the documentation because the Board and members of the public did not have an opportunity to review.

Charles Hartshorne said he is a Town Meeting Member and has felt that ideas are presented in a siloed way at Town Meeting. Mr. Hartshorne said having the Board and the Select Board review each other's articles makes for better informed Town Meeting Members. If can be expanded to Finance and School Committee that would be great for Town Meeting Members.

Mr. Lau moved to adjourn, Mr. Benson seconded, all voted in favor 5-0.

Meeting adjourned.