



TOWN OF ARLINGTON
DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

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

MEMORANDUM

To: Arlington Redevelopment Board
From: Claire Ricker, AICP, Director, Planning and Community Development
Sarah Suarez, AICP, Assistant Director, Planning and Community Development
Date: March 6, 2025
RE: Review of Warrant Articles 25, 26, and 27 for 2025 Annual Town Meeting

Staff reviewed the following Warrant Articles to provide the Board with information for further consideration as part of the public hearing and review process. There are three articles with public hearings for the evening of March 10th. This memo provides information about each article being reviewed and additional factors for the Board's consideration.

ARTICLE 25 ZONING BYLAW AMENDMENT / ACCESSORY DWELLING UNITS

To see if the Town will vote to amend Section 2: Definitions, Section 5.4.2.B.(6) Large Additions, Section 5.4.2.B.(7) Garages, Section 5.10.2 Accessory Dwelling Units, and Section 6.1.4 Parking, of the Zoning Bylaw, to revise the requirements for permitting accessory dwelling units as-of-right or by special permit; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

BACKGROUND

In 2024, Massachusetts adopted new legislation to encourage the production of accessory dwelling units (ADUs) throughout the Commonwealth with the goal of increasing the production of housing to address statewide, local, and individual housing needs for households of all income levels and at all stages of life. This legislation establishes that, in certain circumstances, the use of land or structures for ADUs are protected from zoning restrictions by providing that zoning shall not prohibit, unreasonably restrict or require a special permit for a single ADU in a single-family residential zoning district, and imposes protections for these ADUs through M.G.L. c. 40A, § 3, known as the Dover Amendment. A Single-family Residential Zoning District is defined as any zoning district where single-family residential dwellings are a permitted or allowable use, including any zoning district where single-family residential dwellings are allowed as-of-right or by Special Permit.

Essentially, one ADU per lot in a single-family residential zoning district shall be considered a Protected Use ADU and permitted by-right (without the need for a special permit or variance) subject to the following conditions:

- A. Internal, attached, and detached ADUs up to 900 square feet or ½ of the gross floor area of the principal dwelling, whichever is smaller, shall be permitted.
- B. No owner-occupancy requirement shall be imposed on either the primary residence or ADU.
- C. No unreasonable restrictions shall be imposed on the creation or rental of an ADU not being used as a short-term rental.
- D. No use or occupancy restrictions are permitted on a Protected Use ADU.
- E. Not more than 1 parking space required and NO additional parking shall be required for an ADU within 0.5 miles from a commuter rails station, subway station, or bus stop.

Arlington was one of the first communities to adopt its ADU bylaw in 2021, so the Town already complies with several regulations outlined in the legislation and in some cases, is even less restrictive. Arlington currently allows one ADU **per principal dwelling unit** in any Residential or Business District as an accessory use to a single-family, two-family or duplex subject to certain conditions. The conditions listed below have been identified by Town Staff and Town Counsel as needing amendments in order to achieve compliance.

- 1. Section 5.10.2.B.(1)b) states that any expansion or addition to a building is subject to Section 5.4.2.(B)(6) Large Additions, which requires a Board of Appeals approval for any addition greater than 750 square feet or ½ of the gross floor area of the building, which conflicts with legislation that permits an attached ADU by-right, up to the lesser of 900 square feet or ½ of the gross floor area.
- 2. Section 5.10.2.B.(1)e) clause (iii) states that an ADU located in an accessory building that is closer than 6' to a property line requires a Board of Appeals approval, which conflicts with the legislation prohibiting more restrictive dimensional setbacks for an ADU than for an accessory building, which is permitted to have a 0' setback if located entirely within the rear yard setback.
- 3. Section 5.10.2.(C)1) requires a signed affidavit from the owner stating they or a family member will occupy the primary residence or ADU at the time of completion, which conflicts with the prohibition on owner-occupancy requirements.
- 4. Section 5.10.2.(C)2) waives the owner occupancy requirement for a non-profit or government entity provided the ADU is restricted as affordable, which conflicts with the prohibition on owner-occupancy requirements or use restrictions.
- 5. Section 5.10.2.(C)3) requires administrative corrections pursuant to an updated Section of the zoning bylaw.

Staff has discussed the proposed amendments with members of the ARB, the Zoning Board of Appeals, Inspectional Services Director, and Town Counsel. Staff has also taken into account the ARB's discussion held at the public hearing on February 10, 2025. After confirming with Town Counsel, the below amendments are suggested in order to comply with the ADU legislation.

DRAFT AMENDMENT

Amend Section 5.10.2. Accessory Dwelling Units, as follows:

B. Requirements

- (1) In any Residential District or Business District, an accessory dwelling unit is permitted as an accessory use to any single-family dwelling, two-family dwelling, or duplex dwelling, if all of the following conditions are met:
 - a) An accessory dwelling unit shall be not larger in floor area than one-half the floor area of the principal dwelling or 900 square feet, whichever is smaller. For the avoidance of doubt, where an accessory dwelling unit is created by converting a portion of an existing principal dwelling to an accessory dwelling unit, the floor area of the resulting accessory dwelling unit shall be measured relative to the floor area of the resulting principal dwelling (as affected by or in connection with the conversion).
 - b) Any alteration causing an expansion of or addition to a building in connection with an accessory dwelling unit shall not be subject to the provisions of Section 5.4.2.B(6) if and to the extent section 5.4.2.B(6) is otherwise applicable to such alteration or addition.
 - c) An accessory dwelling unit shall maintain a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling, sufficient to meet the requirements of the State Building Code for safe egress.
 - d) No more than one (1) accessory dwelling unit is allowed per principal dwelling unit.
 - e) An accessory dwelling unit may be located in (i) the same building as the principal dwelling unit or as an expansion to such building; (ii) a building that is attached to the principal dwelling unit; or (iii) an accessory building, which accessory building shall not constitute a principal or main building by the incorporation of the accessory dwelling unit, provided that if such accessory building is located within 6 feet of a lot line it must also be located entirely within the rear yard setback, otherwise ~~then~~ such accessory dwelling unit shall be allowed only if the Board of Appeals, acting pursuant to Section 3.3, grants a special permit upon its finding that the creation of such accessory dwelling unit is not substantially more detrimental to the neighborhood than the use of such accessory building as a private garage or other allowed use.
 - f) An accessory dwelling unit shall not be used as a short-term rental, in accordance with Title V, Article 18, Section 3 of the By-Laws of the Town of Arlington.
 - g) An accessory dwelling unit shall be subject to all applicable requirements of the State Building Code and State Fire Code (including any such requirements, if and as applicable, which prohibit openings, including windows, in exterior walls of dwellings located within a certain distance from the property line).
- (2) The creation or addition of an accessory dwelling unit shall not change the zoning classification of the property in question and shall not affect any zoning relief previously obtained for such property. By way of example only (and without limitation), a single-family dwelling having an accessory dwelling unit shall continue to be classified as a single-family dwelling for single-family use under the Zoning Bylaw; a two-family dwelling having an accessory dwelling unit shall continue to be classified as a two-family dwelling for two-family use under the Zoning Bylaw; and a duplex having an accessory dwelling unit shall continue to be classified as a duplex dwelling for duplex use under the Zoning Bylaw.

- (3) No off-street parking spaces are required in connection with the creation or addition of an accessory dwelling unit.
- (4) An accessory dwelling unit shall not be owned separately from the principal dwelling unit with which such accessory dwelling unit is associated.

C. Administration

- ~~(1) Prior to the issuance of a building permit for an accessory dwelling unit, the owner must deliver an affidavit to the building inspector stating that the owner or a family member of the owner will reside in either the principal dwelling unit or the accessory dwelling unit upon completion of the accessory dwelling unit.~~
- ~~(2) The creation or addition of an accessory dwelling unit to a principal dwelling unit shall not be subject to the foregoing paragraph 5.9.2.C(1) if the principal dwelling unit and accessory dwelling unit are owned by a non-profit or governmental entity and the accessory dwelling unit is restricted as an affordable unit.~~
- ~~(3)~~(1) In the event of any conflict or inconsistency between the provisions of this Section 5.~~9~~10.2 or Section 8.1.3.D, on the one hand, and any other provisions of this Bylaw, the provisions of this Section 5.~~9~~10.2 and Section 8.1.3.D shall govern and control.

ARTICLE 26

ZONING BYLAW AMENDMENT / TRANSPORTATION DEMAND MANAGEMENT PLAN

To see if the Town will vote to amend Section 6.1.5 Parking Reductions in Business, Industrial, and Multi-Family Residential Zones, of the Zoning Bylaw, to adjust the requirements for Transportation Demand Management plans and methods; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

BACKGROUND

At the ARB meeting on January 13, 2025, staff was asked to provide warrant article language and related information regarding Transportation Demand Management (TDM) strategies and make recommendations for changes to the Zoning Bylaw section 6.1.5 – Parking Reduction in Business, Industrial, and Multi-Family Residential Zones.

Currently the Board of Appeals (ZBA) or the Arlington Redevelopment Board (ARB) may allow the reduction of the required parking for a project to 25% of the requirement if the proposed parking is deemed adequate and where Transportation Demand Management practices are incorporated as evidenced by provision of a Transportation Demand Management plan by the project proponent. This reduction in parking is allowable in the R5-7, Business and Industrial zones. In practice, the Boards have found that the requirement that the Transportation Demand Management plan incorporate three TDM methods described in section 6.1.5.C.(1-9) impractical for projects at smaller scales including commercial, residential and mixed-use projects. Research indicates that smaller projects, with less than ten residential units or less than 3,000 square feet have the most difficulty in meeting these methods, as they typically lack the adequate space to accommodate physical TDM methods and may have limited resources to implement programmatic TDM measures.

Staff presented a draft amendment to the ARB at their public hearing on February 10, 2025. The ARB, following a robust discussion, offered additional amendments for staff to incorporate. The proposed changes below would make it easier for projects with less than 10 residential units and less than 3,000 square feet of commercial space to qualify for a parking reduction if they propose two, instead of three, TDM methods. Additional methods are also proposed such as providing charging stations for electric bicycles and scooters, and for residential projects located near a subway station or bus stop with frequent bus service.

DRAFT AMENDMENT

Amend SECTION 6.1.5, as follows:

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

- C. Transportation Demand Management (TDM): Any request for parking reduction must include a plan to reduce demand for parking. TDM provides incentives to reduce the use of Single ~~Occupant~~ Occupancy Vehicles and encourages the use of public transit, bicycling, walking, and ridesharing. All projects requesting a parking reduction must ~~employ~~ propose at least three TDM methods described below, except projects with fewer than ten residential units and with less than 3,000 square feet of commercial space must propose at least two TDM methods described below:

- (1) Charge for parking on-site;
- (2) Pay a stipend to workers or residents without cars;
- (3) Provide preferential parking for carpooling vehicles;
- (4) Provide a guaranteed emergency ride home;
- (5) Provide transit pass subsidies;
- (6) Provide covered bicycle parking and storage, if otherwise not required;
- (7) Provide bicycle or car sharing on site;
- (8) Provide showers for business or industrial uses;
- (9) Provide charging stations for electric bicycles and scooters;
- (10) For projects with residential units, be located within a 660-foot walk of a subway station or of a bus stop with scheduled bus service at least every 30 minutes, 7 days per week, between the hours of 6 AM and 10 PM.
- (11) ~~(9)~~ Other means acceptable to the applicable Special Permit Granting Authority.

ARTICLE 27

ZONING BYLAW AMENDMENT / DELETE INLAND WETLAND OVERLAY DISTRICT

To see if the Town will vote to delete Sections 4.1.2(2) and 5.8, Inland Wetland District, of the Zoning Bylaw, and adjust the numbering of subsequent sections; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

BACKGROUND

The Inland Wetland District (IWD) overlay was created over 50 years ago, before the Wetlands Protection Act, as an attempt to achieve wetlands protection through zoning. The Conservation Commission and Zoning Board of Appeals both agree the IWD is outmoded and, as the Conservation Commission supersedes it, it does not make sense for the ZBA to maintain zoning oversight. There are additional reasons to remove the IWD overlay from the Zoning Bylaw including:

1. The Conservation Commission, established under state law, possesses robust authority to protect wetlands through the public process, including hearings, permit review, and acquisition programs. The IWD's redundant overlay creates unnecessary complexity and potential for conflicting regulations. The IWD itself is internally inconsistent and inapplicable in its current state. Moreover, the IWD's broad brush approach fails to differentiate between various wetland types, functions, and performance standards and therefore fails to provide the intended protections.
2. The Town's permitting process can be further streamlined by removing the superfluous IWD. A more nuanced and data-driven approach already exists to better balance environmental protection with responsible development
3. The IWD references public data that are not currently included in the zoning map. While this is not a problem with the IWD itself, the publicly available, accurate information hinders informed decision-making and fair development proposals.

These amendments were originally presented to the ARB at a public hearing on December 18, 2023, and to 2024 Annual Town Meeting. The Arlington Redevelopment Board, the Zoning Board of Appeals, and the Conservation Commission all supported the removal of the IWD overlay; however, it did not pass at Town Meeting. This proposal will be brought to 2025 Town Meeting with additional presentation materials to better assure residents that no areas would be left unprotected by the removal of the IWD. The Conservation Commission is already the authoritative body on all inland and wetland concerns and given their specific expertise, the Inland Wetland District overlay should be removed in its entirety from the Zoning Bylaw. The IWD, while well-intentioned, is no longer an effective tool for wetland protection in Arlington.

DRAFT AMENDMENT

Amend SECTION 4.1.2, Overlay Districts, as follows:

4.1.2. Overlay Districts

(1) Floodplain District

~~(2) Inland Wetland District~~

~~(3)~~ [\(2\)](#) Multi-Family Housing Overlay Districts

Delete SECTION 5.8, Inland Wetland District, as follows:

~~5.8 INLAND WETLAND DISTRICT~~

~~5.8.1 Purpose~~

~~The purpose of Section 5.8 is to:~~

- ~~A. Preserve and protect the streams, water bodies, and other watercourses, including wetlands, in the Town of Arlington.~~
- ~~B. Protect the health and safety of persons and property against the hazards of flooding and contamination.~~
- ~~C. Preserve and maintain the groundwater table for potential water supply purposes.~~
- ~~D. Protect the community against the detrimental use and development of lands adjoining such watercourses.~~
- ~~E. Conserve the watershed areas in Arlington for the health, safety, and welfare of the public.~~

~~5.8.2 Definition~~

~~The Inland Wetland District is superimposed over any other district established by this Bylaw and includes the following areas:~~

- ~~A. All lands within the elevations shown on the Wetland and Floodplain Overlay Map of the Zoning Map and designated as wetlands as defined by the Massachusetts Wetlands Protection Act, G.L. c.131 §40, and the implementing regulations, 310 CMR 10.00, as well as the Town of Arlington Bylaw for Wetlands Protection (Title V, Article 8), and the Wetland Protection Regulations (Regulations) promulgated thereunder. These include lakes, ponds and swamps.~~
- ~~B. All land area along all perennial rivers, brooks, and streams as defined by the Massachusetts Wetlands Protection Act, G.L. c.131 §40, and the implementing regulations, 310 CMR 10.00, as well as the Town of Arlington Bylaw for Wetlands Protection (Title V, Article 8), and the Wetland Protection Regulations (Regulations) promulgated thereunder for a horizontal distance of 200 feet from the center line thereof are included in the Inland Wetland District.~~
- ~~C. All lands designated on the zoning map as having a shallow depth to water table. These lands are the poorly and very poorly drained mineral soils, and very poorly drained soils formed in organic deposits. Poorly drained mineral soils have a water table at or near the surface for at least 7 to 9 months during the year. The water table remains at or close to the surface of very poorly drained mineral and organic soils throughout most of the year.~~

~~5.8.3 Applicability~~

~~Any proposed use to be located within the limits of the Inland Wetland District as determined by the Building Inspector under Section 3.1 of this Bylaw shall be governed by all regulations of this Section as well as all other applicable provisions of this Bylaw.~~

~~5.8.4 Permitted Uses~~

~~Municipal use, such as waterworks, pumping stations, and parks, is permitted under this section. Land in the Inland Wetland District may be used for any purpose otherwise permitted in the underlying district except that:~~

- ~~A. No structure intended for human occupancy or use on a permanent basis having water and sewerage facilities and no other building, wall, dam or structure (except flagpoles, signs, and the like) intended for permanent use shall be erected, constructed, altered, enlarged, or otherwise created or moved for any purpose unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued. However, a structure existing at the time this Bylaw becomes effective may be reconstructed or repaired after a fire or other casualty, as provided in Section 8.1.8 of this Bylaw.~~
- ~~B. Dumping, filling, excavating, or transferring of any earth material within the district is prohibited unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued. However, this paragraph does not prohibit ordinary gardening activities in lawn or garden areas which are used for such purposes at the time this Bylaw became effective.~~
- ~~C. No ponds or pools shall be created or other changes in watercourses, for swimming, fishing, or other recreational uses, agricultural uses, scenic features, or drainage improvements or any other uses unless a Special Permit from the Board of Appeals or, in cases subject to Environmental Design Review, a Special Permit from the Arlington Redevelopment Board, is issued.~~

5.8.5. Procedures

~~Applications for a special permit shall be filed in accordance with the rules and regulations of the Special Permit Granting Authority and G.L. c. 40A, as outlined in Section 3. Such conditions shall include, where applicable, approval by the Board of Appeals, Arlington Redevelopment Board, Conservation Commission, the Massachusetts Department of Environmental Protection, and/or the Massachusetts Department of Transportation under Chapter 131 of the General Laws, acts relating to the protection of the inland wetlands of the Commonwealth.~~

5.8.6. Development Conditions

- ~~A. For the development of land within the Inland Wetland District, the following conditions shall apply:~~
 - ~~(1) A minimum of six test borings to a minimum depth of eight (8) feet shall be taken; three of which shall be within the area of the proposed structure and three within 25 feet of the outside walls of the structure, but not closer than 10 feet. A report by a soil scientist or qualified engineer shall accompany the test data.~~
 - ~~(2) The floor level of areas to be occupied by human beings as living or work space shall be four (4) feet above the seasonal high water table and not subject to periodic flooding.~~
 - ~~(3) If the basement floor level is below the seasonal high water table and affords the possibility of human occupancy at some future date, although not originally intended, adequate perimeter drainage and foundation shall be installed to withstand the effect of pressure and seepage. Furnace and utilities are to be protected from the effects of leaching.~~

- ~~(4) Safe and adequate means of vehicular and pedestrian passage shall be provided in the event of flooding of the lot(s) or adjacent lot(s) caused by either the overspill from water bodies or high runoff.~~
- B. ~~The developer shall show that the proposed development will not endanger health and safety, including safety of gas, electricity, fuel, and other utilities from breaking, leaking, short-circuiting, grounding, igniting or electrocuting; shall not obstruct or divert flood flow; substantially reduce natural floodwater storage capacity; destroy valuable habitat for wildlife; adversely affect groundwater resources or increase storm water run-off velocity so that water levels on other land are substantially raised or the danger from flooding increased.~~

Renumber subsequent Sections as appropriate.