



Town of Arlington, MA Redevelopment Board

Agenda & Meeting Notice April 25, 2022

This meeting is being held remotely in accordance with the Governor's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, Section 20. Per Board Rules and Regulations, public comments will be accepted during the public comment periods designated on the agenda. Written comments may be provided by email to jraitt@town.arlington.ma.us by April 25, 2022 by 12:00 p.m.

The Arlington Redevelopment Board will meet Monday, April 25, 2022 at 7:00 PM in the
Join via Zoom at <https://town-arlington-ma-us.zoom.us/j/89642661141>, Meeting ID: 896 4266 1141, or by calling (646) 876-9923, enter Meeting ID 89642661141 followed by #.

1. 2022 Special Town Meeting – Zoning Warrant Articles

- 7:00 p.m. The ARB will deliberate and may vote on the proposed zoning amendments for 2022 Special Town Meeting
- Board members will discuss each proposed Main Motion and may vote with a recommendation to Town Meeting

2. Meeting Minutes (3/28/2022)

- 7:45 p.m. Board members will review and may vote on 3/28/22 meeting minutes

3. Adjourn to Annual Town Meeting

- 7:50 p.m. Adjourn to Annual Town Meeting

4. Correspondence Received

Correspondence received from:
T. Falwell 4/21/2022



Town of Arlington, Massachusetts

2022 Special Town Meeting – Zoning Warrant Articles

Summary:

- 7:00 p.m. The ARB will deliberate and may vote on the proposed zoning amendments for 2022 Special Town Meeting
- Board members will discuss each proposed Main Motion and may vote with a recommendation to Town Meeting

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	Agenda_Item_1_-_Draft_Amendments_for_2022_STM.pdf	Draft Amendments for 2022 Special Town Meeting



Town of Arlington

ARLINGTON REDEVELOPMENT BOARD

2022 Special Town Meeting Draft Zoning Bylaw Amendments

Rachel Zsembery, Chair

Kin Lau, Vice Chair

Eugene Benson

Melisa Tintocalis

Stephen Revilak

Jennifer Raitt

Secretary Ex-Officio

Director of Planning and Community Development

Voted as amended April ____, 2022

Introduction and Overview

The Arlington Redevelopment Board (ARB) has statutory authority over M.G.L. c. 40A as the Town's planning board (Section 2 of Section 17 of the Town Manager Act) and M.G.L. c. 41 § 81 as the Redevelopment Authority. The ARB was created by a Town Meeting-adopted home rule petition, followed by a State Legislature act to form the ARB in 1971. The Department of Planning and Community Development was created in 1969. The authority and role of the ARB is included in Article 17 of the Town Manager Act. As a planning board, the ARB is charged with developing Arlington's Master Plan; proposing bylaws, regulations, and rules to implement the Master Plan; and applying those bylaws, regulations, and rules. Lastly, the ARB serves as a special permit granting authority. The ARB is also a duly constituted redevelopment authority formed under the authority of M.G.L. c. 121B. As a redevelopment authority, the ARB can buy, sell and hold property and it is because of these powers that the ARB acts as landlord, responsible for many properties that the Town Meeting has seen fit to put under the Board's jurisdiction. With Town Meeting approval, the Board may hold property to improve and rehabilitate to meet community development goals.

The members of the ARB are as follows:

Rachael Zsembery, Chair (Term through 6/30/2023)

Kin Lau, Vice Chair (Term through 1/31/2022)

Eugene Benson (Term through 1/31/2023)

Melisa Tintocalis (Term through 1/31/2023)

Stephen Revilak (Term through 9/22/2023, Gubernatorial designee)

Jennifer Raitt, Secretary Ex-Officio

Director of the Department of Planning and Community Development

Zoning Articles Overview

The ARB review process for 2022 Special Town Meeting began in March with the close of the Warrant and will culminate after Town Meeting with a submission by the Town Clerk of any approved zoning amendments to the Attorney General. A detailed description of the submission, review process, and schedule is posted on the [ARB website](#).

When any warrant article proposes to amend the "Town of Arlington Zoning Bylaw," the ARB is required to issue a report with recommendations to Town Meeting. Appearing below are articles that propose to amend the Zoning Bylaw. This report includes a brief discussion of the intent of each proposed amendment followed by a recommended vote of the ARB. The ARB's vote constitutes its recommendation to Town Meeting. The recommendations of the ARB, and not the original warrant articles, are the actual motions that will be considered by the Town Meeting. An ARB vote of "No Action" means that Town Meeting will be asked to vote that no action be taken on the proposed warrant article. Changes to the Zoning Bylaw text are shown beneath the recommended votes. Additions to the original Zoning Bylaw text appear as underlined text, while any deletions to the original Zoning Bylaw text appear as strike through text.

The ARB advertisement for the public hearings on the Warrant Articles proposed to amend the Zoning Bylaw appeared in the *Arlington Advocate* as required on March 24 and March 31, 2022. In accordance with the provisions of the Arlington Zoning Bylaw and Massachusetts General Laws Chapter 40A, the ARB held a public hearing and heard public comments remotely on Zoom on the proposed amendments on Thursday, April 7, 2022. The ARB voted on recommended bylaw language at their meeting on April 25, 2022. The ARB voted _____ on this report as amended at their meeting on May 4, 2022.

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Summary of Recommended Votes of the Redevelopment Board

Article No.	Date of ARB Hearing (With link to ACMi Recording)	Recommendation to Town Meeting
Article 2	April 7, 2022	
Article 3	April 7, 2022	
Article 4	April 7, 2022	

Zoning Bylaw Amendments: Family Child Care

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

ARTICLE 2

ZONING BYLAW AMENDMENT / FAMILY CHILD CARE

To see if the Town will vote to amend the Zoning Bylaw to update Section 2 Definitions, Section 5.4.3 Use Regulations for Residential Districts, Section 5.5.3 Use Regulations for Business Districts, and Section 5.6.3 Use Regulations for MU, PUD, I, T, and OS DISTRICTS to allow family child care as a by right use and to set standards and requirements in all Residential, Business, and MU districts; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Background:

At 2019 Annual Town Meeting, Town Meeting voted to amend the Zoning Bylaw to comply with the Dover Amendment. The Dover Amendment refers to certain protections that religious, non-profit educational, and childcare facilities receive under the Massachusetts Zoning Act, General Law, chapter 40A, § 3 which at the time were not clearly prescribed for the Zoning Bylaw. State Law limits review of religious, non-profit educational, and childcare facilities to the reasonable regulation of bulk and height of structures and in determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements. This limitation is described in Section 3.4 of the Zoning Bylaw but being associated with the Arlington Redevelopment Board's (ARB) Environmental Design Review seems to indicate that a special permit is required.

Family childcare programs are licensed by the Massachusetts Department of Early Childhood Education and Care (EEC), which defines three types of licensed family childcare programs:

- (1) Up to 6 children: A licensed Family Child Care provider may enroll up to 6 children in their program if the children are within the required age limits.
- (2) Up to 8 children: A licensed Family Child Care provider may enroll up to 8 children in their program without an assistant if at least 2 of the children are school age if the other children are within the required age limits.
- (3) Up to 10 children: A licensed Family Child Care provider may enroll up to 10 children in their program if there is an approved assistant working with them, and if the children are within the required age limits.

The EEC has strict standards for licensing of family childcare providers, including background record checks for all household members or individuals regularly on the premises, provider First Aid and CPR certification, Professional Qualifications Registry, continuing education requirements, outdoor space regulations, and criteria regarding interior lighting, cleanliness, maintenance, ventilation, and exits.¹ Additionally, the EEC is authorized to visit a provider at any time, including for pre-licensing and one or more annual unannounced visits, to ensure that the family child care is in compliance with the law and EEC regulations.

¹ Massachusetts Department of Early Education and Care, *Self-Assessment Tool*, accessed at <https://www.mass.gov/doc/self-assessment-tool-0/download>

Zoning Bylaw Amendments: Family Child Care

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

Arlington presently has 17 family childcare providers.² Of those providers, 12 are licensed for up to 10 children, two for up to eight children, and three for up to six children. The Department of Planning and Community Development has no record of these family childcare providers having requested a special permit for the accessory use. As a result of an existing provider seeking to obtain a business license through the Clerk's Office, the Department was asked and confirmed that the provider needed a special permit for the use. A second provider subsequently applied for a license. Both applicants applied for special permits and will have public hearings in May and the permits must be granted prior to obtaining their business license.

Family Child Care was not included in the 2019 amendment of the Zoning Bylaw; at present, the Zoning Bylaw requires applicants seeking to open or operate a family childcare facility as an accessory use to obtain a special permit. This amendment makes clear that Family Child Care is included as a childcare facility and does not need to seek an Environmental Design Review special permit from the ARB. It also clarifies that the Board will add this review to its existing Board Rules and Regulations and provides a footnote referring readers to where an applicant can reference Board Rules and Regulations. The Board will amend its rules to include administrative review of these uses. This regulatory amendment is consistent with policy in neighboring municipalities, which allow family childcare as an accessory use as of right with minimal administrative review.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (____) to recommend **Favorable Action / No Action** on Article 2 that the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 2:

Family Child Care: a private residence which on a regular basis, receives for temporary custody and care during part or all of the day, children under 7 years of age, or children under 16 years of age if those children have special needs, and receives for temporary custody and care for a limited number of hours children of school age under regulations adopted by the board. The total number of children under 16 in a family child care shall not exceed 10, including participating children living in the residence. Family child care centers shall comply to the Commonwealth of Massachusetts Standards for the Licensure or Approval of Group Day Care Centers.

Amend SECTION 5.4.3:

Class of Use	R1	R2	R3	R4	R5	R6	R7
Accessory Uses							
Family child care ¹	SP Y	SP Y	SP Y	SP Y	SP Y	SP Y	SP Y

¹ Subject to Arlington Redevelopment Board Rules and Regulations.

² Massachusetts Department of Early Education and Care, *Licensed Child Care Search*, accessed at https://eecllead.force.com/EEC_ChildCareSearch

Zoning Bylaw Amendments: Family Child Care

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

Amend SECTION 5.5.3:

Class of Use	B1	B2	B2A	B3	B4		B5
Accessory Uses							
Family child care ¹	<u>SP Y</u>	<u>SP Y</u>	<u>SP Y</u>	<u>SP Y</u>	<u>SP Y</u>		<u>SP Y</u>

¹ Subject to Arlington Redevelopment Board Rules and Regulations.

Amend SECTION 5.6.3:

Class of Use	MU	PUD	I	T	OS
Accessory Uses					
Family child care ¹	<u>SP Y</u>	<u>Y</u>			

¹ Subject to Arlington Redevelopment Board Rules and Regulations.

Zoning Bylaw Amendments: Signs

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

ARTICLE 3

ZONING BYLAW AMENDMENT / SIGNS

To see if the Town will vote to amend the Zoning Bylaw to update Section 2 Definitions and Section 6.2 Signs to create a new sign type located at shared mobility and electric vehicle charging stations; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Background

Town Meeting voted to adopt substantial revisions to Section 6.2, Signs, of the Zoning Bylaw at 2019 Annual Town Meeting. At the time, very few publicly accessible electrical vehicle (EV) charging stations were provided in town and most were located on municipal lots. Similarly, the Town then had a contract with Lime Bikes for dockless bike share. In the intervening years, the Department of Planning and Community Development has received several requests from commercial businesses to install public EV charging stations on private lots. Such charging stations typically feature an area for advertising, which offsets the cost of the installation of the station. The Town has also entered a multi-year contract with BLUEBikes, a bike share company where bikes are docked at stations located in East Arlington and Arlington Center, and eventually Arlington Heights. Bike docking stations typically feature a non-illuminated sign area.

Wayfinding and ad/sponsor panels are an important part of marketing and funding bike share systems and electric vehicle charging stations. Within bike share docking stations, these panels can stand alone or integrated into the kiosk and are typically placed at the ends of stations to maximize visibility. At EV charging stations, they are located at the end of the parking station and integrated into charging equipment. Additional attention is paid to pedestrian sight lines when siting large, tall panels near intersections as part of the Select Board review and approval process. Most communities place some content guidelines, typically around alcohol and tobacco, on ad/sponsor panels; such restrictions would be imposed by the Select Board as part of their review of mobility station proposals.

As described in the NACTO Bike Share Siting Guide³, wayfinding panels typically include maps showing the immediate area, other nearby bike share stations, and bike lanes. More than just a map, wayfinding panels help encourage bike share use. NACTO describes how a 2011 intercept survey in New York City found that 24% of visitors were lost at any point in time and that 13% of locals admitted to being unfamiliar with the neighborhood they were in.⁴ The city concluded that being lost, fear of being lost, and lack of knowledge of their surroundings deterred people from biking or walking. As a result, many people took taxis, buses, or subways for short trips that could have easily been made by bike or on foot. The NACTO guide further recommends wayfinding panels in bike share stations as an efficient way to consolidate street furniture elements and limit sidewalk clutter.

³ NACTO Bike Share Station Siting Guide, pp. 54-55. Accessed at https://nacto.org/wp-content/uploads/2016/04/NACTO-Bike-Share-Siting-Guide_FINAL.pdf

⁴ NYC DOT, "Sustainable Streets: 2013 and Beyond." p. 101. Accessed via: <http://www.nyc.gov/html/dot/downloads/pdf/2013-dot-sustainablestreets-lowres.pdf>.

Zoning Bylaw Amendments: Signs

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

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (____) to recommend **Favorable Action / No Action** on Article 3 that the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 2:

Shared Mobility Docking Station: Parking for bicycles, e-bicycles, or other micromobility options that is made available for an hourly rental fee as part of a business operating docking stations.

Electric Vehicle Charging Station: A structure that supplies electric energy for the recharging of electric vehicles.

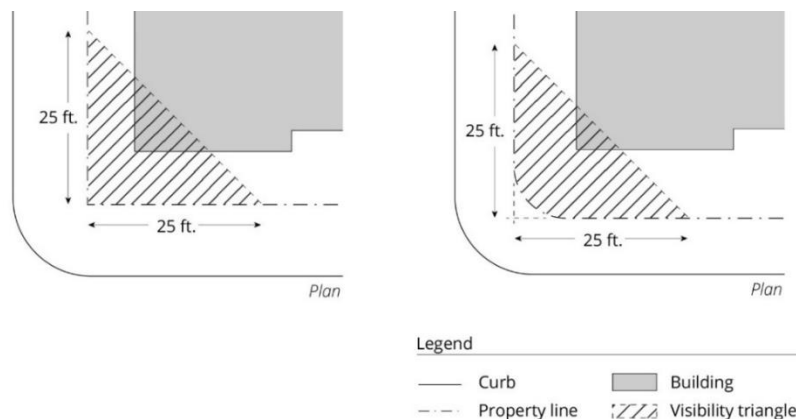
Amend SECTION 6.2.3

6.2.3 General Restrictions for All Signs

A. Location Restriction. Except where specifically authorized in this Section, signs may not be placed in the following locations:

- (4) Within, on, or projecting over public property, Town rights-of-way, and the Minuteman Bikeway, or waterways, except signs specifically authorized by this Section 6.2, specifically Shared Mobility Docking Stations;
- (5) Any location that obstructs the view of any authorized traffic sign, signal, or other traffic control device;
- (6) On property at any corner formed by intersecting streets, within the triangular area formed between the property lines and a diagonal line joining points on the property lines 25 feet from the point of their intersection, or in the case of rounded property line corners, the triangular area between the tangents to the curve at such corner and a diagonal line joining points on the tangents 25 feet from the point of their intersection;

Traffic Visibility at Intersections



(See Section 6.2.3(A)(3))

Zoning Bylaw Amendments: Signs

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

This diagram is included for illustrative purposes only. It is not part of the Arlington Zoning Bylaw.

- (7) Areas allowing for ingress to or egress from any door, window, vent, exit way or fire lane required by the Building Code or Fire Department regulations currently in effect;
- (8) Off the premises of the business to which the commercial advertising sign refers, except as provided in Section 6.2.6;
- (9) On fuel tanks, storage containers and/or solid waste receptacles or their enclosures, except for a manufacturer's or installer's identification, appropriate warning signs and placards, and information required by law;
- (10) Where they cover the architectural features of a building, such as dormers, insignias, pilasters, soffits, transoms, trims, or another architectural feature;
- (11) Tacked, painted, burned, cut, pasted, or otherwise affixed to trees, rocks, light and utility poles, posts, fences, ladders, benches, or similar supports that are visible from a public way except for notices as defined in Title V, Article 1, of the Town Bylaws; and
- (12) On the roof of a building or structure.

Amend SECTION 6.2.5(C):

C. Allowed Sign Types by Sign District. The table below establishes which sign types are allowed in each Sign District.

Allowed Sign Types by Sign District						
Sign Type	Residential ¹ (R0, R1, R2, R3)	Residential/ Business ¹ (R4, R5, R6, R7, B1, B2)	Business ¹ (B2A, B3, B4, B5)	Industrial ¹ (I, T)	Multi- Use ¹ (MU, PUD)	Open Space ¹ (OS)
Building Mounted Signs²						
Awning Sign		Y	Y	Y	Y	
Bracket Sign		Y	Y		Y	
Canopy Sign			Y		Y	
Directional Sign		Y	Y	Y	Y	
Directory Sign		Y	Y	Y	Y	
Marquee Sign			Y			
Porch Sign	Y	Y				
Projecting Sign			Y	Y	Y	
Service Island Canopy Sign			Y	Y		
Wall Sign	Y	Y	Y	Y	Y	
Window Sign	Y	Y	Y	Y	Y	
Freestanding Signs						


Zoning Bylaw Amendments: Signs

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

Directory Sign	Y		Y	Y	
Directional Sign		Y	Y	Y	Y
Freestanding Projecting Sign			Y	Y	Y
Monument Sign			Y	Y	
Post Sign		Y	Y	Y	Y
<u>Mobility Station</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>	<u>Y</u>
End Note: ¹ For Religious and Educational Uses in all Districts, all permanent sign types are allowed except for the following: <ul style="list-style-type: none"> • Awning Sign • Marquee Sign • Projecting Sign • Service Island Canopy Sign ² In all districts, a building may have no more than two of either an awning sign, wall sign, or a window sign.					

Amend SECTION 6.2.5(E):

(5) Mobility Station Sign. Mobility Station signs must comply with the standards provided in the table below.

<u>Mobility Station Sign Standards</u>	
<u>Standard</u>	<u>Requirements</u>
<u>Number of Signs</u>	<u>Max. 1 per shared mobility docking station or electric vehicle charging station</u>
<u>Sign Area</u>	<u>21 sq. ft. display area per shared mobility docking station; 12 sq. ft. display area per electric vehicle charging station.</u>
<u>Station Height</u>	<u>Max. 8 ft. from nearest grade.</u>
<u>Illumination</u>	<u>Non-illuminated, internally illuminated, or externally illuminated only. See Section 6.2.4(C).</u>
<u>Permitting</u>	<u>Sign permit not required if above criteria are met.</u>
	
End Note: In all districts, Mobility Station signs are not counted toward a building's maximum allowable signs.	

Zoning Bylaw Amendments: Signs

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

Solar panels used to provide power to a Mobility Station do not contribute to the overall sign area calculation or station height.

ARTICLE 4

**ZONING BYLAW AMENDMENT/ NONCONFORMING SINGLE-FAMILY
OR TWO-FAMILY DWELLINGS**

To see if the Town will vote to amend the Zoning Bylaw to update Section 8.1.3 Nonconforming Single-Family or Two-Family Dwellings to modify or remove Section 8.1.3 C; or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Background:

It came to the attention of the Arlington Legal Department that a conflict with the current interpretation of M.G.L. Chapter 40A § 6's infamous "second except clause" and Section 8.1.3(c) of the Zoning Bylaw has created a difficult ambiguity for the Zoning Board of Appeals and the Building Inspector in his capacity at the Zoning Enforcement Officer.

In the 2019 case *Bellalta v. Zoning Bd. of Appeals of Brookline*, 481 Mass. 372, 116 N.E.3d 17 (2019), the Supreme Judicial Court examined the issue of what was required for so-called prior non-conforming single and two-family homes to expand those non-conformities. Homes and businesses built or established prior to codification of Zoning Bylaws frequently do not comply with modern zoning requirements which establish either uses (e.g., residential, certain businesses) or dimensional and density requirements (e.g., height, setbacks, floor area ratios, open space requirements, parking). Prior non-conformance rights enshrined in Chapter 40A essentially "allow" such structures and uses to continue as they are with certain qualifications. Chapter 40A and the Arlington Zoning Bylaw also set forth the criteria for expanding or "intensifying" those non-conformities.

For example, in the *Bellalta* case, the applicant's home exceeded the maximum Floor Area Ratio ("FAR") with the FAR ordinance but was historically afforded prior non-conformance rights under the law because it would be impossible for the home to meet the zoning bylaw requirements without forcing its owner or resident to demolish parts of what was already standing. The applicant wished to install a dormer which would further expand the non-conformity with respect to FAR (the limit was 1.0, the home was already at 1.14, and the proposed project would have expanded it to 1.38). The Zoning Board of Brookline granted a special permit for the expansion under a bylaw provision very similar to Arlington's Zoning Bylaw Section 8.1.3(B). Abutters appealed, arguing among other things, that a variance was required, and such relief could not be granted.

The *Bellalta* Court not only agreed with the Zoning Board, but explicitly resolved some long-standing ambiguity about the scope of rights under the "second except clause" of Chapter 40A sec. 6, which specifically affords single- and two-family homes additional rights relative to existing prior non-conformances than they would have for a new non-conformity. The Court noted that a variance is not required for expansions of existing prior non-conformities. Indeed, if a prior non-conformity is not genuinely intensified (the Court questioned whether adding a dormer and increasing the FAR by .24 even constituted an expansion or intensification of a variance) a building permit should be issued as of right. If a proposal, such as the one in *Bellalta* in the record before the Court, does intensify or expand a non-conformity, the Court held that the special permit granting authority need only determine that such an alteration would not be "substantially more detrimental than the existing [nonconformity] to the

Zoning Bylaw Amendments: Nonconforming Single-Family or Two-Family Dwellings
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

neighborhood” and “[t]he statute does not require the homeowner also obtain a variance in such circumstances” (*Bellalta v. Zoning Bd. of Appeals of Brookline*, 481 Mass. 372, 373, 116 N.E.3d 17, 20 (2019)(emphasis added)).

These special prior non-conformance rights by operation of Chapter 40A § 6 are focused on single- and two-family homes. Local zoning provisions may expand such rights to other kinds of structures or uses, but the second except clause is specific to single- and two-family homes. Further, the special rights only relate to existing non-conformities. If a new non-conformity is created, a variance is required.

In Arlington, the Zoning Bylaw contains a provision which essentially follows the reasoning of the *Bellalta* Court and some of its predecessors in Section 8.3.1(B), which reads as follows:

“No alteration, reconstruction, extension, or structural change to a single or two-family residential structure that increases the nonconforming nature of said structure shall be permitted unless there is a finding by the Board of Appeals that the proposed alteration, reconstruction, extension, or structural change will not be substantially more detrimental to the neighborhood.”

However, in 2009 (ten years before the *Bellalta* decision), the Zoning Bylaw was amended to place a restriction/qualifier on the application of 8.3.1(B), limiting prior non-conformance rights in certain kinds of projects and as such conflicting with State Law in the specific scenario where a single- or two-family home seeks to extend an exterior wall further than the furthest non-conforming point of the same exterior. In other words, if a non-conforming exterior wall extends two feet into the setback, the entirety of that exterior wall could be extended to the same level of nonconformance (upon a finding of no detrimental impact), but a non-conforming exterior wall that extends one foot into the setback cannot be extended two feet into the setback regardless of what the Zoning Board determines about substantiality or detrimental impact. Section 8.3.1(C) reads:

“The extension of an exterior wall of a single-family or two-family residential structure along a line at the same nonconforming distance within a required setback may be allowed providing that the extension creates no new nonconformities, nor increases any open space nonconformities, and that no such extension shall be permitted unless there is a finding by the Special Permit Granting Authority that the extension shall not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling. In making such a finding, the Special Permit Granting Authority shall assess the dimensions and proposed setback of the alteration in relationship to abutting structures and uses.”

Thus, the only way an owner of a prior non-conforming single- or two-family could seek relief for extension of an exterior wall beyond its furthest point is by a variance, which under *Bellalta*, is in conflict with State Law. As the *Bellalta* Court summarized:

“[a]ccordingly, in keeping with the Legislature's intent as it pertains to the special protections afforded one- and two-family residential structures, a variance from the local bylaw is not required by G. L. c. 40A, § 6; obtaining a finding of “no substantial detriment to the

Zoning Bylaw Amendments: Nonconforming Single-Family or Two-Family Dwellings
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

neighborhood” is all that is required. See Rockwood, 409 Mass. at 364 (single- and two-family residences are given “special protection” with regard to their existing nonconformities); Gale, 80 Mass. App. Ct. at 337 (outlining “special treatment” explicitly afforded to single- and two-family residential buildings); Dial Away Co. v. Zoning Bd. of Appeals of Auburn, 41 Mass. App. Ct. 165, 170-171, 669 N.E.2d 446 (1996) (if not for “special status” of nonconforming single and two-family residences, “the by-law would probably apply”) (Bellalta v. Zoning Bd. of Appeals of Brookline, 481 Mass. 372, 383-84, 116 N.E.3d 17, 28 (2019)).

While this situation is fairly specific – expansion of exterior walls past their furthest intrusion into a setback – there are several cases pending before the ZBA now in which the proper form of relief either puts the Inspector and ZBA at odds with the Bylaw or State Law. The ZBA does not have to grant relief, but at present, it is being forced to choose between applying a standard which does not appear consistent with the bylaws on their face or applying the wrong standard. There may be ways in which the Zoning Bylaw might inform the ZBA what “substantial detrimental impact” means, but the read of Town Counsel is that our bylaw *per se* prohibits something that could be allowed under M.G.L. 40A § 6. Therefore, the following amendment to the Zoning Bylaw is provided below.

ARB Vote and Recommendation to Town Meeting: The Redevelopment Board voted (____) to recommend **Favorable Action / No Action** on Article 4 that the Zoning Bylaw be and hereby is amended as follows:

Amend Section 8.1.3(C):

8.1.3 Nonconforming Single-Family or Two-Family Dwellings

- A. Alteration, reconstruction, extension, or structural change to a single or two-family residential structure that is completely within the existing foundation walls does not increase the nonconforming nature of said structure.
- B. No alteration, reconstruction, extension, or structural change to a single or two-family residential structure that increases the nonconforming nature of said structure shall be permitted unless there is a finding by the Board of Appeals that the proposed alteration, reconstruction, extension, or structural change will not be substantially more detrimental to the neighborhood.
- C. ~~The extension of an exterior wall of a single-family or two-family residential structure along a line at the same nonconforming distance within a required setback may be allowed providing that the extension creates no new nonconformities, nor increases any open space nonconformities, and that no such extension shall be permitted unless there is a finding by the Special Permit Granting Authority that the extension shall not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling. In making such a finding, the Special Permit Granting Authority shall assess the dimensions and proposed setback of the alteration in relationship to abutting structures and uses.~~
- ~~D.C.~~ Any lot lawfully laid out by plan or deed duly recorded which complies (at the time of recording) with the minimum area, frontage, width, and depth requirements, if any, of the zoning bylaw then in effect, may be built upon for residential use provided it has a minimum area of 5,000

Zoning Bylaw Amendments: Nonconforming Single-Family or Two-Family Dwellings
Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

square feet, with a minimum front footage of 50 feet, and is otherwise in accordance with the provisions of [G.L. c. 40A, § 6](#).

- E.D.** The creation or addition of an accessory dwelling unit within an existing single-family dwelling, two-family dwelling, or duplex dwelling, or within an existing accessory building on the same lot as any such dwelling, does not increase or affect the nonconforming nature of said existing dwelling or accessory building, and shall not cause such dwelling or accessory building to become non-conforming or result in any additional dimensional requirements with respect to such dwelling or accessory building, provided that such creation or addition of an accessory dwelling unit neither expands the footprint nor the height of said dwelling or accessory building, in each case except (i) for changes necessary to provide for required egress or other modification to meet the State Building Code and State Fire Code, (ii) for any projects allowed under Section 5.3.9, and (iii) to the extent authorized by a special permit issued pursuant to clause (iii) of Section 5.9.2.B(1), fifth bullet.



Town of Arlington, Massachusetts

Meeting Minutes (3/28/2022)

Summary:

7:45 p.m. Board members will review and may vote on 3/28/22 meeting minutes

ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	Agenda_Item_2- _Draft_ARB_Minutes_03_28_22.pdf	03282022 Draft ARB Meeting Minutes

Arlington Redevelopment Board
March 28, 2022, 7:30 p.m.
Remote Open Meeting
Meeting Minutes

This meeting was recorded by ACMI.

PRESENT: Rachel Zsembery (Chair), Eugene Benson, Kin Lau, Melisa Tintocalis, Steve Revilak

STAFF: Jennifer Raitt, Director of Planning and Community Development and Kelly Lynema, Assistant Director

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

The Chair explained that this meeting is being held remotely in accordance with the Governor's March 12, 2020 order suspending certain provisions of the Open Meeting Law G.L. c. 30A, Section 20. This order from Governor Baker allows for meetings to be held remotely during this time to avoid public gatherings.

The Chair introduced Agenda Item 1, Continuation of Public Hearings for the 2022 Town Meeting, and protocols thereof, and moved to ARTICLE 32, ZONING BYLAW AMENDMENT/ZONING BOARD OF APPEALS, RULES AND REGULATIONS: To see if the Town will vote to amend the Zoning Bylaw to update Section 3.2.3, Rules and Regulations, to allow the Zoning Board of Appeals to amend its own rules and regulations; or take any action related thereto. (Inserted at the request of the Redevelopment Board.)

Ms. Raitt stated this is an administrative amendment to remove administrative rules and processes from the Zoning Bylaw into separate rules and regulations; Christian Klein requested that Subsection A be removed, as it is now redundant; and The Chair and the rest of the Board voiced their support.

Absent any public questions or comments, The Chair moved to ARTICLE 33, ZONING BYLAW AMENDMENT/HALF STORY: To see if the Town will vote to amend the Zoning Bylaw to update Section 2, DEFINITIONS, and add a new subsection under Section 5.3 to clarify how the area of a half story is to be calculated; or take any action related thereto. (Inserted at the request of the Redevelopment Board.)

Ms. Raitt stated there are questions about the calculation based upon how the half story is measured, which is worth addressing through this amendment, perhaps with minor adjustments.

Ms. Lynema stated that the amendment seeks to clarify how the half story is measured.

Christian Klein stated that this proposal seeks to create Section 5.3.23 to clarify the half story specs.

Mr. Lau asked if the seven-foot height is the same as is stated in the state code. The Chair stated it was changed from 7'3" to 7'. Mr. Klein confirmed. Mr. Lau asked how this is measured. Mike Ciampa, Director of Inspectional Services, stated it's measured from the finished floor of the attic to the underside of the roof rafter.

Mr. Benson suggested that creating 5.3.23 is unnecessary; that part could be moved into the definition. Ms. Tintocalis agreed, as did Mr. Ciampa. Mr. Klein stated he wants to make sure that whatever happens is in keeping with the intent of the layout of the bylaw. Mr. Revilak suggested alterations to the cross-hatching in the illustration and also agreed with Mr. Benson's suggestion. Mr. Lau stated he would vote with the Board, either way.

Absent further questions or comments from the Board or the public, the Chair asked for consensus from the Board regarding Mr. Benson's suggestion; all were in support, including the Chair, who also agreed with Mr. Revilak's cross-hatch suggestion.

The Chair then moved to ARTICLE 37, ZONING BYLAW AMENDMENT/UNSAFE STRUCTURE: To see if the Town will vote to amend the Zoning Bylaw to update Section 8.1.5, Unsafe Structure, to define who may make the determination that a structure is unsafe; or take any action related thereto. (Inserted at the request of the Redevelopment Board.)

Ms. Raitt stated that Messrs. Klein and Ciampa might have additional information for this discussion. Mr. Klein stated that this should be added because to ensure that, before removing a structure deemed unsafe, contractors need to consult with Inspectional Services. Mr. Ciampa agreed. The Chair asked if this is determined by the Director of Inspectional Services only or through the Inspectional Services department. Mr. Ciampa stated either could be the case.

The Chair opened the floor to the Board for questions/comments.

Mr. Lau suggested broadening the authority to include Inspectional Services. Mr. Ciampa stated that this made sense. Mr. Benson and Ms. Tintocalis agreed.

Absent any public questions or comments, The Chair polled the Board to ensure that they are aligned with Mr. Revilak's proposal of amending this to the "Director of Inspectional Services or their designee." Messrs. Lau and Benson and Ms. Tintocalis agreed, as did Messrs. Klein and Ciampa.

The Chair called for a motion to close the public hearings for the 2022 annual Town Meeting. Mr. Lau so motioned; Mr. Benson seconded. The Board voted unanimously in favor.

As there were insufficient petitioners present to move to the next article, The Chair moved to Agenda Item 3, Request for Waiver of Special Permit Filing Fee.

Ms. Raitt requested that the Board waive the filing fee for a childcare applicant.

Mr. Lau asked if this is a nonprofit; Ms. Raitt replied that it is not a nonprofit organization but an individual wishing to operate a family childcare out of their home and was unaware of the \$500 filing fee, and stated it is fair to make this request. Mr. Benson and Ms. Raitt discussed the fee.

Ms. Tintocalis voiced her concern about this setting a precedent if approved and asked if this scenario was addressed in the Master Plan. Ms. Raitt stated that she did not think that this would set a precedent, as it is an unusual circumstance; and she does not think that the Master Plan addresses promoting childcare. Ms. Tintocalis supports waiving the fee. Mr. Revilak asked if this would be a special permit filing fee for use only, and not for a new building; Ms. Raitt replied for use. Mr. Revilak spoke in support of this fee waiver.

The Chair stated that if the Board were to approve, it should be made clear that this will not readily apply to other commercial businesses. Ms. Raitt suggested that the Board might put something about economic hardship into its rules and regulations.

The Board members spoke in support of the waiver. The Chair requested a motion to approve. Mr. Lau so moved; Ms. Tintocalis seconded. The Board voted unanimously in favor.

The Chair moved to the Agenda Item 4, Meeting Minutes of February 28, 2022, and requested a motion to approve the minutes as amended. Mr. Lau so moved. Ms. Tintocalis seconded. The Board voted unanimously in favor.

Absent any participants in the Open Forum, the Chair requested a motion to adjourn until 9:15. Mr. Lau so moved; Ms. Tintocalis seconded; the Board voted unanimously in favor.

Following the break, the Chair returned to Agenda Item 2, Environmental Design Review Special Permit Public Hearing: Docket #3690, 34 Dudley Street, wherein the applicant proposes to construct a five-story self-storage facility in the Industrial District.

Following Ms. Raitt's presentation of the memo, the Chair gave the floor to the applicants.

Attorney Robert Annese introduced the applicants and stated that with this project, the applicants are abiding by the Master Plan's wishes for building in the industrial zone.

The petitioners -- Eric Girard, Matt Keesley, Jan Bryan, and Pete Williams -- gave their presentations; the Chair opened the floor to the Board for questions/comments.

Mr. Lau spoke in support of the project, but had some remarks about changing the fence as regards to parking, about bicycle parking, and signage. Mr. Benson stated the graphics did not match their proposal; he also requested the results of a site examination for contaminants. He cited the memo stating that the petitioners' signage is not consistent with the town's sign requirements, and stated his concerns about staff hours. Mr. Annese replied that there will be a code system giving customers access to the facility, so staffing/hours is not an issue; the code would not work after hours.

Mr. Benson stated bicycle parking should be moved from back to front; he also had concerns about large truck traffic. The petitioner stated that the largest truck on the site would likely be a 24-foot U Haul. Mr. Benson recommended that, assuming the permit is granted, they add a condition limiting to no more than 24-foot trucks. Mr. Benson stated his concern about the view that the façades provide from Mill Brook Park, and wants to make sure that no lighting from the facility shines down onto Mill Brook or its banks. Mr. Benson was satisfied with the petitioner's response.

Ms. Tintocalis stated that she is struggling to see how this use fits in line with the vision intended for this area, and requested some property comparisons from the applicant. The Chair stated that this would be taken up during the discussion session.

Mr. Revilak spoke in support of the application and asked for the source of the estimate for 11 parking spaces. The applicant replied and stated that in terms of demand, the empirical data indicates fewer than 11. Discussion followed. Mr. Revilak also stated that, as regards signage, he agrees with Mr. Lau, and that the sign on the fifth floor is probably okay; but 200 square feet on the second above the entrance is excessive.

The Chair agreed with her colleagues about the need to comply with the existing signage requirements; she agreed with Mr. Lau that reducing the parking down to 11 is appropriate but suggested increasing the interior of bike parking; and stated her concerns about scale and cladding.

Mr. Lau stated that he was concerned about Ms. Tintocalis's problem with this project, and agreed with Ms. Raitt saying this is appropriate for an industrial area. The Chair stated that that will be the first topic that they turn to as a board following the public comment.

Mr. Benson asked why, since the roof has to be solar ready, the applicant did not propose solar on the roof as part of this project. Mr. Bryan replied that the roof is set to accept solar panels; Mr. Benson requested that they commit to put solar on the roof, not just be solar ready, and consult with the Energy Manager.

The Chair opened the floor to the public for questions/comments.

Wynelle Evans wanted to make sure that all Board members and the applicant had seen the examples of façade treatments that she had sent in. The Chair replied that those were posted online, and Mr. Benson had referenced them to the applicant. Ms. Raitt presented the façade samples.

Christian Klein stated that the rain leaders should be moved from exterior to interior; it also appears that a huge and unneeded parapet would interfere with the solar use on the roof; that going down as far as 11 spaces is too small; and as regards drainage, this site may not meet criteria.

Attorney Thomas Fowler, representing the abutter, spoke in opposition to the proposal, discussed parking, and asked if the proposal raised the elevation. The Chair replied that this would be added to the questions for the applicant. Mr. Fowler stated that as regards traffic flow, the applicant should submit to a peer analysis at their expense.

Don Seltzer stated, as regards signage, the placard space located in the far rear of the lot is contrary to federal and state regulations; as regards parking, the Board can reduce it to 25 percent, but not the 90 percent that the applicant is asking for; and as regards solar exposure, this building is taller than others in the neighborhood, and the shadows shown in the presentation package are not representative of reality. He suggested that, under the Environmental Design Review, the Board could limit the height of the proposed building. The Chair advised Mr. Seltzer that he is not allowed to share material in his background and requested that he revert to the previous background.

Steve Moore asked the CEO of the storage company how many years they've been in business doing this; how many properties have been purchased for self-storage, and of those purchases, how many does the investor group still own and what has happened to the properties; he requested clarification on staffing/hours; he stated his concern about truck sizes and dumpster trips. He hopes that the soil study mentioned earlier by Mr. Benson covers the entire site.

Absent further public comments, The Chair questioned the applicant regarding interior rain leaders. Mr. Bryan stated this is not their preference. The Chair asked whether they are meeting drainage criteria; Mr. Bryan provided details on this. She also referred to questions around limitations on storage, material restrictions, and access codes; Mr. Bryan provided details on this as well.

The Chair opened the floor to the Board for questions/comments, requesting that they address some of the concerns that Ms. Tintocalis identified.

The Chair spoke in support of the proposal, stating that there's work to be done on the façade and some of the signage as well as the parking. Mr. Lau spoke in support of the proposal. Mr. Benson asked if Ms. Tintocalis wished to comment before he and Mr. Revilak did so. Ms. Tintocalis reiterated her previous concerns, stating that the proposed site would be a low value commercial space that would not set the right tone for the area. Mr. Benson stated that while he is disappointed with this first proposal since industrial zoning was changed, he did not see enough to take her side on this. Mr. Revilak spoke in support of the facility, stating that it would have low traffic impact. Ms. Tintocalis continued with her critique. The Chair suggested moving to the next topic. Mr. Lau stated that he respected Ms. Tintocalis's opinion but the basis for her opposition is inappropriate and the project should continue, perhaps with future changes.

Mr. Lau asked for the dimensions of the base spacing for the building, stating that it cannot be 10 x 10; the applicant stated that it is a 10 x 10 grid system, which allows for greater flexibility. Discussion of layout and parking followed.

The Chair listed the items that the Board wished the proponent to review before returning. Ms. Raitt stated she would generate the list and proposed a start time of 6:30 on April 27. The Chair requested a motion to continue to that date; Mr. Lau so moved; Mr. Benson seconded; the Board voted unanimously in favor.

The Chair requested a motion to adjourn. Mr. Lau so moved; Ms. Tintocalis seconded; the Board voted unanimously in favor.

Meeting adjourned.



Town of Arlington, Massachusetts

Correspondence Received

Summary:

Correspondence received from:
T. Falwell 4/21/2022

ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Correspondence_from_T._Falwell_received_4- 21- 2022_re_34_Dudley_Street_Docket_#3690.pdf	Correspondence from T. Falwell received 04202022

From: "Thomas W. Falwell" <Tfalwell@cominsnewbury.com>
To: Jenny Raitt <JRaitt@town.arlington.ma.us>, Kelly Lynema <KLynema@town.arlington.ma.us>
Cc: "Mark Santini (mark@santiniinc.com)" <mark@santiniinc.com>, "Gary Santini (gary@santiniinc.com)" <gary@santiniinc.com>, Gregg Santini <gregg@santiniinc.com>
Date: Thu, 21 Apr 2022 14:25:06 +0000
Subject: RE: 34 Dudley Street - Docket #3690

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CAUTION: This email originated from outside of the Town of Arlington's email system. Do not click links or open attachments unless you recognize the REAL sender (whose email address in the From: line in "< >" brackets) and you know the content is safe.

Jenny:

Please see the attached Supplemental Memorandum in Opposition for filing and posting with respect to the pending application for an EDR Special Permit for the above-captioned property.

Please confirm receipt and call or email me with any questions.

Thank you.

Tom

Thomas Wray Falwell, Esquire

Comins & Newbury LLP

9 Damonmill Square, Suite 4D

Concord, MA 01742

(978) 341-0222

(978) 341-0655 (fax)

EMAILS SENT OR RECEIVED SHALL NEITHER CONSTITUTE ACCEPTANCE OF CONDUCTING TRANSACTIONS VIA ELECTRONIC MEANS NOR SHALL CREATE A BINDING CONTRACT IN THE ABSENCE OF A FULLY SIGNED WRITTEN AGREEMENT.

WIRE FRAUD ALERT - IF YOU RECEIVE AN EMAIL FROM AN EMAIL ADDRESS ASSOCIATED WITH COMINS & NEWBURY LLP REQUESTING THAT YOU WIRE OR TRANSFER FUNDS, BEFORE COMPLETING SUCH A TRANSFER YOU MUST CALL 978-341-0222 TO CONFIRM THE REQUEST AND ANY CORRESPONDING INSTRUCTIONS.

TOWN OF ARLINGTON, MASSACHUSETTS

ARLINGTON REDEVELOPMENT BOARD

DOCKET NO. 3690

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34 DUDLEY STREET, LLC, Petitioner
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SUPPLEMENTAL MEMORANDUM
IN OPPOSITION TO APPLICATION FOR
ENVIRONMENTAL DESIGN REVIEW
SPECIAL PERMIT

BACKGROUND INFORMATION

This Supplemental Memorandum is provided on behalf of Gary R. Santini and Mark Santini, Trustees of Santini Realty Trust (“Santini”), owners of the property at 26 Dudley Street (the “Santini Property”), a direct abutter to the Petitioner’s proposed Project. Santini restates and incorporates herein the opposition as set forth in their original Opposition Memorandum previously filed with the Board. Additionally, Santini provides further reasons for opposition to the proposed Project as follows:

STORMWATER MANAGEMENT

The present plans called for stormwater to be, in part, treated on site and then discharged into Mill Brook. Upon a review of the filed plans, it appears that at least some of the stormwater from the site is proposed to be directly discharged into the Mill Brook without treatment. Santini avers that such direct discharge is not allowed as a matter of law and applicable regulations. Furthermore, because the proposed building exceeds 3 stories and 39 feet in height, By-Law Section 5.6.2 (D)(7) requires that the project “retain and treat 100% of the stormwater on site”. Therefore, the proposed Project, as currently proposed, does not meet the requirements of the Zoning By-Law.

TRAFFIC, PARKING AND IMPACTS ON DUDLEY STREET

Dudley Street is a relatively narrow street having, it is believed, an average paved width of approximately 25’ feet. It is uncontroverted that during business hours there is traffic and congestion issues on Dudley Street with cars frequently parked on both sides of the street leaving only a single travel lane. These present conditions and the potential worsening of conditions as a result of the allowance and

construction of the proposed Project need to be taken into account and analyzed in connection with the updated traffic counts requested by the Planning Department of the Applicant in a March 29, 2022 email.

On related matters of concern, the Applicant has publicly stated that **only** trucks of 24' or less will be allowed to come to the facility. What is the plan to enforce that restriction? For instance, if not knowing this, a new customer comes to the facility in a truck greater than 24', how will they be dealt with? It is difficult to believe they will be summarily sent away.

Through the undersigned, Santini had previously requested the Department to have an analysis performed showing that a 24' vehicle (1) would be able to make the turning radius when entering or exiting the loading bays and (2) when entering and exiting the proposed facility onto Dudley Street, especially when vehicles are parked, as they often are, on both sides of the street. Has this been addressed with or by the Applicant?

Additionally, has the Arlington Fire Department been consulted as to whether the proposed facility, as presently designed, allows for the required access for its equipment in the event of a fire or other emergency to which it is called to respond? If so, what was the response? If not, will this be done before any decision is made on the pending application?

REQUIRED PARKING

The Department has, we note, in the March 29, 2022 email, requested the Applicant to address how it will meet the minimum vehicle parking requirement were the Board to agree to a reduction to 25% of the otherwise required parking. Santini repeats their concerns of the adequacy of the parking if the 75% reduction of the required parking is granted based on their own experience on Brattle Court during peak days, hours and times of the year. For example, in late summer when people often are moving or when college students are returning from college in May and going back to school in late summer, the demand for on-site parking is increased exponentially and will likely cause issues with an increase in parking on Dudley Street which, as previously noted, is now often congested. **It is interesting to note that for one of the facilities that the Applicant used in compiling its traffic counts, specifically the 490 Eastern Avenue, Malden site, the applicant was required to provide 39 spaces for a facility containing 884 storage units.**

BUILDING HEIGHT AND MASSING WHEN VIEWED FROM ABUTTING PUBLIC SPACES

Santini questions, as have others at the prior public hearing, the proposed height of the building in comparison with existing buildings on Dudley Street. The proposed facility would be essentially two stories higher than any other existing building on Dudley Street. This situation will be exacerbated, it is believed, by required fill on the rear of the lot, although the existing filings with the Board and with the

Conservation Commission do not appear to clearly address that circumstance. Personal observation of the site would indicate that at the rear of the lot the existing elevation is, as an estimate, 6 or 7 feet lower than at Dudley Street. The building renderings submitted appear to show the building situated on a flat site. The applicant should be asked to address and clarify this discrepancy, to wit, is fill required on the rear of the site to raise the existing grade to the proposed, post-construction, finish grade? If so, where and to what height? If fill is, in fact, required, a Special Permit may be required under Sections 5.7.5(C) of the Zoning By-Law. There is no pending application under By-Law Section 5.7.6 for such Special Permit.

Additionally, if the answer is that the grade at the rear of the building is to be raised, this will further negatively impact the massing of the proposed building, its height when viewed from the abutting public spaces at Wellington Park and along the Mill Brook and lessen the effectiveness of the existing and proposed vegetative screening.

**FAILURE OF APPLICATION TO INCLUDE ALL LANDOWNERS WHERE PROPOSED
WORK IS TO BE DONE**

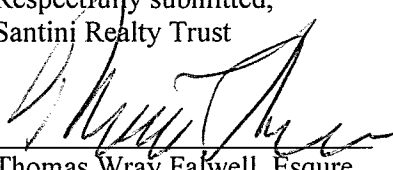
The Applicant proposes to do work on Town owned land on the bank between the property and the adjacent Mill Brook. The Applicant has no preexisting right to enter upon and perform alterations to the Town owned land. As such, the Town (acting by the Board or Department under whose jurisdiction the land is) should be a co-applicant on the pending application. It is not, thus the application should be deemed incomplete and rejected.

In summary, for the reasons stated, the Board should require (1) an independent peer or updated traffic and parking study, (2) shadowing studies, (3) a reduction in the gross floor area of the proposed building to accommodate required parking under the By-Law or, if the Board is inclined to grant a reduction in parking, not less than 25% of the otherwise required spaces and (4) the Applicant should be required to appropriately and satisfactorily address the additional questions and issues raised by this Supplemental Opposition before making any Decision on the requested Environmental Design Review Special Permit.

Alternatively, the Board should simply deny the requested Environmental Design Review Special Permit due to a failure of the applicant to meet the required Environmental Design Review and Special Permit standards.

Santini reserves the right to file further and supplementary responses in connection with any continued hearing in this matter.

Respectfully submitted,
Santini Realty Trust

By: 
Thomas Wray Falwell, Esquire
Its attorney
Comins & Newbury LLP
9 Damonmill Square, Suite 4D
Concord, MA 01742
(978) 341-0222

Dated: April 21, 2022