

Volume: 2

S T E N O G R A P H I C R E C O R D

ANNUAL TOWN MEETING

ARLINGTON, MASSACHUSETTS

SECOND SESSION

Held at: Robbins Memorial Town Hall
Auditorium

730 Massachusetts Avenue
Arlington, Massachusetts 02174

On: Wednesday, April 24, 1991

Commencing at: 8:03 p.m.

COPLEY COURT REPORTING
101 Tremont Street
Boston, Massachusetts 02108
(617) 423-5841

I N D E X

<u>No.</u>	<u>Article</u>	<u>Page</u>
	Invocation	3
11	Continued discussion	5
12	Concerning Special Permit Granting Authorities	40
13	Concerning Bed and Breakfasts	43
14	Zoning	44
15	Zoning	68

1 The MODERATOR. No, sir, he did not.
2 He raised a point of order which I think is
3 legitimate. He did not participate in the debate or
4 otherwise urge us to terminate debate. I think that
5 was a two-thirds vote. We'll now on the the article
6 itself.

7 (After putting the question) Clearly
8 two-thirds vote, but we must have it standing
9 because of the requirement. Same Tellers.

10 (A standing vote was thereupon taken
11 and the Tellers returned the count.)

12 The MODERATOR. 143 in the
13 affirmative, 23 in the negative. It is approved.
14 Article 14 is closed. We will now take a ten-minute
15 recess.

16 (Whereupon a recess was taken.)

17 Zoning

18 The MODERATOR. Town meeting please
19 come to order. Article 15 is now before us. Would
20 everyone please take their seat. Article 15 is
21 before us. The Redevelopment Board recommends a
22 vote as set forth in their report starting on page
23 23. Mr. Faulkner. Would everyone please stop
24 private conversations and take their seats. Would

1 someone close the doors at the back of the hall. Go
2 ahead, Mr. Faulkner.

3 Mr. FAULKNER. Mr. Moderator, I move
4 that Article 15 motion as printed in --

5 The MODERATOR. Would the group at
6 the back of the hall by the map please take their
7 seats.

8 Mr. FAULKNER. Mr. Moderator, I'd
9 like to move the article as printed on page 23 of
10 our report with one amendment.

11 The MODERATOR. Go ahead, Mr.
12 Faulkner. What is the amendment?

13 Mr. FAULKNER. I move that the vote
14 as printed be amended by deleting the paragraph
15 which is on page 26, the fifth paragraph down, the
16 fifth paragraph on page 26, delete the paragraph
17 that reads quote, "An in Article 9, non-conforming
18 uses, structures and lots, section 9.02D," in the
19 first sentence, et cetera. The reason for this is
20 that this was put into amend the section of the
21 zoning bylaw which we changed in Article 8. It is
22 no longer necessary to amendment that section. In
23 the warrant Article 8 we amended Article 9 so that
24 we no longer need to make this change as is printed

1 here, so that our amendment is to delete that
2 paragraph.

3 The MODERATOR. Is there any
4 objection to deleting the referenced paragraph in
5 the proposed vote under Article 15? Mr. McCabe, do
6 you object?

7 Mr. MCCABE. Could the gentleman
8 repeat what it is that he wants dropped.

9 The MODERATOR. On page 26 of your
10 report, in the one, two, three, four, the fifth
11 paragraph down begins, "And in Article 9,
12 non-conforming uses."

13 Mr. MCCABE. Thank you. I have it.

14 The MODERATOR. Mr. Faulkner has
15 asked us to delete that paragraph from this proposed
16 vote.

17 Mr. MCCABE. Completely.

18 The MODERATOR. Completely. Is
19 everyone clear on that? Is there any objection to
20 ~~arguing~~ ^{doing} that administratively .

21 Mr. MCCABE. Mr. Moderator?

22 The MODERATOR. Mr. McCabe, take the
23 microphone, please.

24 Mr. MCCABE. Would the gentleman

1 explain why he wants to do this. Thank you.

2 The MODERATOR. I think he did but
3 let's have it one more time, Mr. Faulkner.

4 Mr. MCCABE. I didn't hear it, Mr.
5 Moderator.

6 Mr. FAULKNER. In Warrant Article 8
7 which we acted on Monday, we amended this section of
8 the zoning bylaw changing the reference to R-1 and
9 R-2 districts to references of one- or two-family
10 homes, so that we no longer need to include this
11 change because that section of the bylaw has been
12 corrected. In fact, this refers to the former
13 wording of that section of the bylaw, and so this
14 paragraph is no longer needed or correct.

15 The MODERATOR. Is that clear. With
16 unanimous consent of the meeting, we will accept
17 that amendment without the formality of the vote.
18 Now, before we start the discussion, I would like
19 to -- When I recognize someone, would you please
20 stand so that the young people who have the
21 microphones will know where they are supposed to be
22 heading. Now, Article 15 is before us. Is there
23 any discussion? Mr. Nigro.

24 Mr. NIGRO. Ron Nigro, precinct 15.

1 This particular article I feel has a primary
2 contention that the values in this new proposed RO
3 district, the values of the properties, will be
4 preserved by restriction restricting what you can do
5 with the existing properties. According to the
6 information that was distributed, there are 110 lots
7 that could be built on. Now, this assumes, in my
8 opinion, an ideal situation.

9 Currently, the lot sizes are 6,000 square
10 feet and the frontage is 60 feet, so if you have a
11 25,000 square foot lot, it doesn't necessarily
12 follow that you divide six into 25 and gets four
13 lots, because when you have the frontage
14 requirements and your 6,000 square foot
15 requirements, in all probability, you're only going
16 to get two, and in some instances maybe three, lots.
17 So I really question 110 lots. No doubt there are
18 some lots, but I think that's simplifying the
19 situation. It would be very easy to classify this
20 proposed change as ^{snob} ~~non~~-zoning. But my great feel is
21 not to snob owning zoning, but the imposition of
22 this bylaw or a similar one throughout the town,
23 this could prove to be a real witch hunt for anyone
24 with a large lot of land to fear.

1 According to the Redevelopment Board, if
2 you'll look with me on page 23, they talk about
3 the -- well, from 22 to 23, they talk about the
4 bottom of 22, top of 23, the non-conforming
5 properties in this particular proposed district.
6 There are 473 lots. There are two vacant lots.
7 Actually there's five, but three of them were not
8 the subject of non-conforming uses. I think what
9 I'm talking about now is the non-conforming uses
10 that will be created as a result of this proposed
11 bylaw change; two vacant lots, nine lots that would
12 fail for reasons of area and frontage, 29 lots that
13 would fail for reasons of frontage alone, 22 lots
14 that would fail because of the area requirements. A
15 total of 62 lots. Now, 62 lots are out of 464 --
16 473, pardon me. That comes to approximately one and
17 in every eight lots being non-conforming uses.

18 The Town Meeting member under Article 9 of
19 this current Town Meeting changed the standards
20 somewhat where a building may be destroyed by fire
21 or other means, we change the standards as to what
22 we would now allow in that case where you had a
23 non-conforming use that was destroyed, partially
24 destroyed by fire, say more than 50 percent. Before

1 it went before the Zoning Board of Appeals, they
2 would be charged not to continue a non-conforming
3 use. By Article 9 that we voted on earlier in this
4 Town Meeting, we now said to the Zoning Board, "In
5 case somebody else gets more than 50 percent
6 destroyed by fire, you need not force them to
7 conform with this new bylaw. You can allow to the
8 continuation of a non-conforming use."

9 I'm sure that's not very reassuring if
10 you're one of the eight property -- one in eight,
11 because you see, if that's that situation would
12 occur, you would still have to go before the Zoning
13 Board of Appeals, and their decision is completely
14 at the discretion of the board. They need not, even
15 though they can, they need not allow you to rebuild
16 your house. Small point you might say. I think
17 it's a very important point. And if it were my
18 house that was in the district and they made it
19 non-conforming in any way, I would be quite
20 concerned. This is the classic case in my opinion
21 of ^{tyranny of} the majority. Let's not let government protect
22 us out of all we own. Vote no on this article.
23 Thank you.

24 The MODERATOR. Mr. Griffin.

1 Mr. GRIFFIN. John Griffin, precinct
2 12. I have an amendment I'd like to make to Article
3 15. My amendment is --

4 The MODERATOR. Go ahead, Mr.
5 Griffin.

6 Mr. GRIFFIN. Vote that the motion of
7 the Redevelopment Board is amended by adding at the
8 end thereof the following, "Any lots which at the
9 time of the first advertisement of this proposed
10 zoning change would duly be recorded with the
11 registry of deeds and which did not contain a
12 principal building or which a building permit was
13 not issued might may be built upon with a single
14 family residential use provided that the loss lot
15 contains not less than 6,000 square feet of area and
16 60 feet of frontage."

17 The MODERATOR. It is seconded by Mr.
18 Nelson. It is seconded by Mr. Nelson.

19 ^{GRIFFIN}Mr. NELSON: I have many reasons for
20 making this amendment to the Article 15, and tonight
21 you'll ^{hear}~~here~~ the Redevelopment Board tell everyone
22 why every one is bad. I'm going to tell you why
23 this article is really bad and what it's really
24 doing. It is taking away the property rights of a

1 family that grew up here in Arlington. It is taking
2 away a lot that was up until the day the
3 announcement hit the article, the day the
4 announcement was put in the Arlington Advocate, they
5 put they could have applied for a building permit
6 and built a house there on that lot. But even
7 though the article has not yet been voted on as of
8 February 15th, the Murphy's right to build a home
9 has been taken away. Even though it conforms to
10 every zoning bylaw, every front yard requirements,
11 side yard and rear yard zoning requirement, they
12 have not been able to apply for a building permit.
13 Before the Murphy's had any notification or
14 knowledge about a pending zoning change. They had
15 the buildable lot recorded at the registry of deeds.
16 And the way ^{they} ~~think~~ knew how to record the lot is they
17 called the Planning Department to find out how to
18 record a buildable lot.

19 The Planning Department told them nothing
20 about a proposed zoning change in the area. So they
21 had their lot surveyed and they recorded it at the
22 registry of deeds. The surveyor called the Planning
23 Department. The planning department didn't tell the
24 surveyor anything about the proposed amendment or

1 proposed zoning change to the survey either for
2 their lot. The only reason for my amendment is if
3 this Article 15 passes, the Murphy's will still have
4 the right to build a home there.

5 The Planning Board would like you to
6 believe that a grandfathering clause would be a
7 total disaster, but grandfathering buildable lots
8 has been a practice in zoning changes from 1939 up
9 until 1975. The amendment would affect only two
10 lots. The zoning change would affect 11 potential
11 buildable lots. Out of those 11, two cannot be
12 built upon. The other lots, one being less than
13 6,000 square feet; three were 6,000 some odd square
14 feet, and five was less than 9,000 square feet, will
15 still be able to be built upon. And the only reason
16 for that is that those lots were put into separate
17 ownership. Meaning that if the house was in the
18 parents' name and the lot was in the children's
19 name, the Murphy's would still be able to build a
20 house there. Mr. and Mrs. Murphy are being
21 penalized for paying too much attention to raising a
22 family and not enough attention to the board's
23 three-year plan.

24 Even though it's meant to be only the

1 morning side of town will be affected, the zoning
2 change is a start of the town taking away your
3 property rights and not just through the morning
4 side area but throughout the town. If Article 15
5 passes, this amendment would be the only way to
6 protect the Murphy's from the town taking away their
7 buildable lot. I respectfully ask the Town Meeting
8 to approve my amendment to Article 15, and at this
9 time I'd like to ask the moderator permission to let
10 Shawn Murphy to speak the Town Meeting members.
11 Thank you.

12 The MODERATOR. Yes. All right. Mr.
13 Murphy, is he in the hall?

14 Mr. ^{GRiffin} NELSON. Yes.

15 The MODERATOR. He is obviously a
16 resident of the town. Mr. Maher, while Mr. Murphy
17 is making his presentation, would you consider this
18 amendment is something that we can legally do in
19 terms of this article? We'll ask for your opinion
20 afterwards.

21 Mr. MURPHY. Thank you, Mr.
22 Moderator. Thank you, John. Mr. Griffin has just
23 proposed an additional clause to the proposed
24 amendment to Article 15 of the Arlington zoning

1 bylaw. Basically what the addition is asking for is
2 that if this amendment to the zoning bylaw be
3 passed, a clause be added that will protect any land
4 owner who owned a subdivided lot of land which is of
5 sufficient size and has sufficient frontage to
6 conform to the present zoning bylaws and was
7 recorded with the registry of deeds prior to the
8 date of the first advertisement of this proposed
9 zoning change. In other words, we're asking for a
10 grandfather clause.

11 My family and I have lived in Arlington
12 all of our lives, and my mother's family has been in
13 Arlington since the 1850's. They have lived on
14 Bradley Road for the last 26 years. Next to our
15 house is an empty lot which my parents owned. They
16 had always considered this as a lot which one of
17 their sons could build. Indeed this thought became
18 more and more realistic when cost of housing went up
19 so much in the 1980's. Unfortunately, this happened
20 to be at the same time that myself and my brothers
21 grew up, and some of us got married and could not
22 afford to live in Arlington. As a result, my
23 parents have subdivided their lot so that they would
24 have another lot which conformed to all of the

1 existing zoning bylaws.

2 As you can see on my display, this lot is
3 not irregularly shaped, and the new construction
4 would not be at odd angles and inconsistent with
5 existing street character. The engineering office
6 that performed the survey has indicated to us that a
7 house almost identical to my parents' house, without
8 the extention which was added on in the 1950's,
9 could be built on this lot and would like look quite
10 attractive. I would also like to explain although
11 this lot looks as though it drops off in the back,
12 the houses on either sides of this lot are split
13 level and they too were built upon the same slope,
14 and I think you would agree that they all look very
15 attractive.

16 I fail to see how an addition at 15 feet
17 of frontage can make the difference between
18 protecting the character of the neighborhood and
19 destroying the character of the neighborhood.
20 Before the advertisement of this proposal of any
21 change was published, my wife made a personal visit
22 to the planning office seeking advice in the
23 recording of this lot. At that time, no one from
24 the office informed her that a zoning amendment was

1 going to be proposed. As well as that, the surveyor
2 who performed the survey of the lot spoke with the
3 planning staff, asking whether he needed Planning
4 Board approval before he recorded the plan at the
5 registry of deeds. The planning staff replied that
6 no approval was needed, but again, they failed to
7 inform him of this proposal.

8 In mid-February of this year, we learned
9 that that this amendment was coming up for a vote
10 before you, the Town Meeting members. We went to a
11 public hearing and learned that due to a
12 technicality, my parents would lose their lot with
13 the passage of this amendment, which is to say that
14 because the two lots are in common ownership, my
15 parents will lose the right to build on the new lot.
16 They were unaware that if they had recorded the
17 second lot in one of their son's name's, they would
18 have received protection under the state law.

19 At this meeting we respectfully requested
20 that the Redevelopment Board grandfather the two
21 lots adversely affected. The second lot is on
22 Mystic Street which is owned by the Osworth's,
23 nothing to do with my family. The planning staff
24 explained to us that they felt a grandfathering

1 clause would be detrimental to the Town of
2 Arlington. However, we don't feel that this is the
3 case. In fact, not having a grandfathering clause
4 only serves to penalize small land owners such as my
5 parents who are ignorant of the ins and outs of the
6 complicated zoning ^{law} land issues. The Board of
7 Redevelopment criticized us for in the placing the
8 separate lot in separate ownership since they felt
9 we should have known about the proposed amendment
10 before it was actually advertised.

11 This is because the planning staff say
12 they have been working on it for three years.
13 However, as I said before, my wife visited the
14 office of the planning staff seeking advice on
15 recording the new lot at the registry of deeds, but
16 at that time, no one informed her of any zoning
17 change proposal which would directly affect the new
18 lot. Although they did tell her she could record
19 the lot at the registry of the deeds. If we had
20 been advised of the pending zoning proposal, we have
21 we could have protected this lot by placing it in
22 separate ownership. When appealed to the board for
23 lenience because of this, we were told that it was
24 ironic that the lady my wife spoke with was unaware

1 of the proposed zoning change. Yet the board is
2 penalizing my parents for their ignorance.

3 Page 22 of Warrant Article 15 in the
4 Redevelopment Board's report indicates that the
5 proposed RO district will only affect the morning
6 side area due to its larger lots, desirable location
7 and style of housing. If this is the case then I do
8 not see how the grandfathering clause will be
9 detrimental to the Town of Arlington. As I have
10 said before, only two lots in the whole district
11 would be able to avail themselves to this
12 grandfathering clause because theses are the only
13 two lots which were duly recorded with the registry
14 of deeds before the advertisement of this proposal.
15 Since the zoning amendment is singular in nature, I
16 cannot see where the planning staff is so adamantly
17 opposed to this grandfathering clause if it is only
18 going to protect these two lots. The planning staff
19 has explained to us that they do not want to set a
20 precedent for this grandfather clause, but this
21 precedent is only go to protect the two lots. I
22 fail to see how this could be detrimental to the
23 Town of Arlington.

24 Before I finish I would like to address

1 the last part of the paragraph of page 23 of the
2 report to the Arlington Town Meeting. It states
3 there is intense opposition from the abutters due to
4 perceived marginal quality, smaller lot size and
5 anticipated adverse affect on the integrity of the
6 district. However, as you can see on the display a
7 house similar to the existing house my parents own
8 can be built and would compliment the neighborhood
9 which would not have an adverse affect on the
10 district and would not be of marginal quality.

11 First of all the lot lines are linear and the front
12 of the house would run parallel to the frontage.
13 It would not be placed askew on the lot. And
14 secondly there are split level houses on either side
15 of this lot built on the same slope and the pattern
16 would be repeated here.

17 I also state that the abutters were sent a
18 very one-sided letter which in my opinion could only
19 provoke negative feedback from them. As well as
20 that, I would like to say that the planning staff
21 had advised my parents that if there was a
22 possibility of buying lands from an abutter that it
23 would conform with the proposed zoning bylaws. I
24 first say that this is really not a viable option

1 since we are still losing our right to build on this
2 house -- on this lot. And secondly, if we were to
3 buy 15 feet of frontage, which really is not that
4 big of an area, they say that they would allow the
5 house to be built. I really don't see the
6 difference.

7 In conclusion, I reiterate the fact there
8 are only two lots in this proposed new district
9 which would be adversely affected, my parents' lot on
10 Bradley Road and another vacant lot on Mystic
11 Street. I do not see how these two homes on
12 separate streets will affect the character of the
13 morning side neighborhood, which as explained in the
14 Town Warrant is the reasoning behind this zoning
15 amendment.

16 Once again I appeal to your sense of
17 fairness in considering a grandfathering clause
18 which would prevent my parents' lot and a lot on
19 Mystic Street which had been recognized as legally
20 buildable lots from being taken from them. Before I
21 step down I would ask the moderator if I may preserve
22 my opportunity for a rebuttal because I suspect that
23 the planning staff and the Redevelopment Board will
24 speak in opposition to this proposed grandfather

1 clause. Do I have your permission, Mr. Moderator?

2 The MODERATOR. Well, as the debate
3 continues, a member may again request and Mr.
4 Griffin request you be given an opportunity to
5 reply. If there are questions, of course, you will
6 be given the opportunity to respond to them.

7 Mr. MURPHY. Thank you for the
8 opportunity to be heard, Mr. Moderator.

9 The MODERATOR. Miss Barry,
10 microphone, please.

11 Ms. BARRY. Evelyn Barry, precinct
12 11. Mr. Moderator, I'd like to now respond to this
13 amendment, but later I'd like to be given the
14 opportunity to offer a new amendment.

15 The MODERATOR. Well, we can put you
16 on the list for a second time. If you don't have
17 the other amendment ready --

18 Ms. BARRY. I do have it it ready but
19 I'd rather respond first and then get this --

20 The MODERATOR. Well, you may respond
21 and offer your amendment during the same set of
22 remarks if you wish.

23 Ms. BARRY. That's fine. Thank you.
24 Let me begin by saying although I am a resident of

1 precinct 11, I do not live within the portion of
2 precinct 11 which is included in the proposed RO
3 rezoning district. My home is in the Mystic side
4 area, a neighborhood of more modest homes and
5 smaller house lots. Under the present R-1 zoning,
6 neither of the two lots under discussion would
7 satisfy the 60-foot minimum required frontage if the
8 owners did not alter their property lines by cutting
9 in an irregular fashion into the frontage of the
10 lots on which their present homes now stand. This
11 may be a clever tactic, but to me, it is an evasive
12 one as well.

13 I would ask you to refer to the lot plans
14 on page 30 of your Redevelopment Board report. Such
15 alterations of the property lines may work on paper,
16 but to anyone looking at the actual properties, as I
17 hope many of you already have, the frontage of the
18 Mystic Street lot would not appear to be 60 feet.
19 It's 54 feet in the rear. And one would assume that
20 the lot would go straight from the back to the front
21 or vice versa so that the front of the lot would
22 appear to be 54 feet. Similarly the Bradley Road
23 property, the rear is 51 and a half feet, and a line
24 drawn straight from the rear to the street would

1 give the lot the appearance of only 51 and a half
2 feet.

3 You'll notice also that the Mystic Street
4 plan calls for building the garage in the front and
5 the house in the rear with the house built sideways
6 so that it would fit into the small space.

7 Considering that the average frontage in the
8 proposed RO district is currently 100 feet, one can
9 see how the crowding of homes onto the lots I've
10 just described would appear very much out of place.

11 During the past week, we all received a
12 letter from the fiance of the member of the Sousa
13 Bergess family of 363 Mystic Street and one from the
14 Murphy family of 35 Bradley Road. I was surprised
15 to read the following in the former letter, and I
16 quote, "This property has been owned by Steven's
17 mother, Mrs. Beverly Burgess, since 1966. Her hope
18 had been to have one of her children build a home on
19 the additional land surrounding her house and on her
20 property," end of quote. The reason for my surprise
21 is that this lot was for sale within the past year
22 or two. I assume it did not sell because of the
23 nature of the terrain as well as its small size. As
24 is true in the Bradley Road lot the land drops

1 almost immediately from the sidewalk into a ravine.

2 I suspect that after you read these
3 letters, many of you naturally felt sympathetic to
4 these families and considered them to be the little
5 guys who whose desire to build was being thwarted by
6 the big guys. I'd like you to consider another
7 viewpoint. Why isn't the owner of property which
8 abuts 363 Mystic Street and who would be very
9 adversely affected by this proposed construction a
10 little guy? What about the Fartigen family whose
11 eloquent letter was left on our chairs this evening, *57? Artigen*
12 why aren't they the little guys? What about the
13 other neighbors for both of these properties, the
14 values of whose homes might well drop as a result,
15 the 21 neighbors of 363 Mystic Street who signed the
16 petition we picked up at the rear of the hall
17 tonight, the seventy families sighted in the
18 Fartigen letter who wrote letters to the Planning
19 Board in opposition to the exclusion of these
20 properties; why aren't they the little guys?

21 To permit the exclusion of these
22 properties in question from the proposed RO zoning
23 is completely contrary to the whole point of any
24 such zoning and could cause further erosion of the

1 district. Arlington is a town with a great deal of
2 diversity in terms of neighborhoods and districts.
3 We should do all we can to protect this diversity by
4 preserving the integrity of one of the town's most
5 beautiful residential areas. If we wish to improve
6 our town rather than watch it go down hill, we
7 should do all we can to try to preserve morning side
8 as the beautiful area that it is. It is one of our
9 town's greatest assets, and we are all the little
10 guys who can keep it that way. Let us continue to
11 follow our mission of last year, let us keep
12 Arlington Arlington. I urge you to vote against the
13 substitute article. If it's proper at this time to
14 submit a another amendment -- I don't know if that's
15 proper.

16 The MODERATOR. Go ahead, Ms. Barry,
17 yes. What is your amendment?

18 Ms. BARRY. I'll give you a copy of
19 it now or later.

20 The MODERATOR. Yes. Let's have
21 copies up here for the moderator, the clerk and the
22 town counsel.

23 Ms. BARRY. I'm submitting the
24 following amendment. This amendment to Article 15

1 adds to the list of properties to be included in the
2 RO zoning district. Should I read it precisely?

3 The MODERATOR. All right. Miss
4 Barry, this amendment as Ms. Barry says, and I have
5 it in front of me, adds a number of -- looks like
6 about 25 or 30.

7 Ms. BARRY. 36 I believe.

8 The MODERATOR. -- 36 properties. I
9 believe that is outside the scope of this article
10 that we cannot extend the proposed zoning change
11 over an area which was not included in the original
12 advertisement of the proposed new zone.

13 Ms. BARRY. I might say, Mr.
14 Moderator, that all of the residents of all these
15 properties here with the exception of two have been
16 notified and wish to be included. The two
17 exceptions are people who were not available to be
18 reached at this time. And if indeed they show an
19 objection, then something can be reconsidered at a
20 later date.

21 The MODERATOR. Well, I think before
22 you go forward on this, let us ask Mr. Maher's
23 opinion on both of these articles. On Mr. Griffin's
24 amendment, Mr. Maher, to grandfather these lots as

1 described, is that your view of a proper amendment?

2 Mr. MAHER. Yes.

3 The MODERATOR. It is, all right.

4 Now, realizing, reserving myself the scope ruling,
5 we seek your advice on Mrs. Barry's amendment to add
6 these 36 listed properties to our proposed RO zone.

7 Mr. MAHER. We are constrained by
8 decisions of the Supreme Judicial Court which have
9 addressed almost precisely this sort of question
10 before. The two decided cases ^{ON} ~~in the~~ amendments ^{IN}
11 Commonwealth are the Town of Belmont case and the
12 Town of Canton case. In one instance, additional
13 properties were sought to be included. In the other
14 instance, some properties were sought to be
15 excluded. In both instances, the Supreme Judicial
16 Court has determined that that was inappropriate
17 that with regard to zoning, you were advising people
18 of what is intended and that unless and they have an
19 opportunity to be heard before the Planning Board,
20 in our community, that is Redevelopment Board, that
21 without that process being complied with insofar as
22 what is warned to the voters of the town, warned to
23 the property owners of the town will be considered
24 by not going to the Planning Board but by this Town

1 Meeting that you may not do that.

2 We've had recent discussions, very recent,
3 today, Monday, with the Attorney General's office
4 because we understood these sorts of amendments
5 might be made, and they have been willing, as you
6 know, any bylaw, including zoning bylaw, amendments
7 or additions have to pass muster at the Attorney
8 General's office. They have indicated there, that
9 if there was written documentation with regard to a
10 very small number of additions or deletions
11 indicating that those individual owners agreed with
12 the proposed inclusion or exclusion, they would
13 consider those in taking -- in reviewing the
14 particular amendment.

15 This many without any documentation,
16 written documentation, I think would run the risk
17 of -- if the amendment were to pass in its entirety,
18 would run the risk of not passing scrutiny of the
19 Attorney General's office. Again the basic rule is
20 you may not add; you may not delete. The Attorney
21 General's office has indicated, you may, with one or
22 two exceptions, provided you have the written
23 documentation from the current land owners, is that
24 they agree and they are aware and notified. The

1 purpose there being if they are aware of it they do
2 agree, there won't be any appeals because they will
3 be the only ones who have standing presumably. But
4 here, where you're talking about this many, without
5 any written documentation, my suggestion, Mr.
6 Moderator, is that it is beyond the scope of the
7 article in violation of state law.

8 The MODERATOR. Thank you, Mr. Maher.
9 You've heard the advice of town counsel, and I
10 understand the feeling these people have. I can't
11 disagree with their sentiment, but I do rule that it
12 is outside the scope of the article. I would
13 suggest that if this article is passed and the RO
14 zone is established that this group of neighbors
15 come to Redevelopment Board and ask them to submit
16 an amendment to it in a subsequent year, moving the
17 map line to encompass these additional properties.

18 Ms. BARRY, Thank you.

19 The MODERATOR. Thank you, Ms. Barry.
20 I also rule, just so everyone is clear, that Mr.
21 Griffin's proposed amendment is within the scope of
22 the article. Now, the next is Mr. Nelson.

23 Mr. NELSON. Andrew Nelson, precinct
24 8. I rise to speak in favor of this amendment.

1 Just last Wednesday I closed on a house with my
2 loved one and it was a dream of ours. It is on a
3 small lot in Arlington. It was built in the 1920's.
4 It's a lovely house in a neighborhood with
5 significantly larger lots. It is not a detriment to
6 the community, and it is fulfilling our dreams. The
7 Murphy's, the Osmer's and the Sousa's are pursuing
8 the same dream that other young couples are
9 pursuing. Through this measure you are closing that
10 avenue for them. I don't think this is right. I am
11 going to support this amendment, and I would
12 encourage you also to support this amendment. You
13 folks had dreams to own a house at one point in
14 time; these people do too. I would support this
15 amendment.

16 (Applause.)

17 The MODERATOR. Mr. McCarthy.

18 Mr. MCCARTHY. Philip McCarthy,
19 precinct 13. To lessen congestion in the streets,
20 to provide adequate light and air, to prevent
21 overcrowding of land, to avoid undue concentration
22 of population, to facilitate the adequate provision
23 of transportation, water, water supply, drainage,
24 sewerage, schools, parks, open space and other

1 public requirements, to conserve the value of land
2 and buildings, including the conservation of natural
3 resources and the prevention of light and pollution
4 of the environment, to preserve and increase
5 amenities by the promulgation of regulations to
6 fulfill said objectives; these are the relevant
7 purposes of the state zoning enabling act.

8 Black's Law Dictionary defines amenities,
9 because the last objective I read was to preserve
10 and increase amenities by the promulgation of
11 regulations to fulfill said objectives. Black's Law
12 Dictionary defines amenity as follows: In real
13 property law, such circumstances in regard to
14 situation, view, location, access to water course,
15 or the like, as enhanced the pleasantness or
16 viability of the property for purposes of residents
17 or contribute to the pleasure and enjoyment of the
18 occupants rather than to their indispensable needs.
19 That's what Article 15 is all about.

20 I was on the Redevelopment Board for 15
21 years as many of you know. I resigned from the
22 board effective with the dissolution vote of the
23 1990 Annual Town Meeting. For that reason, I have
24 not been a member of the board since this meeting

1 since the exact moment that this meeting voted to
2 dissolve last June.

3 In the mid-'80's, due to the soaring real
4 estate values, and the fact that what everyone
5 considered to be developable land in Arlington
6 became developed, some of it wisely, some of it
7 unwisely, I was beseeched by neighbors, friends in
8 precinct 13 and others who knew I was a long time
9 member of the board, asking me, "How did this
10 happen? How did that happen?" What were they
11 talking about? They were talking about situations
12 where a home would fall in disrepair. It would go
13 on the market, and there wouldn't be any ready,
14 willing and able buyers knocking down the door due
15 to the fact that the condition of the home was poor.
16 And who would buy the home? A developer. And what
17 would he do? In this instance, 75 Bridge Street, he
18 takes and removes the parking that was beside the
19 house, tears down the garage and carport, puts the
20 parking in the front lawn of the house that was
21 existing, subdivided the lot and shoe-horned in a
22 second house, renovated the original house and sold
23 two houses. That was one of the examples.

24 Other examamples about bounded up on

1 Hartford Road. When property went on the market and
2 when everyone thought was a back yard to an existing
3 home on Bradley Road was subdivided and another
4 house built with its frontage on the road behind on
5 Hartford Road, but again, in such a manner that the
6 back yards of both homes are in all effect,
7 non-existent. I asked the Planning Department if
8 something could be done, if we could look at this
9 issue. The Planning Department was always good in
10 saying yes to requests like that from board members,
11 and they looked at it and we had some discussion.

12 I tried to bring this article before the
13 Town Meeting in previous years. I made motions at
14 Redevelopment Board meetings to submit this article,
15 but I didn't have the support of the board for them
16 to be submitted at that time. The reasoning I
17 believe was that they wanted the Planning Department
18 to do an exhaustive study so that we'd know exactly
19 what should be included, what shouldn't and how it
20 would affect every single parcel of land in the
21 proposed district. I can't quarrel with that
22 reasoning. I'm amazed at the mass of information
23 that this small Planning Department was able to
24 assemble. They know everything there is to know

1 about every lot involved. That's primarily due to
2 the fact that Arlington is light years ahead of
3 every other community in the Commonwealth of
4 Massachusetts because we have every single lot in
5 this town on a computerized data base. And town
6 planners from across the Commonwealth and the
7 departments come here to see how Arlington did it.

8 The morning side neighborhood developed
9 later than the other neighborhoods in Arlington, and
10 the other neighborhoods developed at a time when
11 there was no professional planning in town. The
12 morning side neighborhood developed later and was
13 laid out differently. You had larger homes on
14 larger lots, and the people in this neighborhood
15 almost, almost, seem to support this zoning, from
16 the letters that the department has received, from
17 the testimony at the public hearing that the
18 department held, from the petitions in the hall and
19 on your chairs.

20 My dear friend Ron Nigro, and I mean that
21 sincerely, and I have disagreed before in front of
22 this Town Meeting and will disagree again I'm sure,
23 if I'm lucky enough to be a re-elected up there
24 after being almost the father of this Article 15.

1 And I have to take issue with Ron's buzz words. Ron
2 is an old politician and he knows how to inflame.
3 He's not old; he's just an old politician. It's
4 been 15 years since he's been on the Board of
5 Selectmen. This is not snob zoning. A 9,000
6 square-foot lot would be undersized in most
7 communities.

8 In my 15 years on the Planning Board, your
9 Redevelopment Board which is your Planning Board, I
10 had the opportunity to hear in countless petitions,
11 reviews, hearings, environmental design review
12 matters, zoning changes, why can't we look more
13 like our neighbors to the west, and why do we have
14 to look more like our neighbors to the east. And
15 I've heard it with reference to our business
16 districts and with reference to our zoning
17 districts. Well, in certain parts of town we have
18 been able to look that way, and it's good because it
19 brings a diversity to town. A socio-economic
20 diversity perhaps because the homes up there are
21 larger homes and are on larger lots and therefore
22 command higher prices, but it's a diversity that
23 makes this ⁺down vibrant. Any town that doesn't have
24 diversity, stagnates. We should strive to preserve

1 this diversity. As housing prices rose and the
2 number of lots in town -- buildable lots or
3 obviously buildable lots that everyone might
4 consider a buildable lots, became non-existent and
5 property values rose, the pressure was on. It is
6 certainly economically feasible and viable for
7 developers when houses go on the market to buy the
8 house, tear it down, subdivide the lot, put in two
9 houses or three houses and sell them all. This can
10 happen under the current zoning. If this proposal
11 passes it can still happen in some instances but
12 we've reduced the number of instances. Anyone with
13 9,000 square feet and 75 if they have 18,150, they
14 can still do it. This does not stop all growth. It
15 attempts to reasonably preserve the neighborhood.

16 I think it's worthy of your support. I
17 think the fact that the neighborhood overwhelmingly
18 supports it makes it worthy of your support. With
19 regard to the amendments, I was not a part of the
20 board or the process when these individuals involved
21 with 363 Mystic Street and 35 Bradley Road came
22 before the board, and I speak to those. I can
23 speak, as Mrs. Barry did, to the fact that 363
24 Mystic Street was offered for sale last fall with a

1 for sale sign on it, so I think you have to ask
2 yourself about what the true intentions are at least
3 with regard to that lot. I can make no such comment
4 with regard to the Bradley Road lot.

5 But anybody involved in zoning, any
6 attorney who has handled zoning matters, and I am,
7 having represented the Town of Arlington and other
8 towns in zoning matters before all the courts,
9 including the Supreme Judicial Court of the
10 Commonwealth will tell you that that is the story
11 you heard. I bought it too for my family to build
12 on. And it may be true, but it's very rare that
13 that happens. What happens is, when the family
14 house goes on the market, the lot gets subdivided
15 and built upon.

16 I would also like to point out that at the
17 public hearing, I believe only two Town Meeting
18 members testified; myself and the moderator. There
19 were numerous people present for the hearing. The
20 Murphy's and the parties at 363 Mystic Street had
21 questions, valid questions that they put to the
22 board and I hope were answered. The only party that
23 spoke definitely in opposition, and I'm not sure
24 those parties would oppose it if ~~they're lots~~ their

lots weren't effected, was a real estate broker in town who doesn't live in town. So I think the support is overwhelming. I can't tell you how to vote on Mr. Griffin's amendment. I think you'll have to listen to the arguements. I've been listening to them. But I hope, whatever you do, you realize that this is the most important vote that this Town Meeting will make in this Town Meeting. Now you may say, all right, you may laugh at that and you may say the school school budget is more important. Well, the school budget will come up again next year and the following year and the year after that. You're appropriating a sum of money that is spoonfed to you by the finance committee because we only have so much money, and you have to rubber stamp it, and you know it, I know it, you hear it every year, and you'll hear it again this year.

 This vote I say is the most important one you'll take because it gives you an opportunity to preserve the diversity of Arlington, to preserve a neighborhood of Arlington that desires to be preserved in the manner in which it was built and developed, and I really don't think that's taking

1 away rights from anybody or that it's snob zoning.

2 Thank you for your consideration.

3 The MODERATOR. Would you take the
4 microphone, Mr. Barbar.

5 Mr. BARBER. Mr. Moderator, I have a
6 point of information, and I do want to speak, and I
7 don't want this to be counted against me. The
8 points of information is this, three speakers have
9 alluded to the owners of 363 Mystic Street. Do you
10 think, Mr. Moderator, if that person is present that
11 we should hear from them because some allusions are
12 made that they are going to sell this lot. I think
13 they should be able to defend themself.

14 The MODERATOR. Mrs. Fiore, would you
15 please take the microphone and identify yourself.

16 Ms. FIORE. Sorry. In response to
17 Mr. Barber's statement just now, if I ever get
18 called on, it was my intention to introduce a person
19 who has an interest in 363 Mystic Street.

20 The MODERATOR. Do you wish to be put
21 on the list, Mr. Fiore?

22 Ms. FIORE. I thought I was put on
23 because I stood up probably third. If I'm not on
24 the list, it's a mistake I would say. I hope not --

1 Well, anyway, that's it.

2 The MODERATOR. Mr. Barber, does that
3 answer your point of order?

4 Mr. BARBER. What was your answer,
5 sir?

6 The MODERATOR. You asked whether the
7 owners of 363 Mystic Street would be given an
8 opportunity to explain themselves, and Mrs. Fiore
9 said that when she is recognized, she will ask a
10 member of that family to be allowed to address the
11 Town Meeting. Okay. Mr. Berkowitz.

12 Mr. BERKOWITZ. Thank you. Bill
13 Berkowitz, precinct 8. Regarding Mr. Griffin's
14 amendment, I'd like to know a little bit more about
15 information at the public hearing and also regarding
16 the letters that were written specifically those
17 people at the public hearing, do we know
18 approximately or exactly how many of them
19 specifically address the grandfathering issue and
20 what numbers of them were in favor of including
21 these two houses or excluding them or what numbers
22 did not address this issue at all but rather simply
23 commented on the RO district. Similarly for the
24 letters, do we also know what percent or numbers

1 spoke in favor or opposed to or simply did not
2 address the issue of the grandfathering. And I'd be
3 interested in any other comments regarding the
4 sentiment of the abutters regarding the
5 grandfathering issue.

6 The MODERATOR. All right. Mr.
7 McClennen, I believe you took the records of that
8 meeting. Can you respond to Mr. Berkowitz's point
9 to the extents those records show the data he
10 requests. 6

11 Mr. MCCLENNEN. Mr. Berkowitz, share
12 the questions with me. The first one I believe was
13 how many people requested grandfathering and what
14 was the response of those present at the public
15 hearing, is that correct?

16 Mr. BERKOWITZ. Basically I'd like to
17 know the sentiments of the people at the hearing
18 regarding grandfathering specifically, to the best
19 of your recollection.

20 Mr. MCCLENNEN. Yes. At the hearing
21 there were -- at the time there were five vacant
22 lots that we believed had problems similar to the
23 Murphy lot ^{and} the Sausa's ~~lot~~ lot. At the time of that
24 hearing, all five of those people requested one of

1 two things; either delete us from the district or
2 insert a grandfathering provision. Nobody else
3 present at the hearing commented one way or the
4 other on that request, and the board took the
5 request under advisement.

6 The MODERATOR. Does that answer your
7 question, Mr. Berkowitz?

8 Mr. BERKOWITZ. Okay. And regarding
9 the letters?

10 Mr. MCCLENNEN. Yes. Subsequent to
11 the public hearing we discovered a very recent court
12 case, appeals court case here in Massachusetts that
13 effectively removed the problem with three out of
14 the five lots, and so the issue of grandfathering or
15 anything with those three lots was no longer an
16 issue. At my suggestion to the board in late March,
17 when we concluded that we had two problems, the
18 Murphy lot and the Sousa lot, I recommended and the
19 board concurred that we should at least inform the
20 abutters to these lots that we had been requested to
21 take some action to remove the RO designation either
22 by grandfathering or removing them from the
23 district, and we sent letters to all the abutters,
24 notifying them of this change.

1 Mr. Shawn Murphy indicated earlier that he
2 didn't like the tone of the letter. I thought it
3 was factual, and we asked people to call us or write
4 us, and we received information from 50 percent of
5 the people on the Murphy lot, all of them saying
6 they wish that it would remain in the RO district
7 and would not be built upon. And we received a
8 number of comments on the Mystic Street lots also in
9 response to that letter saying, yes, grandfather it,
10 or yes, delete it from the district.

11 The MODERATOR. Does that answer your
12 question, Mr. Berkowitz?

13 Mr. BERKOWITZ. Yes. Thank you.

14 The MODERATOR. There was a lady
15 almost behind Mr. Berkowitz. Thank you, Mr.
16 McClennan. Please take the microphone.

17 Ms. TAGLIERI. Cathy Taglieri,
18 precinct 13. I live on Bradley Road, and I have two
19 things to tell you. First is, even if a lot meet
20 the minimum zoning requirements, it doesn't always
21 mean that it's a good lot to build on. Mr. McCarthy
22 mentioned two houses that were put in, one on
23 Hartford and the one on Bridge that just don't look
24 like the rest of the neighborhood. If you look at

1 King Street, I think we all agree that they might
2 fit in there on paper, but they don't look like we
3 would all like Arlington to look. Housing down at
4 the end of Brand Street is the same thing. There's
5 four houses sort of perched on a cliff, and again,
6 they don't look like houses we would like to see
7 here in Arlington, so that I would recommend or I
8 would urge you to support the amendment as written.

9 The second thing is, since I live on
10 Bradley Road, I've had occasion to speak with a lot
11 of the residents on the road, and all of the people
12 that I have spoken with, and that's all 13 of the
13 people that live on Bradley Road, up on my end
14 anyways, are opposed to a grandfathering clause.
15 Okay. Thank you very much.

16 The MODERATOR. Thank you. Mr.
17 Sennott, microphone, please.

18 Mr. SENNOTT. I'm ^{Fred} Frank Sennott,
19 precinct 17. I'm not as nice as Ron Nigro. This is
20 snob zoning. I will support the article if the
21 amendment is included, but I strongly urge you to
22 support the amendment.

23 The MODERATOR. Mr. Kaplan.

24 Mr. KAPLAN. I'm in favor -- Alan

1 Kaplan, precinct 13. I'm in favor of the amendment.
2 I think it is snob zoning also. I think a great
3 many residents in this town live on lots that are
4 substantially less than 9,000 square feet. This is
5 almost insulting to them, saying that their lot is
6 not within the character of the town. Also, it
7 seems inappropriate to prohibit development in side
8 yards where we just allowed development in the rear
9 yard specifically changing the zoning. To vote for
10 this proposed article seeks to be contrary to our
11 vote in the previous article.

12 The MODERATOR. Mr. Deyst.

13 Microphone, please. Never mind. He's coming up
14 front.

15 Mr. DEYST. As many of you know, my
16 wife and I live here in precinct 13, and we are in
17 this new proposed district. I want to talk
18 primarily to the article itself, and I want to start
19 by telling you why we have no intention of wanting
20 to live in California. California is a nice place
21 to live, ^{delightful} ~~delightful~~ climate, plenty of interesting
22 things to do in California, but as is so often the
23 case, California is the at the head of new trends.
24 And the kind of thing Phil McCarthy was talking

1 about that happened on Ridge Street has become
2 commonplace in California. It's almost an art form
3 in California. They have a name for it; it's called
4 scraping. What they do is they scrape down ^{an} existing
5 piece of land, right down flat to the ground and put
6 up the highest possible structure that they can
7 within the zoning laws available in California to
8 create the largest possible income for the owner or
9 for the subsequent sale of the property.

10 We in precinct 13, and now I'm talking
11 about the large number of people within the precinct
12 who want this article to pass, and there are many,
13 many people in precinct 13 who want the article to
14 pass, are depending upon you to help us preserve our
15 neighborhood. Because that's what this is really
16 about. This is really about preserving the kind of
17 place that morning side is today. I believe that
18 every one of the Town Meeting members, although I
19 cannot say that it is true unanimously because I
20 have not polled them, are for this. But even if we
21 all voted for it, you still would deny us by voting
22 this down, if you do, the ability to preserve our
23 neighborhood.

24 We are going down the path that is already

1 established in California, and it's called scraping,
2 so please stop the scraping potential for precinct
3 13. Mr. Moderator, I would like to ask that also
4 that Mr. Virtigian who is a resident of the town and
5 lives in precinct 13 who has asked me if he could
6 speak, if we would allow him to speak.

7 The MODERATOR. Yes, sir. Go ahead.
8 Would you state your name and address, please.

9 Mr. VIRTIGIAN. Thank you very much
10 for the opportunity to speak. My name is Bob
11 Virtigian. I live at 38 Bradley Road in Arlington.
12 I'm speaking and asking you to pass the RO district
13 without the amendments to exclude 35 Bradley Road
14 and 363 Mystic Street. Tonight we've heard speakers
15 opposing the RO amendment and or asking for the
16 exclusions -- to exclude 35 Bradley Road and 363
17 Mystic Street from the RO amendment if it does pass.

18 Tonight we've heard about the dreams that
19 the new generation has, but my parents had dreams
20 to; my parents had dreams too when we they moved to
21 Bradley Road to the same house they're residing at
22 now, 36 years ago. Four out of the five neighbors
23 that share the same block with the Murphy's have
24 also been there between 35 and 40 years, and I'm

1 sure this was their dream house when they bought it
2 36 years ago. They saw the street as it was built
3 at that time, never expecting that any division of
4 lots or any other building would take place after
5 they bought their homes. It looked and appeared and
6 was a completed street at that time. We've heard
7 tonight also about how grandfathering these two
8 houses into the RO amendment wouldn't hurt. It's
9 only two houses. But what does that mean. If it
10 was ten houses, does that mean it wouldn't hurt?
11 It would be only ten houses. It was 25 houses,
12 would it be only 25 houses?

13 The fact is that it's not just the
14 Planning Board that's interested in the RO petition.
15 It's the people that are effected, and especially
16 the ones that live on the street, namely Bradley
17 Road and the surrounding area, Mystic Street and the
18 surrounding area, for various reasons that I have
19 stated in my letter that you've all had a chance to
20 look at I hope. The reasons range anywhere from the
21 way the street would look to actual I suppose you
22 could call it environmental reasons which would
23 affect the rain water running off into the houses in
24 the street below on Frost Street.

1 I know -- If I was in their shoes I'm not
2 sure if I would care that much about a house or a
3 street or a neighborhood if I didn't live there, but
4 I'm asking you to realize that it means a great deal
5 to the people who are too shy to come in here and
6 voice their opinion. I consider myself one of those
7 people. I've never been to a Town Meeting. Maybe
8 15 years ago I was at a Town Meeting, but I never
9 actually have been up here to speak because there's
10 never been an issue that's affected me so directly.
11 It would totally change the character of the street
12 and I hope that -- and the neighborhood, and I hope
13 that you look at my letter again if you're undecided
14 before you vote, and please pass the RO district as
15 it reads with no exclusions. Thank you.

16 The MODERATOR. Thank you. Point of
17 personal privilege. Would you take to the
18 microphone, please. Would you stand up so he knows
19 where to bring it.

20 FROM THE FLOOR. Not as a direct
21 reflection of the past speaker, but we seem to have
22 entered into general discussion on Article 15 and
23 not the specific amendment on the floor? Should we
24 now remain on the specific amendment on the floor?

1 FROM THE FLOOR. Sorry. I couldn't
2 find it on the sheet, so I just picked personal
3 privilege.

4 The MODERATOR. That's a point of
5 order. Since the amendment goes I think so much to
6 the heart of what is being discussed here, I think
7 it's hard to separate the two into discrete areas of
8 discussion. Mr. Falwell.

9 Mr. JUDD. Mr. Moderator, point of
10 information, sir.

11 The MODERATOR. Yes, Mr. Judd. What
12 is your point of information?

13 Mr. JUDD. Mr. Moderator, how many
14 people remain on your list to speak, and am I on
15 that list because it seems to me I raised my hand
16 considerable times, but perhaps I'm wrong.

17 The MODERATOR. There are nine people
18 on the list, Mr. Judd, and you are the one, two
19 three, fourth of them.

20 Mr. JUDD. Thank you, sir.

21 The MODERATOR. Mr. Falwell.

22 Mr. FALWELL. Tom Falwell, precinct
23 13. I was just rising to point out some
24 misinformation, not to pick on Mr. Nigro as Mr.

1 McCarthy says. But Mr. Nigro I'm afraid has got
2 some of his sections mixed up and some of his
3 nomenclature mixed up to the extent he referred --
4 Is this working because it doesn't -- he referred
5 throughout his presentation to non-conforming uses,
6 and I know it gets on confusing, but we're not
7 talking about non-conforming uses. All of the uses
8 in this district are single-family and none of them
9 are non-conforming. So the point that he makes
10 about no^N-conforming uses and people wouldn't be able
11 to rebuild is absolutely incorrect. He talked about
12 having made an amendment the other night that dealt
13 with correction or rebuilding of the structures that
14 were damaged by fire. We didn't deal with that the
15 other night. We dealt with unsafe structures.

16 I think it's clear is that if you have a
17 lot and you own the lot, and you own it singly, and
18 in fact, there is a fire, and you live in this
19 district and your lot happens to be under 9,000
20 square feet and 75 feet of frontage, you will not be
21 affected and you will not not be able to rebuild, so
22 you shouldn't be under the assumption that by
23 passing this that those 20 percent or whatever the
24 number was of lots that Mr. Nigro referred to is

1 somehow in jeopardy of not being able to rebuild
2 their structures, because I believe it's simply not
3 true. I'd also ask if there's time, Mr. Moderator,
4 if Mr. McClenn²~~n~~ could also address some other
5 misinformation that was put forth by Attorney
6 Murphy.

7 Mr. NIGRO. I --

8 The MODERATOR. Wait a minute, Mr.
9 Nigro. Let Mr. Falwell finish.

10 Mr. NIGRO. He's made a point of
11 something I said, and all I did was focus right here
12 in your own report. You told --

13 The MODERATOR. Mr. Nigro. Mr.
14 Nigro. Mr. Nigro, would you please take the
15 microphone, state your point of personal privilege
16 and they will determine if it is well taken --

17 Mr. NIGRO. Personal privilege is he
18 says I'm incorrect when I was quoting the
19 redevelopment report. If I'm incorrect you are,
20 sir.

21 Mr. FALWELL. Mr. Nigro, you kept
22 referring to non-conforming uses. These are not
23 non-conforming uses. Non-conforming uses and
24 non-conforming structures are totally different

1 things. Every structure, every use in this district
2 is a residential single-family use. They are all
3 conforming uses. We are not talking about
4 non-conforming uses. In addition to that, under our
5 bylaw as it presently exists and as I understand,
6 and you can correct me if you're wrong, and get
7 somebody to do so. If you have a lot that happens
8 to under 9,000 feet in this new RO district and 75
9 feet of frontage and you have a fire, you can
10 rebuild. Excuse me, and the reference you made to
11 what we amended the other night had nothing to do
12 with ---

13 Mr. NIGRO. Could town counsel
14 explain if there is a difference between the a
15 non-conforming structure and a non-conforming use,
16 please.

17 The MODERATOR. Mr. Nigro, I think
18 that goes beyond your point of personal privilege.

19 Mr. NIGRO. It is the point the whole
20 point of personal privilege.

21 The MODERATOR. If you wish to be put
22 on the list for a second time --

23 Mr. NIGRO. Yes, sometime Monday I
24 guess.

1 The MODERATOR. For what purpose do
2 you rise?

3 FROM THE FLOOR. I move for adjourn.
4 (Motion seconded)

5 The MODERATOR. Let me just clarify
6 one thing. There is a motion to adjourn. Mr.
7 Falwell, are you finished, or are you in the middle
8 of your remarks.

9 The MODERATOR. You're in the middle,
10 so when we come back we're in the middle of Mr.
11 Falwell. Before you leave, before you leave, I
12 should like to remind you that tomorrow night, if
13 you want to make this every night this week, come
14 here to the town hall to the hearing room to help
15 plan the celebration in honor of the returning
16 veterans of the Gulf War, tomorrow night at 7:30 in
17 the hearing room. All those in favor of adjourn --
18 Wait. We haven't stopped yet. Yes, yes. Is there
19 any further? Yes. Mrs. Simmons, what purpose do
20 you rise? Will you take the microphone, please,
21 Mrs. Simmons.

22 Ms. SIMMONS. Carolyn Simmons,
23 precinct 12. On the prevailing side I would like to
24 have reconsideration on Article 11.

1 The MODERATOR. You'd like to give
2 notice of reconsideration.

3 Ms. SIMMONS. Notice of
4 reconsideration.

5 The MODERATOR. At a subsequent time.
6 All right. Thank you, Mrs. Simmons. (After
7 putting the motion to adjourn.) We are adjourned.

8 (Whereupon the meeting adjourned at
9 11:02 o'clock p.m.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

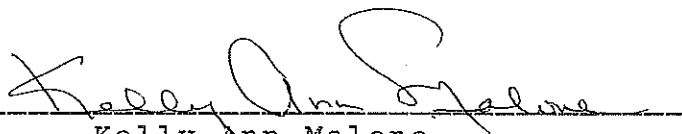
C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

I, Kelly Ann Malone, a Certified Shorthand Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify:

That the transcript hereinbefore set forth is a true and accurate record of my stenotype notes taken in the foregoing matter, to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal this 23rd day of May, 1991.



Kelly Ann Malone
Notary Public, CSR

The foregoing certification of this transcript does not apply to any reproduction of the same by any means unless under the direct control and/or direction of the certifying reporter.

My commission expires: April 27, 1995

Volume: II
Pages: 1-133

S T E N O G R A P H I C R E C O R D

ANNUAL TOWN MEETING
ARLINGTON, MASSACHUSETTS

THIRD SESSION

Held at: Robbins Memorial Town Hall
Auditorium
730 Massachusetts Avenue
Arlington, Massachusetts 02174
On: Monday, April 29, 1991
Commencing at: 8:06 p.m.

COPLEY COURT REPORTING
101 Tremont Street
Boston, Massachusetts 02108
(617) 423-5841

I N D E X

Harry P. McCabe:

Sworn in as Temporary Moderator - Page 94

<u>No.</u>	<u>Article</u>	<u>Page</u>
	Invocation	3
13	Bed and Breakfasts	69
74	911 Emergency Services	70
16	Acquisition of Land	76
18	Transfer of Land	78
20	Tax Title - Land Transfer	92
21	Historic District - Broadway	94
22	Historic District - Pleasant Street	106
23	Historic District - Mount Gilboa/Crescent Hill	110

P R O C E E D I N G S

(The Third Session of the Annual Town Meeting of the Town of Arlington was called to order by the Moderator, Mr. John L. Worden, III).

THE MODERATOR: The Town Meeting will come to order. Please stand for the singing of the National Anthem accompanied by Evelyn Barry on the piano.

(The "Star Spangled Banner" was thereupon sung by the Assembly).

THE MODERATOR: Please remain standing for the invocation which will be given by Reverend Francis J. McGann, Pastor of the St. Eulaia's Church.

Invocation

REVEREND MCGANN: Father, we thank You for all Your gifts. We thank You in a special way this evening for the town in which we live and for the Citizens of Arlington who work in so many ways for the welfare of one another. You know that Town Meeting Members have serious responsibilities. Their decisions effect not only the present context of our lives, but also extend in their effects into the future, even the

1 distant future.

2 Grant to all Town Meeting Members the
3 gifts of Your spirit. Grant knowledge of the
4 issues at hand. Grant wisdom to apply sound
5 judgement. Grant fairness to listen to all sides
6 of the issues. Grant patience to work out
7 differences without frustration or resentment.
8 Grant to all the gifts of clarity and brevity in
9 their presentations. Under Your inspiration,
10 Father, may the deliberations and decisions of
11 this body promote the welfare and happiness of
12 our beloved community. Amen.

13 THE MODERATOR: Are there any Town
14 Meeting Members here present who have not yet
15 been sworn in? Is Mr. ^{Toulamieri} ~~Toulamieri~~ in the hall?
16 He was elected about a half an hour ago. There
17 he is. Are there any other Town Meeting Members
18 who have not yet been sworn in? Please repeat
19 after me using your own name.

20 (All newly-elected Town Meeting Members
21 were thereupon sworn in by the Moderator).

22 THE MODERATOR: Congratulations.

23 (Applause) I would ask those at the back of the
24 hall to please, if you wish to have a

1 conversation, please just go to the other side of
2 those doors. It is disruptive for the -- or will
3 be disruptive once the debate begins.

4 Tonight perhaps we will finish the
5 zoning articles if we stick to those hopeful
6 suggestions that Father McGann just gave us about
7 both brevity and clarity. But I don't think the
8 Town Meeting need feel badly about discussing
9 these matters at length. They are, as pointed
10 out by Mr. McCarthy the other evening, matters of
11 lasting significance, unlike a budget or some
12 other matter that you vote anew again every year.
13 When we alter the zoning bylaw, we do it in a
14 sort of permanent way.

15 A reminder about votes, substitute
16 motions and amendments. As will appear a little
17 later this evening, it is important, indeed
18 required, not only that they be in writing, but
19 it is an awfully good idea to have them reviewed
20 in advance by the Town Counsel and the Moderator.
21 Now, it's nice -- as I say, we require them to be
22 in writing, and someone comes up here in the
23 midst of debate and hands me something and I look
24 at it and I ask Mr. Maher to look at it, and it

1 happens very quickly, and there's a sea of hands
2 out there, we're trying to keep the debate in
3 order, you sometimes can't give it the care you
4 would in a more quiet environment. And I think
5 there are a few of these amendments which people
6 haven't known about for a while. So I would
7 encourage you, for your own benefit, to have them
8 into us in advance.

9 Another one of our rules, we haven't
10 broken it yet, but I think we may have come
11 close, and this is a rule in the bylaws. This
12 isn't my rule, this is your rule. We have some
13 limits on speeches. The first time you speak on
14 an article, you are limited to fifteen minutes.
15 You may only exceed that if, before beginning to
16 speak, you ask the assent of the Town Meeting for
17 a more extended period of time. And sometimes
18 when a speaker knows that he's got a half-hour
19 program, he will do that. Otherwise, we are
20 required to sort of put the hook on you at the
21 end of fifteen minutes.

22 If the same speaker is recognized for a
23 second time, he or she is limited to five
24 minutes. And a speaker cannot be recognized a

1 third time until everyone else who wishes to
2 address that article has had an opportunity to
3 speak.

4 Now, I would reiterate what we said
5 the other night, only Town Meeting Members and a
6 few designated Town Officials are allowed to sit
7 within what we call the enclosure, that's the
8 chairs on the floor here that are between the
9 signs at the back of the hall and the front of
10 the room.

11 Now, if the folks who are standing at
12 the rear, if you plan to speak, you have some
13 Town Meeting Member who is prepared to ask for
14 you to be introduced, I guess you should continue
15 standing there. If you don't plan to speak, you
16 probably would be more comfortable sitting up in
17 the balcony; also, the view is better.

18 Now, I will now recognize Mr. Gilligan,
19 Vice-Chairman of the Board of Selectmen. Mr.
20 Gilligan.

21 MR. GILLIGAN: Thank you, Mr.
22 Moderator.

23 Moved: That if all the business of the
24 Meeting as set forth in the Warrant for the

1 Annual Town Meeting is not disposed of at this
2 session, when the meeting adjourns, it adjourns
3 to Wednesday, May 1st, 1991, at 8 o'clock p.m.

4 THE MODERATOR: Thank you, Mr.
5 Gilligan. Is there any discussion?

6 (No response).

7 THE MODERATOR: All right. Or I guess
8 is there a second?

9 (Motion seconded).

10 THE MODERATOR: Is there any
11 discussion? (No response).

12 (After putting the question) It is a
13 vote, and if we don't finish tonight, we'll come
14 back Wednesday night.

15 Mr. Donahue, for what purpose do you
16 rise?

17 MR. DONAHUE: I'd like to say a few
18 words in memorium of Fred Lewis, former Town
19 Meeting Member.

20 THE MODERATOR: Go right ahead, Mr.
21 Donahue

22 MR. DONAHUE: Fred Lewis, a Town
23 Meeting Member from Precinct 2 died early last
24 week. He has served as a Town Meeting from my

1 neighborhood for several years. When I first
2 moved into Kelwyn Manor, I met Fred. He included
3 me in a slate of offices to run for Town Meeting.
4 In those days, you had to belong to a slate or
5 you didn't get elected because it was so hard to
6 contest it, especially in East Arlington.

7 Fred was the kind of a person who loved
8 Arlington. He loved the Town Meeting. He was
9 active in both the Town Meeting Members'
10 Association, he held office there, and the East
11 Arlington Residence Association. He contributed
12 great wisdom and tolerance, and I'm sure that he
13 would have continued as Town Meeting until his
14 death had he not had to leave a few years ago to
15 take care of his wife, Janet. So I would
16 appreciate it if you'd join with me for a moment
17 of silence in memory of Fred.

18 (Moment of silence).

19 MR. DONAHUE: Thank you very much.

20 THE MODERATOR: Thank you, Mr. Donahue.
21 Mr. Gearin, for what purpose do you rise?

22 MR. GEARIN: Point of order, Mr.
23 Moderator.

24 THE MODERATOR: What is your point of

1 order?

2 MR. GEARIN: John Gearin, Precinct 8.
3 My point of order, as I came in this evening, I
4 found several printed items on the chair. I
5 think about six or seven years ago, we had a
6 problem with materials put out for Town Meeting
7 Members which were unsigned. This is happening
8 again.

9 I think it would be a courtesy to
10 everybody if anyone who's going to put out
11 material would sign it, and also, if there was
12 some way, Mr. Moderator, for the practice of
13 putting out unidentified material to be stopped.
14 I believe it is a rule of the body; is that
15 correct.

16 THE MODERATOR: Say again, Mr. Gearin?

17 MR. GEARIN: I believe it is a rule of
18 the body that material unsigned is not to be
19 distributed in the seats; is that correct?

20 THE MODERATOR: That, I believe, has
21 been for many years, our rule. I have stated
22 this on a couple occasions so far this year, and
23 it is, as Mr. Gearin points out, diverting to
24 have these unsigned things. And I've tried to be

1 reasonable about it and not say you have to run
2 everything by me before you put it on the chairs;
3 however, I think it's being abused.

4 And once again, nothing is to be put on
5 the chairs in this hall unless it has the name
6 and address of a registered voter in this town.
7 And I think, you know, anonymous pieces of
8 material should be given just that much
9 credibility. If someone doesn't want to sign it,
10 then I would take it to the nearest recycling
11 box.

12 Now, when we adjourned on Wednesday
13 night, we were in the midst of Article 15. And
14 as a subset, we were in the midst of an amendment
15 proposed by Mr. Griffin. And as a subset of
16 that, we were in the midst of a speech by Mr.
17 Falwell.

18 Now, in the course of that meeting,
19 and over the weekend, it has come to our
20 attention that the amendment proposed by Mr.
21 Griffin, although the substance of it is within
22 the scope of the article, procedurally, it is
23 defective and it would be ineffective to carry
24 out the goal which Mr. Griffin proposes.

1 Therefore, I am going to recognize Mr.
2 Griffin and allow him to make a corrected
3 proposed amendment so that we will not get hung
4 up on some procedural point. Mr. Griffin.

5 MR. GRIFFIN: I'm going to ask John
6 Maher in a minute just to explain. This is more
7 of a technical reason for making this amendment.
8 Basically, the amendment stays the same as it was
9 before, it's that the vote of the Redevelopment
10 Board be amended in the sixth paragraph beginning
11 "and in Article 6, Section 6, Table of Dimensions
12 and Density Regulations," by adding "the use
13 single-family detached dwelling," a footnote
14 "zero" after the nine thousand in the column
15 titled "Lot Requirement, Minimum Size, Square
16 Foot," and after the 75 in the column titled "Lot
17 Requirement, Minimum Frontage."

18 And immediately before the paragraph
19 beginning "and in the footnotes to the Table of
20 Dimensions and" by inserting the following
21 paragraph: "And in the section entitled
22 'Footnotes to the Table of Dimensions,
23 Regulations,' after footnote end by inserting the
24 following." This is basically what the amendment

1 says from now on. You can probably understand
2 it.

3 Any lot shown on the zoning map as
4 proposed by the zoning bylaw change first
5 advertised on February 21st, 1991, as being in
6 the RO district, and which were duly recorded
7 with the Registry of Deeds on or before February
8 21, 1991, which did not contain a principal
9 building or for which a building permit was not
10 issued may be built upon with a single-family
11 residential use providing that the lot contains
12 not less than 6,000 square feet of area and 60
13 feet of frontage. I'm just going to ask John
14 Maher if you can just explain this a little bit
15 more. This is the first time I've seen the
16 changes as of tonight.

17 THE MODERATOR: Could we have a copy of
18 that up here, Mr. Griffin? You have signed this,
19 okay.

20 MR. GRIFFIN: I have signed it, yes,
21 sir.

22 THE MODERATOR: Okay. Mr. Maher, do
23 you want to explain this, sir?

24 MR. MAHER: During the change compared

1 to what we were trying to do last Wednesday, or
2 what the proponents of the amendment were trying
3 to do last Wednesday, is to simply insert in the
4 proper section of the bylaw the grandfathering
5 clause. It makes no change in the substance of
6 the section, only inserts it in its proper place
7 to effect it in the correct fashion.

8 MR. GRIFFIN: Thank you.

9 THE MODERATOR: With the unanimous
10 consent of the meeting, we will allow Mr. Griffin
11 to administratively make that technical change in
12 his amendment.

13 Now, if you want to see what that does,
14 if you take Page 25 of your Redevelopment Board
15 report, I know you don't have this language in
16 front of you, but I will try to make it as
17 clear -- on Page 25, there is a -- yeah, on Page
18 25, you find covering most of that page a long
19 line of figures which is a chart, or which is a
20 proposed amendment to a table which is in the
21 zoning bylaw.

22 Now, what Mr. Griffin's amendment would
23 do would be to add after you see up there at the
24 top of the page, it says "Lot Requirement,

1 Minimum Size, 9,000 Square Feet," and "Lot
2 Requirement, Minimum Frontage, 75," he would put
3 a little footnote symbol "O" after each of those
4 figures. And then down below the text of that
5 amendment, he would put in the language which he
6 read, which is substantially the language which
7 he presented the other night, to the effect that
8 if there was a recorded plan for a 6,000-foot lot
9 prior to February when the bylaw was advertised,
10 then that could continue to be built upon, that
11 is, if you approve this amendment.


12 Now, is everyone more or less clear as
13 to where we are? We haven't changed the
14 substance of what Mr. Griffin is trying to do,
15 but we are just trying to make it procedurally
16 accurate so that if it should get passed, it will
17 achieve the effect that he desires.

18 Now, I think I heard afterwards, after
19 Wednesday's night, some people were confused. So
20 I think we will limit the discussion in this
21 instance just to the merits of Mr. Griffin's
22 amendment. When we have talked that out
23 sufficiently, we will have a vote on Mr.
24 Griffin's amendment, and then we will go on to

1 the main proposal of the Redevelopment Board.

2 Now, in that context, we have a number
3 of people left on the list from last -- here's
4 somebody else trying to get on the list, I guess.
5 We have a number of people left on the list from
6 last time, and I will call upon them, after we
7 finish with Mr. Falwell, I will call upon them as
8 I have them here, and possibly one or two other
9 people may wish to speak as well. I think we
10 about eight people.

11 All right, Mr. Falwell, do you want to
12 continue whatever you were saying the other
13 night?

14 MR. FALWELL: Thank you, Mr. Moderator.
15 What I was attempting to do was I think clarify
16 some misinformation that we felt had been given
17 to the Meeting, and also, to eliminate some
18 potential confusion. And in the interest of
19 brevity and clarity, which you have mentioned in
20 your remarks, I'd like to, at this point, perhaps
21 yield the floor to Mr. McClennen, our ~~ex~~ 
22 secretary, ex officio to the Board to conclude
23 those remarks and perhaps presumably clarify the
24 issues that we are discussing.

1 THE MODERATOR: Thank you. Go ahead,
2 Mr. McClennen.

3 MR. McCLENNEN: Thank you, Mr.
4 Moderator and Members of the Town Meeting. The
5 first item I believe has been clarified, and that
6 essentially was Mr. Nigro's discussion about
7 nonconforming uses. I would like to emphasize
8 for you that action on RO does not create any
9 nonconforming uses. And to the best of our
10 knowledge, at this point, we do not render any of
11 the 472 properties in that district unbuildable.
12 The question before you is 363 Mytic Street and
13 35 Bradley Road. Those in the Article, as
14 presented to you by the Redevelopment Board,
15 would cease to be buildable lots if this Article
16 is passed without the amendment that was proposed
17 by Mr. Griffin.

18 Now, I would like to take just a
19 couple of minutes and explain how we got to this
20 situation, because I think, listening Wednesday
21 night, the debate really was centering around
22 those two lots, not the concept of RO. And I
23 want the Town Meeting Members to understand,
24 certainly from the Planning Director's and

1 Planning Staff's point of view, that in the end,
2 as Judge Hand said much more eloquently than I
3 can, you are the tribunal, you make a decision.
4 I am staff, and I am staff to the Redevelopment
5 Board. And in fact, the Redevelopment Board is
6 staff to you because they're appointed, not
7 elected. We give you our best judgement on an
8 issue, and then you make the decision.

9 On Wednesday night, however, there was
10 some information that was presented by Mr. Sean
11 Murphy, the son of Mr. Richard Murphy, who owns
12 the property at 35 Bradley Road, that I feel I
13 must try and correct for you so that when you
14 make a decision, you make the decision based on
15 your best judgement.

16 My concern is that when I went to work
17 on Thursday morning, my secretary was feeling
18 very poorly because at least there was an
19 implication in the presentation that the Planning
20 Department had tried to pull a fast one on the
21 Murphys. And I am standing before you this
22 evening to say that we did not do that. And I
23 want to give you some facts so that you
24 understand exactly where we're coming from.

1 On January 18th, 1991, Paula Murphy,
2 Mr. Richard Murphy's daughter-in-law and wife of
3 Sean Murphy, went to the Planning Department
4 office and spoke to a secretary in that office,
5 and she said, "I would like you to sign a
6 subdivision plan"; subdivision plan not requiring
7 approval but in all but ten communities of the
8 Commonwealth of Massachusetts, 341 out of 351,
9 the Planning Board would sign that plan.

10 Here in Arlington, because of action by
11 the Town Meeting and ultimately the state
12 legislature, since 1972, we do not have that
13 right.

14 My secretary said, "We cannot sign a
15 subdivision plan. We do not have subdivision
16 control." And the person left. The plan was
17 never discussed; it was the procedure.

18 Later that day, the engineer in the
19 office, someone from the engineering office for
20 whom Mrs. Murphy works, called, and I overheard
21 the conversation on the telephone with my
22 secretary telling a gentleman on the phone that
23 we could not do that. And eventually, my
24 secretary gave the telephone to me, and I

1 explained to the gentleman that we do not sign
2 plans because we are not empowered to do that by
3 Town Meeting and the Legislature.

4 At no time was the location of that
5 plan ever discussed. At no time was that plan
6 ever unrolled. We did not know until much later,
7 as I will tell you, that it dealt with 35 Bradley
8 Road.

9 Now, just very quickly some history:
10 On January 22nd, we submitted articles to the
11 Board of Selectmen for inclusion in the Warrant.
12 On Friday, January 25th, Mrs. Murphy, or the
13 engineering firm, or someone recorded that plan
14 without our signature because it was not
15 necessary, and there is a stamped plan recorded
16 in the Registry of Deeds.

17 Sometime during the week of January
18 28th, and now I'm going to talk about 363 Mytic
19 Street, which is the other problem parcel,
20 Stephen Souza came to our office to talk about a
21 building permit for a lot on Mytic Street.
22 Interestingly enough, if you look in the list,
23 which you have in this Warrant Article, there is
24 no vacant lot at 363 Mytic Street, there is one

1 lot. And we discovered at that point that there
2 had been an earlier subdivision that was no
3 longer carried in the records of the Assessor's
4 Office of the Town of Arlington, which is where
5 we get the information.

6 A member of our staff, along with the
7 secretary who was present at that time, explained
8 to Mr. Souza that as of January 22nd, the
9 Redevelopment Board had proposed an amendment
10 that would, in fact, affect a building permit on
11 that vacant lot that we had become aware of. And
12 we pointed out to him that in order to protect
13 his interest in that lot, and, in fact, his
14 mother's interest, he would have to go to the
15 Building Inspector's office and apply and receive
16 a building permit.

17 And based on our understanding, there
18 were two things that he needed: one, a certified
19 plot plan from a professional engineer; and
20 second, the Building Inspector's office, prior to
21 issuing a building permit, requires a framing
22 plan.

23 We do know that Mr. Souza went to that
24 office, and we're told that he received exactly

1 the same information. We pointed out to him that
2 he had a window of opportunity until Thursday,
3 February 21st, which was essentially three weeks.
4 I believe that Mr. Souza went back to the office
5 sometime during the week of February -- not to
6 our office, but the Building Inspector's office,
7 on February 11th. He did not come back to our
8 office. The short of it is that he never
9 succeeded in getting the building permit, because
10 the information necessary for that permit was not
11 submitted.

12 On February 20th, Mr. Nigro and I
13 participated in a TV program, and we discussed
14 the consequences of the RO district.

15 And sometime, Ron, I have a tape of it,
16 we can sit down at night and watch it again after
17 this is all over as friends.

18 On February 21st, what you have in your
19 report to the Redevelopment Board was advertised
20 in the Arlington Advocate, that was official
21 notification that there was a proposed amendment,
22 and at that point in time, the Building
23 Department was no longer empowered to grant a
24 building permit. And there is a famous case here

1 in the Town of Arlington, Calure (phonetic) -v-
2 the Town of Arlington, which centered on just
3 that issue in 1972.

4 On February 22nd, the Planning
5 Department mailed 473 letters to everybody that
6 was in the proposed district. And in fact, on
7 the 22nd, we also mailed letters to the Town
8 Meeting Members that were then elected Town
9 Meeting Members in districts -- or Precincts 11,
10 13 and 15, some of whom are no longer Town
11 Meeting Members and have been replaced by others,
12 but on February 22nd, that happened.

13 In the period from February 22nd to
14 March 11th, which was the date of the Public
15 Hearing on Article 15, we received numerous
16 letters of support, questions and telephone calls
17 saying: Hey, that's a good idea.

18 On March 11th at 3:10 p.m., I received
19 a telephone call from Richard Murphy of 35
20 Bradley Road. He asked me at this point -- and
21 this is the first time that I knew that there
22 was, in fact, a lot created at 35 Bradley Road,
23 because I had never seen the subdivision plan
24 before that time, and when Paula Murphy had been

1 in the office, the address or the plan was not
2 shown to anyone.

3 I explained to Mr. Murphy that there
4 were essentially three or four choices: The lot
5 was not on the boundary of a district, therefore,
6 it could not easily be removed from a district.
7 In order to remove that lot and protect it, we
8 would have to remove three or four other lots.
9 The lot -- we did not have subdivision control,
10 so there is no grandfather protection, which is
11 essentially what Mr. Griffin's amendment is
12 attempting to do.

13 Third, and I have the notes on some
14 plans here, I explained to Mr. Murphy that at a
15 minimum, to create a buildable lot at that site,
16 he would have to acquire 15 feet of additional
17 frontage for the new vacant lot, and 2,923
18 additional square feet. And I noted to him that
19 the lot immediately adjacent to his appeared to
20 have extra land in the side yard.

21 And in fact, when I looked at the
22 Assessor's plans, which date from forty or fifty
23 years ago, interestingly enough, there was a lot
24 there at one time, and subsequent deed research

1 has pointed out that that lot was subdivided and
2 sent in two different directions. But I
3 explained to him that was the option.

4 And the fourth option, which is always
5 an option, is to go to the Zoning Board of
6 Appeals and ask for a variance because you have a
7 hardship. Those were the four options.

8 As you know, on March 11th, we received
9 a great deal of testimony at the public hearing.
10 We ended up with five lots that had problems.
11 Subsequent to that, we have been able to solve
12 the problems with three of them through a recent
13 court case that solved some of their problems.

14 At that public hearing, there was a
15 copy of the plan shown publicly for the first
16 time. My records show that on March 19th, I did
17 receive a fax of that plan from Paula Murphy from
18 her company, Dewsnap Engineering.

19 On March 22nd, because we realized we
20 had a problem, we sent a letter to all the
21 abutters saying: We have been alerted to a
22 problem as a result of the public hearing
23 process. In one case, there is a lot we did not
24 know existed until the day of the public hearing;

1 what is your opinion? And as you have heard, the
2 abutters are not interested in having this lot --
3 either of these lots grandfathered or rezoned
4 back to R1.

5 On April 8th, after the Special Town
6 Meeting in this Town Hall, the Redevelopment
7 Board went back into session -- the Murphys were
8 present, Mr. Souza was present, Miss Osmer was
9 present -- and I explained again all the options
10 that were available, which were four of them.
11 And I pointed out that, from my position, that I
12 recommended that the Redevelopment Board proceed
13 to this Town Meeting with the Article as
14 originally drafted and prepared and submitted to
15 the Board of Selectmen.

16 The Redevelopment Board then ultimately
17 agreed to that, and that's why you have the vote
18 that is before you. And I hope that you will act
19 as a tribunal. You make the decision on the
20 amendment. As the Moderator has said, we will
21 abide by your decision on the amendment; but I
22 caution you that, depending on which way it goes,
23 don't forget that there are 472 other property
24 owners in that RO district that have said we want

1 RO.

2 And the amendment, if it is made,
3 requires a majority vote; the adoption of the RO
4 district requires a two-thirds vote. So please,
5 separate those issues and vote on the issue that
6 Mr. Griffin has presented to you. And then after
7 that decision is made, come back and please
8 recognize that everybody in that district, save
9 the people that are asking for the amendment,
10 have requested that that district be adopted.

11 Thank you very much, Mr. Moderator.

12 THE MODERATOR: Thank you, Mr.
13 McClennen.

14 Before we go to the next speaker, there
15 is a white Dodge, plate number 679-829, parked in
16 front of the post office on Court Street whose
17 lights are on. If anyone here owns that car,
18 they would miss the next part of the debate.

19 Now, Mrs. Fiore.

20 MS. FIORE: Elsie Fiore, Precinct 2.
21 Mr. Moderator, I'd like to ask permission of the
22 Town Meeting to have Nancy Osmer, a resident of
23 Arlington, but not a Town Meeting Member, speak
24 on Article 15. She has an interest in the lot at

1 363 Mytic Street.

2 THE MODERATOR: All right. Mrs. Osmer,
3 do you want to come forward? Would you give
4 your, before you start, your name and address for
5 the record, please?

6 MS. OSMER: My name is Nancy Osmer.
7 I'm from Precinct 2.

8 Mr. Moderator, Town Meeting Members,
9 the information contained within the Arlington
10 Redevelopment Board memorandum dated April 9th,
11 1991, which pertains to the two lots which are
12 noted on Page 23 as not being protected, my
13 interest pertains to one of those lots, mainly,
14 the lot described at 363 Mytic Street, parcel
15 number R0075-C-0003A, which is adjacent to 363
16 Mytic Street.

17 The materials on Page 23 of the
18 memorandum are not accurate in two respects: A,
19 the lot adjacent to 363 Mytic Street is not of a
20 smaller size relative to the surrounding
21 properties, and; B, the development of the lot
22 would not have an adverse effect on the integrity
23 of the district.

24 In particular, the lots to the left of

1 the lot which I am concerned contain 4,000 and
2 7,997 square feet, the lot to the rear, 7,200
3 square feet. The lot to the right, owned by my
4 future mother-in-law, contains 16,042 square
5 feet, where the lot which I am concerned,
6 excluded from the R1 district, the development of
7 the parcel could proceed in as much of the area
8 of that parcel 6,700 square feet, and combined
9 with the area of the lot to the right, which
10 would result in a parcel containing 22,747 square
11 feet, which argueably may be capable of being
12 divided.

13 As a result, however, of the foundation
14 of my future mother-in-law's home, to comply with
15 the proposed frontage requirements of 75 feet, an
16 area of 9,000 square feet, it would be necessary
17 to have an irregular lot line. An irregular lot
18 line would be more detrimental to the integrity
19 of the zoning bylaws than the exclusion of the
20 lot from the proposed RO zone.

21 Accordingly, I urge amendment of the
22 proposed article by deletion from the list which
23 appears commencing at Page 26 of the memorandum,
24 the parcel of property described as 363 Mytic

1 Street, R0075-C-0003A.

2 THE MODERATOR: Excuse me, are you a
3 Town Meeting Member?

4 MS. OSMER: No, I'm not. I'm an
5 Arlington voter.

6 THE MODERATOR: But you are suggesting
7 an amendment to the --

8 MS. OSMER: I probably can't do that
9 because I'm not a Member, but.

10 THE MODERATOR: Well, let's just be
11 clear what -- if I heard you correctly, you are
12 asking the Meeting to amend a proposed vote of
13 the Redevelopment Board by --

14 MS. OSMER: Deletion.

15 THE MODERATOR: -- deleting some lot on
16 Mytic Street?

17 MS. OSMER: Right.

18 THE MODERATOR: I believe you cannot do
19 that.

20 MS. OSMER: Okay.

21 THE MODERATOR: Even if moved, it would
22 not be a legal amendment.

23 MS. OSMER: Mr. Moderator, could I also
24 add to this? I do have another thing I'd like to

1 say.

2 THE MODERATOR: Go ahead.

3 MS. OSMER: A couple of issues that
4 were brought up on Wednesday evening, April 25th:
5 One, lot sizes and frontages on both lots are
6 accurate. Please turn to Page 23, second
7 paragraph, of the memorandum, and it will tell
8 you so.

9 Two, Mrs. Beverly Burges has owned this
10 piece of land -- piece of property for 24 years,
11 and also has been paying taxes for this piece of
12 property for 24 years. In 1989, she suffered a
13 personal financial problem which forced her to
14 assess the value of her property. As you know,
15 the property was put on the market July 22nd,
16 1989, to October 22nd of 1989. This property was
17 never put on the market since.

18 Three, the petition that was signed
19 was signed by property owners that are protected
20 by the R1 zone. Also, there is one signature, in
21 particular, that surprises me: 362 Mytic Street.
22 This property owner resubdivided her lot in order
23 to have two modest homes built on Falmouth Road.
24 I remind you, these two homes do not hurt the

1 integrity of our neighborhood.

2 Four, the parties of 363 Mytic Street
3 and 35 Bradley Road attended the board meeting on
4 Monday, April 8, in regards to Article 15. The
5 Redevelopment Board made three recommendations:
6 one, to delete the properties from the district;
7 two, a grandfather clause; three, resubdivision.

8 The Redevelopment Board's first two
9 recommendations were out of the question, but
10 resubdividing was recommended. The party at 35
11 Bradley Road cannot resubdivide leaving them with
12 no options. The party at 363 Mytic Street can
13 resubdivide, and it will create what the planning
14 staff wants to stop: irregular lot lines,
15 zig-zagging and easement burden lots. See Page
16 22, first and second paragraph of the Memorandum.
17 363 Mytic Street would rather not be forced to
18 resubdivide. Thank you.

19 THE MODERATOR: Mr. Falwell, for what
20 purpose do you rise?

21 MR. FALWELL: Point of personal
22 privilege.

23 THE MODERATOR: What is your point of
24 personal privilege?

11 3,000, 3,500 square feet of land -- I mean of
12 floor area, but both of those lots contain double
13 the zoning requirement. They're both nearly
14 12,000 square feet, so they do not -- it's not
15 the same situation.

16 MS. OSMER: Well, I wasn't
17 addressing --

18 THE MODERATOR: Thank you, Mr. Falwell.

19 MS. OSMER: I'm all set.

20 THE MODERATOR: Thank you.

21 MS. OSMER: Thank you, Mr. Moderator.

22 THE MODERATOR: Just for the
23 edification of the Town Meeting, you cannot, in
24 the zoning, you cannot have one lot in the middle

1 of a district that is a different zone than
2 everything else, that would be considered a
3 species of spot zoning.

4 Next on my list is Mr. Faulkner.

5 MR. FAULKNER: Thank you. I'm Barry
6 Faulkner. I'm Chairman of the Redevelopment
7 Board, and I'm also a Town Meeting Member from
8 Precinct 11.

9 We had some general assaults on the
10 zoning bylaw last week. I just want to remind
11 everybody that the purpose of the zoning bylaw is
12 not to deprive people of property rights, but
13 rather, to protect people's interest in property.

14 The same zoning bylaw that we're
15 talking about protecting lots in one area of town
16 applies equally well in another part of town to
17 keep businesses from locating in one of our
18 neighborhoods; for example, to make sure that
19 other lots developed on our street are developed
20 in the same use and the same type of building and
21 the same dimensions due to setback that apply to
22 everybody else on the street.

23 The second point I'd like to make is
24 that throughout this process, we've been

1 impressed with the overwhelming support that this
2 proposal has received from people who live in the
3 district. Those who live in the district want to
4 protect their neighborhoods as they are now and
5 recognize this as a means to provide that
6 protection.

7 There are a few people who are
8 adversely affected, and we share some concern
9 about that, but there are many times that number
10 who have expressed support, have told us very
11 emphatically that this is an amendment to the
12 bylaw which is needed to protect the
13 neighborhood.

14 I would like to introduce two residents
15 of the town, residents of the proposed RO
16 district who are not Town Meeting Members, but
17 would like to speak on the issue of the proposed
18 amendments to the original proposal. They're
19 Berge Ayvazian and Louis Stella, Bradley Road.

20 THE MODERATOR: All right. Are those
21 people present? All right, who's going to go
22 first? Go ahead, sir. Take the microphone,
23 please, at one of the podia, and please give your
24 name and address for the record.

1 MR. AYVAZIAN: Thank you, Mr. Chairman,
2 and thank you for the Members of the Town
3 Meeting. Thank you, Mr. Faulkner. My name is
4 Berge Ayvazian, and I live at 30 Bradley Road,
5 and I am one of the mentioned recipients of a
6 letter regarding the proposal by the Murphys for
7 the zoning amendment.

8 First of all, let me back up and start
9 off by saying that when we received notification
10 about the RO plan, we were immediately
11 supportive. We purchased our home across the
12 street from the Murphys about a year-and-a-half
13 ago in November of '89, and we did so
14 specifically because of the character of that
15 community, because of the quiet residential
16 neighborhood that it represented. And in the
17 time we've lived there, we've come to appreciate
18 that community, and the ability of our children
19 to play on those streets and the type of
20 community that we're talking about.

21 When the RO plan was first proposed, we
22 were supported because it would preserve the
23 integrity and character of that community, and
24 would prevent the changes that we saw taking

1 place other parts of the town as lots were
2 developed in between houses resulting from the
3 real estate boom.

4 In particular, we were accepting the
5 fact that that plan might ^affect our own
6 property, but we realized there was no concern,
7 immediate concern, for our property, so we were
8 supportive.

9 When we received notification of the
10 Murphy proposal, we recognized that the initial
11 proposal would have our house also excluded from
12 the RO district in order to exempt Mr. Murphy's
13 property from the RO district. And we were
14 concerned at the time that the benefits that the
15 RO district would extend to that neighborhood
16 would be deprived, we would be deprived of those
17 benefits as a result of his interest in having
18 his own home exempt from the district. So we
19 expressed our concern at the time, and we were
20 against that exemption at the time that excluded
21 our property.

22 Since then, I understand he has
23 appealed directly to the Town Meeting for the
24 similar effect that would result by having his

1 lot grandfathered. And we have some concerns
2 that we'd like to express as direct neighbors of
3 the Murphys.

4 First of all, we understand that their
5 proposal is to construct a lot adjacent to their
6 own on the subdivided lot. This would place a
7 construction site in the middle of a neighborhood
8 that already has many children who play in that
9 area; we're concerned about the danger that that
10 would create.

11 Similarly, we have a lot of parking
12 problems on that private road. The current
13 Murphy house already has a minimum of six
14 registered and unregistered cars that are parked
15 in front and around and on the street in various
16 areas there, and we're concerned that having
17 another house would only increase the parking
18 problem that exists there today.

19 We are also in the process with other
20 members of the street to try and get our road
21 reconstructed this summer. The roads are in very
22 bad shape. And at our own expense, we have
23 signed a petition with others to have the road
24 repaved, and if we have construction going on,

1 we're obviously not going to find that to be
2 positive in the way of having a road repaved.

3 In terms of property values, clearly
4 having a lot that small constructed with a small
5 house is going to effect the property values, and
6 the benefits of the RO will not be extended to
7 those of us who were hoping that we would be
8 protected in that way.

9 And finally, we're concerned that the
10 grading of the property may create environmental
11 problems. I don't know how many of you have had
12 a chance to look at the property, but there's a
13 very steep grade going downhill behind the house.
14 We're concerned that it's going to become a
15 run-off problem, and some of the adjacent houses
16 may find drainage problems as a result. We
17 recommend that someone examine that grading issue
18 before the vote is taken.

19 So I appreciate being given an
20 opportunity to speak. I know that there are
21 other members of the Bradley Road community who
22 have signed a petition, as I have, and I know
23 there are others who are prepared to speak if
24 recognized, and I'll yield the floor. Thank you.

1 THE MODERATOR: Thank you, sir. Mr.
2 Faulkner, your second guest?

3 MR. STELLA: My name is Louis Stella,
4 and I live at 35 Bradley Road, just opposite the
5 piece of land that they are looking to change.
6 I've been there for forty years. I've built a
7 house there forty years ago when the plans, when
8 all the houses were in good order of 10,000, this
9 present lot was 10,560 feet.

10 When they built the house on lot --
11 let me figure these lot numbers here. 38 --
12 let's see, yeah, when they built a house on lot
13 39, there was less feet than that there, they had
14 11,200 feet, so the builder, I knew the builder,
15 in fact, I've done the plumbing work in the
16 house, he said that he was going to buy the land,
17 half of it, and split it with the former owner,
18 which was Paul Crane. And he finally did split
19 the land, because he said it was unbuildable on
20 the lot.

21 And he spoke about the cars that are
22 parked up there, seven, eight cars at a crack,
23 unregistered cars, no tires on them, no wheels on
24 them, everything possible that you could talk

1 about. And I'm willing, if they want to go back
2 to the grandfather's clause and take lot 39 --
3 not 39 -- lot -- what the heck lot is it -- 38,
4 which was 10,560 feet, if they want to build a
5 house there on that amount of land, it's good.

6 And I think they've done a nice job
7 here with the RO, that the Planning Board, that
8 there's only two houses in question in all the
9 lists that they had. And I thank you. And I
10 hope you vote to preserve the property of the
11 present tenants there. Thank you.

12 THE MODERATOR: Thank you.

13 MR. GRIFFIN: Point of information.

14 THE MODERATOR: Mr. Griffin, what is
15 your point of information?

16 MR. GRIFFIN: My point of information
17 is that the maps he's looking at are dated back
18 in 1939, I believe.

19 FROM THE FLOOR: What's the point?

20 MR. GRIFFIN: The point is that he's
21 giving out incorrect information about the lot
22 sizes which were created there.

23 And also, the other point of
24 information I'd like to give out, the lot size

1 that shows up there on the Planning Board's map
2 up there is not accurate at all, it's a lot
3 shorter -- a lot smaller than what the actual lot
4 is. It's a 6,000 square foot lot with 60 feet of
5 frontage, up there it shows it 5,100 odd square
6 feet, and that's incorrect.

7 THE MODERATOR: Thank you, Mr. Griffin.
8 Mr. McClennen, for what purpose do you rise?

9 MR. McCLENNEN: Mr. Moderator, I rise
10 only to provide some additional information about
11 Mr. Griffin's last comment. The lot that is
12 shown on that plan is the lot of record in the
13 records of the Board of Assessors of the Town of
14 Arlington.

15 As I pointed in my chronology, late in
16 January, a new lot was created. That lot has not
17 been received by the Town of Arlington from the
18 Registry of Deeds, so the only information we
19 have is what has been shown to us by the Murphys.
20 The Board of Assessors has not received that lot,
21 and therefore, the plans have not been corrected.

22 THE MODERATOR: Thank you, Mr.
23 McClennen. Next on my list is Mr. Judd.

24 MR. JUDD: Lyman Judd, Precinct 7. Mr.

1 Moderator, with your permission, I would like to
2 ask a question of Mr. Sean Murphy who spoke once
3 before and did state he would entertain
4 questions. And then I would also like --

5 THE MODERATOR: Let's hear the
6 question, we'll decide if it's relevant to the
7 discussion.

8 MR. JUDD: Yes, sir. There was a
9 letter left at our seats last week dated April
10 24th, a two-page letter, signed by the Artigians.
11 And one paragraph at the bottom of the first page
12 says, "A small, cheap house is what would be
13 built adjacent to 35 Bradley Road to accommodate
14 a close relative." And I just wanted to ask Mr.
15 Murphy if he was planning to build a small, cheap
16 house. And I also have some remarks I would like
17 to make in debate, sir.

18 THE MODERATOR: Well, can you just give
19 us a yes or no on that, Mr. Murphy?

20 MR. MURPHY: Yes, Mr. Moderator.

21 THE MODERATOR: The answer --

22 MR. MURPHY: I'd just like to say that
23 Mr. Artigian displayed a reckless disregard
24 for --

1 THE MODERATOR: Now, excuse me, Mr.
2 Murphy. Mr. Murphy, wait a minute. Mr. Judd has
3 a very specific question. Do you plan to build a
4 small, cheap house if you build something there?
5 Yes or no?

6 MR. MURPHY: No, Mr. Judd. I would
7 never consider putting up a cheap house like
8 that. The house is an investment, you don't --

9 THE MODERATOR: I take it your answer
10 then is no

11 MR. MURPHY: Yes, my answer's no.

12 THE MODERATOR: Thank you, Mr. Murphy.
13 Mr. Judd, go ahead.

14 MR. JUDD: Thank you, sir. I think Mr.
15 Murphy was about to say what I've been thinking,
16 that the tone of this letter was not very nice.

17 I was thinking also of asking Mr.
18 Ayvazian, if I -- I'm sorry if I mispronounced
19 his name, if up to the point of this proposed
20 zoning bylaw, that the Murphys were good
21 neighbors, but I'm afraid that the relationships
22 in that neighborhood are not going to be too good
23 no matter how this comes out.

24 I would simply state that we have a

1 choice to make as far as the amendment to the
2 zoning bylaw and as to passing the zoning bylaw.
3 We have a choice, I think, of either taking
4 something away from, in this case, basically two
5 families, because the Redevelopment Board did
6 find a way to take care of three lots that might
7 have been either nonconforming or wouldn't have
8 fitted in with the new RO, but a technical means
9 was not found to take care of the lot at 35
10 Bradley Road or the lot at 363 Mytic Street.

11 It seems to me from what I have heard
12 that a good-faith effort was made by both of the
13 people who own those lots to try to do something
14 to conform, and that they had, at some point,
15 made some concrete, not just pie in the sky
16 plans, to build another house on their lots,
17 which they would be entitled to under the old
18 zoning bylaw, and, if the amendment passed, they
19 would still be entitled to. We have to match
20 that against the desires of the 470 some odd
21 other people in the area.

22 Who loses the most? I think that's
23 what we have to figure out. Who is going to be
24 hurt the most? Who is going to be hurt the

1 least? Because unfortunately, I don't think
2 there is any way we can decide this without
3 causing some pain to somebody. That is what we
4 are elected for, though, to make these decisions.

5 As far as I'm concerned, my feeling, I
6 intend to vote for Mr. Griffin's amendment. I
7 think it is the fairest thing to do under the
8 circumstances. If someone else had come in other
9 than the two lot owners who hadn't shown any
10 desire to do anything up until all of a sudden
11 they found out about the zoning bylaw, I would
12 have a different attitude, but where some prior,
13 apparent prior commitment, and where there were
14 apparently some forms of subdivisions in all the
15 plans, I think that we should give them the
16 benefit of the doubt. But I plan to support Mr.
17 Griffin's amendment which requires a majority
18 vote as Mr. McClennen said. And I hope that Mr.
19 Griffin's amendment will pass.

20 THE MODERATOR: Thank you, Mr. Judd.

21 MR. JUDD: I will then -- only then
22 will I support the zoning bylaw which requires a
23 two-thirds vote.

24 Mr. Moderator, with all due respect,

1 when I finish my remarks, you will know it, sir.
2 I understand you would like to get things done
3 quickly.

4 But please remember the zoning bylaw
5 requires a two-thirds vote. So I hope that we
6 can agree on all of this, and try to make people
7 within reason and within compromise as happy as
8 possible. Thank you.

9 THE MODERATOR: Thank you, Mr. Judd.
10 Last Wednesday night, there was a gentleman in
11 the way far back on my left with his hand up, we
12 couldn't see his face, but if that person wishes
13 to be recognized, we will recognize him.

14 MR. MAHONEY: John Mahoney, Precinct
15 21. I have a question: From going from R1 to an
16 R0, does that create a different tax bracket for
17 the neighborhood?

18 THE MODERATOR: No.

19 MR. MAHONEY: And one, if the
20 property, like, the letter I received on 363
21 ^SMytic Street has been subdivided since 1967, had
22 [^]they been taxed at a different rate because they
23 were subdivided as if they were one piece of
24 property, and would they be entitled to a tax

1 rebate?

2 THE MODERATOR: Okay, can someone from
3 the Assessor's respond to those questions? Mr.
4 Waterman?

5 MR. WATERMAN: As far as the
6 second -- I missed the first question.

7 THE MODERATOR: The first question is
8 whether the change in zoning district will have
9 an effect upon their real estate taxes.

10 MR. WATERMAN: No.

11 THE MODERATOR: Okay, the second
12 question is whether the people were taxed a
13 higher amount because they had a theoretically
14 buildable lot since 1967.

15 MR. WATERMAN: Generally speaking,
16 without addressing the specific question, because
17 I don't know that, but generally speaking, if we
18 have a building lot that has not been developed,
19 we will assess it at the same rate as a building
20 lot, and then allow a 10 or a 20 percent
21 reduction because of the undeveloped condition of
22 it.

23 Now, it may very well be that it is one
24 parcel that has not been subdivided that may

1 contain sufficient area to constitute a separate
2 building lot, but if there's been no plan of
3 subdivision, it would not be treated as a
4 building lot, it would, of course, have a higher
5 total value than another lot that was smaller. I
6 don't know if that answers your question.

7 THE MODERATOR: Does that answer your
8 question? Take the microphone, please.

9 MR. MAHONEY: On this particular lot,
10 if it's been subdivided and recorded as such,
11 what would their tax rate be? I mean, did they
12 pay more taxes because they had subdivided and
13 had a buildable lot within the bylaws as they
14 existed at the time? Did they pay more taxes?
15 And now that we're rescinding them, now that it's
16 not a buildable lot, are they entitled to a tax
17 abatement? Because at this particular time, we
18 don't want to give up anymore tax dollars than we
19 need to.

20 MR. WATERMAN: I have to answer it
21 generally. I would say that if it were a
22 building lot, let's assume the lot beside it had
23 a value based on \$20 a square foot, we would have
24 put \$20 a square foot on the other one, and then

1 possibly backed off 10 or 20 percent because of
2 the undeveloped condition of it.

3 If it turns out, in fact, that it is no
4 longer a buildable lot, we would have to
5 recompute that and incorporate it into the, you
6 know, the abutting lot that's part of the
7 homestead, if I can use that term.

8 MR. MAHONEY: So it is possible that
9 they are --

10 MR. WATERMAN: It could --

11 MR. MAHONEY: (Unreportable)...
12 abatement on the previous taxes that they had
13 paid?

14 MR. WATERMAN: It could conceivably go
15 down in value if it no longer becomes a building
16 lot.

17 MR. MAHONEY: Thank you.

18 THE MODERATOR: Thank you, Mr.
19 Waterman. Does that answer your question?

20 MR. MAHONEY: Thank you.

21 THE MODERATOR: Mr. McClennen, do you
22 have any light to shed on that particular issue,
23 just, relating to this question?

24 MR. MCCLENNEN: Yes, I have the exact

1 information from the Assessor's office in
2 response to Mr. Mahoney.

3 THE MODERATOR: Oh, thank you.

4 MR. McCLENNEN: First of all, the lot
5 at 363 Mytic Street, the house -- the lot on
6 which the house is located, and the vacant lot
7 next to it is record number 34 at 363 Mytic
8 Street, and it is carried as one parcel, it is
9 not carried as two parcels. And the assessed --
10 the value per square foot is \$8.18. The house
11 right beside it at 359 Mytic Street has a value
12 of \$11.40 per square foot. I think what Mr.
13 Waterman is telling you is that this second --
14 this larger piece of land is being assessed at a
15 lower rate than lots adjacent to it. And it is
16 not carried in the Assessor's records as a
17 sellable parcel of land.

18 THE MODERATOR: Thank you. So then I
19 guess the direct answer to your question would be
20 that an abatement would not lie in this case.
21 Next is Mr. Barber.

22 MR. BARBER: Barber, precinct 18.
23 Would it be fair to ask if there are any slides
24 on the presentation to be shown on this article

1 which relates to this amendment or which will
2 help us to vote intelligently? If there are --

3 THE MODERATOR: Any, I'm sorry, any
4 what? Slides?

5 MR. BARBER: Any slides or any other
6 presentation so that they could help us vote more
7 intelligently? And if there are, I'd like to see
8 them before I speak, because I don't think I will
9 get an opportunity to speak a second time.

10 THE MODERATOR: I will not debate you
11 on that. Mr. Faulkner, has the -- or Mr.
12 McClennen, has the Redevelopment Board or the
13 Planning Department prepared any visuals other
14 than the big map at the back of the hall?

15 MR. McCLENNEN: Mr. Moderator, we have
16 materials in reserve. I have a slide tray. We
17 had elected not to show them, because people had
18 been apprised of this information last Wednesday,
19 and we presume that, with our report, they went
20 out and looked at the lots.

21 The second thing that we have are a
22 number of subdivisions that have taken place that
23 we are concerned about.

24 THE MODERATOR: Well, let me ask the

1 Town. Is it the sense of the Town Meeting that
2 they would be assisted by looking at some slides
3 such as may be presented?

4 FROM THE FLOOR: No.

5 THE MODERATOR: I guess they don't want
6 to see a slide show, Mr. Barber. Why don't you
7 try to go ahead with your remarks without
8 visuals.

9 MR. BARBER: Thank you. I ask you to
10 vote favorably on the amended Article, and if it
11 it is not passed as amended, to vote no for the
12 following reasons: Number one, in a letter dated
13 February 22nd, 1991, the Redevelopment Board
14 identified four district areas where a new home
15 might be disruptive to the existing character of
16 the area, parenthesis, S, I add. What are the
17 three other areas? Why were they not included?

18 I ask you to remember that if you
19 should decide to vote for the article without the
20 amendment, you're not only opening the door for
21 these three other areas to be changed to conform,
22 but the entire town, wherever the private
23 property may be, at subsequent town meetings,
24 let's not open the door. I suspect the strategy

1 is to divide and conquer one area at a time.

2 THE MODERATOR: Mr. Barber, excuse me,
3 you're supposed to be discussing the merits of
4 Mr. Griffin's amendment

5 MR. BARBER: That's exactly what I
6 think I'm doing, Mr. Moderator. We're talking
7 about the amendment and as it effects the
8 article, and that's what the previous speakers
9 have done.

10 THE MODERATOR: Go ahead.

11 MR. BARBER: If this suggested article
12 tried to rezone the whole town, I expect that it
13 would be turned down. Rezoning piecemeal doesn't
14 help us consider the consequences of our actions
15 in its entirety. How many other property owners,
16 town-wise, will this eventually impact? Rezoning
17 to RO now, and in the future, will impact each
18 and every one of us tax-wise.

19 People who have paid taxes through the
20 years on these potentially buildable lots which,
21 as of the February publication of the legal
22 notice, now do not have a potentially buildable
23 lot which was worth some \$100,000. This means
24 these properties would be worth considerably

1 less, with less value, owners could apply for an
2 abatement for lower taxes. This, in turn, would
3 mean a smaller tax base for the town, and an
4 increase in the tax rate accordingly, impacting
5 rent payers and all property owners in town.
6 That's the bottom line. Can we afford to
7 diminish our tax base in these trying times?
8 What we need to do is broaden our tax base. This
9 can be done if we vote for the amendment.

10 People who have potential building
11 lots adjacent to their homes will have an
12 opportunity to get them legally recorded as such.
13 I'm sure some of these people who purchase large
14 properties did so for future economic reasons.
15 For instance, as they age, they might wish to
16 stay in town by building a smaller house on their
17 legal lot where they could afford to spend their
18 remaining years living off the profits from this
19 earlier investment. But what right do we have to
20 deny this?

21 Or they may wish to transfer this to a
22 child, or they may wish to sell this legal lot to
23 supplement their retirement income. Why should
24 we deny them this dignity in old age? Have they

1 paid extra taxes through the years only to be
2 denied this property right?

3 Now, what about our declining
4 population? If new blood afford to move into
5 town, we could better justify keeping town
6 employees, be they teachers, firemen, police
7 officers, public work servants and others.
8 Arlington could continue to have the quality and
9 variety of services to which we have been
10 accustomed by keeping the door open for young
11 blood, to broaden our cultural and tax base.

12 Even with the present zoning in place,
13 we have seen very few new homes built annually
14 over the last fifteen years ever since the last
15 rezoning article which we passed in 1975, and
16 which was effective in 1976. You know Arlington
17 is 99 percent built up. What detriment or impact
18 could adding two to five new homes a year have on
19 the positive side? In the long run, we'd have
20 more people trading in town. What's wrong with
21 helping our local merchants who pay taxes and are
22 vital to our town?

23 There is a belief that a new house is a
24 tax loss to the town for the first ten years.

1 This is not the case here, because the schools
2 are in place, most with rooms for more students.
3 The roads and utilities are in place, and the
4 fire and police department positions will not be
5 jeopardized because of a stabilized population.

6 Let us also remember that there are
7 many homes in Arlington built on lots not much
8 larger than 3,000 and 4,000 square feet. These
9 properties are not a detriment to the town or the
10 character of the town. This diversity makes the
11 town the desirable place that it is. This
12 richness is a plus. If people desire a different
13 character, they could look to the west, that
14 choice has always been available. I don't expect
15 passing this article without the amendment will
16 make us look like Weston or Wellesley or
17 Winchester or Lexington, although some areas of
18 our town have much more character than these
19 aforementioned towns.

20 With reference to the area in
21 question, it should be noted that a number are on
22 private streets. Some of these streets have
23 deteriorated. The character of the area could be
24 improved with more houses that could bear the

1 cost of upgraded streets to town standards.

2 In closing, I ask you to seriously
3 consider the implications of this article. I
4 respect the wisdom of the Redevelopment Board in
5 recommending the original article. That is their
6 job. It is their professional duty to put the
7 matter in its best possible light. It is not up
8 to them to spell out the negatives. They've done
9 their job well. Let us disagree agreeably, and
10 vote yes for the amendment and no for the
11 original article. Thank you.

12 (Applause).

13 THE MODERATOR: Mr. Griffin, second
14 time.

15 MR. GRIFFIN: Move the question.

16 THE MODERATOR: Motion to terminate
17 debate upon Mr. Griffin's amendment; is there a
18 second?

19 (Motion seconded).

20 THE MODERATOR: Several. (After
21 putting the question) It is a two-thirds vote.
22 There are -- well, I neglected to tell you how
23 many people there are, I lost count, but.

24 All right, all those in favor of --

1 now, Mr. Griffin's -- the zoning amendment
2 itself, the motion of the Redevelopment Board
3 requires a two-thirds vote; however, an amendment
4 of that requires only a majority vote.

5 (After putting the question) In the
6 Chair's opinion, it is a negative vote. More
7 than five persons having arisen, we'll have a
8 standing vote. All those in favor, please stand.
9 The counters: Mr. McCarthy; Mr. Fraser; Mr.
10 Barinelli; and Mr. Judd, do you want to count on
11 this side?

12 MR. BARINELLI: Point of order, Mr.
13 Moderator.

14 THE MODERATOR: Yes, Mr. Barinelli.
15 Well, wait a minute, what is your point of order?

16 MR. BARINELLI: I'm confused as to,
17 what would happen if the amendment is passed? Do
18 we still have an opportunity to vote on the
19 original?

20 THE MODERATOR: Yes, sir. If the
21 amendment is passed, we will vote on the original
22 article as amended.

23 MR. BARINELLI: Okay. Now, what would
24 happen if the amendment is passed and the

1 original article is voted no? Where do we stand
2 there?

3 THE MODERATOR: Then we will have
4 amended nothing. All right, all those -- all
5 right, would you count your section, please?

6 (A standing vote was thereupon taken
7 and the Tellers returned the count).

8 THE MODERATOR: 98 in the affirmative,
9 88 in the negative; Mr. Griffin's amendment is
10 approved.

11 (Applause).

12 THE MODERATOR: We are now continuing
13 the discussion on the main article, or the main
14 motion of the Redevelopment Board, and I --

15 FROM THE FLOOR: Mr. Moderator.

16 THE MODERATOR: For what purpose do you
17 rise?

18 FROM THE FLOOR: I move the question.

19 MR. JUDD: Point of information, sir,
20 please.

21 THE MODERATOR: Wait a minute, okay,
22 Mr. Judd, what is your point of information?

23 MR. JUDD: I just wish to be sure of
24 one thing. If the zoning -- if the amended

1 article, which requires a two-thirds vote, does
2 not pass, we then revert to the present zoning,
3 and you could not bring this article up again for
4 how long a period of time?

5 In other words, if this is defeated, if
6 we don't get the two-thirds vote, how long would
7 it be before this article could come back? In
8 other words, how long would the present people be
9 stuck with their present R1? I'm trying to make
10 sure that people understand the importance of
11 this two-thirds vote.

12 THE MODERATOR: Thank you, Mr. Judd. I
13 believe it's two years without the unanimous
14 consent of the Redevelopment Board? Two years.

15 MR. NIGRO: Mr. Moderator.

16 THE MODERATOR: Mr. Nigro, for what
17 purpose do you rise?

18 MR. NIGRO: Point of order. Doesn't
19 look like I'm going to get to speak unless I rise
20 on a point of order.

21 THE MODERATOR: Well, it better be a
22 point of order or we can't hear you.

23 MR. NIGRO: It sure is. It sure is. I
24 was accused of being clever. Well, I heard a

1 statement by --

2 THE MODERATOR: Excuse me, what is the
3 point of order, Mr. Nigro?

4 MR. NIGRO: Yeah, I'll get to it.

5 THE MODERATOR: No, you will tell us
6 the point of order --

7 MR. NIGRO: The point of order comes
8 down to a statement made by the Director of
9 Planning and Community Development that no
10 nonconforming uses were created by this bylaw.
11 He is technically correct, but he is really being
12 clever --

13 THE MODERATOR: Mr. Nigro, that is --

14 MR. NIGRO: -- because there are
15 nonconforming structures --

16 THE MODERATOR: Excuse me, Mr. Nigro,
17 that is continuing the debate.

18 MR. NIGRO: No, I want to know, from
19 the Town Counsel, are there nonconforming
20 structures --

21 THE MODERATOR: Mr. Nigro, that is part
22 of the debate. It is an interesting question.
23 You tried to raise it on a point of order before,
24 and I said when I got to you --

1 MR. NIGRO: That is not an interesting
2 question, that goes to the very heart of the
3 article --

4 THE MODERATOR: Well, then --

5 MR. NIGRO: -- because nonconforming
6 structures --

7 THE MODERATOR: Mr. Nigro.

8 MR. NIGRO: -- are treated the same as
9 nonconforming uses.

10 THE MODERATOR: I will recognize you
11 when we get to your turn on the list.

12 MR. NIGRO: You're avoiding facing the
13 facts, facing the music. Nonconforming
14 structures are the same uses as far as the --

15 THE MODERATOR: Mr. Nigro, would you
16 please take your seat? Now, Mr. McCabe moved the
17 previous question, but I did not hear a second.

18 (Motion seconded).

19 THE MODERATOR: All right, now there is
20 a second. All right, there are about a dozen
21 people on the list, there are fifteen, I don't
22 know if they all wish to speak to Mr. Griffin's
23 amendment or if they wish to speak on the main
24 article.

1 All those in favor of terminating
2 debate on the main article as amended: (After
3 putting the question) It is a two-thirds vote.

4 All those in favor of Article 15 as
5 amended: (After putting the question) In my
6 opinion, it is a negative vote. It does not have
7 two-thirds. All right, same tellers: Mr.
8 Barinelli, Mr. Fraser, Mr. McCarthy, Mr. Judd.

9 All those in favor, all those in favor
10 of the Redevelopment Board's amended Article
11 15th --

12 FROM THE FLOOR: No, our article as
13 amended.

14 THE MODERATOR: Article 15 as amended
15 by Mr. Griffin. Mr. Griffin's amendment has been
16 appended to it. It is now part of it. Does
17 everyone understand? All right. Now, all those
18 in favor of the Redevelopment Board's
19 recommendation as amended by Mr. Griffin, please
20 stand.

21 FROM THE FLOOR: Please explain the
22 ramification of this vote.

23 THE MODERATOR: Who is not clear on
24 what they're voting for?

1 FROM THE FLOOR: All of us.

2 THE MODERATOR: All right, everybody
3 sit down. I do think, in my own opinion, it was
4 premature to terminate debate, because a lot of
5 people, obviously, are confused. But, we -- you
6 have, by your majority vote, you have amended the
7 recommended vote of the Redevelopment Board, so
8 that if you now approve the vote of the
9 Redevelopment Board which creates the RO
10 district, you will have created an exception for
11 the two people who came in here and complained
12 that they were being deprived of the right to
13 develop their land. You have taken care of them
14 by supporting Mr. Griffin's amendment. All the
15 other provisions of the RO district as outlined
16 by the Redevelopment Board will go into effect if
17 you support it by a two-thirds vote. Now, is
18 anyone still confused?

19 MR. BARINELLI: And if we vote no, the
20 zoning stays the same?

21 THE MODERATOR: Wait a minute, I can
22 only -- I can only hear one question at a time,
23 even though I have two ears. Now, let's hear Mr.
24 Barinelli first.

1 MR. BARINELLI: If we don't vote, the
2 zoning stays exactly the same as it is today?

3 THE MODERATOR: That is correct. Mr.
4 Barber, are you confused?

5 MR. BARBER: Yes.

6 THE MODERATOR: Would you please
7 briefly state the nature of your confusion?

8 MR. BARBER: My confusion is what you
9 -- the statement that you made that it would only
10 effect the two articles. I thought that if we
11 voted yes for Mr. Griffin's amendment, we would
12 allow any lot that has 60 square-foot frontage
13 and six --

14 (Cries of "No!")

15 THE MODERATOR: No, that was not Mr.
16 Griffin's amendment. Mr. Griffin's amendment was
17 very specifically narrowed to those that had the
18 6,000 and the 60-foot of frontage and had a
19 recorded separate plan prior to February 21,
20 1991.

21 MR. MAHONEY: Point of information.

22 THE MODERATOR: All right, now, Mr.
23 Mahoney, take the microphone, please.

24 MR. MAHONEY: John Mahoney, Precinct

1 21. If we vote in favor of the article as
2 amended, then the two pieces of properties are
3 okay. If we vote no, then the article is turned
4 down, and it goes back to the original bylaws as
5 they existed; is that correct?

6 THE MODERATOR: Yes, sir. It will
7 have, presumably have no effect on those two
8 properties.

9 All right. Now, all those in favor of
10 the Redevelopment Board's recommendation as
11 amended by Mr. Griffin, please stand. Same
12 tellers.

13 (A standing vote was thereupon taken
14 and the Tellers returned the count).

15 THE MODERATOR: 125 in the affirmative,
16 57 in the negative; Article 15 is approved.
17 (Applause). And Article 15 is closed.

18 Article 13

19 THE MODERATOR: Article 13, having been
20 postponed until 15 was disposed of, is now before
21 us. Mr. Faulkner? Oh, wait, let's take a
22 ten-minute recess, and then we'll come back to
23 Article 13.

24 (A ten-minute recess was taken).

1 THE MODERATOR: Town Meeting will
2 please come to order. Town Meeting, please come
3 to order. We have two announcements before we
4 begin on Article 13. We have two announcements.
5 Precinct 21, all Town Meeting Members from 21, if
6 you would gather in the hallway to my right and
7 have your organizational meeting, please.

8 Second announcement, this is very
9 pertinent since we are talking about zoning and
10 the appearance of our community, the Vision 2020
11 Community Workshop tomorrow night will focus on
12 how to maintain Arlington's character, balancing
13 redevelopment with tradition, quality of life and
14 the environment. And this is one of a series of
15 these seminars on Arlington's future at the high
16 school Mill Street entrance at 7:30 in the
17 evening tomorrow night. If you're interested,
18 you can go directly to that location, and you can
19 get further details from Town Meeting Member
20 Patricia Muldoon who is sitting down in the --
21 there she is with her hand up in the purple
22 sweater.

4 the doors. Would everyone please take his or her
5 seat.

6 MR. FAULKNER: The Redevelopment Board
7 recommends approval of the vote as printed on
8 page -- beginning on Page 16 in our report.

9 THE MODERATOR: Thank you, Mr.
10 Faulkner. The purpose of this proposed amendment
11 is to allow the conversion of one- or two-family
12 dwellings into bed and breakfast and bed and
13 breakfast homes. Is there any discussion?

14 (No response).

15 THE MODERATOR: This would be by
16 special permit in all zones, all -- okay. Is
17 there any discussion?

18 (No response).

19 THE MODERATOR: (After putting the
20 question) It is a substantial two-thirds vote,
21 but we must have a standing vote since it is a
22 zoning article. Same Tellers. Is Mr. Fraser not
23 here? Mr. Barber, would you count in this
24 section?