

PUBLIC HEARING

March 6, 1978

Present: Joseph F. Tulimieri, Chairman  
Edward T. M. Tsoi, Vice-chairman  
Philip J. McCarthy  
Irving Stein  
Larry Barton

Alan McClennen, Jr., Secretary ex-officio

At 8:00 p.m. the Chairman convened the public hearing of the Arlington Redevelopment Board to discuss warrant articles 85 through 94 in the warrant of the Annual Town Meeting in accordance with provisions of the zoning act and the zoning bylaw of the town of Arlington. Mr. Tulimieri outlined the procedures to be followed for the public hearing. He noted that Article 92 pertaining to the rezoning of the property at 267 Broadway was to be withdrawn by the petitioners. The Board then proceeded to the public hearing for Article 90 of the warrant.

Mr. John Wanamaker of Wanamaker Hardware briefly described why he had requested a proposed change in the zoning adjacent to his property in Arlington Heights. He indicated that he had been searching for more space for his store and he had been unable to find a suitable site or building in Arlington Heights. He wishes to double the size of his store. The adjacent lot would be used for the construction of a two-story addition and the third lot would be used for parking. Mr. Mark Kahan, owner of the property east of the two lots in question expressed concern over the relationship between the possibility of a parking lot and the two-family house of which he was a part owner. He noted that Mr. Wanamaker and his business are assets in Arlington Heights but he hoped that some compromise could be worked out. He noted specifically the change in grade that would be required if the property immediately west of his was turned into a parking lot. He noted the possibility of danger of children walking or playing adjacent to that lot being injured. He concluded by noting that he felt that he would experience difficulty in renting his property particularly because of its relationship to the proposed re-use of the Hatfield property. He hoped that the Redevelopment Board would recommend against the rezoning of the so-called Hatfield property.

Mr. Robert Pitchel, part owner of the same property reiterated Mr. Kahan's concerns. He was specifically concerned over the possible devaluation of his property.

Mr. Hugh Mulligan, Esquire, representing the Arlington Savings Bank asked if there would be any other requirements if this property were rezoned prior to any construction taking place. Mr. Tulimieri noted that the Board was only recommending a rezoning of the property; it had seen no formal plans for proposed work

and the Board was only sponsoring the article because it felt that it made sense from a land use point of view. Mr. Tulimieri also noted that any construction on either parcel of land would require full Environmental Design Review by the Arlington Redevelopment Board.

Mr. Tulimieri asked if there were any more questions or comments. There being none, he closed the hearing on Article 90.

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8:30 p.m. Mr. Tulimieri opened the hearing on warrant article 85. Mr. McClennen briefly explained the proposed amendment under article 85. He noted that when the bylaw was adopted in 1975, the new state zoning act had not been passed. Therefore, there were provisions that were inserted in Section 10.12 of the bylaw that were not consistent with the wishes of the town when they adopted the state zoning act. Therefore, it is proposed to amend this section to make it consistent with the zoning act. Mr. McCarthy asked if this provision would prohibit use variances under the terms of the zoning bylaw of the town of Arlington. Mr. McClennen noted that it would and that this was the intent of the town meeting in 1975 when it adopted the new zoning bylaw. Mr. Tulimieri asked if there were any further questions on Article 85. There were none and Mr. Tulimieri declared the hearing on Article 85 closed.

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The Chairman opened the hearing on warrant article 86. Mr. McClennen explained that the purpose of warrant article 86 was to ensure consistency in the bylaw. The term "special exception" is not defined and, therefore, it is proposed to make four changes in the text of the bylaw changing the term "special exception" to "special permit".

Mr. Tulimieri asked if there were any questions pertaining to article 86. There were none. Mr. Tulimieri declared the hearing on warrant article 86 closed.

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The Chairman opened the hearing on warrant article 87. Mr. McClennen explained the purpose of Article 87 which is to clarify the provisions and procedures for second driveways. Mr. McClennen noted that the review of the provisions for second driveways and the review of cases before the Zoning Board of Appeals on this issue had shown that the current provision was not workable, mainly because the Zoning Board of Appeals cannot grant a variance to conditions that are attached to a special permit. Therefore, it has been proposed to remove those conditions. This will not change the requirement for a hearing for second driveways.

Mr. Tulimieri asked for questions from interested persons. Mr. John Worden, town meeting member residing on Jason Street, asked if this

amendment would cause a proliferation in second driveways and the destruction of front yards. Mr. McClennen noted that the proposed amendment would not permit parking in the front yard. He also noted that in most cases when second driveways have been requested and the Zoning Board of Appeals has granted the request, it has been to further the purposes of the zoning bylaw such as removing automobiles from parking in the street. He noted that there would still be a review process and a report filed by the Department of Planning and Community Development. The Chairman asked if there were any other comments. There were none. The Chairman declared the hearing on Article 87 closed.

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The Chairman then opened the hearing on Article 88. Mr. McClennen explained that the purpose of Article 88 was to correct a zoning district boundary that was inconsistent with property ownership in the area. The Chairman asked if there were any comments on Article 88. There were none. The Chairman declared the hearing on Article 88 closed.

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The Chairman then opened the hearing on Article 89. Mr. McClennen briefly explained the purpose of article 89 which is to correct a rezoning of a piece of land to make it consistent with the property ownership and use that existed at the time of the adoption of the new zoning bylaw and continues to exist today. The Chairman asked if there were any comments or questions on Article 89. There were none. The Chairman declared the hearing on Article 89 closed.

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The Chairman then opened the hearing on Article 91. Mr. McClennen explained that the purpose of this article was to change the zoning on the property to make it consistent with all of the properties in the immediate area. The Chairman asked if there were any questions on Article 91. There were none. The Chairman declared the hearing on Article 91 closed.

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Article 92 - Mr. Kevin Moroney, a resident of Arlington, asked to be recorded in opposition to Article 92 pertaining to the proposed rezoning of property located at 267 Broadway. The Chairman noted that a letter had been received by the Board from petitioners indicating that the article would be withdrawn and that the petitioners would like to sit down with the neighbors to review alternatives for the property. The Chairman thanked Mr. Moroney for his comments on Article 92.

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The Chairman then opened the hearing on Article 93. Mr. John Worden of 27 Jason Street, the drafter of Article 93 presented a brief presentation to the public hearing. He indicated that he felt that the height restrictions in the R7 zoning district permitted high, massive, inappropriate, out-of-scale structures. Therefore, he has filed this article to reduce the magnitude of the impact of such structures in the R7 zoning district. He stated he felt that there was a strong sentiment in town against high rise. He noted that, in his opinion, the town was overburdened with too many high density uses. He sited the visual aspect of a big ugly thumb sticking up in the skyline. He referred to buildings immediately east of Arlington Center on Massachusetts Avenue and he felt that the town should take a stand and tell people that there is enough high-rise in the town of Arlington.

Mrs. Elsie Fiore, town meeting member from 58 Mott Street in Arlington, indicated that she has followed the Oxford proposal closely. She had participated in meetings conducted by the Redevelopment Board and she noted that Oxford had reduced the proposal down to 7 and 8 stories which represented a reduction of 4 and 5 stories. However, she was concerned that the height reduction only reduced the number of apartments by 10 to 15 units. She noted that the reduction in the height and the resulting increase in coverage does nothing to reduce the crowding of the building on the land. She has a concern over the proposed sewer connections for the Oxford proposal on Mill Street with a particular concern over the relationship that the town will have to enter into with the MDC over the maintenance of any new sewer lines.

Dr. Herbert Meyer, town meeting member from 276 Massachusetts Avenue, spoke in favor of Article 93.

Mr. Harold Seward, property owner at 787-791 Massachusetts Avenue spoke in favor of Article 93. Mr. Seward indicated that his chief concern is the parking problem in his area. He noted that Wang Laboratories had left the area because of inadequate parking and access. He noted that the Doctors' office building across the street from his property had to tear down a house to provide parking for cars in the rear. He also noted that several years ago the Arlington Co-operative Bank had torn down a perfectly good office building to provide space for additional parking at his property. He also noted that Wanamaker Hardware was proposing to remove two buildings to provide parking for the store. Mr. Seward also indicated that he had received an offer to sell his property and the prospective purchaser was interested in obtaining the building to demolish it to provide parking. Therefore, in his mind, the town should take care of the parking problem before it permitted any more development.

The Chairman asked if there were any more questions or comments. Mr. Irving Stein asked Mr. Worden why he had selected 60 feet. Mr. Worden responded by stating that it represented a compromise in his conscience. Mr. Stein asked about the height of the apartment building at the end of Jason Street. Mr. Worden indicated that he thought that was approximately 60 feet high. The Chairman asked for any further comments. There were none. The hearing on Article 93 was declared closed.

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Article 94. - Mrs. Elsie Fiore, one of the petitioners for Article 94 briefed the Board on her reasons for submitting the article. She provided background on the Mugar site. She indicated that the owners had done nothing on the site since it was originally zoned for business in 1952 and she is concerned that the existing PUD zoning permits anything and would result in overbuilding on the land. She also expressed the following specific concerns: 1) There are serious flooding conditions on the site today. She submitted pictures showing the flooding in the spring of 1977 noting that the pictures were taken at least a week after the rain had stopped. 2) She noted that the entire site serves as important flood plain and storage area in East Arlington. 3) She referred to the Haley and Aldridge soil study in the Alewife area which noted severe subsurface problems. 4) She feels that the area acts as a buffer and it will become even more important when the Red Line is extended to the Alewife area. 5) She feels strongly that the area can be used for recreation space. 6) If the Mugar site is developed, she feels that Thorndike Field will be cut off to many residents of East Arlington. In conclusion, she noted that she had proposed an amendment to the town meeting in 1975 reducing the height limitations on the site but had not gone farther because the site was in litigation at that time. The question of litigation has now been resolved and, therefore, she feels that the town should return to day one. She has seen no proposals from the Mugar and she feels that the Redevelopment Board should make a determination as to whether or not commercial development is in fact appropriate. If the Board is truly concerned about Arlington Center then it should not promote additional commercial development on the fringes.

Mr. Tulimieri noted for the record that no development proposals pertaining to that site are currently before the Redevelopment Board.

Mrs. Fiore noted that it was extremely important that citizens be involved in any decisions on the Mugar site.

Dr. Herbert Meyer then spoke in favor of the proposal to rezone the Mugar property from PUD to Residence 2. He noted that the property is located in a most difficult flood plain. The difference in elevation on the site is measured in inches. In light of the MDC hydrological study which is just beginning, nothing should be done to the site until that study is completed. He also referred to the most recent Alewife Task Force meeting at which the soils analysis of Haley and Aldridge was discussed. That report indicates that most of the area around Arthur D. Little is unsuitable for development and in some instances piles to a depth of 140' would be required to permit construction. Therefore, he urged a thorough soils investigation of the Mugar site. Finally, Dr. Meyer noted that Arlington is desperately short of open space and it should be a matter of town policy to keep both the Reeds Brook site and the Mugar site open.

Mr. John Worden then spoke in favor of the article to rezone the Mugar site. He noted that it is a highly visible site at the entrance to the town of Arlington and he feels that this large open

space creates a clear contrast to other activities that are taking place in the Alewife area. He noted that the Redevelopment Board has put a lot of effort into Arlington Center. For the last twenty-five years people have talked about the development of Arlington Center and it is important for the Redevelopment Board to keep its momentum moving. And he felt that development of the Mugar site would adversely impact the positive things that have taken place in Arlington Center. He urged the Board to support the article and resolve the issue once and for all.

Mrs. Fiore commented that she had communicated with many neighbors when she assembled signatures for the warrant article. She noted that many of the neighbors know nothing about the potential reuse for the site permitted under the zoning.

Mr. David Mugar then spoke in opposition to the proposed zoning change. He noted that his family had owned the property for 27 years. They have been unable to develop the property because the state had been unwilling to give them access from Route 2. Mr. Mugar noted that they had filed a permit for a curb cut two to three years ago and the state has taken no action either positive or negative on that request. Recently he has received interest from several local major department stores. As a result of this interest and the other work that is being undertaken in the Alewife area, the state now thinks that access may be possible. Mr. Mugar noted that the vacant property returned approximately \$85,000 in taxes to the town of Arlington last year. He did note that the assessment on the property has been under appeal.

Mr. Mugar said that their preliminary analysis had shown that the site can accommodate two department stores as part of a two-level mall. He was aware that any plans would require hearings by the Arlington Redevelopment Board, the Zoning Board of Appeals, possibly the Selectmen, the Conservation Commission, and other Boards and agencies. He felt that the problem of the flood plain and the traffic congestion are problems that can be dealt with. Mr. Mugar noted that as the cost of energy increases there will be a tendency for developers to construct more smaller malls. He referred to the Chestnut Hill Mall which is on a site of 12 acres. Mr. Mugar indicated that at the appropriate time he would bring forward his proposals and anyone will have an opportunity to review them and ask questions.

Through the Chair, Dr. Meyer asked if Mr. Mugar has conducted any soils investigations. Mr. Mugar responded that in 1974 they had taken borings and they found that there was approximately 10-15 feet of clay down to permeable soil. Mr. Mugar also noted that he was the owner of Cape Cod Mall in Hyannis and that one of the techniques that they had used there because of drainage problems was to construct retaining ponds.

Elsie Fiore noted that the Haley and Aldridge report showed different conditions in the area. Mr. Tulimieri noted that the Haley and Aldridge report does not provide sub-surface information on the Mugar site and deals only with Cambridge property.

Mr. Barton asked if there were any proposals for development for recreation that Mrs. Fiore had discussed. Mrs. Fiore responded by saying that she was interested in open space.

Mr. Stein asked Mr. Mugar what kind of an investment he was proposing. Mr. Mugar stated that at the present time they are planning for 500,000 square feet of retail, structural parking and an office building comprising an investment of \$25- to \$30,000,000.

Mr. Tulimieri then asked if there were any further questions. There being none, he declared the hearings closed at 9:50 p.m. He indicated that the Redevelopment Board would take testimony under advisement and would report on each article at the annual town meeting.

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10:00 p.m. - Mr. Tulimieri reconvened the meeting of the Arlington Redevelopment Board in the town hall annex. It was proposed that the Board take positions on the warrant articles.

Article 85 - Moved by Mr. McCarthy, seconded by Mr. Tsoi to recommend that the town meeting adopt Article 85.

Article 86 - Moved by Mr. McCarthy, seconded by Mr. Tsoi that the Board recommend the town meeting adopt Article 86. Unanimous vote in favor.

Article 87 - Moved by Mr. McCarthy, seconded by Mr. Tsoi that the Redevelopment Board recommend that the town meeting take favorable action on Article 87. Unanimous vote in favor.

Article 88 - Moved by Mr. McCarthy, seconded by Mr. Tsoi that the Redevelopment Board recommend that the town meeting take favorable action on Article 88. Unanimous vote in favor.

Article 89 - Moved by Mr. McCarthy, seconded by Mr. Tsoi that the Redevelopment Board recommend that the annual town meeting take favorable action on Article 89. Unanimous vote in favor.

Article 90 - Mr. McClennen briefly discussed his concern over the Hatfield property and the fact that Mr. Wanamaker did not have the property under control since he only had obtained a right of first refusal. Mr. Tsoi also noted that there were potential problems over the relationship of proposals for the two lots and property belonging to Mr. Kahan. After further discussion it was moved by Mr. Stein, seconded by Mr. Barton that the Board recommend that the town meeting take favorable action on Article 90. By a vote of 4-1 the Board supported that motion.

Article 91 - Moved by Mr. Barton seconded by Mr. Stein that the Redevelopment Board recommend favorable action to the annual town meeting on Article 91. Unanimous vote in favor.

Article 92 - Moved by Mr. McCarthy seconded by Mr. Stein that the Board recommend no action be taken on Article 92. Unanimous vote in favor.

Article 93 - Moved by Mr. Tsoi, seconded by Mr. McCarthy that no action be taken by the town meeting on Article 93 - Unanimous vote in favor.

Article 94 - Moved by Mr. Tsoi, seconded by Mr. McCarthy that no action be taken by the annual town meeting on Article 94. Unanimous vote in favor.

The Chairman then asked that the Board briefly discuss future approaches on the Mugar site. Mr. McCarthy asked if there was any current litigation pertaining to the property. Mr. McClennen indicated that he believes that the case has been resolved although the final numbers on the appellate tax board decision have not been finally clarified. The Chairman suggested that the Board participate in a restudy of the site in the context of existing zoning. He was particularly interested in whether or not commercial development was appropriate for the site. He also suggested that Mr. Abend analyze the traffic implications of commercial development and other alternatives. Mr. Bordes briefly reviewed work that was presently being undertaken by the state on the issue of traffic. He also noted that now that the state must undertake a full environmental review in the Route 2 area, many of the issues at Mugar can be addressed in the context of that study. Mr. Stein noted that he was concerned that the land might have better use in its conservation state. He noted that without access it was akin to distressed merchandise. Mr. McCarthy stated that it was not appropriate to change the zoning and then study the land. In his opinion the Mugar has a long way to go before they can proceed.

Mr. Tsoi stated that he felt that the best position the town can have is to maximize the available uses of the property, and that limiting it to an R2 zone would severely restrict the possibilities.

10:55 p.m. - The Board briefly reviewed the outline of the proposed report, noted several changes and asked the Director to draft the report to town meeting members.

11:00 p.m. - Moved by Mr. Barton, seconded by Mr. Stein to extend the meeting of the Arlington Redevelopment Board for ten minutes. Approved by the Board.

The Director indicated that the Arlington Historical Society had submitted a petition for Environmental Design Review for a museum addition. The Board requested the Director to set a date for the hearing and moved that, if at all possible, it be a joint hearing with the Zoning Board of Appeals.

Minutes of January 23 - Moved by Mr. Tsoi, seconded by Mr. McCarthy to approve the minutes of January 23 as amended. Unanimous vote in favor.



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Mr. Tsoi requested that Mr. Mugar be invited to meet with the Redevelopment Board following the conclusion of the town meeting. He requested that copies of the request be forwarded to the Town Manager and the Board of Selectmen.

Mr. Tsoi also expressed concern over the new shop front recently installed by the Novita Hair Salon in Arlington Center.

Mr. Tulimieri requested that the staff review the approach for the utilization of facade easements and report to the Redevelopment Board.

10:10 p.m. - Moved by Mr. Barton, seconded by Mr. Stein over the objection of Mr. McCarthy to extend the meeting for ten minutes. Mr. McCarthy then moved that the Board enter into executive session for the purpose of reviewing strategy for pending litigation.

11:20 p.m. - The Board concluded executive session and on the motion of Mr. Barton, seconded by Mr. Stein moved to adjourn.

Respectfully submitted,

Alan McClennen, Jr.  
Secretary Ex-Officio

AMcC/aa