



Article: 39

Warrant Article Title:

ZONING BYLAW AMENDMENT/ ADMINISTRATIVE CLARIFICATION TO ACCESSORY DWELLING UNITS

Warrant Article Text:

To see if the Town will vote to amend Section 5.9.2.B.(1)(e)(iii), Accessory Dwelling Units, Requirements, of the Zoning Bylaw, to revise a requirement for permitting certain Accessory Dwelling Units as-of-right so that a finding, not a special permit, is required in the circumstance; or take any action related thereto.

Requested By:

the Redevelopment Board

Report Excerpt:

The Board recommends Favorable Action (5-0).

The purpose of Article 39 is to bring Zoning Bylaw Section 5.9.2, Accessory Dwelling Units, further into compliance with Massachusetts General Law (M.G.L.) Chapter 40A, § 3 and the implementing regulations promulgated by the Executive Office of Housing and Livable Communities (EOHLC), 760 CMR71.00, "Protected Use Accessory Dwelling Units." Last year, the Attorney General's Municipal Law Unit informed Arlington that Accessory Dwelling Units (ADUs) must be allowed by right and cannot require a Special Permit. As written, Arlington's Zoning Bylaw requires a Special Permit when a proposed ADU is within rear and side setbacks, such as a pre-existing, non-conforming garage being converted into an ADU. The Municipal Law Unit recommended changing the Special Permit condition to a finding, which is what Article 39 proposes.

The Board concluded that this minor revision is necessary to maintain compliance with State law and regulations by removing the Special Permit requirement for ADUs proposed within rear and side setbacks, such as those proposed over existing garages. This amendment was also discussed with the Chair of the Zoning Board of Appeals who concurred with the proposed change.

Vote Language:

That the Zoning Bylaw be and hereby is amended as follows:

Amend SECTION 5.9.2.B.(1)(e)(iii), Accessory Dwelling Units, Requirements, as follows:

5.9.2. Accessory Dwelling Units

...

B. Requirements

- (1) An accessory dwelling unit is permitted as an accessory use to a principal dwelling in any Residential District, and an accessory dwelling unit is permitted as an accessory use to a principal dwelling for a single-family dwelling, two-family dwelling, and duplex dwelling in any Business district, if the following conditions are met:

...

- e) An accessory dwelling unit may be located in (i) the same building as the principal dwelling unit or as an expansion to such building; (ii) a building that is attached to the principal dwelling unit; or (iii) an accessory building that conforms to the setback requirements of this Bylaw for accessory structures in the district in which it is located. An accessory building shall not constitute a principal or main building by the incorporation of the accessory dwelling unit. If an accessory building is located within the setback, then such accessory dwelling unit shall be allowed only if the applicable Special Permit Granting Authority acting pursuant to ~~Section 3.3~~, grants a Special Permit upon its

~~finding~~ finds that the location of such accessory dwelling unit is not substantially more detrimental to the neighborhood or town than the use of such accessory building as a private garage or other allowed use.

[Redevelopment Board Report](#)