

ARTICLE 10

ADMINISTRATION AND ENFORCEMENT

Section 10.01 - Administrative Official

It shall be the duty of the Inspector Of Buildings to administer and enforce the provisions of this Bylaw.

Section 10.02 - Permit Required

It shall be unlawful for any owner or person to erect, construct, reconstruct, or alter a structure or change the use or lot coverage, increase the intensity of use, or extend or displace the use of any building, other structure or lot without applying for and receiving from the Inspector of Buildings the required building permit therefor. For purposes of administration, such permit and application procedure involving a structure may be made at the same time and combined with the permit required under the Building Code.

An application for a permit shall be accompanied by a plan, accurately drawn, showing the actual shape and dimensions of the lot to be built upon, the exact location and size of all buildings or structures already on the lot, the location of new buildings or structures to be constructed, together with the lines within which all buildings or structures are to be erected, the existing and intended use of each building or structure and such other information as may be necessary to provide for the execution and enforcement of this Bylaw. A record of all applications, plans, and permits shall be kept on file by the Inspector of Buildings. The Inspector of Buildings shall take action on an application for a permit, either granting the permit or disapproving the application, within thirty (30) days of receipt of the application.

No permit shall be issued under this section if the building, structure or lot as constructed, altered, relocated or used would be in violation of any provision of this Bylaw. Whenever such permit or license is refused because of some provisions of this Bylaw, the reason therefor shall be clearly stated in writing.

Section 10.03 - Previously Approved Permits

The status of previously approved permits shall be as determined by the Zoning Act, Section 6. The construction or operations under a building or special permit shall conform to any subsequent amendment of the ordinance or bylaw unless the use or construction is commenced within a period of not more than six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

Section 10.04 - Certificate of Occupancy Required

No building hereafter erected, altered substantially in its use or extent or relocated shall be used or occupied, and no change shall be made of the use of any building or of any parcel of land, unless a certificate of occupancy signed by the Inspector of Buildings has been granted to the owner or occupant of such land or building. Such certificate shall not be granted unless the proposed use of the land and building and all accessory uses comply in all respects with this Bylaw and no use shall be made of such land or building that is not authorized by such certificate of occupancy.

Applications for certificates of occupancy and compliance shall be filed coincident with the application for building permits and shall be issued or refused in writing for cause within five (5) days after the Inspector of Buildings has been notified in writing that the erection or alteration of such buildings has been completed. Failure of the Inspector of Buildings to act within five (5) days of receipt of said notification shall be deemed to constitute approval of the application for a certificate of occupancy. A record of all certificates shall be kept on file in the office of the Inspector of Buildings. Buildings accessory to dwellings when completed at the same time shall not require a separate certificate of occupancy. Pending the issuance of a regular certificate, a temporary certificate may be issued for a period not exceeding six (6) months, during the completion of alterations or during partial occupancy of a building, pending its completion. No temporary certificate shall be issued prior to its completion if the building fails to conform to the provisions of the Building Code and state laws or of this Bylaw to such a degree as to render it unsafe for the occupancy proposed.

Section 10.05 - Sign Permit Required

ART.14, ATM 4/01; ART. 7, ATM 4/05

No sign in any "B," "MU," "PUD," "T," "OS", or "I" District or sign requiring approval of the ZBA in any "R" District shall be erected on the exterior of any building or on any lot unless a sign permit signed by the Inspector of Buildings has been granted to the owner or occupant of such land or building.

ART. 9, ATM 4/88

An application for a sign permit shall be accompanied by a plan, accurately drawn, showing the actual shape, dimensions and wording of the sign, and showing the location of the sign on the building or lot, and by such other information as the Inspector of Buildings may require. A record of all applications, plans, and permits shall be kept on file by the Inspector of Buildings. The Inspector of Buildings shall take action on an application for a permit, either granting the permit or disapproving the application, within fourteen days of receipt of the application, or if the lot or building upon which the sign is to be erected is waiting approval of a building permit as required by Section 10.02 of this Bylaw, then action on such sign permit shall be taken within fourteen days after approval or denial of the building permit application.

Section 10.06 - Permit and Certificate Fees

ART. 4, ATM 5/91; ART. 33, ATM 4/97

Fees shall be as established by of the Bylaws of the Town of Arlington.

Section 10.07 - Permit Time Limits

ART.6, ATM 4/98

Any work for which any permit has been issued by the Inspector of Buildings shall be commenced within the time period specified in the Massachusetts State Building Code.

Section 10.08 - Notice of Violation

ART 11, ATM 5/91

If the Inspector of Buildings shall be informed or have reason to believe that any provision of this Bylaw has been, is being or may be violated, he shall make or cause to be made an investigation of the facts and inspect the property where the violation may exist within 14 days of the receipt of a written complaint. If he shall find any such violation, he shall serve a WARNING to any owner or person responsible for such violation of the provisions of this Bylaw or the Town Bylaws, or in violation of any approved plan, information or drawing pertinent thereto, or in violation of a permit or certificate issued under the provisions of this Bylaw, and such WARNING shall direct the discontinuance of the unlawful action, use or condition and the abatement of the violation within a time to be specified by the Inspector of Buildings. Any owner, who having been served with a WARNING, and who ceases any work or other activity, shall not leave any structure or lot in such conditions as to be a hazard or menace to the public safety, health, morals or general welfare.

Section 10.09 - Prosecution of Violation

ART 11, ATM 5/91

If the notice of WARNING is not complied with according to the time specified in said WARNING, the Inspector of Buildings, pursuant to the provisions of MGL Chapter 40, Section 21D, may institute a non-criminal complaint(s). Each day in which a violation exists shall be deemed a separate offense. The penalty for violation of any provision of this Bylaw shall be \$25.00 for the first offense; \$50.00 for the second offense; \$100.00 for the third offense; and \$200.00 for the fourth and each subsequent offense.

The Inspector of Buildings may also, with the approval of the Board of Selectmen, institute the appropriate criminal action or proceeding at law or in equity to prevent any unlawful action, use or condition and to restrain, correct or abate such violation. Penalties for violations may, upon conviction, be affixed in an amount not to exceed three hundred dollars (\$300.00) for each offense. Each day, or portion of a day, that any violation is allowed to continue shall constitute a separate offense.

Section 10.10 - Board of Appeals

ART 12, ATM 4/10

- a. MEMBERSHIP. There shall be a ZBA consisting of five (5) members and two (2) associate members. All members of said ZBA shall be residents of the Town of Arlington, one (1) member shall be an Attorney-At-Law, and at least one of the remaining members shall be a registered architect or a registered professional engineer.
- b. APPOINTMENT. Members of the ZBA in office at the effective date of this Bylaw shall continue in office for the duration of their appointed term. However, as terms expire or vacancies occur, the Board of Selectmen shall make appointments pursuant to the Zoning Act.
- c. POWERS. Under this Bylaw, the ZBA shall have the following powers:
 - 1. To hear and decide appeals.
 - 2. To hear and decide applications for special permits for exceptions.
 - 3. To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon a variance from the terms of this Bylaw.

In exercising the powers under paragraph 3. above, the ZBA may impose limitations both of time and use, and a continuation of the use permitted may be conditioned upon compliance with regulations to be made and amended from time to time thereafter.

In exercising these powers, the ZBA may, in conformity with the provisions of this Bylaw and the Zoning Act, revise or affirm in whole or in part, or may modify, any order or decision, and may make such order or decision as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken and may issue or direct the issue of a permit.

- d. ADOPTION OF RULES. The ZBA shall adopt rules, pursuant to the Zoning Act and not inconsistent with the provisions of the bylaws of the town, for conducting its business and otherwise carrying out the purposes of the Zoning Bylaw. A copy of such rules shall be filed in the office of the Town Clerk. Meetings of the ZBA shall be held at the call of the Chairman, and also when called in such other manner as the ZBA shall determine in its rules.

* e. APPEALS.

1. Any person aggrieved by reason of his inability to obtain a permit from the Inspector of Buildings under the provisions of this Bylaw, by any officer, department or board of the town, or by any order or decision of the Inspector of Buildings or other town official in violation of any provision of this Bylaw may take an appeal to the ZBA.
2. Any person desiring to obtain the permission of the ZBA for any purpose for which such permission is required under the provisions of this Bylaw shall make application in writing therefor within thirty (30) days from the date of the order or decision which is being appealed by filing a notice of appeal, specifying the grounds thereof, with the Town Clerk. The Town Clerk shall forthwith transmit copies thereof to such officer or board whose order or decision is being appealed, and to the members of the ZBA. Such officer or board shall forthwith transmit to the ZBA all documents and papers constituting the record of the case in which the appeal is taken.
3. The ZBA shall fix a reasonable time for the hearing of any appeal or other matter referred to it or any petition for a variance, and shall cause the notice of the time and place of such hearing thereof and the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and also before the day of the hearing shall send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the ZBA to be affected thereby, including the abutters and the owners of land next adjoining the land of the abutters, notwithstanding that the abutting land or the next adjoining land is located in another city or town, as they appear on the most recent local tax list, and to the ARB. The publication required by this section shall contain the following printed in bold face type: (1) the name of the petitioner; (2) the location of the area or premises which are the subject of the petition; and (3) the date and place of the public hearings. At the hearing, any party, whether entitled to notice thereof or not, may appear in person or by agent or by attorney.

ART.19, STM 3/77

4. The Chairman of the ZBA, or in his absence the Acting Chairman, may administer oaths, summon witnesses and call for the production of papers. All hearings shall be open to the public. The ZBA and all permit and special permit granting authorities shall hold hearings and render decisions in accordance with the applicable time limitations as set forth in Sections 9 and 15 of the Zoning Act. The ZBA shall cause to be made a detailed record of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reasons for its decisions, and of its other official actions, copies of all of which shall be filed within fourteen (14) days in the office of the Town Clerk and the office of the ARB and shall be a public record, and notice or decisions shall be mailed immediately to parties in interest as designated in paragraph e.3. above, and to every person present at the hearing who requests that notice be sent to him and states the address to which such notice is to be sent. Upon the granting of a limited or conditional zoning variance or special permit, the ZBA shall issue to the land owner a notice, certified by the chairman or clerk, containing the name and address of the land owner, identifying the land affected, and stating that a limited or conditional variance or special permit has been granted which is set forth in the decision of the ZBA on file in the office of the Town Clerk. No such variance or permit shall take effect until such notice is recorded in the Middlesex County Registry of Deeds. The fee for recording such notice shall be paid by the owner and the notice shall be indexed in the grantor index under the name of the owner of record.

The concurring vote of all members of the ZBA shall be necessary to reverse any order or decision of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Bylaw, or to effect any variance in the application of this Bylaw.

ART. 86, ATM 3/78

5. No appeal or petition under paragraph e.3. above for a variance from the terms of this Bylaw with respect to a particular parcel of land or the building thereon, and no application under paragraph e.2. above for a special permit under the terms of this Bylaw, which has been unfavorably acted upon by the ZBA shall be considered on its merits by said ZBA within two (2) years after the date of such unfavorable action except with the consent of all but one of the members of the ARB; provided, however, that an annulment of a favorable decision of said ZBA by the Court pursuant to the authorization contained shall not constitute unfavorable action within the meaning of this paragraph.

- f. OTHER REQUIREMENTS. The granting of any appeal by the ZBA shall not exempt the applicant from any provision of this Bylaw not specifically ruled upon by the ZBA or specifically set forth as exception in this particular case from a provision of this Bylaw. It shall be unlawful for any owner or person to reconstruct, convert or alter a structure or change the use, increase the intensity of use, or extend or displace the use of any building, other structure or lot, or change any required limitations or special conditions imposed by the ZBA in authorizing a special permit or variance without appealing to the ZBA as a new case over which the ZBA shall have complete administrative power to deny, approve or modify.

Section 10.11 - Special Permits

ART. 86, ATM 3/79

Certain uses, structures or conditions are designated as special permit uses in Article 5, Table of Use Regulations, and elsewhere in this Bylaw. Upon written application duly made to the ZBA, or to the ARB for uses that come under the provisions of Section 11.06, the ZBA or the ARB may, in appropriate cases subject to the applicable conditions set forth in Article 11 of this Bylaw and elsewhere and subject to other appropriate conditions and safeguards, grant a special permit for such uses or conditions and no others.

ART. 80, ATM 4/80; ART. 8, ATM 4/94

In addition to new uses of buildings or of land which require(s) a special permit according to Section 5.04, other uses in the Table of Use Regulations shall be subject to a special permit when: one use is converted to another use category or subcategory listed as a special permit use in Section 5.04 for the District in question; a special permit use is expanded so that its cumulative size exceeds a threshold specified in Section 5.04 (for example, a retail use or building exceeding 3,000 square feet in total floor area per Principal Use 6.16); changes are made in the exterior of a structure housing a special permit use, including uses which have not previously been granted a special permit; or material changes in use characteristics occur within the same use category for Vehicular Oriented Businesses (uses 6.01 to 6.05) or Eating Establishments (uses 6.12 to 6.14) which are listed as special permit uses, including uses which have not previously been granted a special permit. Material changes in use characteristics shall include changes in business practices or occupancy which result in a change in the principal product or service being traded, such as a fast food hamburger establishment replacing a fast food ice cream establishment or an automotive muffler shop replacing an automotive tune-up establishment.

ART. 6, ATM 4/09

- a. Before granting an application for a special permit for a use listed in Section 5.04, the ZBA or the ARB with due regard to the nature and condition of all adjacent structures and uses, and the district within which the same is located, shall find all of the following special permit standards to be met:
 1. The use requested is listed in the Table of Use Regulations as a special permit in the district for which application is made or is so designated elsewhere in this Bylaw.

2. The requested use is essential or desirable to the public convenience or welfare.
3. The requested use will not create undue traffic congestion, or unduly impair pedestrian safety.
4. The requested use will not overload any public water, drainage or sewer system or any other municipal system to such an extent that the requested use or any developed use in the immediate area or in any other area of the Town will be unduly subjected to hazards affecting health, safety or the general welfare.
5. Any special regulations for the use, set forth in Article 11, are fulfilled.
6. The requested use will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health, morals, or welfare.
7. The requested use will not, by its addition to a neighborhood, cause an excess of that particular use that could be detrimental to the character of said neighborhood.

ART. 86, ATM 3/79, ART. 6, ATM 4/09

- b. The ZBA or the ARB shall also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Bylaw, including, but not limited to, the following: front, side, or rear yards greater than the minimum required by this Bylaw; screening buffers or planting strips, fences, or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation, time duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features; and off-street parking or loading or other special features beyond the minimum required by this Bylaw. Such conditions shall be imposed in writing, and the applicant may be required to post bond or other security for compliance with said conditions in an amount satisfactory to the ZBA or the ARB. Any special permit granted under this section shall lapse within two years if a substantial use thereof has not sooner commenced except for good cause, in the case of permit for construction, if construction has not begun by such date except for good cause.

ART. 12, ATM 5/91; ART. 4, ATM 4/94, ART. 6, ATM 4/09

- c. In order that the ZBA, or in cases subject to Section 11.06, the ARB may determine that the above-mentioned special permit standards are to be met, a site plan shall be submitted, in duplicate, to the ZBA, or ARB as appropriate, by the applicant. In the case of Special Permits for uses, listed in the Table of Use Regulations, all such site plans shall be prepared, signed and stamped by a professional land surveyor or professional engineer registered in Massachusetts unless the Special Permit Granting Authority waives the requirement in writing

Said site plan shall show, among other things, all existing and proposed buildings, structures, parking spaces, driveway openings, driveways, service areas, and other open uses, all facilities for sewage, refuse and other waste disposal, and for surface water drainage, and all landscape features, such as fences, walls, planting areas and walks.

The ZBA shall within ten (10) days after receipt thereof transmit one copy of such plan to the ARB. The ARB may, in its discretion, investigate the case and report in writing its recommendations to the ZBA.

The ZBA shall not take final action on such plan until it has received a report thereon from the ARB or until said ARB has allowed thirty (30) days to elapse after receipt of such plan without submission of a report thereon.

Section 10.12 - Variances

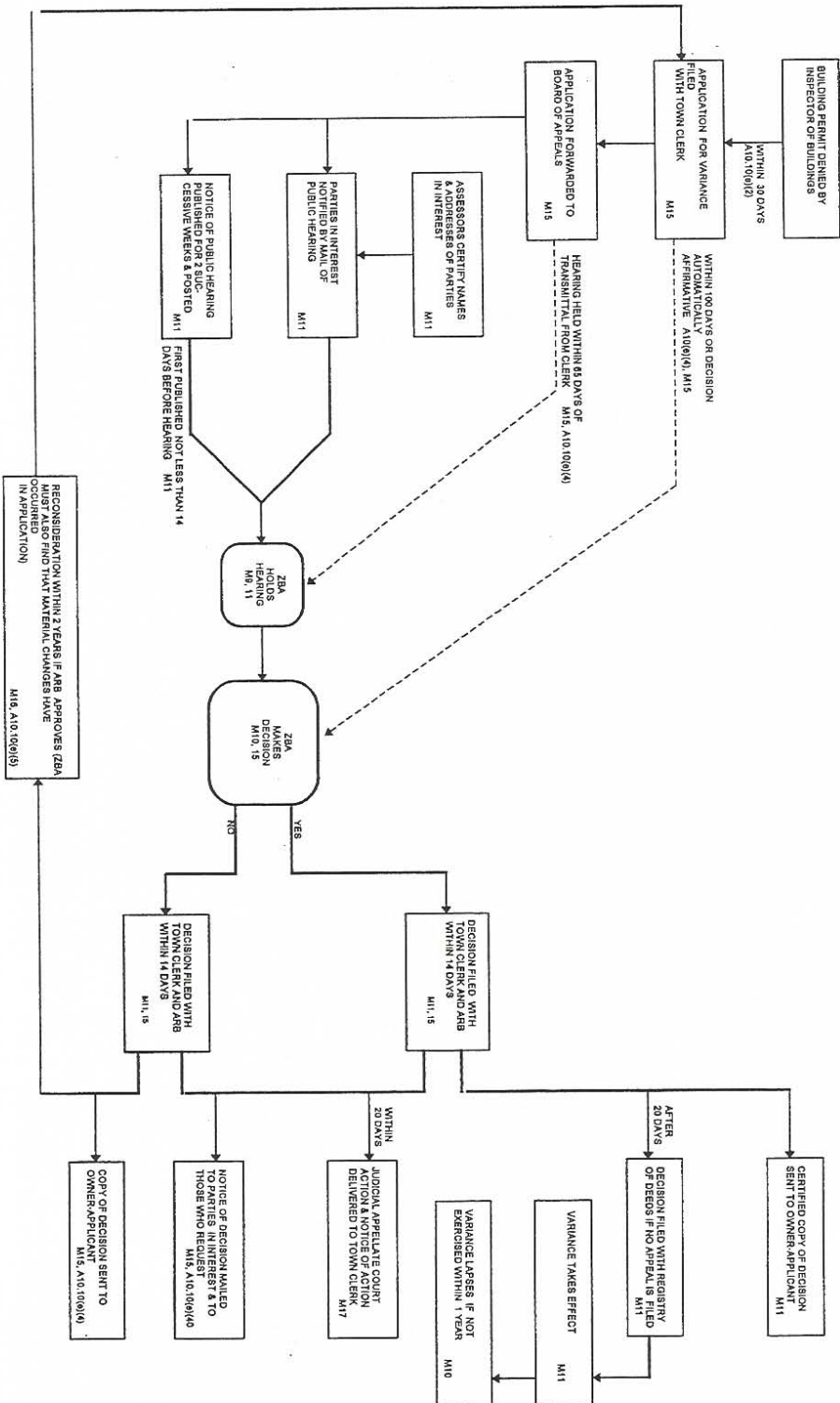
ART. 85, ATM 3/78

The Zoning Board of Appeals is empowered to grant variances to the provisions of this Bylaw in accordance with Section 10 of Chapter 40A of the General Laws of the Commonwealth of Massachusetts.

Variance Process

STEPS AND SCHEDULING AS REQUIRED BY THE ARLINGTON ZONING BYLAW AND CHAPTER 40A OF THE MASSACHUSETTS GENERAL LAWS

NOTE: REFERENCES TO SECTIONS IN THESE TWO LAWS ARE CITED AS FOLLOWS:
 A10.100(1) - SECTION NUMBER IN THE ARLINGTON BYLAW
 M-15 - SECTION NUMBER IN CHAPTER 40A OF MASS. GENERAL LAWS
 AS AMENDED BY CHAPTER 809 OF THE ACTS OF 1975.



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

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