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Volume II  
Pages 1-115

Brookline Zoning Board of Appeals Hearing  
40 Centre Street Comprehensive Permit Application  
Roth Family, LLC  
June 20, 2016 at 7:00 p.m.  
Brookline Town Hall  
333 Washington Street, 6th Floor  
Brookline, Massachusetts 02445

Reporter: Kristen C. Krakofsky

## 1 APPEARANCES

2 Board Members:

3 Jesse Geller, Chairman

4 Jonathan Book

5 Christopher Hussey

6 Kate Poverman

7 Steven Chiumenti

8

9 Town Staff:

10 Alison Steinfeld, Planning Director

11 Maria Morelli, Senior Planner

12 Peter Ditto, Director of Engineering and Transportation

13

14 40B Consultant:

15 Judi Barrett, Director of Municipal Services

16 RKG Associates, Inc.

17

18 Applicant:

19 Bob Roth, Roth Family, LLC

20 Geoff Engler, Vice President, SEB

21 Peter W. Bartash, Associate Principal, CUBE 3 Studio

22

23

24

1 Members of the Public:

2 Don McNamara, 12 Wellman Street

3 Don Sherak, 50 Centre Street,

4 Chuck Schwartz, Centre Street, Town Meeting Member

5 Precinct 9

6 Steven Pendery, 26 Winchester Street

7 Harriet Rosenstein, Town Meeting Member Precinct 9,

8 53 Centre Street

9 Rich Simonelli

10 Thomas Gutheil, 6 Wellman Street

11 Elissa Rosenthal, 19 Winchester Street

12 Margery Resnick, 19 Shailer Street

13 Margaret McDonald

14 Esther Kapinos, 19 Winchester Street

15 Daniel Hill, Esquire, Hill Law

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1 PROCEEDINGS:

2 7:05 p.m.

3 MR. GELLER: Good evening, everyone. This is  
4 our continued hearing on the application for a  
5 comprehensive permit at 40 Centre Street. Just to  
6 remind everyone, my name is Jesse Geller. To my  
7 immediate left is Chris Hussey, to Mr. Hussey's left is  
8 Steve Chiumenti, and to my right is Kate Poverman.

9 As people will remember, the town has received  
10 a grant from MassHousing Partnership to engage a  
11 consultant who is an expert in 40B matters, and our  
12 expert is Judi Barrett. Judi is in a meeting right now  
13 but will be joining us in about 25 minutes, so she'll  
14 sneak in and have a seat.

15 Some general comments about status: The ZBA  
16 has engaged the services of an architecture peer  
17 reviewer. His name is Clifford Boehmer. I got it  
18 right. He is of Davis Square Architects, and he will  
19 obviously be reviewing those things that architects  
20 review and will be in not this week, but the next  
21 hearing -- is that correct?

22 MS. MORELLI: Correct.

23 MR. GELLER: -- on August 1st, which will  
24 start roughly at 7:00.

1           On June 9th at 8:30 in the morning, the ZBA  
2 members had the opportunity with the public and others  
3 who were interested to walk the site. It was not an  
4 opportunity for testimony, but we did have a fairly  
5 good ability to go around the building. And  
6 unfortunately, there was some miscommunication and the  
7 improvements were not staked. So what we're going to  
8 do is we've -- as some people may have heard, we will  
9 ask the applicant to stake the improvements and we will  
10 go back for another site visit. And we'll figure out  
11 the timing of that.

12           The purpose of this evening's hearing -- or  
13 the focus of this evening's hearing, will be to accept  
14 testimony from various town departments and boards as  
15 well as to receive testimony from the public. We've  
16 got a number of letters from a variety of boards.  
17 We've -- and, Maria, you can correct me, but I believe  
18 what we received to date are -- we've gotten  
19 correspondence from the deputy fire chief concerning  
20 fire safety, we've received communications from DPW,  
21 Transportation and Engineering, we've received  
22 communications -- again, written fashion -- from the  
23 Preservation Commission, and we've received materials  
24 in writing from the Planning Board.

1 MS. MORELLI: And also town counsel.

2 MR. GELLER: And town counsel, yes, correct.

3 Thank you.

4 We will hear tonight -- unless they run out of  
5 the room. I see Peter at the back. We will hear from  
6 Mr. Ditto on behalf of Transportation and Engineering,  
7 we will hear from Ms. Morelli on behalf of the Planning  
8 Board, and I understand we will -- is Jonathan  
9 Simpson -- Jonathan Simpson. And I understand that  
10 also Selectman Wishinsky may wish to say a few words.

11 Ms. Morelli?

12 Actually, before you speak, let me ask the  
13 applicant, are there any updates in terms of projects?  
14 Anything further to be raised with us?

15 MR. ROTH: No. Not at this time.

16 MR. GELLER: Okay. Thank you.

17 Ms. Morelli.

18 MS. MORELLI: Okay. The first matter -- thank  
19 you, Mr. Chairman. The first matter that I wanted to  
20 address was the follow-up to the review for application  
21 completeness. I did receive the materials that I  
22 highlighted, as I mentioned, that were required per the  
23 statute. The one thing that I just got this evening  
24 are the full-sized plans of the scale drawings. And so

1 I think the application is complete.

2           There is one matter regarding Article 8.26,  
3 which is the stormwater management requirement, and  
4 that's something that Peter Ditto will address when he  
5 speaks later.

6           MR. GELLER: Thank you.

7           MS. MORELLI: I'll just point out that  
8 MassHousing did submit a letter clarifying the  
9 affordable unit mix, and in short, there isn't an  
10 issue. The PEL is legitimate, and Ms. Lacy from  
11 MassHousing does explain that in her letter.

12           MR. GELLER: Thank you, also.

13           Any questions at this point?

14           (No audible response.)

15           MR. GELLER: Thank you.

16           MS. MORELLI: Do you have anything before I go  
17 into the Planning Board comments?

18           MR. GELLER: Well, do you want to go into  
19 Planning Board comments, or do you want me to call -- I  
20 know you have something of a visual presentation. Do  
21 you want me to call on others first?

22           MS. MORELLI: One thing I suggest is sometimes  
23 it's easier if -- because the Planning Board is really  
24 looking at the site design, and it's really easy to

1 just have a reminder of the project proposal. The site  
2 design -- everything comes out of the site design, so I  
3 think the other comments might make more sense, unless  
4 Chairman Wishinsky is here and you'd like to hear from  
5 him first.

6 MR. GELLER: No. He wants to see the visuals.

7 MS. MORELLI: Okay. I think it would make  
8 sense for Peter Ditto to speak after I do.

9 MR. GELLER: Sure.

10 MS. MORELLI: This is probably the lengthiest  
11 portion. I just wanted to update you very quickly on  
12 the summary of the project proposal. This is in the M,  
13 multifamily, 1.0 district. The lot size is 10,900  
14 square feet, and the proposal is for 45 units with an  
15 FAR of 4.5, 17 parking spaces for those 45 units, and  
16 70 bedrooms. As you can see here -- actually, I don't  
17 have my laser pointer here. The site is here and it's  
18 right across the street -- the most prominent landmark  
19 would be the parking lot behind the Coolidge Corner  
20 Theater.

21 Okay. Just to go a little bit into existing  
22 conditions in the surrounding context, this is  
23 40 Centre, the existing structure. It is a two-story  
24 Georgian revival built in 1922. About last year, the

1 owner at the time, Warren Becker, did submit a  
2 demolition review application to the Preservation  
3 Commission. Staff did have an initial finding of  
4 significance using the criteria found in our demolition  
5 bylaw. The Preservation Commission did follow up and  
6 supported that initial finding of significance and  
7 imposed a 12-month stay, which expires next month, in  
8 August.

9           One thing that you don't see here, there is  
10 parking on the site. It's actually a driveway to the  
11 left, and it's -- the parking is surface parking, about  
12 seven or eight parking spaces in the rear.

13           Okay. So just, again, to get a sense -- the  
14 zoning, this is an M-1.0 district, and it's surrounded  
15 by other multifamily districts of increasing density.  
16 There's, of course, the general business district to  
17 the right.

18           By looking at this, you'll see a concentration  
19 of different zoning districts. And you might get the  
20 impression that because of that concentration of  
21 different zoning districts, the increase in density,  
22 different lot sizes that vary a great deal, and  
23 possibly a range of building typology, that there might  
24 not be a consistent development pattern to inform the

1 design principles for this project.

2           However, the Planning Board felt really  
3 strongly that if we look a little more closely at the  
4 surrounding context, we will find -- there really is a  
5 short list of design principles in a consistent  
6 development pattern.

7           One thing that they do want to make clear, the  
8 site itself can support increased density and it could  
9 be viewed as a transition site. But one thing that  
10 they did want to emphasize is what to look at as one of  
11 the reference points in the surrounding context.

12           You might recall this slide from the  
13 applicant's presentation from the first hearing, and  
14 this is to give you an aerial view. To provide some  
15 context, this is, of course, the project site, Centre  
16 Street, Beacon, to Williams and, of course, Harvard  
17 Street is parallel.

18           And what this is showing is certainly true.  
19 There are buildings of varying height. They do range  
20 from 45 to over 100 feet. But one thing the Planning  
21 Board wants to point out is that these buildings with  
22 especially more significant heights, they're going to  
23 be located at major thoroughfares like you'll see at  
24 Williams here and beyond, or Beacon Street. So they're

1 going to be focused or located at intersections where  
2 you have wider streets.

3           What we felt was overlooked was this  
4 neighborhood here of two-and-a-half-story homes. A lot  
5 of them are single and two-family, or in some cases  
6 three-family homes, but clearly under 45 feet. And as  
7 you move closer to the business district, Coolidge  
8 Corner toward Harvard Street, you do get a sense that  
9 they're still not high-rises in that area even as  
10 you're transitioning to the business district, but the  
11 height is pretty much around 45 feet.

12           This is just zooming in a little bit closer.  
13 You might get an idea and see that they are actually  
14 blocks where you see those single- and two-family  
15 homes. So there's definitely something there that  
16 defines that streetscape, and that's really what I  
17 wanted to go over with you.

18           One of the things that's pretty significant if  
19 we zoom down a little bit closer and we're at street  
20 level, these are carefully conserved properties, so  
21 these properties are not going anywhere. And if you're  
22 walking on the street for a good two blocks toward  
23 Williams, you do get the sense that this is -- this has  
24 helped define the streetscape. There is a consistent

1 front yard setback. There's a really welcoming  
2 residential feel.

3           And one thing if you're involved in planning,  
4 revitalizing downtowns or neighborhoods, one of the  
5 things you're trying to attract is residential. Why?  
6 Because it gives you that sense of welcoming. It's a  
7 safe community. So one of the things that we want to  
8 reinforce and not overlook is the residential character  
9 and certainly the modal pattern, which I'm going to go  
10 over in a second.

11           I just wanted to point out a little bit more  
12 of what we have on the other side of the street.

13           Actually, one thing before we go on. The  
14 minimum front yard setback in this zoning district is  
15 15 feet. And one thing that's very interesting on both  
16 sides of the street, at least for two blocks, the modal  
17 pattern for the front yard setbacks well exceeds that.  
18 On one side of the street, it's about 22 feet, and on  
19 the other side it's about 27.

20           This will give another aerial view of what I'm  
21 speaking of. You might not be able to see those  
22 labels, but here is the project site. And these lines  
23 pretty much are drawn to where we see a consistent  
24 front yard setback. So on this side of the street, the

1 even side, we see about a 22-foot front yard setback.

2 On the other side of the street, it's about 27.

3           And curiously, this is one of the buildings  
4 that really stands out as kind of not like the others  
5 or -- it's 70 Centre Street, which is about 45 feet --  
6 or 70 feet high. What you'll notice here is that it's  
7 maybe double the height of what is allowed -- the  
8 maximum allowed in this district, but it's also double  
9 the front yard setback. So that's an important thing  
10 that the Planning Board and planners in general are  
11 going to look at, is that ratio of setback to height.  
12 So to accommodate that excessive height in relation to  
13 what's surrounding that, there is increased, not only  
14 front yard setback, but side yard setback.

15           Okay. And this is just another close-up.  
16 This is the row house, the three-unit row house to the  
17 left of the project site. And that's that -- pretty  
18 much that consistent front yard setback with  
19 landscaping that I was referring to.

20           Not to overlook what is the rest of the -- I  
21 did say this is a transition property. To the right of  
22 the site is a parking lot. It definitely provides some  
23 distance and open space. Behind that you'll see  
24 19 Winchester, which is a good, maybe, 60 feet away

1 from the property line. It's about an eight- or  
2 nine-story building. Across the street, of course, is  
3 the parking lot behind the Coolidge Corner Theater, and  
4 here you have a vista as well. You don't see the very  
5 tall buildings that were pointed out in that slide way  
6 back there.

7           Now just stepping back, we talked about site  
8 lines, and I was giving you a walk through the  
9 neighborhood where you could see the single- and  
10 two-family homes. Conversely, this is the site line  
11 for that neighborhood. There really isn't any  
12 opportunity for buffering on the site because of the  
13 right side setback and because of the parking lot  
14 itself. So that's important to keep in mind. The  
15 Planning Board was very particular about the massing of  
16 that building and the view that the two- or single-  
17 family neighborhood will see.

18           Okay. Just to go through a few things here.

19           MS. POVERMAN: I'm sorry, Maria.

20           MS. MORELLI: Yes.

21           MS. POVERMAN: When you say that the Planning  
22 Department was very concerned, are you talking about --  
23 or would be or --

24           MS. MORELLI: The Planning Board. The

1 Planning Board wanted to point out -- and this is  
2 actually what I'm going to get into -- some incongruity  
3 with the design itself. And I think it's a good segue  
4 to this slide. Let me know if it doesn't answer your  
5 question.

6           So this is a rendering of the proposed  
7 building for this development. First of all, one of  
8 the incongruities was really that front yard setback.  
9 So when you look at the site plan, you see where the  
10 foundation is. It's about two and a half feet away  
11 from the property line. But if you go up a level, it's  
12 about 13 feet ceiling height here for the ground level.  
13 This bay is actually flush with the property line, so  
14 that's essentially a zero setback condition just for  
15 that bay, but it does contribute to that sense of this  
16 massive building being on top of the sidewalk. But  
17 more importantly, it's not consistent with the  
18 development pattern in that area.

19           The other big thing is that you see  
20 prominently the garage door. Now, I understand that  
21 this rendering doesn't show that it has been set back  
22 15 feet, so this rendering would need to be updated.  
23 Nonetheless, it is taking up a good proportion of that  
24 ground level on the front facade. And that was

1 something the Planning Board felt was another  
2 incongruous element, to have garage or front yard  
3 parking, the parking level so prominent on the front  
4 facade.

5           The other -- just as we're looking at massing,  
6 so this is another example of projections that are  
7 going into the setback. So the site plan is showing  
8 where the foundation is, but what it's not showing are  
9 where these balconies are actually going into the side  
10 yard setback.

11           Now, why is this important? One of the  
12 techniques for diminishing massing is to carve up these  
13 cubes, right, to carve away and use articulation to  
14 mitigate that massing. And what the projections like  
15 the bay and the balconies do, they actually add or  
16 spread out that massing rather than articulate the  
17 massing and make it feel somewhat diminished.

18           You get an example here. This building is the  
19 row house to the left, and its height at the ridge is  
20 about 45 feet. But you get a really strong sense of  
21 the cornice line, where it is, and it's about -- more  
22 in keeping with the existing building, maybe a little  
23 bit taller.

24           So other things that the Planning Board felt

1 that -- especially with the ground level height being  
2 at 13 feet and it being a parking level, it really  
3 reads strongly as office/commercial rather than a  
4 residential motif, and that seemed to be a very  
5 striking thing that needed to be addressed.

6           The other things were concerning the height.  
7 As you can see here, the height, including the parapet,  
8 is about 70 feet. Now, I should point out, the  
9 Planning Board letter does recommend eliminating a  
10 story. But, of course, I was at the Planning Board  
11 meeting and the discussion really wasn't unanimous  
12 concerning the height. But I wanted to be fair and say  
13 that what really concerned the Planning Board mostly  
14 were the setbacks. Not just the front setback, but the  
15 others as well. And we'll look at a few other slides.

16           There were architectural elements that are  
17 really emphasizing verticality here at the fenestration  
18 and maybe the patterning, how the materials were  
19 apportioned on the building, that really emphasized the  
20 verticality. And the materials themselves, it reads  
21 clearly, I think, to the Planning Board as maybe  
22 downtown. And for a transition property, we like to  
23 see just something echoed from the surrounding  
24 neighborhood to help better integrate this project.

1           Okay. Just looking at the site plan  
2 superimposed on the atlas map, again, this is just to  
3 reiterate how strongly the Planning Board felt about  
4 the modal pattern for the front yard setbacks. Here I  
5 just want to emphasize the dashed line is really  
6 showing where that property line is, how it is to  
7 the -- the foundation is about two and a half feet.

8           And what might not be clear here, because we  
9 don't have the building, is that there's about an eight  
10 foot of space between the side walls of the row house  
11 and the proposed building. And if you consider that  
12 the building itself is taking up most of the lot and it  
13 is significantly higher than any other building in the  
14 area, the board felt it was really oppressive massing,  
15 that there really could be more space, especially in  
16 this particular area.

17           Okay. And just to state the obvious, there  
18 really is an over -- open space here. And again, as  
19 you can see, the parking lot to the left isn't an  
20 opportunity to provide buffering or screening.

21           Okay. Just another aerial view because I  
22 wanted to show the rear yard abutter, which is  
23 19 Winchester. They do have a generous setback here,  
24 but one thing that we just wanted to point out is that

1 there is -- oddly enough, there is a swimming pool that  
2 is on the property line. Some of the things that the  
3 Planning Board were talking about in terms of location  
4 of the driveway and maybe a safer location for the  
5 parking might afford a deeper setback in the rear, just  
6 to have a little more space. It wouldn't be -- you  
7 really wouldn't be impinging on the privacy or  
8 diminishing the open space amenities of the rear  
9 abutter.

10           Okay. Just going back to 70 Centre Street  
11 because, again, I don't want to overlook the fact that  
12 we do have apartment buildings in the area. And it  
13 might be helpful to see just a rough comparison of  
14 these two buildings, which are not too far apart.

15           One, of course, is that front yard setback  
16 being 45 feet in relation to the 80-foot building. The  
17 other is just a really quick comparison. The depths of  
18 the site are pretty much the same except for 70 Centre  
19 being twice as wide. The amount of footprint and  
20 paving that's taking up the lot coverage is about the  
21 same. We've talked about front yard setback to the  
22 building between the property line. Despite the  
23 paving, there are really generous rear and left and  
24 right side setbacks.

1           The other thing worth noting is that there are  
2 a different number of units, so the FAR is considerably  
3 different. And the parking ratio for 70 Centre is a  
4 little over one as opposed to the .38. In general, the  
5 board was a little skeptical and didn't think this was  
6 a practical ratio for this site and felt that some of  
7 the recommendations, which I will summarize toward the  
8 end, probably will diminish, somewhat, the program, and  
9 that might help with the parking ratio. But they did  
10 want to point out, as proposed, it seemed really --  
11 they were skeptical.

12           Okay. So just getting a little bit to public  
13 safety and mainly the location and setbacks in regard  
14 to the driveway and the garage entrance. So this is  
15 the existing site plan. As you know, the property  
16 across the street is a parking lot with a two-way  
17 driveway in and out. And this is where the current  
18 nine-foot-or-so-wide driveway is. And it's offset.  
19 That's just something to consider. It might be a  
20 consideration for the traffic peer reviewer.

21           But what was of most concern -- this is,  
22 again, just as a comparison -- the proposed site plan  
23 shifts that a little bit more. It is 20 feet wide,  
24 which is suitable, certainly, in keeping with the bylaw

1 for properties that have seven or more parking spaces.  
2 But just to point out that it is shifted a little bit  
3 more so that it's almost directly aligned with one of  
4 those driveways.

5           What is of particular concern, I would say, to  
6 the director of engineering and also the Planning Board  
7 is really public safety. Now, in our bylaw under 6.04  
8 are any -- there needs to be an analysis conducted by  
9 the building commissioner and the director of  
10 engineering regarding visibility of pedestrians that  
11 are on the sidewalk within five feet on either side of  
12 the garage entrance. And that view is actually going  
13 to be of the midpoint of the driveway six feet behind  
14 that property line. So this is not an analysis. This  
15 is just illustrating a concept of what the director and  
16 the building commissioner would be looking at.

17           They've already stated that there is some  
18 concern just having -- even if the garage door is set  
19 back 15 feet, the fact is that there is a retaining  
20 wall -- we don't know the heights of the retaining  
21 walls -- and the fact that there is this building  
22 with -- what you're not seeing here is that bay that  
23 projects. So just a little concerned about visibility  
24 with there being a very shallow front yard setback.

1           This is a heavily -- it's heavily trafficked  
2 by pedestrians. There's a lot of activity. It's a  
3 very walkable district, which is a plus, but that  
4 certainly adds to the public safety concerns.

5           Okay. So just repeating again this sense with  
6 the rendering, you can see we're looking at the plans,  
7 just another view in a heavily trafficked area, how on  
8 top of the sidewalk that feels.

9           And then just to remind you of that setback  
10 that's currently there, that's really -- it allows for  
11 it not only for aesthetic purposes to have more  
12 landscaping, but certainly visibility when you have  
13 heavily trafficked sidewalks.

14           Just another view of -- this is our famous  
15 farmers market. But you can see people do really mill  
16 about and how there's a lot of meeting up on sidewalks.  
17 It's in conjunction with a lot of driveways that are  
18 already in the area. And we wanted to be cognizant of  
19 how -- this is also part of the surrounding context and  
20 something that shouldn't be overlooked.

21           So just to sum up, the Planning Board does  
22 strongly recommend increasing the front yard setback to  
23 15 feet to improve visibility. Again, that is not in  
24 keeping with the modal pattern, which is far greater,

1 but it is in keeping with the minimum zoning  
2 requirements.

3 Exchange of ground level parking with the rear  
4 yard surface parking. In other words, increase --  
5 retain the existing driveway on the left, increase it  
6 to 20 feet, and keep the surface parking in the rear  
7 yard where it is and just expand it.

8 I just want to make clear that there was some  
9 concern that the Planning Board was recommending a  
10 60-foot rear yard setback, and that wasn't the case.  
11 Without designing the project, it's possible to have  
12 maybe two rows of rear yard parking, but the second  
13 floors and up could be either cantilevered or supported  
14 and be closer to maybe within 18 feet of the rear yard  
15 setback.

16 Articulate the building to reduce massing and  
17 create a more human scale entrance. Again, the  
18 Planning Board did put it in the letter to reduce the  
19 height, but that wasn't a unanimous opinion. Certainly  
20 the setbacks were far more important.

21 Borrow architectural elements from the  
22 two-and-a-half-story neighborhood.

23 And last, achieve a more practical parking  
24 ratio.

1 MR. GELLER: Thank you. Questions?

2 MR. CHIUMENTI: In the MassHousing letter,  
3 basically it points to the fact that there are several  
4 rather abnormally large buildings in the general  
5 vicinity, and I'm curious what -- if you know, and  
6 obviously off the top of your head -- what the ratio of  
7 apartments to parking is in those buildings.

8 MS. MORELLI: That's actually a very good  
9 question. I did the comparison of 70 Centre Street  
10 because it's the closest and it's certainly within that  
11 block that we would call the surrounding neighborhood.  
12 So the parking ratio there was like about 1.1. I think  
13 it was 47 parking spaces to 42 units.

14 MR. CHIUMENTI: The other thing I would ask  
15 just generally as a design element -- I noticed that  
16 they comment several places on density in the  
17 MassHousing letter. Interesting because, of course,  
18 we've been lectured about not using the term "density"  
19 in the past. But they note that the density of the  
20 proposal -- which they refer to variously as a  
21 six-story building on page 7 and an eight-story  
22 building on page 8. It's a six-story building. The  
23 density is 180 units per acre because it's 45 divided  
24 by .25.

1 MS. MORELLI: Correct.

2 MR. CHIUMENTI: And I'm curious, what is  
3 the -- they then compared it to some generic urban  
4 setting they're imagining. I'm curious, though, what  
5 it is in that general neighborhood actually.

6 MS. MORELLI: It's a good question. The  
7 reason why it can be a little problematic to do that --  
8 when I showed you the -- okay, first of all, just to go  
9 back. So the density, the very last line in the chart,  
10 180 dwelling units per acre compared to 70 Centre,  
11 which is about 80 dwelling units per acre. Before I  
12 get into why it's a problem to come up with a general  
13 rule of thumb, I want to emphasize that the Planning  
14 Board really looks at land use metrics like setbacks  
15 and --

16 MR. CHIUMENTI: No. I understand.  
17 MassHousing thought it was worth mentioning. I'm  
18 curious really what it is for that particular  
19 neighborhood. Obviously it would be less than  
20 70 Centre Street because 70 Centre Street itself is not  
21 typical of that neighborhood.

22 MS. MORELLI: But we have a lot of smaller  
23 lots that are about 6,000 square feet, so it would be  
24 really hard to do a rule of thumb regarding density.

1           And we just want to emphasize that we never  
2 look at that number alone, no matter what MassHousing  
3 says. But we look -- in terms of providing guidance to  
4 the ZBA, looking at actual metrics like ratio of  
5 setback to height, spaces between buildings, any  
6 opportunity for buffering, what the modal pattern is  
7 for that particular area so we can give you some  
8 concrete issues to --

9           MR. CHIUMENTI: So even this  
10 uncharacteristically large building next door, the  
11 density is less than half the density --

12           MS. MORELLI: I really can't speak to that.  
13 We have not done a density analysis just by grabbing  
14 that land area because there's so much that's  
15 inconsistent. We don't have a general --

16           MR. CHIUMENTI: Well, that 80 acres per unit  
17 is less than half of 180 acres.

18           MS. MORELLI: Yes, it is. And that's just  
19 looking at one site.

20           MR. CHIUMENTI: And an untypical site at that.

21           MS. MORELLI: It is. We just want to really  
22 look at apples -- compare apples to apples and not look  
23 at what might be considered maybe a single-family  
24 district because they're mostly single-family homes

1 there, so that's why it's difficult to just look at a  
2 density analysis over an entire area.

3 MR. CHIUMENTI: Thank you.

4 MS. POVERMAN: Maria, could you remind me what  
5 the parking ratio is required in this district? I  
6 mean, the 1 percent ratio that's achieved by 70 even  
7 itself seems pretty sparse.

8 MS. MORELLI: So if you have -- in a  
9 multifamily district, if you have three bedrooms, then  
10 you have to have 2.3 parking spaces per unit.

11 MS. POVERMAN: So exceptions were made for  
12 70 Centre Street?

13 MS. MORELLI: That was built in the late '60s.

14 MS. POVERMAN: Okay.

15 MS. MORELLI: And I did go through the files  
16 just to wonder how it came to be and what was the  
17 climate then. It might have been a '60s thing. I'm  
18 not really sure. But yeah, there was probably  
19 different zoning at the time.

20 MS. POVERMAN: Okay.

21 MR. HUSSEY: There was a big zoning change in  
22 the parking ratio about 1990. It almost doubled what  
23 it was previously.

24 MR. GELLER: Thank you, Maria.

1 MS. POVERMAN: I'm sorry. One more question.  
2 You said that the Planning Board was especially  
3 concerned with setback issues, and there was no  
4 unanimity relating to height. But is it fair to assume  
5 that it's not an either/or type discussion?

6 MS. MORELLI: No. They were all unanimous  
7 about the setbacks, clearly, and also improving the  
8 building articulation.

9 I think that there was probably one Planning  
10 Board member who felt very strongly about the height.  
11 If you were to look at a site section and you would see  
12 the roof line, he just felt, based on that, it really  
13 stood out.

14 The other Planning Board members felt -- we're  
15 just talking about the story and that the other -- you  
16 know, increasing that left-side setback, number one,  
17 was really important because not only do you have a  
18 safer location for the driveway and parking, you have  
19 more space between the proposed building and the  
20 left-side abutter. Certainly by relocating the parking  
21 in the rear, which, again, it's safer, it's more in  
22 keeping with the streetscape, could afford you maybe an  
23 18-foot setback, which would help protect the open-  
24 space amenities at the rear abutter. And clearly the

1 front yard setbacks -- they were all unanimous about  
2 the front yard setbacks.

3 MS. POVERMAN: Okay. Thank you.

4 MR. ENGLER: Maria, what percentage of  
5 affordable is 70 Centre?

6 MS. MORELLI: Yeah. And that's something I  
7 overlooked, and I think that's important to point out.  
8 I don't believe there are any affordable units at  
9 70 Centre.

10 MR. GELLER: Thank you.

11 Any other questions?

12 MS. POVERMAN: No.

13 MR. CHIUMENTI: No.

14 MR. GELLER: Okay. Thank you.

15 I call Peter Ditto to speak on behalf of  
16 Transportation and Engineering.

17 MR. DITTO: Good evening.

18 MR. GELLER: Good evening.

19 MR. DITTO: I'd just like to highlight some  
20 transportation and stormwater issues that come to mind  
21 in the review that's taken to date.

22 The Transportation Board requested that we  
23 submit the following comments on their behalf: That  
24 while the Transportation Board is generally supportive

1 of transit orientated development and reducing parking  
2 spaces to encourage use of alternative transportation  
3 modes, the reduction plan for this development is  
4 excessive. The Transportation Board recommended a  
5 ratio of closer to one space per dwelling unit.

6           Since this development is being packaged as  
7 transit orientated, the following should be included to  
8 ensure this: The owner/tenant vehicles should be  
9 excluded from town-managed daytime and overnight  
10 resident parking programs; covered bicycle racks for  
11 residents and their guests should be supplied/provided;  
12 information packets, concluding MBTA routes, passes,  
13 car share, taxi, and other alternative modes should be  
14 provided to tenants upon moving in; lease of sale  
15 agreements should be required to include limits on  
16 vehicle ownership and require vehicles to be stored on  
17 private property.

18           This 45-unit project triggers the town's  
19 transportation access plan guidelines required for the  
20 transportation impact study and access plan submittal.  
21 The developer should follow the guidelines for  
22 developing a transportation impact study and access  
23 plan.

24           The town requests approval from the Zoning

1 Board of Appeals for the assignment of a traffic peer  
2 reviewer for an in-depth examination of the traffic  
3 study.

4           The proposed building, as shown in the ground  
5 floor plan drawing, shows the building being set back  
6 from the front lot line approximately 2 feet 7 inches.  
7 This is way too close to the front setback.

8           A concern, in addition to the site distance,  
9 is that vehicles leaving the garage will basically have  
10 to straddle the sidewalk before they can safely see the  
11 pedestrians. The analysis of the driveway site  
12 distance must be done in an engineering fashion as  
13 opposed to what was submitted in their package, which  
14 was basically pictures.

15           As far as stormwater management, which is the  
16 town's Article 8.26, the stormwater management  
17 basically dictates to the developer how they manage the  
18 stormwater before and after construction. This is a --  
19 was a federal requirement, part of our NPDES permit  
20 back in, I want to say the '90s. So this is something  
21 that we're required to implement through our federal  
22 permit.

23           We have met with the developer's engineer, and  
24 we reviewed a preliminary plan, I want to say maybe

1 about three or four weeks ago. We had a good meeting.  
2 We explained to the developer what we're looking for,  
3 and at that point in time, he took that information  
4 back with him. And I believe we're going to hold off  
5 until they figure out the exact footprint of the  
6 building. One of the main concerns we had at that  
7 point in time was that they were using the inside of  
8 the building to infiltrate groundwater, and that's not  
9 good engineering practice.

10 That's all I have.

11 MR. GELLER: Let me jump in with a question.  
12 So the issue that you raised with respect to the  
13 placement of the stormwater recharger, that is an open  
14 issue pending a determination of further details on  
15 what the improvement looks like. And at that point,  
16 they'll come forward with a more finite -- or a finite  
17 stormwater plan which will conclude somehow addressing  
18 this concern; is that correct?

19 MR. DITTO: Yes.

20 MR. GELLER: That's your understanding?

21 MR. DITTO: Uh-huh.

22 MS. POVERMAN: I assume this is copacetic with  
23 the Planning Department?

24 MS. MORELLI: Yes.

1 MR. GELLER: Thank you.

2 Mr. Simpson, do you want to speak to --

3 MR. SIMPSON: I don't really have anything  
4 prepared. I would just note that my memo was submitted  
5 to the board. It addresses some of the conversations  
6 that I had with Mass Historical in other 40B contexts,  
7 but I believe they generally apply here. But I'm happy  
8 to answer any questions you have.

9 MR. GELLER: Okay. What Mr. Simpson is  
10 speaking about is, if the board members recall, there  
11 was a question raised at the first hearing that related  
12 to the Preservation Commission's actions in making a  
13 determination under the town's bylaw which pertains to  
14 demolition of the structure. And that conversation  
15 then spread further, and I think there were some  
16 questions that related to the process that takes place  
17 with Mass Historical.

18 And I believe -- and you'll correct me, but  
19 I'm just trying to paraphrase. I think my sense, from  
20 reading what you submitted, is that they are two  
21 distinct processes and that really what Preservation  
22 does is it makes a determination about a demolition  
23 delay, essentially. And in this instance, they made  
24 the determination that it was appropriate for there to

1 be a demolition delay. And as Ms. Morelli has pointed  
2 out, that demolition delay is up August 11th. So that  
3 process has taken place.

4           There was no -- and this sort of goes beyond  
5 what -- so what I characterized as your report, that's  
6 correct; right?

7           MR. SIMPSON: Yes. While some of the analyses  
8 will be similar, you are absolutely right. There are  
9 two distinct analyses being performed by two distinct  
10 bodies.

11           MR. GELLER: Okay. Thank you.

12           My understanding is that the general question  
13 about process with Mass Historical was researched, and  
14 the ZBA members received a response. It's available to  
15 the public. Essentially, I took from the materials  
16 that we received -- they were circulated today -- was  
17 two things: One, there is no preliminary report.  
18 There was some question about a preliminary report that  
19 would be the subject for passing along to  
20 Mass Historical. There is no report. Again, all that  
21 the --

22           MS. MORELLI: Can I just clarify?

23           MR. GELLER. Sure. Did I butcher it enough?

24           MS. MORELLI: It's just important to -- so the

1 preliminary report, okay, there's only one preliminary  
2 report and that is the demolition review report. There  
3 was not a preliminary report done concerning initial  
4 significance regarding National Register eligibility.  
5 Okay?

6           So the town has a bylaw under 5.3, general  
7 bylaw regarding demolition, and there are four  
8 criteria, A through D, regarding initial findings for  
9 significance. And this -- under the demolition review,  
10 this particular structure met the criteria C and D  
11 under Brookline's demolition bylaw.

12           The National Register, the NPS, National Park  
13 Service, they have separate criteria A through D  
14 because they're different. So there was not a report  
15 in coming up with initial findings for National  
16 Register eligibility. Okay? So I just wanted to make  
17 that clear.

18           MR. GELLER: Do you want to continue on with  
19 some of the -- there was further information.

20           MS. MORELLI: So what Jonathan Simpson's  
21 letter clarifies is what is Mass Historic's role with  
22 project review and how does that dovetail with the ZBA  
23 comprehensive permit process. And I'm referring to  
24 state regs found under 950 CMR 71. And under those

1 regs it states that -- you know, what is the trigger?  
2 What triggers Mass Historic's review?

3 It's mainly one thing. And it's if there's a  
4 state body involved in funding, permitting, or  
5 licensing of a project, then that state body needs to  
6 provide a project notification form to Mass Historical  
7 and Mass Historical is authorized to look at the  
8 project impact area. And what they're going to be  
9 looking at is impact on any State Register property in  
10 that project impact area or anything that's of  
11 historical or archeological significance. And it's  
12 only Mass Historical that can determine that project  
13 impact area and determine if there is adverse impact.

14 MR. GELLER: And that review is triggered by  
15 the grant of a comprehensive permit?

16 MS. MORELLI: It's actually triggered by the  
17 state body's role, their function. So in this case,  
18 MassHousing is the state body. It's their role  
19 providing funding. And so that alone triggers the  
20 review.

21 Now, when does that review take place? As  
22 Attorney Simpson pointed out in his letter, he has  
23 talked to Mass Historical about what their policy is.  
24 It's usually done after a comprehensive permit is

1 issued and before the final -- the funding is  
2 finalized.

3 MR. GELLER: And it is independent of this  
4 process.

5 MS. MORELLI: It's independent in the sense  
6 that Mass Historical, when they conduct their project  
7 review, they're going to ask for input from the public  
8 in general. They will also ask for the ZBA to provide  
9 any information -- if there was a design review, there  
10 was a working group, design review, or advisory team,  
11 they're just going to ask what happened during that  
12 process that could help inform -- give them information  
13 about the proposal to take the place of the demolished  
14 building.

15 MR. CHIUMENTI: I would expect, then, that we  
16 would, in the writing the conditions for the  
17 comprehensive permit, indicate that the Mass Historical  
18 should have -- should review the project.

19 MS. MORELLI: Well, we've reviewed that on  
20 previous 40Bs. We have one that was actually in the  
21 State Register and National Register eligible; we have  
22 another one in a local historic district, which  
23 automatically puts it in the State Register. And we  
24 can't condition -- we can only condition the actions of

1 the applicant. We can't condition the activities of  
2 the state. But what we have done in both cases is that  
3 we the town wanted to be kept apprised of all  
4 correspondence amongst Mass Historical and the  
5 applicant and MassHousing regarding that matter.

6 MR. GELLER: Thank you.

7 Anything else?

8 No. Okay. Thank you very much.

9 Mr. Wishinsky?

10 MR. WISHINSKY: Thank you, Chairman Geller,  
11 for the opportunity to speak. And I'm not formally  
12 speaking on behalf of the board, but I'd like to  
13 address some statements that were made in a letter  
14 written to MassHousing at the public hearing, which  
15 statements from that letter were quoted on the  
16 presentation by the developer.

17 And the statement that was quoted in the  
18 presentation is: "The location of this project in the  
19 heart of Coolidge Corner meets most of the tenets of  
20 Smart Growth. The site is proximate to rapid transit  
21 on Beacon Street and bus service on Harvard Street and  
22 is on the cusp of the largest commercial area in  
23 Brookline." And, yes, we did say that. And if you  
24 just stop there, it leaves you with an impression.

1           But then the letter goes on to say, "However,  
2 the required demolition of an attractive circa 1921  
3 Georgian Federal Revival style brick building,  
4 including the elimination of the existing apartment, is  
5 antithetical to the overriding sustainable development  
6 principle of concentrating development and mixed uses  
7 by encouraging remediation and reuse of existing sites,  
8 structures, and infrastructure." And that really  
9 expresses kind of the tone of the selectmen's comments  
10 to MassHousing.

11           I'll just quote one more thing from the  
12 letter. "Finally, the Board of Selectmen respectfully  
13 requests that MassHousing encourage the developer to  
14 work with the town to achieve an improved project, one  
15 that has a much higher ratio of parking to number of  
16 bedrooms and one that doesn't overwhelm the adjacent  
17 lower building to its left."

18           And MassHousing, in reaction to that in their  
19 findings states, "The applicant should be prepared to  
20 address municipal concerns relative to the size, scale,  
21 and architectural style of the proposed multifamily  
22 building and its impact on the character of the  
23 surrounding neighborhood. In particular, the applicant  
24 should be prepared to respond to requests to mitigate

1 visual impacts to abutting properties and increase the  
2 building's front setback on Centre Street.

3           So my pitch to the developer is one, if you're  
4 going to quote statements that I sign, please do so in  
5 a way that conveys the intent of the statement. But I  
6 don't want that to get in the way of good relations  
7 with the developer, and I'd like to extend an  
8 invitation to the developer to meet with the town and  
9 work with the town to come up with a better project  
10 that addresses some of the concerns of the Planning  
11 Department, some of the concerns that the selectmen  
12 stated, and some of the concerns that the Planning  
13 Board stated.

14           I would also like to pitch a particular pet  
15 project of mine. If you're really intent on being a  
16 transit-oriented project, I would invite you to sponsor  
17 a Hubway station.

18           MR. GELLER: Thank you.

19           MS. POVERMAN: Okay. I'm not going to say --  
20 he was too embarrassed to ask, but what's a Hubway  
21 station?

22           UNIDENTIFIED AUDIENCE MEMBER: Bicycles.

23           MS. POVERMAN: Oh, a bike station. And what  
24 does it exactly consist of, for the record?

1 MR. WISHINSKY: It's the region's bike share  
2 program of which Brookline is an enthusiastic  
3 participant, and we're looking for sponsors to help us  
4 expand it.

5 MS. POVERMAN: Is it where the -- outside you  
6 have the little --

7 MR. WISHINSKY: There's a station in Coolidge  
8 Corner. You take a bike out, you can join, and you can  
9 ride downtown and park there.

10 MS. POVERMAN: Okay. Thank you.

11 MR. GELLER: Okay. It's time for us to invite  
12 members of the public to offer their testimony. I  
13 would ask a number of things, and I mentioned these at  
14 the first hearing.

15 One, please listen very carefully to what  
16 other people have to say. I'm more than happy to hear  
17 people underscore and tell me that they agree with  
18 information that we've heard already, but I think it  
19 will make for a very long hearing if everybody does the  
20 same thing. So if you agree with somebody who has said  
21 something before you, just say, I agree with them and  
22 here's what else I have to add, and give us new  
23 information.

24 The second thing I would ask is that --

1 keep -- it's hard. This is a really hard ask. Keep in  
2 mind what we are here to review. We are here to review  
3 issues that pertain to zoning and 40B, so try to keep  
4 within those parameters and we're good.

5 Third, again, I know there is a lot of  
6 interest and people like to get excited when others say  
7 things they agree with, or maybe sometimes they even  
8 hiss when they hear things that they don't agree with.  
9 What I would ask is, do that in your head because  
10 otherwise, again, it's going to make for a very long  
11 hearing. So I'll assume that you're  
12 applauding/hissing, but allow people to get through  
13 their testimony and then let somebody else come up.

14 As before -- as I mentioned before, if you do  
15 want to offer testimony, what we ask is that you speak  
16 into the microphone over here. Speak loudly and  
17 clearly because tonight's hearing is being tape  
18 recorded but also is being transcribed for a record.  
19 Start by giving us your name and your address.

20 Just by -- sort of for informational purposes,  
21 how many people are interested in speaking -- I'm going  
22 to trick you here. You don't know what I'm going to  
23 ask.

24 How many people are interested in speaking in

1 favor of this application?

2 (No audible response.)

3 MR. GELLER: Well, they'll be done very fast.

4 How many people are here to speak in a neutral  
5 position.

6 (No audible response.)

7 MR. GELLER: They'll also be done.

8 And how many people are here to speak in  
9 opposition? I'm just looking for numbers.

10 Okay. So what I would suggest we do is we  
11 work -- why don't people -- actually, we'll do it this  
12 way: Why don't you line up.

13 MR. CHANG: Mr. Geller, if I may, several  
14 neighbors actually organized ourselves beforehand on  
15 how to assemble the PowerPoint presentation with  
16 sequential topics to review.

17 MR. GELLER: Okay. So what I'd then like to  
18 do is -- why don't we start with that presentation  
19 because that'll obviously gives a great deal of  
20 information, and then we'll follow on from there. And  
21 once that presentation is over, those who wish to speak  
22 beyond that, if they will line up to the side, this  
23 side, we'll continue it from there.

24 MR. CHANG: My name is Derek Chang. I live on

1 Centre Street. Many of us have written letters  
2 regarding this proposal that you've received. Tonight  
3 we would like to get some highlights for some of the  
4 concerns that we have echoing a lot of local concerns  
5 as spelled out by the Chapter 40B statute as well as  
6 some specific abutter concerns and legal issues that  
7 we've identified with this application.

8 Harriet Rosenstein from Centre Street will  
9 start off with misrepresentations by the developer in  
10 the application; Daniel Hill from Hill Law we have  
11 retained to speak to some legal issues regarding this  
12 particular application; Elissa Rosenthal from  
13 19 Winchester Street will speak as the rear abutter,  
14 and Don Sherak from 50 Centre Street will speak as the  
15 side abutter; Margaret McDonald will speak about  
16 pedestrian safety as well as Margery Resnick; Margery  
17 Resnick will be speaking about the extreme parking  
18 shortage in Coolidge Corner; Tom Gutheil from Wellman  
19 Street will talk about the impact of trash collection;  
20 Steve Pendery will discuss preservation; and Chuck  
21 Schwartz will talk about design.

22 MR. GELLER: Thank you.

23 MR. CHANG: So we'll start off with Margaret  
24 Rosenstein.

1 MS. ROSENSTEIN: I'm Harriet Rosenstein. I'm  
2 a Town Meeting member from Precinct 9 and I live  
3 virtually across the street from 40. I live at  
4 53 Centre Street. And I think I ought to tell you that  
5 40 is one of the buildings that most enriched my life  
6 here in Brookline, and I have lived here for 37 years.

7 Although I'm sure that you will see this image  
8 or have seen it already, I think it's an important  
9 thing to try to keep in mind. The building on the  
10 left, of course, is 40 Centre Street and it has been  
11 since the time that it was constructed. The building  
12 on the right is the proposed development at 40 Centre  
13 Street. I think you will see notable differences in  
14 height, in massing, in the works. Okay? Certainly  
15 aesthetically. So here they are, and I think I'll put  
16 it over here. You can look at it if you wish.

17 Okay. I've come to submit a petition which  
18 kept swelling. I can't even tell you how many people  
19 have signed this, 300, 400, I don't know. To whom  
20 should I present -- want me to do that now?

21 MR. GELLER: Sure.

22 MS. ROSENSTEIN: Thank you.

23 MR. GELLER: So Exhibit A.

24 MS. ROSENSTEIN: What I would like to do

1 really is to present a very sort of general overview of  
2 some of the reasons that we reject the proposed  
3 building, the proposed development as we know it. And  
4 I would like to begin this way:

5 I believe that the reasons we have for  
6 opposition range from the pragmatic about which you  
7 have possibly heard and will certainly hear from my  
8 colleagues as to what I think to be really profoundly  
9 ethical questions about this development, the proposal,  
10 and the reasons behind it.

11 So we will be talking, then, about the  
12 obvious: parking, safety, trash, all sorts of things  
13 like that. And we will be talking in that about the  
14 particular population who would certainly be deeply  
15 affected on Centre Street: the elderly, the school  
16 kids who now are going to be shuttled over to the new  
17 temporary Devotion School and on. We will have  
18 conversation about that. My colleagues will elaborate.

19 My own intent right now is to focus on just a  
20 few instances, a few examples of what we believe to be,  
21 and have experienced as the misrepresentation by the  
22 developer's representative, chiefly the architect but  
23 he's obviously speaking for the developer,  
24 misrepresentation and distortion of visions and facts.

1 All right?

2           We have been told, for example, that ours was  
3 an area that had no singular identity, that it had no  
4 architectural coherence, that it represented sort of  
5 chock-a-block constructions, one after the other, so  
6 that we are seeing here, 40 Centre Street, and I think  
7 very interestingly, we appear to be looking at floors  
8 on 40 Centre that are not on 40 Centre Street. They  
9 belong to the house well behind the building at  
10 19 Winchester Street.

11           The effect, however, visually -- and it's here  
12 that we're talking about misrepresentation  
13 calculatedly. The photograph was taken in such a way  
14 that it looks as if the building at 19 Winchester is  
15 actually getting ready to eat the building at 40 Centre  
16 Street, that the proximity is such that the elevation  
17 of the proposed development at 40 Centre really would  
18 make no difference.

19           So I hope that is -- you're understanding what  
20 it is I'm trying to say. There is something  
21 calculatedly devious and dishonest in the use, commonly  
22 now, of this photograph as 40 Centre Street is  
23 proposed. And when they contrast that distorted image  
24 with the image immediately beside it of 40 Centre

1 Street, we see enormous difference, a great distinction  
2 between the two.

3           This is not a statement about -- this is not  
4 about distortion, but it is about reality. And here  
5 you need, I think, to see side by side 40 Centre as it  
6 exists and 40 Centre as the developer has proposed it.  
7 There's really no need to comment, of course, on their  
8 sameness here.

9           What we will be looking at next as a way  
10 essentially of refuting the idea that there is an  
11 overriding incoherence in this area of Coolidge  
12 Corner -- of Centre Street, architectural incoherence,  
13 setback incoherence -- Maria has pointed to some of it  
14 but I would like us, please, to be able to look more  
15 particularly at -- pause.

16           Okay. This is Centre Street. This is Centre  
17 Street, 61, which is misnumbered, that's actually 53.  
18 That's where I live. You'll see that it's a  
19 well-maintained, generally Victorian house. We look  
20 next at 61 Centre. Again, a very handsome, dignified,  
21 beautifully maintained house. That's on the  
22 Centre/Shailer border. And this house of my next door  
23 neighbor at 69. Again, another quite wonderful  
24 Victorian structure.

1           These are not solitary. These are not  
2 singular. Our street, indeed, on one side at least, is  
3 comprised exactly of buildings like that. And you see  
4 that what you're looking at are two-and-a-half-story  
5 buildings. They all have 22-foot setback and more.  
6 And that is the way that an awful lot of us want to see  
7 our neighborhood continue.

8           There is something that makes other people  
9 happy too on our street. They walk by. They don't  
10 even live in Brookline, and they say, God, this is so  
11 nice. Boy oh boy. And it is, and it is. And the  
12 representation of our area by the developer  
13 calculatedly does not provide images of this sort, of  
14 viewing of the neighborhood of this sort.

15           As I was trying to say a moment ago, all the  
16 buildings -- whether they are new constructions,  
17 whether they are 105 years old, whatever -- on Centre  
18 Street, this part of Centre, have setbacks of 24 and a  
19 half feet. That's the average. It's 22 on one side  
20 and 27 on the other.

21           I'll just read you what I've got here. "The  
22 applicant improperly uses commercial zones on Harvard  
23 Street and Beacon Street as comparisons." This is  
24 apples and oranges, but the apples are pure and the

1 oranges are rotten.

2           What I had intended to speak to you about  
3 earlier, but I think much of it is not necessary any  
4 longer, is what Neil Wishinsky, not in his role as a  
5 selectperson but Neil Wishinksy in his own right,  
6 presented, I think with much grace and tact, his having  
7 been radically misquoted in the interest of the  
8 success, economic success of this structure. You can  
9 read it all. There's no point, I think, in my reading  
10 it to you aloud, but do take a look at it. Do take a  
11 look at it.

12           Look at the last paragraph. That, I think I  
13 want to read to you. "The Board of Selectmen laments  
14 the growing tendency in essentially fully developed  
15 communities like Brookline to replace existing  
16 structures, including residential buildings with new  
17 building under the auspices of 40B. The proposed  
18 demolition of this property is an egregious violation  
19 of Smart Growth principles."

20           This is something that you need to keep in  
21 mind, this statement in its own right, and then take a  
22 look at what happened to it. Can you read it? There  
23 are two sentences which are stating exactly the  
24 opposite observation from the statement that was

1 produced as was. Okay? The intention of the speaker  
2 and the intention of the representative of the  
3 developer are totally at odds. What we received in the  
4 public was, of course, just this little snippet.

5 Now, this may seem to you a very petty point  
6 to make, but once again, what I think it reveals, what  
7 it manifests is the willingness here as a narrative to  
8 be duplicitous in the interest of achieving one's goal.

9 At a meeting in this room of the Zoning Board,  
10 Ms. Poverman asked of the architect, "Could you put  
11 stakes on the edges where the actual building is going  
12 to be so we can see how much of the lot it actually is  
13 going to take up, which I believe is common practice.  
14 Just stake it out? I'm not seeing any nods."

15 "MR. ROTH: Absolutely."

16 "MS. POVERMAN: Thank you. Stake all of it."

17 This is June the 9th. All right? No, no.  
18 I've got it wrong. I'm sorry that meeting was on 23,  
19 April. Site visit 9 June.

20 An amazing thing happened. If you were not  
21 there, you'd be surprised to know what happened. We  
22 all showed up. We wanted to see what was, in the most  
23 pragmatic, visible way, the structure that would occupy  
24 that space. There were no stakes. The requested

1 stakes -- requested, indeed, in a fairly firm way --  
2 were not placed there. And when the architect was  
3 asked fundamentally what happened, the response was, "I  
4 forgot."

5           Now, this is actually crucial. I'm not even  
6 offering the response, but the request. The request is  
7 crucial to give real live people the experience of  
8 standing on a real place with real -- physically  
9 experience dimensions and then you say, God, this place  
10 is so big. And I think that it was really a sort of  
11 deft way of avoiding that kind of judgment by  
12 forgetting the stakes. Here, once again, it seems to  
13 me that there has been real misrepresentation and,  
14 indeed, a kind of violation of an insistent request.  
15 So I will say -- yeah.

16           And my final example -- and this is probably  
17 the most significant of them all because it presents  
18 really deep ethical problems. So I want you, please,  
19 to consider this: This is the one I think, really,  
20 that matters more than an empty parking lot. The  
21 assurance now made about this building under 40B, if  
22 indeed it is approved, is that there will be 36  
23 market-rate units with 17 parking spaces. Now, that,  
24 on the face of it, of course, seems absurd. I think

1 nobody would argue with that, so I will not.

2           The question, I think, that needs to be  
3 proposed -- if we are dealing with 40B, which is to say  
4 the need of people for affordable housing and our deep  
5 sense that of course we need affordable housing here --  
6 but I would suggest to you we need ethically devised  
7 affordable housing.

8           The people who are living in the market-rate  
9 17 -- or more than that, but they're having the 17  
10 parking -- are to pay 200 bucks a month to rent a  
11 parking space. There is no stipulation here at all  
12 that people requiring affordable housing will be  
13 provided with parking spaces at no cost. They're there  
14 because they are supposedly in distress of one sort or  
15 another. It's affordable. It's 40B. It's socially  
16 conscious. Yeah? Responsible, responsible community  
17 behavior. It should be granted, of course, at no cost,  
18 parking.

19           And I think if all of the people in the  
20 affordables do not need a parking space, I think our  
21 answer is, so what. Hold on to it. Reserve it.  
22 Because the next person who comes into an affordable  
23 might need it. So don't play games here. Recognize  
24 what we're requesting, and recognize also the ethical

1 irresponsibility of coming in in this way to the 40B,  
2 which shows remarkable contempt, it seems to me, for  
3 the people who require affordable units and for the  
4 whole notion of 40B. Okay.

5 MR. GELLER: Thank you.

6 MR. CHANG: Daniel Hill will follow next with  
7 some legal issues.

8 MR. HILL: Good evening. My name is Dan Hill.  
9 I'm an attorney in Cambridge. My assistant, Kaitlyn  
10 Baptista, is passing out a letter that I prepared  
11 today. Not in time, obviously, for your packets. And  
12 we've given the original to Maria and a copy to the  
13 developer.

14 The letter essentially outlines our  
15 preliminary concerns with the project, our initial  
16 feedback. Just for background, I represent several of  
17 the neighbors and abutters to this project, most of  
18 whom are here tonight. And I just want to briefly lay  
19 out some of our recommendations for the way the board  
20 may want to proceed with the application, and again, to  
21 lay out some of our initial concerns.

22 Just sort of background, I do a lot of 40B  
23 work. I've practiced in the 40B arena for 15 years  
24 before the Housing Appeals Committee and in the courts.

1 I was last here in Brookline on the 45 Marion Street  
2 project on behalf of the neighbors on that project.

3           Since you're familiar with 40B, I'm not going  
4 to launch into my usual discussion about the standards  
5 of review. You have competent consultants working for  
6 you, and Mr. Simpson, of course, is very familiar with  
7 40B.

8           But there's a couple of myths that I want to  
9 dispel from the start because it seems to come up at  
10 every single project we hear, particularly projects  
11 where the SEB team is involved with. There is a myth  
12 that local bylaws and regulations don't apply to  
13 Chapter 40B projects. This is just factually  
14 incorrect. The role -- I'll take a step back.

15           The primary function of 40B is to break down  
16 the barriers to affordable housing. Those barriers  
17 often are restrictive zoning, restrictive environmental  
18 controls. Doesn't mean those bylaw and controls are  
19 unreasonable and illegitimate. It just means that they  
20 cause the development to be expensive.

21           The function of the zoning board is to  
22 consider which of these bylaws and regulations should  
23 be waived for the project. And probably the most  
24 important balancing test there is in Chapter 40B is to

1 understand which of these waivers that the developer is  
2 asking for are really necessary to make this project  
3 work economically. And that is what everything comes  
4 down to.

5           And this project, more than any other I've  
6 worked on in the last few years, it really comes down  
7 to a very simple exercise. There is a list of a dozen  
8 waivers or so. These waivers are significant. We're  
9 talking about increasing the density that would be  
10 allowed on the site by five, a factor of five,  
11 increasing the floor area ratio by a factor of four or  
12 five, decreasing the parking from -- basically down to  
13 19 percent of what would ordinarily be required.

14           These are very significant waivers, and really  
15 it comes down to which of these does the developer  
16 really need to make this project work? Is there a  
17 middle ground? Is there -- as the Planning Board, I  
18 think, has intimated, is there something that could  
19 work on this site?

20           We all recognize that this site could  
21 accommodate a higher density than two units or one unit  
22 that's there today. Under the local zoning bylaw, I  
23 believe that the density that would be allowed on this  
24 site is eight units, based upon the size of the lot, it

1 being a quarter acre. So somewhere between 8 and 45,  
2 is there a reasonable compromise?

3           You heard tonight that the density ratio here  
4 is 180 units per acre. That's very large, even for  
5 40B. I can't think of another 40B project that's that  
6 dense in a town like Brookline. Maybe in Boston or  
7 Worcester, but not in Brookline.

8           In terms of this economic analysis, this is  
9 really the crux and probably the most important thing  
10 this board will do. The developer must justify his  
11 waivers. It's the developer's burden. It's the  
12 developer's burden on a PO that doesn't appeal to the  
13 HAC. And the rules of the game, so to speak, at the  
14 HAC are imported into the zoning board's hearing.  
15 There's case law that says that.

16           So the way I see this process taking place,  
17 and what most towns do when they handle 40B  
18 applications, is that they hire consultants, they use  
19 their in-house expertise, and they first figure out,  
20 are all the waivers identified? Because a lot of times  
21 they aren't, and it really is helpful to have somebody  
22 review the list and make sure that they're all put down  
23 on that piece of paper.

24           And then second, what do we think about these

1 waivers? Pluck the testimony, pluck the evidence from  
2 your in-house expertise, pluck the evidence from peer  
3 reviewers and, of course the public, boards, and  
4 officials.

5           If the board decides maybe we should not grant  
6 X, Y, and Z waivers, but perhaps we grant A, B, and C,  
7 it can then present those recommendations or initial  
8 feelings to the applicant, and then the applicant has  
9 the ability to come back and say, you know what, these  
10 are going to make my project uneconomic. And this is a  
11 process that I didn't make up. It's in the regulations  
12 that DHCD adopted, and it's what most boards in  
13 Massachusetts will employ.

14           Now, that process, as the applicant might tell  
15 you, comes at the end, and that's the appropriate place  
16 for it. But it's important to start thinking about  
17 that today because this is a very complicated process.  
18 It's six months, and you don't want to wait until the  
19 fifth month to start thinking about the economics.

20           So we recommend -- and it looks like things  
21 are on course, and I think you're very well represented  
22 by your in-house expertise. But there needs to be the  
23 initial gathering stage, which is happening right now,  
24 and soon, we hope, the board will think about and make

1 some initial feelers to the developer, this is what  
2 we're comfortable with. This is what we're not  
3 comfortable with.

4           The developer provides his position as to what  
5 he can live with, and then the board has the ability to  
6 take that economic presentation the developer makes and  
7 vet it. Fact-check it. Obviously you're not going to  
8 take it for face value. And you have the ability to  
9 hire your own independent pro forma expert, 40B  
10 economics expert, and have that person provide you with  
11 some independent advice. So that's the process that we  
12 would recommend this board to follow.

13           And I also just want to make a note, in case  
14 it's not obvious. It's not all or nothing on these  
15 waivers. So in other words, the developer has asked  
16 for a general waiver from the front yard setback  
17 requirement to two feet. And you don't have to say yes  
18 or no. You can say, well, we're not going to give you  
19 to two feet, but we're going to give 15 feet or 10  
20 feet. And the same thing with height, the same thing  
21 with density, 45 units or 8 units. You don't have to  
22 say yes or no. It could be something in between. And  
23 we recommend you come up with the right numbers with  
24 the help of your planning staff after you've collected,

1 of course, all the evidence.

2 Now, even if the developer can make the  
3 argument that the project is uneconomic with a denial  
4 of the waivers that you might be thinking, you still  
5 have the ability to deny the waivers if the denial is  
6 based upon a local concern that outweighs the regional  
7 need for housing.

8 Now, most towns you're not going to outweigh  
9 the need for housing, but Brookline is unique. You  
10 guys have 9.2 -- if that number is correct. It's from  
11 the applicant's application. 9.2 percent of your  
12 housing is subsidized in Brookline, so you're not that  
13 far from 10 percent, and, of course, that's why we're  
14 seeing this rush of applications.

15 That is actually quite significant in the  
16 standard of review. The Housing Appeals Committee and  
17 the regulations actually state that where a town has  
18 made a lot of progress towards 40B, the town's local  
19 concerns will be given more weight than they would be  
20 if the town has not made a lot of progress.

21 So you are actually in a very good position,  
22 in my opinion, to say no to some of these waiver  
23 requests if you can justify them based upon reasonable  
24 public safety, health, environmental, or planning

1 concerns, which I think you can.

2           And those concerns -- to obey Mr. Geller's  
3 request earlier on, we agree, frankly, with most of  
4 what the Planning Board said with respect to public --  
5 specifically with respect to the pedestrian safety.  
6 And that's a big concern of my clients who live in this  
7 neighborhood and use these sidewalks on a daily basis.  
8 There are a lot of senior citizens that use these  
9 sidewalks, and they're very concerned about that.

10           So one of the requests that we've made in our  
11 letter is that the board retain a peer review engineer  
12 or a traffic engineer to evaluate this potential  
13 conflict between pedestrians and cars and trucks  
14 entering and exiting this building.

15           Now, related to that, of course, are --  
16 there's a lack of any loading areas for trucks and  
17 delivery trucks, lack of visitor parking. So we feel  
18 there's going to be a real traffic congestion, parking  
19 congestion impact from this project if it's approved in  
20 its current form.

21           We also think that there's a lack of  
22 reasonable setbacks and buffers, and that is  
23 specifically important to the folks at 19 Winchester  
24 who have an underground parking garage and swimming

1 pool very, very close to the property line. We have a  
2 very serious concern about the excavation that might  
3 occur on the project site and whether the excavation is  
4 going to impact the structural integrity of  
5 19 Winchester Place's garage.

6 Further, if stormwater is going to be  
7 recharged on the project site, as we expect it will  
8 eventually, we're very concerned, of course, with  
9 whether or not the hydrology changes on the project  
10 site will, again, affect the structural integrity of  
11 the building.

12 Also somewhat related is that there is a row  
13 of trees -- the picture attached as Exhibit A -- right  
14 on the property line between the parking lot and the  
15 proposed project. And we want to make sure that those  
16 trees are preserved as part of any condition that the  
17 board imposes. Those trees provide shade to the  
18 parking lot and, of course, provides a natural buffer  
19 that's not easily replaced.

20 One comment on the stormwater issue, while I  
21 have it on the top of my head. A comment was made, I  
22 think, by Mr. Ditto that the applicant is not planning  
23 on addressing the stormwater management issue until  
24 after the footprint or the design of the building is

1 resolved.

2 I think that's actually doing it backwards. I  
3 think that the stormwater should be addressed up front  
4 because I think the stormwater management issue will  
5 inform the design and location of the building. If you  
6 can't have infiltration within the building, it needs  
7 to be outside the building and you need to have enough  
8 area for it and it needs to be in the right place. And  
9 it seems to me that should be addressed now and not  
10 wait until some other date in the future.

11 Other concerns that we have are the lack of  
12 trash management -- how is that going to be  
13 collected -- and overall, incompatibility with the  
14 town's master plan, the comprehensive plan, as well as  
15 your Coolidge Corner design guidelines, which, although  
16 they've expired, they still provide an informative set  
17 of rules that are intended to facilitate smart planning  
18 in this neighborhood and can be relied on by the zoning  
19 board. These concerns are all driven by density.  
20 Let's face it. It all comes down to the fact that this  
21 is an overutilization of the site at 45 units.

22 This isn't the first time that a 40B developer  
23 has attempted a project like this. In fact, there's a  
24 case from the Housing Appeals Committee that went to

1 the Supreme Court where the 40B permit was -- the  
2 denial of the 40B permit was affirmed on appeal where  
3 the denial was based upon an overutilization of the  
4 project site. It was actually down the Cape. And HAC,  
5 which normally rules in favor of developers,  
6 appropriately held that there was a lack -- virtually  
7 zero open space, useable open space for the residents,  
8 and it was just too dense.

9 I think if there's a project that would fit  
10 that fact pattern, it's this. There is zero usable  
11 open space. There's simply none. And no resident is  
12 going to have anywhere to go to sit outside and just  
13 enjoy the fresh air. They'll have to walk to a park or  
14 walk to some other amenity that the town pays for and  
15 not the developer. And I think that's irresponsible  
16 and unnecessary. As I said, before, this project can  
17 be scaled down, and a lot of these impact issues can be  
18 resolved with a much smaller project.

19 In closing, I wanted to just briefly touch on  
20 the recommendations that we'd like the board to adopt.  
21 And there's five of them, so I'll make it quick.

22 The first one is really just a waiver list,  
23 which we talked about. And I mentioned in my letter,  
24 perhaps the town could retain a civil peer review

1 engineer. Of course that's not necessary if you're  
2 going to rely on your in-house engineering, and that  
3 sounds adequate to me. But somebody needs to review  
4 this waiver list to make sure everything's been  
5 properly identified. And then, of course, you need  
6 advice from civil as to whether or not these waivers  
7 should be granted or if there's reasons to deny.

8           We just talked -- we talked about the traffic  
9 peer reviewer in here. We would like the board to hire  
10 a traffic peer reviewer to study those issues.

11           We would like the impacts on the abutting  
12 property, 19 Winchester Place, evaluated by an  
13 independent peer review engineer, given the close  
14 proximity of the project to those structures.

15           And we would like the board to follow the  
16 process outlined in the regulations at the end of the  
17 hearing. Once you have an idea of what kind of waivers  
18 you want to deny or conditions to impose, that you put  
19 that to the developer, ask for the developer's position  
20 on the economics, and then have that vetted by a third-  
21 party peer reviewer.

22           And then finally, on the planning issue --  
23 actually, there was a case that was just decided today  
24 in the appeals court -- which Mr. Simpson, I'm sure,

1 can give you a copy of -- which deals specifically with  
2 a zoning board's ability to deny a project or condition  
3 a project based on the project's incongruity with the  
4 town's master plan. And it laid out -- the case today  
5 laid out the factors that are relevant to that kind of  
6 determination.

7           This may be one of those cases where there are  
8 so many inconsistencies with this project with the  
9 town's comprehensive plan and the design guidelines  
10 that you may find that you have a case where you can  
11 defensively deny this permit based upon planning. Or  
12 you may have a list of conditions, some of which may be  
13 design related, architectural related, as we heard  
14 today, that may mitigate those planning objections  
15 enough that you might be able to approve it.

16           But I would recommend and ask that the board  
17 elicit more comments from the Planning Department as to  
18 the extent to which this project conforms or doesn't  
19 conform to that comprehensive plan and the design and  
20 review guidelines.

21           I expect we'll be back at future hearings to  
22 provide more comment. We appreciate the board's  
23 diligence on this very important project.

24           MR. GELLER: Thank you.

1 Are there any questions?

2 MS. POVERMAN: Is the Cape Cod case cited in  
3 your letter?

4 MR. HILL: It is.

5 MR. CHIUMENTI: It's the Dennis case?

6 MR. HILL: It's the Dennis case.

7 MR. CHIUMENTI: The Dennis case has 50 units  
8 on three acres.

9 MR. HILL: Right.

10 MS. POVERMAN: Thank you.

11 MR. GELLER: Thank you.

12 MS. POVERMAN: I look forward to getting that  
13 case, Mr. Simpson, today's case.

14 MR. CHANG: Elissa Rosenthal will talk about  
15 the perspective of 19 Winchester Street.

16 MS. ROSENTHAL: My name is Elissa Rosenthal.  
17 I am the chair of the Winchester House Condominium  
18 Trust. I live at 19 Winchester Street.

19 I want to point out a couple of things up  
20 front. We did a petition within our building. I think  
21 it's pretty significant that we had more response to  
22 this than we do at any of our annual meetings. We fail  
23 to get a quorum at our annual meetings, and we got  
24 about two-thirds majority of the building to sign this

1 petition against the proposed building.

2           That is a site plan. That site plans shows  
3 19 Winchester Street relative to 40 Centre. The  
4 underground -- 19 Winchester Street has a pool, above  
5 level. It is on top of the underground garage. That's  
6 the largest block there. The other block is our  
7 outdoor parking lot, which is adjacent to 40 Centre  
8 Street.

9           This, just as a general background, so it  
10 shows you just how much of an abutter we are because we  
11 abut on both -- quite a few sides of the proposed.

12           Most people have said a lot of what I'm going  
13 to say, or what I've prepared to say, but I think I'm  
14 going to add a little bit of a different spin to it.  
15 At least I hope I am.

16           In the process of collecting petitions, both  
17 from the town at the farmers market and also within the  
18 building, we heard some quotes, some comments that I  
19 think might be lost unless they're mentioned here.

20           It seems that the town -- people are annoyed  
21 about the town losing its open fields. That's been  
22 mentioned before.

23           The massing situation in Brookline is rampant.  
24 There's a very good quote from someone who said,

1 "Brookline is becoming like Manhattan. Wherever  
2 there's an empty space, they wedge in a building." We  
3 don't want another building wedged in.

4           The building that is being demolished fits in  
5 better with the neighborhood. I don't need to expand  
6 on that.

7           Five-foot setback is very dangerous. We at  
8 19 Winchester Street unfortunately had a situation  
9 where a pedestrian was killed when our garbage truck  
10 came out -- when our hired garbage truck came out, went  
11 onto the street, couldn't see the pedestrian, the  
12 pedestrian was killed. That makes us real sensitive to  
13 those kinds of safety issues.

14           We -- another quote on that, by the way. This  
15 is an accident waiting to happen. There are so many  
16 seniors here trying to navigate Centre Street as is.

17           We object to the parking, as most people  
18 mentioned. Our building has almost a one-to-one ratio  
19 of parking to units. That's more logical.

20           The farmers market, we noticed that a lot of  
21 people park in our parking lot even though we have  
22 signs during the farmers markets. This is just going  
23 to make things worse. There's going to be no more  
24 parking.

1 I'm getting more specific. Winchester House,  
2 we are very concerned about our substructure. That  
3 picture with the underground garage, our swimming pool  
4 is on top. The underground garage houses 60 vehicles,  
5 I believe. And this -- the proposal has them being  
6 very close to that borderline, which is now shaded by  
7 trees.

8 So that's our parking lot. There's that much  
9 of a margin currently. Those are the trees that we're  
10 taking about and as the attorney mentioned. The  
11 proposal has that building coming even closer to where  
12 that car in the alleyway is. That just is  
13 unacceptable.

14 We are concerned about the swimming pool. The  
15 swimming pool, as we mentioned, is above that garage in  
16 that diagram you saw. This is what it currently looks  
17 like. We have space -- that's 40 Centre Street that  
18 you see behind the pool currently. We have a space  
19 there. We have privacy. We are really concerned that  
20 this building is just too close to our property. It  
21 essentially overhangs our swimming pool. I don't think  
22 there's anybody in this room that would want people  
23 overhanging a swimming pool that's meant for the  
24 enjoyment of others. It is almost like a violation of

1 our right to privacy, having it that close.

2 We also are concerned, obviously, that the --  
3 not being able to use that amenity during demolition  
4 and construction. What do we get -- you know, how are  
5 you going to remunerate us for that? How is that going  
6 to happen? It's going to be too dangerous to be there  
7 during those things.

8 The substructure -- that is a picture of the  
9 pool which is above our garage. We are very concerned  
10 about our substructure. I can't say that enough.  
11 We're afraid that with demolition and with  
12 construction, something is going to happen to the  
13 foundation of our building and our garage. It is just  
14 too close.

15 We're also concerned about the future. What  
16 about rain or leakage or runoff into our garage because  
17 the building is going to be that close and because of  
18 the management of the water coming from that building?  
19 What happens in five years? I mean, we don't know  
20 where this developer is going to be in five years. How  
21 are we going to get paid back for that? How are we  
22 going to get what we deserve as abutters?

23 Let me leave with two more quotes that really,  
24 I think, say it all as far as the way the town -- not

1 only 19 Winchester, but I'm hearing that the town  
2 thinks about this issue. And the first one goes, "I  
3 thought Brookline cared about its residents. This  
4 favors the developer's economic interest. What about  
5 the people who have paid their taxes for a high quality  
6 of life?"

7           And another one -- and I'll leave you with  
8 this one because I think it's very important -- "How  
9 can the town allow this? Can't something be done?  
10 Can't something be done?" Thank you.

11           MR. GELLER: Thank you.

12           MR. SHERAK: Don Sherak, 50 Centre Street,  
13 resident there for 19 years.

14           At the May 23rd town meeting, the architects  
15 provided a few selected computer-generated images that  
16 projected shadow impacts on some I'd receive to my  
17 home, 50 Centre Street, as well as pictures of my  
18 neighbor at 6 Wellman Street -- we actually share a  
19 condo association with Thomas Gutheil -- as well as the  
20 adjacent apartment buildings on that side of Wellman  
21 Street.

22           When asked for more images, they demurred in  
23 the face -- they demurred. In the face of the  
24 developer's failure to supply significant data here on

1 the visual impact of their proposed design that it  
2 would inflict on the neighborhood, I've endeavored to  
3 provide some accurate accounting myself.

4 In order to do this, I've measured off 69 feet  
5 of ribbon, which is notched with bows every 30 feet,  
6 and attached several helium balloons, courtesy of Party  
7 Favors, and walked -- and waited for the breeze to  
8 subside.

9 The photos in the front show the balloons  
10 attached to the chain linked fence approximately six  
11 feet from the edge of the sidewalk, so I'm conservative  
12 in that regard. So I'm giving you a slightly smaller  
13 frame than the actual proposed development. So six  
14 feet from the edge first from -- of the sidewalk from  
15 the curb. These photos were taken from my front porch,  
16 50 Centre Street, and provide a marker to help  
17 appreciate how far up and out the proposed project  
18 would extend, and how much, not just of sunlight, but  
19 how much of the sky would be blocked out from the  
20 proposed project.

21 The balloons placed at the back, the breeze  
22 didn't completely subside. They were blowing a little  
23 bit over towards the pool, so we're losing a little  
24 height, but that's okay. So you still have an idea.

1 And here I'm standing in the garden from the Wellman  
2 Street apartment building approximately parallel to  
3 where my backyard is, because the fence -- the stockade  
4 fence is down there. So we're looking straight out  
5 towards this, and you can see, if you sort of make it a  
6 straight angle, approximately how significantly higher  
7 that would be.

8           So again, they're tethered approximately six  
9 feet from the back of the project. It's clear that a  
10 substantial portion of the sky, as viewed from somebody  
11 at five-feet height, would be obstructed. So I would  
12 ask you to consider this not just a shadow factor, but  
13 also a substantial amount of the sky would be blocked  
14 out by this mass.

15           As an aside, I note a number of discussions as  
16 I also was thinking about these trees and would ask the  
17 board to consider possibly also retaining a certified  
18 arborist to weigh in on the question of whether or not  
19 the proposed building, in whatever final design comes  
20 forward, would allow for the preservation of these  
21 trees given whatever building modifications goes on and  
22 how close it is to them.

23           This proposed large boxy structure is  
24 substantially out of alignment with the intrinsic

1 nature and feel of the surrounding community  
2 environment of Centre Street. The proposed  
3 dormitory-style project would have significant  
4 deleterious impact on the neighborhood and specifically  
5 on the quality of life of the abutters, such as myself.  
6 It would create more of an urban canyon feel, and a  
7 dark one at that. The project's height and mass, as  
8 proposed, will significantly detract from what makes  
9 Coolidge Corner be Coolidge Corner and what makes  
10 Brookline be Brookline.

11 I recognize that change is coming and that  
12 something will be built. Therefore, I challenge the  
13 developers to go back to the drawing board and come up  
14 with a proposal that is less warehouse-like and more  
15 Brookline-like with a setback consistent with the town  
16 and not with an industrial park and on building height  
17 that plays well with its neighbors. Towards that end,  
18 I propose the following slogan: "Build for but not  
19 more." Thank you.

20 MR. CHANG: Margery Resnick and Margaret  
21 McDonald are going to talk about pedestrian safety.

22 MS. RESNICK: Hi. My name is Margery Resnick.  
23 I live at 19 Shailer Street. I've been there for 30  
24 years. I'm with my friend Margaret who's one of the

1 more than 410 senior citizens who live within one and a  
2 half blocks of this unit that's supposed to be built.

3           So Margaret and I are here because she and her  
4 husband like to walk, and they like to walk on streets  
5 that are safe. But many times people with walkers  
6 double up, so there are two people walking together.  
7 Right now on Centre Street two people can fit easily  
8 because of the setbacks. Were this project to be  
9 developed in the way it's been conceived by the current  
10 architects and developers, there would be no more  
11 possibility for Margaret, her husband, and the other  
12 410 pedestrians who potentially walk on that street.

13           And some other facts about this, speaking to  
14 the people who run the senior housing. I found out  
15 that approximately 40 percent of the people who live in  
16 that housing are visually impaired. For visually  
17 impaired people, there's nothing worse than a hidden  
18 driveway or a driveway from which the driver cannot see  
19 clearly pedestrians behind him or her.

20           So this development is on the major conduit  
21 from senior housing to Beacon Street. We've heard a  
22 lot about how great the neighborhood is because seniors  
23 and other people, I'm pretty senior myself, but that we  
24 can all walk to public transportation. We need that

1 block. The 410 seniors living in senior housing have  
2 no other way to get to Beacon Street. That's the  
3 development -- that is the block they walk on.

4           Okay. I have to say that there are a number  
5 of people who are blind in senior housing. Those  
6 people, too, will be extremely vulnerable to the  
7 current plan.

8           Finally, I want to say that school children  
9 count too. And we do have the Devotion School being  
10 rebuilt, and it seems to me that it behooves us all to  
11 think about the way Centre Street will be trafficked at  
12 8:00 in the morning and 2:15 as hundreds, literally  
13 hundreds of school children walk up that street to get  
14 to the Webster Street addition that's going to be used  
15 in the next two years.

16           I want to say something about congestion,  
17 because congestion does dovetail with safety. Why?

18           In my home institution where I teach, we do  
19 transportation studies. The worst -- and I looked this  
20 up today. The worst distractive driving takes place  
21 where the people don't know where they're going.  
22 They're not going from A to B. They're circling round  
23 and round.

24           And who are those people who are circling

1 round and round? They're the assistants for the 410  
2 units -- 410 people who may need assistance, they're  
3 people who want to shop in Coolidge Corner, they're  
4 people who are going to apparently live without cars.

5           And while I'm 100 percent in favor of green  
6 development and people using bikes, reality shows that  
7 if you're working in Framingham and you have to be at  
8 your job at 8:00 in the morning and you have kids,  
9 you're not going to bike there from 40 Centre Street.

10           Finally, I'd like to add to the anecdotal  
11 evidence some hard facts. In 2007, our transportation  
12 board here in Brookline did this study of occupied  
13 spaces by location. Now, this is not anecdotal. These  
14 are the facts, guys, and things have gotten worse.

15           In 2007, there were -- between Harvard --  
16 Harvard Street between Beacon and Williams, the average  
17 was over 90 percent capacity, average usage. And this  
18 is metered space and parking lots. In the metered  
19 spaces on Beacon between Harvard and Winchester, over  
20 90 percent average parked -- used. And in the Centre  
21 Street east municipal lot, 93 percent.

22           Now, that was in 2007. Things have gotten  
23 worse. In the next two years, the Devotion School will  
24 be redeveloped. And of the 143 spaces reserved --

1 well, that are possible now for users on the Centre  
2 Street lot, there are going to be 20 spaces reserved  
3 for Devotion teachers who are displaced by the closing  
4 of the Devotion School and who will be teaching on  
5 Webster Street. Of the 56 spaces that are now reserved  
6 for Coolidge Corner employees, 15 will be reserved for  
7 teachers. So we're going to lose 18 percent of our  
8 parking spaces in our two combined municipal parking  
9 lots.

10           Finally, we all know that the JCHE project and  
11 the Devotion project are going to eliminate parking at  
12 least for the time that those massive construction  
13 projects are being completed. So we're going to lose  
14 the metered spaces on Harvard Street in front of KI,  
15 and we're going to lose the space by Williams Street  
16 because they'll have to close Williams Street to do the  
17 development.

18           And I went to the Devotion School meeting, and  
19 they're going to try to divide the -- I'd say the pain  
20 of not having parking between Harvard Street and  
21 Stedman Street. But those two streets -- right now  
22 there's metered parking in front of the Devotion  
23 School. That's going to be lost during the next two  
24 years. And the regular street parking on Stedman

1 Street is going to be lost over the next two years.

2           So finally, I would like the board to please  
3 consider the harm not only for those of us who live  
4 there, but for clients of the stores and businesses in  
5 Coolidge Corner, for the assistants of the senior  
6 citizens who live right within one block of this  
7 proposed development, and for the children who walk on  
8 that street every single day to school.

9           And so please, don't encourage more  
10 distractive driving. Anyone who lives where I do on  
11 Shailer Street watches people go round and round and  
12 they get really desperate and they get on their cell  
13 phone and they say, hey, I can't get to your house if I  
14 can't find any parking. They pay no attention to  
15 pedestrians. And anyone who's tried to cross Harvard  
16 Street to Babcock, that crossing, knows that, how  
17 dangerous it is. I drive it every single day, and no  
18 one pays attention to the lights because they're on  
19 their cell phone.

20           But what I'm asking you and Margaret's asking  
21 you -- she doesn't like talking in public, but I don't  
22 care. She decided not to become a professor in her  
23 earlier life. But anyhow, we ask you please to  
24 consider the population when you think about the size,

1 the mass, the lack of parking being in this proposed  
2 development. Thank you.

3 MR. GELLER: Thank you.

4 MR. GUTHEIL: I'm Tom Gutheil. I live at  
5 6 Wellman Street right on the corner of Centre. And  
6 actually, that's illusionary because I'm an abutter in  
7 the sense that the shadow and mass of the proposal will  
8 block light and sky from my kitchen windows and  
9 skylights. But I'm not here to talk about that. I'm  
10 here to talk about a more colorful topic, which is the  
11 impact of trash collection.

12 This is a Brookline Tab article, and you can  
13 decide if you see it as valid and worthy. This was the  
14 idea that the average Brookline household dispenses of  
15 26.5 pounds of trash per week. And doing the math, 45  
16 units will generate 1,200 pounds of trash per week.

17 Now, those numbers may be a little abstract,  
18 but let's get concrete for a moment. This represents  
19 30 -- that's 3, 0 -- 35-gallon trash carts along the  
20 sidewalk, which is a row 55 feet long and 2 feet deep.  
21 Imagine half a football field, and you'll have a rough  
22 idea of the lineup of trash materials. That doesn't  
23 even mention the issues of recycling, so this is just  
24 straight garbage. These substantial obstacles already

1 block the sidewalk or road in winter, especially when  
2 you've got a berm of snow up against the sidewalk.  
3 It's an additional threat to pedestrian safety.

4           Okay. Now let's take a look at some pictures.  
5 This is June 19, 2016, the existing trash. Now, that  
6 doesn't look like much and, of course, it isn't that  
7 much. Let me just show you one thing. Here we go.  
8 Take a look at this recycling bin, and look at its  
9 surrounding. What you'll notice is that here's the  
10 lawn and the setback of the building, here's the  
11 sidewalk, which is, as you can see, unobstructed  
12 because the recycling bin is in this outer green space,  
13 if you want to call it, where the tree is -- trees that  
14 define this area. So these items do not block the  
15 sidewalk in part because there is this additional space  
16 here and because of the setback issue.

17           Okay. Now, what happens to the trash in the  
18 proposed structure? Well, if you put it out front,  
19 because the structure comes right up to the sidewalk,  
20 you're going to block the sidewalk in front of the  
21 building, so it's a dead block.

22           Someone, probably in an altered state of mind,  
23 suggested wheeling the trash to Wellman Street. And  
24 since I live on Wellman Street right where that B is,

1 I'm imaging half a football field of other people's  
2 garbage cans right in front of my house. So that's a  
3 potentially unworkable situation.

4           And unfortunately, also -- and this is out of  
5 my area, but I point out -- the current design of the  
6 structure doesn't allow even garaged access for the  
7 trucks. So one solution would be, at some level, to  
8 have the truck go into the underground garage, load  
9 them up there, and then they'd drive out, obviously  
10 with their vision impaired, but let's leave that at the  
11 moment. And then that solution itself also won't work,  
12 so that needs modification in some form.

13           Now, this over here -- see this thing here?  
14 This is called a garbage truck, and it's right here  
15 next to the recycling bin and garbage and so forth.  
16 And here's the yellow line down the middle of the  
17 street. So here is a poor driver trying to sneak his  
18 way around this truck in the wrong lane. And I think  
19 that probably has some safety implications, which I  
20 don't pretend to be an expert in, but you can probably  
21 figure it out for yourself.

22           And so that's pretty much the concern. This  
23 is a major issue with a huge volume of materials that  
24 needs to be addressed in some way. I leave that to the

1 discussions and to the board. Thank you for your  
2 attention.

3 MR. GELLER: Thank you.

4 MR. PENDERY: Good evening. My name is Steven  
5 Pendery, 26 Winchester Street. I want to thank the  
6 board for hearing us tonight. The evening is getting  
7 late, and I'll try and keep this brief.

8 A question came up earlier this evening about  
9 there being a report that was prepared prior to the --  
10 well, in response to the application for demolition,  
11 and there was a question as to whether this was a  
12 report. I want to show this to you, and the title is  
13 "The Brookline Preservation Commission Demolition  
14 Application Report." It's a three-page report, but  
15 it's a report.

16 Being only three pages on a building with a  
17 complicated history, that -- you're sort of in a  
18 situation where you have, well, basically a three-page  
19 report that actually identifies the significance of  
20 this property but then it doesn't go into any more  
21 detail. So it leaves open the question of how  
22 significant is this property?

23 And that -- I want to refer to another  
24 document, and that's the response of the neighbors of

1 Coolidge Corner -- response to a letter sent by  
2 Mr. King -- Mr. David King, who's the chair of the  
3 Brookline Preservation Commission, to Mr. Geller. In  
4 the last paragraph of our response, we indicated  
5 that -- and this is based on research done by town  
6 counsel Jonathan Simpson that, in fact, the  
7 Massachusetts Historical Commission will review the  
8 40 Centre Street project application form for possible  
9 adverse effects once the project has received a  
10 comprehensive permit and that the ZBA will have the  
11 opportunity to provide input into this process.

12           And I -- you know, I raised the question of  
13 what are you going to do? You have this old --  
14 ten-month-old three-page report on the significance of  
15 this property, and it would be a shame if you don't use  
16 this report because taxpayers, you know, paid for its  
17 preservation by Greer Hardwicke for the Preservation  
18 Commission. If you don't use it, then basically it  
19 would be conceding the decisions about Brookline's  
20 historic significance to the Massachusetts Historical  
21 Commission.

22           In any event, my purpose tonight is simply to  
23 review quickly the history of this property based on  
24 Greer's research and that -- we see that it was built

1 in 1921. That -- I want to just point out, too, that  
2 many -- some of the people in this room are thinking,  
3 well, this property can't be significant. It was  
4 occupied by immigrants and a fairly obscure Boston-born  
5 architect, so why spend the time with this? I think we  
6 need to think about that. How many of our properties  
7 in Brookline that are preserved and protected actually  
8 represent these groups? Well, that's something that's  
9 a question for the Preservation Commission itself.

10 In any case, Ellis Snider, born in Russia or  
11 Poland around 1890, came to America in 1905, and he  
12 eventually worked his way up to become the treasurer of  
13 the Boston Wharf company and he lived at 40 Centre  
14 Street until he died in 1964. So this gentleman,  
15 unlike some people in this room, actually was a  
16 Brookline resident, and lived at this property.

17 George Jacobs, the architect, was Boston born.  
18 He became known for his apartment buildings, including  
19 buildings on Park Drive, Commonwealth Avenue, Boston  
20 Street and St. Mary's Street area in Brookline. But  
21 most importantly -- and this didn't even merit a  
22 photograph because we all know the building extremely  
23 well -- is the Coolidge Corner Arcade building designed  
24 in 1927.

1           And there was the opportunity -- maybe the  
2 opportunity still exists -- to actually define a  
3 historic district in this area; that you have two  
4 buildings that were designed by the same architect that  
5 face each other at this point, and you have an adjacent  
6 building at 40 Centre Street that itself, up until this  
7 point, hasn't really received much historical research  
8 attention.

9           But with three potential properties of a  
10 historic district, that the issue of whether the  
11 Massachusetts Historical Commission would, in fact,  
12 consider processing an application or nomination for  
13 listing on the National Register would change the  
14 situation entirely because it would be -- well, even if  
15 Mr. Roth declined to support the nomination, if a  
16 majority of property owners within a district do  
17 approve, then that allows the keeper of the National  
18 Register, Stephanie Toothman, a park service colleague  
19 of mine, actually to find -- to approve, or at least  
20 consider approving, such a nomination, you know, if it  
21 warrants it based on other criteria.

22           There's also a -- I think a -- maybe I'm  
23 mistaken -- a perception that the criteria used by the  
24 Brookline Preservation Commission for their

1 significance is different from that of the National  
2 Register. And basically, it mirrors or reflects the  
3 National Register criteria, okay, so that basically if  
4 it meets the criteria -- the National Register  
5 criteria, it meets Brookline's criteria because it  
6 provides for properties that are significant at the  
7 local and regional levels.

8           Okay. So what is the significance here,  
9 regardless of how you trace back these criteria? And  
10 essentially, because of this architect, this building  
11 is associated with one or more significant historic  
12 persons or events or with a broad architectural,  
13 cultural, political, economic, or social history of a  
14 town or commonwealth. And one of the occupants, a  
15 Dr. Becker, apparently is responsible for bringing many  
16 people into this world on that property. That itself  
17 has not been pursued. And undoubtedly, there are other  
18 areas of potential that haven't been considered yet.

19           The building is historical architecturally  
20 significant in terms of its period, style, method of  
21 construction, or its association with a significant  
22 architect or builder, either by itself or as part of a  
23 group of buildings. And, again, this is quoted from a  
24 document prepared by the Brookline Preservation

1 Commission.

2           So why is this building not being considered  
3 for a National Register listing? And town counsel did  
4 some research on this, and it's important because, I  
5 mean, the truth of the matter is that our state  
6 historic preservation officer will not consider listing  
7 a property where the owner does not give consent.

8           And this issue with owners giving consent  
9 actually goes back to 1980 when the National Historic  
10 Preservation Act was revised. I found an interesting  
11 article on this topic, and it finds that the consent  
12 provision was not in the public interest. The large  
13 businesses pushing for it were also large political  
14 donors, and Congress was not facing similar pressure  
15 from citizen constituent groups because of the  
16 collective action problem. So yes, this is a law, but  
17 even on the day that it was enacted it was  
18 controversial and still remains as such.

19           So recommendations for this project, what to  
20 do. I think, simply, it's important for the town to  
21 proceed in good faith and to continue to do research  
22 and to document this property. I think this document  
23 will be helpful in transferring to the Mass Historical  
24 Commission when they sit down with the PNF. And

1 perhaps they'll decide for some reasons that it's not  
2 significant, but it will save them the time and trouble  
3 of doing that research. And perhaps if the Town of  
4 Brookline does it, we'll discover something important  
5 about that property we don't presently know.

6 I might also note if something happens to this  
7 building after the demolition stay is lifted and it's  
8 destroyed, this documentation, actually, itself will be  
9 a valuable documentation for architectural historians  
10 later on. Thank you very much.

11 MR. GELLER: Thank you.

12 MR. SCHWARTZ: Hello. I'm Chuck Schwartz. I  
13 live at 69 Centre Street. I'm also a Town Meeting  
14 member. And I want to talk about Centre Street in a  
15 slightly different manner, Centre Street as a whole. A  
16 lot of what I intended to say has been covered by Maria  
17 and by Harriet Rosenstein, but I'd like to present  
18 Centre Street, first of all, with odd side verses the  
19 even side of the street.

20 Now, this is a look down the odd side of the  
21 street looking from the parking lot north. Some of  
22 these houses you've already seen, but I wanted to show  
23 you the -- not only the setbacks, but the height lines.  
24 There are twenty-five buildings on Centre Street.

1 Twenty of them are three stories or less. Two of the  
2 buildings are four stories, but because they have flat  
3 roofs, their height is just slightly above the three-  
4 story Victorians. Many of these houses and buildings  
5 on the odd side of the street are from 80 to 115 years  
6 old, and many of them remain intact.

7           This is the building that is in question.  
8 This is the block on the even side, the block between  
9 Wellman Street and Beacon Street. This is the only  
10 block on the even side of the street where the original  
11 buildings are intact and where the height line is  
12 preserved. These two buildings, alongside with number  
13 50 Centre, are three stories or less.

14           Now, during the -- probably from the '60s on,  
15 the rest of the even side of Centre Street has been  
16 significantly altered, some might say decimated.  
17 Larger buildings were built to replace some of the fine  
18 Victorian homes that we've seen.

19           This is the block between Wellman Street and  
20 Williams Street. There are three buildings now on this  
21 block, one of the remaining Victorians. Next to it is  
22 number 70 Centre Street, which has been mentioned, and  
23 next to that is 40 Williams Street, one of the  
24 four-story buildings that has a height that is

1 comparable to the remaining Victorians. The block  
2 between Fuller Street and Williams Street is really --  
3 has really been altered. This is the remaining house  
4 on that block, and it is surrounded by two tall  
5 buildings.

6 By the way, the question was asked earlier by  
7 one of you, what the parking ratio was in the other two  
8 high-rise buildings. And because these buildings are  
9 for senior housing, the parking is not as significant a  
10 factor as it might be in other areas. But I just  
11 wanted to point out what has happened on the even side  
12 of the street versus the odd side of the street. My  
13 wife says that she knows of no other neighborhood in  
14 North Brookline that has been as decimated as Centre  
15 Street has been.

16 This is a neighborhood garden. It's actually  
17 in the parking lot, and it's directly opposite  
18 40 Centre Street. These are some of the neighbors  
19 working on planting this area just last spring, and if  
20 you go by the parking lot, please take a look. And I  
21 hope you'll appreciate the greenery that we've brought  
22 to this area of Centre Street.

23 This is the block on the odd side between  
24 Fuller and Williams Street. Notice that there are two

1 really beautiful Victorians. There was a third and,  
2 yes, it was in the space occupied by that box. In the  
3 early 2000s, there was a 40B proposal to replace  
4 probably the most beautiful Victorian on the street  
5 with a 40B 6-story, 36-unit building. Many of the  
6 people that are here tonight showed up in opposition to  
7 that building. The town actually did reject the 40B  
8 proposal, and the developer settled for building this  
9 building that it could do as of right.

10 But as you see, it just doesn't really fit in  
11 with what we have on Centre Street, and I'm afraid what  
12 might happen to 40 Centre Street might mirror what's  
13 happening here. And once these buildings are lost,  
14 we're not going to get them back. So this is my view  
15 of Centre Street.

16 I did want to mention a couple of other  
17 things. First of all, there's been no mention of  
18 adaptive reuse of the building, and I would suggest  
19 that people take a look at the building at  
20 99 Winchester Street, a Victorian that was redeveloped  
21 and the existing structure was maintained and  
22 additional housing was added. You know, something like  
23 this can be done at 40 Centre Street. We can have  
24 additional housing, we can maintain a beautiful

1 building. We just need the willingness of the  
2 developer to do this.

3 And we would also like to have some input -- I  
4 know it's been mentioned, the input from the town, but  
5 nobody has mentioned input from the neighbors and what  
6 to do with this property.

7 Finally, it has been mentioned --  
8 transit-oriented project has been mentioned. About two  
9 years ago, we had a meeting with the Transportation  
10 Board concerning the licensing of the Bridj bus  
11 service, and at that meeting was a representative from  
12 the T. And when the question was asked, how do you  
13 feel about this form of competition, about another form  
14 of public transportation being offered, the response  
15 from the T representative was, we're over capacity. We  
16 cannot handle the capacity that we have.

17 So I want people to keep that in mind. When  
18 you talk about transit-oriented projects, the T cannot  
19 really handle -- especially on the Green Line,  
20 especially on the C Line -- the number of people that  
21 ride it now. So maybe the idea of transit-oriented  
22 projects in Coolidge Corner just isn't going to work as  
23 well as some people think it might.

24 So please take all of this into consideration,

1 and I hope we can do something to have a better project  
2 and something that can maintain the character of Centre  
3 Street. Thank you.

4 MR. GELLER: Thank you.

5 MR. CHIUMENTI: Can I ask about your last  
6 comment? Is there a report or any kind of a statement  
7 about the capacity of the C Line or -- that you could  
8 provide or point us to?

9 MR. SCHWARTZ: This was a meeting of the  
10 Transportation Advisory Committee. I could go back and  
11 try to find those records, and if I can, I'll be happy  
12 to send them to you.

13 MR. CHIUMENTI: Is that Brookline's  
14 Transportation --

15 MR. SCHWARTZ: Yes.

16 MR. CHIUMENTI: Did you know about what date?

17 MR. SCHWARTZ: It was probably -- maybe  
18 somebody can help me out -- probably at the end of the  
19 summer two years ago when we noticed large buses were  
20 riding on Centre Street. And we inquired as to what  
21 was going on, and we found out about the beginning of  
22 some Bridj transportation system, and we worked out a  
23 plan that would accommodate them and accommodate the  
24 people on Centre Street.

1 MR. GELLER: Mr. Chang?

2 MR. CHANG: Any other comments?

3 MR. SIMONELLI: My name is Rich Simonelli. My  
4 wife and I own Unit 809 at 19 Winchester Street, and I  
5 wanted to make a few comments based on what I heard  
6 here tonight. I don't have anything prepared.

7 The garage situation, people backing out of  
8 there and coming out of that garage: I was on Harvard  
9 Ave. the other day across the street from where they're  
10 going to put in the other proposed 40B, and two kids on  
11 bicycles came flying by down the street past me. And,  
12 of course, I had choice words for them because they  
13 almost hit me. But then I thought about the time when  
14 I was a kid and I used to fly up and down my street,  
15 and a lady was backing out of a blind driveway, and I  
16 ended up under her car. It wasn't a good situation.  
17 My head was about four inches away from the tire. And  
18 so, you know, a warning for this building in the way  
19 it's being put up.

20 The pool at 50 Winchester Street: That pool  
21 is very important. It's not just a nicety or anything  
22 like that. It's very important. Many of the people  
23 who rent the apartment, that's the deal maker. They  
24 see the pool, and that flips them. It's very important

1 to that building.

2           firefighting: I don't know if you folks  
3 handle the firefighting issues, but if you look at  
4 19 Winchester, if the fire department is going to fight  
5 a fire at the back of that building, they're going to  
6 have to come into 19 Winchester.

7           They're going to have to go up some stairs and  
8 through a locked gate to get into the patio area. And  
9 when they get into the patio area, they'd have to go  
10 into another locked gate to get -- in effect, a double  
11 locked gate. Maybe even triple because the pool guy  
12 told me that there's some lock that he only has the key  
13 to so that people can't just walk into that pool at any  
14 hour of the day.

15           So they have to get through that, and they're  
16 going to have to fight the fire with that between --  
17 with the pool between them and the property line. So  
18 they're basically going to have to shoot over the pool.  
19 That's got to be a safety hazard for them. If they  
20 fall into that pool with that equipment, they're going  
21 to drown. I mean, there's no way.

22           Now, the water infiltration into the building,  
23 that has me a bit concerned -- very concerned --  
24 because the reason I own that property is that it's

1 part of our retirement. I don't have a pension, so I'm  
2 trying to augment it with income from rentals. I own  
3 two other units in this town. We actually used to live  
4 on Winchester Street at one point, at 50 Winchester.  
5 It was my wife who owned that unit when we met. So  
6 I've been a resident and I've been a landlord in this  
7 town.

8           But anyways, if something happens to that  
9 garage, be it it gets damaged in building or the water  
10 infiltration causes a problem down the road and we get  
11 hit with any major assessments, that's going to cause  
12 me a problem.

13           Now, as a word to Mr. Roth, you may want to  
14 pay attention. I've been a landlord here and renting  
15 out for 27 years. I rented a place once in 90 minutes.  
16 That was one -- the apartment at 50 Winchester. That  
17 was several years ago.

18           This year it was a different story. I also  
19 was a rental agent at Coldwell Banker for a while as  
20 well, so I know the area very well. This year it was  
21 the worst year in 27 years to do rentals. One of my  
22 rents went down \$175, another one \$150. Why? Because  
23 there's overbuilding.

24           If you go to -- by Fenway Park area, you might

1 as well be in Manhattan. There's nothing but  
2 skyscrapers there, and they discount them heavily. If  
3 they can't rent an apartment, they'll give two months  
4 rent free. If somebody rents it within 45 minutes of  
5 looking -- within two days of looking at the apartment,  
6 they'll give them another month's rent free. So  
7 basically they're cutting their rents down to Coolidge  
8 Corner level rents.

9           And I lost the month of June, for example.  
10 Right now I have one empty apartment for the month of  
11 June. It's just gotten very difficult. Too much  
12 overbuilding. You know, so keep that in mind as well.  
13 And Mr. Roth should keep that in mind when he does his  
14 figures.

15           So that's pretty much what I have to say.  
16 Thank you.

17           MR. GELLER: Thank you.

18           MR. SHERAK: I just wanted to add a brief  
19 comment. When the property is properly staked out for  
20 a walkthrough again, I'd be happy to come back with a  
21 70-foot string balloon so we can see accurately how  
22 high the building goes.

23           MR. GELLER: This isn't a cheap opportunity  
24 for you to play with balloons.

1 MS. KAPINOS: Hi. My name is Esther Kapinos.  
2 I live at 19 Winchester Street in Apartment 812. I  
3 pulled from the Coolidge Corner District Plan dated  
4 March 2017, Chapter 4, page 38, "Protecting  
5 Neighborhoods: Zoning, Historic Preservation, and  
6 Neighborhood Conservation Districts," "The DPC members  
7 generally agree that preserving existing, consistent  
8 residential streetscapes makes sense for many reasons,  
9 such as the following:"

10 "Residents who make a decision to live in a  
11 certain area should be protected from dramatic changes  
12 in character to their neighborhood."

13 Second, "Consistency in development patterns  
14 protect property values and their corresponding  
15 assessed and appraised values."

16 The other items on this list have already been  
17 addressed, but those are the two that I'd like to  
18 address. Certainly, being at 19 Winchester, we have  
19 certain things that make our property value high, our  
20 condo fees high. One of those is the pool, which has  
21 already been addressed. I'm not going to get into.

22 But the other one is -- and I know that -- I  
23 don't remember her name, but she spoke earlier about  
24 the height is a big issue for many residents that live

1 on the fifth, sixth, seventh, certainly on the eighth  
2 and even on the ninth floor; that right now our  
3 property value is pretty high because we have this  
4 incredible view of Brookline, of the Boston skyline,  
5 Cambridge, et cetera, et cetera.

6           With this proposed plan being six stories  
7 high -- and certainly apartments buildings being built  
8 today, the ceilings are a lot higher than they were  
9 being built in the '50s or '60s or before. So at eight  
10 stories, we're not going to be able to see the skyline  
11 anymore, and our property value will decrease. And,  
12 you know, that's something that I would like to have  
13 the board take into consideration. Thank you.

14           MR. GELLER: Thank you.

15           Anybody else?

16           MR. MCNAMARA: My name is Don McNamara. I  
17 live at 12 Wellman Street. I just wanted to bring up  
18 one thing that I think hasn't been totally discussed.  
19 So 12 Wellman Street and our neighbors are row houses,  
20 so you can kind of picture our building as like a tube.  
21 We have windows at the front and windows at the back.  
22 And our tube is pointing directly at the side of this  
23 building, this proposed building.

24           So, you know, there's been a lot of discussion

1 about the view from the street and the setback from the  
2 street, but I think the majority of the massing is on  
3 the side view, and that is a direct impact to  
4 12 Wellman Street and our neighbors. I just wanted to  
5 bring that up and ask you to consider it as well.  
6 Thank you.

7 MR. GELLER: Thank you very much.

8 Is there anybody else?

9 No? Okay.

10 I want to give the -- first of all, I want to  
11 thank everyone for their testimony. I want to give the  
12 applicant an opportunity to rebut at this time.  
13 Certainly, we have another hearing scheduled and we'll  
14 obviously -- we'll have peer review at that point. I  
15 hope so. And you'll have an opportunity to speak then.  
16 But while these comments are fresh, I don't know  
17 whether you had planned to say anything. It's up to  
18 you.

19 MR. ENGLER: Thank you, Mr. Chairman. For the  
20 record, my name is Geoff Engler from SEB. I represent  
21 the applicant in this case.

22 I don't think it's our intent or objective to  
23 specifically rebut anything that was mentioned this  
24 evening. In fact, I'd like to thank the neighborhood.

1 Clearly, they've put in a lot of time and effort into  
2 this presentation. A lot of thought went into it. And  
3 I think there was some good information that was  
4 communicated, and now it's our responsibility to  
5 synthesize that, look and see what we can do, what we  
6 can't do.

7           Obviously, some of the things we disagree  
8 with. Some of the points, I think, were more valid  
9 than others, and we will make a sincere effort to look  
10 at all that. I know it's provided to Maria. She'll  
11 pass it along to us.

12           But a lot of what we heard tonight, frankly,  
13 is not new. But we've been waiting to hear about these  
14 comments, so now it's incumbent on us to go back and --  
15 and also in combination with what we hear from the peer  
16 review consultants who are going to get very technical  
17 in their evaluation of the plan. So I think the whole  
18 combination of that input will be -- will certainly be  
19 valuable.

20           I mean, things like not staking out the  
21 property, the board and the neighborhood have every  
22 right to be upset about that. That should have been  
23 done. I mean, there's no excuse for that.  
24 Fortunately, we're early enough in the process where

1 that can be rectified and it can be done. We'll get  
2 everybody back out there and provide the information  
3 that the board and the neighborhood was expecting. So  
4 that will get done, so there's no hiding from that.

5 I think it's important to know, though, that,  
6 I mean, part of this project, in large part, was  
7 modeled after 40Bs that the Zoning Board of Appeals  
8 approved at 45 Marion Street, which is more dense than  
9 this project, less parking, and in a very similar  
10 neighborhood. And that's -- the similar neighborhood  
11 comment is a little bit subjective, but relative to its  
12 context within Coolidge Corner, it's not totally  
13 dissimilar.

14 So I think it's important to know that this  
15 was not extracted out of left field relative to what  
16 was proposed. There has been a precedent that was set  
17 in this area of Brookline. Obviously we've seen lots  
18 of photos tonight presented by the neighborhood. We  
19 presented photos of big buildings previously, and I  
20 would suggest that, you know, this is probably  
21 somewhere in between relative to the context of the  
22 neighborhood.

23 But if somebody -- and I understand people in  
24 this room are intimately familiar with the

1 neighborhood, and I don't dispute that for one second.  
2 But if you brought somebody in that was not familiar  
3 with Brookline or Coolidge Corner and asked them, how  
4 would you characterize the architecture in this area, I  
5 don't think that they would focus exclusively on  
6 two-and-a-half-story Victorians. They would look at  
7 the totality of the area: tall, short, dense, not  
8 dense, and that's our position. I know that  
9 architecture is subjective, so that'll play itself out.

10           One thing I will mention, there's no  
11 documentation of any kind ever in the history of 40B  
12 about 40B developments of any kind decreasing property  
13 values. That's just a nonstarter. It's not something  
14 the board can consider, and it's just not true. So,  
15 you know, if somebody has something they want to submit  
16 for the record, I'd be happy to see it, but I've never  
17 seen anything in all our experience.

18           And then lastly, and I wasn't going to mention  
19 this, but legal counsel retained by the neighborhood,  
20 you know, disparages SEB relative to how we treat the  
21 regulations of 40B and the comprehensive permit  
22 process.

23           It's our job to know the regulations and to  
24 advise our clients appropriately. We've been involved

1 in more units of 40B housing than anyone in the state  
2 and we know the regulations and we know what areas are  
3 subjected to your review and what aren't. We know what  
4 areas my client is at risk and where he or she isn't.

5           So I take umbrage to the fact that -- that  
6 characterization. We look forward to a collaborative  
7 interchange of ideas with the board and the  
8 neighborhood and that sometimes we'll agree to  
9 disagree. And at that point, we fall back on the  
10 regulations, we fall back on legal precedent.

11           Dan Hill talks about attempting to find  
12 compromise. Let me make it very clear that his firm is  
13 the preeminent firm to fight 40B housing in the state.  
14 He's fighting us on 10 units on three buildable acres.  
15 He fights less. He fights big projects, he fights  
16 small projects. He is -- and this is a credit to him.  
17 He is prolific relative to how many abutter appeals he  
18 is undertaking right now.

19           So he gives the impression that he's here to  
20 compromise on some sort of project, and he proposes a  
21 project that is either financially unfeasible, can't be  
22 built, or any number of things. And he makes it sound  
23 like, aren't we being reasonable? He's not.

24           And he would admit, we're on opposite sides of

1 the ledger on, I think, four or five projects as we  
2 speak. And other people I know quite well have -- one  
3 counsel I know quite well has six different cases  
4 against Mr. Hill right now, so I know Dan very well,  
5 and I know how he advises his clients.

6 Now, with that said, we don't want to get tied  
7 up in appeals for the next year or two or three. That  
8 doesn't make any sense. And it's not good for us, and  
9 it's not good for the neighbors. So we will hopefully  
10 find some common ground but, you know, I don't  
11 appreciate when says we don't -- and I'm  
12 paraphrasing -- that we take the regulations loosely.  
13 We don't. We take this process very seriously, and we  
14 will continue to hopefully represent as much.

15 So with that said, we have a lot of work to  
16 do. We've heard a lot of good comments, and we  
17 certainly will look at all of those: engineering,  
18 traffic, architecture, and otherwise, and we will  
19 endeavor to provide a plan that is changed, and  
20 hopefully for the better. I mean, obviously, I don't  
21 think we're going to be able to satisfy everybody, but  
22 hopefully that we keep going in the right direction.

23 So with that said, I appreciate your time  
24 tonight, and we look forward to appearing before you on

1 I believe August 1st you said.

2 MR. GELLER: Yes.

3 MR. ENGLER: Thank you.

4 MR. GELLER: Thank you very much.

5 MR. ROTH: I just wanted to take a moment.

6 I've heard -- I heard the audience today and I listened  
7 and I got advice. And I just wanted to leave this  
8 hearing letting people know that we want to make this  
9 site a very safe site, and we will make every effort in  
10 making this a safe site for the elderly, for everybody.  
11 I think it's important to have it safe, and I'm willing  
12 to compromise in order to make this project safe.

13 The other thing is that I'm committed to  
14 making the building a very elegant building. I mean,  
15 people do not like the architecture, but I'm certainly  
16 open to discussion on changing the architecture of the  
17 building. If it's not fitting in the neighborhood and  
18 people think that there's a more fitting style to this  
19 building, I'm all ears. I'm not committed to this.  
20 This is just a current design on this project. I'm  
21 committed to working with the community and working  
22 with this board in getting this right. And whatever  
23 that is, we'll put in the time and the effort to get it  
24 right. Thank you.

1 MR. GELLER: Thank you very much.

2 So, again, I want to thank everyone. I want  
3 to thank members of the public who offered testimony, I  
4 want to thank -- none of the people from the town  
5 departments or boards are still here except for Maria.  
6 You're stuck. And I want to thank the developer for  
7 those last comments, which I found encouraging. So you  
8 clearly were listening to testimony, and I appreciate  
9 that.

10 Our next hearing is August 1st at 7:00 p.m.,  
11 and at that point we are planning to hear a preliminary  
12 report from the architecture peer reviewer. I believe  
13 we'll also hear from other peer reviewers. Is that  
14 correct?

15 MS. MORELLI: No. It's only architecture.

16 MR. GELLER: Only architecture. Okay. So we  
17 will hear from the architectural peer reviewer.

18 Again, information on these hearings are  
19 posted online so that all of this information will be  
20 available to people for access. If you have additional  
21 comments, you're not cut off from getting them to us.  
22 Again, I want to urge people to submit them in written  
23 fashion. That's particularly helpful for us. And you  
24 can certainly do that by sending them in to Maria at

1 the Planning Department, and she will make sure that  
2 they're distributed to everyone. So, again, thank you.

3 MS. MORELLI: Just one more. When I say  
4 "architecture," we're also talking about site  
5 circulation and safety as well. There will be a  
6 traffic peer review. It'll just come later in the  
7 process. But that's not -- it's doesn't preclude a  
8 traffic peer review.

9 MR. GELLER: Okay.

10 MS. POVERMAN: So those are some questions I  
11 have since I've not been through this on this side  
12 before, which is exactly what sort of peer reviews we  
13 get. Because a bunch of things were mentioned today,  
14 so I don't know if this is the time -- I need to ask  
15 you, Maria, when do we find out which ones we actually  
16 want? For example, there was discussion of a review of  
17 the exceptions. I assume that you and our  
18 specialist --

19 MR. GELLER: Are you talking about waivers?

20 MS. POVERMAN: Yes, the waivers.

21 MS. MORELLI: Regarding waivers, waivers are  
22 not overlooked whatsoever. The building commissioner  
23 chose not to discuss that at this time, but he -- the  
24 Building Department and the Planning Department will be

1 reviewing waivers with the director of Engineering and  
2 Transportation.

3 MS. POVERMAN: Okay. And I also found  
4 somewhat persuasive Mr. Hill's comment about the -- how  
5 do you do the stormwater management review unless you  
6 know what the building is actually going to look like  
7 and where is the --

8 MS. MORELLI: So regarding that, Mr. Ditto  
9 made it really clear that the infiltration system needs  
10 to be outside of the building, therefore outside of the  
11 building footprint. And he alluded to a fairly  
12 favorable or positive conversation with the developer.  
13 That could mean that they're setting the front yard or  
14 the rear yard -- they're increasing the setback to put  
15 the infiltration system outside of the footprint. But  
16 Mr. Ditto's comment about having that infiltration  
17 outside means the footprint has to be smaller.

18 MS. POVERMAN: Okay.

19 MR. CHIUMENTI: Is there going to be a  
20 stormwater person or --

21 MS. MORELLI: I think Mr. Ditto, if he's still  
22 here -- I don't think he is. I think his department  
23 will assume that role.

24 MS. POVERMAN: And so there was also the

1 discussion of -- so the traffic reviewer -- let's see.  
2 I've got various notes all over the place here. So  
3 getting a traffic engineer and the transportation  
4 analysis and crash data, do we now put in process  
5 getting the peer reviewer, the analysis for that so  
6 that if it's not August, it's September?

7 MS. MORELLI: Right. So Planning Director  
8 Steinfeld is -- it's in procurement right now, the RPF  
9 for the traffic peer reviewer. So I think it's just in  
10 procurement now. That's all I can say about it.

11 MS. POVERMAN: So the request that Mr. Ditto  
12 gave to -- for us to authorize the --

13 MS. MORELLI: -- the peer review. She's  
14 definitely acted on that, so that's in process.

15 MS. POVERMAN: Okay. And the crash data that  
16 was requested in Mr. Ditto's letter, we can just assume  
17 that all of that is going to be followed up on?

18 MS. MORELLI: Yes.

19 MS. POVERMAN: I'm also confused about what  
20 the status is of the shadow studies.

21 MS. MORELLI: Okay. So as part of my review  
22 of the application for completeness, I looked at what  
23 is required by the state regulations and the local  
24 regulations. So an additional item that I've requested

1 outside of requirements of the regulations would be a  
2 shadow study conducted each hour of the day over a  
3 24-hour period four times. So the project team is not  
4 providing one at this time, but they are not precluding  
5 providing one later during peer review if that's  
6 requested.

7 MS. POVERMAN: Could we request it?

8 MS. MORELLI: I've requested it and we will  
9 request it again. We will insist on it.

10 MS. POVERMAN: Okay. Mind if I just check  
11 through my scribbles for one more second?

12 MR. GELLER: Go ahead.

13 MS. POVERMAN: Oh. And I assume that the  
14 impact on abutting properties will, one, relate to what  
15 the final design is, but would also be addressed by an  
16 independent engineer or your own engineer? Is it the  
17 Building Department that would help assess that, the  
18 structural integrity --

19 MS. MORELLI: Yup. I'm actually going to just  
20 refer those questions -- I'm going to start with the  
21 director of engineering because often what they're  
22 looking at is -- they are going to be looking at issues  
23 like that, so I'll just refer those questions to  
24 Mr. Ditto.

1 MS. POVERMAN: Okay, great.

2 MR. GELLER: Thank you. Again, I want to  
3 thank everyone. Thank you, Maria. And we will see you  
4 August 1st.

5 (Proceedings adjourned at 9:42 p.m.)

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1 I, Kristen C. Krakofsky, court reporter and  
2 notary public in and for the Commonwealth of  
3 Massachusetts, certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth and  
6 that the foregoing is a true and correct transcript  
7 of my shorthand notes so taken.

8 I further certify that I am not a relative  
9 or employee of any of the parties, nor am I  
10 financially interested in the action.

11 I declare under penalty of perjury that the  
12 foregoing is true and correct.

13 Dated this 30th day of June, 2016.

14   
15

16 \_\_\_\_\_

17 Kristen Krakofsky, Notary Public

18 My commission expires November 3, 2017.

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<p style="text-align: center;"><b>\$</b></p> <hr/> <p><b>\$150</b> 98:22</p> <p><b>\$175</b> 98:22</p> <hr/> <p style="text-align: center;"><b>0</b></p> <hr/> <p><b>0</b> 81:19</p> <hr/> <p style="text-align: center;"><b>1</b></p> <hr/> <p><b>1</b> 27:6</p> <p><b>1,200</b> 81:16</p> <p><b>1.0</b> 8:13</p> <p><b>1.1</b> 24:12</p> <p><b>10</b> 59:19 60:13 106:14</p> <p><b>10,900</b> 8:13</p> <p><b>100</b> 10:20 78:5</p> <p><b>105</b> 49:17</p> <p><b>115</b> 91:5</p> <p><b>11th</b> 34:2</p> <p><b>12</b> 101:17,19 102:4</p> <p><b>12-month</b> 9:7</p> <p><b>13</b> 15:12 17:2</p> <p><b>143</b> 78:24</p> <p><b>15</b> 12:15 15:22 21:19 22:23 54:23 59:19 79:6</p>	<p><b>17</b> 8:15 52:23 53:9</p> <p><b>18</b> 23:14 79:7</p> <p><b>18-foot</b> 28:23</p> <p><b>180</b> 24:23 25:10 26:17 57:4</p> <p><b>1890</b> 86:11</p> <p><b>19</b> 13:24 18:23 44:13 47:10,14 56:13 61:23 62:5 65:12 67:15,18 68:3,4 69:8 72:1,13 75:23 82:5 96:4 97:4,6 100:2,18</p> <p><b>1905</b> 86:11</p> <p><b>1921</b> 39:2 86:1</p> <p><b>1922</b> 8:24</p> <p><b>1927</b> 86:24</p> <p><b>1964</b> 86:14</p> <p><b>1980</b> 89:9</p> <p><b>1990</b> 27:22</p> <p><b>1st</b> 4:23 108:1 109:10 114:4</p> <hr/> <p style="text-align: center;"><b>2</b></p> <hr/> <p><b>2</b> 31:6 81:20</p> <p><b>2.3</b> 27:10</p> <p><b>20</b> 20:23 23:6 79:2</p> <p><b>200</b> 53:10</p>	<p><b>2000s</b> 93:3</p> <p><b>2007</b> 78:11,15,22</p> <p><b>2016</b> 82:5</p> <p><b>2017</b> 100:4</p> <p><b>22</b> 12:18 49:19</p> <p><b>22-feet</b> 49:5</p> <p><b>22-foot</b> 13:1</p> <p><b>23</b> 51:18</p> <p><b>23rd</b> 72:14</p> <p><b>24</b> 49:18</p> <p><b>24-hour</b> 113:3</p> <p><b>25</b> 4:13 24:24</p> <p><b>26</b> 84:5</p> <p><b>26.5</b> 81:15</p> <p><b>27</b> 12:19 13:2 49:20 98:15, 21</p> <p><b>2:15</b> 77:12</p> <hr/> <p style="text-align: center;"><b>3</b></p> <hr/> <p><b>3</b> 81:19</p> <p><b>30</b> 73:5 75:23 81:19</p> <p><b>300</b> 45:19</p> <p><b>35-gallon</b> 81:19</p>	<p><b>36</b> 52:22</p> <p><b>36-unit</b> 93:5</p> <p><b>37</b> 45:6</p> <p><b>38</b> 20:4 100:4</p> <hr/> <p style="text-align: center;"><b>4</b></p> <hr/> <p><b>4</b> 100:4</p> <p><b>4.5</b> 8:15</p> <p><b>40</b> 4:5 8:23 45:3,5,10,12 47:6,8,15,17,22,24 48:5,6 68:3,7 70:17 76:15 78:9 85:8 86:13 87:6 91:23 92:18 93:12, 23</p> <p><b>400</b> 45:19</p> <p><b>40B</b> 4:11 33:6 42:3 44:5 50:17 52:21 53:3,15 54:1,4,22,23 55:3,7,13, 15,24 57:5,17 59:9 60:18 63:22 64:1,2 93:3,5,7 96:10 105:11, 12,21 106:1,13</p> <p><b>40bs</b> 37:20 104:7</p> <p><b>410</b> 76:1,12 77:1 78:1,2</p> <p><b>42</b> 24:13</p> <p><b>45</b> 8:14,15 10:20 11:6,11 13:5 16:20 19:16 24:23 55:1 57:1 59:21 63:21 81:15 99:4 104:8</p> <p><b>45-unit</b> 30:18</p> <p><b>47</b> 24:13</p>
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