

August 30, 2016

Dear Chairman Geller and Members of the Zoning Board of Appeals:

On numerous occasions, the Planning Department, Transportation Board, and ZBA members have criticized the impractical parking plan at 40 Centre. The Applicant tacitly acknowledges that a parking ratio of 0.38 would be inadequate to handle the demand for residents and visitors. In an email dated July 28, Robert Roth suggests that residents could instead exploit the Town's public parking lots, which have an "effective 70% vacancy rate, 95 open spaces, in 4 Town owned public lots which surround the 40 Centre Street property." Since the actual daytime vacancy rate of the Centre St East parking lot is 7%¹, I assume that the Applicant is referring to the overnight vacancy rate. However, since overnight parking is only permitted in Town-owned parking lots from 8 PM to 9 AM, where would residents and guests park between 5 PM and 8 PM? Most likely, they will park on surrounding streets or Town-owned parking lots. By occupying the same parking spaces used by customers of the Coolidge Corner business district, this proposal would be detrimental for local businesses.

The ZBA may consider municipal planning as a Local Concern in the review of 40B proposals. **In this case, the economic viability of Coolidge Corner businesses is threatened by the Applicant's inadequate provision of off-street parking spaces.** I urge the ZBA to defend the Town's municipal planning concern by upholding its stance on a higher parking ratio for the proposed development at 40 Centre. After the September 1 presentation from the traffic peer reviewer, I also urge the ZBA to trigger a pro forma review of the proposed development.

1. Economic importance of Coolidge Corner businesses

The Town has repeatedly acknowledged the importance of Coolidge Corner businesses to its master planning. The Town's **2007 Coolidge Corner District Plan** found that "Coolidge Corner proper includes 36.5% of the businesses located in one of the Town's seven commercial districts. JFK Crossing holds an additional 5.6% of Brookline's businesses located in retail commercial districts. At over 42%, the Coolidge Corner district as defined represents the largest concentration of retail commercial businesses in the Town." (pg. 42)

In 2014, the Brookline Economic Development Division published its **Vibrancy Study: Life, Activity, and Energy in Brookline's Commercial Areas**. Its conclusions were grim: retail in Brookline was under threat. The study found that "two dozen retail businesses in Coolidge Corner and Brookline Village estimate 10-20% reduced foot traffic in our larger commercial areas from 2012-2013." (pg. 22). In addition, "[they] studied 2004 and 2012 data from the Massachusetts Executive Office of Labor & Workforce Development for the Town of Brookline and the Metropolitan New England City and Town Statistical Areas of Boston – Cambridge – Quincy, MA-HF area. Whereas the region has seen 5.6% less retail stores, the Town of Brookline has seen 10.4% less retail stores." (pg. 22).

"Individual retailers have expressed concern that as the overall retail industry retracts, some blocks will no longer be attractive to window-shoppers, further reducing the likelihood that people will walk by their stores. The tipping-point can be seen in some neighborhoods like Washington Square and Davis Square (Somerville), which have earned a reputation as very vibrant commercial districts, but the number of retail stores is few and far between" (pg. 23).

¹ Coolidge Corner Transportation Analysis by Traffic Solutions, LLC (2007), page 58. Included as an attachment to Margery Resnick's June 20 letter to the ZBA.

2. Inadequate parking threatens the viability of Coolidge Corner businesses

In 2014, the Town commissioned a **Coolidge Corner Consumer Survey** that received 1,741 responses (see attachment). Customers who drove to Coolidge Corner were so dissatisfied with the lack of parking that they often reduced their shopping visits:

- “Parking is an issue for a significant portion of customers – 41% of Brookline customers and 34% of Greater Boston customers rated ability to find parking as ‘poor’ or ‘below average’ ” (pg. 4)
- “Customers arriving by car spent more per trip than those using other modes of transportation. It is possible that customers might prefer a car when carrying larger amounts of merchandise and/or going out for more extensive dining and entertainment.” The average expenditure of car customers was nearly \$70. (pg. 17)
- “12% of customers said the frequency of their visits has decreased. The most common reasons cited were: 1) moved further away; 2) parking (including availability, cost and tickets)” (pg. 16)
- “Parking is an issue for a significant portion of customers, both being able to find parking and parking meter time limits; mitigating these issues might encourage customer frequency.” (pg. 25)

The **Coolidge Corner Merchants Association** also conducted an employee parking survey in 2006². The survey “identified 756 employees that attempt to park in Coolidge Corner on a weekly basis. We identified 119 businesses that employ 1,263 people. Even if the Centre Street West lot and the 10 hour meters were efficiently utilized, we would still have a severe parking crisis in Coolidge Corner.”

These above surveys demonstrate that private utilization of Town-owned parking lots and on-street parking could inflict serious economic harm to Coolidge Corner businesses. I strongly encourage the Planning department to commission an economic analysis on the amount of total revenue, as well as meal tax dollars, generated by each parking space in Coolidge Corner. This finding would be relevant for three other Comprehensive Permit or Project Eligibility Letter proposals in Coolidge Corner.

3. Municipal planning represents a Local Concern under Chapter 40B

As noted above, the private abrogation of parking spaces by the proposed development poses a specific and legitimate economic concern to the Town. Under 760 CMR 56.07(3)(g), the ZBA may consider the Local Concern of Municipal and Regional Planning, including:

1. a municipality’s master plan, comprehensive plan, housing plan, Housing Production Plan, or community development plan;
2. the applicable regional policy plan; and
3. the results of the municipality’s efforts to implement such plans.

In the 2007 **Coolidge Corner District Plan**, one of the 5 key findings of the 2007 Coolidge Corner District Plan was to “promote and enhance the Coolidge Corner commercial district” (pg. 4). Given the longstanding lack of parking in the area, two specific recommendations to encourage commercial viability included:

² <http://www.brooklinehub.com/ccma-conducts-parking-survey-in-search-of-solutions/>

- “Use incentives and revise restrictions to provide Coolidge Corner employee parking in ways that **increase the number of spaces available for Coolidge Corner customers.**” (pg.4)
- “Use management techniques suggested by Traffic Solutions to **increase the usage of available parking**, including enforcement to provide turnover of parking spaces and exploring options for better using existing supply.” (pg. 4)

Thus, the specific municipal planning interest is to increase the net parking supply for customers of Coolidge Corner businesses, in order to support their economic viability. This planning interest is articulated both in the 2005 Brookline Comprehensive Plan, as well as the 2007 Coolidge Corner District Plan. The expert evidence in the 2007 Coolidge Corner Transportation Analysis, the 2014 Coolidge Corner Consumer Survey, the 2006 Coolidge Corner Merchants Association parking survey, and the 2014 Economic Development Division’s Vibrancy Study all support the conclusion that there is inadequate parking for customers in Coolidge Corner. The Applicant’s parking plan relies on private use of Town-owned parking lots and on-street parking, which would be directly opposed to the Town’s municipal planning interest.

4. Housing Appeals Committee precedents for balancing tests for municipal planning

In several recent decisions, Housing Appeals Committee^{3,4,5,6} has specified a two-part analysis in weighing a Town’s master plan with the need for affordable housing. In all four cases, the respective Zoning Boards of Appeals denied the Comprehensive Permit applications. On appeal, the Housing Appeals Committee subjected the Zoning Boards to a two-part analysis:

“As a threshold matter, the Board must present sufficient evidence concerning its master plan (or similar planning documents, as described in our regulations) to meet a three-part test:

1. Is the plan *bona fide*? Was the plan legitimately adopted, and does it continue to function as a viable planning tool in the town?
2. Does the plan promote affordable housing? ...
3. Has the plan been implemented in the area of the site?” (*Hanover R.S. Limited Partnership v. Andover Zoning Board of Appeals*, HAC No. 12-04, pg. 6)

“Thus, in most cases, our real focus is on the analysis that follows the threshold test, that is, on the analysis that allows us to determine the weight of the town’s local planning concern that is to be balanced against the regional need for affordable housing. This local concern typically includes both one or more specific, narrow planning interests and the town’s overall interest in the integrity of its planning process. Consistent with our precedents and regulations, the analysis of these complex, interrelated interests can be broken into several factors. The Board need not introduce evidence with regard to each of these, but it must introduce enough evidence to cumulatively establish a local concern of sufficient weight to outweigh the regional need

³ Hollis Hills, LLC v Lunenburg Zoning Board of Appeals (HAC No. 07-13)

⁴ 28 Clay Street Middleborough, LLC v Middleborough Zoning Board of Appeals (HAC No. 08-06)

⁵ Hanover Woods, LLC v Hanover Zoning Board of Appeals (HAC No. 11-04)

⁶ Hanover R.S. Limited Partnership v Andover Zoning Board of Appeals (HAC No. 12-04)

for affordable housing. The Board may establish the weight of its local planning concern by demonstrating the following:

1. The extent to which the proposed housing is in conflict with or undermines the specific planning interest.
2. The importance of the specific planning interest, under the facts presented, measured, to the extent possible, in quantitative terms, for instance, the amount of economic cost associated with lost tax revenues, the value of potential jobs forfeited, the amount additional costs incurred, or the nature and extent of environmental loss associated with the proposed housing.
3. The quality of the overall master plan (or other planning documents or efforts) and the extent to which it has been implemented. A very significant component of the master plan is the housing element of that plan (or any separate affordable housing plan). The housing element must not only promote affordable housing, but to be given significant weight, the Board must also show to what extent it is an effective planning tool. ...
4. The amount of affordable housing that has resulted from affordable housing planning.”

– Hanover R.S. Limited Partnership v. Andover Zoning Board of Appeals, HAC No. 12-04, pg. 7-9)

In conclusion, I urge the Zoning Board of Appeals – in consultation with legal counsel – to consider the Town’s municipal planning interest when placing conditions on the permitted number of parking spaces and housing units of the proposed development.

Yours truly,



Derek Chiang