

To Brookline Board of Appeals
From Maria Morelli, Senior Planner
Date August 3, 2022

Re **40 Centre c.40B Proposed Project Change**

Meeting Materials: <https://www.brooklinema.gov/1302/40-Centre-Street-40B>

Background: Status of Appeal

- **February 2017:** Approved with Conditions
- **2017:** ZBA Decision Appealed
- **2022:** Appellate Court sustained the judgment of the trial court in favor of the developer. The neighbors filed an application for Further Appellate Review with the Supreme Judicial Court, but that application was deferred (SJC has not decided if it will allow the application).
- **Town Counsel John Simpson advises the Board to make a determination before the statutory deadline (extension allowed by Applicant) on the proposed project change.**

Proposed Change: Reduce number of parking spaces

Would reduce parking spaces from 25 spaces with stackers to 16 spaces without stackers for 40 units

- Floor to ceiling clearance would allow stackers to be installed later to increase parking to 20 spaces (four stacker spaces)
- Meets State regulations for the number of accessible parking spaces
- Would increase long-term bike storage from 22 to 44 (two-tier) spaces with adjustments to slope for better access for bike users
- Installed garage door would improve aesthetics and mitigate lighting impacts
- Natural ventilation would be changed to rooftop ventilation, improving air quality at ground level
- Combination of installed EV chargers and EV charging infrastructure would encompass all parking spaces

Additional Compensatory Changes

- Increase affordable units from 20% to 25% of total units
Make building systems fossil fuel free
- Provide for future installation of rooftop solar

Exterior Changes

- Minor adjustments to window pattern to reflect interior layouts of units

Staff Findings

1. 760 CMR 56.07(4)¹ is silent on whether a reduction in parking is substantial or insubstantial. In general, the Metropolitan Area Planning Council² advocates for lower parking ratios to reduce housing costs. On the subject of parking ratios, the Town's c.40B specialist Judith Barrett has routinely cautions the Town against prioritizing parking over affordable housing in comprehensive permit cases. Town Counsel has not provided an opinion.
2. For reference, the peer reviewer recommended a ratio of 0.67 for the proposed bedroom mix and 0.77 with visitor parking included. The Board approved of ratio of 0.62.

¹ <https://www.mass.gov/doc/760-cmr-56-comprehensive-permit-low-or-moderate-income-housing/download>

² <https://perfectfitparking.mapc.org/assets/documents/Final%20Perfect%20Fit%20Report.pdf>

3. The site is in the heart of Coolidge Corner near the MBTA C-line train and within the Transit Parking Overlay District.
4. The Applicant would meet the requirements of Spring Town Meeting 2021 Article 18 (Sec 6.05) by providing 1.1 long-term bike parking spaces per dwelling unit.³
5. In Fall 2021, Town Meeting Fall passed Warrant Article 23⁴, which is still under review by Attorney General (in regard to the fossil-fuel-free language). Article 23 would allow the Board to reduce or eliminate required parking requirements if one or more criteria are met.

The Applicant well exceeds the criteria of Article 23 by offering both 25% affordable units and fossil-fuel free construction.

6. The Town has strict on-street regulations that prohibit parking for longer than two hours. Residents who desire long-term parking will not have the option of parking on public streets as they would in Boston, reducing the impact on the public way. By providing a lower parking ratio for the Project, the applicant restricts the pool of potential tenants who do not prioritize this amenity—a risk to the developer not the town. The lower parking ratio reduces traffic volumes in this congested area, which staff believes further lowers the impact on the surrounding neighborhood.

The demand for visitor parking would conceivably increase; however, the Board granted a waiver from the 10% requirement (an additional three parking spaces) in the 2017 Decision (Waiver O). The subject site is near two public parking lots.

7. Staff considers the increase in intensity of use to be minimal and overall the compensatory changes substantively improve impact on environmental and public health as well as reduce any potential impact on traffic safety. For the reasons above, Staff considers the proposed change of reduced parking to be Insubstantial.
8. If the Board agrees that the change is Insubstantial, Staff would recommend modifying the Decision to incorporate the following waivers and conditions:
 - a. In regard to the Project Change Notice before the ZBA, Town Counsel Jonathan Simpson advises that the Board acknowledge the developer is proceeding at risk. Should Board vote to modify the comp permit, the Board should add a condition that prior to the issuance of the Building Permit, Town Counsel will provide evidence of the outcome of the appeal.
 - b. Waiver N: No fewer than 16 parking spaces and no more than 20 parking spaces
 - c. New Waiver: Spring Town Meeting 2021 Article 18 (Sec 6.05): Because bike storage would be provided as two-tier compact bike parking spaces (100%), staff advises providing a waiver from the 25% maximum allowed compact bike parking. Staff encourages the Applicant to provide 5% Large Bike Parking Spaces to accommodate tandem bike parking and to meet the Bike Parking Design Standards.

³ <https://www.brooklinema.gov/2369/New-By-Laws-Bulletin>

⁴ <https://www.brooklinema.gov/DocumentCenter/View/24265/May-2022-Addendum-to-11-13-2018-By-law?bidId=>

- d. Conditions should memorialize the installation of fossil fuel free, provisions for future rooftop solar, EVSE-installed and EV Ready Spaces C as defined in Spring Town Meeting 2021 Article 17 (Sec. 6.10)⁵.
- e. Conditions should memorialize the bedroom mix and increase in affordable units at 80% AMI.

⁵ <https://www.brooklinema.gov/2369/New-By-Laws-Bulletin>