

From: Don Seltzer
Sent: Monday, September 2, 2024 5:06 PM
To: Claire Ricker
Subject: Re: 1500 Mass Ave plans

Below are comments that I will be providing the ARB in advance of next Monday's hearing.

Best regards,
Don

In November 2020, the ARB approved a plan for 1500 Mass Ave which included five parking spaces. Four were to be standard, full size spaces and one was sized for a compact car. One of the full sized spaces qualified as Accessible, with the appropriate accessible access aisle adjacent.

In the early stages of excavation in the spring of 2021, the developer encountered ledge which made further excavation difficult. Without the knowledge or approval of the ARB, he significantly altered the parking area, reconfiguring all five spaces as compact, and eliminating the Accessible space. This has resulted in serious conflicts with federal, state, and local laws.

The **1988 Fair Housing Act** applies to all new residential construction of buildings of four or more dwelling units. It specifically requires that there be at least one Accessible parking space.

Massachusetts state law on Accessibility, **521 CMR**, dates back to 1996. It applies to all new residential construction of buildings of three or more dwelling units. The developer's architect has claimed before the ARB that 521 CMR parking requirements do not apply to smaller lots. He is mistaken.

The architect is misreading the table in 23.2.1, incorrectly believing that it applies to 1500 Mass Ave. It does not. As stated in the introductory paragraph 23.1, that table is for parking lots for *businesses, auditoriums, sporting or recreational facilities, cultural centers, or general public use where the public has the right of access as invitees or licensees*. It further references 10.3 for the requirements for residential buildings:

"10.3 The number of accessible spaces shall not be limited in number by 521 CMR 23.2.1, but shall be provided in sufficient numbers to meet the needs of the dwelling unit occupants."

At the local level, **Arlington's Zoning Bylaw** does not allow the all compact car parking requested by the applicant. It specifically grants the ARB the authority to allow no more than 20% of the spaces to be compact, with 80% being full-sized.

Additionally, the ZBL requires that these parking spaces shall have direct access to an aisle or driveway having a minimum width of 24 feet for entering, exiting, and turning around.

The latest parking proposal provides only 17' 10" for this driveway access for standard parking (18' spaces), and 19'10" for compact parking (16' spaces).

The original parking plan approved by the Board in 2020 could have been adapted by a reduction to four standard spaces, one per apartment.

The unapproved parking alterations made early in 2021, before any foundation work had begun, were a dreadful mistake. They leave no reasonable pathway to compliance with federal, state, and local laws.