



**CITY OF CAMBRIDGE, MASSACHUSETTS  
PLANNING BOARD**

**CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139**

**NOTICE OF DECISION**

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CAMBRIDGE MA.

Case No.: PB #102  
Premises: 52 Mount Auburn Street  
Zoning District: Residence C-1 and Residence C-3/Harvard Square Overlay District  
Owner: President and Fellows of Harvard College  
c/o Harvard Real Estate, Inc.  
1350 Massachusetts Avenue, Cambridge, 02138  
Attention: Scott Levitan  
Application Date: February 26, 1993  
Date of Public Hearing: April 20, 1993  
Petition: Exemption from Parking and Loading Requirements, Section 6.36,  
Harvard Square Overlay District in accordance with Section 11.54.4.

Date of Planning Board Decision: June 1, 1993

Date of filing the Decision: July 1, 1993

Decision (summary): NOT GRANTED.

Appeals, if any, shall be made pursuant to Section 17 of Massachusetts General Laws Chapter 40A, and shall be filed within twenty (20) days after the date of filing of the above referenced decision with the City Clerk.

Copies of the complete decision and final plans, if applicable, are on file with the office of Community Development and the City Clerk.

*Elizabeth Malenfant*  
Authorized Representative to the Planning Board

July 1, 1993

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#### Application

#### Documents Submitted

1. Special Permit Application submitted on February 26, 1993.
2. Board of Zoning Appeal Decision #6363.
3. Site Plan, dated August 17, 1992, drawing no. C.1, Moshe Safdie and Associates, Inc., and Topographic Plan dated 2/15/90, R. E. Cameron & Assoc., Inc., scale 1" = 10'

#### Other Documents Submitted

1. Final Report of the Harvard Square Advisory Committee, dated March 31, 1993.
2. Copy of Letter to the Board of Zoning Appeal Chairman, John Miller, from Russell B. Higley, City Solicitor, dated March 3, 1993 regarding the Fogg Art Museum Extension Parking Requirements.
3. Memo to the Planning Board from Liza Malenfant detailing the in lieu payment requirement based on the "Omni Travel" decision formula.

## Public Hearing

On April 20, 1993, Scott Levitan, Harvard Real Estate, Inc., presented the application to make an in lieu payment for the required parking on the site. He indicated that to secure the building permit the required parking was provided on Mill Street as it was presented to the Board of Zoning Appeal at the time of the hearings on the request for variances. The application is currently being made as a result of an out of court settlement between Harvard and appellants to the issuance of the variances.

The report of the Harvard Square Advisory Committee was discussed; Hugh Russell noted that the most significant point of the report was the Committee's view that it was not competent to discuss the appropriate amount of the in lieu money payment.

The requirements of Section 11.54.4 were reviewed; the issue of the cost of structured parking versus open lot surface parking as proposed in the application was discussed. The applicant maintained that since the 17 parking spaces were to be provided on Mill Street to legally meet the parking requirement, and as it is essentially an open lot (the street is owned by Harvard), therefore the construction cost of new spaces should be based on the costs associated with an open lot and not structured parking.

The applicant's proposed payment was compared to costs established in the recent case Omni Travel on Bow Street, which used \$13,000/space to calculate the contribution to the Harvard Square Improvement Fund.

There was discussion regarding the Board of Zoning Appeal granting of a variance for floor area and setbacks, with the clear assumption that legal parking is furnished; members questioned whether it would be appropriate to then modify the circumstances upon which the BZA made its determination.

It was the consensus of the Board that the Harvard Square Overlay District required the money payment to be based on the cost of structured parking. It was suggested that a decked parking structure be used to calculate the cost of structured parking as it would provide a payment closer to that proposed by Harvard. The Board was concerned that the payment, based on the "Omni Travel" model would be unreasonably high, and would be paid by a non profit group struggling to pay for the building itself. Nevertheless, the Board finds it important that everyone be subject to the same rules.

There were no questions, statements in favor, or statements in opposition from the Public.

## Findings

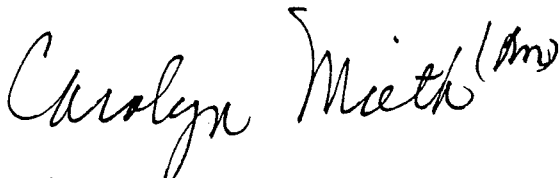
1. The project, for which a waiver of parking is now requested, was reviewed by the Board of Zoning Appeal and the requested variances were granted, with the implicit understanding at all times that parking legally meeting the requirements of the Ordinance was provided. The Board finds it inappropriate to modify, after the fact, the conditions of a project for which the Board of Zoning Appeal granted a permit, with no foreknowledge that modifications of the details of that proposal would subsequently be sought from another board.

2. The Board finds that Section 11.54.4 requires that the amount of the cash contribution be determined based upon the cost of construction of structured parking in the Harvard Square area. In Special Permit #96, the "Omni Travel" case, the Board adopted a formula by which that cost can be determined, with the intention that the formula be applied in all cases seeking relief under Section 11.54.4. In this specific instance the application of the formula results in a payment four times greater than proposed by the applicant. The Board finds the greater amount excessive in this circumstance: (1) it must be paid by the Hillel organization, not Harvard University, a nonprofit entity which would have to raise such funds by contributions from members and friends, (2) Harvard University, perhaps unique among Harvard Square property owners, has the ability to actually provide required parking in surface lots, (3) the Hillel organization does not have a practical need for the parking spaces required by the zoning ordinance, and (4) the waiver of the parking requirement or the failure to do so will have no material physical consequence as the required parking can be and is now provided.

## Decision

Based on a review of the application documents, testimony at the public hearing, comments from the staff, knowledge generally available to the members of the Board, and based on the above findings, the Planning Board votes to **DENY** the application for the above referenced Special Permit. Voting to deny the permit were V. Mathias, H. Salemme, A. Cohn, H. Russell, C. Mieth and A. Callaghan.

For the Planning Board,

A handwritten signature in cursive script that reads "Carolyn Mieth" with a small mark to the right.

Carolyn Mieth, Vice Chair