

ARTICLE 14

ARTICLE 14

Submitted by: C. Scott Ananian, TMM 10, (correspondent) Jesse Gray, TMM 10

To see if the Town will amend Section 6.04 of the Zoning By-law (“Design of All Off-Street Parking Facilities”) by amending paragraph 11, as follows (new language appearing in bold/italics, deleted language appearing in strikeout):

11. Parking lots for six vehicles or fewer shall conform to the regulations of this section, with the exception of paragraphs 2., 3., 4., (subparagraphs a. and b.), ~~and 7.~~, **and 15.**

And adding a new paragraph 15, to read:

§6.04.15 – ELECTRIC VEHICLES

15. At least 15% of parking spaces, and not less than a single parking space, must be EV READY, as defined in Section C405.10 of 780 CMR 13, the Massachusetts Building Code. If a charger is provided, users may be charged a reasonable fee for time the equipment is in use and/or electricity consumed. The count of EV READY spaces may include spaces designated for visitors or tradespeople, and need not be reserved for the use of Electric Vehicles. Changes in the requirements of this section, consistent with the intent of encouraging electric vehicle adoption, may be approved by the Board of Appeals for an individual building by special permit.

or act on anything relative thereto.

PETITIONER’S ARTICLE DESCRIPTION

Section 1.00 of Brookline’s Zoning By-law declares its purpose to be “promotion of the public health, safety, convenience, and welfare” by, among other things, “assisting in the economical provision of transportation [...] and other public facilities”. Climate change is a public health crisis. Our sustainability goal for the Town of Brookline is to increase transport efficiency and electrify all motorized transportation. This warrant article advances the latter goal by ensuring that our public transportation facilities are compatible with the electrified-transport future; it complements and does not conflict with other Town efforts to reduce the number of cars necessary and reduce the amount of land surface required to store them: it just helps ensure that whatever parking is provided in town is consistent with the electrification goal.

This article does not increase the amount of parking required or permitted, and it does not mandate that an EV READY parking space be reserved for electric vehicle use. The EV READY parking space simply has the infrastructure required for charging.

A zoning amendment very similar to the present one was introduced in Fall 2016. At the time, no definition of an EV READY parking space appeared in the Massachusetts building code, and a concern was raised that the necessary definitions and wiring requirements in the Fall 2016 article veered too closely to “methods and materials of construction”, which by state law only the building code (and not zoning regulations) can regulate. In March 2019 the state Board of Building Regulations and Services approved amendments to the state building code that define “EV READY parking space”, clearing the way for a reintroduction of this article.

The Fall 2016 article was referred to a committee, who reported back to Town Meeting in Spring 2017. Recommendation #2 of the 2017 Report to Annual Town Meeting of the Electric Vehicle Charging Station Sub-Committee of the Select Board’s Climate Action Committee (April 20, 2017) was to:

2) Amend Zoning By-Law utilizing one of several possible alternative approaches, (See Section 8 for a more detailed discussion of a variety of regulatory approaches). One such approach would be to amend Article 6 – relating to off-street parking facilities, to require or encourage EVSE installation or EVSE-ready wiring for projects of a certain threshold size. Action: Fall 2017 Warrant Article.

<https://www.brooklinema.gov/DocumentCenter/View/18795/Report-to-Annual-Town-Meeting-2017-v4>

Although the full subcommittee report discusses other possible forms for a zoning by-law amendment, the introduction of a State EV READY definition cleared the obstacles from implementing what that report labeled “Path 1”.

It is worth noting that EV charging infrastructure is especially needed in the transition to fully-electric vehicles, when plug-in hybrids are expected to be the most common and cost-effective zero-emission option for many owners. Plug-in hybrid electric vehicles typically have very small batteries, and are only “zero emission” if that battery is kept charged! Once you drive past the limited range of the battery, a plug-in hybrid is just a plain polluting greenhouse-gas-emitting internal combustion engine car. So widespread charging infrastructure is even more important for plug-in hybrids, which might need to be topped off after every trip to keep them driving clean, than it is for a modern long-range fully battery-electric vehicle, which might need to be charged only once a week.

This by-law exempts parking lots with 6 or fewer spaces to mitigate impact on small residential homeowners. In our existing zoning, parking is allowed by principal use #22 (“Residential parking garage or parking area, whether as the sole use of a lot or as a secondary use, solely for the storage of cars of residents of other lots located within 1,400 feet.”), but this existing zoning use only allows business L, G, O, and industrial I zones to park more than 5 cars by right. Residential T, F, and M zones already require a special permit to have more than 5 cars, and S and SC currently require a variance to do so. Lots with 7 or more spaces are not typical in our Town.

Further, there are robust grandfather clauses to ensure the zoning change in this article does not unduly affect existing buildings. State law (MGL Ch 40A sec 6) provides that

“a zoning ordinance or by-law shall not apply to structures or uses lawfully in existence or lawfully begun [...] but shall apply to any change or substantial extension of such use [...] except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure.” The key phrase is "increase the nonconforming nature of said structure"; doing unrelated renovation work (adding a mudroom, for example) does not increase the “nonconforming nature” of its parking spaces. In addition, our local Brookline zoning bylaw states in 6.01 (1): "Structure and land uses in existence or for which building permits have been issued at the date of adoption of this By-law shall not be subject to the requirements of this Article so long as the kind or extent of use is not changed, provided that any parking facilities now serving such structures or uses shall not in the future be reduced below such requirements." Repaving an existing parking lot or adding drainage, for example, doesn't change “kind or extent of use”, and so would not trigger the new EV READY requirements added by this warrant article. For any remaining unusual cases which might slip through the cracks, this warrant article allows the Zoning Board of Appeals to issue a special permit as a final loophole.

Given all these exceptions, the 15% EV READY requirement in this article is probably too low to meet our state and town electrification goals. As part of the Multi-State ZEV Task Force (zevstates.us) Massachusetts has committed to putting 300,000 ZEVs on the road by 2025. In 2016, we had 2.3 million vehicles registered in Massachusetts. Simple math indicates that 13% of our statewide fleet will need to be electric in the next six years to meet the state goal. Our Brookline goal, as proposed in another article in the warrant for this Town Meeting, is for 30% of our Town vehicles to be electric by 2030. Given the slow rate of new building construction in town, the number of electric vehicles in town will quickly outpace the EV READY spaces provided for by this article. I hope that we will increase our EV READY guidelines for major impact projects substantially (currently 2% EV READY + “capacity” for an additional 15%), and take further efforts to incentivize the creation of both public and private chargers for “garage orphans” in this town. This warrant article is but a modest first step.

SELECT BOARD'S RECOMMENDATION

ADVISORY COMMITTEE'S RECOMMENDATION