

## Karen Edwards

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**From:** James Bubar <james@bubar.org>  
**Sent:** Thursday, November 14, 2019 10:56 AM  
**To:** Rick Taintor  
**Subject:** Colonial Durham Associates Site Plan  
**Attachments:** CDA Site Plan Select Criteria.docx

Rick,

Please feel free to distribute this to the Planning Board members and any other relevant parties.

Last evening, I repeated my comments from a year ago, namely that they (CDA) continue to present plans with parking in the WCOD. The response from the Tighe & Bond representative was that those were existing parking spots, implying they are "grandfathered" or otherwise not subject to review. I maintain that couldn't be further from the facts of our ordinances and Site Plan Regulations, adopted by the Planning Board on 9 September 2015 and under which this site plan is to be reviewed. Namely:

### Part III. Development Standards

#### Section 1.1.4

Legally established nonconforming site conditions are considered "grandfathered" until such time as site plan review is required due to proposed changes to a property . . .

As part of any site plan review, the Planning Board may require that:

- (a) Nonconforming site conditions be brought into compliance . . .

#### Section 1.2.1

The site plan shall conform to all applicable ordinances, regulations, standards and statutes of the Town of Durham . . .

The scope and scale of the proposed site plan dwarfs what will remain of the existing site and that this application warrants review as a "new" site plan. Section 1.1.4 (above) stipulates that "... the Planning Board **may require. . . nonconforming site conditions be brought into compliance**"

Given the scale of the plans I was unable to ascertain with any degree of certainty just how many parking spots infringed upon the WCOD but my uneducated eye, counted 42 parking spots. My desire to protect our waterways suggests this number should be, more correctly, zero (0) going forward. Refer to 175-61 Conditional Uses in the WCOD A. 1. "... not including any parking areas other than those serving single-family uses . . ."

I would urge the Planning Board and yourself to view any subsequent Site Plans submitted with a critical eye looking for full compliance with the 9 September 2015 Site Plan Regulations and communicate that to Colonial Durham Associates as well as Tighe & Bond. I have attached a very brief and preliminary review that I did this morning which highlights a number of areas that I suspect the site plans that we have been presented are deficient and warrant a more thorough review once we actually have a site plan to review.

If the full Planning Board decides that Section 1.1.4 should be read as 'the Planning Board may require *or may not require*', which I would agree with, then we should have that discussion up front for the benefit our own time spent in reviewing, the applicants time in design compliance, and the general public's understanding of how this Board intends to proceed with this application. Absent that discussion I will soldier on with the understanding that we require full compliance.

I fail to see how, at a minimum, I would agree to allow commercial parking in the WCOD; I will leave it to you to determine if we need legal counsel to tell me to shut up and sit down, absent that I will continue to rant against allowing that.

James A Bubar

# Colonial Durham Associates

## Site Plan Review

Refer to Site Plan Regulations adopted by the Planning Board September 9, 2015

### Part III. Development Standards

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### Section 5.8 Parking Lots

#### 5.8.1

The requirements of this subsection, do not apply to parking areas situated to the rear of the main building, or beyond the line running even with the rear wall of the building. . .

#### 5.8.2

All off-street parking areas shall be screened from the public right-of-way . . .

#### 5.8.4

Trees should be distributed throughout the parking lot . . .

#### 5.8.5

A landscaping peninsula shall be placed at the end of each parking row . . .

#### 5.8.6

There shall be no more than four continuous parallel parking rows on the interior of the parking lot . . . without installation of a landscaped median separating those parking rows from any additional parking rows . . .

#### 5.8.10

A minimum of five percent (5%) of the total parking and driveway area, in addition to a buffer strip of a least ten feet in width abutting a public right-of-way, shall

## Section 5.9 Screening

### 5.9.1

Where nonresidential uses and/or off-street parking facilities abut a vacant lot in a residential zone or an existing residential use, the perimeter shall be screened to provide physical and visual separation from the residential zone or use.

### 5.9.4

All sites shall incorporate screening measures to prevent the headlights of vehicles from shining on adjoining residential areas.

## Section 9.1 Hours of Operation

### 9.1

The Planning Board may restrict hours of operation for businesses and other organizations as appropriate, such as for businesses that are located in close proximity to residences and that generate significant activity.

## Section 10.1 Required Parking

### 10.1

Parking shall be required as follows and shall be rounded up to the nearest whole number: . . .