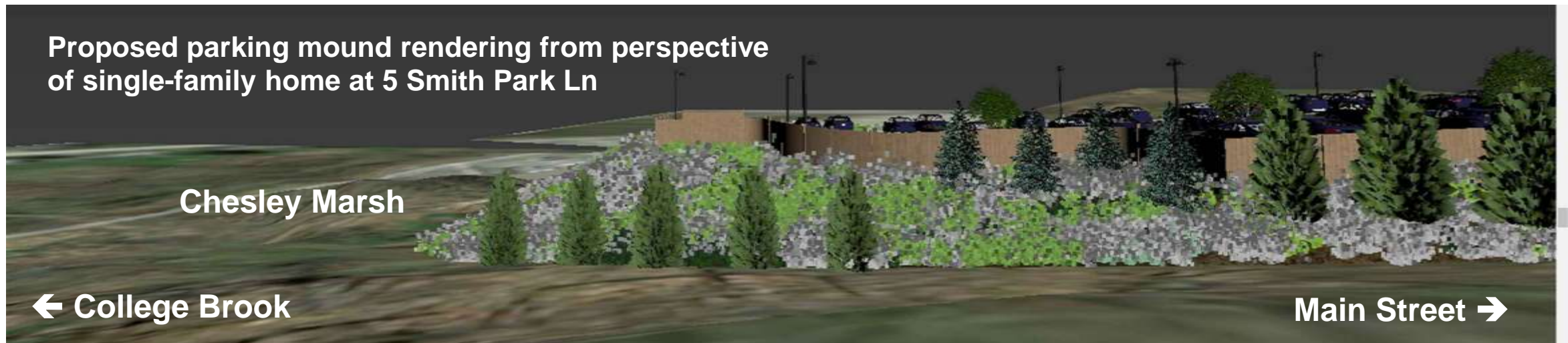


# A “Non-Permitted” Use: Toomerfs want Toomuch for Church Hill Woods

Party-in-Interest Comment at Durham Planning Board  
June 8, 2022, 10:16:47 pm ([video](#))

Joshua Meyrowitz, 7 Chesley Drive, Durham, NH  
[Prof.Joshua.Meyrowitz@gmail.com](mailto:Prof.Joshua.Meyrowitz@gmail.com)



**Church Hill Woods is a significant buffer from sound, light, heat, & stormwater for Urso, Andersen, Meyrowitz households & adjoining Faculty Neighborhood**



# Toomerfs implausibly show the “existing” and “proposed” views from Chesley Drive as essentially the same

EXHIBIT B: Chesley Drive, Existing

Prepared by: Tangram 3DS Date issued: 2022-06-02

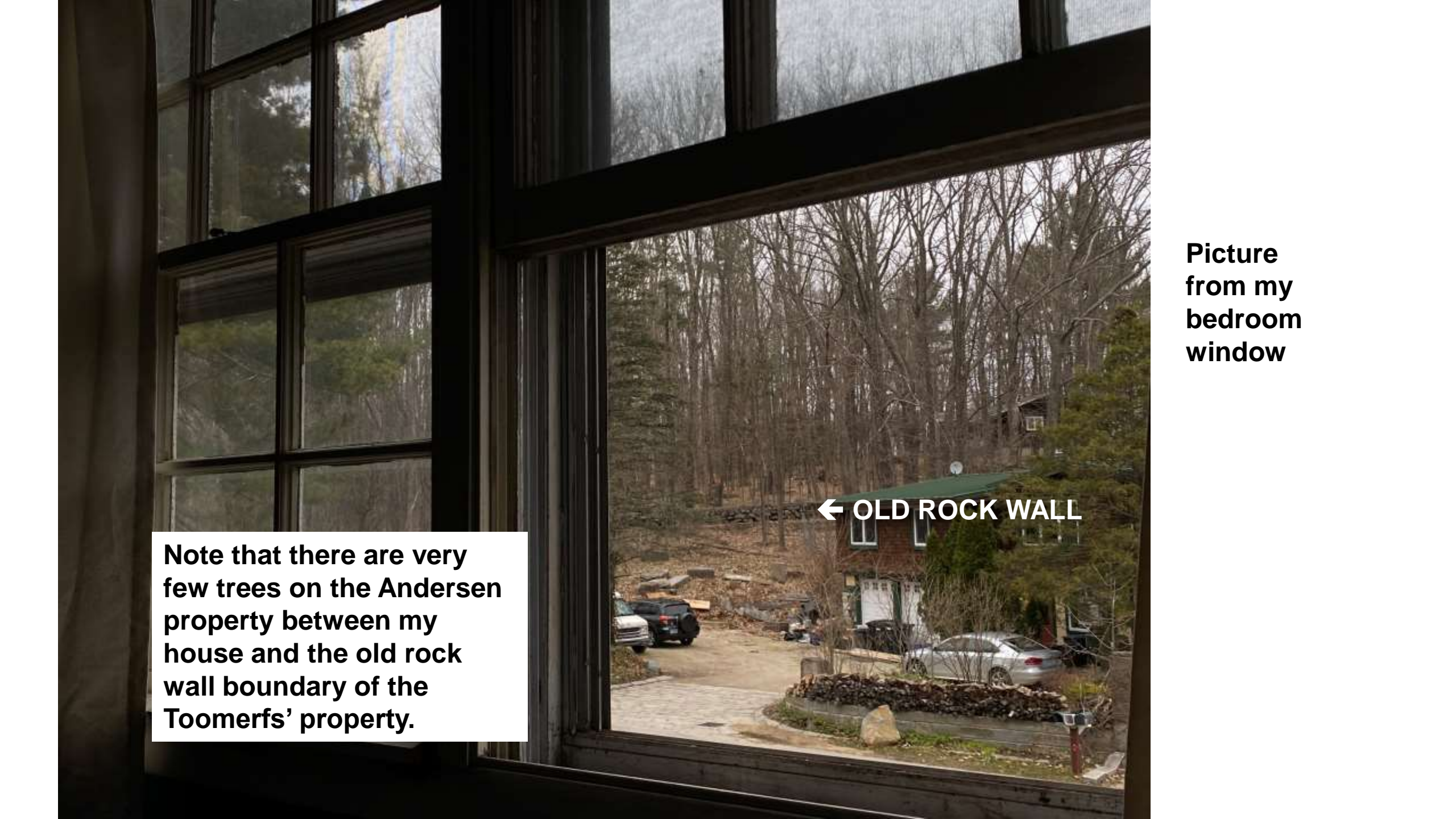


EXHIBIT C: Chesley Drive, Proposed

Prepared by: Tangram 3DS Date issued: 2022-06-02



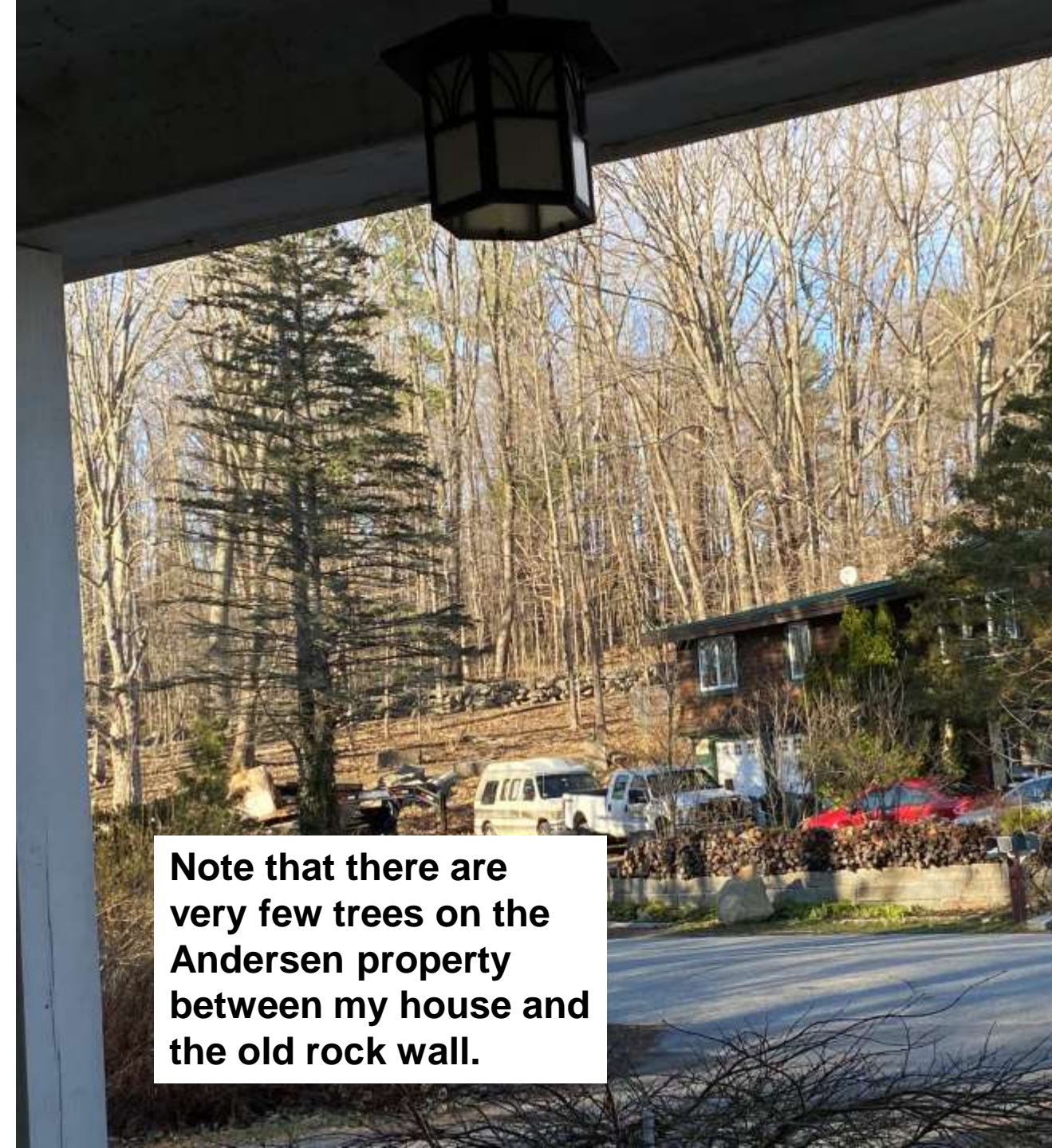
[Additional Information and Color Renderings 6-2-22](#)

A large window with a dark frame looks out onto a wooded property. In the foreground, a paved driveway leads to a two-story house with a green roof and a white garage. A silver car is parked in the driveway. A dark SUV is parked further down the driveway. A low, rustic stone wall runs across the middle ground, separating the driveway from a wooded area. The trees are mostly bare, suggesting a late autumn or winter setting. The sky is overcast.

**Note that there are very few trees on the Andersen property between my house and the old rock wall boundary of the Toomerfs' property.**

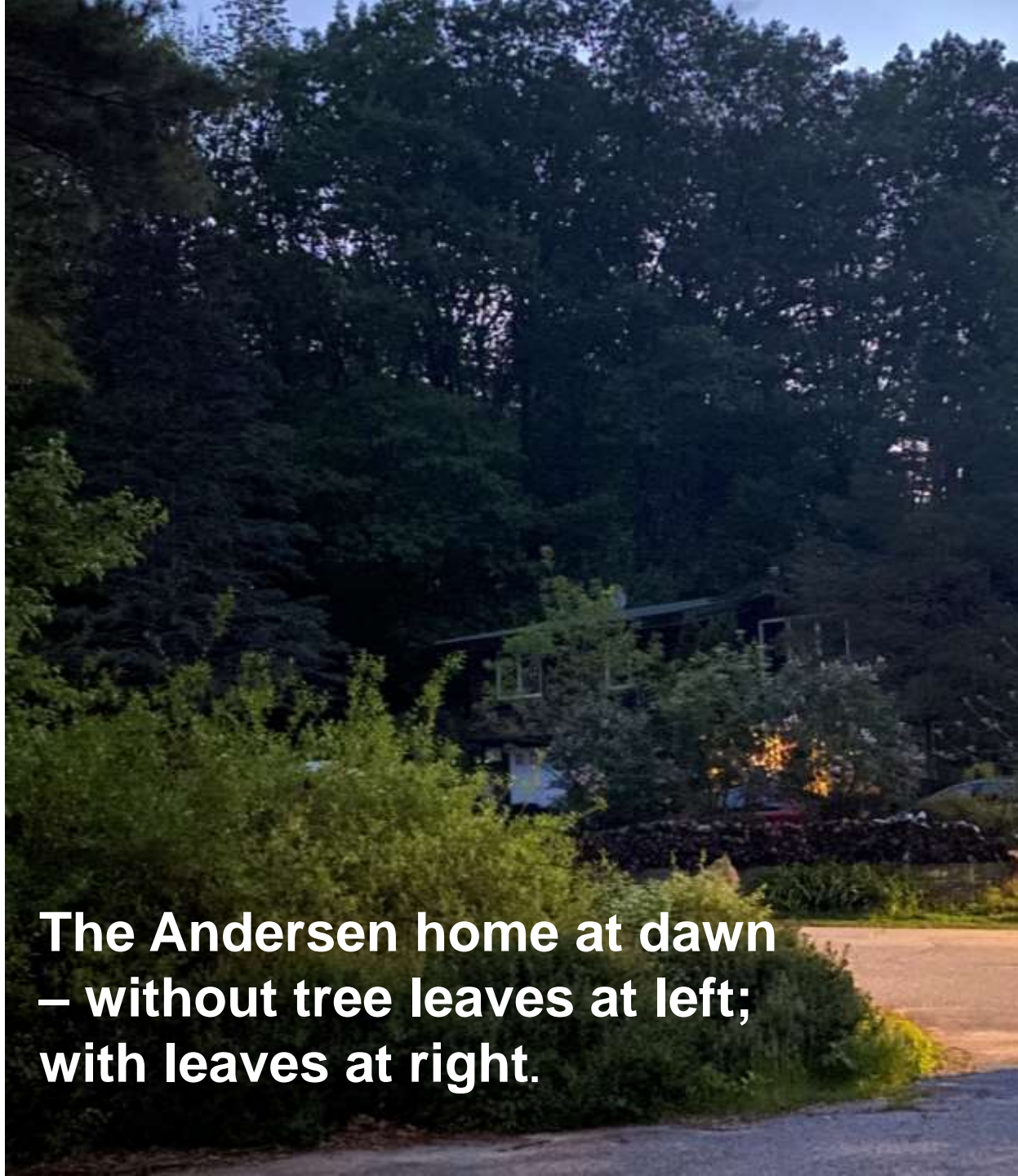
**← OLD ROCK WALL**

**Picture from my bedroom window**



**Note that there are very few trees on the Andersen property between my house and the old rock wall.**





**The Andersen home at dawn  
– without tree leaves at left;  
with leaves at right.**

# Toomerfs implausibly show the “existing” and “proposed” views from Chesley Drive as essentially the same

EXHIBIT B: Chesley Drive, Existing

Prepared by: Tangram 3DS Date issued: 2022-06-02



EXHIBIT C: Chesley Drive, Proposed

Prepared by: Tangram 3DS Date issued: 2022-06-02



[Additional Information and Color Renderings 6-2-22](#)

**Resident Janice Aviza's label for the Toomerfs' parking fortress  
– "Durham's Masada" – seems to be supported by this June 2022 rendering**



[Masada](#)

**Exhibit G: Urso Residence, Proposed moonscape, 2022-06-02**  
[Additional Information and Color Renderings 6-2-22](#)



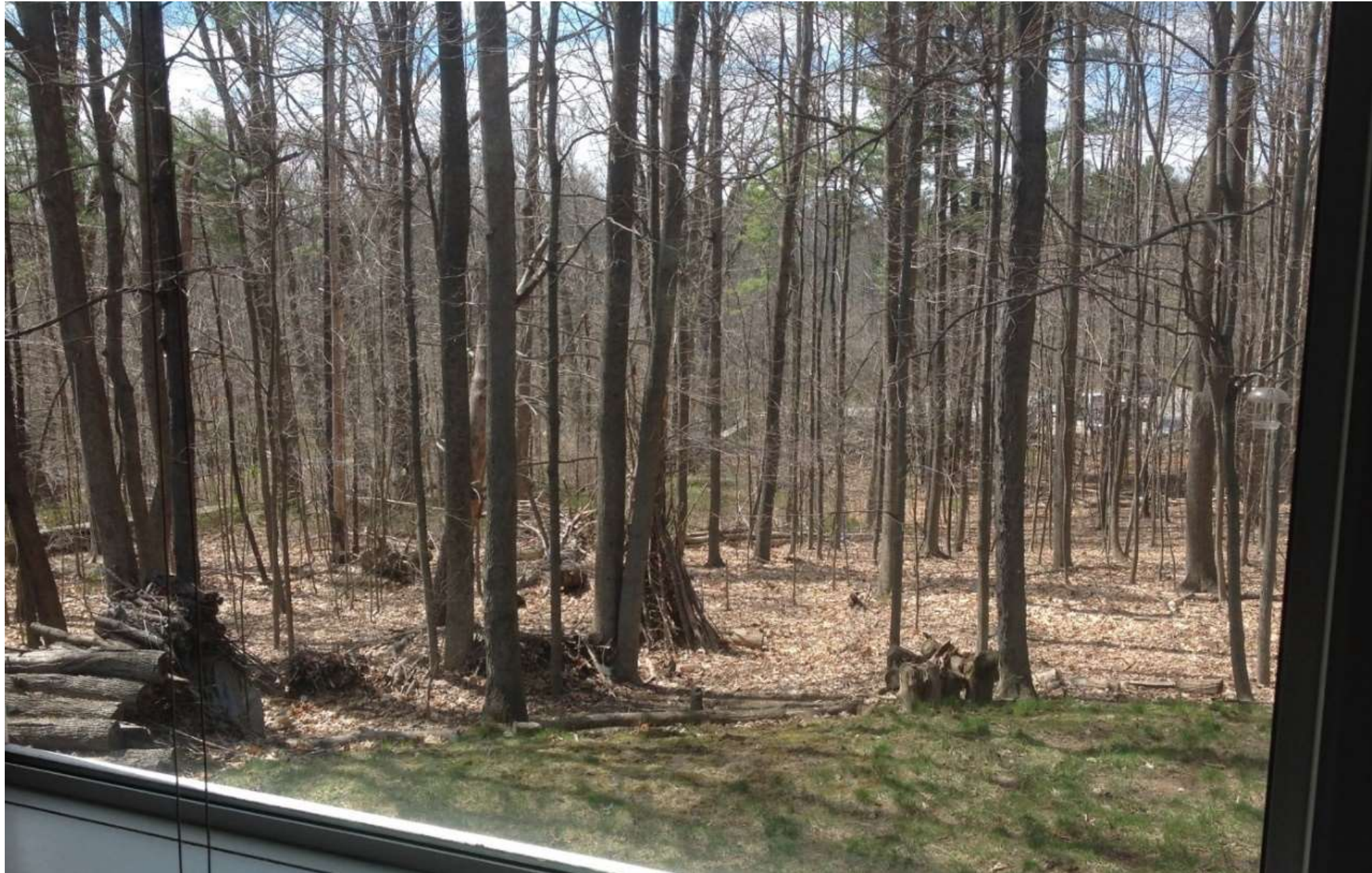
## EXHIBIT F: Urso Residence, Proposed

Prepared by: Tangram 3DS

Date issued: 2022-06-02



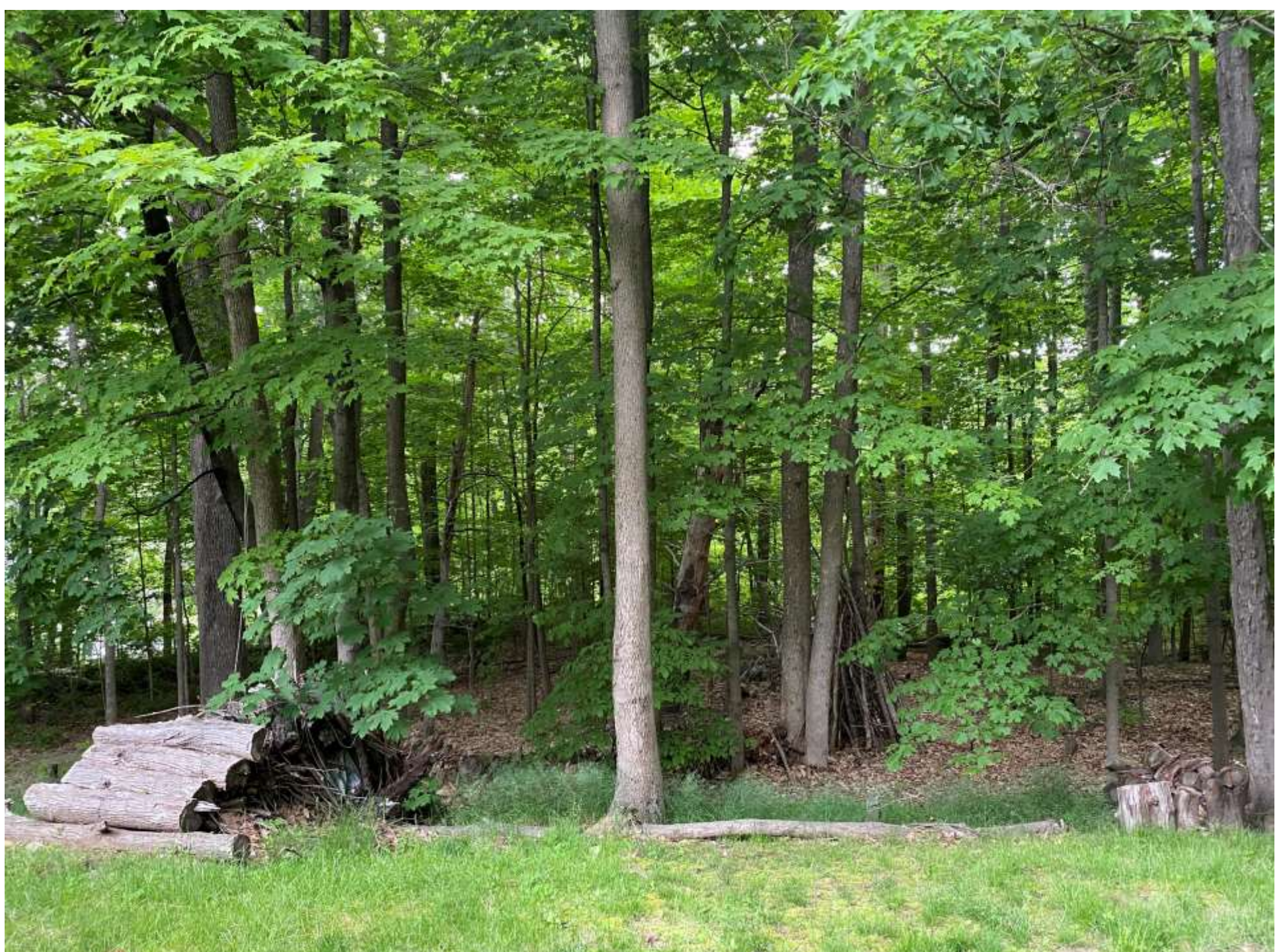
**Magically, the proposed fortress-like massive structure is claimed to be almost invisible from the Urso property backyard.**



**Yet, the  
*more distant*  
Mill Plaza &  
downtown  
buildings  
are visible  
from the  
Urso home.**

**(These pics  
accessible  
to Toomerfs)**

**Mill Plaza &  
downtown  
buildings  
are visible  
in the  
distance  
from the  
Urso home  
*in all  
seasons.***



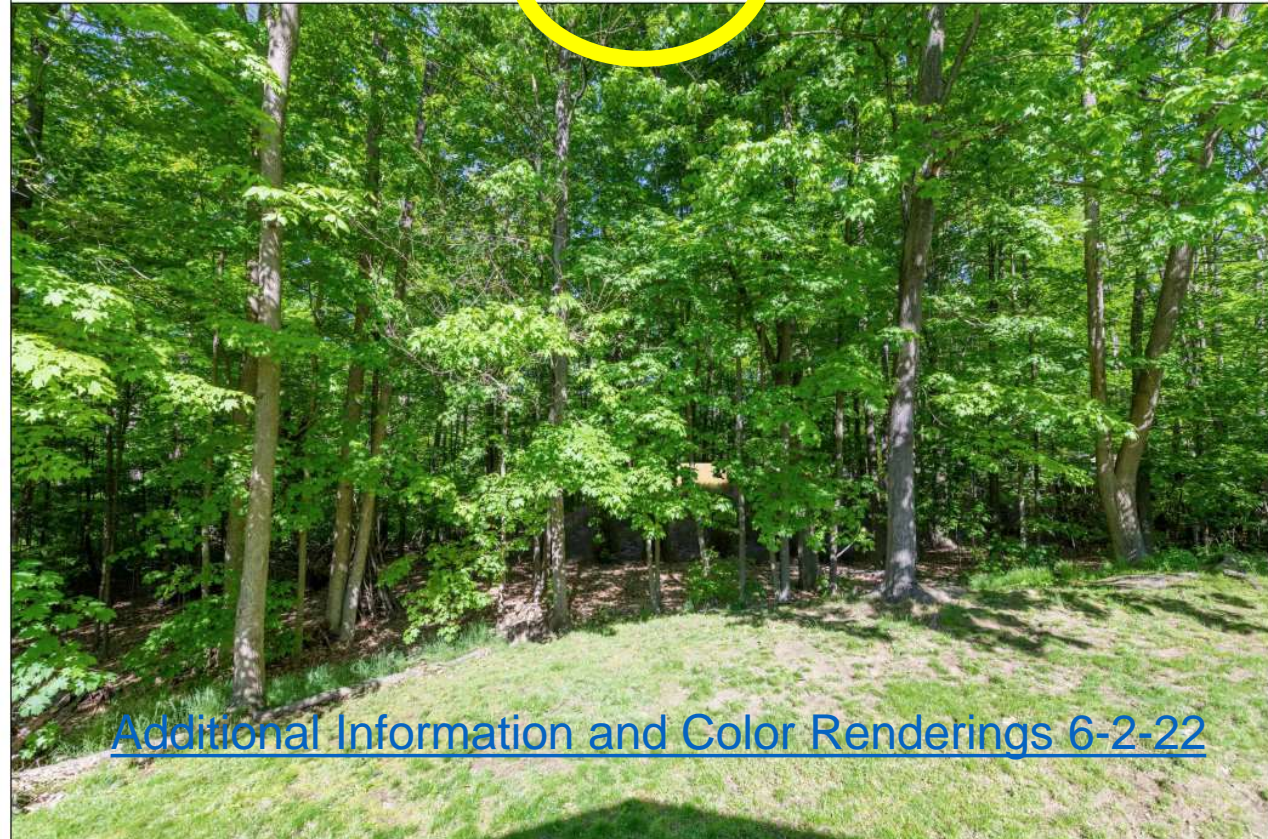


Since more-distant Mill Plaza & downtown buildings are visible in the distance from the Urso home *in all seasons*, how could a massive parking fortress (as in earlier slide) essentially disappear, per Toomerfs' June 2022 "Proposed" image below?

EXHIBIT F: Urso Residence, Proposed

Prepared by: Tangram 3DS

Date issued: 2022-06-02



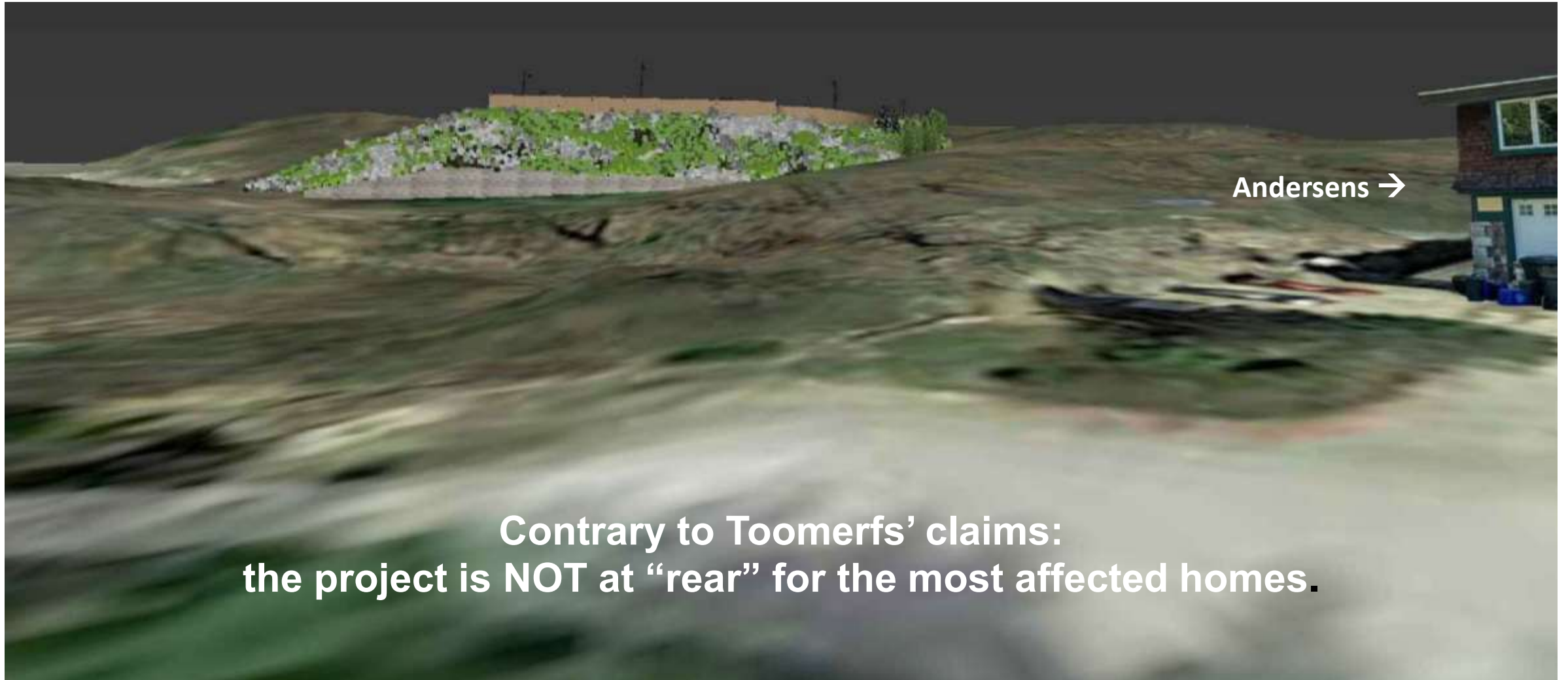
[Additional Information and Color Renderings 6-2-22](#)





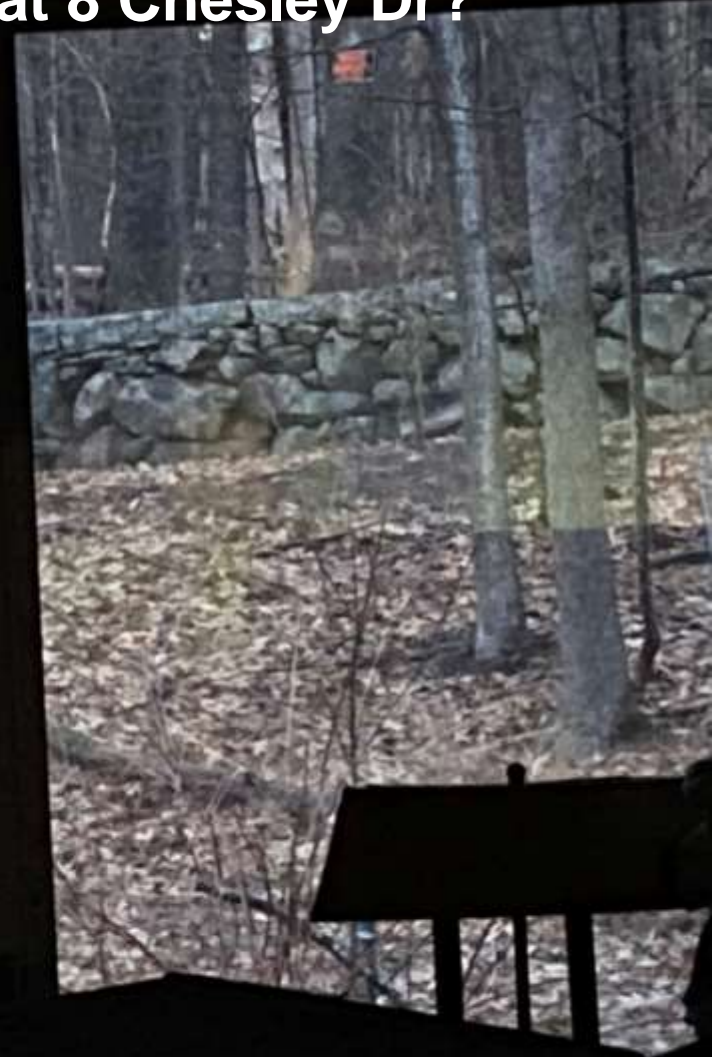
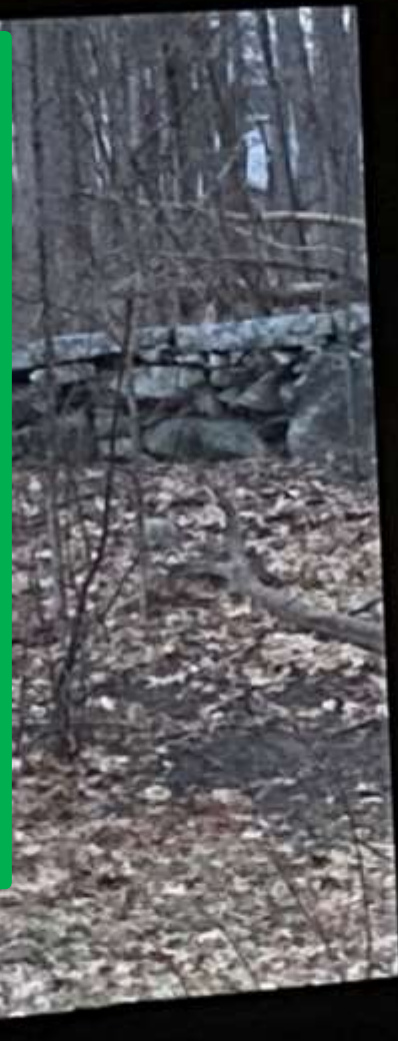
The *taller* part of the second Mill Plaza building is only 17.3-feet high (and we're talking about a structure that is much closer to the Urso home and 20 feet high)

**Exhibit D: Chesley Drive, Proposed moonscape, 2022-06-02**



[Additional Information and Color Renderings 6-2-22](#)

**Why have we waited for months for accurate renderings  
from abutting Andersen home at 8 Chesley Dr?**



**Contrary to Toomerfs' claims: the project is NOT at "rear"  
for the most affected homes**

# Church Hill Woods

When we will finally **see** the **close-up** details of the edifice that is being proposed for this site?







When will Toomerfs show close-up images of what they propose?

In the meantime, would not the view at left more accurately show what the Andersens would see from their windows than anything Toomerfs have yet provided?



## The PB must confront Toomerfs' admission of NON-PERMITTED USE

Toomerfs' proposals are not – by current Zoning definitions – “at-grade” parking

On April 15, 2021, Toomerfs' Timothy Murphy suggested a zoning revision that would (*if it had been made*) help the Toomerfs override the negative [April 13 ZBA decision](#). (Details [here](#).)

**From:** Timothy Murphy [<mailto:timpatmurphy@yahoo.com>]

**Sent:** Thursday, April 15, 2021 4:34 PM

**To:** Michael Behrendt

**Subject:** Re: Planning Board recap and preliminary agendas \*\*\*

Email acquired via RTK  
request; typos original

“At grad” needs some work too--for example, our proposal is “at grade” from the front, but not the back, and any lot with a retaining wall around any of it’s border potentially could be called not at grade.

**Admitted! None of Toomerfs' parking plans is permitted in the Church Hill District. Only “at-grade” Surface Parking is allowed for principal-use lots (and only by Conditional Use).**

# Toomerfs' 2022 Plan

**deviates even further from “at-grade Surface Parking”**

Toomerfs' 2022 [site-plan](#) is significantly different from the one “accepted” by the Planning Board as “Surface Parking” on May 12, 2021 (via 3 seconds of silence at a hybrid meeting).

The current plan is an even poorer match to “Surface Parking” than the one that led to the ZBA appeal and still-pending Superior Court appeal.

*There has been NO Planning Board determination of this plan's match to “Surface Parking” as of June 7, 2022.*

# Toomerfs' 2022 Plan

deviates even further from “at-grade Surface Parking”

Toomerfs' 2022 [site-plan](#) is significantly different from the one “accepted” by the Planning Board as “Surface Parking” on May 12, 2021 (via 3 seconds of silence at a hybrid meeting).

**\*\* 2022 – return of retaining wall \*\***

**\*\* 2022 – greatest proposed increase in grade elevation of any Toomerfs plan \*\***

**\*\* 2022 – significant projected increase in amount of fill and truck runs \*\***

# Toomerfs' 2022 Plan

**deviates even further from “at-grade Surface Parking”**

A structure identified as a “retaining wall” was first shown on the [Feb 2022 site plan](#). (Same wall, but with no label had first appeared on the [Sept 2021 plans](#). And we have yet to see closeup details/images on the wall & its interface with the retaining slope.)

The proposed elevation of grade has increased about 20% from 17 feet in the May 2021 plan to about 20 feet (with paving) in the 2022 plan.

The projected amount of fill has increased about 25% from 11,000 cubic yards in the May 2021 plan to 13,702 cubic yards (or 15,925 CY “overall net fill” with pavement and stormwater chambers for 2022 plan), per March 2022 [cover letter](#)).

The projected number of 10-wheeler truck runs has increased significantly (+23% to +34%) from 700 for the May 2021 plan to 938 (Dec 2021 hearing statement) or 857 (March 2022 cover letter).

# After being challenged, Toomerfs scrambled to make their “numbers work”

***March 17, 2022:*** To try to justify repeated “25% less fill” claims, Toomerfs ***increased fill # for Oct 2020 plan from 17,000 to never-before-stated 18,525 CY and lowered the March 2022 fill # from 15,000 CY stated on Dec 15, 2021 to never-before-heard 13,702.***

***Most significantly, they pretended that their scaled-down May 12, 2021 “ZBA-compliant plan” never existed.***

Comparison of cull/fill for currently proposed- and previously proposed development plans

Proj. number: 18-041

Created by: M. Schrader


Date issued: 2022-03-17

Checked by: M. Sievert

Site location: 19-21 Main Street, Durham NH

	2020-10-28 plan	2022-03-17 plan	
Area of pavement	50394 ft2	37533 ft2	
Depth of wearing course	1 in	1 in	
Depth of binding course	2 in	2 in	
Depth of crushed gravel (NHDOT 304.3)	6 in	6 in	
Depth of bank run gravel (NHDOT 304.2)	12 in	12 in	
Volume asphalt	12599 ft3	9384 ft3	
Volume crushed gravel (NHDOT 304.3)	25197 ft3	18767 ft3	
Volum bank run gravel (NHDOT 304.2)	50394 ft3	37533 ft3	
Volume asphalt	467 CY	348 CY	
Volume crushed gravel (NHDOT 304.3)	934 CY	696 CY	
Volum bank run gravel (NHDOT 304.2)	1867 CY	1391 CY	
Soil stripping (assume 6")	1115 CY	1027 CY	
<b>Overall net fill</b>	<b>21392 CY</b>	<b>15925 CY</b>	25.6% reduction
Pavement and select materials	1867 CY	1391 CY	
MC-3500 chambers	1000 CY	279 CY	
MC-3500 chamber stone		553 CY	
<b>Net fill - chambers and pavement mat.</b>	<b>18525 CY</b>	<b>13702 CY</b>	26.0% reduction
*did not remove volume for pipes/drainage structures			
Truck trips required	1158 trucks	857 trucks	
*Assume 16 CY/trip trucks			

**Cover Letter 3-17-22, p. 3**

 Approximate value

# BUT let's bring back "forgotten" Post-ZBA May 2021 Plan *to insert some TRUTHS*

## OCT 2020

Proj. number: 18-041  
 Date issued: 2022-03-17  
 Site location: 19-21 Main Street, Durham NH

Created by: M. Schrader  
 Checked by: M. Sievert

	2020-10-28 plan
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<b>Overall net fill</b>	<b>21392 CY</b>
Pavement and select materials	1867 CY
MC-3500 chambers	1000 CY
MC-3500 chamber stone	
<b>Net fill - chambers and pavement mat.</b>	<b>18525 CY</b>
*did not remove volume for pipes/drainage structures	
Truck trips required	1158 trucks
*Assume 16 CY/trip trucks	

**REJECTED BY ZBA**

## MAY 2021

*11-12 ft grade elevation*

May 2021 Plan

**"NO RETAINING WALL WHATSOEVER"**

**11,000 CY**

**700**

## MARCH 2022

*19-20 ft grade elevation*

2022-03-17 plan

Area of pavement	37533 ft2
Depth of wearing course	1 in
Depth of binding course	2 in
Depth of crushed gravel (NHDOT 304.3)	6 in
Depth of bank run gravel (NHDOT 304.2)	12 in
Volume asphalt	9384 ft3
Volume crushed gravel (NHDOT 304.3)	18767 ft3
Volum bank run gravel (NHDOT 304.2)	37533 ft3
Volume asphalt	348 CY
Volume crushed gravel (NHDOT 304.3)	696 CY
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Soil stripping (assume 6")	1027 CY
<b>Overall net fill</b>	<b>15925 CY</b>
Pavement and select materials	1391 CY
MC-3500 chambers	279 CY
MC-3500 chamber stone	553 CY
<b>Net fill - chambers and pavement mat.</b>	<b>13702 CY</b>
*did not remove volume for pipes/drainage structures	
Truck trips required	857 trucks
*Assume 16 CY/trip trucks	

**70% INCREASE**

**RETAINING WALL STEALTHILY RETURNED**

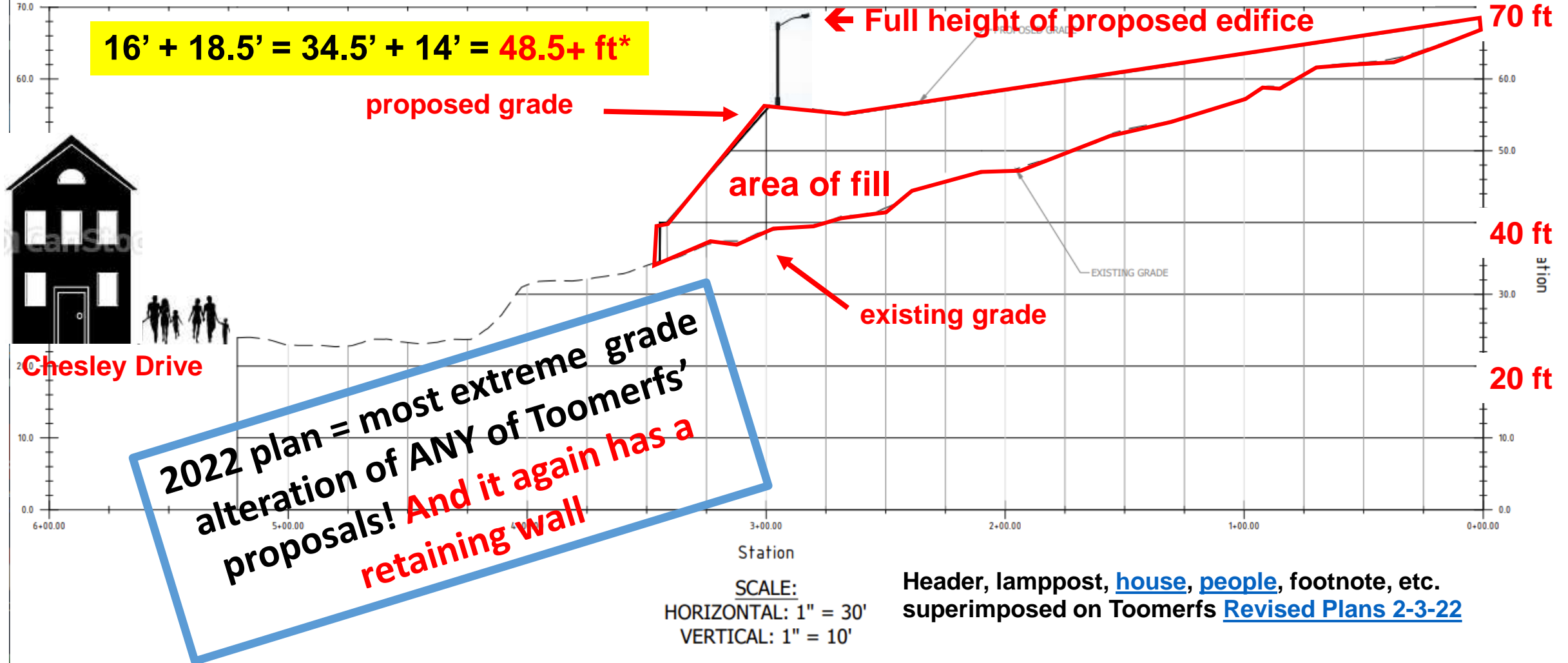
25.6% reduct **X** **25% INCREASE**

26.0% reduct **X** **22% INCREASE**

Approximate value

**After deforesting Church Hill Woods: Up to 18.5 ft of vertical fill + asphalt topping + 14-ft lighting poles would sit atop a hillside whose lowest spot is 16~ ft above Chesley Dr street level**

**Profile View: Overall site to Chesley Dr**



\*Since the retaining wall & retaining slope would start somewhat uphill from the lowest spot, the overall height of the resulting edifice would be somewhat taller.



To: Durham Planning Board / From: Joshua Meyrowitz, 7 Chesley Dr / May 31, 2022  
*It would take 25+ Council Chambers to hold the proposed 13,702 CY of fill (p.3) for Church Hill*



Council Chambers  
= 543.4 Cubic Yards

**“Extensive grading and filling *shall* be avoided.”**

(Site-Plan Regulations [p. 58](#))

15,925 CY “Overall Net Fill” (with pavement & chambers/stone, also elevating the grade) would fill 29.3 Town Council rooms.



**1,012 Cubic Yards**



**The central corridor in the Town Hall Entrance Atrium is approximately 15.5 feet wide by 31 feet long by 19.5 feet high (1,011.6 cubic yards).**

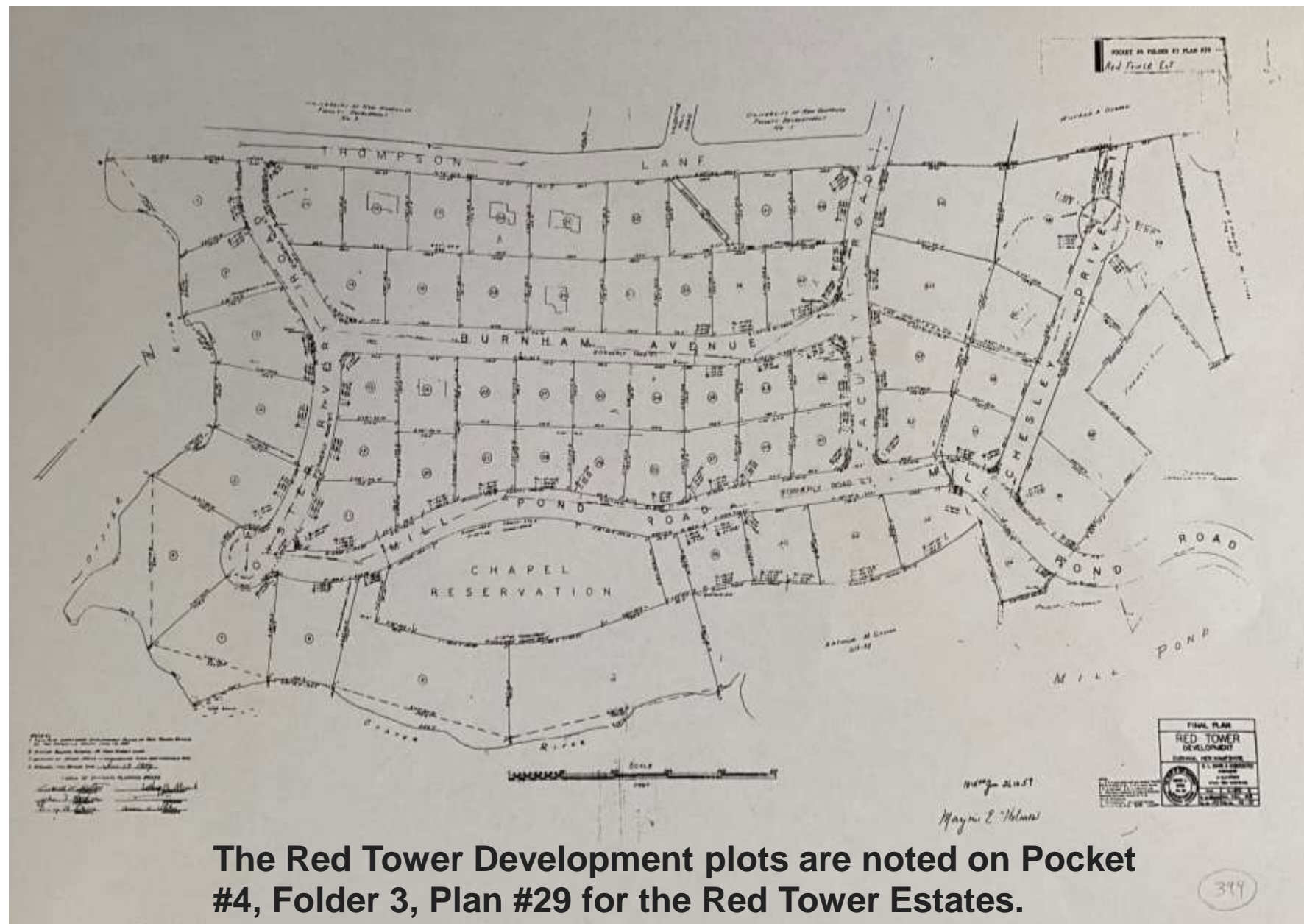
**The proposed 15,925 CY “Overall Net Fill” (with pavement & chambers/stone, also elevating the grade) would **fill the space at left more almost 16 (15.7) times over – at least at the HEIGHT of the Atrium ceiling****

A gravel driveway leads into a wooded area. On the right side of the driveway, there is a green sign on a metal post that reads "PRIVATE LANE RESIDENTS ONLY". The driveway is surrounded by lush green trees and bushes. In the background, a white house is partially visible through the trees.

**Smith Park Lane**

**When I bought my house on Chesley Drive in 1994 – 12 years before the Church Hill District was formed – the previous owner, Dwight Ladd, told me that I and other homes in the **Red Tower Development** owned rights to use Smith Park Lane.**

**Red Tower Development is a key portion of the larger Faculty Neighborhood (Chesley Drive, Mill Pond Rd, Burnham Ave, parts of Oyster River Rd and Faculty Rd, one side of Thomson Lane).**



**The Red Tower Development plots are noted on Pocket #4, Folder 3, Plan #29 for the Red Tower Estates.**

KNOW ALL MEN BY THESE PRESENTS,

That we, Benjamin C. Adams of Derry, County of Rockingham and the State of New Hampshire, and M. James Sproul of Dennis, County of Barnstable and the Commonwealth of Massachusetts, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations to us in hand before the delivery hereof, well and truly paid by the Red Tower Development Corporation, a corporation duly organized under the laws of the State of New Hampshire, its principal place of business in Derry, New Hampshire, the receipt of which is hereby acknowledged, have hereunto set our hands and seals this

IN WITNESS WHEREOF, we have hereunto set our hands and seals this

16<sup>th</sup> day of May, A.D. 1953  
Signed, sealed and delivered in the presence of us:

*Joseph V. Starnick*  
(Witness to all four)

*Benjamin C. Adams*  
*Betty M. Adams*  
*M. James Sproul*  
*Maizie T. Sproul*

**May 16, 1953**

COMMONWEALTH OF MASSACHUSETTS

May 16 A.D. 1953

Personally appeared the above-named M. James Sproul and Maizie T. Sproul, of Barnstable, ss.  
... one ... with radius ... fifty-nine and 05/100 ... South twenty-eight degrees ... and 35/100 (19.35) feet to an ... corner of said land of Gahan; thence running ... fifty-one minutes East (S 61° 51'E) about one ... feet by said land of Gahan to the mill pond on the ... and continuing southwesterly to the center of said River;





KNOW ALL MEN BY THESE PRESENTS,

That we, Benjamin C. Adams of Derry, County of Rockingham and the State of New Hampshire, and H. James Sproul of Dennis, County of Barnstable and the Commonwealth of Massachusetts, for and in consideration of the sum of One Dollar (\$1.00) and other valuable considerations to us in hand before the delivery hereof, well and truly paid by the Red Tower Development Corporation, a corporation duly organized under the laws of the State of New Hampshire, its principal place of business in Derry, County of

... feet to the point of beginning.  
... common with others the roadway  
just North of the Church,  
... described in deed  
Also granting  
... common  
... the above  
Also grant-  
... on said  
... pair the water  
in said Gahan's

“Together with the right to use in common with others the roadway leading from the Main Road in Durham Village just North of the Church [Smith Park Lane].... Also granting unto the grantee, its successors and assigns, the right to use in common with others the passageway or lane from said roadway though the above described property in a Southwesterly direction to the Chapel.”

... on an iron pipe; thence running on a curve to the left with a radius of four-hundred (400) feet a distance of one-hundred-fifty-nine and 05/100 (159.05) feet to an iron pipe; thence running South twenty-eight degrees nine minutes West (S 28° 09' W) nineteen and 35/100 (19.35) feet to an iron pipe at the southwesterly corner of said land of Gahan; thence running South sixty-one degrees fifty-one minutes East (S 61° 51' E) about one-hundred-sixty (160) feet by said land of Gahan to the mill pond on the Oyster River and continuing southwesterly to the center of said River;



# Technical Review Group (TRG) vs. Planning Board (PB) Roles



**TRG – How best to manage a site  
*IF* it is approved by Planning Board**

**PB – *WHETHER* to approve a site  
plan in terms of external impacts**

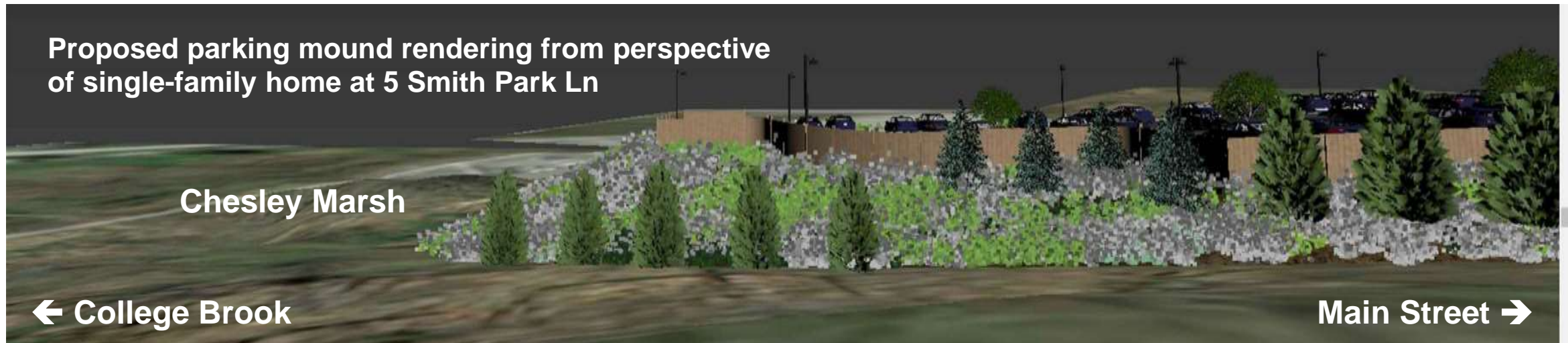
**Ironically, the BEST MANAGEMENT PRACTICES for a proposed site might make its negative impacts so great that it would – and *should* – fail to meet Conditional Use criteria for approval.**

**See, e.g. sequence of FOUR letters emphasizing negative external impact from TRG “safe-site” salt pollution: [Joshua Meyrowitz 6-1-22](#), [Emily Malcolm-White 6-1-22](#), [Eric Lund 6-2-22](#), [Robin Mower 6-3-22](#)**



# A “Non-Permitted” Use: Toomerfs want Toomuch for Church Hill Woods

*Ad-libbed comment at end: I just want to say one other thing, because I have always admired Peter Murphy, and I don't see this a personal animosity between us. I have always found him to be very honest and direct; the “Heroic Renovator of the Grange” we used to call him. And even though I didn't know him that well, he was one of my heroes. I don't dislike Peter Murphy; I dislike this project. And I think it's like the good kid getting into bad behavior. And I hope that we do have a good future together. And, again, I'm happy to work with both “merfs” on something that is “permitted.”*



# A “Non-Permitted” Use: Toomerfs want Toomuch for Church Hill Woods

Party-in-Interest Comment at Durham Planning Board  
June 8, 2022, 10:16:47 pm ([video](#))

Joshua Meyrowitz, 7 Chesley Drive, Durham, NH  
[Prof.Joshua.Meyrowitz@gmail.com](mailto:Prof.Joshua.Meyrowitz@gmail.com)

