

**“Parking should be located behind buildings” ([Church Hill Zoning](#))  
does NOT mean that a parking lot must be at the far back of a property**

**To: Durham Planning Board / From: Joshua Meyrowitz, 7 Chesley Dr / July 6, 2022**

I write to express appreciation for the Planning Board members who correctly noted on June 22, 2022 (in response to other Board members’ statements), that the Zoning Ordinance section about the Church Hill District does NOT require that a parking area has to be pushed up against abutting properties at the rear of a project site.

The sentence in the Zoning Ordinance that caused some disagreements was **“Parking should be located behind buildings.”**

I also ask you to recall the June 8, 2022 comments on that sentence (and on the full Zoning paragraph in which it appears, below) by Attorney Mark Puffer, of PretiFlaherty law firm (starting at 10:31pm, [video](#)). Mr. Puffer was speaking as a legal representative for me, the Ursos, the Andersens, and residents from every street in the adjoining Faculty Neighborhood, as well as residents in other parts of Durham who are concerned about inappropriate development in the downtown core.

***A. Purpose of the Church Hill District***

The purpose of the Church Hill District is to preserve and enhance the historic character of this area by allowing for multiple land uses including professional offices, limited retail uses, and senior housing. The adaptive reuse of existing buildings is encouraged including the use of first floor space for non-residential use while the upper floors are residential. Reuse of existing buildings is bound by the standards of the Historic Overlay District provisions and is required to maintain the historic character of the building’s façade. New development should maintain the character of the area and is subject to the standards of the Historic Overlay District. **Parking should be located behind buildings.** – [Zoning Ordinance](#), p. 72 (emphasis added)

Mr. Puffer noted that the proposed parking lot does NOT in any way match the stated “purpose” of the district: “to preserve and enhance the historic character of this area.” He added that a large commercial parking lot does not “maintain the character of the area” and does not match any of the “allowed uses.” Specifically, Attorney Puffer argued that the sentence “Parking should be located behind buildings” clearly indicates that parking in the Church Hill District was intended to be for “accessory uses,” that is, as *small* parking areas to support the permitted uses of the buildings that the parking would be behind. **Nothing in the Zoning Ordinance, Mr. Puffer noted, indicates support for a large “principal-use” commercial parking lot, with a massive and ugly structure, pushed up against the Faculty Neighborhood, as proposed by Toomerfs.**

I also appreciated those Board members who, on June 22, 2022, argued against the misleading claim by other Board members that a hypothetical alternative by-right form of development for the Toomerfs's property would require that the parking be in the same location as the current proposal places it. (See also [Eric Lund 7-1-22](#) on the special burdens on CU vs. by-right projects.)

That is, two Board members argued accurately that if "professional offices, limited retail uses, and senior housing" or other permitted uses were built there, the parking for those purposes could be *between* the Red Tower and a new structure further to the rear. The point of "behind buildings," they pointed out correctly, would be to make parking less visible, or invisible, from Main Street, not that it had to be pushed further back against abutting properties at the rear of the project site.

The 9:30pm response by one Board member to that between-the-buildings argument was: "But you *can't!* Our Zoning says you can't. Our Zoning says that the parking *has* to go out back." **But that claim is NOT supported by the language of the Zoning for Church Hill, as quoted above.**



*Simulation, in absence of developer image.*

I also appreciated those Board members who commented on June 22 about how "out-of-scale" the proposal was, which added a strong countering context to the claim by another Board member that the abutting homes and adjoining neighborhood would, with Toomerfs' project, merely be looking at a typical "backyard," just as one has to tolerate the back or side yards of neighbors.

Yet, our [Conditional Use Zoning Article](#) clearly says:

**Character of the buildings and structures:** The design of any new buildings or structures and the modification of existing buildings or structures on the site **shall not be incompatible with the established character of the neighborhood. This shall include, but not be limited to, the scale, height, and massing of the building or structure...** (emphasis added)

In terms of both scale and appearance, there is clearly *nothing* in the "established character of the neighborhood" that looks anything like what is being proposed by Toomerfs. And the structure's location, so close to the Chesley Marsh and to the adjoining neighborhood overall, enhances its incompatibility.