

# TOWN OF DURHAM

Planning and Zoning Commission  
P.O. Box 428  
Durham, Connecticut 06422-0428

## MINUTES OF SEPTEMBER 5, 2007, MEETING

### Present

Members: Frank DeFelice, George Eames, Richard Eriksen, Dave Foley,  
Jim Kowolenko, Gene Riotte, Tom Russell  
Town Planner: Geoffrey Colegrove  
Alternate: Mike Geremia

### Absent

Members: Ralph Chase, **Dian O'Neal**  
Alternates: Brian Ameche, Mark Laudano

**The meeting was called to order by George Eames, Chairman, at 7:30 p.m.  
Mike Geremia was seated on the Commission in Dian O'Neal's place.**

### 1. Approval of Agenda

Motion by Dave Foley, seconded by Tom Russell, to approve the agenda of the September 5, 2007, meeting as presented. Motion carried unanimously.

### 2. Public Session

Cindy Tyrseck asked about the status of plantings along the buffer area for the overflow parking lot serving Dolphin Days, Ozick Drive. George Eames indicated that the plan had not yet been completed, even though the gate is in place. Geoffrey Colegrove stated that a bond is being held for the berm plus plantings. The bond being held also covers lighting.

**The applicant's engineer, Frank Magnotta, will be returning before the Commission to discuss the three-foot berm and plantings planned for installation. It is anticipated that this will be an agenda item at the next meeting.**

Trish Dynia, Main Street, stated that at several different meetings over the past few months she had inquired about the status of the possible zone change/use change for the Grange Hall building in the historic district of Main Street. She stated that she had been **previously informed that "there were things going on behind the scenes to see what was being studied so as not to compromise the historic district."** George Eames replied that Geoffrey Colegrove was looking into certain aspects of it.

Geoffrey Colegrove stated that the current owner has submitted an application for an amendment to the Zoning Regulations; the application was received earlier this same day, **too late to be on the evening's agenda. He noted that** no work on the research had been conducted during August.

Bill Smith, 147 Cream Pot Road, followed up with several questions on the same topic. He stated that he had been previously informed at an earlier Commission meeting that the Planning and Zoning Commission was going to solicit information and recommendations from the Economic Development Commission; he asked if that had taken place.

Geoffrey Colegrove indicated that it was the Historic District Commission that was going to be involved; Bill Smith commented that it was his understanding that the **Economic Development Commission's opinion was also being sought. George Eames stated that** there had been a discussion with the chairman of the EDC about a month ago and that it was his impression that correspondence would be forthcoming (not received as of this meeting).

Geoffrey Colegrove stated that while he was not at the last EDC meeting, he believed that the Grange Hall had been a topic of discussion. Diana McCain, a member of the EDC, stated that there was nothing on the agenda at the last meeting regarding the Grange Hall.

Gary Sheldon, another member of the EDC, stated that, in general terms, the Commission had been discussing strategies and Main Street, but that nothing specific had been developed with regard to either the Grange Hall or specific zoning changes.

**Trish Dynia expressed "extreme disappointment and dismay that nothing had happened on this matter" in the ensuing months. She noted that the Historic District had been asked to give an opinion, which they'd been initially reluctant to do, given it does not fall under their purview. However, in order to accommodate the Planning and Zoning Commission, a special meeting had been held with an opinion rendered, as the P&Z Commission had requested, "as soon as possible." She was dismayed that nothing has happened.**

### 3. Zoning Enforcement Officer's Report

Geoffrey Colegrove stated that a letter was sent to Brian Esparo, Bailey Road, via sheriff advising of a cease-and-desist order for operation of a construction yard. There will be a show-cause hearing at the Planning and Zoning Commission meeting of September 19 at 8:00 p.m. Opportunities will be made available to Brian Esparo as well as any interested neighbors to also present information and speak.

Geoffrey Colegrove stated that he had observed equipment on site, including flatbed trailers, a paving box, rollers, sanders, etc. However, at the time of day he had conducted observations, he had not seen people coming and going. He has also seen equipment coming and going from the site, a clear violation of the home occupation permit.

Geoffrey Colegrove stated that all testimony would be accepted at the meeting of September 19. The hearing will be recorded and a transcript made and provided to Attorney Thomas Byrne so that if the Commission decides to take further action (i.e., pursuit of an injunction), the record will be ready.

In other enforcement matters, Geoffrey Colegrove stated that property owned by Jay Meadows at the corner of Routes 68 and 157 is being used to store paving equipment. A letter is being sent stating that this is a violation of the regulations and that the equipment should be removed (even though it is on his own property and not state land); there is no site plan for the property. If the equipment does not belong to Mr. Meadows, a trespass complaint should be filed with the Durham police.

Frank DeFelice asked if there had been any evidence of dumping. Geoffrey Colegrove indicated that this had been the case in the past; however, he has not inspected the bank at the back of the property recently.

Geoffrey Colegrove also stated that there was some construction going on at Anna Terrace without permits; following a conversation with the property owner, all activity ceased. If the homeowner decides to proceed with any construction, a permit must be sought (with plans submitted to demonstrate proper setback).

### 4. Gargiulo Construction Company, Request for Release of Bonds, 41 Commerce Circle

Geoffrey Colegrove indicated he had been at the site a number of times. There is about \$20K in bonds to cover remaining work (perhaps replacement of several of the trees planted that have died). Most of the work is complete.

Guardrail was put up around the whole site; this is not as was approved on the plans. **Brian Curtis has been provided a punchlist. Without Brian Curtis's recommendation,** however, the Commission was reluctant to release any portion of the bond. Any release **would be contingent upon Brian Curtis's review.**

Geoffrey Colegrove indicated that there had been some disturbance/vandalism at the site recently.

Dave Foley asked about the retaining wall across the back of the property; he did not believe it to be in compliance. It was noted that the buildings were raised to park large form trucks inside. However, he noted that the trucks appear to be consistently parked **outside. He reminded the Commission that the whole point of the applicant's presentation** about making the building so high and large was to be able to store trucks inside. The **Commission compromised by allowing fill, but he'd like to ensure that what is happening** at the site is what was approved. There is concern with the trucks being parked outside and oil dripping onto the ground. He asked Geoffrey Colegrove to review the site plan.

Richard Eriksen suggested a site walk, which will be held on Saturday, September 15<sup>th</sup>, at 9:00 a.m. at the Garguilo site.

#### 5. Payment of Bills

Motion by Mike Geremia, seconded by Dave Foley, to approve payment of the following bills:

- Jan Melnik, Absolute Advantage — \$431.58 (minutes of July 18, 2007)
- Attorney Thomas Byrne — \$1,675.00 (Vin Baker, first review)
- Attorney Thomas Byrne — \$475.00 (Vin Baker, second review)

Motion carried unanimously.

#### 6. Minutes of Previous Meeting

Motion by Richard Eriksen, seconded by Dave Foley, to approve the minutes of the July 18, 2007, meeting as submitted. Motion carried unanimously.

#### 7. Town Planner's Report

Geoffrey Colegrove stated that two applications were received over the course of the last day. One is for a site plan review for property at the north end of Main Street, adjacent to **Valero's (former Arrigoni parcel, south of Ken Marino's auto business). There is a** proposal for a 39,000 square-foot building plus two 6,000-square foot buildings. It will be on the agenda of the next meeting.

Additionally, an application was received for a two-lot subdivision of the Dahlmeyer property at the south end of Main Street (13-acre piece of both commercial and residential property and likely **the subject of the evening's hearing**).

**To Dave Foley's query, Geoffrey Colegrove stated that the site plan previously approved** for the former Arrigoni site was renewed; the present site plan looks very much like the

former plan, except that the two front buildings are substantially smaller than originally proposed.

8. Miscellaneous

Activity had been taking place at the Dolphin Days facility on Ozick Drive on a recent Sunday; contractors initially stated that they had been given permission by the Commission to work on Sundays (patently false). The Commission discussed various means by which such actions could be punished (fines are not permissible and delaying certificates of occupancy for violations would probably not hold up in court either). It was also agreed that bonding could not be held up if it did not relate specifically to the purpose for which the bond had originally been posted.

The reason for the Sunday work activity related to putting in place abutments for a bridge that was being delivered the next day (a one-time situation). However, the contractors were told they had to cease work and they did stop activity.

Motion by Dave Foley, seconded by Mike Geremia, to recess the regular meeting at 8:04 p.m. for the public hearing. Motion carried unanimously.

PUBLIC HEARING

1. **Applicant:** Joseph Pasquale  
Application: Request for Zoning Text Amendment, Section 06.,  
“**Commercial Districts,**” to reduce maximum size of a  
single structure to 30,000 square feet from current 40,000  
square feet

Members: Frank DeFelice, George Eames, Richard Eriksen, Dave Foley,  
Jim Kowolenko, Gene Riotte, Tom Russell

Town Planner: Geoffrey Colegrove

Alternate: Mike Geremia

George Eames read the notice for the public hearing and invited both Commission members as well as those in attendance in the public to speak regarding the application. **Mike Geremia was seated on the Commission in Dian O’Neal’s place.**

The applicant, Joseph Pasquale of 94 Parmelee Hill Road, was invited to submit his petition and proposal. He delivered a comprehensive presentation to the Commission, discussing the proposal to change zoning for maximum building size on commercial lots throughout the town of Durham from 40,000 square feet to 30,000 square feet. He submitted a signed petition to the Commission containing some 790 resident signatures. He stated his goal was not to impede growth within the commercial zone but, rather, to retain the character of the town while allowing growth that protects current businesses.

He spoke of preserving the components of town that make it special. He stated that his **request is not only as an individual citizen, but is reflective of “the feelings of many in the community.”**

Joseph Pasquale stated that he felt compelled to speak out and try to contribute to something he holds dear and suggested that the proposal be just the first step in lowering the regulations. If approved, he hoped that further consideration would be given to additional reductions (in maximum size of commercial buildings permitted throughout town). He stated that many buildings today are too large to fit in with the character of town, adding that some recently seen additions to the Main Street corridor in Durham have surprised residents with their large size—and these are far below 40,000 square feet (all but one below 10,000 square feet). He presented a table detailing the square footage of all non-residential structures along Main Street and in other applicable areas of town.

He then commented that the role of the Commissioners—a job volunteered for and elected into—as not being an easy one. Critical decisions must be made and many factors evaluated before decisions that will affect the town can be rendered. He suggested that **lowering the maximum size of buildings is “in the best interest of citizens/future citizens and businesses currently in the commercial district.” He conjectured that buildings 40,000 square feet in size would alter forever the fabric of Durham—and once altered, never regained.** He suggested that five topics be considered: Current business in the commercial district, emergency services, tax and revenue implications, traffic congestion, and economic development.

#### Current Business/Commercial District

Joseph Pasquale stated that he had spoken to and visited most of the businesses in the commercial zone. Should 40,000 square foot buildings be constructed, there will be an **impact on some of these businesses’ ability to survive. He suggested that buildings that large (40K) are only constructed by large corporations and not small entrepreneurial ventures such as are enjoyed in Durham today.** In analyzing the list of commercial buildings along Main Street, the total square footage is 138,000 with an average of 4,400 square feet per business. However, if Adams Commons is removed from the sum (20,000 square feet), the average drops to 3,800. Adams Commons is presently the only building over 10,000. There are seven buildings over 5,000 square feet and 24 under 5,000 square feet.

The current buildings in town that support commercial activity vary considerably in style and size, but blend well with the community (referencing buildings under 5,000 square feet). He asked how one or more buildings 20,000 to 40,000 square feet in size—nine times the existing average—would blend in with the community. He stated that this would be intrusive to current businesses and to the character of town. He pointed out that current business owners are members of the community—they are asked to support community events and activities, and they do. He stated that **it is the town’s obligation to, in turn, make sure they survive.**

### Emergency Services

**Joseph Pasquale stated that the town was fortunate to have the “luxury of emergency services supported entirely by volunteers.” Through this service, there is a great reduction in taxes that residents would otherwise be required to pay. If the town grows (with the addition of big box stores), it is likely the need for emergency services will exceed what our volunteers can provide. The same is true of our fire department and police department. Any supposed gains from these developments will be exceeded by demands on these three service types and there will be additional financial costs incurred to fund demands on services.**

### Taxes and Revenue

Joseph Pasquale expressed his opinion that in reviewing many studies around the nation, the conclusion is that there is a burden on communities like ours from allowing multiple big box buildings. While they might generate some \$250K in tax revenues, the impact to individual residents (figuring 3,200 real estate accounts in Durham) is a paltry \$80 reduction in individual tax bills. Those dollars would be quickly consumed with the incremental need for additional emergency services. He suggested fire trucks range in price from \$500K to \$1M, an additional trooper would cost approximately \$100K, and so forth.

### Traffic Congestion

The traffic along Main Street continues to worsen, particularly during rush hours and at the north and south ends of town. While the Department of Transportation at the state level has provided several proposals that might improve conditions, these major improvements may never be funded or occur. The addition of large buildings will only compound the problem. Joseph Pasquale asked, rhetorically, if the citizens of Durham would benefit from this additional congestion, noting that large developers and corporations who build big box stores will not have to deal with these issues on a daily basis.

### Economic Development

Joseph Pasquale stated that the Economic Development Commission has been working to generate growth. However, there must be an understanding of the constraints and the importance of maintaining the current businesses in town as well as our small-town character. He suggested that the town should not expect any significant infusion to revenue without a commensurate cost. He also noted that there is currently about 15,000 square feet of open commercial space in town—about half of that open and available for years. He stated his opinion that if big box stores do come to town, this will cause other businesses to fail and create additional open space. He asked what then happens with ventures closing and remaining vacant for years in terms of enhancement to the town

(citing the old Shop Rite on Washington Street in Middletown, the Stars on Route 5 in Wallingford, and the original Stop & Shop on Route 17 in Middletown).

Joseph Pasquale stated that the health and vitality of our community is not dependent on business—the vast majority of residents are employed outside of Durham. He referred to the Durham Plan of Conservation and Development (revised in 2003 with a lifespan of 10 years); it clearly speaks to the issue of big box retail establishments not being desirable. While there may be differing definitions, he hoped that everyone could agree that buildings 20K to 40K square feet in size fall into this category. He read several excerpts from the plan of development, including the vision statement:

- **Preservation of charm, rural ambiance, and character of Durham’s unique Main Street district ...**
- **Protecting, preserving, and enhancing the scenic and rural beauty ...**
- **Main Street being, first and foremost, a residential neighborhood ...**
- The goal being to create sensitive and appropriate commercial transition zones at both ends of Main Street (the gateways into/out of **historic Main Street**) ...
- Another goal being to develop Zoning Regulations that encourage sensitive, appropriate development at both ends of the historic Main Street.

He recommended that the current regulations need to be changed to accomplish these goals. A reduction to 30,000 square feet is a step in the right direction.

Joseph Pasquale referenced an example of development that is similar in one context—not being an enhancement to the community—the installation of high-tension power line poles in town. In his examination of other big box stores in the region, he could not find any examples of standalone buildings the size of 40,000 other than Strong School. The Durham Manufacturing building is about 65,000 square feet.

Joseph Pasquale summarized, stating that the Commission is facing a defining moment in **the town’s history**—and will be making a decision that can help to retain and protect the beauty of landscape and small town character with opportunities for development. Conversely, a decision could be made to forever alter the character of the community through commercial development that would be harmful to existing business owners and **place burdens on the town’s infrastructure. He reminded the Commission that they are** citizens of the town—elected by their fellow citizens to protect the community.

John Swift, 23 Guilford Road, addressed the Commission, first thanking Joseph Pasquale for his research and informative remarks. He asked how the figure of 30,000 square feet had been reached, citing his opinion that even that was too large.

Joseph Pasquale responded that while he agreed (that it was also too large), he was reluctant to propose anything smaller for fear that the proposal would be voted down. His suggestion was that the Commission first approve the reduction to 30,000, then immediately place a moratorium on building in the commercial zone, hire a consulting firm to conduct an economic study of the town (to understand what size buildings would

be appropriate for Durham without a negative impact on the community), and then form a conclusion as to appropriate building size.

John Swift endorsed these recommendations from Joseph Pasquale.

Diana McCain, 262 Skeet Club Road, addressed the Commission, thanking Joseph Pasquale for his wonderful analysis. She stated that the signatures of nearly 800 residents speaks to the sentiment regarding this issue. She stated that if people were inclined to favor big box development because of the positive impact on taxes, it was now pretty **clear that such a move would only exacerbate the town's problems and not provide a tax remedy.** She also stated that part of the problem with the power lines was that the town did not have complete control over this—with the current proposal before the Commission, Planning and Zoning (and, hence, the town of Durham) does have complete control over the direction the community will go.

Ann Eirich, 81 Coe Road, commended the presentation by Joseph Pasquale and reiterated **the Commission's ability to make the right decision, taking Mr. Pasquale's** recommendations into account.

Linda Dahlmeyer, 67 New Haven Road, addressed the Commission. She cautioned everyone to remember that while Joseph Pasquale had made a detailed presentation, he is not a professional researcher in the field of finance. She suggested that if the Commission is going to make changes, proper research regarding impact of revenue stream and traffic be considered.

Rick Parmelee, 260 Parmelee Hill Road, addressed the Commission. He stated that he had observed a lot of development over the years, with many people coming to town. He suggested that if similar policies as those proposed this evening had been enacted years ago, many of the people in the room this evening would not be residents of Durham. He stated that if the change is made, there is going, in his opinion, to be a large parcel of land in town on which there will be more homes. To reduce from 40,000 square feet to 30,000 square feet might preclude a company like a Durham Manufacturing from coming to town. It might also prevent the expansion of current businesses.

In terms of impact on existing businesses, he cited a scenario with Home Depot coming to West Hartford and small businesses becoming alarmed. However, a number of **“competing” firms have thrived in the neighborhood with Home Depot simply because of their specialization and customer service.** He stated that the town needs to consider the impact of this proposal in five, 10, or even 20 years.

Pat DiNatale, 35 Catherine Drive, addressed the Commission. He stated that there is already an application before the Commission for the parcel at the north end of Main **Street that will total about 52,000 square feet in size (three buildings).** Dahlmeyer's property at the south end of town has seven acres in the existing commercial zone. He cited maximum coverage requirements and pointed out the implication to having one

large building versus a number of smaller buildings—and roughly the same amount of asphalt and roofing. Even reducing buildings to, say, 5,000 square feet could still result in the same amount of overall coverage on a property with multiple structures and bring incumbent lights, parking lot, etc. Such a reduction would serve only to keep out a Home Depot, Big Y, or Stop & Shop, conceivably.

Trish Dynia, Main Street, expressed disappointment with the fact that while many people in the room clearly wanted to see the proposal enacted and a reduction in building size **passed, they were rude in “mumbling childishly” while** dissenters of their opinion expressed their own opinions (after those same dissenters had listened politely to the proponents of the proposal).

Attorney Mike Dowley addressed the Commission on behalf of Fred Dahlmeyer. He stated that he had been retained **to express the property owner’s sentiments to avoid** emotion. He pointed out that the proposal applies to the entire commercial area in town—not just the parcels at the north and south ends of Main Street. Fred Dahlmeyer has owned the property at the south end of town for more than 30 years. He invested in the property for himself, his children, and his grandchildren. The requested proposal makes a **reduction, from an appraiser’s point of view, and has a direct effect on the value of his** property. He is not certain that a reduction from 40,000 square feet to 30,000 is going to **somehow “save the character of the community we love.” Even if a reduction to 30,000** were enacted, three 30,000 square foot buildings could be placed on a parcel. A mere reduction in the **size of buildings wouldn’t seem to guarantee character that the town** wants.

Attorney Dowley pointed out that the Commission can approve, reject, or modify the proposal before it. He suggested the focus be on the character of town as opposed to the size of buildings. If 30,000 (or 40,000) were the limit, the Commission would, through the special permit hearing process, be able to regulate and control such things as landscaping, architecture, etc., so as to preserve the character of the community.

An application is before the Commission currently for a 39,000 square foot building, plus two 6,000 square foot buildings—a total of 51,000 square feet (which, in total, exceeds the 40,000 per-**building maximum**). **Focusing on size doesn’t speak to character. A** 30,000 square foot box in the middle of the commercial area on Main Street would not help the character of Durham.

To simply change the regulations to reflect a maximum size of 30,000 square feet instead of 40,000 square feet gives the town nothing—in terms of character or development. It **essentially says, “on a hope and prayer, that 30,000 is going to somehow preserve the character of the community,” according to Attorney Dowley. To approve a reduction to** 30,000 square feet will see a fair portion of Mr. Dahlmeyer’s **investment disappear while** not helping the community at all.

Attorney Dowley suggested that standards and exceptions can be established that allow for architecture and landscaping enhancements that would improve the appearance of development within the community and help to preserve character.

Attorney Dowley stated that when the regulations were modified in 2003 to allow a maximum size of 40,000 square feet, a comment was made that perhaps if the number were too low, a variance or amendment could be sought. In his summary, he stated that if the Commission chooses to proceed with a 30,000 square foot maximum standard, exceptions be permitted that would allow applicants with money to preserve the characteristics previously described.

Vera Miller, 64 **Coe Road**, **stated her opinion that Attorney Dowley's comments were** well-taken, but that more work needs to be done in crafting amendments to create further safeguards in terms of how decisions are made. She stated that in addition to the character of the town and the size of buildings, other issues raised by Joseph Pasquale must be considered: overloading on emergency response teams, possible needs for additional police coverage, and the issue of traffic conditions. These are important issues that need to be addressed and not forgotten.

Gary Sheldon, 200 Maple Avenue, addressed the Commission. He stated that everyone seemed to be concerned about the same thing, maintaining the character of town. However, there is potentially disagreement on how to get there. There are many ways to handle development, but just limiting to 30,000 square feet does not give the Planning and Zoning Commission the discretion to view projects that could be appropriately **developed. He stated that he doesn't believe that "we can say that there *isn't* a future Durham Manufacturing that might come along and bring the same qualities as that company does to town."**

**While Strong School is currently a school, of course, that doesn't necessarily mean that it** would always be a school (i.e., the former school in Middlefield that is now a community center). There might be opportunities for commercial education and other alternatives that stipulating a maximum of 30,000 square feet would leave open a possibility to pursue.

Gary Sheldon reflected on the substantial research Joseph Pasquale had done; however, much of the analysis is speculative in nature and seems based on the assumption that the big box in question is a Wal-Mart or large grocery store. There are other uses that could go into that type of structure without the same implications. The Economic Development Commission (of which he is a part) is considering various kinds of development that would increase traffic to local business—**opportunities that would create a "beehive of activity,"** not just on Durham Fair weekend, so that businesses survive and thrive.

There is the potential that a larger, attractive facility would draw people to a central location. We would not know the implications of a particular project if the Commission adopts a reduced building size. He suggested that the amendment be modified to allow the Commission the discretion of considering beyond 30,000 where appropriate.

Joseph Pasquale stated that the number one issue is the size of the buildings that could be permitted under the current 40,000 square foot limitation. He pointed out that no assumptions were made as to the type of store or business that would go into such a building. He believes this size to be too large for our commercial zone.

The comment was made that in Maine, legislation was enacted requiring an economic impact study be performed for every community building over a certain size because of concerns of post-development devastation, in some cases, to a community.

Ron Matthias, 437 Main Street, addressed the Commission. In terms of size and buildings, several smaller buildings that add up to the equivalent of one large building **won't bring the same kinds of businesses to town; four or five smaller businesses are** likely to work within the same economic character already established in town. He noted concern with creating an exception provision—if someone comes in with an application seeking the exception and the Commission rejects it, if this is litigated and a judge reviews it and finds it acceptable, it might still be permitted.

Anne Cassidy, Guilford Road, addressed the Commission. She endorsed the idea presented earlier about a moratorium on commercial development until such time as a proper professional economic impact study has been developed.

Marianne Corona addressed the Commission as a property owner in Durham. She stated that several comments had been made about Durham Manufacturing; however, this is not a commercial site. George Eames concurred, noting that it is a nonconforming use in a residential zone (since 1922, pre-zoning). Many schools are located in residential zones, but these are permitted uses.

John McDonald, 69 Ivy Way, addressed the Commission. He stated he is against big box buildings; he was attracted to the look of the town when moving here. If someone wants big boxes, they can look to Route 1 in Guilford or Branford or on Route 17 in Middletown. He stated that as a contractor, he does a lot of work on commercial buildings. He noted that few people make things anymore—these buildings are simply warehouse and distribution centers for our service-oriented economy. The activities of a company like Durham Manufacturing are somewhat of a dying breed; he would hate to see something like a Wal-Mart or Big Y or S&S come into our small, residential town.

Diana McCain stated that what use goes into a large building is seemingly of more concern than the actual size and what impact its activities would have on the town. By lowering the size threshold, Durham sends a clear message that big box stores are not what the town is seeking. Corporations that wish to build Stop & Shop or Big Y have

attorneys who can spend considerable time and resources fighting regulations versus **“ordinary folks without the resources to fight.”**

Rick Hanley, Johnson Lane, addressed the Commission as a resident (and not in his role with the Economic Development Commission). He stated that he was not taking a position either for or against the proposed amendment but, rather, he wanted to encourage the Commission to **think about the actions it takes when making decisions about people’s assets (i.e., people’s investments in their property throughout town, not just along Main Street)**. Every time a change is made in the regulations (whether one-acre to two-acre zoning or reducing to 40,000 square foot and perhaps 30,000 square foot maximum building size), people and their investments are affected.

**He also suggested that the town might consider purchasing land so that it doesn’t go into development—if that is the wish of the townspeople as a whole.** He reminded people that **they probably wouldn’t be happy if someone told them what they could or could not do** with their own property. He added that the Economic Development Commission is trying **to go through and determine “what the town’s will is” so that a strategic plan can be developed based on what the town deems it can live with.** He also pointed out that it is difficult to plan when the metrics (i.e., square footage limitations) are constantly changing.

Attorney John Corona addressed the Commission, stating that he was working with one of the developers (Silver Eagle Development) on the former Arrigoni site project. He stated that John Pasquale had made a good argument. However, the impact would be wiping out the commercial zone, in part, based upon adverse effect on local businesses. Removing threats from competition appears to be one of the goals, so as to preserve local businesses. However, he stated that it has never been the legitimate goal of zoning to manage competition of businesses in town.

In terms of the site at the north end of Main Street, by arbitrarily limiting the size of buildings, a developer could build 120,000 square feet of buildings on 11 acres—**“littering the site with a number of small buildings.”** In terms of emergency services, why would people in these fields be happier with many smaller buildings versus several large-quality buildings?

Attorney Corona stated that while it was dismissed that \$80 off individual taxes **throughout town wouldn’t be something worth considering, what wasn’t discussed was the overflow economic benefit.** For instance, he stated he’d like for his son to have a job after school—additional businesses provide those opportunities.

He stated that the sentiment appears to be that Durham **doesn’t need commercial development, it’s just a residential town.** He said that he has always found it interesting that people want to cap the size of economic generators, **but don’t cap the size of people’s houses.** People have the right to use property as they deem aesthetically appropriate.

In considering the sites at either end of town, how different would they look if covered **with “a bunch of smaller buildings” as opposed to several larger buildings and what** would the impact on traffic be? The two parcels (Arrigoni to the north and Dahlmeyer to the south) are already zoned commercial and there will be commercial development. **There is going to be traffic; without traffic, there wouldn't be activity or an interest in** development.

Attorney Corona indicated that there is a market and it has to do with the types of businesses that look at buildings based on size. Grocery stores have minimum requirements. The 20,000 square foot Adams Commons complex has not proven to be economically successful. Despite the efforts of the family to build it, it has not brought a lot of businesses to town. The principal of Silver Eagle (property at the north) was surprised when the 40,000 square foot maximum was enacted; he had put a significant amount of time and money into developing the site and then had queried as to the possibility of the Commission considering an expansion on the limit for the right proposal. The Commission was clear about 40,000 being the limit, so the developer proceeding to work on plans for that amount. With this proposal, the developer had no choice but to submit a proposal, filing an application recently for just under the 40,000 square foot limit.

**Attorney Corona said that he didn't know if the town knows what it wants from the** commercial district—however, everyone seems to want their taxes to go down. But the **message being sent to people who want to develop property “is horrible”** and the message being sent to those who own property is very negative. People who own properties would like to do **something that's economically viable.**

Marjorie Dahlmeyer addressed the Commission, commenting that she knows some of the **residents' dogs better than their owners (through her kennel).** She cited some of her background, noting that her daughter discovered that one of her ancestors had fought with the Connecticut volunteers and for the Yankees (she was a Southerner by birth, but has been a Durhamite for more than 30 years); her ancestor is buried in the old cemetery in Durham.

Back when she and her husband bought their property, people laughed about it being a swamp. They worked on the property for years with Mr. Otte mowing the front field and T.J. Russell haying the field many times. It has improved in appearance over time. She noted improvements made and work done with installation of curtain drains, Durham Fair **parking (to pay taxes), etc.** She stated that she and her family **“don't want anything but the betterment of the town.”** She indicated that if people were to look at the site plans being developed, coming down Main Street, perhaps only a bit of roof on the proposed building would be visible. Trees have been marked for preservation along the site.

Motion by Richard Eriksen, seconded by Dave Foley, to close the public hearing of Joseph Pasquale, proposal to reduce maximum square footage in commercial zone from 40,000 to 30,000. Motion carried unanimously.

Motion by Dave Foley, seconded by Tom Russell, to reconvene the regular meeting at 9:27 p.m. Motion carried unanimously.

9. Joseph Pasquale, Request for Zoning Text Amendment, Section 06. “Commercial Districts,” to Reduce Maximum Size of a Single Structure to 30,000 sq. ft. from current 40,000 sq. ft.

Dave Foley stated that he would like to receive technical information from Geoffrey Colegrove on what is required to enact a moratorium. Geoffrey Colegrove responded that an ordinance would need to be proposed, including a specific timeframe and needs expressly spelled out, and then a public hearing. Richard Eriksen stated that there has to be a reason—action being taken, research—not just something to stall development while the Commission mulls things over.

Geoffrey Colegrove stated that he has experience with enacting moratoria in other towns for any number of reasons. Typical timeframes are six to nine months. It can go longer, however, there has to be concrete rationale (i.e., a consultant being hired, funds in place, scope of services determined, etc.). Courts will uphold moratoria, but only if there is a specific plan and resources in place. A moratorium does not affect anything in play (i.e., applications already filed); therefore, with applications on hand for the properties at the north and south as well as for the Grange Hall (Walter Cihocki had submitted an application recently as well), a moratorium would have no impact on these.

Jim Kowolenko stated that a number of good points had been raised in the hearing, including lot coverage, setbacks, building height, etc. Coverage is what is important, as noted by Pat DiNatale. Existing commercial properties can have up to 60% coverage; newly zoned commercial property must meet 40% coverage requirements. All currently proposed projects fall under the 60% threshold.

Because the hearing is closed, the Economic Development Commission cannot be tapped for a formal opinion. Under staff input, it is possible some information the EDC has developed could be reviewed, but members could not comment.

The Planning and Zoning Commission has 65 days from the close of the hearing in which to decide the proposed amendment.

Frank DeFelice asked about the work the Department of Transportation had done relative to the south end of town, realigning roads in that area for improved traffic control and even a commuter parking lot. Geoffrey Colegrove indicated that the DOT had looked into a typical rotary solution for Routes 17, 79, and 77 (similar to Routes 80 and 81) to improve safety along with other alternatives; this was part of the corridor study. No money has been allocated and there is nothing specific in any plans for the south end of **Main Street. A Route 147/Haddam Quarter Road alignment is still “in the pipeline.”**

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Richard Eriksen stated that with a special permit application, the Planning and Zoning Commission can still do a lot of fine tuning to be protective of the character of Durham as well as consider traffic and other matters.

Dave Foley suggested the Commission consider several options—a developer might wish to build one 40,000 square foot building, but with the 30,000 restriction (if enacted), might instead build two 30,000 square foot structures. Engineers are paid to figure the best ways of achieving objectives—**and if a 30K structure can't accomplish the goal that 40K could, two 30K buildings might.**

Richard Eriksen stated that contiguous square footage buildings are required for specific operations.

Dave Foley stated the need for creating a good, solid plan and not simply a reactionary response to a proposal.

Geoffrey Colegrove indicated that some towns have an advisory review committee that consults with the Planning and Zoning Commission on matters of architectural **importance, characteristics of buildings, etc. While we don't have that in Durham, there** is one Commission member with that background (Brian Ameche, an architect).

A village district, discussed previously, is one option for requiring submittal of plans and a comprehensive review of architecture, compatibility, etc.

Motion by Jim Kowolenko, seconded by Mike Geremia, to adjourn the meeting at 9:57 p.m. Motion carried unanimously.

Respectfully submitted,

Jan Melnik  
9/12/2007