

**RTM PLANNING AND ZONING COMMITTEE REPORT**  
**Review of Planning and Zoning Amendment #621**  
**January 5 and January 12, 2011**

**Introduction**

The committee met on Wednesday, January 5 and Wednesday, January 12, 2011, to review the Planning & Zoning Commission decision on text amendments 621 (Residential Structures/Coverage) under section C-10 of the town charter at the request of at least 20 electors.

Attending both meetings: Committee – Linda Bruce, Diane Cady, Joyce Colburn, Bob Galan, Jay Keenan, Matthew Mandell, Lois Schine, Judy Starr. Along with a number of RTM members. Planning and Zoning – Ellie Lowenstein, Ron Corwin, Larry Bradley. Lead Petitioner – Valerie Jacobs. Public – over 70 residents.

This report will present the positions of the Petitioners and the Public, and the Planning and Zoning Commission respectively, and relate the points of discussion during the hearings regarding two main issues that emerged, namely those centered on the “big house” issue, and those relating to run off. Discussion below is followed by a Summary and Recommendation.

**Discussion**

**The Petitioners**

Ms. Jacobs, along with many members of the public, presented the residents’ case for why the text amendment should be overturned.

The first was the number of non conforming properties that would be created by this amendment. P&Z originally presented the number as 200 properties that would fall into this category by reducing building coverage from 25% to 15% for AA, 1 acre and AAA, 2 acre properties. Upon her research though, found in the data created by Town hired consultant Glenn Chalder of Planimetrics, the number was actually 315, over 50% more. It was noted by Ms. Jacobs that this data was not originally available to the public, but with persistence became available for analysis. It was also noted that the P&Z was working with this incomplete data and this is what they related to the public.

Ms. Jacobs went on to outline further how the change of adding patios into coverage would add another approximately 300 properties in this non conforming category. It was noted that P&Z never provided and never sought to research how many such properties would be affected. She then provided information that another 300 properties would also become non conforming due to the how steep slopes and wetlands were applied with the new 15% coverage.

Finally another 204 houses would become nonconforming when coverage for tennis courts was changed from 50% to 100%. Again, the P&Z never sought to find out how many properties there were with tennis courts or what the impact would when that coverage changed. (Note: Although tennis courts currently have been calculated at only 50% coverage, for drainage purposes they have been calculated at 100%. This was an incentive given years back to promote private tennis courts. Tennis courts are about 7400 square feet).

This total came out to be over 1100 new non conforming properties created solely by the implementation of this amendment - almost doubling the number that already exists in Westport. She reiterated that P&Z never did their own research prior to proposing this amendment on how many properties would be adversely affected - especially smaller lots which would bear the greatest burden. She noted, as well as other members of the public, that according to state statute the P&Z is supposed to create conformity, not the other way around.

Ms. Jacobs explained why non conformity decreases property values, primarily due to a decreased ability to modify. In addition, this decreased ability makes non conforming properties more difficult to sell than conforming. As to the issue of being able to seek relief from the ZBA she, as well as other members of the public outlined the expense, time frame, and uncertainty of the process. Members of the public stated that those who have not acted yet to sell their properties or build a bigger house should not be penalized and older citizens would be hardest hit. It was pointed out that one of the P&Z's duties, per state statute, is to protect and preserve property values.

Ms. Jacobs and the public rebutted the P&Z's position that these regulations were needed to control development and protect the environment. First, the total build-out numbers included lands that are currently considered open space and held by trusts and/or the town and should therefore not be included. Second, that at the current rate of development it would take more than 133 years to see a full change-over in housing. Third, that most people and developers don't max out their coverage and thus the numbers were circumspect. Fourth, that the Town survey noted in the Town Plan only sampled 400 people during the daytime with only 40 of them saying that big houses were an issue. Ms. Jacobs also gave an analysis that on bigger lots this regulation had no affect on the bigger houses there, and that it was possible that these regulations would actually create bigger houses in some cases. In addition, people constrained from building out, due to tightening coverage, would instead build up, thereby creating the exact aesthetic problems that make people wary of bigger houses in smaller lot neighborhoods.

As to the issue of runoff, Ms. Jacobs, as well as other members of the public, pointed out that Westport currently has a zero runoff policy overseen by the zoning enforcement officer and by P&Z staff, and the engineering department is part of the permitting process for new construction. it was never proven that the only part of property not mandated to account for drainage, namely patios, cause the problems implied by the P&Z's amendment. It was also noted that P&Z Staff, the Conservation Director and the Town Engineer in a memo at the hearing on October 14th all recommended that patios not be included in coverage, but instead be allowed only through a permitting process that would then require proper drainage.

Ms. Jacobs pointed out that there was no public support for this amendment. At the P&Z hearings petitions were submitted and person after person spoke and submitted letters in opposition. She pointed out that the Greater Bridgeport Regional Planning Agency and the Westport Architectural Review Board both opposed the amendment. The GBRPA believes that the new 15% building coverage is too strict. The ARB said there is no research or modeling for

this amendment and recommended that not only coverage, but also height and setback be included in an amendment to how it would all work.

### **Planning and Zoning**

The Commission was initially represented by Ellie Lowenstein. She gave the background on why the Commission moved forward with the amendment. She mentioned the desire to have buildings in scale with neighborhoods and with the goal of having better water quality by decreasing coverage and promoting the use of impervious surfaces for decks and patios. She noted that an amendment to remove pools from building coverage was presented to the commission last year, but was put off and is addressed in this amendment. (Note: some support for this amendment publicly was related specifically to this issue alone.)

She said this was not just a “big house” amendment and that we needed to “take control of coverage.” Times have changed and P&Z moved forward on it. She said that this amendment had the biggest effect on house size on smaller lots as opposed to bigger lots. This was not just a big house regulation. When asked if this would do it all in terms of water quality the answer was, “No, coverage alone would not do all that is necessary.”

When asked why the commission did not heed the Staff, Conservation and Engineering departments’ recommendation not to include patios in coverage, she said, “We felt it should be in coverage.”

The committee then heard from numerous members of the public all opposed to the amendment. Most backed up the petitioners contentions while some gave personal accounts of how this amendment will affect them.

### **Other Speakers (January 12<sup>th</sup>)**

**Conservation Director Alicia Mozian** was to attend, but could not due to the storm. Mr. Mandell spoke to her on the phone to get her thoughts to impart to the committee. Ms. Mozian said that she was supportive of the P&Z amendment approved. That the idea of not including patios in coverage was for her a compromise position due to what she saw as large public opposition. She did not want what she saw as something good to be thrown out with the bath water. Ms. Mozian will be attending the full RTM meeting.

**Pete Ratkiewich, Town Engineer** spoke about runoff issues and town policy. He made note to correct the record, that many letters and emails which quoted him were incorrect. He referred to his Oct 9 memo and his public comment. (Note: while his exact wording might not have been attributed correctly by these letters, the essential gist of his comments was captured reasonably, he had in fact made comments at the October 14 hearing similar to what was synopsized in letter and emails and included in the P&Z staff memo recommending that patios be removed from coverage.) Mr. Ratkiewich made it clear he supported the new regulation in the face of not having anything. Patios being included in coverage would make it easier for his department to analyze and approve proper drainage. He also said that alternative scenarios to deal with run off on patios could be created and that the permitting concept would work as well. He said, in

answer to a question about run off and drainage, that there is a difference in soil qualities in different areas of town.

What he also explained was that the run off policy needed to be changed whether or not this regulation was upheld, and that the DPW was working on it. An ordinance, absent this amendment, would be another way to give the DPW enforcement powers. Some form of bio filtration was the next step in removing pollutants from storm water collected from houses.

He also explained that the neighbor-to-neighbor flooding that people rightly complain of is due not to patio runoff, but to land clearing and excavation and fill.

**Ron Corwin, P&Z** was asked an assortment of questions related to public, staff and other board's comments. He defended the P&Z actions saying that it was in the best interests of the environment. He stated that dealing with run-off and coverage and decreasing the size of houses would benefit the environment. He said regardless of what the Staff suggests, it is up to the Commission to make the decision. As to the ARB opposing the amendment, he said their position is only advisory and this was not an issue about aesthetics; big houses are essentially an environmental issue. When asked about a technical decision made by P&Z to not remove patios from coverage, as suggested by Staff, because that would liberalize the regulation, he said they chose to keep it in. (If a change makes something less restrictive, the P&Z must re-notice.) When asked if they had consulted with the Town Attorney regarding this, he said they did not seek his opinion. As to the impact of non conforming properties he offered two answers: (1) a chart showing that Westport real estate has moved similarly as in other towns, and (2), that hardships could be taken to the ZBA.

Mr. Corwin was asked about two comments he made during the work sessions.

1. "What if it never makes sense to the public? Referring to whether the reasoning and solutions would be grasped.
2. "We don't know that, we only know (garbled) the people who came to speak..." Said in response to a question about the public's opposition.

Mr. Corwin responded that the Commission was in the best position to make the determination for the town, not the people, and that the true feelings of the greater public were unknown.

**The Public** unanimously opposed the regulations, again saying non conformities will hurt property values and harm nest eggs.

### **Committee Discussion**

#### **Vote and Overview**

The Committee voted 6-2 to recommend to the full RTM that it overturn Amendment #621.

There will be no minority report. The two concerns voiced by the minority were:

1. That many homes are already non conforming and that it does not seem to matter. That people choose a home for personal reasons and that non conformity would not matter.

2. That the environmental issues addressed make the amendment, while not perfect, a step in the right direction. That the petitioners did not address these environmental concerns voiced by the P&Z, and that no reasonable alternative existed to accomplish their goal.

The majority felt there were myriad reasons to overturn Amendment 621. The basic thrust was two-fold, but included numerous reasons.

1. That harm to the community caused by the amendment was too great compared with the perceived benefits and that too many unintended consequences exist.
2. That alternatives, presented in the P&Z record, existed that would accomplish the goals outlined, but with little or no impact to the community.

### **Details**

Two main sets of issues emerged during the discussion, regarding (a) “big houses”, and (b) run off.

### **List of issues related to “Big Houses”:**

1. The public does not want this amendment. It is clear from the P&Z hearings and from the RTM P&Z committee meetings that this amendment has touched a nerve with the community. The committee upon last count has over 200 petition, emails and letters in opposition and maybe a handful in support and those were for keeping pools out of building coverage.
2. The 2007 survey, which was the basis for the P&Z moving forward on the “big house” issue only surveyed 400 people during the daytime and a mere 10%, or 40 people, out of a town with 10,000 homes cited this as an issue. This pales in comparison to what we have seen in the hearings and meetings. It was also noted that this survey was taken prior to the economy’s downturn in 2008.
3. The Greater Bridgeport Regional Planning Agency (GBRPA) was asked their opinion, as part of the amendment process, and opposed it saying:

*"It was the consensus of the Board to not recommend the proposed change limiting building coverage to no more than 15% of the Net Lot Area, commenting this low of a threshold is overly restrictive." (Dated 8/27/10)*

4. The Westport Architectural Review Board was consulted, and they, too, were opposed to the amendment:

*“The ARB asked if the P&Z Commission had performed model analyses of their recommendations and compared it to the current regulations to confirm that the desired results were achieved. We were told that no such analyses were done to test out the proposed coverage changes.*

*We were told that Text Amendment #621 was the first of three text amendments that the P&Z Commission plans to propose in an effort to address big house, water protection and runoff concerns. The ARB was told that the issues of setback and building height would be addressed at a later date.*

*The ARB questions how the P&Z commission could consider proposing changes to one of three inter-related criteria (coverage, setback and building height) without studying all three simultaneously?*

*While the ARB is very concerned with the big house issue and the environmental impact that construction has on our community, we feel that much more information is needed to properly evaluate this subject and determine the impact these changes will have on Westport homeowners.*

*The ARB strongly requests that all three components (coverage, setback and building height) be addressed simultaneously and that model analyses be performed to determine the impact they have on each other. It is important that this information be made available to other land use boards as well.*

*The Westport Architectural Review Board does not support proposed Text Amendment #621.” (date 9/29/10 and submitted and read into the P&Z record by Chair Masumian)*

The RTM P&Z committee agrees with this analysis. It should be noted that the members of the ARB are professionals in this area. An ARB representative attended the committee meeting to reiterate their position that proper research and modeling must be done to know what would actually occur with this amendment. You cannot look at coverage in a vacuum without evaluating other future changes (height & setback) at the same time to see the combined impact. Residents need to be able to evaluate the changes to their property. Furthermore, without such modeling being done, in some cases these regulations will actually allow for larger houses in areas where they might adversely impact the environment, specifically along the shore, thus making it counterproductive. This possibility was presented to the committee, and also mentioned during the hearings by the Conservation Director.

5. There was a lack of due diligence by the P&Z Commission. Primarily this is shown by the miscalculation and lack of research in knowing how many properties would become non conforming. The Commission first submitted to the public that the number was only 200 when actually it was over 50% higher at 315. (This would be due to the new 15% building coverage restriction in AA and AAA zones.) It is also very disturbing that research into how many houses would become nonconforming due to the new inclusion of patios was never done, that number has since been estimated to be over 300 additional. How can a commission or the public reasonably assess or address such an issue with such a lack of data? Removing the 50% coverage allowance on tennis courts adds another 200 properties to the non conforming list. The original reason to grant the 50% allowance was to promote tennis courts; is it fair to penalize those who bought into this program? Furthermore no calculations were made for how the new amendment would affect properties with steep slopes and wetlands, approximately 300 more properties to this non conforming category.

The Commission and Department assert that the data in question was not available, but an estimate could have been attempted from field cards or other sources, even if the data would have been approximate at best. How can you solve a problem if you can't assess its scope?

6. The P&Z never did any research into the effect of creating such non conformities. Instead they seemed to simply accept that non conformity was part of everyday business. This lack of due diligence we believe is questionable, especially considering the evidence brought by the public both in the P&Z hearings and at our committee meetings showing the numbers of non-conformities that would be created, and that that non conformities cause financial hardship.

7. The ZBA is not the answer. The P&Z said numerous times that people could simply go to the ZBA to seek relief. This is not an acceptable answer and does not adequately consider the burden this places on residents. First, why enact a piece of legislation where a circumvention is openly advocated?. What does this suggest about the enacted rule? Second, why place such an onerous requirement on residents by requiring them to seek relief? Going to the ZBA is expensive, time consuming, and uncertain. While the current ZBA, who was invited to the committee meeting, but none could attend, might understand this issue, future ones might not. It is not a hardship to want to build your house over an existing maximum amount, nor is financial hardship considered grounds for a variance, so why would such requests qualify? Furthermore, given the vast numbers of households affected, what kind of a backlog would this create for the ZBA and for all applicants?

8. A house is the biggest asset held by most residents. Often they are used to mortgage for college tuition. They represent security for seniors and pending retirees. Decreasing its value harms them.

9. This regulation unfairly places a burden on those who have not yet developed their properties. This specifically has a greater impact on our senior citizens who have lived here the longest in houses not yet renovated or sold for reconstruction. These residents, who have kept their homes scaled down and modest, should not be penalized.

10. This regulation unfairly places a greater burden on smaller lots in smaller zones with tighter coverage, and on non conforming smaller lots in larger zones. Because a patio requires a certain "critical mass" of space, and that amount of space represents a larger percentage of the land in a smaller lot than in a larger lot, the patio rule is likely to cause many nonconformities in zones with smaller lots, such as A zones. The RTM P&Z committee heard from numerous residents pointing out how they will specifically be harmed.

11. This regulation unfairly places a burden on homes with steep slopes and wetlands where there are already heavy regulations. This further constrains them from building, while showing no environmental benefit. There is currently a 50 foot setback from wetlands so why constrain more. The use of net lot vs. gross lot in such determinations is questionable, and again adversely affects those properties in AA, 1 acre zones where the property is smaller than the zone amount, i.e. a ½ acre property in such a zone.

12. The economy has already taken a toll on home values, in some cases a 20-30% decrease. This regulation will only exacerbate this at a time when our residents can ill afford such a hit.

13. The P&Z presented a comparison to other towns to justify their proposal. The information was insufficient to make a good comparison, essentially comparing apples to oranges. While Fairfield might not allow as much coverage, they don't include driveways and pools as we do.

14. The numbers presented by P&Z on possible build out of the town is circumspect. Open space was included when it shouldn't. Also the entire concept was based on everyone building out completely to their 25% maximum. Most people have not and there is no evidence to show that they would.

15. The current economy, the free market and green thinking and building practices have already changed the face of construction practices for the better and smaller.

16. It is unfair to change things so dramatically in such a short period of time. If this regulation moves forward many projects in the pipeline will have to be stopped and redesigned creating an unfair burden on those residents.

17. Many question what is a big house. There is no set definition, so how can you regulate it? Besides, after all these years, "the cow is out of the barn."

18. The one size fits all approach does not work. A scalable concept based on lot size rather than zone might well accomplish the intended goals without punishing those on smaller lots.

19. The Committee is concerned that the Big House issue is being disguised as environmental in nature. What has long been presented as an aesthetic problem with our town is now being presented as something else to move it forward and that should not be.

**List of issues related to "Run Off":**

Many of the prior mentioned concepts also apply here as well.

1. The P&Z never proved that the inclusion of patios into coverage would create any substantial decrease in run off overall. This, especially in the face of how many houses would become non conforming. It must be noted that P&Z never sought to find out how many houses would become non conforming or what that financial impact would be.

2. How many egregious patios are there? P&Z is worried about controlling the size of patios but again there was no research done to show that there was a problem in town with such oversized patios. Yes, they showed a few photos of such patios, but how many and proving a trend was never shown. No patio can be so big as to prevent the building of septic systems and drywells and cannot encroach into setbacks. So ultimately there is a constraint.

3. Should we be legislating for the egregious or the norm? Again in the face of the huge number of non conformities created, mostly in small lot properties, and the financial impact that will result, the answer is to regulate for the norm.

4. It must be noted that this regulation will do nothing for water quality per se. While water from new patios may be captured, without any bio filtration, there will be no improvement in that quality. There must be a future revision in the DPW's run off policy and technological improvement before this can occur. The water captured from patios will be done the same way as all the rest of the house.

5. There is a zero run off policy in Westport for all new construction. This currently retains run off from all impervious surfaces, except patios. Patios just need to be included as part of the policy, but that does not have mean inclusion in coverage.

6. In the future proving that what has become a non conforming property due to the patio coverage rule was actually conforming before it, could be quite problematic and costly to resolve when sale or improvement to the property is sought.

7. While we commend the commission on trying to promote the use of permeable surfaces, the Town Engineer explained that all permeable surfaces within a few years become impermeable due to silt, dirt and compaction. Even gravel driveways sought after to be permeable are no longer after a few years.

8. The new drainage policy from the Engineering Department should have preceded any regulation from the P&Z. This new policy and an accompanying enabling tool such as an ordinance will be needed regardless of a possible overturn. In any case pollutants are unlikely to be removed until some future technology is instituted.

9. Ultimately the answer to this issue is an alternative to placing patios in coverage that would still capture the run off. All the amendment needed to do was to state that all impervious surfaces needed to be included in all drainage calculations. This would include patios and would have removed all the issues and burdens related to including patios into coverage.

This option was suggested, on the P&Z record during the P&Z hearings, by the P&Z's own staff and backed by both the Conservation and Engineering departments. It was offered both in memo form and orally at the October 14<sup>th</sup> hearing.

Memo by P&Z Staff dated 10/14/10

*Staff Recommendation on Patios & Terraces. The Planning & Zoning Staff, along with the Conservation and Engineering Departments are jointly recommending that the Commission not require patios and terraces to be included in total coverage but still require that obtain a Zoning Permit for the purpose of a through drainage review by DPW Engineering. Also, any credits for Permeable Surfaces would now be based upon an engineering review and a reduction in the formal drainage system can be done at that time. This will greatly simplify the application of the regulations.*

Mr. Bradley said at the hearing at approximately 20:18 minutes into the stream of the October 14th hearing:

*"You have a supplemental package from me today dated the 14th with a recommendation from Staff. As this application has progressed, Staff has given input along the way and there was a most recent input from Staff having to do with the recommendation of the definition of patios and terraces. **Planning and Zoning Staff, in conjunction with the Conservation Director and the Town Engineer are making a recommendation to change the proposed definition of patios and terraces with respect to Total Coverage. The recommendation is that they not be counted in Total Coverage, but that they be required to get a zoning permit without being counted in coverage; and thus, be reviewed by the Engineering Department as a drainage initiative, but not as a coverage initiative. This way, that [sic] the Town Engineering Department can ensure that the permeability factors are reviewed, that the drainage is properly handled for these structures and Section 45 already has the language in it that makes the recommendation for them to be counted in the drainage calculation, but for a number of reasons, everything from the ease of administration of the regulation, to the impacts to how the regulation has to be administered, through applicants getting surveys, we're recommending that not everything requires a survey--that we may be able to do this through more of a sketch plan. And I have the Town Engineer and the Conservation Director who may speak to this a little bit further. **But this is a collective recommendation of the Staff, and the Town Engineer, and the Town Conservation Director.**" [ends at 22:03 minutes]***

The committee finds this to be a clear and concise alternative to adding patios into coverage and thus relieving the unneeded burdens associated with it on the property owners of our town.

The Town Engineer, Pete Ratkiewich did follow up on this issue at the hearing starting at about minute 56.

*"I guess what I'm asking is to let the drainage requirements be dealt with where they belong, in the Engineering Department where we evaluate drainage every day, and sort of separate that from the coverage when you come to patios and terraces." [ends at 57:10]*

He also said, during discussion of an example patio of 400 sqf patio.:

*"I think what we're--our concept is--is **not to include that in the, the coverage figure but to account for it in drainage.** And I think that you'll find that it is a negligible amount for drainage. In fact, it may, it may amount, depending on the type of patio, it may not even require a drainage system."*

Director of Conservation Alicia Mozian also agreed when she spoke at the hearing (approx. 1:04 into the stream):

*"I think I came to the conclusion that the P&Z Staff did somewhat on my own, and then when it was given to my attention, I kind of was, I guess, glad in a way, because from the meeting I attended previously and what I read in the paper there were lots of concerns of how these reg changes would render properties nonconforming, and a lot of that would happen through the patios and terraces being now counted in coverage. I had supported the changes all along because I believed they would help to protect water quality and drainage, but if that can be achieved in a different way, then I'm OK with that. Therefore, you know I support the idea that patios and terraces not have to be counted in coverage as long as they are required to have drainage (as Peter outlined) and they have water quality--or they have a water treatment component as well, such a rain garden or a vegetative swale, for example." [ends at 1:05:40]*

In Ms. Mozian's October 14, 2010 memo she wrote:

*"From the meeting I attended previously and what I have read in the paper there are lots of concerns about how these reg changes will render properties non-conforming. I had supported the changes because I believe they would help to protect or improve water quality and drainage, but, if that can be achieved in a different way then I'm ok with that. Therefore, I support the idea that patios and terraces don't have to be counted in coverage as long as they are required to have drainage and a water treatment component such as a raingarden or vegetative swale, for example."*

While since these hearings some positions have tempered, but what is in the record and offered publicly is clear. The committee understands and sympathizes with the position these staff members are in. The weight of this amendment rests on their shoulders. We acknowledge the work and dedication to our town.

Regardless, this committee believes that the recommendation of removing patios from coverage and instead requiring permitting to accomplish the goal of capturing run off is the most prudent and least harmful solution for the entire community of Westport. We note that during the work session that this recommendation was not given due consideration, if not actually ignored and circumvented by use of a technicality in zoning law. We believe that mandatory permitting and drainage would have been equally restrictive, certainly not less so, and the Commission could have moved forward with it. It is hard to believe that in the 39 days between the two work sessions that the Town Attorney was not contacted for his opinion, when his consult is the norm. It appears as if the Commission only wanted to use coverage as the means to capture run off and did not seek out reasonable and prudent alternatives. We are concerned that in the face of a recommendation from zoning, environment and engineering professionals, such an alternative was summarily dismissed.

10. The committee heard no compelling argument to uphold this amendment when there are alternatives which will not render 1,100 homes non-conforming, reducing their value and hurting our community.

### **Summary and Recommendation**

This is a major amendment affecting potentially 1,100+ homeowners, but there is not even an approximate baseline assessment of the size of the problem or scope of the “unintended consequences”. A great number of nonconformities will be created across different zones, and these nonconformities will cause significant financial burdens to be placed upon affected homeowners. These nonconformities would stem from a number of changes in the regulations that would take place as a result of Amendment #621.

While the environment was presented as the major rationale for this amendment, we concur with the ARB’s assessment that homeowners and the town itself are better served when changes to coverage, height, and setbacks occur in combination. A property owner needs to know what to expect, both now and as far down the road as feasible, and regulations should not create uncertainties. It has not been clearly stated whether a height or setback regulation would be forthcoming, although one or both may. We also concur with the GBRPA’s view that the 15% building coverage on AA and AAA zones is “overly restrictive.” The application of net lot area, though not a new practice, would exacerbate the impact of that new rule. Additionally, we believe that lowering values of an unknown but potentially large number of properties is an undesirable effect and to be avoided wherever it possibly can.

We support dealing with runoff in an environmentally sensitive way, but note that runoff from patios as well as buildings and other structures can be accounted for in drainage calculations. Coverage and drainage are different concepts. Pending clean water rules from the DPW would apply regardless of the RTM’s disposition of Amendment #621. Water runoff and quality can be treated without creating nonconformity from patios.

Over all we believe that this amendment, while well intentioned, will create more harm than benefit, especially when there is a prudent alternative to the run off issue. It was clear from the public input during both the P&Z hearings and from our meetings that there is overwhelming opposition to this amendment. Public participation at the hearings of the P&Z and this Committee was far greater than usual, and the case made by the petitioners and the public was well researched, cogent, and sound.

On a resolution offered by Ms. Schine and seconded by Ms. Starr to recommend the RTM overturn Amendment #621, the vote passed 6-2.

Yes – Bruce, Galan, Keenan, Mandell, Schine, Starr.

No - Cady, Colburn.

Resigned - Flynn.

Submitted by  
Matthew Mandell  
Chair, RTM Planning and Zoning Committee