

*These minutes were approved at the November 28, 2022 meeting.*

**DURHAM CONSERVATION COMMISSION**  
**Monday, October 24, 2022**  
**DURHAM TOWN HALL, COUNCIL CHAMBERS**  
**7:00 p.m.**

**MEMBERS PRESENT:** Jake Kritzer (Chair), Erin Hardie Hale, Neil Slepian and Carden Welsh (Town Council Rep)

**MEMBERS ABSENT:** James Bubar, John Nachilly and Roanne Robbins

**ALSO PRESENT:** Town Planner Michael Behrendt; Land Stewardship Coordinator Tom Brightman and Minute Taker Lucie Bryar

**I. Call to Order & II. Land Acknowledgement Statement**

Chair Jake Kritzer called the meeting to order at 7:03 p.m. and read the Land Acknowledgement Statement.

**III. Roll Call:**

Roll call attendance was taken. The Chair recognized two individuals attending remotely: Dwight Trueblood and Kat Ashcroft. Both have expressed interest in the unfilled seats on the Commission and are here to observe the meeting.

**IV. Approval of Agenda**

*Mr. Welsh MOVED to approve the agenda as submitted; SECONDED by Mr. Slepian, APPROVED unanimously, 4-0, motion carries.*

**V. Public Comments**

The Chair said the Commission will not take public comments during the Gerrish Drive item this evening, however, residents are invited to comment on any topic during the open public comment period.

**Sally Needell, 36 Bagdad Road:** Came forward to offer her assistance as the Commission prepares to review the Conditional Use Permit criteria for the WCOD and SPOD. She previously served as chair of the Conservation Commission. In her view, the wording is challenging, some of it resulting from conflicts between the Town's Master Plan and Conditional Use Permits.

**Mike Mulhern, 91 Bagdad Road** – identified himself as the co-applicant with his wife Marti for the Gerrish Drive Subdivision. Mr. Mulhern questioned the purpose of the [Gerrish Drive discussion] tonight. The Commission has already confirmed there is no viable site for the project outside the WCOD.

He commented the meeting only provides objectors with further opportunity to “create confusion with misrepresentation of facts” and to “discredit their team of professionals.” He said the science behind their proposed project has proven the subdivision meets all environmental concerns. The only benefit he can see to the Commission is to use it as a case study, but this should take place only once the project is approved.

**Ms. Kelly, 11 Gerrish Drive:** [An abutter to the project]: discussed the HISS maps. She directed the Commission to the page titled, “Oxford Silt Loam.” She cautioned against thinking soils on the map are wetlands, when they’re designated as “moderately drained” or “somewhat poorly drained.” A section titled “Use and Management” states, “With improvements and engineering practices, this soil is fairly well-suited to development.” She noted the Planning Board and Conservation Commission didn’t have access to the HISS maps when discussing the project, but rather relied on Engineer Mike Sievert’s C-107 map, which she believes had confusing color-coding. Mr. Kelly then shared two 30-second videos showing Gerrish Drive wetland floods, one in 2019 and another in 2020.

**Diana Carroll, Canney Road** – Came forward to share a larger map of the Gerrish development, in contrast to the smaller, hard-to-read copies that Commissioners had access to at their last meeting. She said they can possibly get larger copies from Town Planner Michael Behrendt.

## **VI. Land Stewardship.**

Land Stewardship Coordinator Tom Brightman reported on three items related to his work and three that Vice-Chair John Nachilly asked him to present as an FYI for future discussion.

- Mr. Nachilly has offered to mow the meadow at Thompson Forest, in keeping with the Land Stewardship Committee’s goal to manage the property for early successful habitat. The proposal is to mow half each year, leaving some for winter cover while still controlling invasives. He will provide an estimate.
- A successful informational session on invasive species was conducted with UNH Extension. Fifteen people from Conservation Commissions around the State

attended, representing many different towns. A list of related resources has been distributed to all Conservation Commissions.

- Re: The Land Stewardship town budget: The proposal is to retain the current funding level for the Land Stewardship Coordinator. Another \$3k may be allocated toward the Long Marsh Bridge planning.

Items brought forth by Mr. Brightman on behalf of Vice-Chair John Nachilly:

- Re: Pike property: While no formal trails are permitted per the easement, Mr. Nachilly would like to explore an access trail for land stewardship purposes only. Mr. Brightman will reach out to Duane Hyde of SELT who is overseeing the easement to see if this is feasible.
- Ellen Snyder (Conservation Commission) and Bart McDonough (Town Planner), both formerly involved in Durham, are now working in Newmarket and would like to discuss collaborative trail efforts with the town of Durham. A time will be arranged so all interested parties can take part.
- The Seacoast Chapter of the New England Mountain Bike Association has expressed interest in helping to steward trails. One area of interest is the Powder Major property, which has a spider web of trails. Mr. Brightman agreed that there are too many trails here and work is needed.

**VII. Seacoast Students 4 Sustainability.** Discussion with Oyster River High School students about ideas for sustainability projects. Their website reads “Seacoast Students 4 Sustainability” is a youth-led group advocating and fostering environmental progress within Seacoast communities. Our organization supports green initiatives and works to inspire legislation that protects and rejuvenates local ecosystems.

High School students (Finn Graff, Jill and Ethan) reached out to the Chair a few weeks ago to express interest in learning more about the work of the Conservation Commission and how they can get involved.

Finn Graff came forward and said Seacoast Students 4 Sustainability is a registered non-profit with a mission is to “collectivize the actions of eco-groups across the Seacoast.” They are interested in learning about hands-on educational opportunities that would also provide them with a better understanding of the civic process.

Commission members brainstormed ideas, including:

- Trail clean-ups
- Getting involved in the UNH Cooperative Extension Project to study wildlife corridors.
- Working with UNH Extension to count eels as they go over the dam.
- Tracking weather changes in one spot through photography
- Assisting with amphibian crossings in the spring
- Checking Nature Groupie for citizen science opportunities.
- Monitoring horseshoe crabs at Adams Point
- Pulling invasive species; Pulling nets with NH Fish & Game
- Exploring opportunities with Great Bay Trout Unlimited

Finn said the organization's efforts at the State level to establish a youth environmental advisory council passed in the Senate, but failed in the House. The group is also working to introduce compost education in science classes beyond elementary school. The Chair thanked the students and invited them to stay in touch.

**VIII. Subdivision off Gerrish Drive.** Review of the proposed subdivision has included debate about whether the proposed access to the site via Gerrish Drive or a possible alternative access via Bagdad Road would have lower environmental impact. Although a Bagdad Road access would not avoid the Wetland Conservation Overlay District, and is therefore not being considered, the Conservation Commission will discuss the environmental character of the area through which a Bagdad Road access would be located. The objective is to more fully understand the natural resources of the site as a whole.

Mr. Welsh was invited to introduce this item. He acknowledged (applicant) Mike Mulhern's reservations about further discussion tonight and said the Commission gave their opinion to the Planning Board based on a strict reading of the ordinance.

Collectively, the Commission felt the ordinance didn't give them the leeway to consider the Bagdad access point, which has been raised repeatedly by abutters.

Mr. Welsh commented the charge of the Conservation Commission is to protect the natural resources of the Town – including wetlands and forests and they want to be sure that goal is being met.

Lengthy discussion followed about the broader environmental impacts of the Gerrish Drive subdivision – including the alternate Bagdad access. Commission members acknowledged unanswered questions, such as how a longer road and the removal of more trees (at the Bagdad access) would impact the environment; as well as how an upstream site might impact things downstream, for example.

There was discussion on the limiting language of Criteria 1 for a Conditional Use Permit in a WCOD. Members felt their response to the Planning Board was restricted by the language of the ordinance. They reached consensus the language should be reviewed to avoid similar situations in the future.

At one point, Mr. Slepian raised the question of why the Commission would consider an alternate access at all (for this or future projects) and not just stick to the parameters of the original application before them.

Chair Kritzer replied this discussion is being held only because so many abutters came forward with strong arguments about why another access should be explored. The Commission seeks to be as responsive as possible to the community. In this instance, he said the rules the Commission was working under limited what they could do.

Action Item: Chair Kritzer will communicate the essence of this discussion with the Planning Board and let them know the Commission intends to review the language of the ordinance, with the goal being to revise it.

## **IX. Review of Minutes: September 19, 2022**

Mr. Kritzer said he does not believe lines 244-247 accurately convey the point he was making. He would like to remove the last sentence of lines 246 & 247, which reads: “Chair Kritzer said the Commission was clear about all of this when they made their earlier decision.”

***Mr. Kritzer MOVED to APPROVE the minutes as amended; SECONDED by Mr. Welsh, APPROVED unanimously, 4-0, Motion carries.***

## **X. Other Business & XI. Roundtable**

Chair Kritzer brought up the practice of including times allotted or budgeted for each item on the meeting agendas – which are intended as a guideline to keep things moving. The goal is for meetings to wrap up by 9:30 – but there should be no expectation all

meetings will last until then. Allowances should be made for meetings to go shorter or longer, when necessary.

Ms. Hale proposed the Commission keep a running list of items on the back burner that could be added in when there's a shorter agenda.

Ms. Hale, who teaches in the sustainability program at UNH, also said she has senior students looking for projects in the spring semester. All are placed for this semester, but she invited Commission members to consider ways students could be used in the future.

Chair Kritzer said in conversation with some Indigenous leaders in the State about ways to foster stronger relations with the Town – some of them mentioned they would like to explore foraging rights on Town-owned land. He believes it might be a symbolic gesture or an opportunity for education.

Reporting on Town Council, Mr. Welsh said an archeological dig in Durham has revealed very interesting details about Native American life here during the pre-contact period. In order to protect it, the site is not being publicized.

## **XII. Adjournment**

***Mr. Welsh MOVED to adjourn at 9:25 p.m.; SECONDED by Ms. Hale, APPROVED unanimously, motion carries.***

Respectfully submitted,  
Lucie Bryar, Minute Taker  
Durham Conservation Commission

***Note: These written minutes are intended only as a general summary of the meeting. For more complete information, please refer to the DCAT22 On Demand videotape of the entire proceedings on the town of Durham website.***