

D R A F T

DURHAM CONSERVATION COMMISSION
Monday, February 24, 2025
DURHAM TOWN HALL, COUNCIL CHAMBERS
7:00 p.m.

MEMBERS PRESENT: Dwight Trueblood (Chair); Erin Hardie Hale (Vice-Chair); John Nachilly (joined meeting via zoom at 7:11 p.m.); Nick Lanzer, and Neil Slepian. Alternates: Anne Lightbody and Steve Moyer

MEMBERS ABSENT: Wayne Burton (Town Council Rep); Richard Kelley (Planning Board Rep); Alternate Jacob Cragg; and Land Stewardship Coordinator Veronique Ludington

ALSO PRESENT: Michael Behrendt, Durham Town Planner

1 **I. Call to Order**

2 Chair Dwight Trueblood called the meeting to order at 7:01 p.m.

3

4 **II. Land Acknowledgement Statement**

5 Chair Trueblood read the Land Acknowledgement Statement as adopted by the
6 town.

7

8 **III. Roll Call and Seating of Alternates**

9 Roll call attendance was taken and Alternate Anne Lightbody was seated as a voting
10 member until John Nachilly arrives.

11

12 **IV. Approval of Agenda**

13

14 *Chair Trueblood MOVED to approve the agenda as submitted, SECONDED by Mr.*
15 *Slepian and APPROVED unanimously by a show of hands, 5-0, Motion carries.*

16 **V. Public Comments:** There were none.

17 **VI. Land Stewardship Update:**

18 The Chair said Ms. Ludington advised him she wouldn't be in attendance tonight,
19 because she doesn't have anything new to report.

20

21 Mr. Slepian, a member of the Land Stewardship Sub-Committee, gave a brief
22 summary from the last meeting. He said DPW Director Rich Reine gave a very
23 informative presentation on invasive plants. The DPW has mapped out where
24 major invasive species are located in Durham and developed a detailed plan for
25 how to address them. It's believed the information is accessible on the town's
26 website.

27

28 Mr. Slepian said the Commission has worked on its own invasive species lists for
29 the WSOD ordinance and he recommended the Commission coordinate its lists
30 with DPW's.

31

32 He said next month the Sub-Committee will discuss whether e-bikes should be
33 allowed on Durham trails. Currently all motorized vehicles are prohibited. This
34 came about because the Lee Conservation Commission contacted Mr. Slepian to
35 ask if the town permits e-bikes. The Sub-Committee will coordinate with the
36 towns of Lee, Newmarket, and possibly Madbury.

37

38 Chair Trueblood asked if the Conservation Commission will be given the
39 opportunity to review any e-bike regulations and Mr. Slepian replied yes, once
40 the three towns (possibly four) have reached some agreement. He added the
41 state has developed different categories of e-bikes – from those that can reach
42 speeds of 15 mph up to those able to reach 40 mph.

43

44 *It was noted Mr. Nachilly arrived at the meeting via zoom at 7:11 p.m. Alternate*
45 *Anne Lightbody will no longer be voting this evening.*

46 Chair Trueblood said Acadia National Park allows only two or three classes of e-
47 bikes on its carriage paths; faster bikes are not allowed.

48

49 Ms. Lightbody said there was a bill in the NH Legislature last year to ban e-bikes
50 on rail trails. She doesn't know the final status of the bill but offered it as a point
51 of reference.

52 Mr. Nachilly added there would likely be an issue with allowing e-bikes on rail
53 trails since many are maintained by snowmobile clubs. He believes there are
54 state RSA's governing motorized access on the trails.

55
56

57 **VII. Aquifer Protection Overlay District.** Proposed amendments before the Planning
58 Board for public hearing.

59

60 Chair Trueblood said the Planning Board will hold a public hearing on the
61 proposed amendments to the Aquifer Protection Overlay Ordinance this week.
62 He explained there's currently a provision under Article XVI, requiring single
63 family residences in the Aquifer District to hook up to sewer, if it's available, and
64 also to treat stormwater (not coming off their house) that runs off from their
65 property. The ordinance requires them to hook up to an established stormwater
66 system or put runoff into a reservoir.

67 The first amendment is looking to exempt homes from sewer hook-up in the
68 Aquifer District that are outside the sewage radius of the town because there's
69 no sewer service available within a reasonable distance, making it cost
70 prohibitive. The second amendment proposes to exempt homeowners from
71 having to treat stormwater by sequestering it underground.

72 Chair Trueblood said the Commission can either issue comments to the Planning
73 Board as a group -- or if a consensus can't be reached, members can attend the
74 public hearing to speak as individuals.

75 He noted Mr. Behrendt had distributed an aquifer map, showing the extent of
76 sewer availability and the town's two aquifers: The Bedrock Aquifer and the
77 Stratified Drift Aquifer – the latter being right under the surface of the ground,
78 from which some houses draw their water.

79 Referencing aquifer goals, Ms. Lightbody said their purpose is "to protect,
80 preserve, and maintain existing and potential groundwater supplies and related
81 groundwater recharge areas." She said the shallow drift aquifer would be at a
82 similar elevation as septic tanks. If she had a well in the Stratified Drift Aquifer
83 area, she wouldn't want a neighbor to have a nearby septic tank. As she
84 understands it, there are no setback requirements or other protections to
85 prevent contaminated water from flowing into someone's well.

86 Chair Trueblood, who lives in the Aquifer District, said the zoning ordinances
87 require wells to be a specified distance from septic tanks. He described the
88 situation on his property and said he doesn't think there's potential of
89 contamination from another homeowner's septic, particularly since lot sizes are
90 large.

91
92 Mr. Lanzer suggested the Commission invite someone in with geo-technical
93 expertise if they intend to make formal comments to the Planning Board. He
94 doesn't think there are any members with in-depth knowledge of aquifers.

95
96 Mr. Behrendt gave quick background about the Aquifer District and explained
97 how the amendment proposal came about. He said resident Beth Olshansky has a
98 vacant lot on Packers Falls Road in the Aquifer District and is possibly looking to
99 convey it to the town as conservation property. Before she can do that, fair
100 market value has to be established. She noted the requirement to connect to
101 sewer under Section F1, but there's no sewer availability nearby and that's
102 unlikely to change, according to Mr. Behrendt.

103
104 Regarding the second proposed amendment, he noted the drainage
105 requirements for homeowners are quite strict. They require all runoff from
106 impervious surfaces other than houses must be directed to an underground
107 storm sewer system and then directed to a retention pond outside of the aquifer.

108
109 Chair Trueblood said most homes in his neighborhood (built in the late 80s) are
110 on septic and have wells. He's unaware of homeowners treating stormwater,
111 which is required by the current ordinance. It appears this isn't being enforced
112 and he asked if existing homes would be grandfathered.

113 Ms. Lightbody, who's a hydrologist, raised the idea that instead of removing the
114 requirement altogether, less strict requirements such as setbacks should be
115 considered. She does not believe removing all requirements to protect
116 groundwater should be eliminated.

117 After discussion and a brief look at a similar ordinance from the town of Exeter,
118 the Commission decided to ask the Planning Board to continue the public hearing
119 for one more month. This will give them the opportunity to research the issue
120 further and develop new language for the amendment. Mr. Behrendt will work
121 on some draft language based on tonight's discussion and Ms. Lightbody will ask
122 a colleague to review the draft.

123 **VIII. Wetland and Shoreland Overlay District – Zoning Amendment.** Continued
124 discussion about proposed new Wetland and Shoreland Overlay District (WSOD) to
125 replace the current Wetland Conservation Overlay District (WCOD) and Shoreland
126 Protection Overlay District (SPOD).

127 Mr. Slepian thanked Mr. Behrendt for an excellent job updating the matrix. He
128 noted it will be useful for the Planning Board to have a matrix so they can
129 understand where the Commission started (with the previous ordinances) and
130 where they are headed with this revision.

131 He then led continued discussion on updates and edits to the ordinance, starting
132 on Pg. 9, #1 – under *Permitted Use A – Uses That Do Not Require Review*.

133 Also discussed briefly were sections 175-61A and 175-63, *Permitted Use B* with
134 minor edits proposed.

135 Revised Sections Reviewed for the First Time:

136 The Commission then looked at proposed changes to *Permitted Use B –*
137 *Commission and Board Review Criteria*. Previously there were three criteria and
138 the Sub-committee proposed condensing them to two criteria. It was agreed the
139 phrase “soil erosion” should be restored for clarity.

140 Consensus was reached the two criteria effectively address the prior three
141 criteria.

142 Under *Conservation Commission Review*, Mr. Slepian said the revision spells out
143 more clearly how the Conservation Commission and the Planning Board should
144 interact in reviewing applications. He said it now clearly states if there are
145 significant changes to a plan after Planning Board review, then it needs to come
146 back to the Conservation Commission for comment.

147 *175-64. Conditional Uses in the WSOD* – The Commission discussed Item 2
148 pertaining to “Streets, roads, driveways, bridges and other access ways,” etc.

149 Mr. Moyer questioned if Durham’s culverts are adequate to allow connectivity
150 [for wildlife passage]. He said historically, properly-sized culverts have been a
151 problem for many towns and he also questioned whether the Commission can
152 confirm that Durham’s Public Works Drainage Standards are adequate.

153 There was some discussion about Best Management Practices and State
154 standards. It's unclear to members which standards Public Works are following.

155 There was lengthy discussion about free-standing solar arrays – which the revised
156 ordinance prohibits in the wetland and shoreland overlay buffers. Mr. Behrendt
157 said the Energy Committee might have a different opinion.

158 The Commission discussed the potential damage that could be done by solar
159 arrays in buffers, with Chair Trueblood pointing out they can cause habitat loss.
160 Mr. Lanzer said significant soil disturbance takes place when they're installed.

161 Ms. Hale said the same is true for electric lines, septic, and water lines, so she's
162 not sure why free-standing solar arrays would be an exception. Chair Trueblood
163 said a lot of utilities are underground and the area can be re-planted.

164 The Commission discussed distinctions between private and town-owned utility
165 lines, as well as shared wells and septic systems, which might occur in small
166 developments.

167 *Accessory Structures Subject to Conditional Use* – Item 4 prohibits accessory
168 structures on slopes that exceed 20 percent and prohibits slopes from being re-
169 graded. Chair Trueblood said the Sub-Committee looked at similar ordinances
170 from other towns and concluded that beyond this grade, runoff would shed
171 rapidly.

172 There was brief discussion of 175-61C, which allows agricultural activity but
173 prohibits the use of pesticides and herbicides.

174 In light of the time, the Commission ended their draft review for the evening but
175 will continue discussion on the proposed revisions next month.

176

177 **IX. Review of Minutes: January 27, 2025**

178 ***Vice-Chair Erin Hale MOVED to approve the minutes as presented; SECONDED***
179 ***by Mr. Lanzer; APPROVED, 4-0-1, with Mr. Nachilly abstaining because he***
180 ***wasn't present; Motion carries.***

181 **X. Other Business**

182 Mr. Moyer said he has growing concerns regarding staffing cuts in some of
183 Durham’s federal agency partners as well as blockage of funding to grants in
184 some programs. He knows people who have lost their jobs in NOAA and Fish &
185 Wildlife Services. He’s not sure if the Commission or the town should take any
186 action and wonders what impact it will have on agencies’ ability to do their jobs.

187 Chair Trueblood worked at NOAA for 29 years and said he believes grants could
188 be impacted. He said the grant to help with removal of the town dam is through
189 NOAA. He conveyed via email that the town should try to move that project
190 forward as rapidly as possible. His opinion is that the Conservation Commission
191 doesn’t need to weigh in on this as a group. If members have concerns, they
192 should contact their U.S. Congress members or possibly Town Council.

193 **XI. Roundtable**

194 Ms. Lightbody said the Conservation Commission helped to lead a nature walk
195 yesterday that she and Ms. Hale attended. Emma Tutein did an excellent job on
196 “Tracking Wildlife,” attended by about 15 people.

197 Vice-Chair Hale said there’s a Full Moon Walk coming up on March 14th.

198 Chair Trueblood said there was a conservation meeting of area towns recently,
199 but he was unable to participate because he was given an incorrect zoom link. He
200 read through the minutes and thinks it will be valuable to share conservation
201 information with area towns going forward.

202 **XII. Adjournment**

203 With no other business, the Chair adjourned the meeting at 9:20 p.m.

204 Respectfully submitted,
205 Lucie Bryar, Minutes Taker
206 Durham Conservation Commission

207

208 ***NOTE: These written minutes are intended to be a summary of the meeting. For***
209 ***the full video recording, please visit the town website (www.ci.durham.nh.us)***
210 ***and select DCAT Media on Demand.***