

[ D R A F T ]

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

**MEMBERS PRESENT:** Erin Hardie Hale (Vice-Chair); Darrell Ford (Town Council Representative); Nick Lanzer, and Neil Slepian. Alternates: Jacob Cragg, Anne Lightbody and Steve Moyer

**MEMBERS ABSENT:** Dwight Trueblood (Chair) Richard Kelley (Planning Board Rep); and John Nachilly

**ALSO PRESENT:** Michael Behrendt, Durham Town Planner and Land Stewardship Coordinator Veronique Ludington

1 **I. Call to Order**

2 Vice-Chair Erin Hardie Hale called the meeting to order at 7:02 p.m.

3

4 **II. Land Acknowledgement Statement**

5 Vice-Chair Hale 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 Alternates Jacob Cragg and Steve Moyer were  
10 seated as voting members this evening. Mr. Behrendt introduced Darrell Ford as the  
11 new Town Council representative on the Commission.

12

13 **IV. Approval of Agenda**

14 *Mr. Slepian MOVED to approve the agenda as submitted, SECONDED by Mr.*  
15 *Moyer; APPROVED (No vote was taken.)*

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

17

18 **VI. Land Stewardship Update:**

19 Mr. Slepian gave an update from the Land Stewardship Sub-Committee meeting, where  
20 discussion centered on e-bikes on town trails. Currently, no motorized vehicles are  
21 allowed and it was initially unclear if e-bikes are considered motorized. Ms. Ludington  
22 researched state and national regulations, noting that most National Parks and states  
23 allow Class 1 and 2 e-bikes on trails.

24 The Sub-Committee took an informal vote in favor of permitting Class 1 and 2 e-bikes,  
25 but deferred a final decision pending input from the Parks & Recreation Director. Once a  
26 rule is drafted, Ms. Ludington will coordinate with surrounding towns, in the hope the  
27 same rules will apply area wide.

28  
29 Ms. Ludington said she will create a spreadsheet with proposed allowed uses on town  
30 conservation properties, to allow review of all properties which currently permit  
31 bicycles.

32  
33 Reporting on other Land Stewardship Activities, Ms. Ludington said there were four  
34 webinars offered by UNH Cooperative Extension on *Taking Action for Wildlife*.

35  
36 There's a grant available that would provide technical assistance only. Two members of  
37 the Conservation Commission would need to file the application, due by May 1st.  
38 Technical support could be used for a number of different projects. She'll check with  
39 Parks and Recreation and discuss further with the Land Stewardship Committee before  
40 moving forward.

41  
42 Ms. Ludington proposed a Bio Blitz in the fall, which she explained briefly as citizen  
43 science. The event would likely be held at one property over one day and residents  
44 would be invited to work with scientists to identify birds, animals, plants, trees, and  
45 wildlife. All results would be catalogued into a database like *inaturalist*. She envisions  
46 this as a townwide project that could both boost conservation awareness among town  
47 residents and also provide valuable information to the Commission.

48  
49  
50 **VII. Aquifer Protection Overlay District.** Discussion about proposed amendments before  
51 the Planning Board.

52  
53 Vice-Chair Hale invited Town Planner Michael Behrendt to update the group about the  
54 discussion held last month.

55 Mr. Behrendt recapped that town resident Beth Olshansky owns a vacant lot on Packers  
56 Falls Road and is considering conveying it to another party. The lot, in the Aquifer  
57 Protection Overlay District, must connect to town sewer per ordinance, but no nearby  
58 sewer access exists.

59

60 He distributed an overlay map, showing available sewer and the Aquifer District. He  
61 noted most of the areas within the district don't have sewer access and probably never  
62 will, making the current ordinance unenforceable. His recommendation is to remove  
63 that requirement.

64

65 Secondly, the ordinance says all runoff must be connected to a detention pond outside  
66 of the Aquifer District. According to Mr. Behrendt, most development in rural areas  
67 would be single family and this requirement seems onerous for a single-family house.  
68 His suggestion to the Planning Board was to make the drainage requirement only apply  
69 to development *other* than single family houses.

70

71 After a recent Planning Board hearing, the Commission raised concerns about the  
72 amendments and requested the hearing remain open for another month. The deadline  
73 for submitting comments is now this Wednesday, but Mr. Behrendt noted they could  
74 request another continuation, if needed.

75

76 He said the Commission had consulted Exeter's Aquifer Overlay District ordinance,  
77 which states, in part: *Runoff from impervious surfaces shall be discharged on the site*  
78 *and directed to areas covered with vegetation for surface infiltration, to the extent*  
79 *possible.*

80

81 During lengthy discussion, the Commission considered whether they should conduct a  
82 close review of the runoff provision now while the ordinance is before the Planning  
83 Board or whether they could delay review by several months, given other items before  
84 them. The consensus seemed to be that outside expertise would be needed to assess  
85 runoff in an aquifer. Mr. Behrendt said they're free to re-visit the Aquifer Protection  
86 Overlay District ordinance at any time.

87

88 Ms. Lightbody said she talked with Matt Davis, a colleague who's a hydrogeologist,  
89 about the ordinance. He agreed that surface runoff can indeed become contaminated,  
90 though directing it outside of the whole geographic area seems onerous and could have  
91 unanticipated downsides. At the same time, putting in provisions to treat stormwater  
92 might be worthwhile. Mr. Davis offered his view that Section C of the ordinance is very  
93 technical and would require a hydrogeologic study.

94 Mr. Ford proposed replacing the current site drainage language with wording from  
95 Exeter’s ordinance. He’s a civil engineer and has designed a lot of [drainage] systems  
96 over the years. In his opinion, Exeter’s language makes sense, while the rest of  
97 Durham’s provision on drainage does not.

98

99 Consensus was the Commission may choose to revisit the entire Aquifer Overlay District  
100 ordinance in the future, but these two changes will help alleviate some of the potential  
101 issues for now.

102

103 ***Mr. Lanzer MOVED to replace the site drainage language with language from the***  
104 ***Exeter ordinance [stated above] and to accept Mr. Behrendt’s recommendation on F1***  
105 ***[to eliminate sewer requirement in the Aquifer Overlay District]; SECONDED by Mr.***  
106 ***FORD; APPROVED unanimously, 6-0, Motion carries.***

107

108 **VIII. Wetland and Shoreland Overlay District – Zoning Amendment.** Continued  
109 discussion about proposed new Wetland and Shoreland Overlay District (WSOD) to  
110 replace the current Wetland Conservation Overlay District (WCOD) and Shoreland  
111 Protection Overlay District (SPOD).

112 Mr. Slepian continued leading the discussion on the proposed ordinance. The  
113 Commission began by reviewing changes proposed at the last meeting (pp. 11-12), to  
114 assure that all members are in agreement.

115 Mr. Ford asked for process clarification, since he’s new to the Commission. He read  
116 through the ordinance and has comments/questions from earlier sections. It was  
117 decided his comments would be incorporated into the next review draft.

118 Mr. Slepian then turned discussion to the new sections that hadn’t been reviewed yet,  
119 starting on page 12 -- **B. Conditional Use Criteria.**

120 Ms. Lightbody questioned whether they should review the four criteria again in light of  
121 the eight general criteria not applying, but members didn’t feel this was necessary.

122 **C. Ecological Value.** Mr. Lanzer asked for language to say diversity of all “native or  
123 naturalized” flora and fauna.

124 **Conservation Commission Review** – provides a more detailed description of the process  
125 between the Commission and the Planning Board; only minor edits made.

126 **E. Conditional Use Review Process:**

127 There was lengthy discussion about the proposal to remove the eight general criteria  
128 and keep only four specific criteria pertaining to the environment. Mr. Behrendt  
129 explained there are two types of Conditional Use – some in the table (mixed use with  
130 residential, e.g.) in which applicant has to satisfy all eight criteria, in addition to the four  
131 criteria.

132 Conditional Use for activity in a wetland or shoreland zone is different. For example, to  
133 install a driveway in a wetland buffer requires review of environmental issues. The eight  
134 general criteria (including external impacts on abutters, character of site development;  
135 preservation of natural and cultural resources, impact on property values, etc.) are  
136 unnecessary and burdensome, in his opinion.

137 It was clarified the eight criteria would be struck all together from the ordinance and  
138 from consideration by the Planning Board.

139 Ms. Lightbody raised concerns, saying some projects could have cultural and historical  
140 impacts. By removing the eight criteria, she questioned if the Commission is making  
141 requirements more lax. There was discussion about what type of projects might have  
142 both historical and environmental impact.

143 Mr. Lanzer asked how a project in the WSOD would be reviewed if there were also  
144 historical aspects, such as a pristine cellar hole.

145 Mr. Behrendt emphasized the wetland ordinance is focused on protecting wetlands and  
146 shorelands, not archaeological or historical resources. He noted that other ordinances  
147 might address those concerns and stated that he does not believe it falls within the  
148 Conservation Commission's purview.

149 **175-65. Special Exception for Single-Family Residences in the WSOD.**

150 Mr. Behrendt asked the Commission to look at this provision closely since there's a  
151 current application for which this might be relevant. There's a vacant Durham lot on the  
152 water, with 125-foot buffer. There's not enough room to put a house without  
153 encroachment into the buffer. The applicant would likely have to seek a special  
154 exception from the Zoning Board and meet these criteria. There may be other town lots  
155 with the same issues.

156 There was lengthy discussion on items 4 & 5 in this section, pertaining to the setback for  
157 a single-family house in relation to the water reference line, as well as the placement of  
158 septic systems.

159 In consideration of the late hour, Vice-Chair Hale suggested that members give this  
160 more thought prior to the next meeting and that they move on to other agenda items at  
161 this time. Mr. Behrendt agreed to draft some revised language on this section for review  
162 at the next meeting.

163

164 **IX. Review of Minutes: February 24, 2025**

165 Ms. Lightbody asked to strike one sentence (lines 83-85) attributed to her. “As she  
166 understands it, there are no setback requirements or other protections to prevent  
167 contaminated water from flowing into someone’s well.” She does not feel it adequately  
168 captured the nuance of her comment and could be taken out of context.

169 ***Mr. Moyer MOVED to approve the minutes as amended; SECONDED by Mr. Slepian,***  
170 ***APPROVED 4-0-2, with Mr. Cragg and Mr. Ford abstaining, Motion carries.***

171

172 **X. Other Business**

173 Mr. Moyer raised an issue at 361 Durham Point Road. He feels it would be helpful for  
174 the Commission to gain a better understanding of abandoned/non-abandoned  
175 wetlands. Mr. Behrendt said the owner gave documentation over the last few days to  
176 support his point the wetland hasn’t been abandoned. The town attorney will  
177 determine if the definition of “non-abandoned” has been met.

178 Mr. Moyer said once the town attorney reaches a decision, he thinks the Commission  
179 should discuss the issue. He added that he didn’t appreciate the homeowner sending  
180 police to Chair Trueblood’s house to question him about trespassing. Mr. Slepian said he  
181 was also visited by police, based on a video taken on the property; but he was not the  
182 individual shown in the video. It was re-affirmed that Commission members do not visit  
183 private property without the express consent of the property owner.

184 On other topics, Vice-Chair Hale said there was a full-moon hike recently. Mr. Moyer  
185 attended and said it was very well done; about 60 people took part. Three additional trail  
186 walks are planned this spring: April (vernal pools at Doe Farm); May (bird walk) and June  
187 (Restoration project at Wagon Hill Farm). They will be limited to 20 registrants, due to  
188 parking issues. More publicity will be forthcoming.

189 Mr. Behrendt said John Nachilly contacted him and said he’s unable to attend a lot of  
190 meetings due to other commitments, but wishes to stay on the Commission. He has  
191 offered to become an alternate, which would open a permanent position for one of the  
192 current alternates – Jacob Cragg, Anne Lightbody, or Steve Moyer. Mr. Behrendt invited  
193 them to apply, if interested.

194 **XII. Adjournment**

195 ***With no other business, Mr. Moyer MOVED to adjourn at 9:19 p.m.; SECONDED by Mr.***  
196 ***Lanzer, APPROVED unanimously, 6-0, Motion carries.***

197

198 Respectfully submitted,

199 Lucie Bryar, Minutes Taker

200 Town of Durham Conservation Commission

201

202

203 ***NOTE: These written minutes are intended to be a summary of the meeting. For the full***  
204 ***video recording, please visit the town website ([www.ci.durham.nh.us](http://www.ci.durham.nh.us)) and select DCAT***  
205 ***Media on Demand.***