

From: James Bubar <jamesabubar@gmail.com>
Sent: Tuesday, April 30, 2024 10:54 AM
To: Michael Behrendt <mbehrendt@ci.durham.nh.us>
Cc: Jake Kritzer <jake.kritzer@gmail.com>
Subject: WSOD Proposed Ordinance

Michael,

I certainly was a proponent of revising the WCOD and SPOD Ordinances after the exceedingly frustrating Gerrish Brook crossing and the inability to have an alternative route through the wetland investigated because of the ordinance language. That defied all logic to me. So I commend the Conservation Commission for undertaking a thorough review, consolidation, and rewrite of those ordinances.

I am not opposed to the direction the Conservation Commission appears to be taking, based on last evening's discussion. However, I am skeptical that it will survive unscathed by the Planning Board and subsequently the Town Council, both who are required to hold public hearings.

The 330' tidal setback is admirable and ideal for water quality, native flora, and fauna. Not so much the human invaders into their turf. Before taking any final action on this proposal I would be quite interested to understand how the 330' tidal setback would affect valuations of existing residential properties, and vacant land. I am concerned that the owners of adjacent land to tidal waters would file for property tax abatements due to the diminishment of uses and thereby property valuation, especially the vacant land where a full 330' buffer and prohibition on cutting trees, installing lawns would not be allowed. 330' of evergreens present a formidable screen and eliminate most if not all of the scenic vista component of waterfront property valuations. Given the lack of development, the pressures that are sure to come forward on Town budgets, it seems prudent to perform a best-efforts estimate of the property valuation adjustments that would be necessary. My concern is that this would shift some of the tax burden that is being borne by the waterfront properties to all properties in Durham, including the contemplated workforce housing initiatives. And of course, necessitate an increase in the municipal property tax rate or substantial reductions in the coming budget.

On a personal note, the 330' tidal buffer zone would effectively put my whole property in the buffer. I have no septic on site except for, I connect to the Town's forced sewer main and require a large septic holding tank in case my pumps fail. I have no plans to add on to our house nor at this point to build an unattached housing unit. However, I do have a driveway that was paved 15 years ago and will need to be resurfaced in the next 10 years or so. It appears that I could resurface my asphalt driveway under the proposed 175-64 A Conditional Uses in the WSOD. However, that would require filing an application for permission with both the Conservation Commission and the Planning Board and if approved obtaining a Paving Permit from DPW. That seems like a time consuming, expensive, and frustrating process for the applicant.

I think that an approach similar to the Minor Site Plan Review Subcommittee the Planning Board has could be developed to address situations like these and assuming no issues arise in the review the results would be issuing a paving permit or whatever permits are necessary.

I think having to pay a fee for resurfacing an existing driveway is gouging our taxpayers.

I have numerous ash trees around my house, not as many as I used to have, and they are 40 to 60 feet tall. Not allowing me to remove a diseased tree that is leaning toward my house but is 16 feet away (175-61 A.9.) is not a good option and does not comply with the Town's stated goals of advancing public health, safety, and welfare. However, that clause only applies to single family residences so is this a way to increase the number of ADUs in Durham? I lost one ash tree in the windstorm a few weeks back and as it was coming down it took out another ash tree. I have 5 more ash trees that I plan to have removed this summer.



I am more concerned about my edible landscape and gardens. It appears that 175-62 3 allows agriculture as an accessory use subject to 175-61C which prohibits pesticides, herbicides, and fertilizers. I routinely use Captain Jack's Dead Bug (organic solution) to control asparagus beetles and other insect pests. I have a professional service come in and spray all of my hemlocks to eradicate a serious infestation of woolly adelgid. I was hit by an especially bad case of tomato blight last year and resorted to a copper fungicide which I guess is okay as there appears to be no prohibition on fungicides. I have had a

different professional service injecting mycorrhizae fungi into the soil around my landscaping. It appears the section Agricultural Activity (175-61 C) was written for agriculture as a principal use (commercial) and not for home gardeners. I frequently use bone meal, a natural product, for much of my fertilizing but the cherry trees, blueberries, raspberries, and blackberries require an acidic treatment for them to be productive. Again, the ordinance solution for a home gardener requires jumping through many more hoops than most would put up with. Do I seriously need to get the code administrator's approval to plant a non-native species (rosemary) in my garden every year? I would argue that most vegetable gardens are full of non-native species.

I think that clauses need to be added (175-91 C) that allow as an accessory use to a residence, noncommercial home gardens and landscaping with noninvasive species outside of the wetland but within the buffer or existing cleared surface area. Minimal application of fertilizer, herbicides, pesticides, and fungicides as necessary should be permitted. Restricting gardening efforts of our citizens is contrary to the objective of increasing the quality and quantity of local food production.

I am more than okay with banning lawns everywhere in Durham, they are an environmental abomination and provide no food source for our fauna and insect friends, provide minimal rainwater uptake, utilize gas mowers, gas weed trimmers, and nitrogen fertilizers that run off eventually into the ocean. Shame on the Town for even owning lawn mowers or trimmers.

Please share this with the remaining Conservation Commission members and those who will be joining the Commission in the near future.

James A Bubar