

**DURHAM CONSERVATION COMMISSION MEETING  
MONDAY, AUGUST 24, 2020 – 7:00 PM  
DURHAM TOWN HALL - COUNCIL CHAMBERS - DURHAM, NH**

*Note: Due to the Coronavirus pandemic, most members and presenters attended via Zoom video conferencing while a limited number were in Council Chambers.*

1 Members Present: Chair Bart McDonough, Vice-Chair Sally Needell; Jake Kritzer; John Nachilly;  
2 and Walter Rous; Alternates Liz Durfee and Roanne Robbins.

3 Also Present: Michael Behrendt, Town Planner and Lucie Bryar, Minute Taker

4 Absent: Coleen Fuerst and Mary Ann Krebs (alternate)

5 **I & II. Call to Order and Roll Call.**

6 Chair Bart McDonough called the meeting to order at 7:02 p.m. and asked for roll call. He  
7 temporarily seated Alternates Liz Durfee and Roanne Robbins as voting members since Ms.  
8 Fuerst was absent and Mr. Nachilly had not yet arrived.

9  
10 Chair McDonough then read a required statement pursuant to the Governor’s Emergency Order  
11 #12 pertaining to meeting remotely during the Covid-19 pandemic and outlining how the public  
12 can continue to participate. More information is available on the town of Durham website.

13  
14 **III. Approval of Agenda. Mr. Rous MOVED to approve the agenda as presented, SECONDED**  
15 **by Mr. Kritzer, APPROVED unanimously, 6-0, Motion carries.**

16  
17 **IV. Public Comments:** There were none this evening.

18  
19 **V. Colony Cove – SPOD.** Conditional use application to install two patios within the 125-foot  
20 setback from Little Bay in the Shoreland Protection Overlay District. Request for expedited  
21 review of NHDES wetland/shoreland application. Naithan Couse, property owner. Beth  
22 Dermoddy, Landscape Architect, Allen & Major Associates. Map 12, Lot 25. Residence Coastal  
23 District.

24  
25 Property owner Naithan Couse was in attendance to present his application, including a site  
26 plan. He said they are seeking to replace two decks (now removed) with two patios, using  
27 permeable pavers that will improve drainage. Some plants will be removed to improve their  
28 view, but additional landscaping of native plants will be added.

29  
30 Commissioners agreed the application was clear and sensitive to conservation concerns. In  
31 answer to a question, Mr. Couse said they plan to install a hot tub on one of the decks, but it’s  
32 not a permanent structure. Mr. Rous asked if boron is one of the agents that would be used to  
33 clean the hot tub and asked where the wastewater would go.

34

35 Mr. Couse confirmed they are not on town sewer, but would use a garden hose and pumping  
36 system to direct the wastewater to their leach field. Ms. Needell asked about pesticide use on  
37 the property and Mr. Couse responded they follow shoreline guidelines mandated by the State.

38  
39 The Commission then reviewed the application to see if the project meets the four criteria for  
40 conditional use within a Shoreland Protection Overlay District. Under item 2, discussion ensued  
41 about erosion control measures to be undertaken and it was agreed that the applicant should  
42 submit a step-by-step checklist to the Planning Board outlining erosion control measures.

43  
44 **With no further discussion, Mr. Rous MOVED to recommend the 22 Colony Cove patio project**  
45 **to the Planning Board since the Commission finds it meets all four criteria for conditional use**  
46 **in a Shoreland Protection Overlay District, SECONDED by Ms. Needell, APPROVED**  
47 **unanimously, 6-0, Motion carries.**

48  
49 Town Planner Michael Behrendt said the applicant is also requesting approval by the  
50 Commission of an expedited review of the shoreland application by the Department of  
51 Environmental Services.

52  
53 **Mr. Rous MOVED to confirm to NH DES that the Conservation Commission has no objections**  
54 **to an expedited shoreline application process, SECONDED by Ms. Needell, APPROVED**  
55 **unanimously, 6-0, Motion carries.**

56  
57 It was noted that member John Nachilly was now present at the meeting. Alternate Roanne  
58 Robbins will continue to vote in the absence of Coleen Fuerst but Liz Durfee will not vote for  
59 the remainder of the meeting.

60  
61 **VI. Alpha Tau Omega Fraternity – Revised Plans.** 18 Garrison Avenue. Amendment to approved  
62 conditional use for construction within the Wetland Conservation Overlay District (WCOD).  
63 Richmond Property Group, c/o Sarah Layton, property owner. Bruce Scamman, Emanuel  
64 Engineering. Isaac Schlosser, Krittenbrink Architecture. Map 2, Lot 12-12. Central Business  
65 District.

66  
67 Bruce Scammon, representing Richmond Property Group was present, along with Attorney  
68 Kevin Baum. Mr. Scammon said the previously approved project turned out to be too costly.  
69 The applicant is now seeking to construct a new building of just over 3,000 square feet (a  
70 reduction of 700 square feet from the previous proposal). Essentially the parking lot and  
71 retaining wall will remain as proposed. The new plan sites the building further away from  
72 Pettee Brook and a rear walkway will become a small patio.

73  
74 Chair McDonough then asked Mr. Scammon to address the four criteria for conditional use in a  
75 Wetland Conservation Overlay District.

76  
77 **Note that this is an abbreviated version of written responses submitted by the applicant:**

78 **1. There is no alternative location on the parcel that is outside of the WCOD that is reasonably**  
79 **practical for the proposed use.** Applicant responded that nearly all of the property is within the

80 WCOD’s 75-foot wetland buffer. Thus nothing can be reasonably constructed without impacting  
81 the WCOD.

82  
83 *2. The amount of soil disturbance will be the minimum necessary for the construction and*  
84 *operation of the facilities as determined by the Planning Board.* Applicant responded that soil  
85 disturbance will be kept to a minimum and within the previously disturbed areas of the  
86 property...Additionally, the proposal maintains significant undeveloped areas on the property  
87 around the wetlands and Pettee Brook, far in exceedance of that for similar nearby properties.

88  
89 *3.) The location, design, construction and maintenance of the facilities will minimize any*  
90 *detrimental impact on the wetland and mitigation activities will be undertaken to*  
91 *counterbalance any adverse impacts.* Applicant responded that RPG proposes to replace the  
92 existing impervious parking area with porous pavement. The use of porous material will reduce  
93 overall impervious surfaces on the property and add stormwater treatment that is not currently  
94 in place.

95  
96 *4.) Restoration activities will leave the site, as nearly as possible, in its existing condition and*  
97 *grade at the time of application for the Conditional Use Permit.* Applicant responded that RPG  
98 does not propose any material change to the existing grade of the property...the undisturbed  
99 area closest to the wetlands and Pettee Brook will be maintained and protected by the addition  
100 of the retaining wall and fence. The overall condition of the property will be improved by the  
101 removal of the impervious parking lot and inclusion of porous pavement and a stormwater  
102 treatment system.

103  
104 Ms. Needell asked if the proposed patio would be porous or non-porous and Mr. Scammon said  
105 it would be non-porous. Plans call for installation of a drip edge so that most of the run-off  
106 would be directed toward a treatment system.

107  
108 Chair McDonough asked about the overflow capacity of the proposed porous parking lot. Mr.  
109 Scammon said he believes it was designed for a 50-year storm and there is a reservoir under  
110 the treatment system.

111  
112 **With no further discussion, Mr. Nachilly MOVED to recommend to the Planning Board that**  
113 **the Alpha Tau Omega Fraternity Revised Plan meets the four criteria for conditional use in a**  
114 **Wetlands Conservation Overlay District, SECONDED by Ms. Needell, APPROVED unanimously,**  
115 **6-0, Motion carries.**

116  
117 **VII. Land Stewardship.** Ellen Snyder, Land Stewardship Coordinator. Proposed 2021 Budget and  
118 other matters.

119  
120 Ms. Snyder began by asking Commissioners to uncommit funds previously committed to a fence  
121 at Doe Farm, since materials were less expensive than anticipated and volunteers completed  
122 the work.

123

## DCC DRAFT MINUTES – AUGUST 24, 2020

124 **Chair McDonough MOVED to uncommit \$1330.29 from the September 23, 2019 motion that**  
125 **approved up to \$2,000 from the Conservation Fund to re-build a boundary fence between**  
126 **Doe Farm parking area and the LaRoche Farm, SECONDED by Ms. Needell. APPROVED**  
127 **unanimously, 6-0, Motion carries.**

128  
129 Mr. Nachilly recognized Ms. Snyder for doing an excellent job recruiting volunteers and  
130 managing the project efficiently and added the end result is a big improvement to the property.

131  
132 **Ms. Snyder then asked for a motion to authorize an expenditure of up to \$5,000 from the**  
133 **Patron’s Trust for the design and construction of a pedestrian/bike friendly bridge across**  
134 **LaRoche Brook, which is part of the Durham /UNH/NHFG trail network from Stevens Woods to**  
135 **Bennett Road.** The \$5,000 is a donation from Eversource as part of the Seacoast Reliability  
136 Project in Durham; the Committee needs permission to expend the funds.

137  
138 The bridge project will likely require hiring an outside firm and obtaining a wetlands permit. It’s  
139 expected that helical piers will be used, which are very stable and more environmentally  
140 friendly than other options. In answer to a question from Mr. Nachilly, Ms. Snyder confirmed  
141 that \$2,500 has already been committed to the property and will be added to the \$5,000 from  
142 Eversource to help cover costs for permitting, survey work, design and materials. She’s meeting  
143 with Engineer Mike Sievert this week to discuss design and engineering.

144  
145 **Chair McDonough MOVED to authorize up to \$5,000 from the Patron’s Trust for the proposed**  
146 **bridge (as detailed in Lines 129-133 above), SECONDED by Mr. Kritzer, APPROVED**  
147 **unanimously, 6-0, Motion carries.**

148  
149 Ms. Snyder then shared the following updates with Commissioners:

150 • Mr. Nachilly worked with a neighbor to the Merrick Property and others to move granite  
151 abutments in place – which represents a cost savings since the materials were recycled.  
152 Funding for the bridge is already in place from the Patron’s Trust and the next step is to  
153 order materials and find volunteers.

154  
155 Mr. Nachilly recognized Christian Hall(?), the neighbor who donated his time and tractor  
156 to move the granite and said he was instrumental in getting the project done.

157  
158 • Dennis Meadows is continuing to raise funds for the Oyster River Bridge, with about half  
159 of the \$140,000 needed already raised. The group was able to take advantage of an  
160 \$80,000 grant from the State and hopes to have the bridge completed by year end.

161  
162 • Ms. Snyder will meet with Doe Farm Trustees and Durham’s assistant chief of police this  
163 week to discuss a number of matters there, including an increase in vandalism to signs  
164 as well as unauthorized campfires and campers. It’s unclear if there are ordinances or  
165 fines that should be enforced.

166  
167 • The Land Stewardship Committee continues to seek volunteers for a number of  
168 projects, including monitoring of easements and removing invasive plants.

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- Ms. Snyder said she expects to complete a 2021 budget within the next week or so, after she meets with the engineer to discuss project design and costs. While there are many projects ahead, construction of the Merrick Bridge is the current priority and work at Long Marsh Preserve will be a priority in 2021.

Mr. Nachilly asked about the easement monitoring report for the Capstone property which is handled by an outside consultant. Ms. Snyder said the 2020 report is not yet ready but she agreed that a site walk with the consultant might be beneficial at this point since he has noted an increase in trash in recent reports.

In other matters, she notified Commissioners that the Land Stewardship Committee elected new officers: Ann Welch as Chair; Sally Tobias, Vice-Chair and Ellen Snyder (herself) as Secretary. Most members of the Committee are appointed by their respective town boards, including Agriculture, Conservation, Heritage, Parks & Recreation, etc.

She said three at-large members were appointed some time ago by the Conservation Commission and she would like them to be re-affirmed. She encouraged the Commission to consider setting term limits and possibly staggered terms. In her view, their positions evolved “organically” and it’s unclear how long they should serve.

Mr. Kritzer said clarity is important going forward. He’s not opposed to re-affirming at-large members, but wants to be sure due process is followed in case there are other community members who would like to serve on the Committee.

Chair McDonough said the discussion about setting terms for at-large members could continue at a subsequent meeting. Ms. Snyder mentioned that currently one at-large member would step down if a replacement could be found and Chair McDonough recommended posting the open position in the town’s Friday Update.

**VIII. Application Materials for WCOD and SPOD Projects.** Proposed set of questions about wetlands and water features to be given to applicants and revised application and checklist for projects in the Wetland Conservation and Shoreland Protection Districts.

Chair McDonough noted this is a continuing discussion from the previous meeting about information that should be given to applicants and also questions Commissioners should consider when reviewing applications. Mr. Behrendt and Ms. Needell edited the draft materials since the last meeting and Ms. Durfee provided a list of outside conservation resources for applicants, which is now part of the packet.

Mr. Behrendt expressed some concern that applicants might find all the materials overwhelming, particularly those with smaller projects. Mr. Rous asked if he could communicate with applicants to let them know when some of the materials are unnecessary

213 and Mr. Behrendt responded that he can try to be sensitive to the scale and impact of a project  
214 when working with applicants.

215  
216 Mr. Rous then addressed some of the guidelines, specifically items 8 and 14. He felt item 8 –  
217 which asks about the nature of drainage – might be too vague and he questioned if item 14,  
218 about archeological and historical features, is a conservation concern.

219  
220 Mr. Kritzer said he appreciates all the work that went into the guidelines; he suggested that the  
221 preamble to the documents be expanded so that applicants will have a better understanding of  
222 what is being asked of them during the application process.

223  
224 Chair McDonough said further editing can take place and discussion can continue at the next  
225 meeting.

226  
227 **IX. Other Business**

228 Chair McDonough announced that he will be moving out of town so will be unable to continue  
229 on the Commission. His last meeting will be September 2020.

230  
231 Several commissioners expressed appreciation for the outstanding job he has done while  
232 serving as Chair and wished him well. Mr. McDonough in turn said he genuinely appreciates the  
233 contributions of everyone on the Commission and has learned a lot.

234  
235 **X. Review of Minutes: July 27, 2020**

236 Mr. Rous asked if this could be tabled to the September meeting since he had not had a chance  
237 to review them and all agreed.

238  
239 **XI. With no further business, Mr. Rous MOVED to adjourn the meeting at 8:37 p.m.,**  
240 **SECONDED by Ms. Needell, APPROVED unanimously, 6-0, Motion carries.**

241  
242 Respectfully submitted,  
243 Lucie Bryar, Minute Taker  
244 Durham Conservation Commission

245  
246 ***Note: These written minutes are intended only as a general summary of the meeting. For***  
247 ***more complete information, please refer to the DCAT22 On Demand videotape of the entire***  
248 ***proceedings on the town of Durham website.***