

**FINAL**

**DURHAM CONSERVATION COMMISSION  
MONDAY, MAY 24, 2021  
VIA ZOOM  
DURHAM TOWN HALL--COUNCIL CHAMBERS  
7:00 pm**

**MEMBERS PRESENT:** Jake Kritzer, Chair (remotely); James Bubar, Planning Board Rep. (remotely); Mary Ann Krebs (remotely); Walter Rous (remotely); Carden Welsh, Town Council Rep. (remotely); Erin Hardie Hale, alternate (remotely); Coleen Fuerst (remotely)

**MEMBERS ABSENT:** Roanne Robbins, alternate; John Nachilly, Vice Chair

**OTHERS PRESENT:** Michael Behrendt, Town Planner (remotely); Tom Brightman, Land Stewardship Coordinator (remotely)

**I. Call to Order**

Chair Kritzer called the meeting to order at 7:01 pm. Town Planner Michael Behrendt read the Zoom call-in and public input/participation instructions for the viewing audience, due to the meeting being held in a remote setting via Zoom.

**II. Roll Call**

The roll call was taken: *Jake Kritzer--Yes; James Bubar--Yes; Erin Hale--Yes; Carden Welsh--Yes; Walter Rous--Yes; Mary Ann Krebs--Yes*

**III. Approval of Agenda**

Chair Kritzer briefly overviewed the agenda.

*James Bubar MOVED to approve the agenda as presented, which was SECONDED by Mary Ann Krebs and PASSED unanimously 6-0 by a roll call vote: Jake Kritzer--Yes; James Bubar--Yes; Erin Hale--Yes; Carden Welsh--Yes; Walter Rous--Yes; Mary Ann Krebs--Yes*

**IV. Public Comments**

There were no members of the public to comment at this time.

**V. Land Stewardship--Update from Tom Brightman, Land Stewardship Coordinator**

Land Stewardship Coordinator Tom Brightman began by informing the Commission on recent volunteer projects. One of these projects took place at the Wagon Hill living shoreline, where a few UNH and community members cleaned a build-up and the planting of up to 60 new native plants. Pulling of Garlic Mustard around the Town is occurring, mostly on Town property. A UNH Fraternity worked with Mr. Brightman to clear out Buckthorn from Thompson Forest. Councilor Welsh asked about the Shoreline Restoration project, specifically about erosion potentially caused by higher water levels, and asked whether the restoration would succeed. Brightman answered that the restoration is a short or medium-term effort, and not much is known about long-term.

Mr. Brightman continued by informing the Commission that he had planted Ellen's tree at the Milne property. June 10th is the current potential workday to do gardening and upkeep of the property. Mr. Brightman suggested that the week after that day would be a good time to do an event for Ellen, potentially 14-16 in the late afternoon.

Mr. Brightman gave the Commission an update on the Milkweed plots at Wagon Hill that previous Land Stewardship Coordinator Ellen Snyder had worked with NRCS to create, which get mowed at certain times for the purpose of research. COVID-19 affected the mowing schedule, and Mr. Brightman is working to set it back on course.

Three of the Town's properties have been registered as Monarch way stations through the NH fish and game: Wagon Hill South, Thompson Forest, and Oyster River. This registration gives the Town signage to post around town as well as additional milkweed plants to plant.

Mr. Brightman concluded by giving the Commission updates on nearby research. The University of Massachusetts installed acoustic recording devices in Wagon Hill North and Oyster River last Saturday. Traps have also been set at Doe Farm for wood-boring beetles.

- VI. 190 Piscataqua Road--Conditional Use--**Conditional use application for various structures to be located within the Shoreland Protection and Wetland Conservation Overlay Districts: permeable patio, retaining wall, spa, swimming pool, steps, paths, permeable pavement driveway, and stormwater treatment areas. Review of shoreline buffer planting plan. Tom and Erin Daly, property owners. Eric Buck, Terrain Planning & Design. Map 12, Lot 7. Residence Coastal District.

Town Planner Michael Behrendt noted that the applicant had previously come to the Commission with their ideas, and the Commission discussed and did a site walk of the area before giving suggestions for the Zoning Board, which was denied. The project is also on the agenda for the Planning Board's May 26<sup>th</sup> meeting

Tom Daly, property owner, also provided background information on the project, including a summary of the Commission's comments: concerns about the shoreline trees, approval of the removal of invasive species, and that the house was too large for the buildable area. After their original plan was denied, Daly worked closely with the Town

Planner and the Zoning office to create a new plan taking in the ZBA and Commissions' concerns. The home is entirely within the buildable area, but accessory structures would need conditional use permits.

Eric Buck, architect for the property from Terrain Planning & Design, walked the Commission through their updated plan. Mr. Buck used a map to go over the existing land and existing property, including existing boathouses, barns, gravel driveway, and house with two outdated septic systems.

Mr. Buck then switched to a different map of the proposed plan. The new plan extends the setbacks to the shoreline and adds a few new accessory properties, including a new driveway. The proposal also incorporated Commission feedback to incorporate more mature trees to prevent the heat island effect, as well as native plantings like dogwoods and red chokeberries along the shoreline. The existing mature trees on the shoreline will be kept intact as well, but invasive species will be removed.

Buck explained the permeable surfaces in more detail, specifically outside of the foundation of the house. A sand buffer after the foundation will lead to a pipe which will transport water to a bio retention area before making its way to the bay. The proposed erosion control method is hay bales and silt socks, which will be maintained for the duration of the construction. He mentions that the Daley's are committed to following the NHDES' best management practices for grassland maintenance for protected shoreline areas.

NHDES also did a wetlands report on the property, which was given to the Commission, as well as a letter of the unique history of the property from a neighbor of the lot. Jake Kritzer then transitioned the Commission into a Q&A with Eric Buck and Tom Daley.

James Bubar asked for clarification on what areas of the property needed a conditional use permit. Buck responded that those areas are the new driveway, installation of utilities, the new patio, hot tub, and pool.

Erin Hale asked about the design of the permeable patio. Erick Buck answered that water will drain in between the gaps of the bricks and then goes through a layer of gravel, which will be collected and then be piped out.

Jake Kritzer asked why there was a large area near the house that didn't have plans to be built on. Buck answered that they needed to fit a large septic tank near the house.

Carden Welsh asked a few clarifying questions about the pool, including the size and management of the pool. Eric Buck replied that the pool is 22 by 42 feet, which is a standard design. The pool deck will be permeable on three sides, with a three-foot retaining wall on the fourth side. Mr. Buck also noted that the permeable pavers need some maintenance, including yearly draining and replacing of the buffer layer every five years.

Coleen Fuerst asked about the location of the outlying buildings, specifically their height. She worries that the buildings would be flooded with a natural disaster. Eric Buck responded that the house is 18 feet above ground, and outlying buildings are 24 feet, so even in a natural disaster situation, it is unlikely that the buildings would be flooded.

Jake Kritzer transitioned the Commission into more general comments. Walter Rous commented that he was impressed with the design work and happy with the Daley's for their thoughtfulness.

Jake Kritzer transitioned the Commission into discussion of the four criteria the proposal must pass. The first was reasonable alternatives for the proposed development. Walter Rous commented that there didn't seem to be alternatives for the patio or driveway. Carden Welsh noted that there was room on the other side of the house for the spa, as opposed to its current planned location in the setback area. Jake Kritzer commented that it made more sense to have the spa close to the pool, and that the pool is in an ideal location. Overall, Mr. Kritzer noted that there didn't seem to be any major concerns in this aspect.

The second criteria related to soil disturbance. Mr. Kritzer read the applicant's comments on the subject, that soil disturbance is as limited as possible. James Bubar pointed out that the removal of the gravel driveway will cause significant soil disturbance in the wetlands area, which is not strictly necessary, but an improvement for the property overall.

The third criteria related to detrimental effects on the shoreland and wetland. Mr. Kritzer read the applicant's comments on the subject, which is that the mitigation efforts seek to minimize any effects on the wetland and shoreland, including the bale and stormwater management efforts and removal of invasive species. There was some discussion on the existing cottage that will be turned into a pool house at some point, which would include safe removal of hazardous materials like asbestos and removal of the septic tank, but would not need a new footprint.

The last criteria related to any land that is not developed on will be restored to the original landscape as closely as possible. Eric Buck noted that removing invasive species and adding native species fills this requirement.

Walter Rous and Carden Welsh expressed their concerns about the guarantee that maintenance will be upheld long-term, and Councilor Welsh asked whether the Town had any authority to monitor those maintained. Michael Behrendt responded that commercial properties are much easier to oversee than residential. Unfortunately, the Town must rely on good faith on the part of the of the property owner, and noted that this could be discussed on the Planning Board in further detail. Eric Buck also noted that NHDES requires a maintenance plan in order to receive a permit, which the Daley's will need in order to retrieve a shoreline permit, and NHDES has the ability to inspect the property at any time. Walter Rous and Jake Kritzer also noted that this is less an issue of this specific application, but a general question to the Town.

Jake Kritzer returned to the first criteria, specifically whether the accessory buildings are appropriate uses of the land. Mr. Kritzer said he was satisfied with the accessory buildings, and that they are not environmental threats to the bay. Tom Daley argued that all of the accessory structures are reasonable under the Town's Zoning Ordinance, as structures traditionally associated with single-family homes.

***Walter Rous MOVED to APPROVE the Conditional Use Plan for 190 Piscataqua Road, with a request for the Planning Board to focus on maintenance plans. This motion was SECONDED by Coleen Fuerst and PASSED unanimously 7-0: Jake Kritzer--Yes; James Bubar--Yes; Erin Hale--Yes; Carden Welsh--Yes; Walter Rous--Yes; Mary Ann Krebs--Yes; Coleen Fuerst--Yes.***

**VII. Discussion about Pesticides--**Discussion about proposal to work with the Agriculture Commission in educating the public about pesticides

Jake Kritzer reminded the Commission of some background information, originally proposed by Planning Board Chair Paul Rasmussen. Commission members set out to do some background research in order to start a discussion. Mr. Kritzer emphasized that this is an early stage of discussion and can be lead any direction the Commission wants.

Erin Hale noted that she was under the impression that the Commission was going to do a joint meeting with the Agriculture Commission in June to educate each other and then town management and local homeowners on pesticide use. In her research, Ms. Hale spoke with some people from UNH. UNH has a ton of resources, and a UNH representative has offered to come into a Commission meeting.

Carden Welsh commented that we might be able to use the Friday Updates to inform the public about the broad strokes of pesticide use and safe practices.

Erin Hale noted that a common misconception that the UNH representative often receives is natural alternatives to pesticides. She emphasized that even "natural" pesticides can have negative effects on people, animals, and water quality if not used correctly.

Carden Welsh spoke with Portsmouth, Hanover, and Dover about their efforts on the subject. He noted that the Town can certainly do public education campaigns, but there is little the Town could do to pass any ordinance or legal oversight. He also noted that the towns in general try to recommend as little uses of fertilizer or pesticides as much as possible and do not use them on town properties (specifically sidewalks). Mr. Kritzer asked if there were any practices that concerned Councilor Welsh. Councilor Welsh responded that there wasn't any that he knew of.

Jake Kritzer asked if the Commission would like to focus on public education efforts or official policy in their joint meeting with the Agricultural Commission. James Bubar said that he would like to focus on public education efforts, as he feels that would do more good long-term.

The Commission planned to invite Theresa Walker, the chair of the Agricultural Committee, as well as anyone else on the Committee that wanted to join to a Conservation Commission meeting on June 28th.

**VIII. Conservation Land--Updated Guidelines for Acquiring Legal Interest in Conservation/Open Space Land**

Michael Behrendt clarified to the Commission that he sought the Commission's general feedback on the policy to bring to the Planning Board and Town Council, who are planning on modifying it.

Walter Rous suggested that there would not be a required endowment from the property owner wishing to donate, and that it only applies to land in the town. Jake Kritzer responded that the edits strongly encouraged but did not require an endowment.

The commission endorsed the updated guidelines and sent them along to the Council.

**IX. Natural Resources Master Plan--Discussion of recommended actions.**

This agenda item was moved to the next meeting.

**X. Other Business**

Jake Kritzer suggested that the Commission return to having loose time allocations for agenda items. This was received warmly by the Commission.

Walter Rous asked what the response to the Wildlife Survey was. Mary Ann Krebs said that they are collecting responses until June 4th, and have received three or four so far at drop off boxes. Walter Rous suggested moving the survey up a few weeks in order to get better photos with less leaves around. Jake Kritzer noted that there is general support to continue the Survey, but follow-up on improvements need to happen in the near future, as the Survey may be redone in the summer.

**XI. Roundtable Updates from Conservation Commission Members**

Carden Welsh--Town Council

Carden Welsh updated the Commission on Council matters. He summarized a preliminary report done by UNH sustainability fellow on Greenhouse Gas emissions.

James Bubar--Planning Board

James Bubar updated the Commission that the Planning Board is going forward on the Gerrish Drive and Colonial Durham applications.

**XII. Review of Minutes: January 4th, January 25th, Site Walk--February 5th**

This agenda item was moved to the next meeting.

**XIII. Adjournment**

*James Bubar MOVED to ADJOURN the meeting, which was SECONDED by Walter Rous and PASSED unanimously 7-0: Jake Kritzer--Yes; James Bubar--Yes; Erin Hale--Yes; Carden Welsh--Yes; Walter Rous--Yes; Mary Ann Krebs--Yes; Coleen Fuerst--Yes.*

The meeting was ADJOURNED at 9:54 pm.

Evie Wiechert, Minute Taker