

These minutes were approved at the April 27, 2026 meeting.

DURHAM CONSERVATION COMMISSION
Wednesday, March 4, 2026
DURHAM TOWN HALL, COUNCIL CHAMBERS
7:00 p.m.

MEMBERS PRESENT: Dwight Trueblood (Chair); Neil Slepian (Vice-Chair); Jacob Cragg, Anne Lightbody; Ben Phelps, Rob Sullivan (Planning Board Rep); Alternates: Steve Moyer and Julian Smith

MEMBERS ABSENT: Darrell Ford (Town Council Rep) and Alternate John Nachilly

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

I. Call to Order

Chair Dwight Trueblood called the meeting to order at 7:00 p.m.

II. Land Acknowledgement Statement

The Chair read the Land Acknowledgement Statement adopted by the town.

III. Roll Call and Seating of Alternates

The Chair welcomed Julian Smith as an alternate to the Commission. Roll call attendance was taken and no alternates were seated.

IV. Approval of Agenda

Chair Dwight Trueblood MOVED to approve the agenda as presented; SECONDED by Mr. Cragg; APPROVED unanimously by a show of hands, 6-0, Motion carried.

V. Public Comments:

Paul Rasmussen, 5 Glassford Lane, commented on the work of the [WSOD] subcommittees. Speaking as a member of the Planning Board, he noted that Pettee Brook and College Brook have a different setback in downtown than they do elsewhere. He suggested this kind of nuance could be applied in other areas of town.

He said many RA neighborhoods have small lot sizes and wetlands can have a huge effect on what homeowners can do with their properties. He mentioned one subdivision by route 4, Bagdad Road extension, where there is space for a house, but most of the lot falls within the setback, leaving little room for typical yard uses such as a swing set. Mr. Rasmussen suggested that some flexibility or relief within the zoning – based on lot size or other criteria — could be beneficial. He said Mr. Behrendt might help determine what would be fair and manageable for

the town. He also said without this flexibility, a resident adding a swing set and then having a fallout with a neighbor could result in their actions being reported as a violation of the WSOD. He encouraged the Commission to consider small lots in drafting the ordinance.

The Chair asked Mr. Rasmussen what lot sizes are in the RA district and he replied with his own home as one example. He currently lives on 1/3 acre which is directly on Pettee Brook; the buffer covers three-quarters of his property. He said lot size isn't the only consideration, it's geometry as well. A rectangular lot 100 feet-wide with a creek on one side doesn't leave the homeowner much room.

Vice-Chair Slepian asked Mr. Rasmussen if he's suggesting the Commission consider changing buffers for small lots. Mr. Rasmussen said that would be one option, possibly restricted to certain zones. Alternatively, if a buffer takes up a certain percentage on a specific lot size, then maybe a different buffer size could kick in. He said there are many ways it could be handled and he can work with it at the Planning Board.

In answer to a question, Mr. Rasmussen said if you consider two half-acre lots side-by-side – one with a large buffer and the other with none – from an assessment viewpoint, the properties are valued the same way even though restrictions on each homeowner are significantly different.

Mr. Smith said he agrees with Mr. Rasmussen. He owns a very small lot next to College Brook. Mr. Smith then asked if he could address the Commission as a member of the public instead of as a Commission member. After consulting with Mr. Behrendt, Chair Trueblood determined Mr. Smith would be given the opportunity to speak under Other Business or Roundtable and not under Public Comments.

VI. Land Stewardship Update

Land Stewardship Coordinator Veronique Ludington gave a report on recent activities:

- The Land Stewardship Subcommittee continues to work with a small sub-group on kiosk and sign updates. They are developing content for the Doe Farm sign, while researching design and production costs. She found a new vendor who will possibly work on the kiosk for Wagon Hill Shoreland Restoration.
- She's continuing to work with Ann Welsh and Neil Slepian on the BioBlitz. Response from experts has been good and a Save the Date poster is online; Facebook publicity and registration will be handled by Rachel Gosowski, Parks & Rec; They are looking for volunteers to help the day of the event, Sunday, May 17th. BioBlitz will also be promoted in the new sustainability newsletter.
- She's hoping to recruit new trail stewards through a training next month and flyers and articles in *Friday Updates* as well as in the sustainability newsletter.
- Ms. Ludington is working with Steve Letterman to design a Survey123 app for volunteers to enter their hours, to allow for better tracking of total volunteer hours.

- Workdays planned for April include: cleanup and invasives removal at Milne Sanctuary on Sat., April 18th. UNH capstone students currently working with Ann Lightbody will staff a table that day about invasive removal after Mill Pond Dam removal. Scouts will do trail cleanup at Doe Farm on April 25th. UNH math students will do a workday at Oyster River Forest, date TBD.
- The next Discover Durham Trails walk is a snowshoe hike on March 15 at Longmarsh. A UNH grad student will talk about stone walls, bridges, and other geological features. She and Sara Callahan will talk about ecology and history of the site, with assistance from Janet Mackie.
- Ms. Ludington and Neil Slepian met with Rich Reine and Sam Hewitt from DPW to discuss Wagon Hill Farm shoreline restoration project and also invasives removal once Mill Pond Dam comes down. DPW said mowing at Wagon Hill, which wasn't done this past fall due to equipment failure, will be done this spring. They also discussed replacing a bridge/boardwalk on the Oyster River Trail.
- She and Rachel Gasowski submitted an application for the 2026 AARP Community Engagement Flagship Grant for accessibility improvements at Jackson's Landing. Residents of Riverwoods provided valuable feedback and a letter of support. The request for \$13,500 would buy materials to improve trails, add ADA-compliant picnic tables and benches, as well as a shade canopy. The work would be done by volunteers and if grant-funded, would need to be done by December 1, 2026.
- Re: Wagon Hill Farm (WH) dog waste issue previously discussed: she and Neil Slepian met with Scott Letourneau, a Durham resident and head of Seacoast Dogs. He's organized volunteers to pick up dog waste at WH, which she hopes will be an ongoing effort. She's been distributing flyers in Wagon Hill parking lot and has heard from residents who don't want the town to change its dog policies. Other town properties are also becoming more littered with dog waste. Possibly more volunteers could get involved at all public access properties.
- Great Bay Resource Protection Partnership Spring Stewardship grant was announced recently. Applications due April 15th. She's working with Ted Howard on a possible invasive mapping protocol at Doe Farm that has the potential to become an example for the community at large. She is exploring the grant and project costs.

VII. 561 Bay Road Permitted Use B. Permitted Use B application for retaining walls, stone walls, steps, regrading and landscaping within the Wetland Conservation Overlay District for a single-family house. A Permitted Use B approval was granted in 2023 for a different design. David and Karen Della Penta, property owners. Eric Weinrieb and Erik Saari, engineers, Altus Engineering.

Eric Weinrieb from Altus Engineering and Lucy Humphreys from Matthew Cunningham Landscape Design, came forward on behalf of the applicants. Mr. Weinrieb noted Devin Hefferon, also with the landscape design company, was on zoom.

He noted the property under discussion is on Tax map 239, Lot 9 and owned by David and Karen Della Penta through their trust. They last appeared before the Commission and Planning Board in winter 2023.

Mr. Weinrieb said the site slopes from Bay Road at an elevation of 46 to 50 feet, down to an elevation of 26 feet, near the wetland on eastern part of parcel. A former house on the property was raised to allow construction of a new home with a state-of-the-art septic system.

He reviewed the 2023 approved plan, which included an elaborate retaining wall system to address roughly 25 feet of grade change. Following Planning Board approval, the house was raised, a well installed, and ledge removed for the foundation. Before footings were installed, however, the Della Pentas paused construction. They decided the house was too large and also that access from the house to the conservation area would be too difficult with about 20 steps.

They hired a new architect to design a more modest home and brought in Matthew Cunningham Landscape Design to design a “less aggressive” wall system. Mr. Weinrieb said in 2023, they filed a Conditional Use Permit (CUP) for buffer impacts, but the Planning Board determined a CUP was unnecessary and approved the project as Permitted Use B.

The property has historically been mowed into the wetlands. The revised plan removes a retaining wall within 75-feet of the wetland and a shed within 60-feet.

Devin Hefferon of Matthew Cunningham Landscape Design (on zoom) then presented the updated landscape plan. He said the Della Pentas asked the company to scale back the six retaining walls previously planned and to adopt a more natural planted slope approach. Now in their 70s and planning to age in place, the Della Pentas are seeking easier access to the waterfront. The design uses a large stockpile of blasted ledge rock already on site and eliminates the need for 1,900 cubic feet of concrete.

Mr. Hefferon showed slides with proposed topographical changes. The plan calls for 100 percent native plants within the Overlay District and replaces the front lawn with a pollinator garden. He noted the Della Pentas will no longer mow the lawn area to the prime wetland, a practice in place for more than 20 years. He also outlined erosion control, stabilized construction access, and tree protection measures. He said the revised plan is more site-sympathetic and safer long term.

Mr. Weinrieb then did a quick review of the purpose of the Wetland Conservation Overlay District, items “a” through “f.” He believes the project meets the goals, including protecting water quality, minimizing flooding, preserving habitat, maintaining ground water recharge, and enhancing scenic value. He emphasized the proposed work is limited to the buffer.

Mr. Weinrieb stated they believe the application qualifies as a Permitted Use B under Section 175.60b of the ordinance. The project will include appropriate erosion and perimeter controls outside the wetland buffer, as well as a stabilized construction exit to prevent sediment from reaching roadways. Disturbed areas will be restored and improved by regrading slopes to reduce concentrated runoff and enhance the natural wetland buffer. He added that all work will be

conducted to minimize impacts, noting that activities are limited to the buffer and will not affect the wetland itself.

Vice-Chair Slepian said the project is well-designed but raised a concern brought up by Richard Kelley from the Planning Board under 175.65A, which prohibits soil disturbance within 50-feet of the reference line. Mr. Hefferon said the grading begins about 6 to 8 feet away from the flagged wetland line.

Ms. Lightbody asked if the property falls under the WCOD [Wetland Conservation Overlay District] or SPOD [Shoreland Protection Overlay District]. Mr. Weinrieb confirmed it's under the WCOD; they're about 540 feet from the Bay.

Mr. Sullivan asked Mr. Weinrieb how they will address the ordinance calling for repair of the retaining wall under Permitted Use B and Mr. Weinrieb replied they're proposing to take out the existing retaining wall and change the grade to make it more natural. He said grading is permitted where necessary to accommodate a structure.

Mr. Sullivan noted the new retaining wall is within the WCOD. He's concerned about the potential cascade from adding three feet of dirt on the entire east side of the house. If the Commission says it's okay to grade all the way down to the wetlands, it could set a precedent. Mr. Weinrieb replied that every site is unique and that the design enhances the buffer.

There was continued back and forth discussion between Mr. Sullivan and Mr. Weinrieb about potential impacts in the buffer and possible alternative approaches. Mr. Sullivan suggested they could build a house without the lower half of the retaining wall and keep the grade a little steeper. Mr. Weinrieb said the new design has fewer retaining walls, but the property would be graded further down to the wetland. He believes this creates a better environmental solution long-term.

Mr. Sullivan said there needs to be balance. He noted Mr. Weinrieb is arguing in the long run the wetland will benefit by not having cement trucks on the road [to build more retaining walls], while his own position is, "they're messing with the wetland buffer on a preference as opposed to a necessity."

Mr. Hefferon presented a slide comparison of the original and revised designs, emphasizing the retaining walls will not be visible from the Bay. Although the revised plan encroaches closer to the wetland, he maintained that discontinuing mowing in that area represents a more sustainable, ecologically sensitive approach.

Mr. Sullivan asked about access for aging homeowners. He questioned whether they would use the path on the left or exit through the basement door, suggesting that if the basement door is the primary access point, extensive grading along the lower portion of the retaining wall may not be necessary. In response, Mr. Hefferon said the revised design allows access from a proposed deck or a screened porch via three steps to the lawn, with a 12–14% grade—close to a standard ADA

ramp. He added that a retaining wall on the east side is needed to establish the slope and to prevent encroachment into the tree root zone.

Mr. Smith, who has followed the project since its initial review by the Planning Board and has visited the site, expressed support for the current proposal and the house design. He hopes the Commission can get through the concerns raised by Mr. Sullivan.

Referencing Mr. Kelley's email, Vice-Chair Slepian again questioned how the project would comply with the prohibition on soil disturbance within 50-feet of the reference line. Mr. Weinrieb said he finds the ordinance language unclear and suggested that if it were interpreted strictly, the town wouldn't be able to install culverts, for example. It seems that no wetland permits would be issued. As written, he doesn't think this section of the ordinance applies in this case.

Mr. Behrendt said while the new design is strong, the town must follow the ordinance. He noted two challenging provisions related to this application: section 175.65A prohibits soil disturbance within 50 feet of the reference line and another provision states grading needs to be tied to a permitted use. The challenge for the Commission and Planning Board is to determine where the allowance is in this case for extensive grading.

Chair Trueblood said the applicant may need to seek a variance from the Zoning Board. Mr. Smith commented that requiring a well-designed project to delay construction for a ZBA hearing sends the wrong message, adding that the town needs more development like this that is going to create more tax revenue. He doesn't see a significant issue with the current proposal.

Mr. Sullivan reiterated his view that the revised plan, which pushes the design all the way to the water, goes too far. Further discussion ensued about possible design modifications, with Mr. Hefferon saying to eliminate any grading within 50-feet of the wetland, the wall on the eastern side would have to curve inward to capture the slope. He noted it's achievable to pull the wall back 50-feet, but difficult to remove all the earth work from 50 feet without having the wall cross in front of the house. He acknowledged they will need to re-visit the plans.

Mr. Smith asked if it would be possible for the applicants to begin excavation and construction of the house while landscape details are resolved. Mr. Weinrieb said they have a valid approval in hand and since the house and septic are outside the buffer, construction could begin pending a building permit.

Mr. Behrendt reiterated that any grading within 100 feet must be justified by a permitted use. Chair Trueblood said the application does not appear to meet this standard, as the retaining wall is not necessary to support the house. He again suggested seeking a variance. Mr. Behrendt agreed and noted the Commission could provide input to the Zoning Board.

Mr. Hefferon asked for guidance on how to make revisions that would result in a recommendation from the Commission. Mr. Sullivan said cutting the east wall in half and

steepening the grade would be a good starting point. The Chair said the project needs to provide as much protection as possible from pollution, runoff, and sedimentation.

Mr. Behrendt said a variance would likely be needed for both disturbance within 50 feet and grading not otherwise permitted. He advised the applicants to ask for what they want, noting they will need to demonstrate hardship, based on specifics of the site.

Action Taken

The applicants were advised to seek a variance from the ZBA. Mr. Smith said he believes the ZBA must hold a public hearing within 30 days of receiving the application and he sees no reason construction of the house could not begin while they await a decision. Mr. Hefferon added that timing is not a major concern.

Mr. Behrendt noted the ZBA's next meeting is April 14th, giving the applicants one to two weeks to submit an application. If a variance is granted—and assuming the project qualifies as a Permitted Use B—they will need to return to the Conservation Commission. In the interim, he confirmed construction can start on the house.

The Chair said he would prefer to review the variance application before providing comments to the ZBA. Ms. Lightbody suggested that, for stormwater management, the applicants consider grading the slope to promote infiltration rather than creating a compacted lawn.

Chair Trueblood thanked the applicants for their presentation and the Commission then took a brief recess.

VIII. WSOD Discussion. Update on subcommittee meetings about proposed Wetland and Shoreland Overlay District.

The Chair introduced this item and said they need to discuss how they will address public comments in the next ordinance draft.

Vice-Chair Neil Slepian gave a quick summary of the process over the last few months. He said the Commission received a lot of public feedback and took it very seriously, compiling it in a number of different formats. Recently, Mr. Behrendt put feedback into the pertinent sections of the ordinance draft. Subcommittees have met and completed their work. The task now is to pull together the work of the three subcommittees into a final proposal for the WSOD. He noted that Mr. Cragg created an easy-to-read graphic that represents the graduated buffer proposal, starting with the Chair's previous chart. He asked for subcommittees to give a five-minute report.

Mr. Cragg reported on the subcommittee for Conditional and Permitted Uses, which reviewed sub-sections 175.62 and 63, 64 and 66. He said they considered all public feedback, but they gave close point-by-point consideration to the proposal submitted by Durham residents on December 14, 2025. The subcommittee's recommendations include:

- Reduce the size of the vegetative buffer (no numbers proposed).

- Allow limited use of slow-release, low phosphorus nitrogen fertilizers, pending conversations with the entire Commission.
- Allow accessory structures located outside of the buffer as Permitted Use A. (They had extensive discussion about this.)
- Allow free-standing solar systems as Permitted Use B. Residents recommended Permitted Use A, but sub-committee thought it fell under Permitted Use B (along with private wells and utilities).
- Change or remove language around fences since they are not detrimental to wildlife corridors.
- Remove requirement for “best available technology” under 175.61d, pending further conversations. They questioned why the language was there.
- More detailed descriptions are needed as to what constitutes agricultural and conservation activities in 175.62.
- Based on last month’s discussion: they recommend reviewing language on Permitted Use A, Permitted Use B, and Conditional Use overall.

Mr. Moyer reported on the work of the 175.61 (General Requirements for the Buffer) sub-committee; He doesn’t believe they thought their work was done. They examined all public comments and he noted Jim Lawson’s input was very helpful.

- The subcommittee agreed the idea of graduated buffers has merit and helps to address many public concerns.
- They believe the “Why” document is important and offered suggestions to make the case in a more compelling way. The environmental benefits need to be expanded, in their view.
- The subcommittee also added to the FAQs for the website. Everything was sent to members via email.

Mr. Sullivan asked Vice-Chair Slepian if there was justification for each of the graduated buffers. He wants to be sure they have a basis for everything they propose. They need to be clear if something is linked to state or federal law.

The Chair said when he created the buffer chart, he realized fourth order rivers and tidal waters in Durham fall under the NH State Water Quality Protection Act. The Act has specific mandates within 250 feet of the reference line. From 0-50 feet, e.g., there can be no fertilizers and no cutting and there are strict guidelines for tree trimming, etc. He proposed the chart can be used as a template for wetlands, vernal pools, and smaller streams and rivers. The Commission needs to discuss how far inland they should go in regulating activities.

Chair Trueblood proposed creating a small working group to move the ordinance draft forward. Along with himself and Vice-Chair Slepian for continuity, he would like someone from the Planning Board and Town Council to be part of the group, as well as Mr. Behrendt. They will meet twice monthly during the day.

After the working group comes up with another draft, it will be brought back to the Conservation Commission for further discussion. The Chair said he's unsure how to engage the public at that point to assure them their concerns have been addressed.

Mr. Sullivan asked if they should have a member of the public in the working group and Vice-chair Slepian said he believes they've incorporated sufficient public comment into all of their work and it would be difficult to choose just one representative from the public. He advocates for another public session once the sub-group comes back with an updated draft.

Mr. Behrendt reiterated the sub-group will meet every two weeks during the day. They will hold advertised public meetings. Minutes will be one page maximum, not detailed. More detailed minutes will be done when the sub-group comes back to the larger Commission. Vice-Chair Slepian said they can update the Conservation Commission monthly, if they wish.

It was clarified that the working group will be comprised of Darryl Ford (Town Council Rep); Rob Sullivan (Planning Board Rep); Chair Dwight Trueblood; Vice-Chair Neil Slepian, and Town Planner Michael Behrendt.

IX. Review of Minutes: December 22, 2025

Mr. Cragg said the number of members approving the agenda was questioned by the minute taker. He noted the number should be six.

Chair Trueblood MOVED to approve the December 22, 2025 minutes as amended; SECONDED by Mr. Phelps; APPROVED, 3-0-3, with Anne Lightbody, Neil Slepian and Rob Sullivan abstaining.

X. Other Business

Newly-appointed alternate Julian Smith was given the opportunity to introduce himself. He said he has lived in Durham off and on since 1965 and was a UNH professor. He studied at Tulane and Columbia Universities and managed to become a fully-tenured professor without a PhD. He served a total of ten years on the Commission, as a Planning Board Rep. Mr. Smith said Town Council interviewed him this past Monday before appointing him to the Commission. He commented the Council wasn't happy about his application and he was told he would likely not be approved. They had a lengthy discussion and the vote was 5-4. Vice-Chair Slepian asked why the vote was so close and Mr. Smith replied because he is seen as a "troublemaker." He adopts contrarian positions and asks too many questions. He cited several examples of ways he's challenged the status quo.

Mr. Moyer advised Mr. Smith to get to know others on the Commission and listen to what they have to say. Secondly, he cautioned that time is one of their greatest resources and they have to use it wisely.

Turning to other topics, Mr. Cragg asked if the format he created for the graduated buffer chart was workable for everyone. He used Canva and allowed text boxes to be editable. It was agreed the new sub-group will do their own edits.

Reporting on the submission for the Sustainability Newsletter, Mr. Cragg said he drafted an introductory article of less than 200 words. It focuses on their work, partners, and the WSOD. He wanted to be sure they aren't duplicating what was submitted by the Land Stewardship Committee. Members are asked to submit comments/feedback by Monday.

Mr. Cragg also reported on blurbs he created for the Conservation Corner in *Friday Updates*. He said wetlands have been mentioned many times and he asked members to let him know of any redundancies. He asked for members to submit new topics. He has maintained a list of sources for those who have questions. He mentioned that Town Administrator Selig has asked about data collection, re: if articles are being read. Mr. Cragg said he believes people are seeing the articles because he's heard some discussion about them. He would like to start gathering data on the Conservation Commission's work in general, including special events.

X. Roundtable

Chair Trueblood reported he and Vice-Chair Neil Slepian received an invitation today to be on a panel at the NH Lakes Symposium in Concord to discuss the process used to develop the new ordinance for the Wetland and Shoreland Overlay District.

Mr. Sullivan asked Mr. Behrendt if there had been any progress to the Technology Drive project and he replied he thinks they're applying for a variance soon. Mr. Sullivan said it's going to be a big deal for the Commission, in terms of addressing water quality for the town. His guess is that it could come back to the Commission within six months.

Reporting on Planning Board activity, Mr. Sullivan said there's a lot of discussion about zoning changes associated with the Housing Task Force. Potentially there could be lot size changes, which might drive a lot of projects to the Conservation Commission.

XI. Adjournment

With no further business, Chair Trueblood MOVED to adjourn the meeting at 9:20 p.m.; SECONDED by Mr. Cragg, APPROVED unanimously, 6-0, Motion carried.

Respectfully submitted,
Lucie Bryar, Minutes Taker
Town of Durham Conservation Commission