



Londonderry Conservation Commission
Tuesday, June 23, 2020
Minutes

1 **Present:** Marge Badois, Chair; Gene Harrington, Vice Chair; Deb Lievens, member; Mike Noone,
2 member; Mike Byerly, member; Bob Maxwell, member; Mike Speltz, alternate member; Susan Malouin,
3 alternate member; and Jocelyn Demas, alternate member

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5 **Absent:** Richard Floyd, member

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7 **Also present:** Amy Kizak, GIS Comprehensive Manager; Beth Morrison, Recording Secretary;

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9 Marge Badois called the meeting to order at 7:30 pm with a roll call vote. She appointed M Speltz to
10 vote for R Floyd

11 **DRC – Home Depot Site Plan Amendment – Lot 007-119-0** – Earle Blatchford, P.E., from Hayner &
12 Swanson, 3 Congress Street, Nashua, NH and John Kerekes, architect from Greenberg Farrow, 153
13 Cordaville Road, Suite 210, Southborough, MA addressed the Commission. E Blatchford told the
14 Commission that the Building Department had reached out to the local manager of Home Depot with
15 some concerns about changes in the outside display and storage areas. He noted that they met with
16 staff from the Planning Department and the Building Department in February of this year, to go over
17 what they plan to do to memorialize different practices on a plan before they go before the Planning
18 Board. He explained that the main issue for the Commission this evening, is on the original site plan
19 approval there was an extra restriction on the site regarding outside storage of pressure treated lumber.
20 He mentioned that the town’s regulation states that “there cannot be any storage of pressure treated
21 lumbar in the Conservation Overlay (CO) District,” and pointed out the Planning Board took it a step
22 further and said they did not want pressure treated lumber stored in the entire site at Home Depot. J
23 Kerekes shared his screen with the Commission, illustrating an operating restrictions placard, which
24 outlines the approved outdoor activities on the site for employees to reference. He commented that on
25 the initial site plan there was an outside storage area in the rear of the store, with a note stating no
26 pressure treated lumber can be stored outside. He claimed that the new lumber that is being sold is no
27 longer heavily filled with chemicals that pose a threat to the environment. He presented a new plan,
28 noting the areas in dark gray, are the areas they are seeking permission for with the amended site plan.
29 He mentioned that Home Depot gets a number of lumber deliveries and they try to get the lumber in
30 the store within 36 hours. He reviewed the pamphlet from the vendor Home Depot purchases lumber
31 from with the Commission. D Lievens asked him to illustrate the existing site plan versus the proposed
32 site plan again. J Kerekes reviewed the plans with the Commission. E Blatchford reported that they are
33 going to comply with the CO District setback, noting that the distance from the bottom of the slope to
34 the curb line is a minimum of 65 feet, therefore, the storage area is a minimum of 15 feet outside of the
35 CO District. He stated that they are asking to relax the restriction of not allowing pressure treated
36 lumber on the entire site that was placed twenty years ago. J Kerekes said that the operating restrictions
37 placard is to provide the store with a plan/diagram so that it is always available for employees to



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38 reference, and also to memorialize the approvals they receive for the store. M Noone asked to look at
39 the buffer, as he thought the whole area was wet down in the back where the proposed storage is
40 located. E Blatchford replied parts of the back of the property are wet, as there are fingers of wetlands.
41 He pointed out that the original site plan received permitting to fill some wetlands on the property with
42 appropriate mitigation. He stated that the redefined wetland, following the permit, is closest to the toe
43 of the slope reviewing the wetland on the map with the Commission. M Byerly asked if they did a new
44 wetland mapping for this project. E Blatchford responded that they did not, as the slope was built as
45 they designed it, and he can tell the Commission conclusively that there is no need to reflag the
46 wetland. He affirmed the amended proposed lumber storage area is outside the CO District buffer. D
47 Lievens asked him to clarify what he means by redefined, as redefining a wetland does not necessarily
48 make it larger or smaller. E Blatchford explained that when you get a wetland permit, the edge of the
49 wetland gets adjusted as well as the CO District buffer. M Noone said that on the town's' GIS map there
50 is a stream that runs through the property and he does not think the lumber storage area is 65 feet
51 away from the stream, but rather 50 feet or less. A Kizak pointed out that some of the streams are
52 ditches and channelized water features. E Blatchford reviewed the GIS map with the Commission. D
53 Lievens asked if they were taking down any trees or changing the plan in any other way. E Blatchford
54 responded that they were not taking down any trees or making any other changes to the plan. He noted
55 the Planning Department wants the perimeter of the new storage areas to be painted, so it will be a
56 visual queue for people unloading the materials on the site. M Byerly asked what is at the edge of the
57 slope to prevent run-off. E Blatchford replied that there is curbing there and the whole site has a closed
58 drainage system to collect the run-off. M Noone asked for the GIS map again with the conservation
59 markers turned on. A Kizak shared her screen with the Commission. She noted that GIS cannot be used
60 for boundary determination. M Noone reiterated that he does not believe the stream is 50 feet away. E
61 Blatchford explained that he scaled the slope off the original site plan to make this determination, and
62 affirmed the length of the slope is 65-feet long. M Speltz pointed out that the applicant is seeking relief
63 from a restriction that was imposed by the Planning Board, not the Commission or the Zoning Board of
64 Adjustment (ZBA). He commented that the Planning Board, probably out of an abundance of caution,
65 did not want the lumber stored outside noting that the storm water management system would not
66 treat the chemicals. He asked if the new material is different than the old pressure treated material and
67 if SES is a governmental agency. He stated that the Commission can either advise the Planning Board to
68 revise the restriction or keep the restriction in place. J Kerekes read from the pamphlet noting he
69 believes these are government standards, noting the new lumbar has 99% less copper, if it does in fact
70 leach out. M Speltz said that he feels comfortable relying on the International Standard Organization
71 (ISO), but the numbers in the pamphlet give the maximum allowable, and does not tell you what is in
72 the actual product. He asked if this was approved as requested, is there a note in the plan that would
73 prevent a legacy lumber from going into the storage area. J Kerekes stated he did not understand the
74 question. M Speltz asked if all lumber going to Home Depot, now and in the future, would be this new
75 type. J Kerekes replied that this would be the product that Home Depot purchases and sells. M Byerly
76 mentioned that they might use it now, but that might change, and how would the Commission or
77 Planning Board know this. J Kerekes noted that the only restriction to lumber was that pressure treated



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78 could not be stored outside, so it would have to come in off the truck and be sold in the store. J Demas
79 asked what assurance does the Commission have that in the future Home Depot is not going to go back
80 to pressure treated lumber that does meet these requirements. M Badois said that they could include it
81 in a condition in their recommendation to the Board. E Blatchford asked if J Kerekes would agree to that
82 condition. J Kerekes responded that he did not have a problem with that condition. M Byerly mentioned
83 that the Environmental Protection Agency (EPA) has a list of approved chemicals that can be used in
84 treated wood and asked if the Commission should use this list in their recommendation. M Speltz stated
85 that he would like to know more about the EPA list that M Byerly presented before using it. He
86 suggested that if the lumber falls under these maximum contaminant levels presented in the pamphlet
87 tonight, then the Commission is okay with it. M Byerly made a motion to recommend outdoor storage of
88 lumber provided the treated lumber chemicals do not exceed the maximum contaminants specified in
89 the then-current EPA and ISO standards 14044 and 14025, or then current specifications from similar
90 organizations. M Speltz seconded the motion. The motion passed, 7-0-0, by a roll call vote.

91 **ZBA application review** – 2 Essex Court – Lot 012-080-17 – Harry Smith, owner at 2 Essex Court,
92 addressed the Commission. H Smith reviewed his plot plan with the Commission noting that he has a
93 100-foot conservation setback that he would have to comply with for his inground pool and concrete
94 patio. He said that he would encroach 1374 SF in the Conservation Overlay (CO) District. He showed the
95 Commission some pictures that he took of his property for them to review. M Noone asked about the
96 15-foot setback. H Smith replied that he is requesting a variance for this as well and noted that he has
97 three variance requests. A Kizak explained that the applicant has applied for three variances, but only
98 one applies for the Commission to comment on regarding a structure in the CO District. D Lievens asked
99 if he was informed about CO District when he bought the house. H Smith replied that he might have
100 been, but he put in an offer within an hour of viewing the house, as they go so quickly in this
101 neighborhood. D Lievens asked if the CO District language was in his deed. H Smith responded it was in
102 the deed. M Badois informed him that the CO District buffer is to protect the wetland from residents
103 contaminating it. M Speltz commented that it also protects from chemicals that you might put on your
104 lawn, such as fertilizer. M Noone asked why it was a 100-foot buffer versus a 50-foot buffer on this
105 property. M Speltz replied that this was a named wetland and therefore it is a 100-foot buffer. He said
106 that he thought a pool could go in the easterly portion of the property and not have to go into the CO
107 District. M Badois said that ideally the Commission would like him to stay out of the CO District. H Smith
108 asked if he brought another drawing showing that option, would the Commission be for it. M Badois
109 replied that the Commission would be okay with it, if he can place a pool without going into the CO
110 District. A Kizak asked M Badois for a recommendation for the ZBA. M Speltz made a motion to advise
111 the Zoning Board of Adjustment that the proposed pool would inflict more damage to the wetland and
112 therefore the variance should not be granted. G Harrington seconded the motion. The motion passed, 7-
113 0-0, by a roll call vote.

114 **Unfinished Business**

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116 **Island donation – delayed until July 20, 2020:** M Badois told the Commission that the Town Council
117 vote has been postponed again to July 20, 2020.

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119 **Stream brochure:** M Badois told the Commission that she received the mock up from the printer. A
120 Kizak told the Commission that the typos have been fixed and corrected the references to make them
121 local references. M Speltz asked for A Kizak to send him the most current version to review. A Kizak
122 replied she would send the Commission the most up-to-date version for them to review tomorrow. M
123 Noone informed the Commission that he received an estimate of \$1,000 for 500 brochures, as it was
124 \$1.89 each. A Kizak mentioned that a quick GIS search yielded about 1,000 parcels that have water
125 running through them. B Maxwell asked if this information would be available electronically on the
126 town's website. A Kizak answered that it would.

127
128 **Gilcreast Orchard land:** M Badois commented that the company that was doing the first phase has
129 been approved to do the second phase and is moving forward. M Speltz said that the Commission is at
130 the beginning of phase 2 of the assessment. He pointed out that there are contaminants above
131 acceptable levels and the next step is to characterize them. He stated that they will go to the three
132 hotspots on the orchard and characterize the soil there to create a statistical model for the entire
133 orchard. He explained the hypothesis that there may have been some degradation in the chemicals that
134 they are dealing with and it would be a good idea to do this to determine the next steps. He mentioned
135 that the contract has been signed with EnSafe to do this.

136 **Trail Maintenance:** M Badois told the Commission that there are a couple places that need
137 maintenance, such as Sara Beth Trail and Faucher Road bridge, and asked if the Commission wanted to
138 do it by themselves or pair up with Trailways. M Byerly asked what the nature of the maintenance is
139 specifically. M Badois explained that the original entrance to Sara Beth had a tree fall across it and
140 people created their own loop to the right, so she would like to clean this up and make it clear where
141 the trail actually is and make sure it is passable. B Maxwell said if someone goes into Sara Beth Trail that
142 way, they end up on the old Alexander Road extension, which is a river six months out of the year. M
143 Byerly expressed his opinion, that he was inclined to shut the trail head down. A Kizak said that the
144 Commission could remove this part of the trail from the maps if it does get closed. M Noone said he
145 would not suggest widening the path that is not on the Commission property and would recommend
146 reestablishing the original path by cutting the tree that fell over. M Badois asked about examining the
147 bridge at Faucher Road. D Lievens stated that this is going to be a big job and would require the
148 Commission to pay someone to do this. She mentioned that it might require a permit-by-notification or
149 trails permit and would inquire about this. M Speltz said that the first step would be for the Commission
150 to get a quote with an associated scope of work. He asked if M Byerly could talk to Trailways about this.
151 M Byerly replied that he would.

152 **New Business**



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153 **Apple Trees:** M Badois told the Commission that she received a proposal regarding the apple trees on
154 the new Gilcrest Road houses, which suggests the Commission pay \$15.00 per tree, if a resident would
155 like one. M Byerly expressed his opinion, that he does not think this a good thing to spend conservation
156 money on. M Badois agreed. M Speltz commented that he does not see where the trees would even be
157 planted on the site, as there is no room for them. M Badois said the trees would go where the third row
158 was removed, behind the house, to supposedly provide a screen to the sound barrier. She voiced her
159 opinion, that this is not a conservation issue, but rather an aesthetic issue. She commented that the
160 demographics of the people moving in to the houses would not want apple trees dropping dead apples
161 on their lawn. She pointed out that these apple trees would not be maintained by the home owner's
162 association (HOA), but rather the home owner. M Speltz said that he felt this would be a bad precedent
163 to set in the town as well. M Badois said she would respond to the Town Manager stating that this is not
164 a conservation issue.

165 **Other Business**

166 **Future Meetings:** M Badois said that she was looking to get a consensus from the Commission
167 regarding future meetings. D Lievens noted that the emergency order would stay indefinitely and
168 believes the virtual meetings work. A Kizak concurred that the emergency order is still in place and for
169 the foreseeable future it will continue to be extended. She said that the Commission has the option of
170 continuing to meet remotely or to meet in person. D Lievens asked where the Commission could meet in
171 person. A Kizak replied that they could meet in the Moose Hill Conference room or in the cafeteria at
172 the High School. D Lievens expressed her opinion, that she would like to wait and see what happens
173 with the reopening. M Byerly commented that he felt if one person is not comfortable with meeting in
174 person, the Commission should continue to meet remotely. The Commission's consensus was to
175 continue with remote meetings.

176 **Encroachments:** M Badois informed the Commission that M Noone is working on rewriting the
177 encroachment protocol. M Noone mentioned that he is drafting a new encroachment protocol where
178 conservation issues would go through Officer Aprile first rather than code enforcement. He noted that
179 Officer Aprile has the draft now to review. He commented that recently an encroachment was found
180 through the 2017 aerial view on the GIS map. He added that when looking at a recent DRC, he found
181 four more encroachments in a neighborhood using the GIS aerial photos and the town is now looking
182 into these. He suggested breaking up the GIS map into sections and splitting these up between
183 commissioners who would like to help review for encroachments. He said that he would be happy to
184 volunteer and help train people on what to look for. A Kizak pointed out that the GIS map cannot be
185 used for legal boundary determinations and cautioned using the GIS database for this. D Lievens asked
186 how the Commission would accommodate for this problem. M Noone said that once something is found
187 there would be an investigation to verify if what was found is actually an encroachment. A Kizak
188 recommended the Commission write up a draft on using the GIS for encroachments and present it to
189 the Town Manager and Officer Aprile, to make sure that the GIS imagery can be used for this. M Noone
190 said that he has already run this by Officer Aprile and Michael Malaguti, prosecutor. M Speltz added that



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191 the Commission is using the imagery as a pointer on where to go out and look at the land. The
192 Commission agreed that they would like to do this.

193 **Minutes:** The Commissioners went over the public minutes of June 9, 2020. D Lievens made a motion to
194 approve the minutes as presented. M Byerly seconded the motion. The motion passed by a unanimous
195 roll call vote, 7-0-0.

196 **Non-Public Session**

197 M Byerly made a motion to go into non-public session per RSA 91-A:3 to consider the acquisition, sale or
198 lease of real or personal property which for discussion purposes be likely done to the party or parties
199 interested are adverse to the general community. The motion was seconded by G Harrington. The
200 motion was passed by M Badois, D Lievens, B Maxwell, M Noone, M Byerly, G Harrington, J Demas, M
201 Speltz, and S Malouin with a unanimous roll call vote. D Lievens made a motion to leave non-public
202 session and to seal the minutes of the non-public session indefinitely per RSA 91-A:3. G Harrington
203 seconded the motion. The motion passed, 7-0-0, by a unanimous roll call vote.

204 D Lievens made a motion that the Conservation Commission pay up to \$3,500 for the cost of the
205 appraisal for the parcel mentioned in the non-public session from the Conservation Fund. M Speltz
206 seconded the motion. The motion passed, 7-0-0. The Commission noted that this vote superseded the
207 vote previously for this project.

208 **Adjournment:** M Byerly made a motion to adjourn the meeting at 9:58 p.m. D Lievens seconded the
209 motion. The motion passed, 7-0-0, by a unanimous roll call vote, M Badois, G Harrington, D Lievens, B
210 Maxwell, M Byerly, M Noone, M Speltz, J Demas and S Malouin.

211 Respectfully Submitted,
212 Beth Morrison
213 Recording secretary
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