



Londonderry Conservation Commission
Tuesday, June 23, 2020
Minutes

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

Absent: Richard Floyd, member

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

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

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



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



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

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

Unfinished Business



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

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

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

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

New Business



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

Other Business

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

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