



Londonderry Conservation Commission

Tuesday, October 13, 2009

Minutes

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1 **Present: Deb Lievens (late), Gene Harrington, Ken Henault, Paul Nickerson, Ben LaBrecque,**  
2 **Mark Oswald, George Herrmann and Mike Speltz**

3  
4 Call to order; 7:32 P.M.

5  
6 Vice Chair Gene Harrington called the meeting to order in the absence of the Chair and appointed M.  
7 Speltz to vote for Mike Considine.

8  
9 September 22, 2009 minutes-

10 **K. Henault made a motion to approve the minutes of the September 22, 2009 public**  
11 **session as written. B. LaBrecque seconded. The motion was approved, 5-0-2 with P. Nickerson**  
12 **and M. Speltz abstaining as they had not attended the meeting.**

13  
14 D. Lievens arrived during the following DRC discussion and took over as Chair.

15  
16 DRC- Paul lot line adjustment, map 11, lot 89 & 89-1;

17 Tim Winings of TJW Survey was present to discuss a project on Falcon Road (see below) but  
18 noted he was also the engineer of this project and wanted to inquire about the Conservation Overlay  
19 Buffer as it relates to this lot line adjustment. He explained that the two parcels, which have been in  
20 the Paul family for years, total a little more than 20 acres. The objective is to shrink 11-89-1 from 3.3  
21 acres down to 1.39 acres (i.e. the minimum lot size in this case) and add that acreage to lot 11-89. This  
22 would preserve the woods and a cemetery site south of the existing house on 11-89-1.

23 His question to the LCC was how the COD buffer would be applied in a situation where the  
24 structures are existing. The LCC explained that a lot line adjustment is still considered a subdivision  
25 and as such, all the conditions of the COD buffer ordinance come into play. The wetland and its 100-  
26 foot buffer take up over half of the eastern side of 11-89-1 (see attached plan). This would mean the  
27 existing yard to the west of the driveway and the smaller strip on the eastern side abutting the tree line  
28 could no longer be maintained as turf. A variance would also be needed from the Zoning Board of  
29 Adjustment to allow the existing garage and paved driveway to remain within the buffer. M. Speltz  
30 suggested to Commissioners that given the conservation minded goal of the owner to preserve the  
31 wooded area to the south, the LCC could support such a variance request with a condition that a deed  
32 restriction be applied to the area south of proposed lot 11-89-1 to make that preservation permanent.  
33 The variance request could be to reduce the buffer on proposed lot 89-1 to the existing tree line per the  
34 plan presented which would then be recorded. T. Winings will draft a letter to the Zoning Board for  
35 the LCC to review at their next meeting.

36 T. Winings also asked for support of a waiver from the Planning Board regarding conservation  
37 boundary markers on the lower part of existing 89-1 since they would end of being in the middle of the  
38 woods on a piece that the owners are intending to conserve. The LCC agreed that in this particular  
39 situation, a waiver could be supported.

40 **M. Speltz made a motion that should the owners request a variance from the Zoning**  
41 **Board of Adjustment to allow them to continue to use the land northwest of the existing tree line**  
42 **as shown on the plan presented, the LCC could support that request and also ask that as a**  
43 **condition of the variance approval, the Zoning Board restrict the portion to be added to map and**  
44 **lot 11-89 to be restricted to natural land cover. K. Henault seconded. The motion was approved**  
45 **7-0-0.**

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47 M. Oswald left the room and did not return.  
48

49 **G. Harrington made a motion that the Chair note on the DRC comment sheet that the**  
50 **plan as it exists would require a variance from the ZBA due to existing construction within the**  
51 **Conservation Overlay District buffer. P. Nickerson seconded. The motion was approved, 6-0-0.**  
52

53 Falcon Road CUP-

54 Tim Winings requested support for a Conditional Use Permit for drainage structures on  
55 proposed lot 1-71-22 which will be within the 100-foot COD buffer. G. Harrington noted that the  
56 detention basin is at least on the outer 50 feet of the buffer. T. Winings adding that it was small and  
57 shallow since it is only needed to manage the small amount of superfluous runoff onto 71-22 not  
58 already directed to the catch basin in the cul de sac of Falcon Road. Not knowing he needed to supply  
59 the LCC with the CUP application, D. Lievens suggested taking a consensus vote this evening and then  
60 revisiting the actual paperwork at the next meeting. **G. Harrington made a motion to recommend**  
61 **approval of the CUP to the Planning Board after verifying at the next meeting that no changes**  
62 **have been made to the plan for the detention area on proposed lot 1-71-22 and with the condition**  
63 **that it remain in the outer 50 feet of the 100-foot buffer as shown on the plan. M. Speltz**  
64 **seconded. The motion was approved, 6-0-0.**

65 When the LCC first reviewed the plan in the Design Review Committee process, they had  
66 requested that the shed on lot 71-22 be removed "as it is not an approved usage." T. Winings  
67 explained that the shed actually belongs to the easterly abutter and exists under an easement which  
68 states he may keep it there as long as he does not make any adverse possession claims. Once he no  
69 longer owns 1-71-1, the easement dissolves.

70 T. Winings then indicated that the original DRC plan reflected only a 50-foot wide COD buffer  
71 along the wetland but this updated plan identified the correct 100-foot buffer. This means, however,  
72 that the existing house and shed on map and lot 1-71-4 are now within that buffer. Allowing those  
73 structures to remain would require approval of a variance by the Zoning Board. M. Speltz suggested  
74 the owner ask for a reduction in the 100-foot buffer on lot 71-4 to 50-feet from the drainage easement  
75 northwest of the pond up to the wood line southeast of the pond, as this would put all structures outside  
76 of the buffer. The LCC could support such a request, he added, with a condition of a no-cut area on  
77 the existing wooded area. G. Harrington pointed out that turf would still lie inside the reduced buffer  
78 and thus could not be maintained with fertilizer. M. Speltz replied that since those plants are already  
79 established, mowing them would be allowed as long as they are not fertilized. He added that COD  
80 boundary markers would be specifically required to for the sake of future owners of 1-71-4.

81 **G. Harrington made a motion that the LCC could support a variance request made by the**  
82 **owner of lot 1-71-4 for a buffer reduction from 100 ft. to 50 ft. starting at a point from the tree**  
83 **line along the east side, going in an arc west and north to the point where it meets the proposed**  
84 **drainage easement line as shown on TJW Survey plan #09-2262-2, with the agreement to create a**  
85 **no cut buffer on the existing wooded area on map and lot 1-71-4. M. Speltz seconded. The**  
86 **motion was approved, 6-0-0.**

87  
88 Litchfield Road culvert replacement- Mike Leach of Stantec represented the Town's Department of  
89 Public Works regarding the need to replace two 18-inch culverts on Litchfield road running between  
90 12-8 to the north and 12-9-23 to the south. He explained that the twin metal pipes replaced an older  
91 30-inch pipe in the early 1980's when the Derry force main sewer line was put in. When the Town  
92 installs this proposed 8-foot wide by 3-foot high box culvert to facilitate improved drainage, proper



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93 separation from that same 14-inch sewer line will necessitate that the road be raised approximately 15  
94 inches. This will result in approximately 950 square feet of wetland impact on the north side and  
95 roughly 1,950 sf on the south side, most of which will be temporary. M. Speltz said it would be an  
96 improvement not only for sedimentation purposes but also for wildlife movement. M. Leach expects  
97 to file the Dredge and Fill application in the next two weeks.

98 **M. Speltz made a motion to authorize the Chair to sign the D+F once submitted to the**  
99 **Town as long as no changes are made to the plan presented at this meeting. G. Harrington**  
100 **seconded. The motion was approved, 6-0-0.**

101  
102 Plummer easement- D. Lievens and P. Nickerson performed the annual monitoring duties of this  
103 conservation easement on map and lot 8-1 back in April of this year. At the time, they observed yard  
104 clippings and brush on the bounds along the Royal Lane property line and construction debris behind  
105 11 Royal Lane. She asked the LCC whether a letter should be composed and sent to the Royal Lane  
106 abutters, reminding them of the easement and its restrictions, if only to avert further issues in the  
107 future. Following some discussion, it was decided that since the materials were not hazardous in any  
108 way, the situation could be reinvestigated during the next site walk and documented with pictures if  
109 need be.

110  
111 Monitoring- P. Nickerson will be coordinating monitoring of the Moose Hill Orchard easements in the  
112 coming week. D. Lievens suggested hiring the Rockingham County Conservation District to monitor  
113 the Ingersoll easement as they have done in the past. She has not received an official estimate yet, but  
114 based on last year's invoice of \$600, **K. Henault made a motion to authorize the Chair to expend**  
115 **an amount not to exceed \$750 from the line item budget to hire RCCD to perform the annual**  
116 **monitoring duties of the Ingersoll easement. P. Nickerson seconded. The motion was approved,**  
117 **6-0-0.**

118  
119 K. Henault left the meeting.

120  
121 NHACC meeting- D. Lievens reminded Commissioners that the annual meeting of the NH  
122 Association of Conservation Commissions will take place Saturday, November 7 at the Rundlett  
123 School in Concord. **She entertained a motion to reimburse LCC attendees the \$40 admission fee**  
124 **out of the line item budget** and stated she expected two or three members total will probably attend.  
125 **M. Speltz so moved. P. Nickerson seconded. The motion was approved, 4-0-1 with D. Lievens**  
126 **abstaining.**

127 G. Harrington announced that his daughter Meg Harrington has accepted the invitation to  
128 attend as a volunteer student which the NHACC extends to each conservation commission free of  
129 charge. He asked for formal support from the LCC for the choice. **M. Speltz made a motion to send**  
130 **Meg Harrington as the Commission's designated volunteer student to the NHACC meeting. P.**  
131 **Nickerson seconded. The motion was approved, 4-0-1 with G. Harrington abstaining.**

132  
133 242 Rockingham Road- The owner of this lot, 15-137, contacted D. Lievens in the past about the  
134 possibility of the Town purchasing this property and recently called her again. The majority of the  
135 land is wet, leading D. Lievens to explain to the owner that since it is not under threat of development,  
136 it is not a priority for the Town to spend money on to preserve. The Town's Assessing Department,  
137 however, has been taxing the lot as a single house lot. After examining the Town records and GIS



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138 maps via the webpage and further discussing the issue, M. Speltz suggested that the owner could  
139 donate the parcel to the Town and receive the associated tax deduction.

140

141 Town forest- D. Lievens updated the LCC that the gentleman licensed by the State to remove invasive  
142 bittersweet has contacted her and is very interested in investigating the situation in the Town forest.  
143 He will provide an estimate for the work and explained he will want to mark what needs to be removed  
144 around the same time that the logging is actually performed.

145

146 57 Noyes Road- The Town acquired map and lot 15-33-1 in April for nonpayment of taxes. The  
147 Town Manager asked the LCC if they would be interested in the lot because of the wetlands on it. He  
148 was unaware, however, that an easement already exists on the parcel because the State Department of  
149 Environmental Services had required it as off-site mitigation for wetland impacts caused by the Home  
150 Depot site on Nashua Road. It needs to be investigated whether the Town or DES actually holds the  
151 easement or if DES has only executory interest, although G. Harrington stated that the Town is charged  
152 with monitoring it. If the Town owns it and holds the easement on it, when the two merge, the  
153 easement would be extinguished. M. Speltz will look into the deed and the information has also been  
154 passed along to the Town Attorney's office as well.

155

156 Musquash/town trails- The trails day in the Musquash Conservation Area sponsored by Londonderry  
157 Trailways will take place Saturday, October 31. Mike Considine will update the LCC at the next  
158 meeting.

159

160 Rockingham Land Trust- D. Lievens stated that the Rockingham Land Trust will be attempting to hold  
161 a regional meeting in January 2010 to see if they can be of any assistance to conservation commissions  
162 in the area.

163

164 Aquatic Resource Mitigation Fund- At the September 8 meeting, the LCC had voted to authorize D.  
165 Lievens "to solicit bids from wetland scientists for the scope of work as proposed by DES" regarding  
166 the wetland on map 6, parcel 113. The LCC was recently awarded \$20,000 in grant money from the  
167 State's Aquatic Resource Mitigation Fund to develop a restoration plan for long-term improvements to  
168 the site. Once that investigation is complete, the information can be used to reapply for further funding  
169 to implement the plan. Vanasse Hangen and Brustlin has replied that they could develop the plan for  
170 under \$20,000 and then work to execute it if the second phase of grant monies is awarded.

171

172 The Rockingham County Conservation District provided a bid for services of \$20,800 with  
173 \$800 of that being a donation of in-kind services to ensure completion of the project. In turn, the LCC  
174 would need to put the land under a permanent conservation easement. M. Speltz asked who would  
175 hold the easement. He noted that if DES were to hold it, they would not charge the Town for  
176 stewardship fees whereas RCCD or another group like Rockingham Land Trust might. The estimate  
177 also does not appear to include the required environmental site assessment. D. Lievens will follow up  
178 with RCCD regarding those issues.

178

179 Gove Environmental was also contacted and would have to subcontract for the required survey  
180 but has not been able to provide any more specifics to date.

180

181 D. Lievens appointed G. Herrmann to vote for K. Henault.

182



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183 **G. Harrington made a motion to go into Non-Public Session for the purpose of discussing**  
184 **possible land acquisition per RSA 91-A:3. P. Nickerson seconded.**  
185

186 **Roll call vote: Aye, Gene Harrington; Aye, Ben LaBrecque; Aye, George Herrmann; Aye, Paul**  
187 **Nickerson; Aye, Mike Speltz; Aye, Deb Lievens.**  
188

189 **G. Herrmann made a motion to go out of Non-Public Session. P. Nickerson seconded. The**  
190 **motion was approved, 6-0-0.**  
191

192 **G. Herrmann made a motion to seal the minutes of the Non-Public Session indefinitely. P.**  
193 **Nickerson seconded. The motion was approved, 6-0-0.**  
194

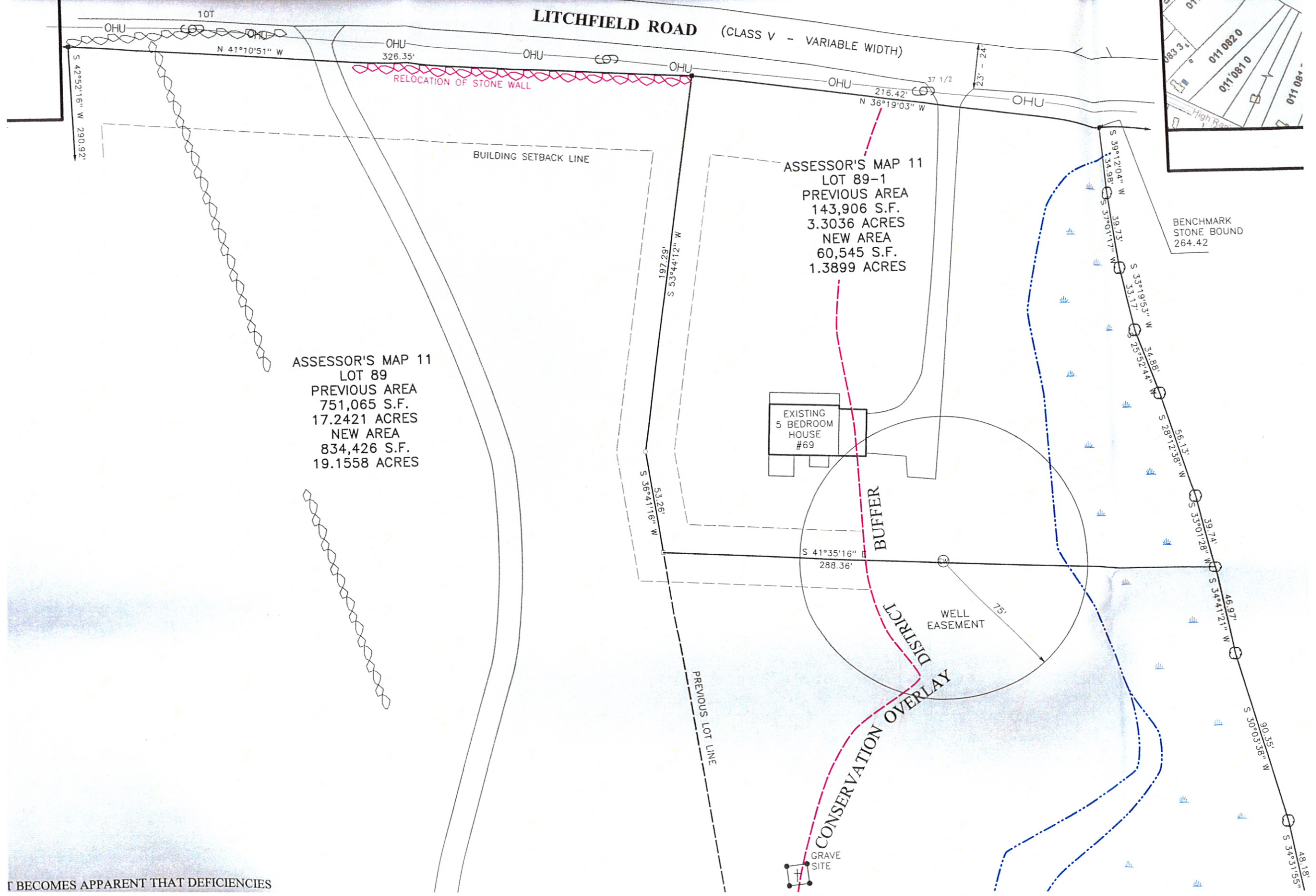
195 Mack- The LCC was recently awarded matching grant funds from the Farm and Ranchland Protection  
196 Program to be used towards the purchase of a conservation easement on map and lot 10-13. Although  
197 no specifics have been conveyed yet to the LCC, the “to do” list was supposed as follows:

- 198 1. Title search; the Town Attorney can be asked to initiate this.
  - 199 2. Draft of an easement deed, including any specific language from the Federal Government
  - 200 3. Reappraisal of 10-13
  - 201 3.a. Obtain quotes from appraisers
  - 202 4. Hazardous waste assessment
- 203

204 **G. Herrmann made a motion to adjourn the meeting at 9:40 PM. P. Nickerson seconded. The**  
205 **motion was approved, 6-0-0.**  
206

207 Respectfully submitted,  
208

209  
210 Jaye Trottier  
211 Secretary



IT BECOMES APPARENT THAT DEFICIENCIES

