



Londonderry Conservation Commission
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Present: Deb Lievens, Ken Henault (late), Paul Nickerson, Mark Oswald, Mike Speltz and George Herrmann (late)

Call to order; 7:35 P.M.

D. Lievens appointed M. Speltz to vote for Mike Considine and appointed M. Oswald to vote for Gene Harrington.

Pittore Bros. Paving- Certified Wetland Scientist Mike Lambert previously presented an After the Fact Dredge and Fill application required for site plan approval on map and lot 13-99 (see August 12th and August 26th minutes). M. Lambert attended this meeting to explain the most recent plan showing traffic patterns as well as proposed parking and green space locations. He noted that after his in-depth review of the site, he believes much of it was a wetland at one time and that the Shields Brook tributary currently running alongside Rockingham Road originally flowed through the middle of the lot. Whatever fill was brought in, coupled with the expansion of business activity over the years, has changed all of that drastically.

When the LCC originally reviewed the D+F application in August, they had responded to the Department of Environmental Services that they supported the overall project, particularly because of its effort to restore the wetlands and streambed of the tributary. A significant amount of impervious surface will be removed from the lot, however, a portion to be retained would infringe on the Conservation Overlay District buffer. In view of the overall improvements, the LCC was willing to support a Conditional Use Permit for the paved access to impact the buffer but noted a variance from the zoning ordinance would be required to permit a prohibited use such as parking. Thus, main focus at this meeting was to discuss the LCC's potential support for the variance. (K. Henault and G. Herrmann both arrived during the following discussion. D. Lievens appointed G. Herrmann to vote for Stephen Fassi).

M. Lambert informed the LCC on August 26th that a ZBA application had indeed been submitted to request an "area" variance, i.e. a dimensional waiver to reduce the COD buffer for a use *such as* parking. Since that time, the Zoning Officer instructed the applicant to change the appeal to a "use" variance in order to ask that the single *specific* use of parking be allowed while retaining the full 100 foot buffer. M. Speltz argued that an area variance would be easier for the LCC to support because it would effectively remove a only part of a buffer on one particular lot whereas support for a use variance could construed as a precedent whereby other landowners would request non-permitted, high impact uses in the COD buffer. A discussion ensued where LCC members expressed their desire to support a project that would restore the natural resources in that area and conflicting apprehension about giving the impression they might support prohibited uses in similar situations. At one point, M. Speltz inquired as to whether some of the parking could be pushed out of the buffer near the entrance to the site at the sake of one or two parking spaces adjacent to the existing house, essentially swapping ten feet of green space around the house for ten feet of buffer to the stream. M. Lambert replied that he felt confident that could be reworked through the project engineers. With that in mind, it was eventually decided that a letter of support could be drafted and submitted to the ZBA with the following advisement:

"The Conservation Commission cannot support the request to the Zoning Board of Adjustment as written because it would permit a use that is clearly harmful to the stream buffer. However, given the applicant's efforts to restore the property, the Conservation Commission would support an area variance reducing the Conservation



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Overlay District to no less than 40 feet as shown on the plan dated [date to be inserted once the plan is revised per the above discussion]. This is not intended to be a precedent but to acknowledge the unique problems and natural characteristics associated with this site.”

M. Lambert offered to detail those “unique problems” associated with the property (e.g. the history which limited the efficiency of the wetland and relocated the stream bed, the State’s requirement to move the access point which limited the use of the site, etc.).

K. Henault made a motion to authorize the Chair to convey the above quote in writing to the ZBA once she has verified the aforementioned change in the plan to decrease the green space in favor of the buffer. M. Speltz seconded. The motion was approved, 6-0-0.

Eagle Scout project (A. J. Herrmann)- Londonderry Boy Scout Andrew (“A.J.”) Herrmann presented his proposed Eagle Scout project which documents the locations of 19th century cellar holes in the Musquash Conservation Area. In addition to posting a detailed map and associated information at one of the Musquash kiosks, he worked with the creator of the “historiclondonderry.com” website to create an entire webpage dedicated to his findings. He also coordinated with the Town GIS Manager to incorporate the information as an overlay onto the Town’s GIS maps.

A. Herrmann was applauded by the LCC for his accomplishments as well as the variety of skills he demonstrated between technical aspects, field work, conceptualization and organization. **M. Speltz made a motion to authorize the Chair to send a letter to the Eagle Board stating the LCC’s endorsement of the project. M. Oswald seconded. The motion was approved, 6-0-0.**

Elliot Health Systems- Ken Rhodes of CLD Consulting Engineers and Jim Gove of Gove Environmental Services returned with an updated plan of Elliot Health Systems’ proposal to construct a three story building with a 20,000 square foot foundation on Buttrick Road. Earlier in the year, the two had presented a conceptual design in anticipation of the D+F request that will be required for the site. Discussions with the LCC regarding mitigation have evolved into the purchase by the Elliot of other land in town to offset wetland impacts. K. Rhodes confirmed that a Purchase and Sale agreement has been drawn up to acquire map and lot 8-22 which abuts the Musquash Conservation Area and features prime uplands.

K. Rhodes then reviewed the updated site plan with the LCC, most of which has not changed. He explained, however, that issues with the septic system have forced the engineer to split the leachfield area in two. One field is now located in the 100-120 foot “green belt” along Route 102 which will necessitate cutting a number of trees. M. Speltz questioned how much of an open area is required around a leachfield but K. Rhodes was not sure of any specific requirement. A second change is the simplification of the detention system into a single storm water control area. Overall wetland impacts that were previously around 21,000 square feet would now be roughly 37,000 sf. This is due to DES’ encouragement in this one instance to actually impact the wetland within that green belt in order to improve its storm water treatment capabilities. Normally the State (and Town) would be strongly opposed to any potential hindrance of wetlands but the limited value of that particular one made DES decide the disturbance would be better for the overall site. (M. Speltz noted that in general, increasing a wetland’s ability to treat storm water is not desirable because doing so will limit some of the other functional aspects of the wetland).

The actual D+F application and final plan will be presented at the September 23rd meeting.



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Membership- D. Lievens reminded K. Henault and M. Oswald that their terms as Commissioners were ending this December 31st. If interested in serving again, they would simply need to submit a written request to the Town Council.

Permit by Notification D+F- D. Lievens made Commissioners aware of a Permit by Notification D+F submitted by a Londonderry Boy Scout for his Eagle Scout project to repair the boardwalk connecting the Town Hall parking lot with the abutting athletic fields to the northeast. Although the project may have already been completed, D. Lievens reported that after her site walk earlier this summer with the Town Engineer, the original boardwalk did not appear to cause any significant amount of impact to the wetland it crosses. The LCC may still have the ability to appeal the D+F approval by DES but considering the small scope of the project, the statements in the application that adhere to State requirements, the protection a repaired structure will bring to the wetland and the lack of actual water flow in that wetland, there was no overt objection on the part of LCC members.

Beaver Brook Estates- During the recent acquisition of map and lot 11-11, the LCC had added a contingency to the Purchase and Sale agreement whereby the owner would place \$15,000 in escrow to ensure certain issues be corrected. D. Lievens reported that the main concern, the dirt pile, has been removed and the area it occupied properly loamed and seeded. All that remains to be done is the removal of several trash items. The former owner, Mark Cooper, has inquired as to whether his escrow funds can be released. D. Lievens stated she felt confident that with the LCC's assistance in locating the trash items, they will be removed and suggested the funds be released. **P. Nickerson made a motion to release the \$15,000 held in escrow to M. Cooper. K. Henault seconded. The motion was approved, 6-0-0.**

Musquash sign- D. Lievens recently noticed that the sign at the entrance to the Musquash at Hickory Hill Drive had fallen. She had requested that the Public Works Department right it and asked if any members were in the area that they check on its status.

Chase Road complaint- A resident alerted D. Lievens to possible hydrology issues caused by a property owner on Chase Road. She will redirect his complaint to the Code Enforcement Officer.

Trees cut in Musquash- The Town Forester joined D. Lievens on a site walk of the area where a logger recently cut at least 17 trees in the Musquash while working on an abutting resident's property on Red Fern Circle. In order to join the lawsuit being filed by another abutter who also lost trees, the Town Forester is preparing a report to estimate the dollar figure for the timber loss.

Kendall Pond Conservation Area; trash- D. Lievens will be looking into whether the Town can perform some kind of regular trash pickup at the KPCA after receiving input from a concerned resident. She has also learned that one of the sign posts has snapped in two. Since G. Herrmann offered to investigate, D. Lievens asked that he also provide his opinion as a Scout Leader as to whether repairing and/or replacing the signage there could be a scout project.

Town Forest- M. Oswald updated the LCC about the proposed selective cut in the Town Forest. The Heritage Commission is still reviewing the Town Forester's report. They are apparently in favor of



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cutting pine trees in favor of saving hardwoods, especially since the area was said to be populated by hardwoods when Londonderry was first established.

August 26, 2008 minutes- **M. Speltz made a motion to approve the minutes of the August 26, 2008 meeting as written. P. Nickerson seconded. The motion was approved, 3-0-3** (K. Henault, M. Oswald and G. Herrmann abstained as they had not attended the meeting).

G. Herrmann made a motion to adjourn. M. Oswald seconded. The motion was approved, 6-0-0.

The meeting adjourned at 10:15 PM.

Respectfully submitted,

Jaye Trottier
Secretary