



TOWN OF NEW LONDON, NEW HAMPSHIRE

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DRAFT Minutes of the December 18, 2013 Conservation Commission Meeting

MEMBERS PRESENT: Bob Brown (Chairman), Ruth White, Laura Alexander, Mike Gelcius, Rick Anderson, Emma Crane, Andy Deegan, Terry Dancy, Dan Allen, John Clough
OTHERS: Charlie Hirshberg, CLD Engineering, Bob Crane

Chair Brown opened the meeting at 9:00am. He noted that Charlie Hirshberg had just brought in an application that morning and was there to present it.

Mr. Hirshberg said the application was for a property at 235 Pilot House Road. There is an existing boat house that had been moved across the ice from Herrick Cove to its current location in 1958. It has two interior slips and two levels of interior space. DES sees this as living space over the water. There is no plumbing, but there is electricity and some changing rooms. The owners were proposing taking the second level away, which DES was greatly in favor of. In turn, DES will allow them to create a deck area above. Generally this is not preferred but since they would be eliminating a large portion of the interior space, DES was open to having this deck added on.

Mr. Hirshberg showed a plan, illustrating the footprint of the current boat house. The new boat house would be smaller than the original. Two slips will be inside the boat house and one would be outside. The dock would move to the opposite side of the boat house as it is currently. Instead of cribbing, they are proposing using piles, driven from a barge. DES feels that sometimes this method could offer less impact to the lake. They'll take the existing boat house apart on the ice, and move the materials across the ice and place them beyond the primary setback on the snow to a staging area. No new work would be done until the ice was out. The builders intend to use the barge to move materials, and also use a lull, which will carry materials and lift them into place. The concrete that is there currently will come out, as will the cribbing. There were some sections that would need to be dredged to give a more uniform slip depth. The impact was calculated at 66 square feet for the piles, plus 761 square feet for dredging.

Mr. Hirshberg added that the new boat house would be slightly further out into the water than the one that is there now. This would be done to take advantage of deeper water depths. Since the footprint would be smaller, DES was OK with this move out over the water.

Chair Brown said the foundation and building look good and seems to have been well-maintained. He wondered what was wrong with it. Mr. Hirshberg said the owners had an issue with the width of the interior slips; they were too narrow. Mr. Anderson said maintenance/repair is one thing but maintenance/change is another. Mr. Hirshberg said the owners decided early on that it would be their intent to replace the boat house.

Ms. St. John said in the state application process, it says that copies shall be provided to, among others, the Conservation Commission for comment. The Planning Board doesn't typically comment, but they are allowed to. DES has 75 days to review an application but sometimes they review it in less time than that. Therefore, it is best to make comments as soon as possible in the event that DES makes their decision early. Mr. Hirshberg said he wasn't there for them to make a decision that day. If the Conservation Commission wanted more time to review the application, they only need inform DES that they want more time and it will be granted. They could get as many as 40 days time to review it. He was there only to explain the project to them. Mr. Dancy said historically, if the Conservation Commission they felt a project was contrary to the environmental situation and if they wrote a letter to DES, it was usually effective in stopping a project from happening. There were a number of cases in which this happened. Ms. St. John said the town gets the application and can submit

comments to DES. If a board doesn't agree with an application, it doesn't mean that DES won't approve it. This is an opportunity for the Town to comment on these kinds of things.

Mr. Hirshberg said DES didn't have the funding and staff to come look at every project. They rely on the local Conservation Commissions to alert them to possible problems. He said the wording in the statute with regards to boat houses is that they are allowed to "replace in kind." He has found that every case has been handled differently and most boat houses have been changed. As long as the square footage is less and it is in the same footprint, they are pretty much OK with what they want.

Ms. Crane asked if there would be any living space in the boathouse. Mr. Hirshberg said there would not. The height would be lower and the square footage would be a little less. Abutters have been notified but they do not need permission from them to proceed, as they are not 20' from their property.

Mr. Anderson said he saw no reason to object but as a group they needed to talk about the difference between repairing and rebuilding. Ms. St. John asked for clarification about the boathouse moving further out onto the lake. Mr. Hirshberg said new boathouses were not allowed to be built out over the water, but this is an existing boat house and so they are allowed.

Ms. White didn't think they had any legal or environmental issues with this plan. It was a beautiful structure and many hated to see it go. The owners purchased two parcels of land and merged them about 2 and ½ years ago.

IT WAS MOVED (Rick Anderson) AND SECONDED (Andy Deegan) to decline comment on the boathouse project at 235 Pilot House Road at this time. THE MOTION WAS APPROVED UNANIMOUSLY.

Ms. St. John said she has provided a copy of the letter from the Planning Board to DES with regards to the Gouman Boat House. Mr. Anderson said the lawyer from the State implied that the Planning Board had no decision in the matter, but the Conservation Commission did. Ms. Crane said the letter from the State's attorney was provided to the Planning Board at the last Planning Board meeting. At that time, the board decided to make a comment on it, saying they felt it went against the Town's zoning ordinance. The Conservation Commission can still make a comment to DES if they chose to. The letter from the attorney claims the State's regulations preempt the Town's ordinances. Mr. Allen recalled a statement within a statute saying that the more restrictive of the ordinances apply and if so, the attorney was off-base. Ms. St. John agreed that this was in an RSA but this would need to be decided between the legal representatives. Mr. Deegan said the ordinances were both equally restrictive; the State's is restrictive of the building of boat houses over the water and the Town's restricts the disturbance within the 50' zone. If they are both taken into consideration, it simply means that no new boat houses are allowed. Mr. Dancy said this is not about boathouses; it is an issue of disturbance of the land within the 50' setback. Mr. Anderson said there are many parts to this issue.

Mr. Anderson thought they should ask Ms. St. John to send a similar letter to DES on behalf of the Conservation Commission.

IT WS MOVED (Rick Anderson) AND SECONDED (Dan Allen) to have Ms. St. John send a letter to DES on behalf of the Conservation Commission, similar to what was sent on behalf of the Planning Board. THE MOTION WAS APPROVED UNANIMOUSLY.

Variance Application for Bob Brown

Ms. St. John said the Zoning Board of Appeals might ask for the Conservation Commission's input on the issue. He wants to construct a new house on his parcel on Messer Pond with a bulk head and the installation of alternative energy, geothermal features which would be located partly within the waterfront buffer. There are several variances that would be needed for work within the waterfront buffer.

Chair Brown said he would provide information but would have no comment and will not participate in any vote that may be taken.

Chair Brown said this is a small lot of record he has owned since 1963. Taking into consideration the 50' setback, the road and side setbacks, it makes it hard to work with a reasonable footprint. If they can't get a variance the project would not be able to happen. Chair Brown handed out a copy of a map showing his lot on Messer Pond, which is about .61 acres. He said no trees would need to be removed within the 50' buffer. When placing the well 75' from the septic system radius, it would be right on the edge of the 50' setback. The well would be near a walking and snow removal area and he'd like to move it forward about 25' closer to the water. The area to be disturbed would be an area that had previously been filled and was somewhat of an abandoned ramp. He showed pictures of where he envisioned the well. The home would be very energy efficient and he would take advantage of solar and geothermal systems.

Another variance they were requesting was to have an emergency exit (bulkhead) within the 25' setback. The state seems to allow a well within 50' of the water, but New London's reg's. do not specifically address wells, other than that wells are not considered a structure. Chair Brown said they would like to put in a bulk head on the road-side of the property, which would make it partly within the 25' setback of the road. Mr. Lee (Public Works Director) said he had no problems with this plan.

Chair Brown said one corner of the house would be right on the 50' mark and further north they go, the further back from the setback they will be. He wanted to share these details with the Conservation Commission.

Mr. Allen asked about septic disposal. Chair Brown said there are two possibilities. They may be able to go into a corner of the property but it may need to go across the road onto property he also owns. The garage in the property is a garage which has been there since 1963. It is within the setback which, when built, did not exist. The shed on the property that is also within the buffer will be removed.

Mr. Deegan said the bulkhead didn't seem to be an environmental problem. Mr. Clough said the well could be moved closer to the boundary line of the neighbor as long as the neighbor agrees to take responsibility for any pollution of the well that may occur. Chair Brown noted there would be no disturbance of the setback except for the drilling and the geo-thermal hookup.

Review of Minutes from November 20, 2013

5th line down: be read change to "understood"

3rd para, last line: ensure instead of insure

4th para, last line towards end: take out the "of that portion"

2nd page, 2nd para, third line: Recommendations instead of remarks

Next line: first word "when" instead of "where"

4th para "tree cutting application procedure" add: for shoreland

Any tree cutting requests "add in the streams buffer" was through the Conservation Commission before the Planning Board

IT WAS MOVED (Laura Alexander) AND SECONDED (Terry Dancy) to approve the minutes of November 20, 2013, as amended. THE MOTION WAS APPROVED UNANIMOUSLY.

Working Group

Mr. Anderson said the working group that has been studying _____ was scheduled to meet with the Planning Board on January 14th. Ms. St. John had already sent out the material to the Planning Board members for review and preparation for the meeting.

Mr. Anderson said the boat house issue, tree cutting within the natural woodland buffer of streams ordinance, and the importance of site visits, were the three things the group will address. He will ask as many working

group members to attend the meeting. Mr. Anderson noted that the Handbook of New Hampshire Conservation Commissions suggested some recommended wording changes. He handed out some suggestions the Town may choose to adopt.

Mr. Anderson explained that two priorities they feel need addressed are the shoreland overlay district, and docks and boat houses constructed entirely over water. This is a clarification issue, not a change to the intent. Mr. Deegan suggested perhaps saying they could make an existing boat house smaller, but not make it larger. The suggested change in the text Mr. Anderson had provided says the owner can't change use, size or design. After some discussion, the following text was suggested: New boathouses will not be permitted, but the replacement of old boathouses that do not increase in use and size are permitted contingent on the State's approvals.

Ms. St. John anticipated this being a very controversial issue. If there are other proposed changes to the ordinance they should keep this one separate to not take the chance of other waterfront changes not going through.

Mr. Anderson said with regards to tree-cutting, he thought the Planning Board should request that the Conservation Commission review plans and make recommendations. Approval shall be required, regardless of use. He was saying the working group believes the ordinance says any cutting/clearing within the stream or woodland buffer should be reviewed by the Conservation Commission and sent along to the Planning Board for approval. He added that cuttings should be thoughtful and science-based. Ms. Alexander suggested adding that tree cuttings "shall be approved by the Planning Board...regardless of use within the 100' buffer."

IT WAS MOVED (Dan Allen) AND SECONDED (Terry Dancy) to applaud and agree as to what has been done by the working group. THE MOTION WAS APPROVED UNANIMOUSLY.

Trails

Chair Brown said he has signs almost completed for Phillips. He also has a trail agreement from the Vernon's which the Selectmen have to sign. Mr. Allen has been working on getting this in place for 10 years. This is for the Greenway/Great Brook Trail as it crosses their family land. It is not in perpetuity but the Vernons have to provide 60 days notice in writing for the agreement to end. Chair Brown said Mr. Vernon has done a lot of work on the Great Brook Trail and has sent him a list of signs that need to be made.

Trail Maps

Ms. Alexander said she had found the master version of the large map. Chair Brown said Phillips needs to be updated, as well as Clark Pond, Clark Lookout and Cordingly. The master copy should be updated but they wouldn't be printing any new maps until the ones they have printed have been used up. Chair Brown asked that the GPS coordinates be forwarded to Ms. Alexander.

Trail Adopters

Chair Brown said some reports had come in already. Mr. Todd sent in a report but said he had already completed the work that was needed. Mr. Deegan said he would send a reminder to the adopters during Christmas week.

Low Plain Forestry Plan

Chair Brown said there were many who wanted to look at this plan and provide some suggestions. Mr. Dancy said there were some areas that would require immediate action and he wondered if they should consider doing anything this winter. Chair Brown said he thought it may be a little late as they would require more community education before they do anything. Mr. Allen thought the group should decide if they wanted to cut wood to raise money or to make a game preservation effort. Mr. Deegan said the money from tree cutting doesn't go to the Conservation Commission, but to the Town in general. This income would help to show that the parcels are valuable. It was noted that their main goal is wildlife habitat and recreation. There was an overgrown work road that was suggested being cleared out to access the timber. Ms. Alexander suggested waiting to open the

road until public education was started. Otherwise there will be a lot of questions. Chair Brown said the workers from Merrimac County could haul wood and brush out of the road if they cut it themselves as opposed to paying someone to come in and do it. Mr. Clough suggested adding education to their objectives to teach about responsible timber management.

Mr. Dancy suggested they all read the plan and make a decision of what their priorities are as well as their course of action. Ms. Alexander said they should put this on the January agenda and at that time they would decide how to proceed. They can then talk to a consulting forester to see if what they want to do is possible. People could be pointed to the Phillips land or Hilary Cleveland's property so they can see what kind of cutting they would like to do within the Low Plain.

Merrimac County Department of Corrections Work Dates for 2014

Chair Brown said they had four work dates last year and wondered if the Commission wanted to do the same for 2014. Mr. Allen said July would be a good month for him to lead one of the groups. Mr. Anderson would speak with Mr. Lee about the Knotweed project they did last year. He wasn't sure it would be done again but if it was, would be done in October. Mr. Gelcius suggested opening up the overlook a bit more; there was a lot of debris that could be taken out. Chair Brown said he could lead a group sometime in late-September. There is a lot of building debris on the Messer Pond Trail that should be removed.

Ms. Crane said she and her husband were appalled at the amount of dog waste left in the Messer Pond trail. Ms. White said she posted a sign there to warn walkers to watch their step and to encourage dog owners to have their dogs go to the bathroom in the bushes. It was noted that this was also a problem at Low Plain.

Easements/Acquisitions

Mr. Deegan said he brought up an easement at the last meeting and had since sent a letter to the property owner. He hasn't heard from them yet but sees some work is being done on the land. It was his hope that the letter was the catalyst for this work. It would be a good parcel for Pleasant Lake water quality and felt the Town would be in favor of the project. Mr. Deegan didn't think the owner would ask for money for the value of the land, but only for the work they had done to improve the property and to get the easement. If placed under easement, development rights would be owned by Ausbon-Sargent but the property would still be owned by the current owner.

Office Files

Mr. Gelcius said he went through the Conservation Commission drawers and did an inventory of what was in there. Some reorganization may be necessary and he assumed there was some duplication.

Budget

Chair Brown said the budget was due on Friday. He put figures together from the last two years, and then for next year. They did increase the trail intern amount and they hope to add another 50 hours or so for the summer season. They also put some in money for invasive species. It is unfortunate that there are always things in the budget they have to plan for but sometimes don't happen, such as surveys. Any money they don't use goes back into the General Fund. This year they have only spent about 25% of their budget so they are under budget. Ms. Crane suggested increasing the publication budget because she knows Echo Communication ad prices will increase in the New Year and they'll need to put in more notices for the Low Plain project.

Chair Brown said they sell the maps for \$4 each through the Town Office's front desk, and make about \$500 from them each year. The funds go directly into the General Fund. Also, they did generate \$7,200 from the Phillips forest harvest. This is about half of their budget.

With regards to the warrant article, the State requires that they must present it annually. This would enable the Conservation Commission to place unexpended balance into a fund. When things planned and budgeted for don't happen and then when they finally happen, they will have the money ready to pay for it. They won't have to keep asking for the money to be appropriated again.

Chair Brown said he was asked by Ausbon Sargent to do a brief write-up on the Phillips Preserve and focus on the tree-farm certification. Ms. Alexander wrote the article for him, for which he was very grateful. This article will appear in the winter issue of “Chatter,” the Ausbon Sargent Newsletter.

Calendar Events

Mr. Allen said he would like to schedule a snowshoe hike on Low Plain and it could be called “Tour the unexplored side of Low Plain.” Mr. Allen would look at the calendar and call Ms. White to let her know when it would happen so she could plan for appropriate advertising.

Mr. Gelcius said Elkins Fish & Game would do the duck boxes again. He said they would schedule this for the end of January into the beginning of February.

Chair Brown said the Annual Report article for the Conservation Commission was due by the end of the month.

Planning Board Report

Ms. Crane said in October some of the members of the Conservation Commission went to Poor Road to look at a plan for the clearing of a temporary access path. The Planning Board approved the proposal for this path at their last meeting. They also approved a new office space going into half of where Nonni’s restaurant was. They approved two tree-cutting applications. Dave Marshall agreed to remove temporary structure so didn’t need a Site Plan Review. The CIP report was not approved yet as they were waiting to hear about any requests that were to be made for the 1941 Building. Ms. Crane noted that \$25,000 was moved from one place in the Public Works budget into the Gravel Road Fund.

**IT WAS MOVED (Emma Crane) AND SECONDED (Terry Dancy) to adjourn the meeting.
THE MOTION WAS APPROVED UNANIMOUSLY.**

The meeting adjourned at 11:12am.

Respectfully submitted,

Kristy Heath, Recording Secretary
Town of New London