

Town of Scarborough Conservation Commission

August 14, 2023 | 6:00 pm | Hybrid: Town Manager's Conference Room and via Zoom

To participate in the Conservation Commission meeting remotely, please follow this link:
https://scarboroughmaine.zoom.us/webinar/register/WN_w_zFBCDrSXyv9Skf08X2Cg

To view the Conservation Commission, please follow this link:
<https://www.youtube.com/channel/UCD5Y8CFy5HpXMftV3xX73aw>

Agenda

- 6:00 pm Call to order and attendance**
- (1) Welcome and introductions
 - (2) Land acknowledgement
 - (3) Vote on minutes from 7/10/23 meeting
 - (4) Review 8/14/23 agenda
 - (5) Public comment
- 6:10 pm Old Business**
- (1) Conserving Land & Building Resiliency
 - a) Review and discuss proposed Environmental Standards for Wetlands Protection (attached)
 - b) Discuss schedule and process for additional ordinance updates:
 - i. [405C: Shoreland Zoning](#) (includes Resource Protection)
 - ii. Low Impact Development
- 7:15 pm Updates**
- (1) Education Subcommittee (report attached)
 - (2) Sustainable Scarborough Day
 - (3) Town Council
 - (4) Planning Board
 - (5) Sustainability Committee
 - (6) Parks and Conservation Land Board
- 7:25 pm Set next meeting agenda**
Next meeting: September 11, 2023 at 6:00 pm
- 7:30 pm Adjourn**

Upcoming Dates

- 8/28/23: Scarborough Planning Board – 6:30 pm @ Town Hall

Engineering & Technical Services

259 US Route One | PO Box 360 | Scarborough, ME 04070 | P: 207.730.4400 | scarboroughmaine.org

Town of Scarborough Conservation Commission

July 10, 2023 | 6:00 p.m. | Scarborough Town Hall and via Zoom

Meeting Minutes - DRAFT

Present in person:

Commission: Dick Harvey
Staff: Angela Blanchette, Jami Fitch, Autumn Speer
Guests: Andrew Mackie, SLT

Present via Zoom:

Commission: Rita Breton, Randi Hogan, Cathleen Miller, Jessica Sargent, Pete Slovinsky, Maggie Vishneau

A recording of this meeting is available online: <https://www.youtube.com/watch?v=rH1BmHJDtic&t=2s>

Call to order

1. Meeting was called to order at 6:00 pm.
2. Randi offered a land acknowledgement to recognize the Wabanaki People as traditional stewards of Scarborough.
3. Pete motioned to accept the minutes. Jessica seconded. Rollcall vote was unanimous. Motion passed.
4. Public comment
 - Andrew Mackie of Scarborough Land Trust (SLT) encouraged the Commission to look at Cape Elizabeth's [zoning](#) (section 19-7-2) and [subdivision](#) (section 16-3-1) ordinances as they relate to land conservation, natural resources, and open space. SLT's revised [conservation and open space map](#) has been released. A request for Land Bond funding to purchase 11 acres off Finch Way will be considered by the Town Council at their July meeting. The parcel abuts Warren Woods. SLT is planning a walk of the property for the Parks and Conservation Land Board. The Conservation Commission is also welcome to attend.
5. Commission correspondence
 - Three residents reached out to the Commission with the following stormwater-related concerns:
 - Parking lot runoff from The Rock Church was bypassing the stormwater treatment facilities and flowing directly into Mill Brook. Staff are working with the landowner to address the issue.
 - Road runoff from Ash Swamp Road was eroding a gravel road shoulder adjacent to Merrill Brook. The Public Works Director has been in contact with the landowner and the Public Works crew has stabilized shoulder with crushed stone.
 - Runoff from road construction on Mitchell Hill Road was running into an adjacent stream due to temporary erosion controls that needed to be maintained and enhanced. Staff worked with the Town's inspector to have the contractor to address the erosion controls at the site.

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- A resident also contacted Councilors Caterina and Shupe regarding a potential land purchase. The parcel was referred to SLT for their review, and follow up with the resident was done.

Old Business

1. Conserving Land & Building Resiliency

- a. Discuss and recommend buffer requirements for freshwater wetlands, streams, and rivers
 - Pete asked staff where they typically see buffer encroachment.
A: Staff see a lot of encroachment on residential properties where, over time, people modify the wetlands on their property without realizing the wetlands/buffers are protected areas. Another issue is with commercial development where parking lots or other infrastructure will be constructed right up to the edge of wetlands.
 - Jessica asked if GIS/AI could be used to monitor landscape changes over time to get a better understanding of priorities.
 - Pete suggested looking at the Resource Protection (RP) District to increase buffer width. Based on his current understanding of the RP, buffer width can decrease to as little as 25-feet for parking areas and accessory structures.
 - Pete noted that setback language is pretty strong, but the issue is with buffer width. The Town's Shoreland Zoning Ordinance is difficult to understand what the various requirements are. He also believes all buffers should be wider than 25-feet. Buffers and setbacks should also apply to tributaries to protected streams/ivers.
 - Jessica suggested that ordinances be updated to state that restrictions apply to "identified waterbodies and their tributaries."
 - Andrew encouraged the Commission to consider the headwater wetlands for all of the streams in Scarborough. The headwaters should also be protected.
 - DEP currently allows wetlands to be filled. The Commission asked if the Town can restrict/prohibit filling of wetlands even if the State allows it. Staff will need to look into the ability to limit wetland filling on the municipal level.
 - Cathleen asked if there is opportunity to protect contiguous habitat around headwaters and tributaries.
 - **ACTIONS:**
 - **STAFF will work on revising existing ordinance language to set buffer requirements for major waterways and their headwaters and tributaries. A draft will be provided to the Commission for their review at the August meeting.**
 - **AUTUMN will check with the Town attorney about restricting wetland filling on the municipal level.**
- b. Overview of Stormwater challenges and low impact development (LID) principles
 - Jami provided a brief overview of stormwater pollution, the Town's existing ordinances related to stormwater, and LID principles (slides attached).
 - The Planning Board will have a workshop on Chapter 419 and 420 (Scarborough's stormwater-related ordinances) on Monday, July 17th at 6:00 pm. The Commission is welcome to attend, and Jami will send the meeting to the group.

- The LID ordinance and updates to buffer requirements are related efforts on two separate timeframes. The buffer requirements should be able to be updated more quickly because they will be changes to existing ordinances. The LID ordinance adoption process will take longer because it's developing an entire new ordinance, which will need to be vetted through a public process.
- The map of watersheds is available as a layer in the Town's [WebGIS](#) (look under the Zoning layer to find the watersheds layer), and Jami will provide the slides to the Commission.
- Jami shared that there are 13 other municipalities in this region that are also required to adopt an LID ordinance, so Scarborough will be in good company.
- A draft LID ordinance for the Commission's review is anticipated in September.
- **ACTIONS:**
 - **JAMI will provide the link to the Planning Board's 7/17 workshop.**
 - **JAMI will provide the PowerPoint slides to the Commission.**

Updates

1. Education Subcommittee
 - The Subcommittee report was provided with the agenda. Marla and Rita are working on two articles. The speaker series has been solidified and a flyer advertising the series has been developed (attached).
2. Sustainable Scarborough Day
 - Planning is ongoing. The Committee is still working on inviting vendors/organizations to participate, and registrations are slowly coming in.
3. Town Council
 - The Commission asked about the formation of the ad hoc committee. The Council still needs to take action to form the committee and set the committee's charge.
4. Sustainability Committee
 - The Sustainability Committee is working on capacity building to identify funding for initiatives they'd like to pursue.
5. Parks and Conservation Land Board
 - There is about \$1.4M remaining in the Town's bonding capacity for land conservation. The PCLB is writing a letter to the Town Council encouraging them to consider authorizing additional bonding capacity.

Next Meeting Agenda

Buffer standards

Meeting adjourned at 7:27 pm.

Next Meeting:

August 14, 2023 @ 6:00 pm

Streams, Stormwater + Low Impact Development

Presented to:
Scarborough Conservation Commission
July 10, 2023



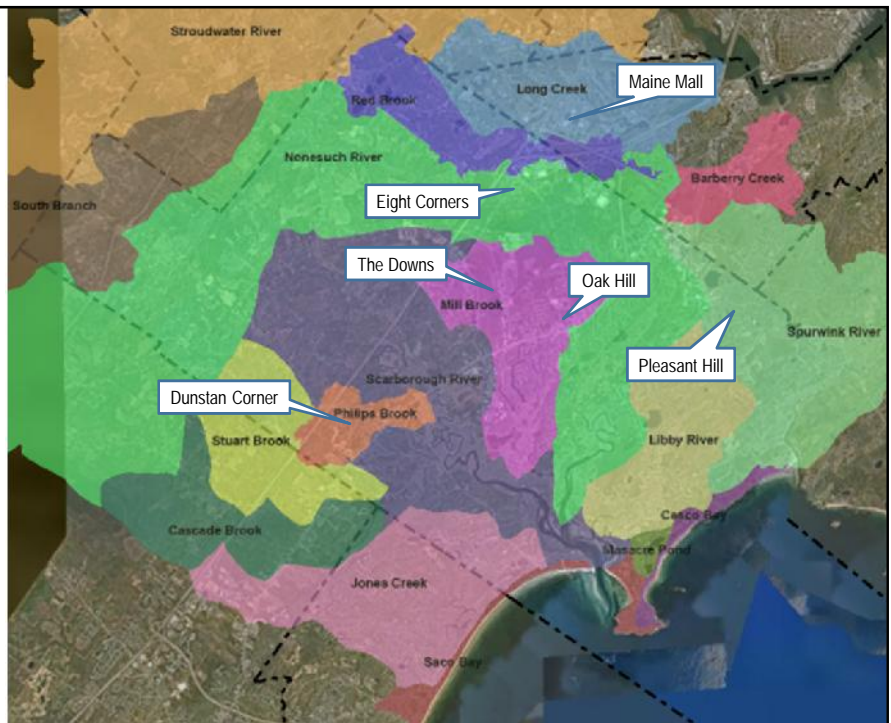
Scarborough's Streams

3 Impaired:

- Long Creek
- Red Brook
- Phillips Brook

2 Threatened:

- Mill Brook
- Willowdale



Stormwater

Runoff that flows over the land plus anything carried along with it.



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Current Stormwater-Related Ordinances

Ch. 419 – Post-Construction Stormwater Infrastructure Management

Requires commercial landowners to certify that stormwater systems are inspected and functioning

Ch. 420 – Erosion & Sedimentation Control at Construction Sites

Sets minimum requirements for controlling soil erosion on construction sites

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Low Impact Development (LID)

A broad approach to site planning that:

- Preserves natural resources, processes, and habitat.
- Defines what portions of the site are suitable for development.
- Uses stormwater treatment measures to manage runoff from impervious areas.

The goal of LID is to minimize the environmental impacts of the development.



General LID Principles

- Minimize impervious surfaces (i.e., pavement and roofs)
- Set minimum open space requirements
- Treat runoff close to the source
- Prioritize natural vegetation for stormwater treatment
- Minimize soil disturbance and compaction



LID Ordinance – Next Steps

- Staff working on a draft ordinance
- Conservation Commission & Long Range Planning Committee initial review in early fall
- Public meeting anticipated in late fall
- Finalize Conservation Commission & Long Range Planning Committee reviews early 2024
- Ordinance Committee, Town Council, and Planning Board review in late winter/early spring 2024
- Final ordinance adoption due July 1, 2024



2023 CONSERVATION SPEAKER SERIES

SCARBOROUGH IN A CHANGING CLIMATE

JOIN US!

The **Scarborough Conservation Commission**, **Scarborough Land Trust**, **Scarborough Public Library**, and **Friends of Scarborough Marsh** invite you to learn about how our critical natural resources may be impacted in the future and how groups are working to protect them.

All presentations will be held from **6:30 - 8:00 pm** on the dates indicated below at the Scarborough Public Library or on Zoom. Presentations are free and open to the public, but registration is required.

Please register here:
scarboroughlibrary.org/conservation



PROTECTING SCARBOROUGH'S RIVERS & STREAMS

TUESDAY, SEPTEMBER 12

Greg Bither, Friends of Scarborough Marsh
Jami Fitch, Scarborough Sustainability Coordinator



SCARBOROUGH MARSH & SEA LEVEL RISE

THURSDAY, OCTOBER 5

Peter Slovinsky, Maine Geological Survey
Kristen Puryear, Maine Natural Areas Program



PROTECTING FORESTS & CONNECTED HABITAT

THURSDAY, NOVEMBER 2

Sally Stockwell, Maine Audubon

FOR MORE INFORMATION:

Elsa Rowe
erowe@scarboroughlibrary.org
207.883.4723



Draft 8.9.23

SECTION XXXX. ENVIRONMENTAL STANDARDS – NATURAL RESOURCE PROTECTIONS

A. PURPOSE.

The purpose of natural resource protections are as follows:

- Maintain, and where possible improve, the quality of surface waters and ground water by controlling the rate and volume of stormwater runoff and preserving the ability of wetlands to filter pollution, trap sediment, retain and absorb chemicals and nutrients, and produce oxygen.
- To prevent the destruction of, or significant changes to, wetlands, related water bodies and adjoining land which provide flood protection, and to protect persons and property against the hazards of flood inundation by assuring the continuation of the natural or existing flow patterns of streams and other water courses within the Town.
- To protect, and where possible improve, potential water supplies and aquifers and aquifer recharge areas.
- To protect, and where possible improve, wildlife habitats and maintain ecological balance.
- To protect, and where possible improve, unique or unusual natural areas and rare and endangered plant and animal species.
- To protect, and where possible improve, shellfish and fisheries.
- To prevent the expenditure of municipal funds for the purpose of providing and/or maintaining essential services and utilities which might be required as a result of misuse or abuse of wetlands.
- To require the use of best management practices and low impact development in and adjacent to wetland areas.

The provisions and criteria set forth in this Section are in addition to the provisions of applicable state and federal laws and regulations, other sections of this Zoning Ordinance, and other local ordinances and regulations.

Where any provision of this Section conflicts with a state or federal law or regulation, another section of this Zoning Ordinance, or another local ordinance or regulation, the more restrictive provision shall apply.

Nothing in this Section shall permit a use or activity which is contrary to any other provision of the Zoning Ordinance.

B. APPLICABILITY.

These requirements shall apply to all new development requiring site plan or subdivision approval effecting any of the following natural resources:

- Any vernal pool regardless of size
- Any coastal, inland or fresh water wetland with an area of 1,000 square feet or more.
- Any non-tidal perennial river, stream, or brook.

C. DEFINITIONS.

Coastal Wetlands:

Coastal Wetland means all tidal and subtidal lands; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat, or other contiguous lowland that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Diameter at Breast Height (DBH):

DBH is the diameter of a tree measured 4.5 feet above the ground.

Fresh Water Wetland:

Freshwater wetland means freshwater swamps, marshes, bogs, and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and not considered part of a great pond, coastal wetland, river, stream, or brook.

Natural Resource Setback:

A natural resource setback is a defined distance between a river, stream, or brook; wetland; or vernal pool, and any upland development and may include a vegetated buffer as required.

River, Stream or Brook:

River, stream or brook means a channel between defined banks. A channel is created by the action of surface water and has two or more of the following characteristics:

- It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.
- It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.
- The channel bed is primarily composed of mineral material such as sand and gravel, parent material, or bedrock that has been deposited or scoured by water.
- The channel contains aquatic animals such as fish, aquatic insects, or mollusks in the water or, if no surface water is present, within the stream bed.
- The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

"River, stream or brook" does not mean a ditch, grassy swale, or other drainage way constructed, or constructed and maintained, solely for the purpose of draining stormwater.

Vegetated Buffer:

A vegetated buffer is part of the natural resource setback area that maintains the natural vegetation cover from the natural resource for a specified distance.

Vernal Pool:

Vernal pools or "spring pools" are shallow depressions that usually contain water for only part of the year. "Significant vernal pools" are a subset of vernal pools with particularly valuable habitat. Vernal pools must be identified between April 10 and May 10 by a qualified wetland scientist.

D. GENERAL STANDARDS.

A natural resource setback is a defined distance between a river, stream, or brook; wetland; or vernal pool, and any upland development and may include a vegetated buffer as required.

The required vegetated buffer is part of the natural resource setback area that maintains the natural vegetation cover from the natural resource for a specified distance.

The following natural resource standards apply in accordance with the type of resource and its respective size, as follows:

Required Standards	Natural Resource				
	Wetlands < 1,000 sq. ft.	Wetlands ≥ 1,000 sq. ft but < 10,000 sq. ft.	Wetlands ≥ 10,000 sq. ft.	River, Stream or Brook	Vernal Pools
Natural Resource Setback	5'	25'	75'	100'	50'
Vegetated Buffer	NA	25'	50'	75'	50'
Boundary Markers	NA	Pins every 50'	Signage and Pins every 50'	NA	NA

ADD DIAGRAMS HERE

If the required vegetated buffer area contains an area that has a slope of 10% or more for at least 10 feet in a direction perpendicular to the edge of the jurisdictional area, the required width of the natural resource setback and vegetated buffer shall be increased by 10 feet.

All required boundary markers shall be installed before project construction commences.

E. PERMITTED ACTIVITY

Activities that do not involve the erection or construction of any structure or impervious surface, will not alter the natural surface configuration by the addition of fill or by dredging, will not result in site alterations, and is otherwise permitted by the Zoning Ordinance are permitted as shown in the following table.

Permitted use table abbreviations are as follows:

P – Permitted by Right

P[#] – Condition Applies

Blank – Not a Permitted Use

Permitted Activity	Natural Resource				
	Vernal Pools	River, Stream or Brook	Wetlands	Vegetated Buffer	Natural Resource Setback
Improvements to existing public rights-of-way and sidewalks		P	P	P	P
Construction of piers or docks, provided that all required local, state, and federal approvals have been granted		P	P		
Wildlife refuges, parks and recreational uses, conservation nature trails, and open spaces as permitted or required by the Zoning Ordinance or Subdivision Regulations			P	P	P
Forestry and tree farming					P ¹
Fences					P ²
Fertilizer Use	Prohibited				

¹ Construction of fences outside the vegetated buffer, provided that there are no footings and no ground disturbance within five feet (5') of the vegetated buffer. Fences may be constructed along the natural resource setback line.

² In the required vegetated buffer area, harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed.

F. NATURAL RESOURCE PROTECTION PLAN REQUIRED.

A Natural Resource Protection Plan shall be submitted as part of the Site Plan Application and/or Subdivision Application and include the following information:

- Location of protected resource(s) and wetland delineation (completed in the last five years), if applicable
- Location of all required setbacks and vegetated buffer areas.
- Location of all proposed and existing buildings, structures, streets, driveways, and other site improvements.
- Location and type of permanent wetland boundary markers shall be shown on the plan (if applicable)
- A note stating the limits of fertilizer application required.

**Scarborough Conservation Commission
Education Subcommittee Report
August 14, 2023**

1. Articles in Process

- “What is a conservation commission?” - submitted for review before publication
- “Scarborough Conservation Commission: Protecting Our Natural Resources” - submitted for review before publication

2. Speaker Series

- Presentation with Friends of Scarborough Marsh on their work to protect the Scarborough Marsh and its tributaries. It will include a discussion by Greg Bither about their Water Quality Monitoring Program, which is led by FOSM volunteers and Jami Fitch, Scarborough Sustainability Coordinator on September 12 at the Scarborough Public Library
- Pete Slovinsky and Kristen Puryear of the Maine Natural Areas Program will present information on the Scarborough Marsh and sea level rise in a changing climate on October 5 at the Scarborough Public Library.
- Sally Stockwell, Conservation Director of Maine Audubon, will present a talk on why forests are important in a changing climate on November 2 at the Scarborough Public Library.

3. Sustainable Scarborough Day – October 1, 2023

- Jami continues to coordinate the meetings and will give updates

4. Scarborough Conservation Commission Topics in the News

- “Enter our ‘Summer Outdoors’ Photo Contest!” Public can submit photos in categories that include Beaches, Pets, Scenic/Natural Landscape, and Wildlife, Parks & Paths, Families & Fun through August 19, 2023, Town e-newsletter, July 1, 2023
- “Scarborough likely to transfer four properties to land trust” (references the protection of four Town properties and the 30x30 Town Council resolution) by Maxen Ryder in *Scarborough Leader*, July 14, 2023
- “Open Lawn Garden Tour” advertising Eddie Woodin’s pesticide free garden in *Scarborough Leader*, July 14, 2023
- “Nature areas can protect from flooding” (references the importance of wetlands and floodplains during and after high precipitation events) by Andrew Mackie, Scarborough Land Trust, *Scarborough Leader*, July 21, 2023
- “Invasive Species Info and Work Session” in Things to Do section of *Scarborough Leader* by Scarborough Land Trust, July 21, 2023
- “Scarborough Land Trust offers events all summer” by Maxen Ryder in *Scarborough Leader*, July 21, 2023

- “Conservation Commission: Supporting Council’s Goal” in Town’s Board & Committee Newsletter, July 2023
- “Sustainable Scarborough Day Coming October 1” in Town’s Board & Committee Newsletter, July 2023
- “Summer Tips for Transitioning to Organic Lawn Care” in by Rita Breton, SCC member and Jami Fitch, in Town’s Newsletter, August 1, 2023
- “Town Council gives preliminary approval for Warren Woods expansion” (specifically states this 11-acre property contributes to the 30x30 resolution pledged by Town Council earlier this year) by Maxen Ryder in *Scarborough Leader*, August 4, 2023

Upcoming Events

June 4 - October 29, 2023: Scarborough Farmers’ Market is open every Sunday from 9 am to 1 pm in front of Town Hall

September 11, 2023: Conservation Commission Meeting @6:00 pm

September 12, 2023 Tributaries and Watersheds in Scarborough presentation by Greg Bither, Friends of Scarborough Marsh water quality monitoring volunteer and Jami Fitch, Scarborough Sustainability Coordinator, hosted by SCC and FOSM @ SPL @ 6:30 pm

October 1, 2023: Sustainable Scarborough Day @ Wentworth School and SPL from 10 am to 2 pm hosted by Town of Scarborough, SPL, and Project GRACE

October 5, 2023: Scarborough Marsh and Sea Level Rise presentation hosted by SCC, SLT & FOSM @ SPL @ 6:30 pm

October Conservation Commission Meeting TBD, rescheduled from October 9, Indigenous Peoples’ Day

November 2, 2023: Protecting Forests and Connected Habitat presentation hosted by SCC and SLT @ SPL @ 6:30 pm

December 12, 2023 Conservation Commission Meeting @ 6:00 pm