Town of Scarborough Conservation Commission

October 23, 2024 | 6:00 pm | Town Council Chambers B and Virtual via Zoom

Minutes

Present in-person
Commission: Randi Hogan, Abel Plaud, Jessica Sargent, "Beach" Pete Slovinsky
Staff: Angela Blanchette, Jami Fitch, Todd Souza
Town Council: Karin Shupe
Guest: Kate Borduas, resident and pending alternate member of the Commission

Present via Zoom
Commission: Cathleen Miller, Maggie Vishneau, Marla Zando
Staff: Angela Autumn Speer

Conservation Commission 10/23/24 meeting recording

Call to order

1. Meeting is called to order at 6:01 pm. The Commission introduce themselves for the benefit of Kate Borduas, who has been selected by the Appointments and Negotiations Committee to serve on the Commission. Her appointment needs to be approved by the Town Council.
2. Randi offers a land acknowledgement to recognize the Wabanaki People as traditional stewards of Scarborough.
3. Jessica motions to accept the minutes from the July meeting, Abel seconds. Rollcall vote was five in favor, one abstain. Motion passes.
4. Randi acknowledges the passing of former Commissioner, Chuck Spanger.
5. The Commission agrees to move old business later in the agenda so Angela Blanchette is able to participate in the discussion of the environmental standards.

Public Comment

1. None.

New Business

1. Pest Management: discussion on grubs
   - Todd provides an overview of grub damage the grounds crew is seeing adjacent to the playing fields at Willey Field. He provides photos of the fields (attached) and explains how Community Services has addressed grub issues in the past.
   - Todd is not looking for the Commission to take any action at this point. He is providing background information and tells the Commission know Community Services may seek a waiver to the Town's Organic Pest Management policy to allow the application of Acelepryn to address the grubs. The last time a waiver was granted was in 2019.

- Community Services is working with Jami to explore at organic options.
- Jami suggests piloting beneficial nematodes in an area to gauge their effectiveness. The nematodes that affect grubs don't survive Maine's winters so they need to be applied annually.
- Pete asks about how the fields are prepared for winter. Todd explains that they just got a new piece of equipment and the hope is Community Services will be able to do one more round of aeration this season.
- Marla asks if Community Services is still working with a contractor and if they're still doing regular soil tests. She also requests safety data sheets (SDS) for any products that are being considered. Todd shares they are no longer working with a contractor because Community Services grounds crew is able to implement the cultural practices (aerating, overseeding, etc.). Soil testing still occurs, but they're done every three years instead of annually because there aren't noticeable changes from year to year. SDS for products being considered will be provided to the Commission.
- Kate askes about unintended consequences of introducing nematodes if they're not native. Jami explains that they are not invasive, are native in other areas of the country, and they die off over the winter so it is unlikely there will be other impacts.

2. Three Protection: discuss goals for future ordinance
   - The Commission hopes to prevent clear cutting and preserve significant or "champion" trees.
   - Autumn asks the Commission to first consider commercial development that goes through the Planning Board. The Commission points to tree removal related to the development of Costco and the multifamily housing at Eight Corners was shocking for a lot of residents.
   - Autumn explains that there are currently no regulations around tree protection, except in the Shoreland Zoning Ordinance. There is language about how to protect/preserve trees on-site in the updated landscaping requirements, but developers are not required to preserve trees. This language could be modified into requirements, but this modification would not prevent clear cutting.
   - Maggie notes the importance of trees for quality of life and mental health. She suggests looking at the requirements through a health lens.
   - Jessica asks for an explanation of the tree regulations in the Shoreland Zoning Ordinance. Autumn explains that there is a limit to the number of trees that can be removed and it needs to go through a permitting process with the Code Enforcement Office. Pete notes that the fines associated with Shoreland Zoning violations are low and don't disincentivize illegal tree cutting.
   - Cathleen would like the ordinance language to preserve contiguous habitat.
   - Autumn emphasizes that the Town needs to reduce the amount of impervious cover allowed.
   - Pete asks about incentivizing preserving trees. Autumn explains that developers get credit for existing trees if they're preserved during development. The credits could be modified to offer greater incentives.
   - Goals for Commercial Zones: protect specimen trees (≥10 DBH – diameter at breast height), incentivize preserving existing trees.
   - Pete asks if specimen trees should consider height and size of crown in addition to DBH.
   - Autumn would like Scarborough to be designated a Tree City USA community. Karin will consider bringing Tree City USA forward as a 2025 Town Council goal.
   - The Commission also wants to limit clear cutting on large parcels. Autumn asks the Commission at what scale they want to regulate tree removal. For example, all tree removal, a percentage of trees on a parcel, trees over a certain size, etc.
   - Jessica suggests requiring buffers be maintained between parcels. Autumn suggests that the ordinance prohibit tree removal within a specified setback from lot lines.
   - Jami suggests that the requirements could apply to a minimum lot size (e.g., parcels ≥5 acres).
   - Randi would like removal of all trees over a certain size be approved by the Town.
   - Pete suggests an exemption process for damaged trees and storm clean up.
   - Autumn notes that additional staff, especially an arborist, would be needed to effectively implement the requirements the Commission is suggesting.

- Staff and the Commission need to consider enforcement and associated fines.
- **ACTION: AUTUMN will provide current language around trees from the landscape standards (attached) and modify language to make it a requirement.**

Old Business

1. Environmental Standards
   - Randi provided an overview of the September Ordinance Committee meeting. There was a lot of opposition to the ordinance from the development community, despite consensus reached at the 8/28 roundtable. The Ordinance Committee voted to move the ordinance forward to the Town Council.
   - Angela suggests providing the Council more in-depth background information about why the Commission is recommending wetland protections as part of the introduction to the ordinance at the Council's first reading. The Commission supports this approach.
   - The Commissioners are encouraged to attend the meetings listed in the agenda and speak in favor of the ordinance.
   - Maggie asks if there are others who could speak in favor of the ordinance. Jami shares that the Sustainability Committee plans to write a memo in support of the standards.
   - Pete notes that the stakeholder group that meet in August is supposed to reconvene in January to discuss additional requirements.
   - **ACTION: JAMI will send the Commission calendar invitations for each of the meeting dates.**
2. FY24 Annual Report
   - Jessica motions to approve the annual report. Abel seconds. Rollcall vote is unanimous. Motion passes.

Updates

1. Education sub-committee
   - Marla shares that she has been working on promoting the Land Bond. She asks all Commissioners to speak with their neighbors, friends, family, etc. to support the Land Bond.
   - Marla also shares that she has decided not to serve another term on the Commission. The December meeting will be her last. Randi and the entire Commission thank Marla for her dedication and service to the Commission.
2. Town Council
   - Karin is working on goals to bring to the Town Council's 2025 goal setting process. She encourages the Commission to reach out with ideas.
   - Pete suggests pursuing Community Rating System (CRS).
3. Parks and Conservation Land Board (PCLB)
   - Jessica shares that if the Land Bond doesn't pass, PCLB doesn't have much to do.
   - Jessica notes that the Land Bond funds often serve as a bridge loan to help leverage other funding. For example, around $300,000 has been returned to the fund from the sale of Alger Hall. Additional finds may be replaced through reimbursements from grants the Scarborough Land Trust recently received.
4. Sustainability Committee
   - Jami shares the Sustainability Committee has started researching climate action grants. Jami is in the process of writing a Community Action Grant proposal to help fund the plan.

- Jami also shares that Sustainable Scarborough Day was a success again this year. The weather was beautiful and turnout was similar to the previous year's event. Feedback from vendors was also positive.

5. Open Space Plan
   - The draft plan is scheduled to be available in December. The public will have an opportunity review the plan and provide feedback.
   - The project will wrap up in early 2025.
6. Vulnerability Assessment
   - The Town's consultants are completing fieldwork with the Scarborough Sanitary District looking at pump stations. Pump stations tend to be some of the most vulnerable pieces of infrastructure because they're in low-lying areas.
   - The working group will work with the consultant over the next several months to select 3-5 pilot projects to receive additional engineering design.
   - The draft assessment should be available in the late spring 2025, and the project will wrap up in summer 2025.
   - Angela shares that residents at Pine Point are interested in doing dune restoration. Staff are working with the vulnerability consultant to explore that opportunity.

Next meeting: December 11, 2024

Meeting adjourned at 7:37 pm.

Conservation Commission - **10/23/24**

Pest Management Update - Willey Field

The Community Services Department has been monitoring a pest/grub issue at Willey Park since early October. The photos and measurements below indicate the scope of the disturbed area and the challenges associated with this finding.

Area #1 31 x 20ft





Area #2 = 50 x 30ft





Area #3 = 150 x 100ft





The department will continue to monitor the damaged areas and report back late winter. The department will also continue to strategize the best course of action that meets our Pest Management Policy or bring forward a policy waiver. If the later action is required, it will be brought back before the Conservation Commission in a timely manner for consideration.

Excerpt from Ch. 405B – Site Plan Review Ordinance

IV. Performance & Design Standards
B. Landscape and Screening Standards
12. Landscape Preservation and Protection

Wherever practical, existing specimen trees, native species over 20" at DBH, tree clusters or other significant vegetation shall be preserved. Further, transplanting and reusing onsite trees and other vegetation is strongly encouraged.

When preservation is proposed, a tree inventory and survey showing the location, size, species and condition of existing protected trees on a lot, must be submitted and approved with the site plan application. The landscape plan shall illustrate which vegetation will be preserved and what protection measures will be implemented including the following minimums:

a. Site features must be designed to minimize disturbance to protected trees.

b. Tree wells or cut areas may be used to preserve the original grade around the tree. Raising the grade around protected tree trunks is prohibited.

c. In the drip line of protected trees, no cut or fill may be at least four (4) inches deep unless a qualified arborist or forester evaluates and approves the disturbance.

d. Finished grades must slope away from trunks to avoid water concentrated at tree bases.

e. During construction, perimeter fencing must be erected around protected trees, at least six (6) feet from the trunk or one-half of the drip line, whichever is more.

f. Storage or movement of equipment, material, debris, or fill in the tree protection zone is prohibited.

g. Damaging attachments, wires, signs or permits cannot be fastened to protected trees.

h. The developer is responsible for coordination with utility companies when trenching near protected trees. Trenches or footings should be at least eight (8) feet from trunk bases. Tunneling under large diameter roots may be required to prevent root damage.

Preserved landscaping may be used to meet the overall landscape requirements established in Section F.5.

BE IT HEREBY ORDAINED, by the Town Council of the Town of Scarborough, Maine, in Town Council assembled, that the following changes to Chapter 405 Zoning Ordinance of the Town of Scarborough, Maine, be and hereby is amended, as follows (additions are in underlined in red; deletions are struck through):

CHAPTER 405 TOWN OF SCARBOROUGH ZONING ORDINANCE

SECTION X.A WETLAND SETBACKS AND VEGETATED BUFFERS

A. Applicability

Wetland setback requirements shall apply to all new development requiring site plan or subdivision approval. Redevelopment projects shall maintain the minimum wetland setbacks under this Ordinance or that which was previously permitted at the property.

This ordinance shall not apply to wetlands addressed in Chapter 405C Town of Scarborough Shoreland Zoning Ordinance.

This ordinance does not preclude wetland fill permitting at the State and Federal level. If a wetland is approved to be filled in its entirety, no wetland setback or buffer is required. If a wetland is approved for partial impact, the wetland setback and buffer requirements will be based on the new wetland boundary.

This ordinance shall not apply to properties in receipt of or in process of receipt of approval for wetland fill as of the date of adoption of this ordinance.

B. 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 astronomical in which an activity is proposed. Coastal wetlands may include portions of coastal sand dunes.

Forested Wetland: Forested wetland means a freshwater wetland dominated by woody vegetation that is 6 meters tall, or taller.

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.

Vegetated Buffer: A vegetated buffer is part of the wetland setback area that maintains or enhances the natural vegetation cover from the natural resource for a specified distance. Limited activity may take place in the vegetated buffer.

Wetland Setback: A wetland setback is a defined distance between a coastal wetland, freshwater wetland or forested wetland, and any upland development. The wetland setback also includes a vegetated buffer.

C. Wetland Setback and Vegetated Buffer Required

The following setback and minimum vegetated buffer width standards apply:

Environmental Resource Type	Vegetated Buffer	Wetland Setback (includes vegetated buffer)
Wetlands	15'	25'

*Where any provision of this Section conflicts with a State or Federal law or regulation, another section of this Site Plan Ordinance, Zoning Ordinance, or another local ordinance or regulation, the more restrictive provision shall apply.

The required minimum vegetated buffer is a portion of the wetland setback area directly adjacent to the wetland and maintains or enhances the natural vegetation cover from the wetland for a specified distance.

All wetland setbacks and vegetated buffers shall be marked with permanent pins every 50-100' and signage along the 15 foot buffer line as determined by the Planning Board. All required boundary markers shall be installed by a qualified professional before project construction commences.

Wetland Setbacks are not subject to variance procedures.

The Planning Board may consider crossing wetland setbacks through the subdivision and site plan approval process if the following applies:

1) The crossing must be located at the narrowest span of wetlands; and
2) The crossing must be designed to move flow between the segregated wetlands; and
3) Minimum footprint of the roadway or utility crossing must be demonstrated to reduce wetland impacts; and
4) Open bottom culverts shall be included every 50 feet; and
5) It is demonstrated that no other alternative route is feasible

D. Permitted Activities

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 excavation, will not

result in site alterations, and is otherwise permitted by the Zoning Ordinance are permitted as shown in the following table. Uses not specifically identified shall be prohibited.

Standards and Permitted Activity use table abbreviations are as follows:

P – Permitted by Right
NO – Not a Permitted Activity

Permitted Activity	Setback Area – Inside of Vegetated Buffer	Setback Area - Outside of Vegetated Buffer
Pesticides Permitted	NO	NO
Fertilizer Permitted[A]	NO	P
Tree Cutting or Vegetation Removal	NO	P
Invasive Species Control[B]	P	P
Planting/establishment of Non-invasive species[C]	P	P
Lawns	NO	P
Forest Management Activities[D]	NO	P
Outdoor Lighting	NO	P
Fences[F]	NO	P
Stormwater Retention or Detention Basin	NO	NO
Stormwater Conveyance Structures	NO	P
Sewage Disposal Facilities	NO	NO
Soil Erosion and Sediment Control Measures[G]	NO	P
Shoreline Stabilization	NO	NO
Living Shorelines	P	P
Maintenance to existing structures and improvements within existing footprint[E]	P	P
Repair, maintenance and improvements of existing roadways, utilities and sidewalks	P	P
Installation of piers or docks, provided that all required local, state, and federal approvals have been granted	P	P
Wildlife refuges, passive recreation, conservation nature trails, and open spaces as permitted or required by the Zoning Ordinance or Subdivision Regulations	P	P
Trailhead Parking	NO	NO
Grading, Fill or Excavation Activities	NO	Only for permitted activities listed above

[A]Permitted fertilizers must be low phosphate slow release in areas of fresh water impact and slow release nitrogen in areas of coastal water impacts, both at a rate recommended from a soil test.

[B]Invasive species control shall be completed under the guidance and approval of a Licensed Forester, ISA Certified Arborist, Registered Landscape Architect, or Qualified Resource Buffer Professional.

[C]Depending on the buffer type, revegetation of buffers must use appropriate native plants.

[D]When forest management activities are permitted, harvesting up to 20% of the total volume of each acre of trees 4.5 inches DBH or greater in any 10-year period is allowed.

[E]Reconstruction and modifications of existing structures is permitted; however, footprint expansion must move landward to the greatest extent practical.

[F]Fences may be constructed along the vegetated buffer line; however, they must have no footings and no ground disturbance within five (5) feet of the vegetated buffer.

[G]Construction disturbance limit is 15 feet from the wetland. When silt fence is required, it shall be placed outside of the 15 feet vegetated buffer line.