



## TOWN OF GROTON

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### WETLANDS BYLAW REVIEW COMMITTEE

David Black, Chair  
Steven Webber, Vice Chair  
Marshall Giguere, Secretary  
Peter Cunningham  
Robert Pine  
Scott Wilson  
Alexander Woodle

Meeting Date: July 11, 2012

Attending Members: David Black, Peter Cunningham, Marshall Giguere, Robert Pine, Steven Webber, Scott Wilson

Absent Member: Alexander Woodle

Others in Attendance: Michelle Collette, Barbara Ganem, Bruce Easom, Craig Auman

Handouts: agenda, committee comments, bylaw regulations

Location: Town Hall, Second Floor Meeting Room, 173 Main Street, Groton, MA 01450

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Peter Cunningham and others noted corrections to the draft minutes from June 27, 2012. Entertaining a question from Bruce Easom, Committee members clarified that all minutes should indicate how each committee member has voted.

Peter Cunningham moved to accept the June 27, 2012 minutes as corrected, Steven Webber seconded. Motion carried 6:0 [Alexander Woodle absent].

Peter Cunningham informed the group that the Board of Selectmen was initially reluctant to adding review of the regulations to the committee's present charge which consists of reviewing the bylaw. He will revisit the matter with the other Selectmen at a future meeting. He added that the Committee members have all been deemed special municipal employees. In a brief discussion, Committee members observed that all of the Committee's work is advisory in nature.

**Agenda item:** Meaning of 'public good' in §215-5(c) including the discussion of the concept of waiver.

Robert Pine questioned whether the Conservation Commission can waive setback requirements. Scott Wilson asked whether the record of Conservation Commission decisions suggests a problem. Specifically, it was noted that six hundred and fifty permits were issued with three or four denials and only one lawsuit. Steven Webber raised the matter of whether the Committee should recommend the creation of a blanket work around clause to allow the Conservation Commission flexibility. [Note: Steven Webber submitted a written comment on this point that did not make it into the June 27, 2012 committee comments handout.] As for how to read the Conservation Commission permit numbers, Steven Webber commented that the numbers are not showing the conditions that applicants might consider denials.

Peter Cunningham stated that waivers are a legitimate focus for the Town to consider as other boards use waivers. He continued that he thinks the bylaw is largely good and perhaps attention needs to go to the regulations. Does the Master Plan exercise help to define Town interests for the development of particular areas? Notwithstanding the Station Avenue proposals, Robert Pine noted that one can anticipate that in the next ten years there will be more Town Center applications. Steven Webber raised the question of counting economic development or feasibility as part of the public good. There was general discussion on how the broad range of Master Plan expressed values and interests could be employed in arguments before the Conservation Commission to support nearly any applicant agenda. Marshall Giguere stated that he was somewhat opposed to introducing the concept of economic benefit in the Bylaw as you can always make a dollars and cents argument versus the non economic argument for preserving the wetlands.

Peter Cunningham drew the conversation back to a focus on local interests rather than expansive philosophical thoughts. Michelle Collette commented that land use regulation regularly addresses competing valid public

interests and that balance is what is needed. Marshall Giguere added that he did not believe any changes are needed for public good, and if any such changes were made there should be a very high standard for the applicant to address in order to avoid over use any waiver.

Scott Wilson suggested that it may be helpful to provide examples with the regulations as guidelines to the applicants. Peter Cunningham questioned whether there are engineering solutions for work within the buffer. Scott Wilson and Marshall Giguere indicated that sometimes such solutions exist and sometimes not. Marshall Giguere concluded that sometimes the answer is that you have to move further away from the wetlands. The group discussed a standard that permitted closer proximity to the buffer if the change made is no worse or better. Perhaps the engineered solution could result in a better result for the nearby wetlands.

David Black focused the group's attention to the fifty to one hundred foot buffer zone. He stated that within the fifty foot buffer, there must be a limited project with a high standard to justify the intrusion. Outside of one hundred feet, the burden shifts to the Conservation Commission to justify restrictions. David Black cited the regulations at §344-19 regarding disturbance of upland resources.

Michelle Collette noted that the grandfathering exception located at §215-3(B) is a huge loophole. §215-7 was also cited in discussion since the best management practice (BMP) of rain gardens appears to be prohibited whereas it should be encouraged. Marshall Giguere wondered if this concern is satisfied by the current reference to the Commonwealth's wetland law which includes modern storm water management. Steve Webber observed that the value of an 'out' is that it obviates the need for updating the Bylaw every few years. Several committee members expressed a desire to provide the Conservation Commission with the needed flexibility to address the varied situations that come before it. The Town of Groton will want to strike the right balance as additional Lost Lake development can be expected if the sewer project is approved.

Thinking of the rain garden example from the earlier discussion, David Black noted that at the federal level the phrase 'net environmental benefit' has led to much litigation. He invited the committee members to come to the next meeting with an answer to the question 'are you satisfied with the regulations as presently drafted as it relates to the fifty to one hundred foot buffer zone'.

On the issue of structures within this zone, the comment was made that the majority of applications for septic systems, swimming pools, and etcetera go right through the Conservation Commission.

Finally, the Committee as a whole agreed that a formal public hearing would be good to do once the Committee itself has had sufficient time and room to sort through the pertinent issues.

Next meeting: Wednesday, August 1, 2012, 4 pm to 5:30 pm at Town Hall.

Peter Cunningham moved to adjourn the meeting at 5:30 pm. Marshall Giguere seconded. Motion carried 6:0 [Alexander Woodle absent].

Notes by Fran Stanley.