



## 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: August 15, 2012

Members in Attendance: David Black, Peter Cunningham, Marshall Giguere, Robert Pine, Steven Webber, Scott Wilson, Alexander Woodle

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

Handouts: Agenda  
August 1, 2012 minutes (draft)  
Town of Weston generic NOI policy

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

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David Black called the meeting to order at 4:05 pm and asked committee members to review the minutes from their prior meeting on August 1st. Robert Pine pointed out a number of corrections. Additionally, it was noted that Town Counsel will be on vacation until September.

*Peter Cunningham made a motion to accept the August 1, 2012 minutes as corrected. Steven Webber seconded. Motion carried 7:0.*

The agenda for the meeting called for consideration of changes to Conservation Commission regulations and the local wetlands bylaw (see generally Chapter 215) as well as an effort to compose questions to focus the anticipated presentation by Town Counsel. The group examined several bylaw provisions in an effort to flush out useful questions.

A comment was made on how the Town might improve the existing bridge across James Brook on Broadmeadow Road.

Robert Pine asked about invasive removal and what is required under the Wetlands Protection Act (WPA) and administrative measures. Robert Pine directed the group's attention to § 215-7 Presumptions. There, certain actions are prohibited and, if so, one cannot get an Order of Conditions to perform that action. In 2(a) and (d) good things such as the planting of native vegetation and pruning within one hundred feet and removal of invasives require a cumbersome process to gain permission to perform. Peter Cunningham suggested that the committee should flag the exceptions for Town Counsel.

Robert Pine distributed a Town of Weston document that described a policy for filing a generic notice of intent for trail maintenance and invasive species management. The policy is restricted to actions taking place on public land yet the program allows for the issuance of a generic order of conditions. Pine suggested that Groton look at the process further and see where the boundary was set. Weston provides a mild example and we should do something more than this.

Marshall Giguere commented that there are interactions between Home Rule, WPA and the Groton bylaw that need to be understood.

Steven Webber noted that a carte blanche by right system may not work as well as a system that is designed to have the applicant appear once before the Conservation Commission. Scott Wilson suggested that a brochure might help.

On the matter of emergency orders, all of these are eventually ratified by the Conservation Commission. Conservation Agent Barbara Ganem explained that a filing has always been required. Craig Auman added that

we typically have people who appear before us who cannot identify invasives. Robert Pine recommended to the Conservation Commission that a non significant project could occur through a purely administrative action. A concern was expressed by Steven Webber that an attempt to address a subset of projects administratively could lead to a slippery slope of larger and more complex wetlands projects seeking this less onerous route.

Alexander Woodle commented on the present difficulty of obtaining a notice of intent for routine annual removal of invasive plants from Lost Lake. How does one organize a meaningful site walk by the Conservation Commission when the targeted invasives have not yet started their seasonal growth? Other tasks were mentioned such as painting a building whose footprint is within a buffer zone. David Black questioned whether parts C and D allow trash removal from a wetland (ex. bathtub dumped in a swamp) or planting a hedgerow within the buffer zone. Robert Pine stated that filing a Request for Determination is not a simple thing and it costs \$50 in filing fees.

Marshall Giguere noted that the state law does not make a lot of distinctions. The RDA is considered a simplified form by the Commonwealth. Alexander Woodle reiterated that the process needs to be simplified. Robert Pine added the point the perhaps additional control is gained by allowing a simplified process rather than retaining a more complex process that people avoid using.

Peter Cunningham commented that he liked the idea of getting the Board of Selectmen to identify the public benefit. The group discussed and agreed that the placement of this change -- in the regulations or the bylaw -- should be a matter left for Town Counsel. One benefit of this change would allow the Conservation Commission to focus on its area of expertise, a determination based on the environmental standard.

David Black asked whether a significant improvement of an existing resource could be used as mitigation. Looking to § 215(5) (c) for projects where there is clearly an adverse impact, can that be balanced? Marshall Giguere pointed to the 134 Main Street project as an example. Alexander Woodle stated that the public good language is the element that helped to get him involved with the committee. A utility that provides to over 10,000 people is a public good. In the interest of a benefit to humans, can you ever get a project approved that degrades the wetlands? Robert Pine and Alexander Woodle agreed that their reading of the WPA and the bylaw answer this question with a no. Robert Pine explained that the overall impact must be no worse than the current state.

Scott Wilson proposed that a list of examples that the Town agrees would constitute public good could be compiled and distributed. David Black asked whether a demonstration of the minimization of impacts as might be commonly suggested by conservation biologists (i.e., restoration of a degraded system, limited disturbance) could be approved. Marshall said yes but pointed out that the bylaw's language reads 'may' rather than shall.

David Black suggested that limited projects language be examined by Town Counsel and with the goal of possibly incorporating some of those principles in the Bylaw.

Scott Wilson left the meeting at 5 p.m.

Craig Auman drew the group's attention to the list of § 215 3(b) exemptions for properties developed prior to the date of the bylaw.

Next meeting to be determined based on availability of Town Counsel to present to the committee.

*Steven Webber moved to adjourn the meeting at 5:30 pm. Marshall Giguere seconded. Motion carried 6:0 (Scott Wilson absent).*

Notes by Fran Stanley.