



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: October 24, 2012

Members in Attendance: David Black, Peter Cunningham, Marshall Giguere, Robert Pine, Alexander Woodle

Others in Attendance: Craig Auman, Michelle Collette, Bruce Easom, Barbara Ganem, Eric Garger, Kevin Kelly (GELD director)

Handouts: One page reproduction of Section 215-7 (3) Standards for Altered Areas
September 19, 2012 minutes (draft)

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

David Black called the meeting to order at 4:08 pm and recognized Kevin Kelly, Manager of the Groton Electric Light Department. Kevin Kelly distributed a copy of the text of Section 215-7 (3) Standards for Altered Areas. Per Kelly, this section represents the worst sentence in the Bylaw because the section takes no account of price and there is the added difficulty of the 'and' instead of 'or' wording. There is always a technically feasible construction alternative. That alternative just might be incredibly expensive. Robert Pine suggested that the standard could be softened by removing 'technically feasible' and replacing it with 'reasonable alternative'. Marshall Giguere commented that feasible and reasonable may be different things but feasible may incorporate a sense of reasonableness. Michelle Collette added that such wording reminds her of the 'extraordinary engineering' language in the yield or proof plan that tended to bog down the Planning Board reviews. David Black suggested removing 'technically' as the current wording might permit an abutter to sue to stop an approved project on these grounds.

Peter Cunningham stated that the Committee may want to go through the Town Counsel letter and, afterwards, have a public hearing. Alexander Woodle drew the group's attention to Section 215-7 (c) regarding the maintenance of storm water management structures. Once approved, is the maintenance of such structures exempt from a Notice of Intent (NOI)? Marshall Giguere and Barbara Ganem answer yes.

Alexander Woodle then asked about a blanket NOI. Marshall heard a similarity to the proposed general NOI for the sewer project. Michelle Collette stated that when the Town was an applicant, it applied for an NOI for private homeowners around the James Brook area. The Town's grant covered all of that permitting including an Army Core of Engineers filing.

Alexander Woodle questioned the definition of a freshwater wetland in Section 215-9. The defined ten square feet is the size of a puddle. Where did this definition come from? Could it have been intended as a growth control measure? Robert Pine stated that if we are going to amend the Bylaw, then this is a housekeeping measure to clean up. David Black stated that he would be in favor of removing all numbers because they must be arbitrary by their very nature.

Robert Pine suggested that the group should write a report as it gives everyone a concrete expression that one can argue from. Robert Pine agreed to work on a report draft with Marshall Giguere's input as all agreed that a committee should not draft the report. David Black stated his personal support for changing 'technically feasible' and the ten square feet definition as well as a collection of other small edits. Do those changes open up the Bylaw to unintended changes? Peter Cunningham stated that the recommended changes should be bounded and Town Meeting asked to vote up or down on the whole.

David Black reminded the group of one of Town Counsel's teachings that fundamentally, a landowner must use a Request for a Determination of Applicability (RDA) for invasive species control. Streamlining administrative practices may be in the report. Alexander Woodle asked if the Town has the flexibility for invasives and Robert

Pine answered that the Town would have flexibility with an administrative requirement. David Black suggested blanket conditions for a Buckthorn RDA for example. Michelle Collette compared the wetlands bylaw to the Earth Removal Storm water Process for removing up to 500 cubic yards. Michelle's group will issue permits without hearings or permit fees so long as the application meets issued criteria.

The concept of filing a blanket NOI for the removal of invasives in a wetland was raised. David Black suggested that the Committee pass along all of Town Counsel's Section B comments to the Conservation Commission. This suggestion was met with general agreement. Michelle Collette agreed to check with Accounting about the collection of funds (see generally Section 215-A). The Massachusetts Association of Conservation Commissions might also be consulted about the collection and holding of funds.

The group followed along through the remainder of the Town Counsel opinion points, including a discussion of nondiscrimination with respect to prior history of the applicant or engineer as well as a suggestion that the Conservation Commission not engage in the practice of revoking of orders of conditions.

Robert Pine suggested that he would help draft a memorandum of possible changes (with Marshall Giguere), the Committee would hold a public hearing and then the Committee would report back to the Board of Selectmen. Peter Cunningham asked for a breakout between changes to Bylaw as distinct from recommendations to the Conservation Commission.

Next meeting set for Tuesday, November 20, 2012 at 7 p.m.

Marshall Giguere moved to adjourn the meeting at 5:35 pm. Alexander Woodle seconded. Motion carried 5:0 (Steven Webber and Scott Wilson both absent).

Notes by Fran Stanley.