



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: May 15, 2013
Location: Town Hall, First Floor Meeting Room, 173 Main Street, Groton, MA 01450
Members present: David Black, Alexander Woodle, Peter Cunningham, Robert Pine (arrived late),
Steven Webber, Marshall Giguere
Others: Craig Auman, Dan Wolfe, Barbara Ganem, Michael Bouchard (Town Clerk)
Handouts: Possible Wording for Allowable Alterations within Extended Buffers by Pine
April 10, 2013 minutes (draft)

Peter Cunningham moved to open the meeting. Alexander Woodle seconded. Motion carried 0:0 (Scott Wilson and Robert Pine absent).

David Black reopened the previously continued public hearing.

Peter Cunningham moved to approve the April 10, 2013 minutes as distributed. Steven Webber seconded. Motion carried 4:0 (Steven Webber abstained, Scott Wilson and Robert Pine absent).

[Robert Pine arrives and joins the meeting.] At the Committee's request, Town Clerk Michael Bouchard addressed the meeting, speaking on the applicability of open meeting law to the Wetlands Bylaw Review Committee work.

David Black sketched an overview of the meeting's agenda: to consider a 200 foot buffer for vernal pools, a 200 foot buffer for streams, 10 percent disturbance of buffers and the significant stream definition. Robert Pine distributed the above-referenced handout, noting that he was guided by the 10 percent disturbance language contained in the Rivers Protection Act.

Steven Webber asked if the Committee was going to vote on this section by section now or at the joint meeting with the Board of Selectmen and the Conservation Commission. Steven Webber referenced his experience with the Town charter language. He suggested that the Committee might want to consider not including those items that we think will be voted down by Town Meeting.

Robert Pine offered that he was aiming for a fall working meeting. Peter Cunningham stated that he is aiming for presenting to the Fall Town Meeting so that the Committee needs a final product for other boards to react to. He recommended pulling into one document all of the changes to be proposed. The Committee can meet with individual boards (Conservation Commission, Board of Selectmen, and Planning Board) and then have a larger joint meeting/public hearing before the Town Meeting. Peter Cunningham asked the Committee to revisit the notification provision. He would like to see if the Bylaw language reflects what exists for other bylaw provisions.

Moving on to the new proposed wording, Robert Pine shared one aspect that he wants for the final wording of the 10 percent disturbance language. Specifically, the final wording should not allow double dipping disturbances for serially subdivided lots. Using a time certain is an effort to address this consideration. Robert Pine cited the date of this revised bylaw and Town Counsel can be consulted for input on dates that pass legal review.

David Black asked the Committee whether an increase in vernal pool buffer from 100 feet to 200 feet is palatable. Steven Webber observed that an increased buffer is presumably important for critical vernal pools in the ACEC due to the presence of endangered species. What about a property that is partially within the ACEC? Would this partial inclusion require an expanded buffer? From Robert Pine's perspective, he would refer to the electronic biomap showing endangered species. Marshall Giguere stated that if this property had a certified vernal pool, then there would be some expanded buffer. National Heritage is the entity that certifies vernal pools. Sixty percent of the Town is in the core natural landscape area and Eighty-eight percent of the Town is in the ACEC.

David Black noted that there are a disproportionately large number of certified vernal pools in degraded areas because those areas are easier to access.

Robert Pine stated his belief that these regulations are justified and legitimate. The larger proposal should be sold/offered to the Town because it is valuable and important. Alexander Woodle stated that in a perfect world before Groton was settled, ideal buffers could be set. Presently, people are feeling put upon already by the current laws and regulations. Groton has done an incredible job protecting its natural resources, but he does not support this expansion of the Bylaw. Steven Webber added that whether the proposed language can be sold or not, he agrees with Alexander Woodle. Robert Pine replied that this Bylaw's effect is more about where you develop – the siting – not whether you develop although he understands that regulatory intrusion is wearing on people's nerves. Steven Webber countered with the opinion that the Bylaw could affect the amount of useable land. If he presently has a parcel that could create eight or nine house lots, then the operation of an expanded Bylaw might drop that yield to two to three house lots.

Dan Wolfe commented that not many people have enough land to create multiple extra house lots but that there may be a number of average homeowner with enough land for one extra lot to be set aside for a son or daughter. There can be a negative Town Meeting response from this segment of residents. Could the permissible area of disturbance be raised to twenty or thirty percent? Is there an adjustment that could be made there? Also, Dan Wolfe asked the Committee to re-examine the phrase "ten percent of the riverfront area within the lot" to make sure that the geometry works.

Robert Pine stated that many years ago he proposed a Groton version of the Rivers Protection Act. It did not pass. This Bylaw cannot restrict the ability to create a new lot. The small landowner is most at risk with this provision. Steven Webber commented on the matter of percentage of disturbance that any number is wrong and would hurt some percentage of landowners. Any number of lots restricted by this provision is too many in his view. The definition of a vernal pool was considered. Most maps are found wanting. The national definition of a vernal pool excludes all pools that contain fish.

Alexander Woodle stated his belief that the proposed expansion of the vernal pool buffers could deleteriously affect the Town by litigation. There may be legal grounds for overturning/throwing out the Bylaw revision. Craig Auman commented that the Town must ensure that its actions avoid a taking in that the provision does not deny a landowner the economic benefit of his lot. In the original Groton Bylaw, proponents wrote the Bylaw to allow wetlands crossings for this very reason. The Committee might put in tougher requirements and also write in exceptions to make sure that the landowner retains the economic benefit.

Marshall Giguere noted that the impact of a well or septic system is less onerous/intrusive than the impact of a house or road. Therefore, one might divide up the buffer zone as a compromise such as is in 215 3-7(c) the all previously altered areas exemption. David Black reminded the group that its changes need to be environmentally defensible or there is no reason to make the change. Peter Cunningham recommended that the Committee table the matter and throw it up later in front of the Board of Selectmen, Conservation Commission and Planning Board. He continued that there is a constituency in Town that hoped that there would be an increase in allowable work within the fifty foot buffer. The Bylaw as it stands is worth protection. Consideration of the possibility that changes would reduce property values needs to be made.

Robert Pine asked the group for an opportunity to draft revised language that softens the impact of expanded protections. The Committee observed that protecting the Town's water supply is an argument that often catches Town Meeting voters' attention. The group noted that the discussion here is more about protecting endangered species. Peter Cunningham asked to rehash notification piece at the next meeting. The next meeting may be the last meeting of just the members of the Wetlands Bylaw Review Committee. Robert Pine will help create the proposed changes document.

Robert Pine moved to continue the Public Hearing until 3:30 p.m. on Wednesday, May 15, 2013. Peter Cunningham seconded. Motion carried 6:0 (Scott Wilson absent).

Alexander Woodle moved to adjourn meeting at 5 pm., Peter Cunningham seconded. Motion carried 6:0 (Scott Wilson absent).

Next meeting set for Wednesday, June 5, 2013 at 3:30 p.m. Notes by Fran Stanley.