



## 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: June 5, 2013  
Location: Town Hall, First Floor Meeting Room, 173 Main Street, Groton, MA 01450  
Members present: David Black, Alexander Woodle, Peter Cunningham, Robert Pine, Steven Webber, Marshall Giguere  
Others: Craig Auman, Dan Wolfe, Barbara Ganem, Michelle Collette  
Handouts: Wetland Bylaw Issues Not Addressed by Pine (June 3, 2013)  
Extended Buffers by Pine (June 4, 2013)  
Chapter 215 Showing Changes by Pine (June 3, 2013)  
May 15, 2013 minutes (draft)

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*Peter Cunningham moved to open the meeting and open the public hearing at 3:35 pm. Marshall Giguere seconded. Motion carried 6:0 (Scott Wilson absent).*

*Peter Cunningham moved to approve the May 15, 2013 minutes as distributed. Alexander Woodle seconded. Motion carried 4:0 (Scott Wilson absent).*

The group discussed how to order the remaining issues. Peter Cunningham asked the group to revisit the notice request. General agreement expressed that the Committee should clean up the small varied items before returning group attention to the larger items that are still attracting lively discussion and some divided opinion.

### Chapter 215 §4(c)

Peter Cunningham asked that the Committee consider adding notice requirements to Chapter 215 §4(c) consistent with subdivision regulations and zoning. Robert Pine asked whether notification would be issued only when the public benefit section is triggered. He added that the notification grounds are narrow and will seldom apply to Conservation Commission filings. Peter Cunningham responded that every board will not be on top of every issue, but notifications can tweak interest that you may not have thought would be there. Two sentences of wording is sought on this matter with the first sentence to name boards and the second sentence to name time limits.

Marshall Giguere asked for a point of order. He stated that the Committee voted on this and should not be reopening or revisiting the subject without the subject being raised by the prevailing side from the prior consideration. Peter Cunningham responded with a procedural question about the appropriateness of voting on a matter that is the subject of a public hearing while that public hearing remained open. After some discussion, Robert Pine offered as member of the prevailing side in the prior vote to revisit this matter.

Michelle Collette observed that an inordinate amount of the Committee's time has been spent on what equates to a due process matter that is handled routinely by the Land Use Department in the form of intent process. Notice and a request for comments is circulated on the day of the applicant's submission and comments are due by staff by the start of the public hearing. It is pro forma. The policy trend is to do more coordination and streamlining of the permitting process. Such notice is important procedurally and politically. Notice and coordination is part of the process and she does not understand the concerns expressed so far. David Black commented that his reading of this provision is that it encourages coordination and the question is how to do it.

The group discussed the Town bodies that should receive notice and mention was made of the Board of Selectmen, Board of Health, Planning Board, Department of Public Works, and the Earth Removal Stormwater Advisory Committee. Peter Cunningham suggested that while all proposed changes would be reviewed by Town Counsel, the notice wording might read "Conservation Commission shall transmit a copy ...". Dan Wolfe added that as he reads the Bylaw, he needs to give copies of submissions to town board and adjoining municipalities.

Often, numbers of his submitted copies are not read, especially by adjoining municipalities who are focusing on land use within their own borders. Michelle Collette responded that her department is not asking for any more paper. If no comments are submitted and this signals no concerns by that committee, then this fact can be helpful to the permitting body. Instead, the distribution can be required, but copies would not.

The group looked at subsection C. and envisioned wording reading Conservation Commission shall, not Applicant shall. Marshall Giguere acquiesced with the movement of the committee to support notice so long as the change does not interfere with the opening of the Conservation Commission's public hearing.

Michelle Collette described the current form of intent process which has been in use for three years. The response is typically received within twenty-four hours from different Town departments. Employees are used to seeing these requests and responding to them. It is not onerous.

The group agreed to require notice to the aforementioned five Town bodies and that a failure to respond within ten days indicates no concerns.

Barbara Ganem described a few mainly technical changes to the Bylaw:

1. 215-1 paragraph 4, insert hydrological instead of hydrologic in first sentence.
2. 215-1 paragraph 4, insert within instead of with in first sentence.
3. 215-4 A., listed application types "notice of intent, request for determination of applicability, abbreviated notice of resource area delineation".
4. Global replace substituting RDA abbreviation for prior RFD abbreviation.
5. 215-6 A., added certificates of mailing to first sentence.
6. 215-6 B., added at the expense of the person making the request.
7. 215-6 B., added or meeting by publication in a newspaper of general circulation in the town.
8. 215-7(3), added on the resource areas to end of sentence.
9. Definition of Structure, added impermeability with a question mark.
10. 215-10 B., replaced RFD with determination.

Steve Webber suggested specifying print media in number 7 above if this is the intent of the Committee. Most Town public hearing notices are advertised via print media.

#### Clarifying Definitions and Expanding Protections

Steven Webber concisely described the remaining substantive issues for the Committee as a matter of clarifying definitions and a proposal for expanding protections. Marshall Giguere observed that separable packages of Bylaw changes at Town Meeting may be advantageous.

Steven Webber commented that it is valuable to distinguish the concepts of items like critical streams. A definition might read 'as determined by the Conservation Commission' rather than 'as determined by the stream's inclusion on the U.S. Geological Survey map.' Robert Pine stated that his edits took out all the prohibitions and yet gave some control to the Conservation Commission. There is an extended upland resource versus an extended adjacent resource.

The National Heritage designation covers one half to two thirds of the Town. David Black said that he was inclined to keep this a separable discussion. Marshall Giguere stated that a disturbance percentage may be more comfortable for the homeowner as it is a specific allowance. The group discussed the fact that the Conservation Commission cannot disclose and only a freedom of information act request can find out the species that is the object of the Conservation Commission's protection efforts.

Dan Wolfe questioned Bylaw 215-7 Presumptions (B)(3)(a). 'no practicable alternative site outside the adjacent upland area is available.' David Black asked for clarification of upland area such as vegetative. [The word vegetative added to 215-7 Presumptions (A)(3) to read "Where an adjacent vegetative upland resource area is already altered".]

The group considered whether to add paragraph drafted by Robert Pine regarding extended buffers.

Future meetings planned to date are for representatives of the Wetlands Bylaw Review Committee to present Committee work to other Town boards, specifically Conservations Commission (June 25, 2013), Planning Board, and Board of Selectmen in that order.

Alexander Woodle commented that some of the changes contemplated are still a difficult sell as it results in more land to be scrutinized by the Conservation Commission. Steven Webber observed that there is a trade off between endangered species and property rights.

Dan Wolfe corrected clerical error with addition of words "as perennial" to be placed at the end of the 215-9 definition for perennial stream. David Black commented that the answer for the difficulty in defining stream types in Groton is to commission a stream map for the Town. Marshall Giguere noted that such mapping can be expensive.

*Peter Cunningham moved to close the Public Hearing. Robert Pine seconded. Motion carried 6:0 (Scott Wilson absent).*

*Robert Pine moved to adjourn meeting at 5 pm. Alexander Woodle seconded. Motion carried 6:0 (Scott Wilson absent).*

Notes by Fran Stanley.