



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 21, 2013 --
Location: Town Hall, First Floor Meeting Room, 173 Main Street, Groton, MA 01450
Members present: David Black, Alexander Woodle, Peter Cunningham, Scott Wilson
Others: Craig Auman, Daniel Wolfe, Barbara Ganem, Ray Lyons, Art Prest
Handouts: Memo to Committee by Pine (August 20, 2013)
Redlined Bylaw Draft by Pine (June 4, 2013)
E-mail on Stream Definition by Giguere (August 21, 2013)

David Black called the meeting to order at 4:05 pm. David Black stated that he viewed the Board of Selectmen recording which covered the Committee's report on proposed Bylaw changes. He said that the matter of streams was the most frustrating part of the discussion. Peter Cunningham noted that some issues were really minor such as the definition of RDA for example. For Section 215-3B no permanent degradation, Town Counsel recommended one standard. This seems to be removing the grandfathering. How would one prove that the erection of a shed does not constitute permanent degradation? Individual committee members thought this could be shown. The Committee discussed how to present this change since it is the opinion of the Committee that removal of grandfathering does not diminish the land use rights of the current owners of existing houses. Barbara Ganem explained that the property owner would still have to file and thus be subject to review, but that the review for existing housing is a different standard than the one applied to owners seeking to build a new house.

Art Prest, president of the Groton Lakes Association, commented that this Bylaw looks stricter than the Commonwealth's Wetlands Protections Act. Meeting attendees agreed that this was the appearance but not necessarily the reality. Peter Cunningham recalled that the use of a time certain for the grandfathering (2001) may be doable now, but by 2020, having an accurate understanding of the pre Bylaw use of the buffer zone is not workable. David Black asked if there might be a better phrase than permanent degradation but that any substituted language would still be subjective.

Scott Wilson asked if the applicant just needs to make his/her best case? David Black answered that he thinks it is possible to meet the burden of proof to put a deck in a previously disturbed area. Craig Auman asked the group to consider Conservation Commission rulings from previous years. First, typically decks and swimming pools go through. Proposals to tear down and rebuild a house on the existing footprint have been approved. Tear downs of existing houses with proposals to build a house of larger footprint may be a problem. David Black said that the Bylaw's goals are to prevent clearing of natural vegetation and prevent activities that degrade water quality.

Ray Lyons quoted Charlie Wyman, a noted wetlands proponent, to say that not all wetlands are created equal. There are both incredible wetlands and humdrum wetlands. Ray Lyons asked the Committee to allow the Conservation Commission flexibility to allow activities in lower value areas. The group noted that the WPA does not distinguish between higher value and lower value wetlands although some limited projects and exceptions are present. David Black reminded the group that he is thinking of predisturbed buffers rather than work in predisturbed wetlands. The Committee needs to clarify the Conservation Commission's ability to enforce the Bylaw and the WPA. The 25' and 50' buffer zones are important. As for the wetlands resource, permitted alterations under the Bylaw mirror the Commonwealth law. Agriculture is exempt from the Bylaw whereas some limited projects are allowed.

Craig Auman stated that the Bylaw contains a number of exceptions and exemptions and these places in the text show the areas where applicants and the Conservation Commission have flexibility. See Section 215-7(g) no practicable alternative. Removing the grandfathering has the effect of opening up the exemption to everybody (i.e., those owners with post 2001 existing buildings). The group agreed that attention would need to be paid to how Bylaw changes would be presented to Town Meeting. Perhaps the changes will be shown on overhead screens for the voting audience. Craig Auman recommended that the Committee meet with each individual selectman and go through the Bylaw changes one on one and one by one.

Ray Lyons suggested different standards for lots with no house versus lots with a built house with proposed changes by applicant. David Black offered his view that a lawn whether it was one year old or forty years old constitutes a previously disturbed area.

Art Prest asked for a clear explanation of grandfathering under the Bylaw. Please explain what he would be gaining and what he would be losing with its removal.

Peter Cunningham moved to approve the June 5, 2013 minutes as distributed. Alexander Woodle seconded. Motion carried 2:0 (David Black and Scott Wilson abstained; Steve Webber, Robert Pine and Marshall Giguere absent).

Regarding vernal pools and an possible increase of protection from 100' to 200' in priority habitat areas, there does not seem to be enough support to make this change.

Attention was turned to the question of preparing a map of streams for Groton. Peter Cunningham suggested keeping the U.S.G.S. definitions, but allow an applicant to present additional evidence. Scott Wilson and Daniel Wolfe explained that once a Groton map has been created, then it must be maintained and updated over time. Ray Lyons proposed giving the Conservation Commission the authority to create a map. The map will change over time, but give a presumption of applicability to the Conservation Commission map. Ray Lyons stated that streams have certain characteristics. For example, streams do not store water. Instead, they shed water. Ray Lyons listed four different DEP elements: (1) predictable flow rate, (2) area of watershed (greater than one square mile, (3) stream bed characteristics, and (4) stream 'stats' usage.

Daniel Wolfe wondered if the stream identification process would be arbitrary. David Black agreed that the process might be arbitrary and expensive. The group discussion moved to the thought of listing 5 streams as a kind of abbreviated map. Ray Lyons approves of naming as a way to remove ambiguity. David Black used the example of the large number of abutters along the Gay Road stream. He cautioned that it is not the Wetlands Bylaw Review Committee's job to name the streams. We have no budget to pay to collect the necessary data.

Daniel Wolfe asked if the Conservation Commission wanted increased protection of streams. David Black suggested that this discussion be deferred until the Committee and the Conservation Commission have seen Robert Pine's proposed solution. Alexander Woodle asked how many streams this change might yield. Ray Lyons referenced an old 1991 Town of Groton Bylaw proposal that was made before the WPA was passed. In that proposal, which did not pass at Town Meeting, 10 to 12 streams were named. Barbara Ganem listed streams from the U.S.G.S.:

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| 1. Tuity Brook | 6. Baddacook |
| 2. Whispering Brook | 7. Gay Road |
| 3. Reedy Meadow | 8. Martins Pond Brook |
| 4. Wrangling Brook | 9. Cow Pond Brook |
| 5. James Brook | 10. Nutting over to Lost Lake (the unnamed stream) |

It was noted that Charles Eliot named lots of brooks in the first open space plan.

David Black asked if the only open subject for the next meeting will be the definition of stream. Peter added the removal of date certain from Section 215(3)(b). David Black suggested that if the stream issue is resolved early in the meeting, then attention can turn to the Town Meeting presentation. Craig Auman offered an alternative to removing grandfathering. Instead, change some of the wording to clarify how the Bylaw will operate and leave the grandfathering in if removing it lacks political support.

Next meeting will be August 28, 2013 at 4 pm.

Peter Cunningham moved to adjourn meeting at 5:54 pm. Scott Wilson seconded. Motion carried 4:0 (Steve Webber, Robert Pine and Marshall Giguere absent).

Notes by Fran Stanley.