



## TOWN OF GROTON

173 Main Street  
Groton, Massachusetts 01450-1237  
Tel: (978) 448-1111  
Fax: (978) 448-1115

## 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 2, 2013  
Location: Town Hall, First Floor Meeting Room, 173 Main Street, Groton, MA 01450  
Members present: David Black, Steven Webber, Marshall Giguere, Peter Cunningham,  
Others: Art Prest, Barbara Ganem, Craig Auman  
Handouts: Draft minutes from September 11, 2013  
Meeting agenda  
Town Counsel opinion dated October 1, 2013  
Comments from Art Prest regarding September 11, 2013 meeting  
Draft letter to Conservation Commission regarding stream map

---

David Black called the meeting to order at 8:37 am.

*Peter Cunningham moved to approve the August 28, 2013 minutes as presented. Marshall Giguere seconded. Motion carried 4:0 (Scott Wilson, Robert Pine and Alexander Woodle absent).*

David Black asked a question directed to the Conservation Commission, this Committee and the Conservation Administrator. Do the provisions of the existing 3(B) plus the Wetlands Protection Act (WPA) provide enough authority to the Conservation Commission to prevent degradation of the resource? Steven Webber asked about Town Counsel's comments related to trending to favored projects provision to allow reasonable intrusions. David Black answered that perhaps there could be something like 215(3)(b) – where such structure exists in a previously altered area, it shall not be regulated by this Bylaw but will be regulated solely in accordance with the Wetlands Protection Act.

The Committee considered implications of such language using the sample scenario of an applicant owner of an existing house proposing a 200 square foot addition where the proposed addition would be located within 100 foot of the wetlands. Can this be regulated under the Bylaw? It gets reviewed and must be filed. Marshall Giguere commented that the altered area clause brings in the Bylaw level of review, not just the WPA.

Peter Cunningham observed that the public has concerns about the impact of the removal of the date certain. David Black suggested removing the date certain and leaving the other 3B language unchanged. Steven Webber noted that before the WPA was enacted, actions were taken that would have been illegal under the Act. Marshall Giguere suggested defining altered to explain the reach and impact of this language.

David Black stated that it is a mistake to leave the language as it is as current language may provide grounds for an appeal by abutters. Part of the Committee's charge is to make the Bylaw easier. Leaving the date certain in place makes an applicant's job harder. The Wetlands Bylaw Review Committee (WBRC) may abandon this proposed change due to the difficulty explaining the impact of the wording change to Town residents. Leaving the date certain in buys the WBRC public goodwill even if it is poor policy.

Art Prest commented on the requirement to prove that an owner's property is already altered. He gave the example of buried pipes found on his property which was an alteration that predated current owners and no one had any knowledge of it. The group looked at 215(7)(2)(g) conditions to be replaced with a general statement that proposed work would be reviewed under the provisions of the WPA (MGL Ch. 131 §40). David Black asked about the implications of making the "G" language look like the "H" provisions.

Steven Webber suggested a reference document that only speaks to the Bylaw's more stringent requirements. Marshall Giguere noted that the WPA and the Bylaw provisions regulate the same areas but differently. Craig Auman offered that he does not recommend going that route. The Bylaw has useful provisions such as the ability to fine people and the ability of the applicant to hire consultant to do a wetlands study. Peter Cunningham noted that the Conservation Commission does not want to lose enforcement authority under 215 § 11.

The group discussed the implications of the following proposed language under Chapter 215 (3)(b):

Notwithstanding any provision of this chapter to the contrary, the alteration of any residential, business or institutional building or customary appurtenance thereto, such as lawns, gardens, landscaped or other developed areas, where such structure or appurtenance existed in a previously altered area, shall not be subject to Performance Standards in this Chapter, but shall be regulated exclusively by the provisions of MGL C. 131, § 40.

Peter Cunningham stated to general agreement that his read of the Town Counsel's opinion is that the hardship language is not workable.

David Black shared with the meeting his research of the petroleum storage prohibition within 100 feet of a wetland in Chapter 215(7)(a)(1)(e). There are various provisions across the state:

- The Massachusetts Association of Conservation Commissions (MACC) model bylaw recommends no storage within the 100 year floodplain, not the 100 foot buffer zone.
- No reference found in 310 CMR 10.
- Commonwealth Chapter 21E references no above ground storage.

The WBRC has two choices. First, the Committee might replace language to the effect that storage of petroleum products within the buffer zone be done in a manner consistent with state and federal regulations. Alternatively, the Committee may choose to eliminate this prohibited activity clause completely.

The group next considered the sample scenario of a driveway/parking area near a resource. The Conservation Commission might act to place driveway furthest away from the resource. Sometimes the alternative plan ends up less expensive to construct and less expensive to operate. David Black asked the group to consider the impact of subsection G on the sample scenario. Does this prohibit a dirt parking lot off Martins Pond Road near Baddacook Conservation Trust Land? The WPA may allow it but the Bylaw may not allow it.

Michelle Collette updated the meeting attendees on the status of the streams map. It is a work in progress. Some of the naming will need to be changed. Barbara Ganem and Michelle Collette have reviewed it. For example, please consider the tributary off Baddacook Brook off of Burnt Meadow. What should it be called? Perhaps a stream or a 'major' stream. Steven Webber noted that there may be about six changes from the USGS map and he would like all changes to be noted for consideration by Town residents.

Next meeting will be October 30, 2013 at 8:30 am. David Black expects to join the meeting at 9 am. The next meeting may consider:

- additional language changes that are circulated in advance of the meeting;
- removal of the petroleum storage clause; and
- an affirmation of Town Counsel's recommendation against adding a hardship clause.

*Peter Cunningham moved to adjourn meeting at 9:35 am. Steven Webber seconded. Motion carried 4:0 ((Scott Wilson, Robert Pine and Alexander Woodle absent).*

Notes by Fran Stanley.