

Wetlands Working Group
TOWN OF PETERBOROUGH, New Hampshire

Minutes of January 4, 2010

Members of the Peterborough Planning Board and Peterborough Conservation Commission held a joint meeting on Monday, January 4, 2010 at 7:30 a.m. in the Selectmen's Meeting Room of the Town House. The purpose of the meeting is to continue the preparation of an amended Wetlands Protection Ordinance.

Members Present: From the Planning Board Richard Freitas, and from the Conservation Commission JoAnne Carr and Matt Lundsted. Also present was Sharon Monahan.

Staff Present: Carol Ogilvie, Director and Laura Norton, Assistant, Office of Community Development; and Tom Weeks, Code Enforcement Officer.

The meeting was called to order at 7:30 a.m.

Since Chair Enos was not present, Ms. Ogilvie offered to walk the members through the latest draft version of the ordinance, dated December 23, 2009 – with comments from Michael Simpson. She noted that the comments were relatively few in number, and most of them were of a wordsmithing or clarifying nature. Of those that needed discussion were:

(1) *Paragraph F (3), in which a wetland that is bisected by a road or driveway but connected by a culvert is treated as one wetland and delineated as such.* Mr. Simpson suggested that the ordinance needed to set an upper limit on the boundary of the wetland based on whether the wetland was perennial, intermittent, or ephemeral. The members wondered if the type of wetland mattered, if it met the state definition of wetland. Further, it was noted that this provision was added in an earlier version when there was a tiered approach based on size of wetland. Now that the current version no longer distinguishes based on size, is this provision necessary? The group agreed to leave this in with a note for later discussion.

The members continued with an in-depth discussion about boundary delineation and who would be certified to do so. Mr. Weeks asked about a complete delineation for a request for a building permit for a garage or shed. He noted examples such as septic system requests and driveway or curb cut applications as well. It was noted that both subdivision and site plan applications require wetlands delineation by a wetland scientist as part of the application checklist. While acknowledging Mr. Weeks "has a point" Mr. Lundsted noted that it was important to assess the impacts of development to wetlands on any plan. The group discussed potential solutions and wetland setbacks, noting the issue of whether or not it was reasonable to require a completed delineation for every application. Ms. Carr offered the use of referencing town data maps as a tool should there be potential impact to wetland areas.

Mr. Weeks spoke briefly about having flexibility at the administration level in determining whether or not it was reasonable to have an entire property delineated. She noted that if was clear there was *no* impact an administrative decision could be made, adding "if that were challenged, it would have to go to the ZBA."

The members continued to discuss setback ranges and definitions in the ordinance. One member interjected “let’s leave it and let the policy makers decide.” A very brief discussion about the role of the Planning Board and their relationship to the Wetlands Work Group followed.

Ms. Monahan asked for clarification as to why the group had done away with the tiered approach. She noted “I know I have missed some meetings, but why did they go away?” A brief discussion followed that included members likes and dislikes about the tiered approach as well as the arbitrary assignment of setback footage. Mr. Lundsted noted “it looked like the report (Moosewood Ecological, LLC) just threw the numbers out there, there are no functional values involved, it didn’t have any science.”

He added “in the end when you look at the report it looks like 50% of the wetlands are low functioning.” Also in response to Ms. Monahan’s questions, Ms. Carr noted that without tiers “all wetlands are equivalent. If you want a reduction you may get a Conditional Use Permit based on Performance Standards.” Ms. Monahan replied “I liked the idea of tiers. I think the Planning Board may be overwhelmed by this.” A brief discussion about the wetland versus shore land setbacks followed. The members also discussed conditional uses and §245.30.1 and the expansion of non-conforming structures. They noted a potential conflict and discussed whether or not §245.30.1 may override RSA 674:21 (K (1) Conditional Uses).

The members again discussed boundary delineations and the issue of requiring wetland delineation for building permit or driveway applications when it was specifically determined that there were no wetlands (minimum of 100 feet) in the area of the project. They also discussed the confusion between buffers and setback areas. They discussed the definition of naturally-vegetated buffers noting some are developed areas and some are not.

Ms. Ogilvie noted she would like to work a bit on the draft and send it out to the Planning Board for review and discussion on January 11th. It was noted Mr. Enos would make a presentation to the Board at that time and all members were invited and encouraged to attend.

The meeting adjourned at 9:06 a.m.

Respectfully submitted,
Laura Norton
Administrative Assistant