

Wetlands Working Group
TOWN OF PETERBOROUGH, New Hampshire

Minutes of April 26, 2010

Members of the Peterborough Planning Board and Peterborough Conservation Commission held a joint meeting on Monday, April 26, 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 David Enos, and from the Conservation Commission JoAnne Carr and Matt Lundsted. Also present was Francie Von Mertens.

Staff Present: Carol Ogilvie, Director and Laura Norton, Assistant, Office of Community Development.

The meeting was called to order at 7:33 a.m. Chair Enos (Mr. Enos) noted the item on the agenda was to set up a schedule for future meetings. He also noted "we have two and a half months and I worry about the time frame." He asked the group "do we have enough time to get to all the stakeholders? The group discussed that meeting twice a month might give them enough time but significant ground work would need to be done. Mr. Enos also noted he would like to see the Office of Community Development due additional homework on Conditional Use Permits and how they really relate "because they exist but the nomenclature is not there to support them."

The members decided to meet bi-monthly for the next two months on the first and third Monday morning of the month at 7:30 a.m.

Ms. Von Mertens noted that previous discussions had included incorporating the Shoreland Conservation Zone into the amendment and asked "what is the scope on that?" Mr. Enos replied "at one point our thought was to roll the shoreland in but I don't think we would ever make the fall vote if we attempted that." He went on to note "addressing shoreland in any other fashion is beyond the purview of this group." The other members unanimously agreed and decided the best course of action was to check the little differences that exist between the wetland and shoreline ordinances and iron them out, all the while looking at and accounting for unintended consequences.

The members went on to discuss several comments and concerns from the Planning Board Workshop on April 19th. Mr. Lundsted noted that a major concern was the Wetland Setback/Buffer Width Determination Table (Table #1) and how it works. Adding "and when you get a number what is the buffer and what is the setback?" Mr. Enos agreed noting right, that is not clear in the ordinance." Mr. Lundsted went on to mention what he referred to as "another big piece of work" or the establishment of regulations and better definition of the Performance Standards "and what we mean by that" he said.

The members went on to discuss the buffer/setback split. Mr. Lundsted noted "The split should be dependent on the functional values of the wetland that we are trying to protect." Mr. Enos interjected "it is not a difficult process" and suggested it may be easier to use a multiplier table, "where the higher the scale of the multiplier, the greater the buffer." Mr. Lundsted agreed adding

“that should go right into the Table.” All the members agreed it would be important to have a presentation that would show an example (or numerous examples) *and* justification of how the table worked.

Ms. Von Mertens pointed out the inherent ambiguity of the ordinance by noting “you can get 10 qualified individuals and end up with 10 different opinions.” A brief discussion about the gray areas (especially the functional analysis methods) followed. Mr. Enos concluded that regardless of what method is used “the results will be fairly close, you are not going to have a gross difference.” They went on to discuss a system for validation, much like the wetland delineation process. During this discussion Mr. Enos asked if it would be easier to just recommend the use of one method, the New Hampshire Method. Ms. Von Mertens interjected “or at least get it down to two methods.” Further discussion did not result in a definitive decision on the functional analysis method (s) to be used.

The members went on to additional discussion about creating a regulation that parallels the Shoreland Conservation Zone with Mr. Lundsted noting “we are trying to make the wetlands as important as the shoreland.” They discussed the current regulations, how they may intersect and any potential conflicts that could be identified. Mr. Enos noted a homework assignment for one of the members “I want you to lay out the current ordinance and the proposed one and make a comparison. I want you to make a list of what has changed.” Ms. Carr volunteered to tackle that assignment. A brief discussion about cutting trees on Route 123, forestry practices and the responsibility of the foresters to know the regulations followed.

Mr. Enos then went on to review several language corrections for the record. Ms. Von Mertens asked about a clarification on slopes with Mr. Lundsted replying “that will go in the regulation; it can become a Performance Standard situation.” The members discussed mitigation of steep slopes and applying Performance Standards objectively. Ms. Von Mertens noted her concerns of “the Planning Board’s ability to decide that.” Ms. Carr interjected “a lot of it is enforcement and monitoring, it is not entirely in the Planning Board’s realm.” Ms. Von Mertens also asked about monumentation.

The members then reviewed the count-back from a potential fall town meeting on September 14th. Ms. Ogilvie reviewed the schedule and noted a draft form of the amendment should be available July 1st for a Public Hearing on July 14th. She noted a second Public Hearing would be held July 26th with the third and final Public Hearing on August 9th. “Then you file it with the Town Clerk on August 10th for a vote September 14th. That gives us four meetings not counting today” she said.

Mr. Lundsted noted a concern by one of the ZBA members at the March 15th Public Hearing who suggested “a more comprehensive wetland workgroup or committee.” The members discussed the makeup of the current workgroup with Ms. Ogilvie noting the Planning Board had also discussed this suggestion, deciding to “leave it as it is and do much more public outreach.” A member asked about the potential for a meeting with the ZBA prior to July 1st.

The members briefly reviewed Table #1 again and all agreed that the Table should be gone through with all the groups that the members planned to meet with. They went on to briefly re-discuss the role of the ZBA in reference to the Planning Board, long term planning and “the bigger picture for the community.” In conclusion the members again talked about a joint ZBA

and Planning Board meeting and the potential of incorporating a design review from the Planning Board for wetland crossing going before the ZBA. Mr. Enos asked “can we accomplish this?” with Mr. Lundsted interjecting “in effect, yes but can we do it without stepping on the ZBA’s toes?” All agreed this effort would incorporate the “bigger picture of reviewing a site while employing innovative development.” Mr. Enos added “it would give the applicant two sets of eyes looking at it and the ZBA keeps their authority.”

The meeting adjourned at 9:20 a.m.

Respectfully submitted,

Laura Norton
Administrative Assistant