

Wetlands Working Group
TOWN OF PETERBOROUGH, New Hampshire

Minutes of January 11, 2010

Members of the Peterborough Planning Board and Peterborough Conservation Commission held a joint meeting on Monday, January 11, 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 discussion of an amended Wetlands Protection Ordinance to be presented as a recommendation to the Planning Board.

Members Present: From the Planning Board Richard Freitas and David Enos and from the Conservation Commission JoAnne Carr and Alternate Francie Von Mertens.

Staff Present: Carol Ogilvie, Director.

Chair Enos called the meeting to order at 7:35 a.m. and noted that the task for today was to prepare for this evening's presentation to the Planning Board. The members agreed that it would be important to have bullet points of the salient components of the draft, and equally important to be able to describe the deficiencies of the current ordinance and how the draft proposes to address those. One of the important points that came out of the discussion is that the current ordinance provides no protection whatsoever to the functional value of buffers, whereas the draft ordinance does, in part through the setback area and in part through the introduction of monumentation of the edge of the buffer.

Mr. Enos will be making the initial presentation to the Board, and his intent is to convey to the Board that the current draft represents *recommendations* from the Working Group, and in no way is it considered a final document. The Group is hoping for maximum input, from both the Board and the public, in order to address concerns that are raised.

The Group spent some time discussing the proposed change in process from a special exception from the ZBA to a Conditional Use Permit from the Planning Board. It was felt that there will be push-back on this approach, and members therefore attempted to quantify why the change in approach would be an improvement; in sum:

1. The current process does not provide the ZBA with specific criteria that address environmental concerns. And, while the Conservation Commission is usually asked to comment on wetlands applications, the ordinance only requires it for special exceptions for streets and other access ways.
2. The current process requires two separate boards when there is subdivision or site plan review; the proposed change would have all review and permitting take place at the Planning Board, with specific criteria that address wetland concerns.
3. The current ordinance is a "one size fits all" approach; the proposed process is not.
4. The proposed process provides flexibility through the conditional use permit that is not available now; nor does the ZBA have the ability to be as flexible as the Planning Board relative to site design. In other words, "planning" can be done at the Planning Board and changes could be made that would improve a project.

The Group then discussed the issues of taxable land and whether or not wetlands regulation constitutes a taking of private property rights. It was noted that in a sense all zoning deprives someone of doing something with their property, but that does not necessarily render the land without any value. In addition, a fundamental tenant of zoning is based on public benefit, and it has long been held that the protection of water quality serves a public benefit.

The Group reviewed the plan for this evening's meeting. Mr. Enos noted that he is eager to hear what the public concerns are, and what the public might think the Group did not take into consideration.

As a final point, Ms. Carr wished to emphasize that, regarding the checklist that went out with the draft ordinance, that the Group has not yet worked on that beyond the initial development of the current draft. It is still very much a work in progress.

The meeting adjourned at 9:00 a.m.

Respectfully submitted,
Carol Ogilvie