

**MINUTES of Joint meeting between
WEST BOYLSTON PLANNING BOARD and CONSERVATION COMMISSION
MAY 4, 2015**

MEMBERS PRESENT: Marc Frieden, Chris Olson, Vin Vignaly

MEMBERS ABSENT: Cheryl Carlson

CONSERVATION COMMISSION (Concom) MEMBERS PRESENT William Chase (Chair), John Hadley (Vice-Chair), Charlene Hopkins (Vice-Chair), David Mercurio, David Eckhardt (Associate Member) and Clerk Toby Goldstein.

CONCOM MEMBERS ABSENT: Anthony Meola

At 7:15 pm, Mr. Frieden opened the Planning Board meeting to discuss the Conservation Commission's proposed Local Wetland Bylaw.

Mr. Frieden stated that members of the Planning Board reviewed the draft previously submitted to them by Concom and had comments. He apologized that Cheryl Carlson, who provided many of the comments was not able to attend.

Mr. Vignaly began with the biggest issue that Planning Board had was that there was not any justification shown to support why Concom needs anything more than the Wetlands Protection Act. Mr. Chase and Ms. Hopkins discussed how bylaws would be more definitive and opined that it would be easier to get through the court system with them rather than trying to use the Wetlands Protection Act (WPA) for enforcement. They experienced that people do not take action, and ignore the Commission. They feel that the WPA is too open, but a local bylaw will define the issues and requirements, and allow Concom to be autonomous so as not to need to go through the Town Administrator and Board of Selectmen to accomplish their duties. The Concom reviewed past examples in Town of when notices of violations were sent, but the owners ignored them, and the Concom felt it had no authority/support to enforce them.

Mr. Vignaly reiterated that the Planning Board thinks that a substantial effort is needed before presentation at Town Meeting to substantiate the need for additional bylaws in town. Concom members responded, saying that they distributed the draft last year to other boards to begin this process. Ms. Hopkins also mentioned that they incorporated comments made by the new DEP Circuit Rider for the Central Region.

Mr. Mercurio questioned the need for a new set of bylaws, and proposed adopting the WPA as written, but have an enforcement addendum to it, such as for ticketing, perhaps through the Building Inspector. The Commission members explained that the Concom currently enforces the WPA, which is a state law and cannot be amended by the town. Any more stringent provisions proposed by a town require a local wetland bylaw to be approved by Town Meeting as is being followed.

Mr. Eckhardt described the past problems encountered by the Concom trying to enforce the WPA. This requires retaining the services of Town Counsel, from which these bylaws would provide an alternative enforcement process. He explained that Mark Archambeault of the Nashua River Watershed Association was helping them develop it, based upon successful bylaws in other towns. Mr. Vignaly then said that the state code applies to every town, but Mr. Chase responded that the enforcement procedure is not clear or easy, requiring counsel and other Town boards' support, and Ms. Hopkins added that the bylaws can be amended anytime.

Next, Mr. Vignaly asked if the purpose bylaw is really intended to expand the ConCom jurisdiction. The Commission replied that they want more authority to protect the existing wetland resources. Mr.

Vignaly noted that expanded authority may be difficult to have approved at Town Meeting, and offered to reword the document to try to accomplish the goals of the Concom without expanding areas of jurisdiction; and that he would e-mail the edited version for further review and comments.

Mr. Vignaly then reviewed clarifying some wording in the exemptions, and then consider simplifying the setbacks, and recommended that it should be 25'. Special situations may be warrant Concom reductions to the 25' setback, such as when an existing lot is very small or the work causes an increase of greater than 20% of project cost. It was agreed that the point of this is for people to need to appear before the Commission to discuss their situations.

The Board reviewed allowing new on-site sanitary waste disposal be allowed only in compliance with Title 5. Repairs to existing failed systems may have grading within this area, but still require filing with the ConCom. Mr. Vignaly asked the ConCom's intentions that petroleum products above or below ground should be 100 feet away from a wetland area. Mr. Chase mentioned the example of Cumberland Farms, where there is an aquifer. They discussed storage and quantities and the meaning of "in excess of regular residential use", and he said that he would look at what DCR has for wording regarding this subject. He will amend the draft to include these special cases.

Mr. Vignaly asked how Concom handles complaints from neighbors, and Ms. Hopkins replied that a neighbor can't submit a filing regarding someone else's property, only the property owner can file, and Mr. Eckhardt added that the Request for Determination of Applicability is useful to the Commission, but restricted to filing to the property owner, proponent for that property or "his or her agent." Mr. Vignaly suggested adding in that wording along with the process of abutter notification, publishing of the legal ad in the newspaper, and posting of the public hearing with the Town.

The Concom discussed the need to have a public hearing before any bylaw changes are made, and Mr. Eckhardt responded that they will have a public hearing for the bylaws themselves. Mr. Vignaly suggested inviting several developers to obtain their input. Mr. Eckhardt asked Mr. Hadley, if Concom proposes to have the bylaws voted upon at the Fall Town Meeting, when would they need to have a public hearing on the matter, and Mr. Hadley replied that it would need to be 60 days before the Town Meeting.

With no further discussion, Mr. Olson moved to adjourn the meeting at 8:45 p.m. Mr. Vignaly seconded. All in favor.

Submitted by: _____

Date accepted: _____