

9/4/2013 Greensboro Association Comments on the Planning Commission's Proposed Changes to the Current Zoning Bylaw, Especially those Applicable to the Lakeshore District, Including the New Proposed Article 8, Lake Shoreland Protection District and Shoreland Resource Buffer Resource Zone.

I. Introduction.

Included below are comments on the issues raised with regard to the proposed Greensboro Zoning Bylaw changes, particularly the new Section 8 – Lake Shoreland Protection District Bylaw. These proposed changes are on the Greensboro web site and were presented at the Planning Commission's August 21st public informational meeting at Town Hall in the Collier room.

These comments are in addition to those submitted to the Planning Commission by the Greensboro Association (GA), at its request, in 5/2013.

The current comments are being made by the GA because the Planning Commission invited comment from the public and because the comments are on important provisions of the Planning Commission's draft proposal. Some of the provisions, in the GA's view are over-regulatory and should be changed and some are, in the GA's opinion, unworkable and should be removed. To its credit, the Planning Commission is apparently aware of many of these and is in the process of reviewing them.

II. The Most Talked About Issues:

- 1) **Why New Bylaws?** Why are such new proposed zoning bylaws needed in view of Greensboro's existing Zoning Bylaws;
- 2) **Why Should Greensboro Hire Independent Consultants and Ask Owners to Pay For Them(Sec. 8.12 "Independent Technical Review")?** Should there be a new bylaw authorizing **Greensboro to "retain independent consultants to conduct technical as enabled by..." Vermont law... "for Development subject to these regulations and whose services shall be paid for by the applicant.** The consultant(s) shall work at the DRB and the Zoning Administrator's direction and shall provide the DRB and the ZA such

reports and assistance as the DRB and the ZA deems necessary to determine compliance with this bylaw.”

- 3) **Why Should an Owner be Forced to Move a Damaged Cottage 150 Feet Away (Sec. 8.9 “Nonconforming Uses and Structures Within the Shoreland Resource Zone” and Subsec. C. “Reconstruction and Relocation in the Shoreland Buffer Resource Zone)?** The proposed bylaw provision that would require that if a “nonconforming structure is damaged or destroyed by more than 50% of its market value,” it may be reconstructed **only** if a permit is obtained within 18 months of such damage and **only** if the reconstruction meets the minimum shoreland setback requirement of 50 feet from the Shoreland Buffer Zone to the greatest practical extent. The setback from the Shoreland Buffer Zone is 100 feet. **Thus the total setback required under this proposed provision would be 150 feet. In other words, the “new” cottage to be built to replace the damaged one would have to be moved 150 feet away from the original location, to the maximum extent practical.**

It was pointed out that many if not most existing properties are nonconforming but would thus be grandfathered and so not subject to this proposal unless such cottage was damaged or destroyed to more than 50% of its market value. In that case, under this proposal, a new, replacement cottage would have to be moved and rebuilt at least 150 feet from the shore. This seemed a bit draconian and also many lots are small or otherwise configured so as to make it very difficult if not impossible to so reposition a new replacement cottage.

- 4) **Why Impose a Cumbersome Tree Counting and Cutting Process on Lake Cottage Owners (Sec.8.5 and 8.6)?** The process to allow tree cutting and counting seems rather cumbersome and over-regulated. Isn't there is simpler way to assure clear cutting or other tree/shrub/plant removal around the lake while protecting the lake from clear cutting or other damaging cutting practices?

III. Comments on Each Issue

A. Why Are New Bylaws Needed(Creation of a New Lake Shoreland Protection District Bylaw, Article 8)?

The state of Vermont is currently considering a Shoreland Resource Zone Bylaw that, if passed, would apply to every Vermont town and every owner, including Greensboro. This law has passed the Vermont House and appears to have a good chance to pass the Vermont Senate, though perhaps not this year. If passed, it would be as strict and likely more strict than the proposed Greensboro proposed Greensboro Shoreland Resource Zone Bylaw and would thus exact an even greater cost to landowners along the lake and to Greensboro in general.

However, the proposed new state law contains a provision that would exempt any Town, including Greensboro, from the new state law if it has an equivalent zoning bylaw. Greensboro's proposed Shoreland Resource Zone Bylaw would very likely meet that test and would thus protect Greensboro from application of the proposed state law.

Apart from the fact that there have been shoreland cutting abuses in the past in Greensboro, fairly substantial silting in some areas of the lake and other problems involving runoff about which Greensboro can, in fact, take remedial action, the proposed Greensboro zoning bylaw would shield Greensboro from the application of the proposed new state law. **While it is always risky to predict what the legislature will do, it does appear at this time that the state's proposed new zoning by law may well pass the Vermont Senate and be signed into law by Governor Shumlin, probably in 2014.**

B. Why Hire Independent Consultants Owners Have to Pay For (Proposed Sec. 8.12)?

It seems very likely that the Planning Commission will NOT include this provision as it appears now. There is substantial opposition and, in addition, the PC itself seems to believe there must be limitations on the provision. It is fairly safe to say that at this point that this provision, as written, will not survive the Planning Commission's own review .

C. Why Force an Owner to Move a Damaged or Destroyed Cottage 150 Feet Away in Order to Replace it (Proposed Sec. 8.9C)?

The Planning Commission probably thinks that this provision should be removed and it seems pretty clear it will be. There is substantial opposition to the provision and the PC itself believes the current proposed provision probably cannot work as now written.

Thus, this provision is likely to be removed and not be in future proposals.

D. Why Include a Cumbersome Tree Cutting and Counting Process for Lake Cottage Owners (Sections 8.5 and 8.6)?

The current proposed tree removal and clearing limitations in Sections 8.5 “Removal of Unsafe Trees and Limbs in the Shoreland Buffer Resource Zone” and 8.6 “Grid and Point System Clearing Limitations in the Shoreland Buffer Resource Zone” seems a somewhat opaque and clumsy provision to impose on land owners many of whom have, after all, been stewards of their land for more than 100 years.

Such owners are pretty clear about taking down trees that are dead, diseased or otherwise a danger to the owners and others. Such owners are capable of dealing with such situations themselves. Of course, it is important to protect the lakeshore from those few who might act irresponsibly.

This provision should be changed to make it easier for responsible owners to manage their own property while, at the same time, finding ways to protect the lakeshore from actions by a few, less responsible owners who, as in the past, have cleared away brush and trees so as to destroy the natural plant protection along the lakeshore.

IV. Conclusion

The Planning Commission has worked hard to craft a new lake shoreland protection zoning district and, especially, within that, a zone to protect the lake and growth along the shore that enables water to soak into the ground and clean itself before reaching the lake. This is much more than the great

majority of Vermont lakes have done. Greensboro's care of its lake to date has enabled the lake to remain healthy and free of problems, including invasive species. This effort must continue.

However, it is true that there have been some past abuses to the natural habitat along the shore. In addition, the large majority of Vermont towns with lakes have not taken action to protect their shorelines. As a result, the state has stepped in and is now in the process of considering fairly strict rules, through legislation, about what can be done along the shores of Vermont's lakes.

As mentioned, Greensboro has taken careful zoning action in the past and is now taking action to put in place further protections to help the lake. These new rules, if enacted, would exempt Greensboro from the new state rules that Vermont is considering.

Most of the proposed Greensboro zoning bylaw establishing a new Sec. 8 Lake Shoreland Protection District Bylaw is pretty well thought out and would increase protection to Greensboro's precious lakeshore zoning district and the lake itself.

However, as noted in the discussion above, some provisions of the proposed Greensboro Bylaw are probably not workable as currently drafted and, in some cases would not be fair to the owners and would impose a very difficult burden on them, for a pretty limited return. As also mentioned above the Planning Commission seems to recognize this with respect to some provisions and is very likely to replace them as it continues to consider new protective zoning rules.