

Legislative Task Force Homework Assignments:

Meeting #13 9.26.14

Burrillville Permits & decisions Information

Tom Kravitz

Date	Regulation	Case #	relief granted in ft
139-18 8/12/2014	30-153 4 b lots containing wetlands granted 5-0 single family	2014-09	A-175 Wilson Reservoir
52-21 6/10/2014	30-153 4 a and b lots containing wetlands granted 5-0 single family	2012-04	A-100 132-Storm Flowage
155-36 6/11/2014	30-153 3 and 4a lots containing wetlands granted 5-0 single family	2011-07	A-194 Wilson Reservoir
245-23 2/9/2010	30-153 4 a lots containing wetlands granted 5-0 single family	2009-12	A-78
113-1 10/14/2008	30-153 1 and 2 lots containing wetlands granted 5-0 two family	2008-17	→ upland only
43-3 12/11/2007	30-153 4 a lots containing wetlands single family granted 5-0	2007-27	A-155
208-27 11/13/2007	30-153 3 and 4 lots containing wetlands single family denied 5-0 *	2007-17	A-137 + 110 River
52-21 8/14/2007	30-153 4 a and b lots containing wetlands granted 5-0 single family	2007-13	A-100 (A-132 adjacent property)
34-45 8/14/2007	30-153 3 and 4 lots containing wetlands single family granted 5-0	2007-16	A-200
157-20 * 4/10/2007	30-153 4 b lots containing wetlands denied 5-0 single family *	2007-05	200 River
124-33 4/10/2007	30-153 lots containing wetlands granted 5-0 single family	2007-07	→ upland only
140-11 4/10/2007	30-153 lots containing wetlands granted 5-0 single family	2007-09	→ upland only
52-20 1/9/2007	30-153 4 a lots containing wetlands granted 5-0 single family	2007-01	A-144
226-13 11/14/2006	30-153 lots containing wetlands granted 5-0 single family	2006-36	A-118
200-8 10/10/2006	30-153 lots containing wetlands granted 5-0 single family	2006-29	A-125 PASCOAG Reservoir

* local decision overturned in Superior Court

* 137 + 110
FRESH WATER RIVER
CROSSESCOURTHOUSE LEAK

*** 200' Floodway setback
RIVER
OFF LEWEL RIDGE AVE

AVG = 140' = 60' SEBARK

Sec. 30-153. Lots containing wetlands.

For any lot which has been determined by the Rhode Island Department of Environmental Management to contain a wetland, if the wetland area, including wetland buffer, is greater than 40 percent of the total area, the following restrictions shall apply:

- (1) Only single-family housing will be allowed in all residential zones;
- (2) All commercial and manufacturing uses must be sewered;
- (3) Each lot shall have a minimum buildable area of 12,000 square feet excluding wetland and wetland buffer zone as defined by the Wetland Act of the State of Rhode Island;
- (4) No individual sewage disposal system (ISDS) shall be located:
 - a. Within 200 horizontal feet of a "fresh water wetland" as defined in G.L. 1956, § 2-1-20, as amended.
 - b. Within 200 horizontal feet of a "river" as defined in said G.L. 1956, § 2-1-20, as amended.

I. SPECIAL USE PERMIT - (Complete this Section only if Box #1 of the Introduction is checked).

A. IDENTIFY proposed use, action, or activity for which SPECIAL USE PERMIT is requested.

B. LIST precise ARTICLE(S) and SECTION(S) of the ZONING ORDINANCE which authorize consideration of the SPECIAL USE PERMIT described in above.

C. IDENTIFY Grounds for the SPECIAL USE PERMIT. The APPLICANT is required to relate this APPLICATION REQUEST to the Criteria governing the Granting of a SPECIAL USE PERMIT as set forth in Sec. 30-34.(e)(4) of the ZONING ORDINANCE.

VARIANCE - (Complete this Section only if Box #2 of the Introduction is checked).

A. IDENTIFY proposed activity, action, or use for which VARIANCE from the terms of the ZONING ORDINANCE is requested.

I would like to build a small one bedroom home to use as a summer home. NO GARAGE needed. IT will be heated by heat pump AND cooled by A/C condition. ONE BATH,

B. LIST precise ARTICLE(S) and SECTION(S) of the ZONING ORDINANCE from which VARIANCE is requested. BRIEFLY DESCRIBE applicable regulation of standard and the variance that is requested.

30-153 LOTS CONTAINING WETLANDS (4) (2)
The proposed septic system in the approved sewer plan is 25 feet from a lagged wetland. I request relief of 175 FT

C. IDENTIFY Grounds for VARIANCE. The APPLICANT is required to relate this APPLICATION REQUEST to the Criteria governing the Granting of a VARIANCE as set forth in Sec. 30-34.(d)4 of the ZONING ORDINANCE.

THE CHARACTERISTICS OF THE LAND MAKE IT NECESSARY FOR A VARIANCE APPLICATION. THIS IS NOT OF THIS APPLICANT TO GAIN FINANCIALLY FROM THIS VARIANCE IF GRANTED. IF GRANTED IT WILL NOT ALTER THE GENERAL CHARACTER OF PROPERTIES AROUND THE AREA OR ANY PURPOSE OF THE ZONING CHAPTER.

AM ASKING FOR THE LEAST RELIEF NECESSARY TO BUILD A HOME

issue the Certificate of Occupancy, would be inspecting the construction.

- 6. There was no other public comment from the audience and the public portion of the hearing was closed.
- 7. During Zoning Board discussion, Ray Cloutier stated that the proposed building would be a very nice small house.

WHEREAS, THE BURRILLVILLE ZONING BOARD OF REVIEW has determined, based on the testimony presented at the hearing, the observations of the Board Members in viewing the property, and the findings of fact as set forth above:

- 1. That the granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based evidenced by the Town Planner's Advisory Opinion.
- 2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as the applicant proposes to build a single family dwelling on a property zoned residential.
- 3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain.
- 4. That the relief to be granted is the least relief necessary to build a single family dwelling on this property.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with no conditions.

Ken Johnson made a motion to grant a variance for relief from Zoning Ordinance 30-153 Lots Containing Wetlands (4) b, with no conditions.

"River" ?

George Keeling 2nd the motion. The motion passed by a 5 - 0 vote.

2012-04

Brizard + Doyle

2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as evidenced by D.E.M.'s approval of the proposed Onsite Wastewater Treatment System, and as determined that this new dwelling will fit in with the character of the neighborhood.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the hardship is due to the unique characteristics of the property and the requirements of D.E.M. and the Town.
4. That the relief to be granted is the least relief necessary to construct a single family dwelling on this site.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with no conditions.

George Keeling made a motion to grant the applicant relief of 132' from an area subject to storm flowage on the property, and of 100' from wetlands to the rear of the property - Zoning Ordinance 30-153 (4) a & b Lots containing wetlands with no conditions as originally granted to Daniel Nardelli, September 11, 2007 case # 2007-13. Michele Carboni 2nd the motion. John Patriarca, Ken Johnson, Michele Carboni, George Keeling, and Raymond Cloutier all voted to approve the motion and grant the relief as requested with no conditions.

John Patriarca, Ken Johnson, and Michele Carboni voted to approve the request for a variance as this request was previously granted by the Zoning Board of Review, and as the footprint of the single family dwelling will not be enlarged from the previous application. Raymond Cloutier stated he voted to approve the request for a variance as the Board had previously granted this relief and due to the sluggish economy, financial conditions have caused projects to be delayed and thus the previous relief expired.

2011-07
CONNORS

observations of the Board Members in viewing the property, and the findings of fact as set forth above:

1. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to a physical or economic disability of the applicant. As noted in the testimony of Mr. Casali, the subject property has constraints unique to the site that the owners have attempted to mitigate to get wetland and septic approval so they can request relief to build a residence on the site.
2. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain. The lot was created prior to the owners' purchase of the property.
3. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Chapter of the Comprehensive Plan upon which this Chapter is based as the applicant has obtained wetland approval, septic approval and the proposed new dwelling will be no larger than the existing one.
4. That the relief to be granted is the least relief necessary for the applicant to construct a single family dwelling on an existing lot of record.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with no conditions.

Sandra Cooney made a motion to grant the applicant 15.08 feet for rear setback relief as the dwelling will be 14.92 feet from rear lot line, Zoning District from Zoning Ordinance 30-111 Table of Dimensional Regulations. Relief of 11,900 square feet from the required 12,000 square feet minimum buildable area, and relief of 194 feet from the required ISDS setback of 200 feet distance to fresh water wetlands both from Zoning Ordinance 30-153 Lots Containing Wetlands. George Keeling 2nd the motion.

John Patriarca, Ken Johnson, George Keeling, Sandra Cooney, and Raymond Cloutier all voted to approve the motion and grant the relief as requested with no conditions.

the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based as the applicant is requesting to build a single family dwelling in a residential zoning district, and as testified, the wetlands will not be disturbed by constructing this dwelling as proposed.

2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as it has been determined by the Zoning Board based upon the testimony of Campopiano that the wetlands will not be adversely affected by granting this application.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the applicant simply wishes to build a single family dwelling on a residential lot and the applicant is not the entity which subdivided the property and received the prior approval from the town, thus there has been no self-created hardship.
4. That the relief to be granted is the least relief necessary to install an ISDS on the property.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is **GRANTED** by a vote of 5 - 0 with one condition.

George Keeling made a motion to grant relief of 78' for the distance between the ISDS and the fresh water wetlands from Zoning Ordinance 30-153 Lots Containing Wetlands. Raymond Cloutier added the one condition that the dwelling will have gutters and downspouts that terminate in drywells to control runoff. Sandra Cooney 2nd the motion with the one condition.

John Patriarca, Sandra Cooney, Ed Varin, George Keeling, and Raymond Cloutier voted to pass the motion with the one condition.

John Patriarca and George Keeling voted to approve the motion due to the testimony presented. Sandra Cooney voted to approve the motion due to the testimony of the Civil Engineer, the favorable advisory opinion of the Planning Board, and due to the ISDS being approved by D.E.M. Raymond Cloutier voted to approve the motion stating the applicant's request was reasonable. Mr. Cloutier stated that the supporting testimony of the Civil Engineer and the type of soil found at the location of the proposed ISDS were factors he considered. He noted that the

Adler

WHEREAS, at said hearing all those whom desired to be heard were heard and their testimony recorded;

WHEREAS, the Burrillville Zoning Board of Review finds as a fact that:

1. Brian Thalmann, Registered Professional Engineer, submitted an amended application. He stated that the applicant was now proposing to build a single family dwelling rather than a duplex and thus is only requesting a variance. The plan meets all Zoning requirements but that the parcel consists of more than 40 percent wetlands.
2. Mr. Thalmann testified that the dwelling would be serviced by a private well and municipal sewer. The parcel is completely comprised of wetlands and wetland buffer zone. He noted that there was a 21 percent slope to the rear of the property to the river.
3. Mr. Thalmann stated the proposed single family dwelling would be 30 feet by 50 feet with a footprint of 1,500 square feet.
4. Edward A. Gartland, an abutter from 810 Douglas Pike, stated that he had no objections with a single family dwelling being constructed on this site.
5. Aimee Lamarre, an abutter from 12 Dion Drive, questioned the size of the lot and location of the proposed dwelling. Mr. Thalmann answered that the house would be back 60 feet from Douglas Pike pavement, and the lot is 8 acres in size.
6. There was no other public comment from the audience.

During discussion, Ed Hochwarter, Jr. stated that it was quite a large lot. John Patriarca stated that the parcel is much larger than it appears. Raymond Cloutier stated that the lot is completely in the wetland buffer zone due to proximity to the river below.

WHEREAS, THE BURRILLVILLE ZONING BOARD OF REVIEW has determined, based on the testimony presented at the hearing, the observations of the Board Members in viewing the property, and the findings of fact as set forth above:

1. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the

2008/11
Adler

2082

Ordinance is based as the applicant is requesting to build a single family dwelling in a residential zoning district.

2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as it has been determined by the Zoning Board that the wetlands will not be affected by granting this application.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the applicant simply wishes to build a single family dwelling on a residential lot.
4. That the relief to be granted is the least relief necessary as no dimensional reliefs are requested.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with one condition.

Ken Johnson made a motion to grant relief of 12,000' upland area from 30-153 Lots containing wetlands.(c), with the one condition that the dwelling will have gutters and downspouts that terminate in drywells to control runoff. George Keeling 2nd the motion.

Ken Johnson, Michele Carboni, Ed Hochwarter, Jr., George Keeling, and Raymond Cloutier voted to pass the motion with the one condition.

Ken Johnson stated he voted to pass the motion due to the testimony presented and the reputation of the applicant from other projects in town. George Keeling noted that he voted to pass the motion due to the applicant amending his application and thus requesting to build a single family dwelling and not a duplex. Ed Hochwarter, Jr. stated he voted to pass the motion due to the applicant reducing the request from a duplex to a single family dwelling and as the lot is over 8 acres in size. Raymond Cloutier echoed the above reasons for his voting to pass the motion.

The Zoning Board shall set down a record of findings of fact and shall make its decision in writing. No decision shall be final until it is filed in the Zoning Enforcement Office. All decisions shall be recorded in the land evidence records of the Town.

2007-27

Mauro

Bk: 624 Pg: 283

2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as it has been determined by the Zoning Board that the wetlands will not be affected by granting this application.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the applicant simply wishes to build a single family dwelling on a residential lot.
4. That the relief to be granted is the least relief necessary.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with one condition.

30-153(4) A

Ed Hochwarter, Jr. made a motion to grant relief of 155' distance from wetlands to I.S.D.S. from Zoning Ordinance 30-153 Lots containing wetlands with the one condition that the dwelling will have gutters and downspouts that terminate in drywells to control runoff. Ken Johnson 2nd the motion.

Ken Johnson, Michele Carboni, Ed Hochwarter, Jr., George Keeling, and Raymond Cloutier voted to pass the motion with the one condition.

Ken Johnson noted that he voted to pass the motion due to the expert testimony. George Keeling voted to pass the motion as the applicant has a 57 acre lot with 44% upland area.

The Zoning Board shall set down a record of findings of fact and shall make its decision in writing. No decision shall be final until it is filed in the Zoning Enforcement Office. All decisions shall be recorded in the land evidence records of the Town.

A variance or special use permit shall expire twelve (12) months from the date of approval by the Board, unless the applicant who has been granted relief obtains a building permit and is actively engaged in the project's construction, or in case of "use variance" has actually put the subject property to said use.

WHEREAS, the Burrillville Zoning Board of Review finds as a fact that:

1. Attorney Wyatt Brochu represented the applicant and owner Seminole Development LLC. He stated that the applicant was requesting dimensional relief to build a single family dwelling on a pre-existing lot of record in the R-20 residential zoning district. He noted that the proposed two bedroom dwelling would have an Advantex septic system.
2. William P. Drexel , Civil Engineer with North West Engineering Services, LLC/Drexel Design Group, Inc., was accepted as an expert witness. He entered Exhibit 1 - a resume. He testified that there were wetlands to the north and east portions of the property, with the center of the lot being upland area. He noted that the I.S.D.S. would be an Advantex system with a bottomless sandfilter. He testified that the applicant has received a D.E.M. Formal Wetlands Permit and I.S.D.S. approval, and the well would meet all setbacks.
3. Mr. Drexel entered Exhibit 2 - a colored site plan dated September 2007. He stated that the applicant was requesting relief from Zoning Ordinance 30-153(3) of 8,480 square feet of upland area as the lot in question has only 3,520 square feet of upland area: from 30-153(4) the applicant is requesting relief of 137' from fresh water wetlands, and 110' from a river.
4. Mr. Drexel testified that the applicant has reduced the size of the proposed dwelling to a 2 bedroom home. He added that there is no other possible location for the proposed dwelling on the lot to avoid encroaching into the wetland area.
5. In response to questioning by Raymond Cloutier, Zoning Board Chairman, Mr. Drexel stated that the rear left hand corner of the dwelling would be 40' from the wetlands, and that half of the building footprint would be in the 50' D.E.M. Jurisdictional Perimeter Wetland area.
6. Zoning Board Member, George Keeling stated that the lot is very wet.
7. Joseph McCue, a wetland biologist with Natural Resource Services Inc., was accepted as an expert witness. He entered Exhibit 3 - a resume, Exhibit 4 - Biological Impact Report of the subject property, and Exhibit 5 - D.E.M. Permit to Alter Freshwater Wetlands dated December 11, 2007. He testified that there was a

Nardelli

WHEREAS, the Burrillville Zoning Board of Review finds as a fact that:

1. Daniel Nardelli, applicant & owner, testified that he was requesting a variance to build a single family dwelling with ISDS (individual septic disposal system) within the wetland buffer. He stated that the septic system would be 100' from wetlands on the subject property, and 132' from wetlands on an adjacent property.
2. Mr. Nardelli stated that the proposed 2 story colonial with integral garage would blend well in the neighborhood. The dwelling would have a foundation, the cellar floor would be approximately at existing grade, and the dwelling would have a maximum height of 30' - 35'.
3. There was no public comment from the audience.

WHEREAS, THE BURRILLVILLE ZONING BOARD OF REVIEW has determined that:

1. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based as the applicant is proposing to construct a single family dwelling.
2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as ISDS approval from D.E.M. has been obtained.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain.
4. That the relief to be granted is the least relief necessary.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is **GRANTED** by a vote of 5 - 0 with no conditions.

Ken Johnson made a motion to grant relief of 132' from wetlands subject to storm flow, and of 100' from wetlands on the subject property from

2007-16
Taubman

9. There was no public comment from the audience.

WHEREAS, THE BURRILLVILLE ZONING BOARD OF REVIEW has determined that:

1. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based as it has been determined that the proposed single family dwelling on the subject property would be in keeping with the current land use pattern of the area.
2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as the applicants have received ISDS approval from D.E.M.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the applicants simply wish to build a single family dwelling on a residential lot.
4. That the relief to be granted is the least relief necessary.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with two conditions.

Ken Johnson made a motion to grant relief of 200' Zoning Ordinance 30-153 (4) a & b Lots containing wetlands with the following conditions:

1. that the dwelling will have gutters and downspouts to control runoff.
2. that the single family dwelling unit be limited to 2 bedrooms.

George Keeling 2nd the motion.

Raymond Cloutier, Ed Hochwarter, Jr., George Keeling, Ken Johnson, and John Patriarca all voted to pass the motion with the 2 conditions.

George Keeling noted that he voted to pass the motion as the applicants had requested the least relief necessary. Ken Johnson stated that he

Perry
2007-05

172

WHEREAS, the Burrillville Zoning Board of Review finds as a fact that:

1. Attorney Wyatt Brochu represented the applicant and owner Bradley J. Perry. He stated that the applicant wishes to build a single family dwelling.
2. Norbert Therien, PLS - National Land Surveyors-Developers, Inc., was accepted as an expert witness and testified that the property is totally enveloped with wetland, wetland buffer and setbacks to Clear River.
3. Mr. Therien stated that the applicant proposes to construct a 24' x 32' dwelling with 15' front setback. He added that the property will be serviced by public water and municipal sewer.
4. Mr. Therien noted that the entire property is in the D.E.M. 200' River Bank Jurisdiction. He testified that 15' front setback relief is the least relief necessary as the house size was reduced and the house site moved forward.
5. Ed Hochwarter, Jr. noted with concern that 39' of land would be required for the 15' proposed front setback and 24' for depth of dwelling. Mr. Therien stated that there would be very limited passive recreational area on the side of the house. The buffer plantings would be 6' to 8' from the dwelling. Mr. Therien acknowledged that there would be no usable rear yard.
6. In response to questioning by Ken Johnson, Mr. Therien stated that the proposed dwelling would be on a full foundation, that no fill would be brought onto the property, and re-grading would be necessary.
7. Mr. Therien stated that D.E.M. determined that the Application to Alter a Freshwater Wetland could be downgraded to the status of an Insignificant Alteration to Freshwater Wetlands. He added that from the rear of the dwelling there would be 6' to the 100 Year Flood Plain. He noted that White Pine and Rhododendron would be required plantings. He explained that the applicant has received 24' relief from D.E.M. as they require 30' setback from the flood plain.
8. Scott P. Rabideau - Wetland Biologist, Natural Resource Services, Inc., was accepted as an expert witness. He testified that in January 2006 he was hired to delineate the fresh water wetlands

- Perry
2007-05 2072
17. Mr. Fontaine testified that 6 out of 12 houses on Laurel Ridge Avenue & 12 out of 14 houses on Laurel Hill Road did not meet the 30' front setback. When questioned by Raymond Cloutier, Mr. Fontaine admitted that most homes in the area are 80 - 90 years old with almost no recent construction.
 18. Ken Johnson, in response to Mr. Fontaine's statement that if this application is not granted it must be considered a taking by the Town, he stated that asking complete relief from Zoning Ordinance 30-153(3) minimum buildable area of 12,000 square feet is excessive. Mr. Johnson further noted that if one purchases an unbuildable lot they run the risk of not receiving zoning relief and it staying an unbuildable lot.
 19. Bradley J. Perry was sworn in. He testified at having purchased this lot with the residence across the street 6 years ago. He stated that with the last big storm, the flood waters did not cause erosion on his property but rather it simply ponded there.
 20. Ellen Levesque, an abutter at 74 Laurel Hill Avenue since 1972. She testified that during storms the Clear River would be quite high and rushing rapids would cause trees to topple over on the applicant's property. She stated that the lot has been filled in where the applicant proposes to construct a house. Ms. Levesque stated that she does not believe there to be 45' from the road for the dwelling to fit. She noted that she owns property to the left of Mr. Perry's and her lot is also unbuildable.
 21. Margaret Desjarlais, an abutter from 86 Laurel Ridge Avenue entered Exhibit A - Letters from 3 abutters opposing the granting of this application. She entered Exhibit B - a photograph of the applicant's proposed house site currently being utilized for tenant parking. She entered Exhibit C - a series of photographs where the Clear River crosses the applicant's property.
 22. Ms. Desjarlais testified that the water does not pool but rather rushes through Mr. Perry's property during severe storms. She also noted concern with where Mr. Perry's tenants from the dwelling across the street, would park if this lot currently used for their parking, were developed. She noted that Laurel Ridge Avenue is very narrow and she is concerned that if the tenants having no where else to park, they would be forced to park on the street. Ms. Desjarlais also stated that when Mr. Perry received a Special Use Permit to have horses on his property adjacent to hers, he stated that he would use this empty lot to store the waste.

2007-07

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Wyatt

1 of 2

WHEREAS, the Burrillville Zoning Board of Review finds as a fact that:

1. Ken Johnson, Zoning Board Member recused himself as he is an abutter residing in Sanwood Estates.
2. Floyd Wyatt, applicant & owner, testified that he resides at 230 Hill Road. He requested that Norbert Therien come forward to testify on his behalf.
3. Norbert Therien, PLS - National Land Surveyors-Developers, Inc., was accepted as an expert witness. He testified that the lot in question is approximately 1 acre in size and located on the southerly side of Hill Road. He noted that the entire site is located in a D.E.M. wetland and buffer area. He stated that the location of the proposed dwelling was determined by D.E.M.
4. Mr. Therien entered Exhibit 1 - D.E.M. Permit to Alter Freshwater Wetlands dated July 31, 2006. He noted that as the stream on Mr. Wyatt's property is less than 10' in width, there is a 100' D.E.M. river bank buffer zone. He noted that the entire lot is in D.E.M. jurisdictional area. He added that the applicant needs total zoning relief from 12,000 square feet buildable area.
5. Mr. Therien stated that the applicant proposes to construct a 3 bedroom, 22' x 36' dwelling. Rhododendrons and Eastern Red Cedars are the required plantings to delineate the area of disturbance. There will be a minimal amount of re-grading on this lot.
6. When questioned by Ed Hochwarter, Jr., Mr. Therien stated that the required plantings would be 15' from the side and rear of the proposed dwelling. He noted that the road right of way extends approximately 18' past the edge of pavement to the applicant's front property line. Thus the proposed dwelling will appear to have a deeper front setback.
7. When questioned by George Keeling, Mr. Therien noted that the foundation would be at an elevation of 385, and the water table on this lot is at an elevation of 376-377.
8. Scott P. Rabideau - Wetland Biologist, Natural Resource Services, Inc., was accepted as an expert witness, and testified that he personally delineated the wetlands on the lot in question. He stated that the wetlands on this site would not be impacted if this application were granted and the proposed single family dwelling constructed. He noted that the property directly to the left of Mr.

2007-07
Wyatt

2 of 2

Bk: 577 Pg:

20

Wyatt's also has a 15' area of disturbance to the rear of the property and the wetlands are not effected.

9. When questioned by Raymond Cloutier, Mr. Rabideau explained that Eastern Red Cedars would be better for this site than White Pines which are sometimes required by D.E.M. He noted that this lot has not been filled in but rather has had huge trees growing on the site.
10. Mr. Therien added that in the second paragraph of the D.E.M. Permit, it stated that no comments were received by the abutters.
11. Eric Young, a neighbor from 277 Emerson Road spoke in support of this application noting that this proposed dwelling would not change the look of the neighborhood.
12. There was no other public comment from the audience.

During discussion, George Keeling stated that the property in question does not appear to have extreme difficulties. He noted that the property is serviced by public water and municipal sewer. John Patriarca stated that he was comfortable with granting this application.

WHEREAS, THE BURRILLVILLE ZONING BOARD OF REVIEW has determined, based on the testimony presented at the hearing, the observations of the Board Members in viewing the property, and the findings of fact as set forth above:

1. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based as the applicant is requesting to build a single family dwelling in a residential zoning district, and as testified, the wetlands will not be disturbed by constructing this dwelling as proposed.
2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as it has been determined by the Zoning Board that the wetlands will not be effected by granting this application.

- 8. In response to questioning by George Keeling, Mr. Rabideau noted that a stone wall separates Erin Lane from the property in question, and this stone wall would contain road runoff.
- 9. There was no other public comment from the audience.

During discussion, George Keeling stated that the property in question does not appear to have extreme difficulties. He noted that the property is serviced by public water and municipal sewer. John Patriarca noted that he was comfortable with granting this application.

WHEREAS, THE BURRILLVILLE ZONING BOARD OF REVIEW has determined, based on the testimony presented at the hearing, the observations of the Board Members in viewing the property, and the findings of fact as set forth above:

- 1. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based as the proposed dwelling would not be located in the flood plain.
- 2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as there is sufficient area on the property for runoff infiltration prior to reaching the Clear River.
- 3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the applicant simply wishes to build a single family dwelling on a residential lot.
- 4. That the relief to be granted is the least relief necessary as the applicant proposes to situate the dwelling so dimensional reliefs will not be needed.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with one condition.

Ed Hochwarter, Jr. made a motion to grant the applicant total relief of 12,000 square feet upland area - Zoning Ordinance 30-153 Lots

only

2007-01

Nardelli

Ek: 559 Pg:

58

2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as the applicant simply wishes to build a single family dwelling in a residential zoning district.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the applicant simply wishes to build a single family dwelling on an existing lot of record.
4. That the relief to be granted is the least relief necessary.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with one condition.

Ken Johnson made a motion to grant the applicant 144' relief from distance between ISDS and fresh water wetlands -Zoning Ordinance 30-153 (4)a, with the one condition that area subject to storm flowage be kept open and unobstructed. The site plan, which was submitted with the application, is incorporated in the resolution. For reference, a portion of the plan is recorded herewith.

Ed Hochwarter, Jr. 2nd the motion. Ken Johnson, Ed Hochwarter, Jr., George Keeling, Michele Carboni, and Raymond Cloutier all voted to pass the motion with the one condition.

The Zoning Board shall set down a record of findings of fact and shall make its decision in writing. No decision shall be final until it is filed in the Zoning Enforcement Office. All decisions shall be recorded in the land evidence records of the Town.

A variance or special use permit shall expire twelve (12) months from the date of approval by the Board, unless the applicant who has been granted relief obtains a building permit and is actively engaged in the project's construction, or in case of "use variance" has actually put the subject property to said use.

2006-26
Gomes

9. Attorney Shekarchi stated that the applicants are aware that they are not to disturb the wetlands. The applicants will be required to sign and record a maintenance agreement in Land Evidence in the Town Clerks Office.
10. There was no other public comment from the audience.

WHEREAS, THE BURRILLVILLE ZONING BOARD OF REVIEW has determined, based on the testimony presented at the hearing, the observations of the Board Members in viewing the property, and the findings of fact as set forth above:

1. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based.
2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as the applicant simply wishes to build a single family dwelling in a residential zoning district.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the applicant simply wishes to build a house.
4. That the relief to be granted is the least relief necessary as no dimensional reliefs were requested, and as the property has no other beneficial use if a dwelling could not be construct on this property.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is **GRANTED** by a vote of 5 - 0 with two conditions.

Ed Hochwarter, Jr. made a motion to approve the application for a variance and grant 8,466 square feet from minimum buildable area, and 118' relief from distance of ISDS to fresh water wetlands, Zoning Ordinance 30-153 #3 & 4 - Lots Containing Wetlands with following two conditions

2006-29
NORDIN

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06 11:39a

Norbert Therien

401-769-7785

P. 2

REVISED
-2-

8-23-04

6. SPECIAL USE PERMIT -- (Complete this Section only if Box #1 of the Introduction is checked).

A. IDENTIFY proposed use, action, or activity for which SPECIAL USE PERMIT is requested.

B. LIST precise ARTICLE(S) and SECTION(S) of the ZONING ORDINANCE which authorize consideration of the SPECIAL USE PERMIT described in above.

C. IDENTIFY Grounds for the SPECIAL USE PERMIT. The APPLICANT is required to relate this APPLICATION REQUEST to the Criteria governing the Granting of a SPECIAL USE PERMIT as set forth in Sec. 30-34.(e)(4) of the ZONING ORDINANCE.

7. VARIANCE -- (Complete this Section only if Box #2 of the Introduction is checked).

A. IDENTIFY proposed activity, action, or use for which VARIANCE from the terms of the ZONING ORDINANCE is requested.

Proposed construction of single family dwelling with associated driveway, well,
ISDS and recreational yards.

B. LIST precise ARTICLE(S) and SECTION(S) of the ZONING ORDINANCE from which VARIANCE is requested. BRIEFLY DESCRIBE applicable regulation of standard and the variance that is requested.

Sec. 30-153 Lots containing wetlands (3) minimum 12,000 S.F. buildable area and
(4) ISDS 200' from wetlands. Provided separation 75' ISDS to wetlands, requiring
125' of relief. Existing buildable area 11,111 S.F. requiring 889 S.F. of relief.

C. IDENTIFY Grounds for VARIANCE. The APPLICANT is required to relate this APPLICATION REQUEST to the Criteria governing the Granting of a VARIANCE as set forth in Sec. 30-34.(d)4 of the ZONING ORDINANCE.

The variance sought is due to the unique characteristics of the subject lot and
not due to actions of applicant. The proposed layout maximizes separation of the
ISDS to wetlands and will not alter the general character of the surrounding area.

2006-27
Nordin

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1. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based as a single family dwelling will be built in a Residential Zoning District.
2. This variance will have no adverse impact on the development upon other land, including the type, intensity, design, and performance of activity as the applicant has received D.E.M. Wetland and ISDS approvals.
3. The hardship is not the result of any prior action of the Applicant or Owner and does not result primarily from the desire of the Applicant to realize greater financial gain as the request is for a single family dwelling on an existing lot of record.
4. That the relief to be granted is the least relief necessary to render the applicant a beneficial use of the property.

NOW, THEREFORE BE IT RESOLVED by the Burrillville Zoning Board of Review that the application as filed by the Applicant is GRANTED by a vote of 5 - 0 with one condition.

Ed Hochwarter, Jr. made a motion to approve the application for a variance and grant relief of 125' distance from ISDS to wetlands, and relief of 889 square feet upland area- Zoning Ordinance 30-153- Lots containing wetlands with the one condition that the new single family dwelling will have gutters and downspouts that terminate in drywells to control runoff. Michele Carboni 2nd the motion.

Ed Hochwarter, Jr., Michele Carboni, Ken Johnson, Sandra Cooney, and Raymond Cloutier all voted to pass the motion and grant the relief as requested with the one condition.

Raymond Cloutier stated his reason for approval was that all questions were answered satisfactory. Sandra Cooney, and Michele Carboni stated that their reason for voting to approve this application was based on the testimony provided.

The Zoning Board shall set down a record of findings of fact and shall make its decision in writing. No decision shall be final until it is filed in the Zoning Enforcement Office. All decisions shall be recorded in the land evidence records of the Town.

**Legislative Task Force
Wetlands and OWTS Standards at the State and Local Level**

Goal statement:

The goal of this Legislative Task Force is to achieve a comprehensive single state standard for wetland protection and OWTS usage, and to eliminate where possible dual regulatory review of compliance with the standards.

Gaps and Policy Considerations:

Having reviewed the science and details of local ordinances and practices in other states, the following observations and gaps are identified.

1. The terminology used in various RI state and local regulations is confusing. The term buffer in particular is used interchangeably to mean an area of naturally vegetated land adjacent to a wetland resource that must remain undisturbed, or an area where an OWTS or a building may not be located, or an area where a lawn is allowed but no structures.
2. The scientifically supported buffer width to fully protect the functions and values of all wetlands vary widely and, based on the scientific literature review, are generally greater than currently provided by either state or local regulations. In general, more is better but this fact is not helpful in setting policy. For example, buffers of 300 feet or more to provide core habitat for certain wetland dependent species are indicated, but are simply not realistic in most cases.
3. Some wetlands may be deserving of added protection because of their unique characteristics and/or importance to the public. However, there is no clear process by which to facilitate providing greater protection to these wetlands.
4. The science indicates that water quality can be significantly improved in many cases if at least a 100-foot buffer is maintained. Currently, state wetland regulations have only a 50-foot perimeter wetland from most wetlands other than streams. A 100-foot buffer is not necessarily appropriate in all cases.
5. Most small size wetlands such as vernal pools often have no perimeter wetland under state rules, and are essentially unprotected. Some small wetlands serve an important flood abatement function and can do so without a buffer. And some small wetlands serve a relatively low function or have such limited value that a buffer requirement may be waived with proper justification and consultation/approval of the permitting jurisdiction.
6. In setting policy, consideration must be given to the practices in other nearby states. Doing so helps to inform how states handle similar issues that we in Rhode Island face. Also, we need to be cognizant that regulatory policy may place Rhode Island's economy at a competitive disadvantage compared to other states.
7. In general, the state OWTS regulations are felt to be sufficiently protective of the state's water resources. However, there are some instances where added protection is appropriate. For example, New Shoreham requires advanced OWTSs in certain locations in order to afford greater protection to their groundwater drinking water supplies.

Draft recommendations for consideration by the Legislative Task Force

1. Revise statutory language as needed to allow codification of a single set of state standards for protection of wetlands and regulation of OWTS consistent with all LTF recommendations. The statutes affected include or may include nominally, the Wetlands Act, the DEM statute, the CRMC statute, the Subdivision Enabling Act, the Zoning Enabling Act, the Erosion and Sedimentation Enabling Act, as well as other statutes as may be identified during legal review and bill preparation. A sunset provision shall be included to set a definitive time deadline by which appropriate changes to regulations and ordinances may be made and to end the application of varying standards by municipal agencies.
2. Provisions shall be made in both the wetlands and OWTS regulations to enable petition by local communities for the identification of “Critical Resource Areas” that may need added protection. Any changes to a standard shall be made only after a public hearing opportunity is provided.
3. Define or redefine the terms “jurisdiction”, “buffer”, and “setback” as they apply to wetlands regulation. In general, CRMC’s terminology should be used as a guide.
4. Jurisdiction should mean an area of wetlands and associated uplands where activities are directly regulated. Like CRMC, certain activities within the jurisdictional area may be allowed by permit or exemption depending on the wetland characteristics, the watershed protection needs, and the activities proposed. The jurisdictional area is a regulated area containing buffers and setbacks. Avoidance and minimization language would apply to areas within the jurisdictional area. Activities outside the jurisdictional wetland could still be reviewable to assure prevention of adverse impacts but ordinarily would not require permitting.
5. In order to assure sufficient regulatory oversight over activities that may impact streams and drinking water supplies, establish a regulatory jurisdiction of 200 feet from all streams and drinking water reservoirs.
6. In order to assure sufficient regulatory oversight over activities that may impact other wetlands, establish a regulatory jurisdiction of 100 feet from all other wetlands. This action would afford proper protection to lakes and ponds and other wetlands, and critical protection to vernal pools.

Existing protection is not adequate and not uniform. There needs to be consistency between state agencies and municipalities to promote a clear, predictable and reliable regulatory system within the state of RI that is easy to follow.

To ensure protection and eliminate duplicative processes:

In support of the proposal for a 300 ft. jurisdictional area for critical resource areas such as all streams, drinking water supply areas, etc. as the jurisdictional standard set under DEM's authority. (Similar to the CRMC Special Area Management Plans).

- State established setbacks would remain the same;
- Cities and towns would still have a review period (such as 30-days) for other issues;
- The LTF would need to outline how the municipalities would remain involved;
- DEM would need to have authority to promulgate regulations that implement the statute changes; and
- Establish an appeal and review process to allow municipalities to petition the DEM to request more stringent setbacks (or modifications) to specific jurisdictional areas. DEM would be able to amend regulations to accommodate approved requests.

Clarify Terminology: (Clarify the following terms)

- Setback – appears not to be defined by act or rules
- Buffer zone – (standardize definition) make sure all state agencies and municipalities are using the same definition.
- Review area
- No touch zone - (i.e. 25 ft., 50 ft., etc.)

Other:

- Other aspects of the RI Wetlands Act may need to be modified/updated
- Since the LTF proposal to establish Jurisdictional Areas would increase traffic to DEM it is recommended to increase funding for DEM to budget for program needs and to hire additional staff in order to carry out this charge.

Lorraine Joubert

Comments for the 9/26/14 meeting of the Legislative task force

9/24/14

Gaps in state regulations

- State regulations do not address the cumulative effects of multiple wetland alterations, OWTS approvals, and stormwater discharges within a watershed or neighborhood over time (except to some degree in CRMC SAMP areas).
- State approvals of fresh water wetland “insignificant alterations” excludes local knowledge of existing problems and potential impacts. Examples include drainage problems affecting municipal roads and neighboring properties, water quality impairments, and important wetland values. This is a serious concern since almost fresh water wetlands approvals are issued as insignificant alterations without local review.
- State setbacks don’t provide for larger buffers where necessary to protect water quality based on site features or type of activity. Examples include: projects with large areas of disturbance, high runoff volume, high sediment or nutrient load, slope, and shallow water table where runoff is difficult to control and wetland buffers are less effective in treating sediment and nutrients.
- The Freshwater wetland regulations provide guidance on minimizing and avoiding impacts but compliance can be subjective. In addition, the guidelines are generic for all types of wetlands and sites.
- Existing buffers are inadequate to protect small wetlands that help filter, infiltrate and store floodwaters. These areas may not be mapped since FEMA maps focus on larger river systems, not small wetlands that retain, store and infiltrate stormwater. With climate change more frequent and more severe storms are predicted.
- Applicants may obtain DEM OWTS permit approval without considering local wetland buffers or even building setbacks. Town boards are then pressured to approve the application citing delays, etc.
- DEM OWTS regulations Section 17.3 provides for town review but requires the town to certify that the project meets local regulation. This puts a burden on the town to make a decision on a zoning application for a lot that may be unsuitable for OWTS and unbuildable. New Shoreham is the only town that is using this provision because they are the only town that assists DEM with technical review and also has specific OWTS siting and treatment standards based on soil types and location within wetland buffers and other critical areas.

- High turnover and different levels of expertise among volunteer Zoning boards may result in weak findings of fact and poor decisions on applications for variances or special use permits involving wetland buffers.
- Lack of state staff to ensure compliance with wetland buffers and conditions of approval during and after construction.
- State agencies lack broad authority to regulate land use to protect and avoid impacts to wetlands. Local wetland buffer ordinances were established as authorized under law consistent with 45-24-30 – General Purposes of Zoning Ordinances, which includes:
 - (3) Providing for orderly growth and development which recognizes
 - ii) the natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
 - iii) The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;

1. MOST OK AS EXISTING, SOME CHANGES SHOULD BE ADDRESSED
 - A. WETLANDS UNDER 3 ACRES RECEIVE 25' BUFFER
 - B. CATEGORY 1 SOILS ADD 25' OR SAME WITH I/A TREATMENT
 - C. I/A SYSTEM SETBACKS COULD BE REDUCED IN ALL CASES
 - D. NO NEED TO MEET DRINKING WATER QUALITY STANDARDS/SETBACKS
2. DEFINE VERNAL POOL INCLUDING SIZE; NO NEED TO BE BUFFERED FROM A PUDDLE WITH BUGS
3. SPECIAL CRITICAL RESOURCE AREAS OK AS ALREADY ADDRESSED
4. DIFFERENTIATE BUFFERS FROM SETBACKS
5. SHOULD SLOPE BE CONSIDERED TO DIFFERENTIATE BUFFERS
6. IS 200' RIVERBANK WETLAND NECESSARY ON ALL RIVERS OVER 200' OR IS A 100' BUFFER AND SETBACK ACCEPTABLE
7. SETBACK REDUCTION/CREDIT FOR ENHANCED LEACH-FIELD TREATMENT BEYOND THE PRIMARY TREATMENT UNIT. INCLUDING CAT. 1 SOILS
8. MECHANISM FOR FURTHER REDUCING OR CREDITING FOR FUTURE ADVANCED TREATMENT TECHNOLOGIES.
9. CITY AND TOWN BUY IN TO SINGLE STANDARD. LEGISLATIVE?
10. CREDIT/REDUCTION FOR STORM WATER BMP'S EMPLOYED
11. DEFINE REGULATION TO AVOID/MINIMIZE VARIANCES
12. CONSIDERATION FOR EXISTING LOTS OF RECORD, ENHANCED STREAMLINE PERMITTING FOR VARIANCES, WHICH WOULD OTHERWISE BE APPROVED ANYWAY. ELIMINATE OWNER FINANCIAL/TIME BURDEN.

**From RIBA Environmental Co-Chairman
Tom D'Angelo
Tim Stasiunas**

James Boyd

FWW-OWTS Legislative Taskforce - Top Issues to address for Final Report

1. Dual state and local permitting

Municipalities must have assurance that state regulations for FWW and OWTS are protective of local municipal interests to eliminate dual (state and local) permitting processes.

Recommendation: Ensure that any amendments to state law (if warranted) and state regulations are protective of natural resources to assuage local community concerns and eliminate the need for local duplicative permitting process. This will require modifications in state rules, especially freshwater wetlands, to increase jurisdictional areas, establish greater setbacks and buffers and use best available technologies to improve resource protection.

2. Regulatory terms “buffer” and “setback” as used in both DEM and CRMC rules need to be consistent throughout regulatory programs.

Recommendation: Review both agencies rules and amend as necessary to ensure consistent use and application within the rules.

3. Freshwater Wetland Act – R.I.G.L. § 2-1-20 revisions regarding “freshwater wetland: “area of land within 50 feet,” river and stream flood plains and banks” and “areas subject to storm flowage”

Recommendations: Revise statute to eliminate the terms as being included within the definition of a “freshwater wetland in 2-1-20(4). Freshwater wetland should include only biological elements of the wetland including waters and vegetated areas with hydric soils.

4. Include “vernal pool” as a freshwater wetland within Freshwater Wetland Act

Recommendation: The term “vernal pool” should be included within the definition of a “freshwater wetland” in R.I.G.L. § 2-1-20(4) and specifically defined in § 2-1-20(11). Vernal pools will also have to be added to rules with a specified jurisdictional area. May have to consider minimum criteria to meet definitions such as size and context.

5. Freshwater Wetland Act – municipal veto as provided in R.I.G.L. § 2-1-21(2)

Recommendation: Consider eliminating municipal veto of FWW permits and develop better preliminary/conceptual plan review to engage local community for input during state review process of major projects. Alternatively, develop specific criteria for substantive objection only based on biological impacts under which the local community could veto. (Note: This matter could be a lightning rod of controversy and could be detrimental to the passage and success of other proposed statutory amendments. Thus, proceed with caution.)

6. Freshwater Wetland Rules – CRMC and DEM

Recommendations: Revise the rules as follows.

- a. Expand jurisdictional areas to be greater than 50 feet based on a tiered wetland resource approach.
- b. Increase setbacks and buffers around wetland resources and provide specified standards for such with a variance process, and provide additional exemptions for minor activities within setbacks. Essentially, establish a similar procedure as used for CRMC coastal applications through the CRMP.
- c. Eliminate terms “perimeter wetland,” “riverbank wetland” and “lands within 50 feet” from the rules. These are not biological components of a wetland. The increased jurisdictional area (100 – 200 feet depending on resource) will obviate need for these terms.
- d. Eliminate the 10-foot riverbank wetland rule and establish jurisdictional area around streams and rivers along with associated setbacks and buffers based on stream order. Prioritized protection for upper order streams (headwaters).

7. Municipal groundwater protection ordinances

Recommendation: Establish standards within DEM OWTS rules for community drinking water supply areas through I/A technology or dilution within identified areas through out the state. Maps areas similar to Critical Resource Area within OWTS Rule 39. Having the requirement within state rules eliminates need for multiple local ordinances and applicants need only comply with one set of rules and application process. This may require establishing a future date within rules for all existing local ordinances to be compliant.