

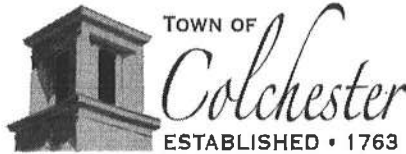


Colchester Selectboard
September 10, 2013

ACTION SHEET

Shoreland Protection Bill

RECOMMENDED ACTION: The Colchester Selectboard moves to approve the draft position statement from Dawn Francis and Sarah Hadd dated August 30, 2013 regarding H.526 Shoreland Protection Bill.



Vermont Lake Shoreland Protection Committee
H.526 Shoreland Protection Bill
August 30, 2013

The Town of Colchester recognizes the need for shoreline regulations and improving water quality. With 27 miles of shoreline within Vermont's most urbanized area, Colchester has been a leader in local shoreline regulation. Colchester has perhaps the most sophisticated shoreland/seawall regulations and restrictive floodplain zoning in the State. As a designated MS4 community, Colchester also has been a leader in addressing water quality issues, having recently completed a multi-year Integrated Water Resources Management Plan funded by an EPA Demonstration Grant and a stormwater mitigation plan. As a result of these efforts, we have gained insight as to how to comprehensively address septic, stormwater, and other development related water quality issues. Finally, the state recently recognized Colchester as having an exemplary stormwater management plan which is being referred to as a model for other communities.

Since Colchester has been at the forefront of shoreline and water quality issues, the Colchester Select Board is primarily concerned that the Shoreland regulations considered by the Vermont Legislature would pre-empt municipal land use regulations or require municipalities to forego existing regulations and adopt a standard state-wide regulation.

It is the Town of Colchester Select Board's position that:

- 1. MS 4 communities and communities having shoreland standards that meet minimum standards should be exempt from these proposed regulations.** The Town of Colchester has regulated its shoreline the better part of four decades and has the most progressive seawall and floodplain regulations in the State. Additionally, as an MS4 community the Town is responsible for oversight of all land disturbance activities under the State's permitting threshold. The Town is already regulating and monitoring impervious area and earth disturbance throughout Colchester including sensitive areas such as the lakeshore and therefore, property owners should not be subject to additional state regulations.
- 2. Shoreline regulations must be allowed to be administered on the local level with deference given to existing local regulations if desired by a community.** Towns with existing regulations must be allowed to keep their own regulations and not be required to conform to a State mandated minimum simply to ease governance. We believe our experience with what works and does not work in shoreland regulations must be recognized and honored.
- 3. The proposed Shoreland regulations do not address larger water quality issues and therefore, do not adequately protect the lake from pollution.** The proposed Shoreland regulations focus on development and do nothing to regulate agriculture or road runoff. Development is already highly regulated while the aerial spraying of manure in fields along the Lake continues. "The Mississiquoi Bay Watershed Critical Source Area Study" found that 74% of the upland phosphorus loading to the river came from only 20% of the land. ANR's Act 138 report states, in part, that "targeting water quality

management practices at these critical source areas could be close to three times more effective in reducing phosphorus loading than targeting efforts randomly.” Given the stark contrast of the water quality on the Winooski River side of the causeway to the Malletts Bay side of the causeway, we believe the state should also be focusing efforts on riparian buffers and agricultural runoff along these tributaries as well as requiring best management practices for road maintenance.

4. **A “one-size fits all” bill in which regulations for small ponds and lakes are the same for Lake Champlain will not work.** With 27 miles of shoreline, Colchester has very diverse geology, flora, and fauna. Some areas have shale cliff while others have highly-erodible sand. Colchester has permitted properties with excessive erosion to stabilize banks with seawalls specifically designed for the property by a licensed engineer. Size and scope of walls are limited to what the engineer deems necessary. There are pros and cons to each design that must be weighed. An example is the Camp Holy Cross seawall in which the height of the wall was minimized with the wall being placed at the toe of the existing bank so as to minimize backfilling. In order to accommodate the wall, the dead and failing trees on the top of the bank needed to be removed to prevent “top loading” with the sandy soils. Approximately 90% of the vegetation was removed including non-native invasive species. An extensive replanting plan of native species was approved with the seawall plan. In heavier soils, large rip-rap rock backfilled with shot-rock has been successful in stabilizing banks with minimal tree removal.
5. **Shoreland regulations should protect undeveloped areas while already developed areas with infrastructure should be considered by a different standard.** Towns along Lake Champlain that have developed areas should be exempt from the new regulations whereas other towns that have not developed should be held to a higher protection standard while allowing for pre-existing uses. It is noted, however, that property owners may attempt to get ahead of the new state-wide regulations by clearing their properties to preserve their development rights.
6. **Implementation of new Shoreland regulations must be accomplished with a minimum of bureaucracy and delay.** There must be flexibility without the need for every site to be visited. In 2011 Colchester experienced the historic flooding of Lake Champlain as well as the resulting damage to homes, septic systems, roads, and property. Many property owners were instructed by the Town to take whatever measures were necessary to stabilize and protect their property with the promise that the Town would work with them after to achieve the necessary permits and compliance. With another high-water summer, new Shoreland regulations must be responsive to future flood events, as well as the average homeowner who cannot wait three months for a permit to stabilize an eroded bank.

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