

2015 Shoreland Zoning Guidelines

Shoreland Zoning Workshop

2024



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Shoreland Zoning Coordinator

MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION

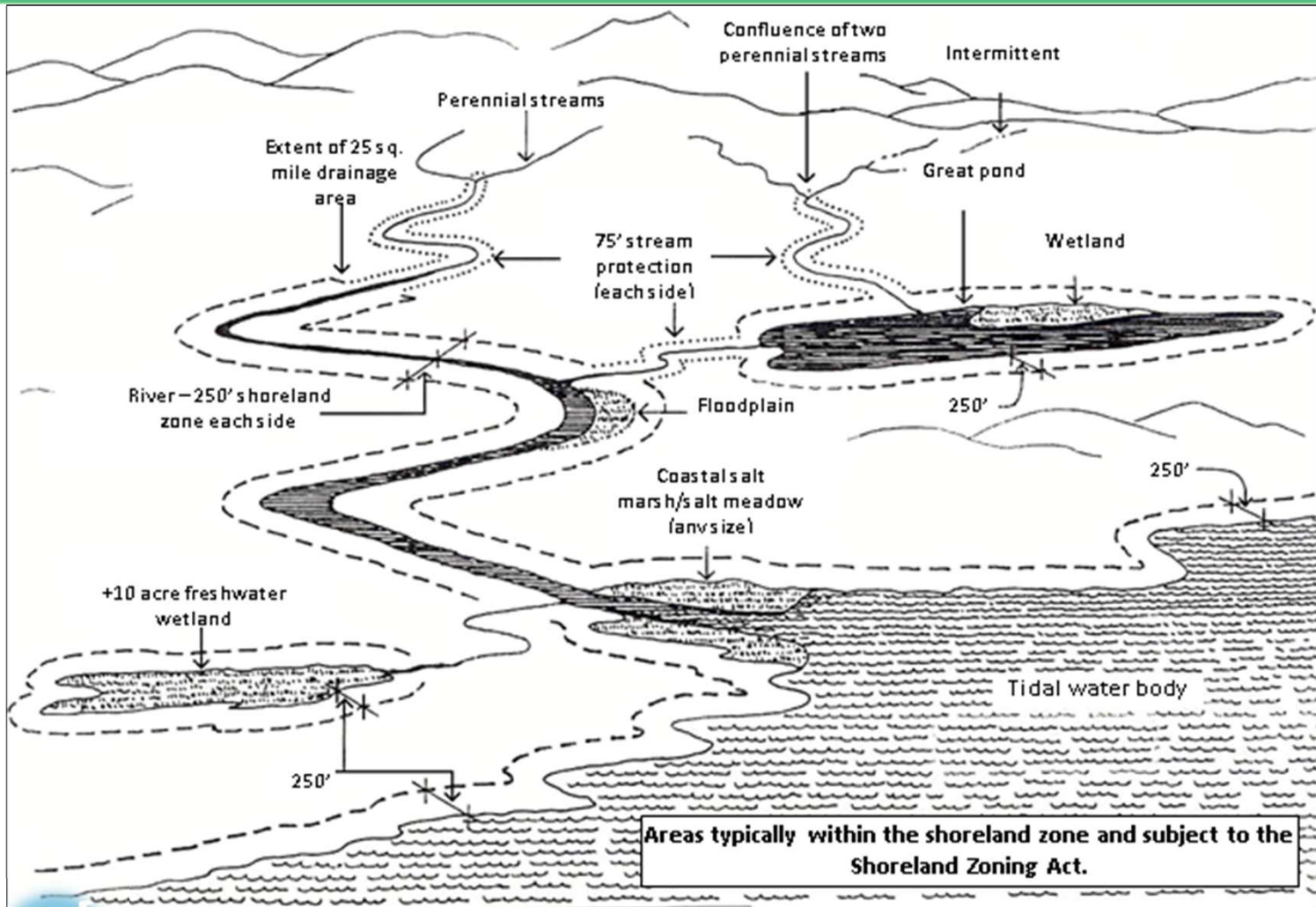
Protecting Maine's Air, Land and Water

Shoreland Zoning Applicability

- Great ponds
- Streams
- Rivers
- Coastal wetlands
- Freshwater wetlands

(all defined, and all depicted on SLZ map)





Shoreline Setbacks for Structures

Setback depends on resource, use and district:

- Great ponds and rivers to great ponds 100ft
- Other rivers, streams and wetlands 75ft
- Tributary streams (within shoreland zone) 75ft
- General Development II District 75ft
- General Development I District 25ft
- Functionally water-dependent uses 0ft



Amendment Process

Who will be involved:

- Planning board or a committee task?
- Appoint a drafter (computer user)
- Other officials, for getting public input?

Assistance from shoreland staff:

- Review draft amendment language
- Discuss pros and cons of various options
- Advise on any necessary map amendments



Local Procedures

Determine timeline, work backwards from:

- Date of adoption (town meeting / council vote)
- Warrant/agenda deadline
- Required public hearing
- Public/individual notices
- PB consideration/passage?
- Map refinement
- DEP draft review?
- Map drafted
- Ordinance drafted



Following Through

After local adoption:

- Submit copy of amendments, attested by the clerk
- 45-day review period
- Receive DEP Order
- Contact Maine Forest Service

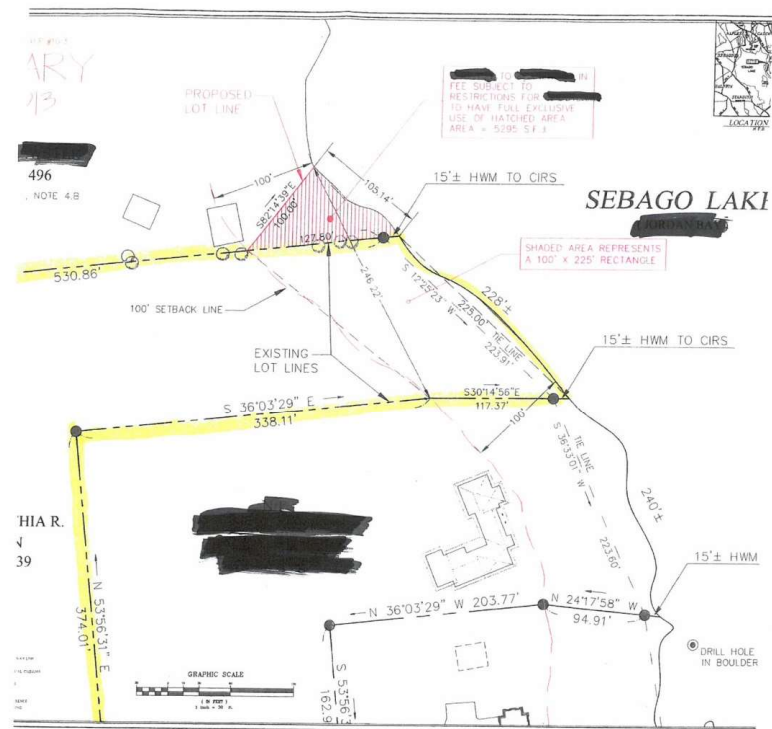
If conditional approval:

- Notice of DEP Order first
 - Contact shoreland staff with concerns
- Attach conditions to ordinance



Minimum Lot Standards

- Minimum lot standards required for each principal structure and/or use
- Lot area
- Minimum lot width
- Shore frontage



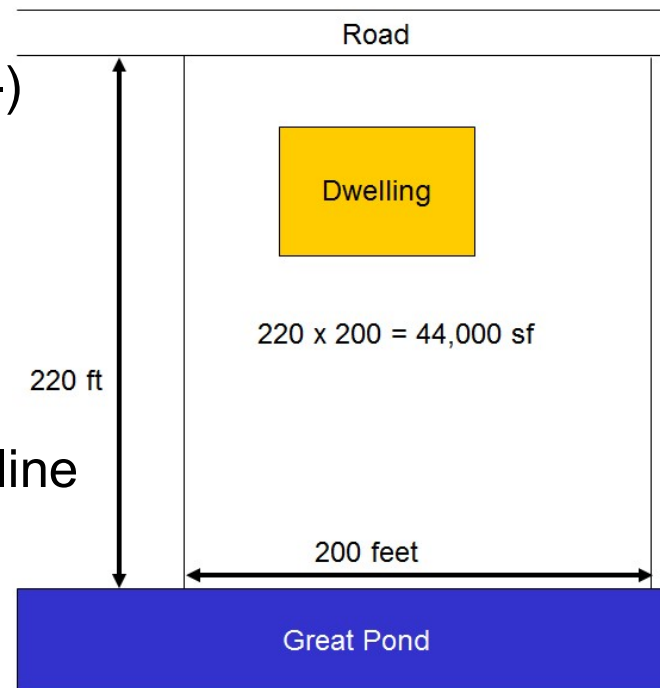
Lot Area

Required lot area depends on:

- Proposed use
- Type of resource (tidal vs. non-)
- CFMA district designation

Lot area defined:

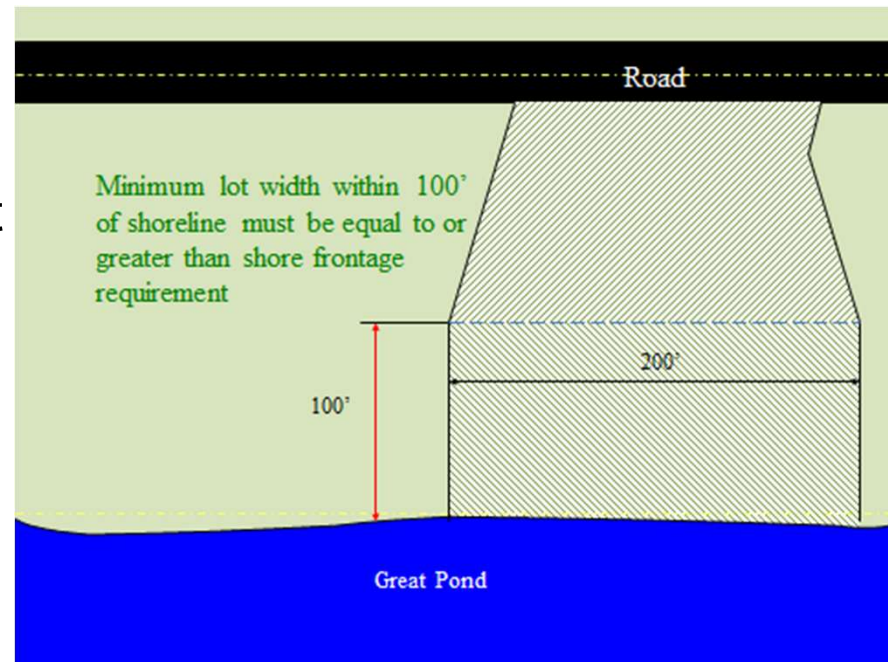
- Excludes land below the shoreline
- Excludes land w/in a wetland
- Excludes land beneath a road



Lot Width

Minimum lot width:

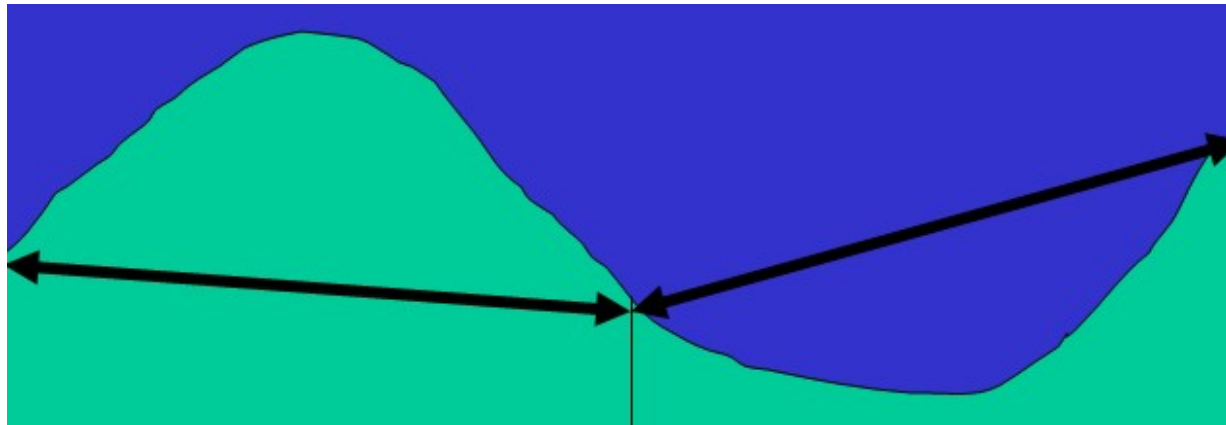
- Measured as closest distance between the side lot lines
- Applies within 100 feet of the shoreline
- Varies with shore frontage requirements



Shore Frontage

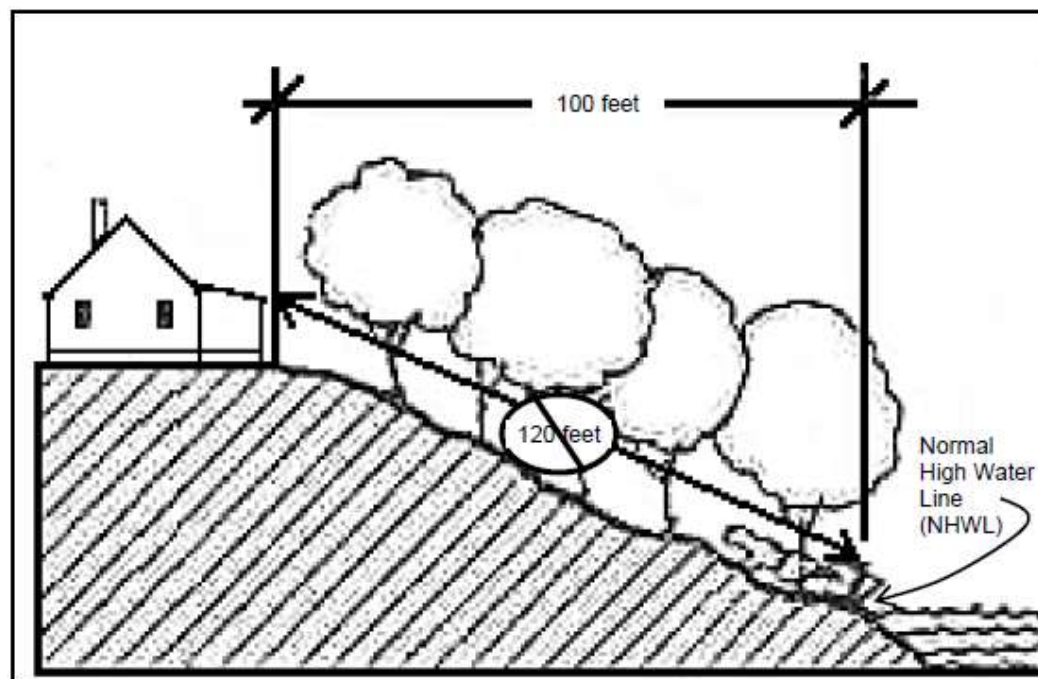
Shore frontage required:

- Varies with lot area requirements
- Measured in a straight line between the intersections of the lot lines with the shoreline
- Not the same as realty frontage



Measuring Setback

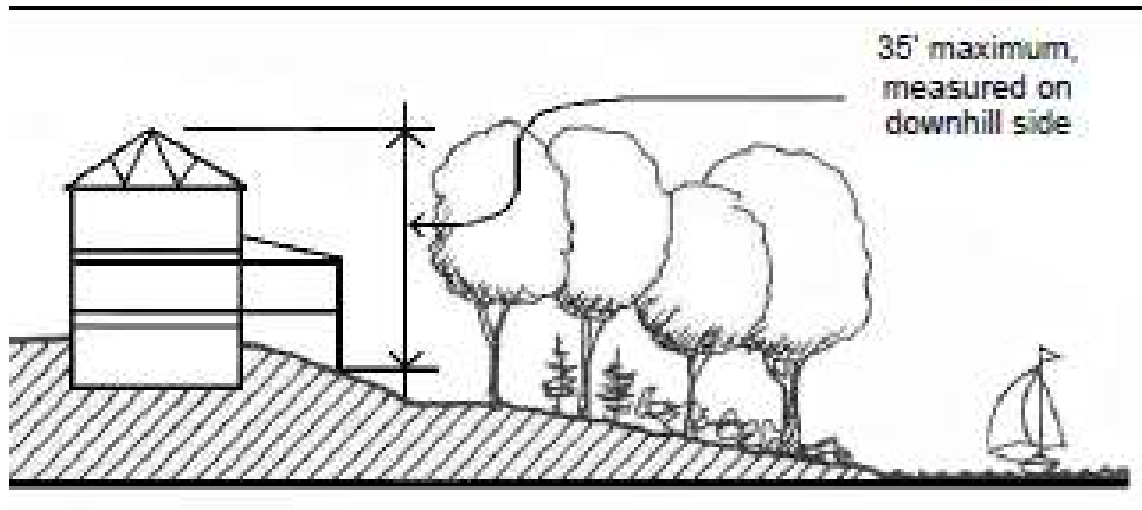
Nearest horizontal distance from the shoreline to nearest part of the structure or other regulated area



Height of a Structure

Defined as:

- Vertical distance between the mean original (prior to construction) grade at the **downhill** side of the structure and the highest point of the structure



Nonconforming Structures

- Legally existing nonconforming structures can be maintained
- Legally existing nonconforming structures can be expanded
- Relocation requires setback be met to the greatest practical extent
- Destruction, removal or damage of more than 50% of the market value of a structure requires relocation to meet structure setback to the greatest practical extent



Reconstruction Standards

In-place reconstruction/replacement if:

- $\leq 50\%$ of the market value of the structure is removed, damaged, or destroyed

Relocation required if:

- $> 50\%$ of the market value of the structure is removed, damaged, or destroyed



How does one consider “*market value*”?

Market value relates ONLY to the value of the non-conforming structure. The structure has the exact same value whether it is located such that there is a ‘million dollar view’, or it is located next to the town landfill.



What else about the 50% market value threshold?

“...which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal...”

- Does NOT take into consideration material or labor costs
- Does NOT apply to basic repair & maintenance (e.g. re-shingling roof)
- Consider all elements of projects (e.g. removing roof, sills due to rot, walls due to mold, windows, doors, etc), but avoid absurdity (e.g. removing 2 coats of paint)!



Relocation Review

When relocation is required:

- The reviewing authority determines where the existing structure could be relocated to meet the setback to the greatest practical extent

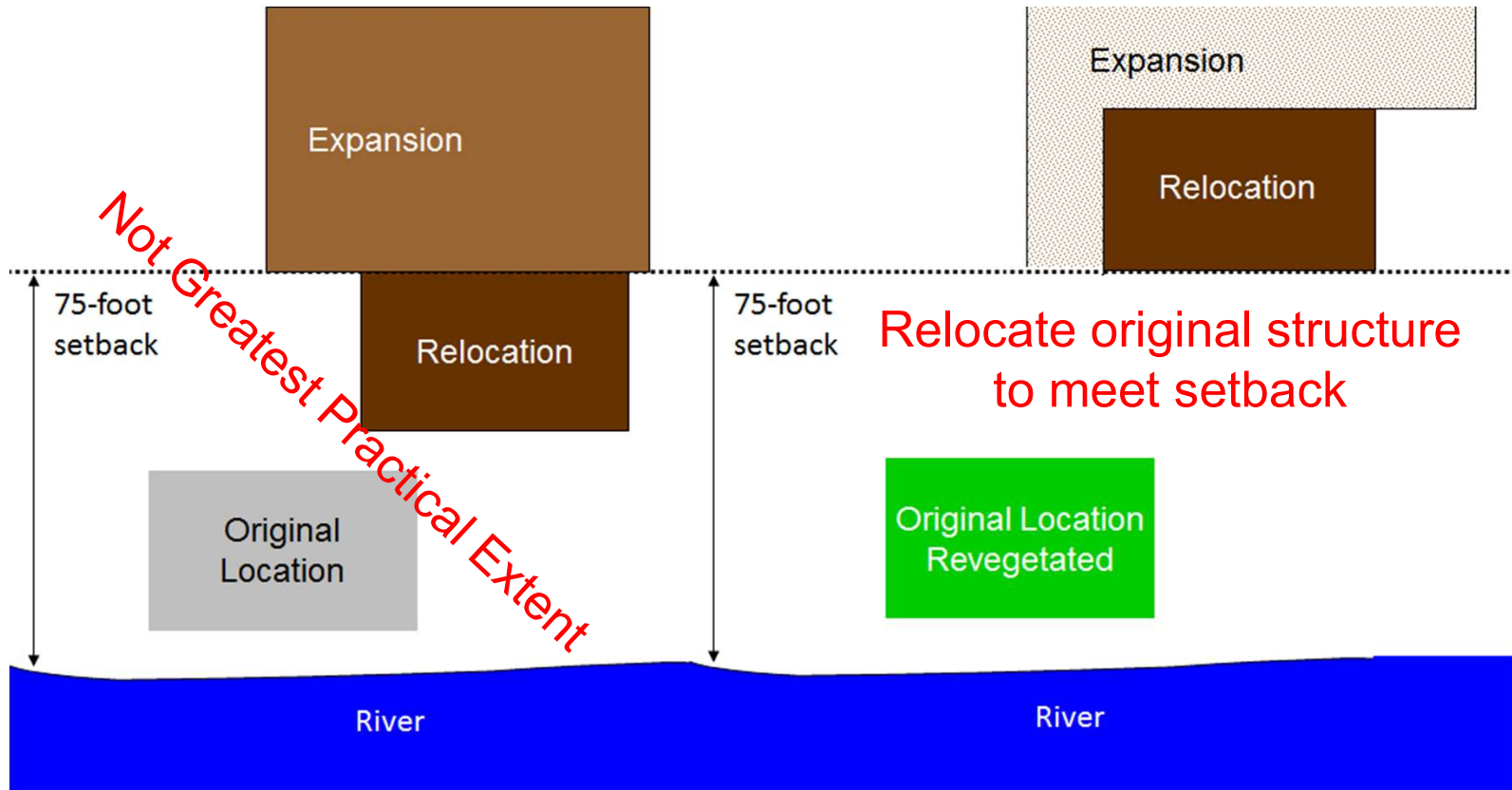
Criteria for making this determination includes:

- Characteristics of the land and lot
- Locations of existing structures
- Existing and future septic systems
- The condition of existing foundation

Seek advisory opinions



Relocation First



NEW!! Footprint and Height Method

Change from floor area and volume to “footprint” and height- tiered, based on distance from shore

- Landowners choose between the cap limit or 30% for footprint, and existing height or height cap
- Plans recorded at registry of deeds

Municipal officials may choose to:

- Limit expansions by the caps or by 30%, instead of allowing landowner choice
- Allow limited expansions within 25 feet of the shoreline
- Allow limited expansions in Resource Protection District



What is “Footprint”?

- Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks

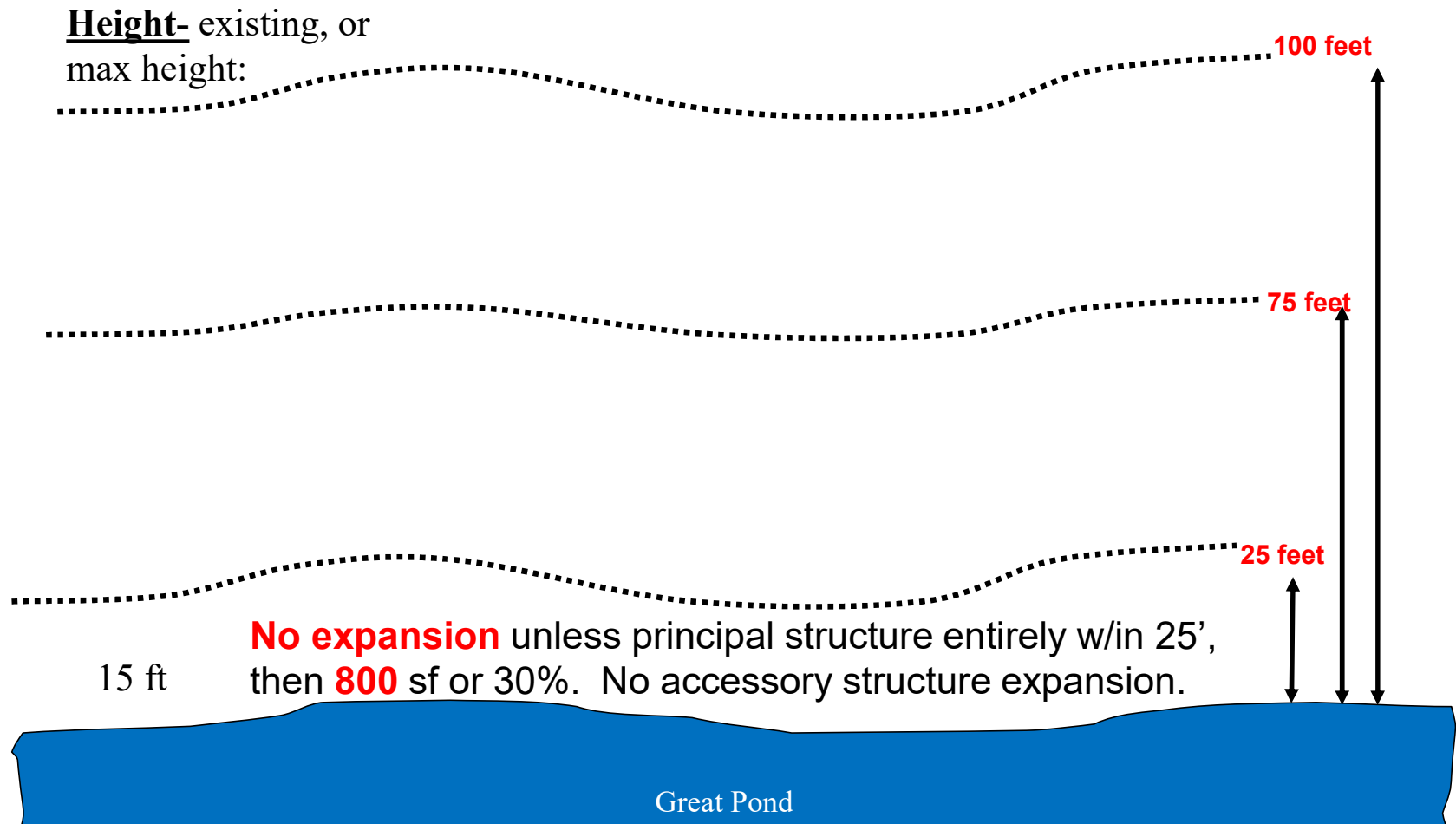


Other Definitions using “Footprint”

- Expansion of a structure, change floor area & volume
- Expansion of a use, change floor area
- Floor area, remove reference to unenclosed structures
- Nonconforming structure, add footprint

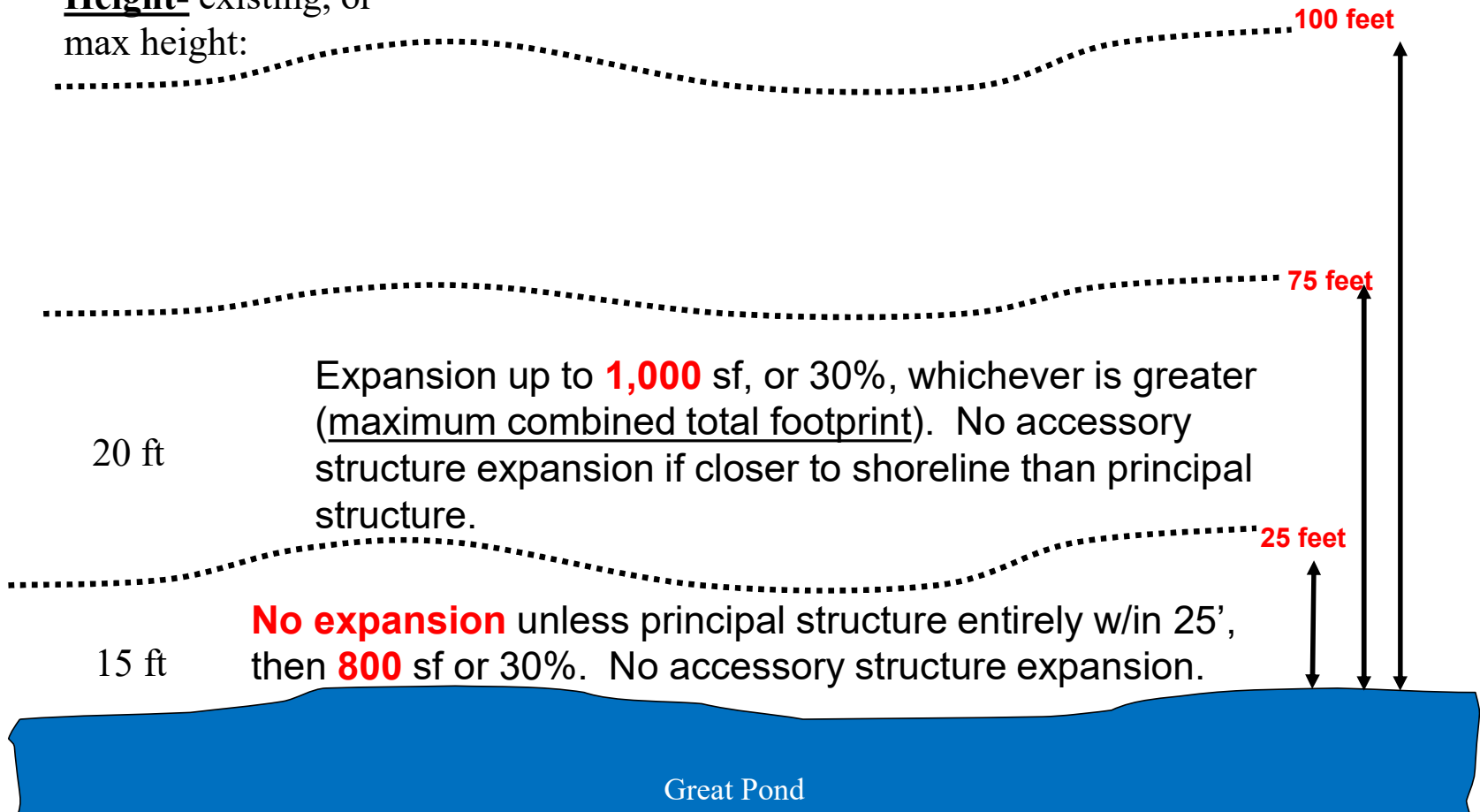


Footprint expansion-highlights



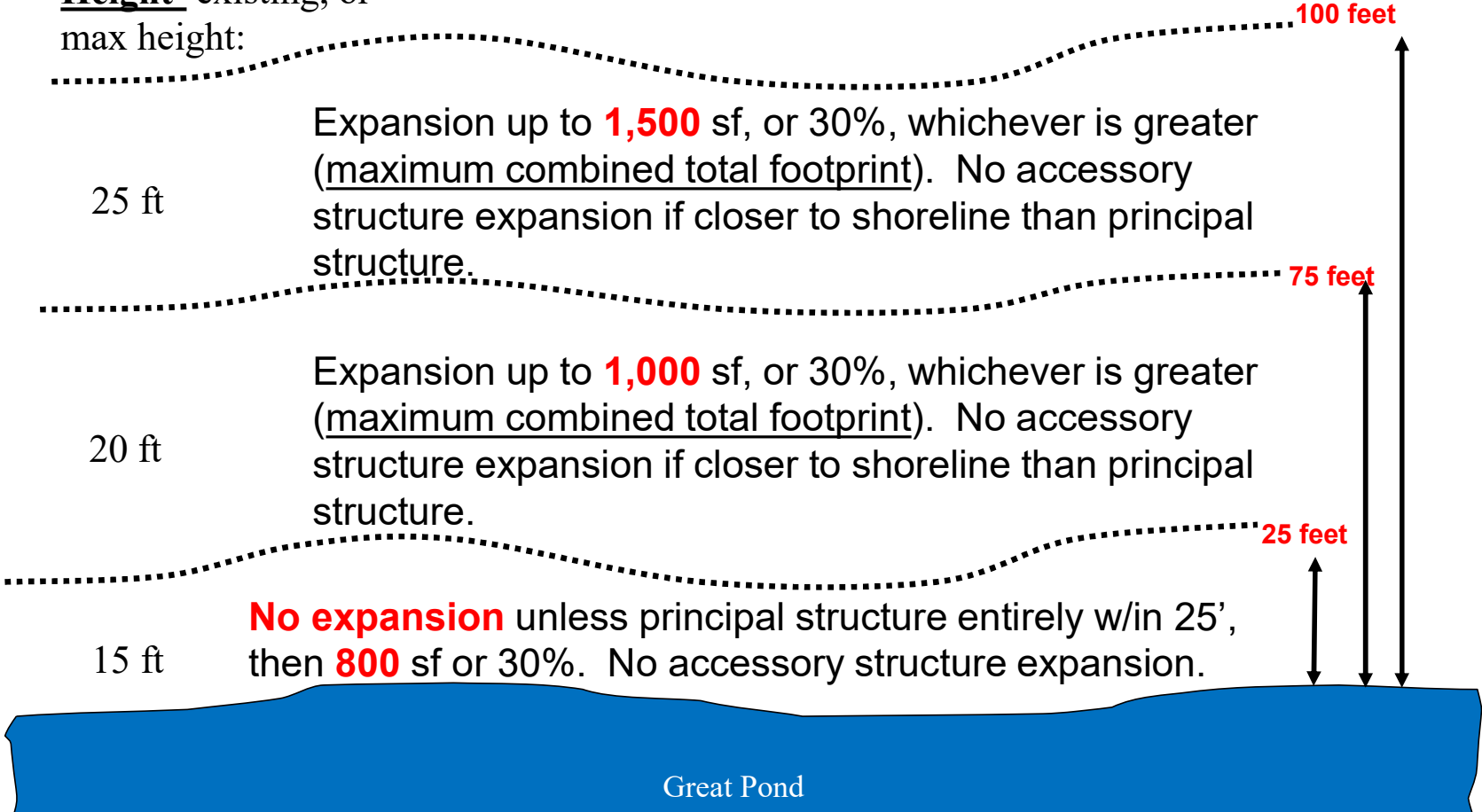
Footprint expansion- highlights

Height- existing, or max height:



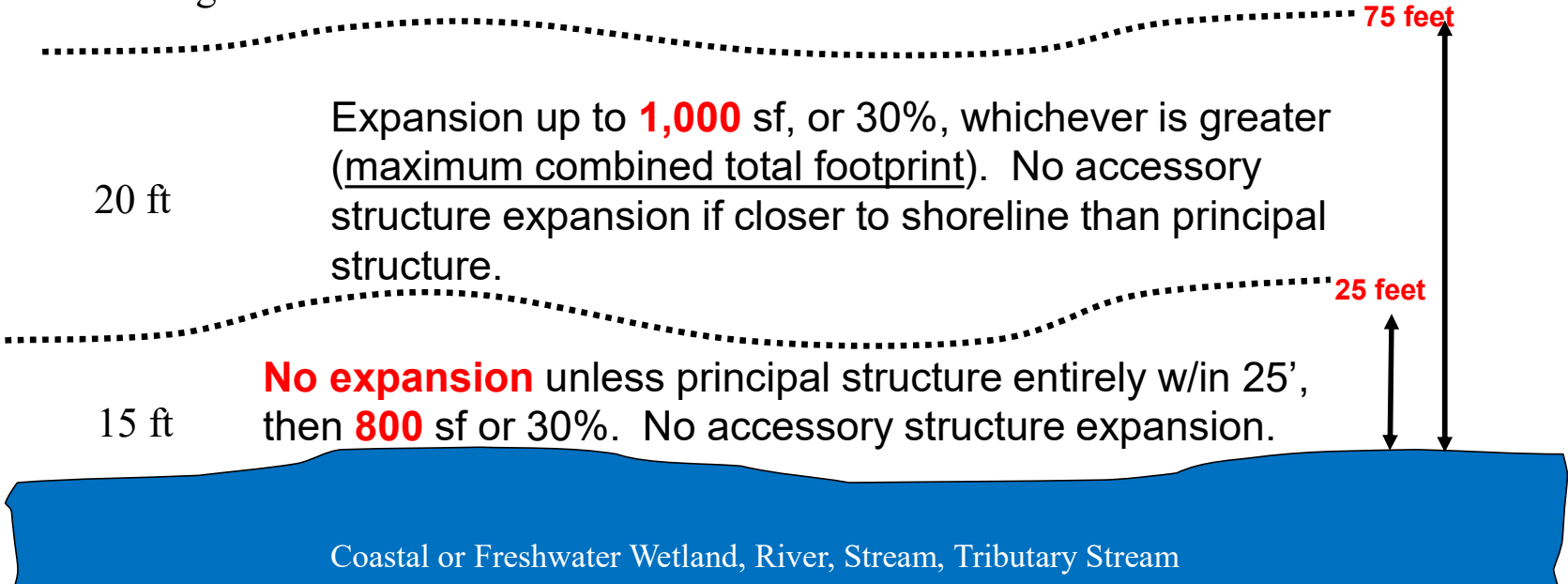
Footprint expansion- highlights

Height- existing, or max height:



Footprint expansion- highlights

Height- existing, or max height:



Footprint expansion- highlights

Resource Protection District

Height- existing, or
max height:



Expansion up to **1,500** sf, or 30%, whichever is greater (maximum combined total footprint). No accessory structure expansion if closer to shoreline than principal structure.

25 ft

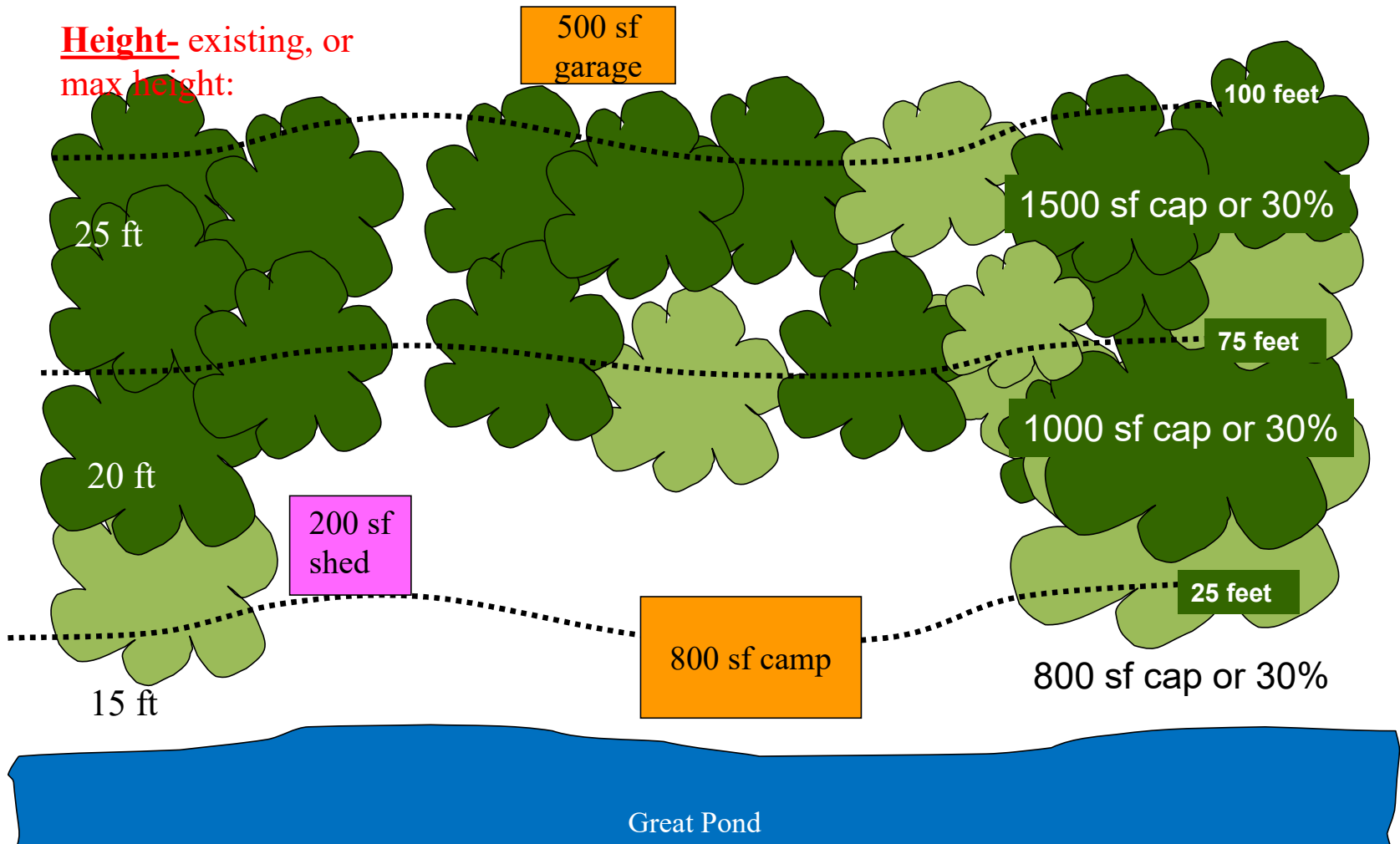


15 or
20 ft

Same expansion thresholds as for other districts

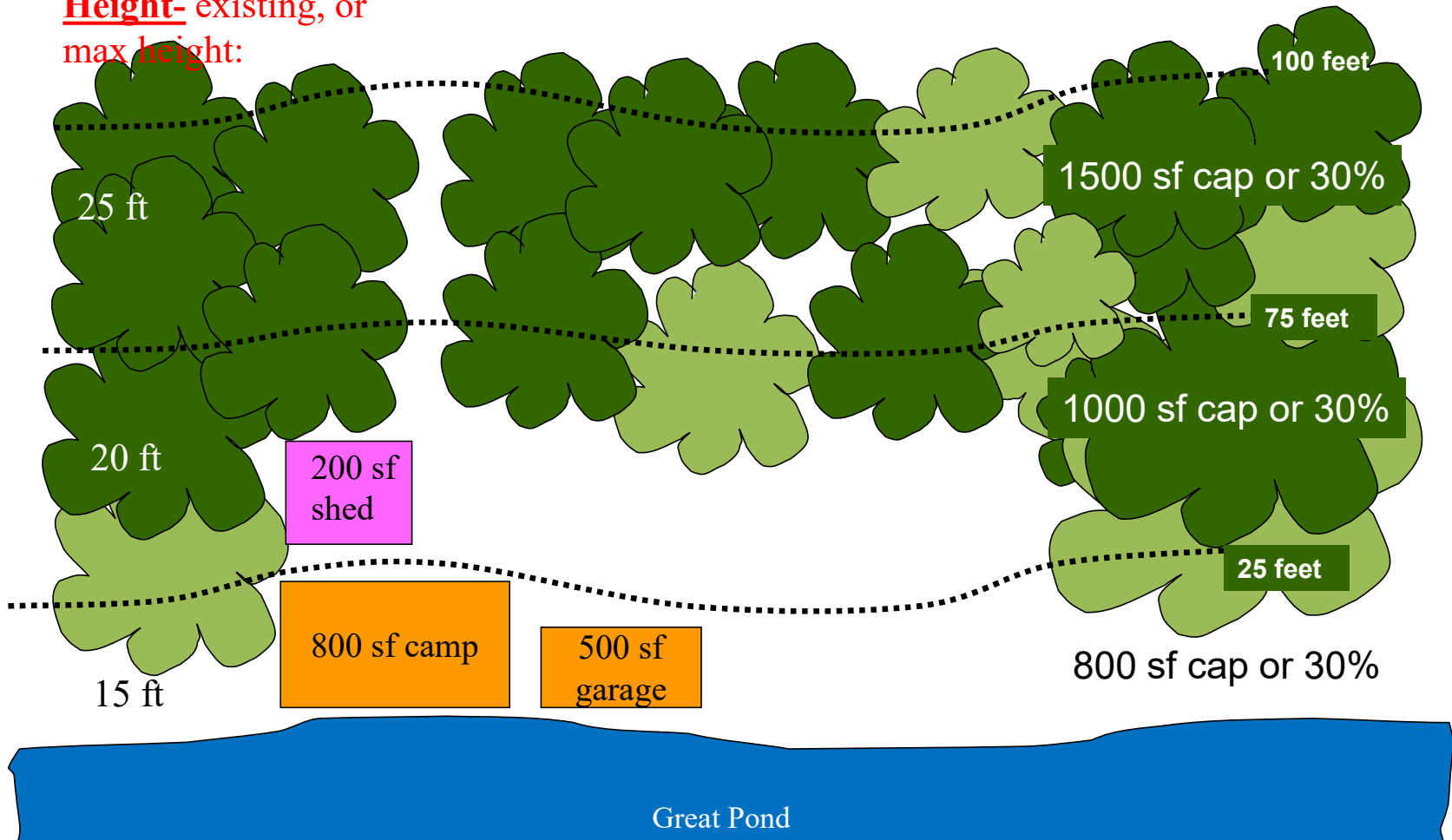


1) What can be expanded?



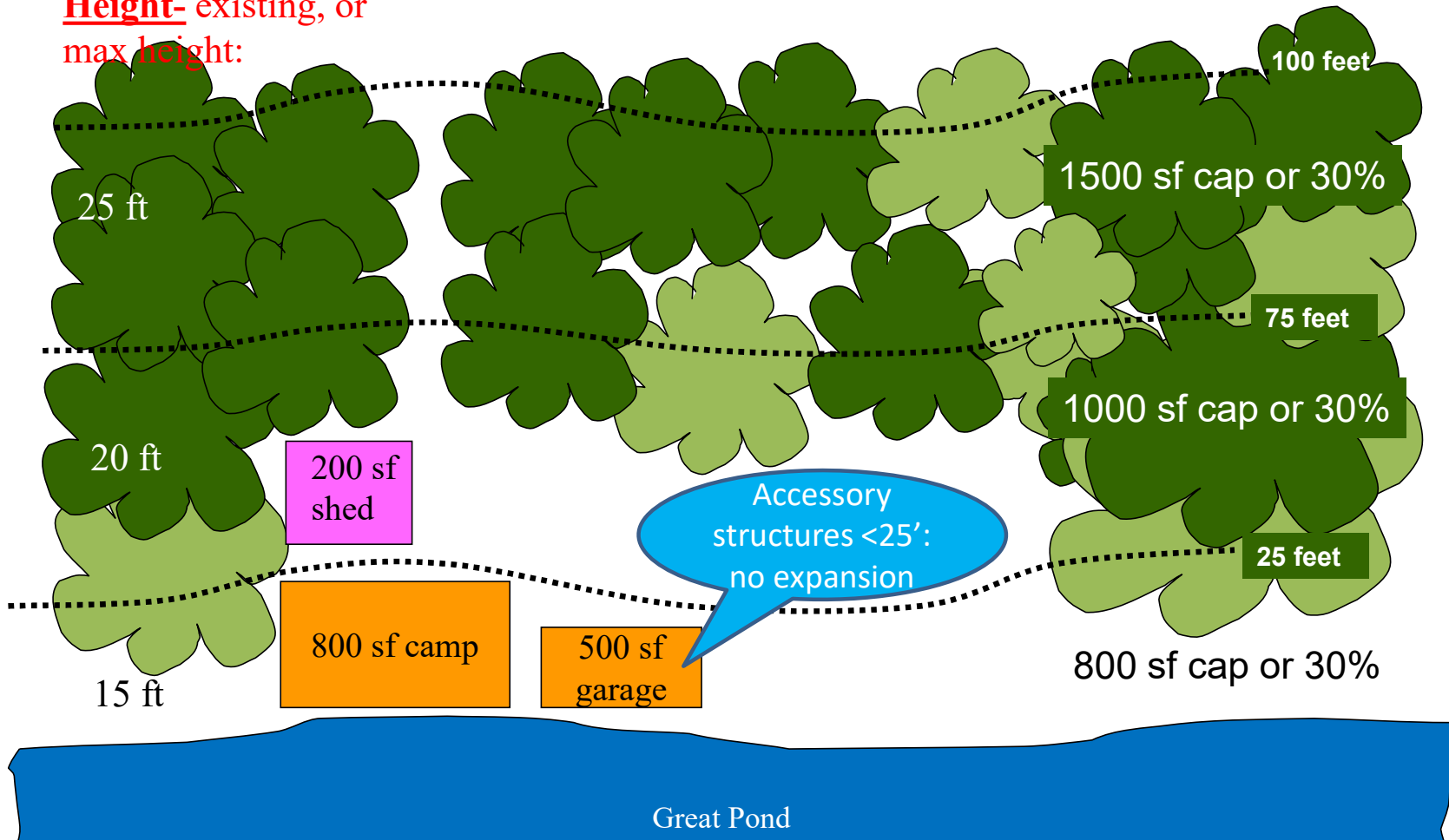
2) What can be expanded?

Height- existing, or
max height:



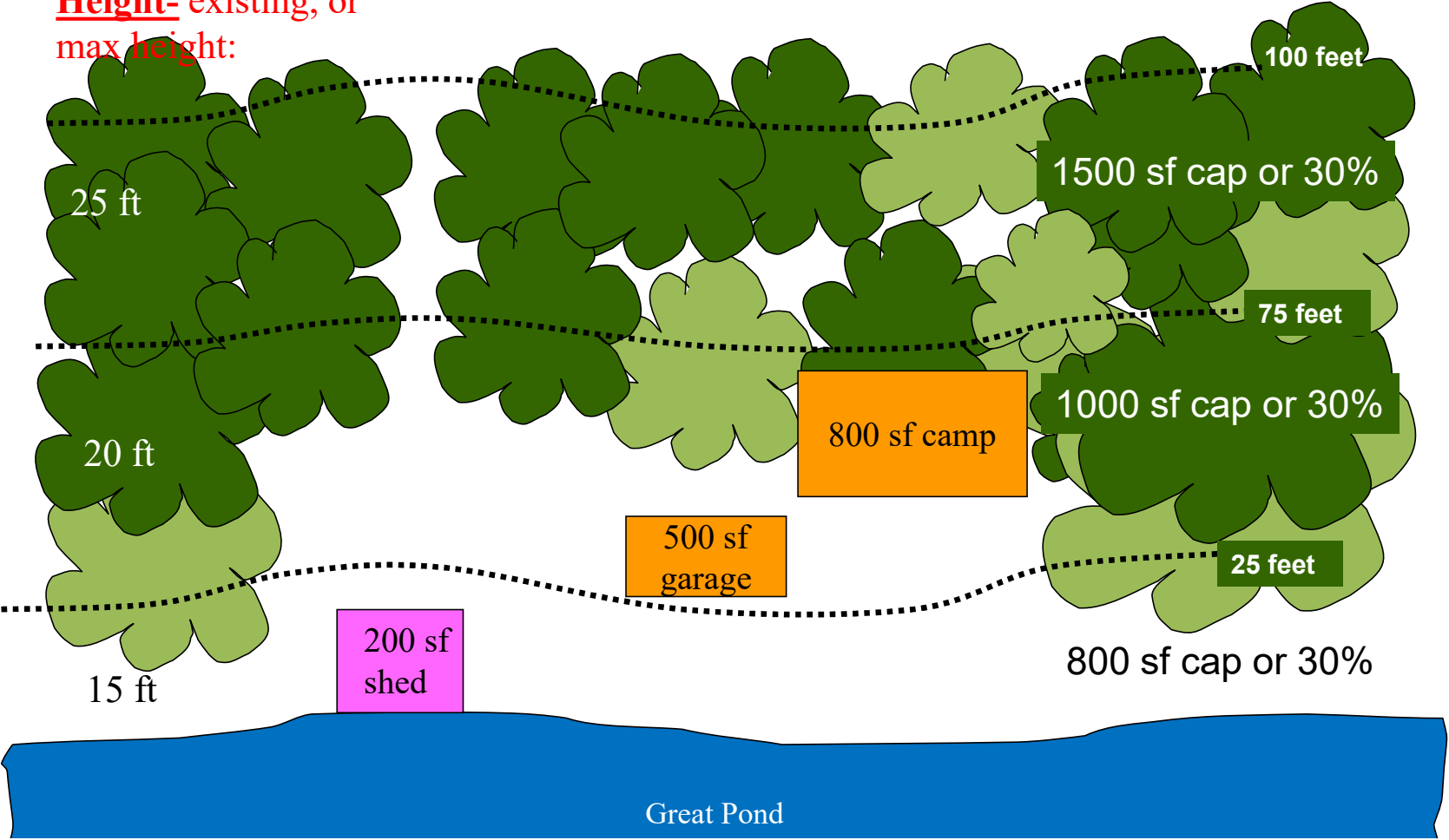
2) Answer: camp and/or shed (30%). Camp cannot add garage footprint.

Height- existing, or
max height:



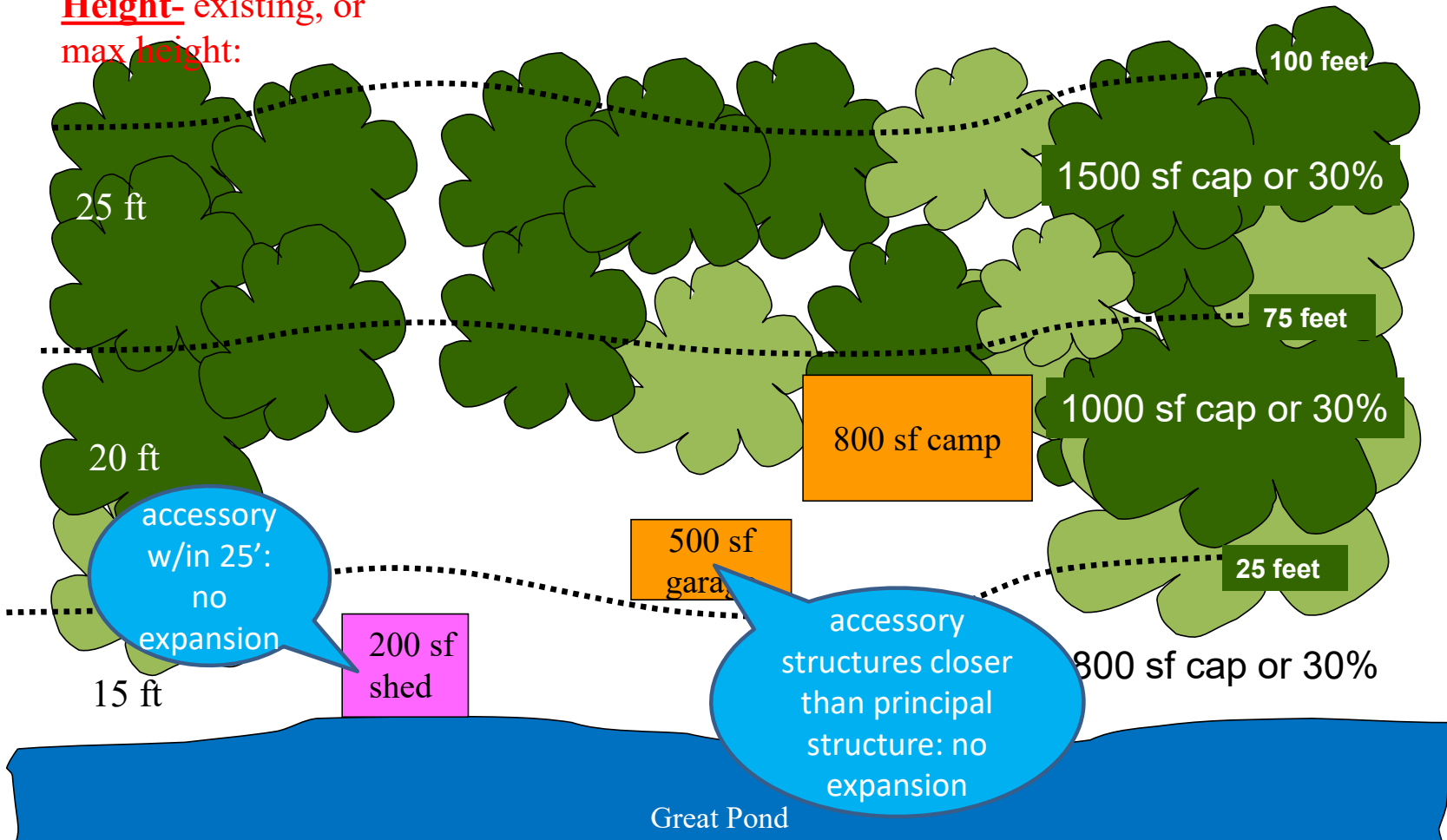
3) What can be expanded?

Height- existing, or max height:



3) Answer: camp only (30% of total footprint of all structures)

Height- existing, or max height:



Functionally Water-Dependent

Primary purpose requires location on or direct access to waters and cannot be located away from these waters



Definition

Functionally water-dependent:

- Includes fish-related storage
- Include shoreline structures necessary for erosion control purposes (in place of retaining walls)
- Excludes recreational boat storage buildings (boat house)



Setback Violations

If it looks like a duck...



Non-vegetated surfaces aka 'lot coverage'

- The total footprint area of all non-vegetated surfaces within the shoreland zone is limited (note that it does not say "impervious surfaces").
- Unintentional violations occur because the assumptions is often that it is impervious surface. This includes exposed ledge.



Non-vegetated Surfaces- aka: Lot Coverage

Surfaces include:

- Structures
- Driveways*
- Parking areas*
- Other areas from which vegetation was removed

Optional exemptions:

- Naturally occurring ledge and rock outcroppings on lots existing on 3/24/90
- Public boat launching facilities

*No exemption for grass paver type products



Naturally Occurring Ledge...



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Grass Paver Products- Question

- Can a municipal Code Enforcement Officer or planning board exempt areas using grass paver types of products from the lot coverage limitation?





Grass (?) pavers...



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Non-Vegetated Surfaces

Total area is limited as percentage of lot area:

- 20% in most shoreland zone districts
- 70% in shoreland zone of coastal wetlands and rivers not flowing to great ponds where district is CFMA or GD





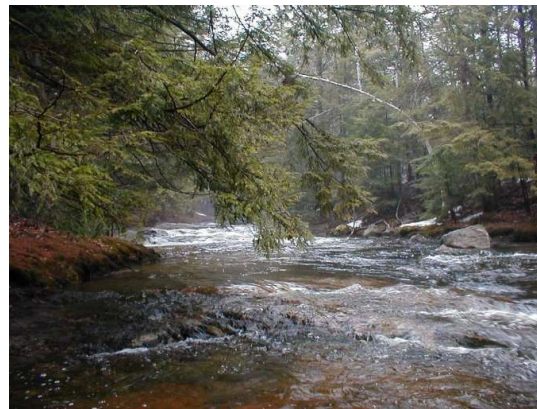
Non-vegetated surfaces...



Vegetation Purposes

Vegetation is the cheap and natural way to:

- Intercept and infiltrate stormwater runoff
- Slow and control soil erosion and sedimentation
- Provide bird & wildlife habitat, and shade aquatic habitat
- Keep privacy and conserve natural character of Maine



Shoreline Buffer Standards

Removal of vegetation is limited:

- Within 100ft of great ponds & rivers flowing to great pond
- Within 75ft of other rivers, streams and wetlands
- Within 75ft of tributary streams (in the shoreland zone)
- To canopy openings of less than 250 square feet
- To a single meandering footpath no wider than 6 ft;
- To removing trees and saplings based on a plot/point system;
- To pruning live branches only the bottom third of trees



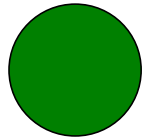
Buffer Point System

Well-Distributed Stand

<u>25x50 plot area</u>	<u>DBH (inches)</u>	<u>Points</u>
• 24 points for great ponds, and rivers and streams flowing to great ponds	2<4	1
	4<8	2
	8<12	4
	12 +	8
• 16 points for other waterbodies/wetlands		



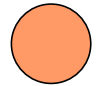
Buffer Point System



>12" DBH = 8 points



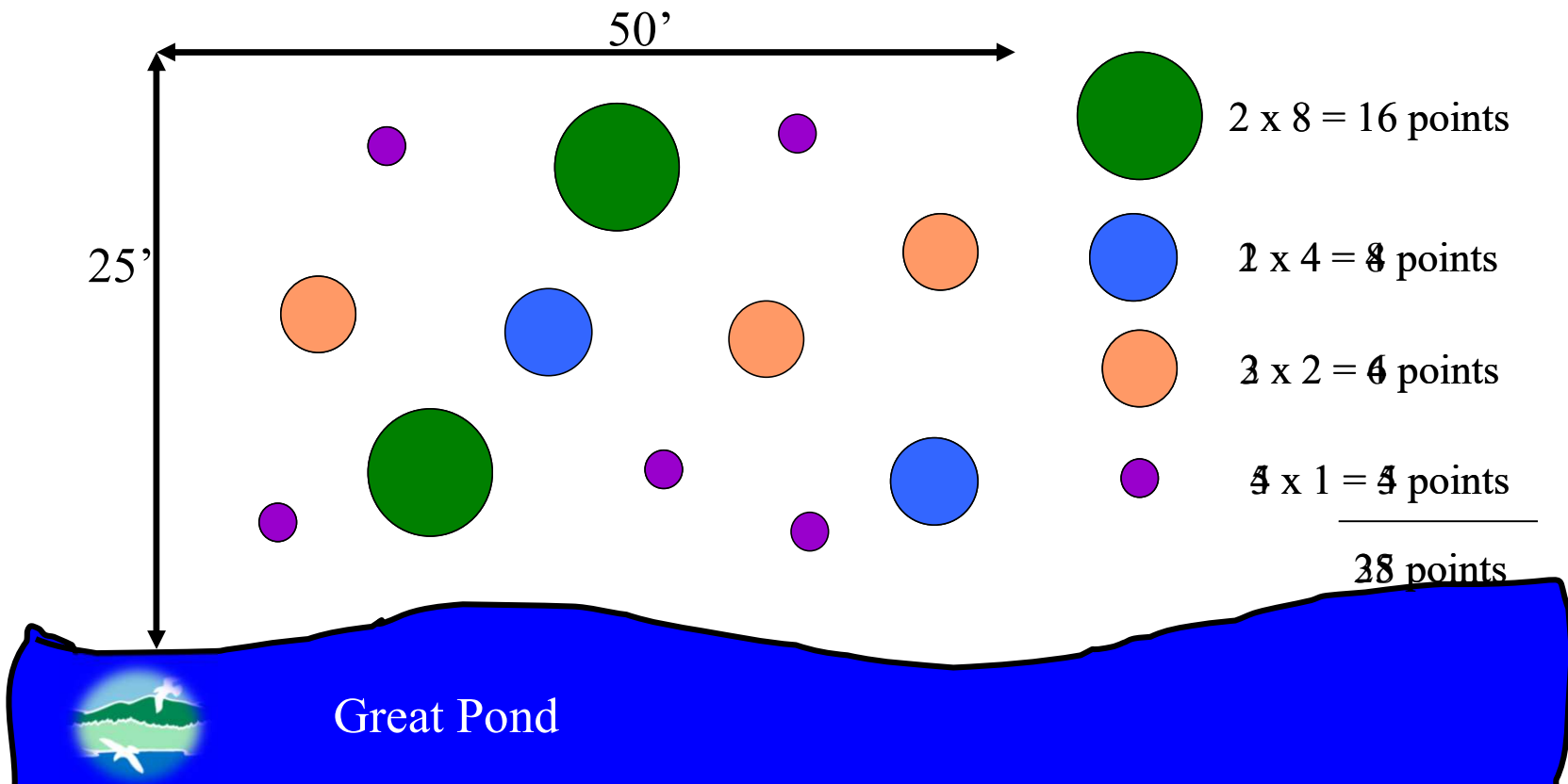
>8", <12" = 4 points



>4", <8" = 2 points



>2", <4" = 1 point



Buffer cut according to standards...



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**No cleared openings
greater than 250 square
feet within setback**



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Vegetated Buffers

Footpath/Staircase allowed Vegetation Plan



Hazard Tree Defined

Definition for hazard tree:

- structural defect...
- under the normal range of environmental conditions, not:
 - hurricanes, hurricane-force winds,
 - tornados, microbursts, or
 - significant ice storm events
- exhibits a high probability of failure...
- will strike a target.
 - Area where personal injury or property damage could occur
 - roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger
- also trees that pose imminent risk to bank stability.



Hazard Trees

Within shoreline buffer:

- Replace tree canopy opening > 250sf
 - new tree growth present or
 - Plant native trees at least 4ft in height and 2in DBH
- No stump removal

CEO may require:

- Professional evaluation
- >1:1 for >8in DBH trees

Outside buffer:

- Replace if tree volume or cleared openings exceeded
- With new tree growth or
 - With native trees at least 2in DBH



Dead Trees

Dead trees – contain no foliage during the growing season:

- Removal allowed if dead from natural causes
- No creation of new lawn areas or other permanently cleared areas
- No stump removal



Storm-Damaged Tree Definition

Definition for storm-damaged tree:

- a tree that is damaged beyond the point of recovery as a result of a storm event.
- Could be uprooted, blown down, lying on the ground, or still standing



Storm-Damaged Trees

Within shoreline buffer:

- Pruning damaged limbs above 1/3 allowed
- Replace tree canopy opening > 250sf
 - By natural regeneration or
 - With native seedlings or saplings, 1 per 80sf
- No creation of new lawn or other cleared areas
- No stump removal

Outside buffer:

- Replace tree volume or cleared openings
 - By natural regeneration
 - With native seedlings or saplings on 1:1 basis

Regeneration must occur within
1 season



Administration: Disability Variances

Municipal officials may choose to:

- Allow the CEO to issue a permit and disability variance for making dwelling accessible to person with disability
- Please remember, required notices to DEP, just like any other variance!



Basic Review Standards- Question

If DEP issues a permit under the Natural Resources Protection Act (NRPA), can a municipality approve a project on that basis?



Shoreland Zoning Regions



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