

**HARVARD CONSERVATION COMMISSION  
MINUTES OF MEETING  
January 3, 2008**

Chairman Paul Willard called the meeting to order at 7:03pm in the Town Hall Meeting Room

**Members Present:** Paul Willard, Wendy Sisson, Charlie Gorss, Jim Breslauer, Don Ritchie, Otto Solbrig and George Watkins

**Others Present:** Liz Allard, Gregory Barras (Harvard Hillside), Robert Blank (BHPWMC), Ed Faneuf, Bill Fateiger (JLA Land Survey), Gary Shepard (Ross Assoc.), Richard Mace, Bruce Leicher (BHPWMC), Nick Brown (BHPWMC), Valerie Hurley (Harvard Press), Terry Gensel, Eric Broadbent, Mark Saganich and Jeff Ritter (BHPWMC)

**Land Stewardship Sub-Committee**

Charlie Gorss stated the Land Stewardship Sub-Committee has not meet in some time and needs to be re-established. Mr. Gorss added the Nash Away Trackers have done additional surveys and the annual bird count has been done. This information will be helpful in developing management plans. George Watkins stated that it is time to appoint someone who would want to be chair of this committee. It was suggested that members of the Commission attend the Volunteer Day on January 11<sup>th</sup> at the library to solicit volunteers. Both Mr. Watkins and Mr. Gorss stated they would be willing to attend.

**Review Wetland Delineation - South Shaker Road (Map 4 Parcel 44)**

Bill Fateiger was present to discuss with the Commission the delineation of wetlands on South Shaker Road. Terry Gensel was also present as a consultant for the Commission. Mr. Fateiger stated he and Mr. Gensel had conducted a review of the property and determined the sizes of the isolated wetlands. Mr. Fateiger explained they started in the back of the property and did a good grid right through to the front of the property. Water clearly pools on the property line, in which soils were hydric. Mr. Fateiger and Mr. Gensel looked at the square footage of each individual area. A significant number of probes were done between the two areas at the rear of the site, there was no connection found between these isolated areas. None of the areas delineated were greater than the required 500 square feet. Loamy fine sandy were found in these area creating a well drained area. Don Ritchie stated the lot had been tilled over a number of times over the years. Mr. Gensel stated there is rutting and tilling all over the site. Mr. Ritchie asked if this could have something to do with not finding hydric soils. Mr. Gensel stated it could. Mr. Ritchie asked if the vegetation is primarily wetland species. Mr. Gensel stated that was correct. George Watkins stated this suggests a very large amount of water crosses the property and if you build there are you going to be diverting the water under ground.

Paul Willard suggested the filing of Notice of Intent (NOI). Mr. Fateiger stated the regulations state that each of the isolated wetlands have to be greater than 500 square

feet. The alternative is to file another Request for Determination of Applicability (RDA) with the new information. Mr. Willard stated it is the practice of this Commission in order to confirm or deny the presence of a wetland we need a NOI or an Abbreviated Notice of a Resource Area Delineation. Mr. Fateiger stated technically these isolated wetlands are not wetland under the Wetland Protection Act or the Harvard Wetland Protection Bylaw. Mr. Willard stated the Commission issued a Determination of Applicability stating a NOI needed to be filed.

Jim Breslauer read from the bylaw regulations in regards to square footage and from the bylaw, which does not mention square footage. Mr. Breslauer stated that if there is a conflict, the bylaw controls. Mr. Fateiger stated what they found does not meet the requirements. Mr. Willard personally wants an NOI filed to confirm the presence of wetland. Wendy Sisson wants to see the property in the spring, because she has seen the site covered with water in previous years, rather than at the end of a drought and/or during the winter.

Mr. Watkins asked what controls the presence of wetlands, vegetation or soils. Mr. Fateiger stated that vegetation is what will come in first. Otto Solbrig disagreed and stated that vegetation is not that aggressive. Mr. Gensel stated on disturbed sites the Department of Environmental Protection (DEP) always uses soils.

Ed Faneuf asked if soils take precedence what difference would it make. Ms. Sisson stated that is the gray area and is why you want to look at vegetation and soils, this is a difficult site and it is better to look at a site in the spring. If one really wants to get a good idea as to what is going on there it needs to be looked at it in the spring. Mr. Solbrig would like to see it in the spring as well. Mr. Faneuf stated if you look at the lot, the house to the rear of the lot and the house abutting the lot are causing the drainage issues, why are we being penalized for their activity. Mr. Willard stated that it does not matter what causes the wetland, the existence of a wetland is what controls.

Mr. Watkins thinks the Commission does not have jurisdiction. Mr. Breslauer stated if the applicant so chooses to proceed with work he does so at his own risk. Mr. Willard stated that the prior hearing on this matter was closed when the applicant did not appear at the scheduled date and time of the continued hearings and the Commission issued a Determination that jurisdictional wetlands existed. If the applicant had new information it wished the Commission to consider a new RDA would need to be filed with the new information.

#### **ZBA Request for Comments – Transformations, Stow Road**

The Zoning Board of Appeals has requested comments from the Commission on a Comprehensive Permit application they have received for a project on Stow Road. Don Ritchie will review the application and report his findings to the Commission at the January 17<sup>th</sup> meeting.

**Certificates of Compliance – 181 Littleton County Road, LLC DEP#177-504**

A Request for a Certificate of Compliance was received for 181 Littleton Road. Paul Willard reviewed the site and determined the work had been done in accordance with the Order of Conditions. Otto Solbrig made a motion to issue a Certificate of Compliance for 181 Littleton Road, DEP#177-504. George Watkins seconded the motion. The vote was unanimously in favor of the motion.

**Notice of Intent Hearing – Richard & Roxanne Mace, 38 Peninsula Road, DEP#177-538, Harvard#1207-1.** Opened at 7:35pm

**Request to Amend the Order of Conditions – Mark Saganich, 21 Depot Road, DEP#177-452.** Opened at 8:10pm

**2007 Annual Report**

George Watkins made a motion to submit the Annual Report as amended. Jim Breslauer seconded the motion. The vote was unanimously in favor of the motion.

**Open Space and Recreation Plan**

The Open Space and Recreation Plan will need to be updated this year. The Commission will need to advertise for volunteers to help update the existing plan. The Admin will need to decide what items need to be done by outside resources.

**Historical Commission Representative**

Otto Solbrig submitted his resignation from the Historical Commission. Jim Breslauer volunteered to become the Commission's representative on the Historical Commission, which offer was accepted by the Commission.

**Adjournment**

Don Ritchie made a motion to adjourn the meeting at 8:43pm. George Watkins seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard  
Administrator/Conservation Agent

**Harvard Conservation Commission  
Notice of Intent Hearing Meeting Minutes  
Richard & Roxanne Mace, 38 Peninsula Road, DEP#177-538, Harvard#1207-1  
January 3, 2008**

The public hearing was opened at 7:35pm by Chairman Paul Willard under the Wetland Protection Act, MGL Chapter 131 §40 and the Code of the Town of Harvard, Chapter 119 the Wetland Protection Bylaw

**Members Present:** Paul Willard, Wendy Sisson, Charlie Gorss, Jim Breslauer, Don Ritchie, Otto Solbrig and George Watkins

**Others Present:** Liz Allard, Richard Mace and Gary Shepard (Ross Assoc.)

This hearing is for a Notice of Intent filed on behalf of Richard & Roxanne Mace for the proposed restoration/plantings in response to an Enforcement Order and associated grading and driveway construction within 200' of Bare Hill Pond at 38 Peninsula Road, Harvard.

Gary Shepard stated due to miscommunication a significant portion of the site was clear cut adjacent to Bare Hill Pond. Mr. Shepard stated the site was re-flagged a few months ago. Mr. Mace was unaware of the regulations as he previously was not a resident of Massachusetts. Mr. Shepard explained the stumps in front of the house on the road side, are to be ground and a wildflower mix installed. The trees remaining in that area will be allowed to thicken up. Between the house and the pond the plan calls for a dense re-planting, which will reduce the amount foot traffic. This area will not be used as yard space. Mr. Shepard stated the smaller shrubs as noted on the plan will fill out faster and stabilize the area quicker. As for the addition of a garage, which will require approval from the Zoning Board of Appeals, the structure will be outside the 75' buffer zone as required by the regulations.

Charlie Gorss asked if most of the trees cut were oaks. Mr. Shepard stated they were. Wendy Sisson asked if the site contained a shrub layer previously. Mr. Shepard stated the area had sizeable trees with no lawn and low ground cover and a few pines. When asked about soils Mr. Shepard stated probes have not been done. It would be his opinion the soils are till that would be 8 – 10 inches at the front of house and reduced in depth to the pond. Jim Breslauer asked where the stumps are on the plan in relation to the edge of the pond. Mr. Breslauer is concerned that if they are ground, the soil will lose stability. Mr. Shepard explained the plants will be installed with mulch to help stabilize the area. Paul Willard suggested planting smaller plants on the grindings to help with stabilization. George Watkins believes it is not a good idea to grind the stumps between the house and the pond, which could allow for sediment to get in to the pond. Mr. Shepard thinks most of the stumps can be left in place and plantings be placed in and around them. Wendy

Sisson would like to see some vegetation that is naturally occurring on the pond added to the plan, such as maple, sweet pepper bush and high bush blueberry. The oak stumps may re-vegetate and the Order of Conditions will require monitoring over the next few years and if the oaks are not re-growing then maybe new plantings could be done. The Commission would like silt fence installed as soon as possible. The applicant agreed that monitoring for several years would be appropriate.

With amendments needed to the plan George Watkins made a motion to continue the hearing to February 7, 2008 at 7:30pm. Jim Breslauer seconded the motion. The issue of the new garage and driveway will also be addressed at that time. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard  
Administrator/Conservation Agent

**Harvard Conservation Commission**  
**Request to Amend the Order of Conditions**  
**Mark Saganich, 21 Depot Road, DEP#177-452**  
**January 3, 2008**

The public hearing was opened at 8:10pm by Chairman Paul Willard under the Wetland Protection Act, MGL Chapter 131 §40 and the Code of the Town of Harvard, Chapter 119 the Wetland Protection Bylaw

**Members Present:** Paul Willard, Charlie Gorss and Don Ritchie

**Others Present:** Liz Allard (LUB Admin) and Mark Saganich

This hearing is for a Request to Amend the Order of Conditions filed on behalf of Mark Saganich for a proposed out building that will serve as a three car garage with access off the existing driveway within the 100' wetland buffer zone at 21 Depot Road, Harvard.

Mr. Saganich has requested the Order of Conditions be extended for one year. George Watkins made a motion to extend the Order for one year. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Mr. Saganich was before the Commission in November of 2006 for the installation of a three car garage. At that time Mr. Saganich decided to withdraw the request, he is now back in front of the Commission for the same structure. Mr. Saganich wants to use the natural flat area off the existing driveway to place the garage. The plan shows a structure that is 55' x 27', but the structure that will be built will be smaller. George Watkins asked what will catch the run-off from the roof? Mr. Saganich would propose a recharge trench. Paul Willard noted the new regulations require a 75' buffer zone for structures, but since the project was started prior to those regulations it could be grandfathered. The Commission has requested that the size of the structure be reduced in size and shifted in some manner to move it further away from the wetland. Mr. Saganich stated the location was chosen because no trees would need to be removed for the construction of the structure. The Commission would like to see every effort made to reduce the footprint within the buffer zone as well as a detail for the recharge trench. Jim Breslauer stated that in his opinion, based on the site walk, the location of the garage would not have a significant impact on the wetlands even though it is within the 75' buffer zone. It is level, then there is a significant drop-off before the wetlands begin. The catch basins should control any run-off.

Jim Breslauer made a motion to continue the hearing to January 17, 2008 at 7:30pm. Don Ritchie seconded the motion. The vote was unanimously in favor of the motion.

Respectfully submitted,

Liz Allard  
Administrator/Conservation Agent