



**North Hampton Heritage Commission**  
Meeting  
March 5, 2010  
Location: Heritage Commission Conference Room

(Revised and Approved July 30, 2010)

Commissioners Present:  
Jenifer Landman, Chair  
Jane Currivan, Vice-Chair  
Penny Holbert, Secretary  
Ben King, Alternate  
Jane Palmer, Alternate

Commissioners Absent:  
Paul Cuetara  
Carolyn Brooks, Treasurer

Guests:  
Bob Field  
Chris Ganotis  
Cindy Jenkins  
Jane Robie

The meeting was called to order by Jenifer Landman, Chairperson, at 9:30 a.m.

A. Mill Pond

Jenifer Landman briefly summarized the matter prior to introducing Bob Field, who is appearing before the Commission today to present details. The following was presented by Mr. Field.

Mr. Peter Horne has asked for a variance from the Zoning Board to include a portion of a “body of water” (Mill Pond) to be considered toward meeting the 2 acre requirement for subdivision in order to build a residence, which is intended to be rental property. If the variance is not granted, Mr. Horne has allegedly stated he would lower Mill Pond until enough property became available to be considered “wetlands,” which would then meet the 2 acre requirement, thereby no longer needing a variance.

Mr. Field referred to the “Town Plan,” North Hampton’s rural character, the need and responsibility to protect the history of the Town, and the salt water “farms.” He warned that once changes are made, the history of the Town and the culture it represents is gone forever.

Mr. Peter Horne’s father, George, acquired the property, formerly known as the Osborne property, maintaining the “nature” of the Osborne compound. Two tenant houses are on the property. In 2007 a one story garage was noted to be deteriorating. Permission was granted by the ZBA to restore the 2-story structure, including its three car garage. Instead another story was added. The “garage” now had a bath, laundry facility, making

it similar to a dwelling, though it was considered to be an office with storage. The actual construction, thus, varied from the ZBA's intent, indicating that building enforcement was loose.

The latest proposal is to take a parcel of approximately four acres and subdivide it for a home to be built. To meet the requirement of four acres, it is necessary to include the land which goes into the pond (a body of water). "Wetlands, excepting bodies of water, can be used."

Though Mill Road is not technically declared a "scenic road" by the Town's Building Inspector, Red Mabey, Mill Road, with its pond, stone dam, and surrounding old homes, is recognized as one of the most visited and photographed areas in our community—schools bring their students to view this center of North Hampton's historical culture—and, therefore, considered by many of the residents of North Hampton as a significant landmark to the Town and one that should be protected.

Mr. Field referenced Helen Hobbs' book "The Way It Was in North Hampton" by quoting her remarks about this area and its contribution to the unique history and culture of the Town. Mr. Field described the area as "an enclave of history." The dams and mills were "high tech" of the time, when they were constructed in the mid 17<sup>th</sup> century. They create a sense of the environment, history, culture, mind, and spirit of the Town. "When we start to lose the historical elements of our town, we see it vanishing, not be to be recovered." Many can recall the sense of community created by residents skating on Mill Pond.

Mr. Field briefly discussed two rights under the law: riparian and littoral.

Riparian rights refer to the common law of flowing water by abutters. Flowing water, as a power source, had/had economic value. The lots cut up Mill Pond, but all owners have rights to "flowage." In the 17th century, land owners agreed to grant rights to store water. The benefit to the community was recognized of this use of power and of the high tech business of the mill.

Littoral rights are "shore line" rights. This includes the rights, by the owners of the properties which include shore lines, to contract docks or make other use of the shore fronts. Perhaps have the shore line to a pond was used in valuing their property or played in their decision to purchase the property. An abutter, who happens to own the dam, may not have the right to lower the level of the pond, thereby changing the shoreline of other surrounding land owners. However, Mr. Horne's attorney claims Horne has the ability to control the water level of the pond.

Dams are inspected and regulated by the State of New Hampshire. The State can tell dam owners to open their dams to avoid sudden storm water flooding. The State informed Mr. Horne that the dam was not safe, thereby mandating Mr. Horne to repair the dam.

The proposal to subdivide originated about three years ago. Dr. Leonard Lord, PhD is a respected authority regarding bodies of water, wetlands, and the law applied to same. He was quoted as rendering an opinion that “bodies of water” cannot be used (for the purpose of meeting the 2 acre requirement) without a variance.

Mill Pond is the principal body of water for the Town, an essential part of the vascular system of North Hampton, metaphorically speaking. For over 338 years, Mill Pond has established a habitat and ecology, which is slowly diminishing in quality.

Granting of the variance would establish a precedence, which would encourage further development. In order to receive a variance, the applicant must show a hardship, that it would not be detrimental to nearby property owners, in the best interest of the Town, and within the spirit of the ordinance, such as preservation of wetlands.

Mr. Field requested that the Heritage Commissioners discuss the issues and the potential risk of destruction of North Hampton resources and history. There are only three or four historical areas in the Town, along with the Little River. If the Commissioners determine they are in agreement with his concerns and the preservation of the Mill Pond area, he suggested the Commissioners state their position in a letter directed to the ZBA about this matter. As representatives of the people of North Hampton, acting in a sense as the conscience of the community with regard to the preservation of historical structures and the heritage of our Town, would consider the recommendation to deny the variance, because it is not in the best public interest.

Chris Ganotis, Conservation Commission, stated that Mill Pond was polluted. The Department of Environmental Services conducts water testing. There is a rise in ecoli bacteria, primarily from septic failures, therefore it is passed along the river. The DES has designated the Little River a waterway of interest and an “impaired waterway.”

Septic and fertilizer from storm water runoff to the Little River and on to the Little River Salt Marsh, makes its way to the Atlantic Ocean. At that point we have found that it does not disperse and dilute, but circulates back along the shore, where contamination builds up. It is especially high at the beach, even measured in greater concentration than at the mouth of the river, series of complaints and reports of seepage from the septic system from the fish houses at the beach. Four to five fish houses share a common holding tank, therefore it overflows, because it is not drained often enough. The Building Inspector has the responsibility to oversee this matter, but action is unknown.

Heritage Commissioners commenced discussion at this meeting of the North Hampton Heritage Commission, it has concluded that the request for the variance be denied by the Zoning Board of Adjustment because it is not in the public interest. As appointment representatives of the people of North Hampton, in a sense, the Commissioners act as the “conscience of the community.” The Heritage Commission deems that the proposal is a threat to the historical integrity of the area.

A motion was made by Penny Holbert to present a letter expressing the views of the Heritage Commission be provided to the Zoning Board of Adjustment. The motion was seconded by Jane Palmer and unanimously approved.

B. Farms of North Hampton

Chris Ganotis stated that since 2001 the amount of conservation land has more than doubled, primarily because of North Hampton Forever. As more land is acquired is an effort to link conservation value with historic values of the properties. There was an attempt to include senior high civic projects, soliciting support of faculty to get students to chronicle the farms of our community. Though the number of participants was not achieved, one student did an outstanding job, Samatha Thayer, Shirley Carter's grand-daughter. Her project included the Leavitt, Garland, and Marston farms.

A review of the farms of 1940 map, which had been documented by Jane Palmer, was reviewed by Commissioners and guests. Rob Prime, Rockingham County Planning commission, will be contacted in an effort to secure a map to reproduce the 1940 farms for the purpose of a brochure to be designed in a joint effort between the Heritage Commission, Conservation Commission, and other interested parties in the community such as today's guests Cindy Jenkins and Jane Robie.

C. Meeting Adjourned

There being no other business before the Commission, a motion to adjourn at 11:40 was made by Penny Holbert; seconded by Jane Palmer, which carried unanimously.

Respectfully submitted,

Penny Holbert  
Secretary

*Note: These minutes are unapproved. Obtain minutes from the next meeting to identify any corrections, if any, and a motion to approve or approve as amended.*