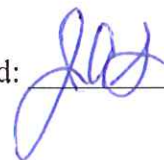


SUTTON CONSERVATION COMMISSION

June 25, 2014

MINUTES

Approved: _____



Present: Joyce Smith, Co-Chair, Daniel Moroney, Robert Tefft

Unavailable: Mark Briggs, Chairman

Staff: Wanda M. Bien, Secretary

Brandon Faneuf, Consultant

NEW PUBLIC HEARING

7:00pm

25 W. Sutton Road

DEP#303-07

The Public Hearing was opened at 7:00pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of a septic system repair.

Present: Raouf Mankaryous, Alpha Omega, Lewis Atherton, owner

R. Mankaryous explained the location of the septic system which would be four feet above the ground with the variance. He explained about the new system that would be as close to the house as possible, and the equipment would come in through the abutting property to access this site for the repair.

B. Faneuf summarized his site visit on the property.

See Attachment #1 Ecosystem Solutions

Motion: To close the Public Hearing, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

Motion: To issue an Order of Conditions, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

7:20pm

27 W. Sutton Road

DEP#303-07

The Public Hearing was opened at 7:20pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of a septic system repair.

Present: Raouf Mankaryous, Alpha Omega, Bradley Pierce, owner

R. Mankaryous explained that this system is also in failure which is a Presby system. No trees are to be cut and this system will be more than 100' away from the water.

B. Faneuf summarized his site visit on the property.

Sutton Conservation Commission

June 25, 2014

See Attachment #2 Ecosystem Solutions

Motion: To close the Public Hearing, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

Motion: To issue an Order of Conditions, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

7:40pm

5.5 Sunrise Drive

DEP#303-07

The Public Hearing was opened at 7:40pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of grading and landscaping.

Present: Raouf Mankaryous, Alpha Omega, Bruce Sinkus, Customs Landscape, Richard Patient, owner

R. Mankaryous explained the grading and landscape in the back yard and the type of pavers that they would like to use on the patio, which is shown on the plans.

R. Sinkus the landscaper, used the plans and explained the proposed landscaping work. He wants to turn the ramp into more usable space for the owner, who has no use for this ramp.

B. Faneuf summarized his site visit on the property.

See Attachment #3 Ecosystem Solutions.

The Plans need some revisions with more details:

1. Cross section with details of the patio.
2. Explain using the neighbor's property to access this site to do the work.
3. Extend the Limit of work with the erosion controls along the water and on the neighbor's property.
4. Add erosion control notations.
5. Include a one page letter, stamped by the P.E. that this complies with the Bylaw.
6. Add one more tree to the plan or change to multiple blueberry bushes.
7. Provide finished grades on the retaining wall at the end of the patio.

Motion: To continue, with the applicant's permission, to July 16, 2014, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

8:00pm

25 Oakhurst Road

DEP#303-07

The Public Hearing was opened at 8:17pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of constructing a 2.6-megawatt (DC) ground mounted solar electric generating facility partially in Sutton, all work is proposed outside the buffer zone and wetland resource areas.

Sutton Conservation Commission

June 25, 2014

Present: Brian Andrews, Andrews Survey, Sutton Solar LLC, Alan Clapp, Development Manager

B. Andrews explained the old gravel property that was used as a race track in the past. He explained about how Steamburg Brook ran in both Northbridge and Sutton and that all work proposed would be in Sutton 500 - 600' from the buffer zone. They would not have to file a Notice of Intent in Sutton. He also spoke about the stormwater recharging from both towns that goes into the ground.

B. Faneuf summarized his site visit on the property.

See Attachment #4 Ecosystem Solutions

Motion: To close the Public meeting, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

Motion: To issue a Negative Determination of Applicability, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

8:20pm

355 Boston Road

DEP#303-07

The Public Hearing was opened at 8:30pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a septic system and associated site work.

Present: Byran Andrews, Andrews Survey, James & Nancy Brigham, owners

B. Andrews explained the cesspool that will be abandoned. It will be replaced by the new septic system within the buffer zone area. This has already been approved by the Board of Health.

B. Faneuf summarized his site visit on the property.

See Attachment #5 Ecosystem Solutions

Motion: To close the Public Hearing, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

Motion: To issue an Order of Conditions with addition of the abandonment of the existing cesspool and change from the orange fence to the silt fence, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

Request for Acceptance of Revised Plans

8:55pm

34 Bond Hollow Road

Present: David Marois, owner

Due to a quorum issue the owner was asked if he has any issue with Joyce Smith, an abutter, being part of the decision for the changes of the driveway.

D. Marois replied that he had no issues.

June 25, 2014

D. Marois explained the change with the longer driveway and septic location was because of a better radius with these new locations for Bond Hollow road. The incline would be more gradual up to the house and further away from the Isolated BVW. The house would be 40' further back and the well would be moved.

R. Tefft would like the assurance that the original designed pipe under the driveway would be sufficient, to avoid potential problems in the future, by adding another pipe or change the size of the pipe to make sure that the pipes are the right size for the drainage.

J. Smith stated that when they put the driveway in, the water goes around the other side of the pipe now and the pipes do not line up with the catch basin. She feels that this needs to be looked at.

B. Faneuf said that it is up to the commission to determine if it is a minor field change, a formal amendment which would require a certified abutters notice and another legal advertisement, or this is so different from the original plan that it would require a new Notice of Intent.

The commission felt that a formal amendment was necessary.

The engineer needs to stamp the plans, especially sheet #1, pay the ad fee, and send out the certified abutters notices. Then the Commission can reopen the Public Hearing and issue the modified Order of Conditions

Motion: To require an amendment be filed for the plan changes presented, by D. Moroney
2nd: R. Tefft
Vote: 3-0-0

CONTINUATIONS

Motion: To wave the readings for both 39 & 33 W. Millbury Road and continue both to July 16, 2014, by D. Moroney
2nd: R. Tefft
Vote: 3-0-0

39 W. Millbury Road

DEP#303-0776 from 02-19-14

The continuation was opened at 7:30pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a single family home with associated septic system, well, grading, driveway, and wetland crossing, a portion in the BVW and adjacent the Buffer Zone.

Not Present: Brian MacEwen, Graz Eng., Tamam & Zena Jaber, owners NOI filed

This has been continued, with the applicant's permission to July 16, 2014.

Motion: To continue, with the applicant's permission, to July 16, 2014, by D. Moroney
2nd: R. Tefft
Vote: 3-0-0

Sutton Conservation Commission

June 25, 2014

33 W. Millbury Road

DEP#303-0777 from 2-19-14

The continuation was opened at 7:30pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a single family home with associated septic system, well, grading, and driveway, a portion in the Buffer Zone to a BVW.

Not Present: Brian MacEwen, Graz Eng., Tamam & Zena Jaber, owners NOI filed

This has been continued, with the applicant's permission to July 16, 2014.

Motion: To continue, with the applicant's permission, to July 16, 2014, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

BOARD BUSINESS

Wetland Concerns and Updates:

42 Bond Hollow Road - *this area is stable until further work commences.*

420 Putnam Hill Road - B. Faneuf explained the updated changes on the plans and removal of trees.

Motion: To accept the minor field change, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

219 Manchaug Road - B. Faneuf explained his discussion with Mike Kennedy about the situation with the neighbor's issues, and how the problem would be taken care of. The letter would not be sent out yet nor would an Enforcement Order be sent out.

The Board voted on the minutes of June 4, 2014.

Motion: To accept the minutes of June 4, 2014, by D. Moroney

2nd: R. Tefft

Vote: 3-0-0

Nothing was Endorse and no Routing Slips were signed at this meeting.

Discussions continued from June 4th meeting:

7 Point Way – J. Smith explained that the Board decided that he didn't have to do another plan, just mark the other plan he has to give a narrative of what was done.

A \$500.00 check was received but no paperwork with it.

B. Faneuf stated that according to the Bylaw, he was in the resource area. He needs to file the NOI with the fees, use the marked plan, pay the state NOI fee, our local bylaw fee, and ad fee. No consultant fee is needed. Do another abutters list and certified mailing, to make this official.

Sutton Conservation Commission

June 25, 2014

19 Depot Street - B. Faneuf said a letter needs to be sent to Poly Vinyl telling them that there is still work to be done. They can't receive a full Certificate of Compliance without it. He reviewed that they didn't understand about the permanent removal of the invasive species, (bittersweet vines, and multi-flora rose) on the banks of the river, and how they need to be removed.

9 Point Way - B. Faneuf gave an update on the progress of this project.

National Grid Structure 9 - B. Faneuf gave an update on the work done at Structure 9.

Anyone interested in purchasing the DVD for any public hearing at this meeting, please contact Pam Nichols in the Cable office or you can view the minutes and video at www.suttonma.org.

Motion: To adjourn, by R. Tefft
2nd: D. Moroney
Vote: 3-0-0

Adjourned at 9:55pm.

Attachment # 1

Brandon B. Faneuf, Conservation Consultant Sutton Conservation Commission
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Application Type: Notice of Intent
Project Location: 25 West Sutton Rd. / Map 8, Parcel 32
Applicant: Lewis R. Atherton
Owner: Same
Representative: Raouf Mankaryous; Alpha Omega Engineering, Inc.
Inspection Date: 6/6/14
Memo Date: 6/21/14

Introduction

The location is 25 West Sutton Road. It is the site of a single family home and is 0.18 acres in size. The house is more or less centered in the middle of the property (Property). It is a fairly narrow lot, with 49.6' of frontage on W. Sutton Rd. and 52.91' of frontage on Lake Singletary. The entire property is utilized, either with structures (i.e. house and patio on south side of house), or lawn (front and back yards). Three exceptional red maples line the shore of Lake Singletary and provide shade over the water. A temporary/seasonal dock extends from the shore into the lake in an "L" shape.

Wetland Resource Areas

1. Lake Singletary (a Great Pond) w/ 200' Riverfront District
2. Land Under Waterbodies (under Lake Singletary)
3. Bank of Lake Singletary (stone retaining wall, which is also the inner boundary of the 200' Riverfront District and 100' Adjacent Upland Resource Area associated with Lake Singletary).

Current Proposal

The project purpose a Title V septic system upgrade. According to the plan, there is an existing leach field between the house and the lake. The existing leach field is closer to the lake than the one proposed by $\pm 10'$. Still, the new field will be 38' from the edge of the water at its closest. Grading will occur within 18' of the water, but entirely within existing lawn. The system will utilize the existing 1,000 gal septic tank located on the south side of the house. The existing well is located on the west side of the house in the front yard and will be 62' from the leach field. The leach field will also be within 100' of two other wells associated with neighbors to the north and south.

I was able to speak with Mr. Atherton during the site visit and I asked about equipment access. He told me that he had an agreement with Mr. Pierce at 27 W. Sutton Rd. to use his yard and cross through where a chain-link fence stands at the boundary between the two properties. As such, there will be much more room for access that way than having to squeeze between the house and shrubbery on the north side of the house. The patio on the south side of the house makes equipment access impossible on that side.

Compliance w/ Bylaw

This is a new septic system to replace an old, failing septic system in more or less the same footprint as the old one. In fact, the new system is to be located slightly farther away from the lake than the old system.

Conditional exceptions are given for existing structures under Section 3.1. In this case, the new leach field will replace an 'antecedent of record' under Section 3.1.1 under the definition of "existing." As such, the Commission *may*, at their discretion, exempt this work under the Bylaw. Further, no trees or shrubbery need be felled in order to accommodate the system.

The above being said, the Commission always has the right to require structures, including septic systems, to be placed as far away from wetland resource areas as practicable in order to protect the Interests listed in the Bylaw. In this case, however, even if the Commission was to take the step of requiring the well and leach field to be transposed on the landscape, the leach field would be in closer proximity to the neighbor's wells than they are now. In that way, public health and safety is not as well protected as the current layout and is not practicable for the Commission to ask for that change.

Compliance with 310CMR 10.00

The best guidance for this kind of project exists in 310 CMR 10.03(3): "Presumption Concerning 310 CMR 15.000: Subsurface Disposal of Sanitary Sewage." This section states that you can't construct a system in a resource area, and makes statements on setbacks from resource areas. In this case, we will consider bank of the lake as the resource area.

Per 310 CMR 10.03(3), Title V compliant septic systems are presumed to protect the eight interests of the Wetlands Protection Act ('Act') *if* the soil absorption system (i.e. leaching field) is set back at least **50 ft.** horizontally from a the BVW boundary. This applies to *new* construction.

There is no required setback distance for a renovation or replacement (but not substantial enlargement) of a septic system constructed prior to the effective date of 310 CMR 10.00, provided no alternative location is available on the lot and such work has been approved by the local board of health or the Department, as required by law. According to the Sutton Tax Assessor website, the house was built circa 1930. It is my opinion that the proposed system is not a substantial enlargement of the existing.

Recommendations

1. Make revisions to the site plan based on the attached redlined plan markup, which focus on depiction of jurisdictional areas.

Sincerely,
Ecosystem Solutions, Inc.
Brandon B. Faneuf, M.S., Principal
PWS, RPSS, CPESC, CWB



Brandon B. Faneuf, Conservation Consultant
Sutton Conservation Commission

Application Type: Notice of Intent
Project Location: 27 West Sutton Rd. / Map 8, Parcel 31
Applicant: Bradley Pierce
Owner: Same
Representative: Raouf Mankaryous; Alpha Omega Engineering, Inc.
Inspection Date: 6/6/14
Memo Date: 6/21/14

Introduction

The location is 27 West Sutton Road. It is the site of a single family home, separate garage, and what I will refer to as a separate "cottage house" on the western banks of Lake Singletary and is 0.68 acres in size. The main house is near the road and the northern property (Property) line. The cottage house is located between the main house and Lake Singletary. The garage is located near the street south of the main house. There is a lawn around the main house and cottage house leading down to the lake. There is a paved parking area between the garage and the main house. Otherwise, the area around the garage consists mainly of a forested landscape. Grass appears to be mowed beneath the trees.

Wetland Resource Areas

1. Lake Singletary (a Great Pond) w/ 200' Riverfront District
2. Land Under Waterbodies (under Lake Singletary)
3. Bank of Lake Singletary (stone retaining wall, which is also the inner boundary of the 200' Riverfront District and 100' Adjacent Upland Resource Area associated with Lake Singletary).

Current Proposal

The project purpose a Title V septic system upgrade. According to the plan, a cesspool is in use in the lawn between the main house and cottage house. The plan is to abandon the cesspool and install a septic tank in the area of the cesspool. Water would then go through a pump which would move effluent diagonally through the lawn and uphill to an area behind (south of) the garage where the leach field will be. According to the plan, which depicts trees in the area in and around the leach field, none need to be felled. Based on my site visit, I'm not entirely convinced.

Compliance w/ Bylaw

The Bylaw does not specifically exempt new septic systems from the provisions of the Bylaw. The only outright exemptions or exceptions from the Bylaw include those associated with agriculture. Conditional exceptions are given for existing structures under Section 3.1. In this case, the septic system, including the leach

field are replacing a cesspool, which is technically not an 'antecedent of record' under Section 3.1.1 under the definition of "existing." As such, the Commission has the right to enforce the full weight of the performance standards for work. The above being said, it has been the *practice* of the Commission to give flexibility with the Bylaw's performance standards associated with Title V upgrades, including those associated with cesspool to septic system upgrades.

In this case, however, the leach field is proposed >100' from the banks of Lake Singletary. This distance complies with the Bylaw. The placement of the septic tank, pump, and pipe is proposed within existing lawn and takes advantage of existing plumbing.

The only question in regards to compliance with the Bylaw has to do with the felling of habitat features (i.e. trees) in the area of the leach field. **If trees are proposed to be felled in order to accommodate the system, or any other tree >5" in diameter within the 200' Riverfront District of Lake Singletary, they should be replaced with native trees and/or shrubs near the banks of the lake, as has been the practice of the Commission in situations like these.**

Compliance with 310CMR 10.00

The best guidance for this kind of project exists in 310 CMR 10.03(3): "Presumption Concerning 310 CMR 15.000: Subsurface Disposal of Sanitary Sewage." This section states that you can't construct a system in a resource area, and makes statements on setbacks from resource areas. In this case, we will consider bank of the lake as the resource area.

Per 310 CMR 10.03(3), Title V compliant septic systems are presumed to protect the eight interests of the Wetlands Protection Act ('Act') *if* the soil absorption system (i.e. leaching field) is set back at least **50 ft.** horizontally from a the BVW boundary. This applies to *new* construction. I would agree that this system consists of new construction because there is no existing leach field (i.e. this is a brand new system).

In this case, the new leach field is set back over 100' from the bank of the lake and is therefore in compliance with 310CMR 10.00.

Recommendations

1. Propose replacements in the form of trees and/or shrubs for any tree >5" to be felled within the 200' Riverfront District of Lake Singletary in an area as close to the bank of the lake as possible.

Sincerely,
Ecosystem Solutions, Inc.
Brandon B. Faneuf, M.S., Principal
PWS, RPSS, CPESC, CWB



Brandon B. Faneuf, Conservation Consultant
Sutton Conservation Commission

Application Type: Notice of Intent
Project Location: 5.5 Sunrise Drive / Map 14, Parcel 33
Applicant: Richard J. Patient
Owner: Same
Representative: Bruce Sinkus; Custom Designs
Inspection Date: 6/6/14
Memo Date: 6/21/14

Introduction

The location is 5.5 Sunrise Drive. It is the site of a single family home on Ramshorn Pond and is 0.53 acres in size. . There is a long driveway leading to the house, at which point the slope of the land drops quickly to the pond. The house has a raised deck, hot tub built in to an existing concrete patio against the house, grassed area leading down to a wooden retaining wall. Below the retaining wall is are two wooden patios (one against the wall and one partially over the water, grass area, dock, boat ramp, stairs leading into the water, and concrete retaining wall that makes up the bank of the pond. A wooden stairway leads along the southern property line that connects the house with the lower level next to the pond.

Wetland Resource Areas

1. Ramshorn Pond (a Great Pond) w/ 200' Riverfront District
2. Land Under Waterbodies (under Ramshorn Pond)
3. Bank of Ramshorn Pond (Mostly the concrete retaining wall, which is also the inner boundary of the 200' Riverfront District and 100' Adjacent Upland Resource Area associated with Ramshorn Pond. The water level comes up slightly higher at the boat ramp).

Current Proposal

The project purpose involves grading and landscaping between the house and Ramshorn Pond. At least two pine trees are proposed for removal- one 28" and one 30" white pine. The 28" pine is in the location of the proposed 18' X 18' patio next to the water, and the 30" pine is in the location of a proposed patio between the wood retaining wall and the house. The Applicant has proposed a stone infiltration system at the bottom of the hill against the existing wooden retaining wall to handle stormwater runoff.

Compliance with 310CMR 10.00

This is all Buffer Zone work at an existing single-family residence. Performance standards include the prevention of sediment from reaching the resource area. In this case, the Applicant has proposed straw wattles at the bottom of the hill.

Compliance w/ Bylaw

In situations where applicants propose clearing of vegetation or construction of structures near a lake, the Commission has set restrictions based on Section 7 of the Bylaw by:

- a. Taking the values and functions of the Resource Area *at that location* into consideration;
- b. Setting restrictions on construction based on (a) above, while at the same time;
- c. Taking mitigative measures taken by the Applicant into consideration with an emphasis on focusing mitigation on the area immediately adjacent to the water. This includes the planting of trees and shrubs at the water's edge as a buffer. The buffer of trees and/or shrubs provides shade over the water for aquatic life (aquatic life is a presumption of significance in the Bylaw), as a shoreline stabilizer via roots, which also absorb nutrients before reaching the water, and as general terrestrial and avian wildlife habitat along the shore.

The plan shows at least two pine trees (the 28" and 30" pines) as being removed in order to place proposed structures. Seven (7) boxwood hedges are proposed between the 18' X 18' patio and the water, five (5) inkberry holly along the north property line, and three (3) paper birch trees are proposed (1 on the north side, 2 on the south side). Although the 30" white pine provides some wildlife habitat and shading value for the lake, it is not as important a tree as the 28" white pine in the location of the proposed 18' X 18' patio. And even though three birches are proposed, their ability to provide the same kind of functions the 28" white pine performed is tenuous. **The placement of a birch tree closer to the water in order to provide direct and longer periods of shade over the water would show compliance with the Bylaw.**

Further, there are more trees, specifically along the north and south property lines that are present but not depicted. The property lines are so tight with other properties that it was difficult to ascertain if they were on-site or not. If not specifically depicted, assurance that these trees will not be harmed is required. If they are to be removed, they must be depicted on the site plan. These trees mostly include larger diameter pine trees. And if these additional trees are to be felled, rationale for their removal and adequate mitigation for their removal must be made.

Stormwater is also taken into consideration under the Bylaw. In this case, the applicant has proposed a stone infiltration 'strip' at the bottom of the existing wooden retaining wall where a wooden patio currently sits. The details of the infiltration system depict at least a 24" separation from the bottom of stone to groundwater, but there is no hard data to prove that this is actually the case. At high water, the water level in the pond is very close to the 636 elevation. Avoidance of new impervious surfaces (e.g. patios made with pervious pavers) would show compliance with the Bylaw. Alternatively, the mitigation of runoff from new impervious structures via infiltration practices shows compliance with the Bylaw.

Finally, all proposed plantings within wetland jurisdictional areas must be native, indigenous species. The proposed boxwood do not meet this description and therefore does not comply with the Bylaw.

Recommendations

1. Placement of one or two trees (birch or other) closer to the water to mitigate for the loss of shade from the existing 28" and 30" white pine, but mostly the 28" pine.
2. Either depict all trees along the north and south property lines between the house and the water, or give assurance that they will not be harmed as part of this project. If they are to be felled, rationale for their removal and mitigation for their loss is required. Again, mitigation should focus on the area immediately adjacent to the water.
3. Give actual groundwater elevations below the proposed stone at the infiltration trench in order to assure that it will function as planned. This can be estimated by observing the elevation of the mean high water mark of the water in the pond at the concrete retaining wall.
4. Give assurance that stormwater will not reach Ramshorn Pond unmitigated. An engineering analysis is *not* required, but a statement that mitigative measures (e.g. stone infiltration trench and/or pervious patios, etc.) are adequate to prevent stormwater from reaching the pond without treatment is required.
5. Consider the use of pervious pavers in the patio areas, or other pervious material, per comment 4 above.
6. Choose a different species of shrub for the hedge between the 18' X 18' patio and the water as it is not considered an indigenous species.
7. Use the attached red-lined plan markup to make further revisions.

Sincerely,
Ecosystem Solutions, Inc.
Brandon B. Faneuf
PWS, RPSS, CPESC, CWB
Principal



Brandon B. Faneuf, Conservation Consultant
Sutton Conservation Commission

Application Type: Request for Determination of Applicability
Project Location: 25 Oakhurst Road / Map 51, Parcel 69
Applicant: Sutton Solar, LLC
Owner: N/A
Representative: Andrews Survey & Engineering, Inc.
Inspection Date: 06/18/14
Memo Date: 06/20/14

The location of this application is 25 Oakhurst Road. According to the Town of Sutton GIS website, the land is owned by AJR Realty Trust. It is the site of a former gravel removal operation and was once a horse racing track. It is \pm 12.7 acres in size. The gravel removal ended in the late 90's. It has stood vacant since that time. It is associated with land immediately to the north in the Town of Northbridge and listed as Map 1, Parcel 97 there.

Wetland Resource Areas

NONE at this time. Steamburg Brook its BVW and 200' Riverfront Area extend into the

Current Proposal

To construct a 2.6 megawatt (DC) ground mounted solar electric generating facility.

Analysis

There are no wetland Resource Areas subject to protection under 310CMR 10.00 or the Sutton Wetlands and Riverfront District Administration Bylaw on-site. As such, this project is not subject to the purview of the Conservation Commission until such a time that a Resource Area subject to Protection is altered.

Recommendations

Per the requests of the Applicant, issue a Negative "4" and "6" Determination of Applicability. The Negative 4 box states:

"The work described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). Therefore, said request does not require the filing of a Notice of Intent, unless and until said work alters an Area subject to protection under the Act."

The Negative 6 box states:

"The area and/or work described in the Request is not subject to review and approval by the Town of Sutton pursuant to the Sutton Wetlands and Riverfront District Administration Bylaw."

Sincerely,
Ecosystem Solutions, Inc.
Brandon B. Faneuf
PWS, RPSS, CPESC, CWB
Principal



Brandon B. Faneuf, Conservation Consultant
Sutton Conservation Commission

Application Type: Notice of Intent
Project Location: 355 Boston Road / Map 23, Parcel 49
Applicant: James B. Brigham
Owner: Same
Representative: Andrews Survey & Engineering, Inc.
Inspection Date: 6/18/14
Memo Date: 6/20/14

Introduction

The location is 355 Boston Rd. It is the site of a single family home, bituminous driveway, well, septic system, and lawn areas around the house. The land slopes to the south starting at Boston Rd. toward an intermittent stream. The wetland and stream are part of a system that flows to Casey Brook.

Wetland Resource Areas

1. Bordering Vegetated Wetlands w/ 100' AURA / Buffer Zone (BZ)
2. Inland Bank w/ 100' AURA/BZ associated with an intermittent stream. At this location the stream flows in an WNW to ESE direction.
3. Potential Vernal Pool off-site but within 100' of the west property line.

Comments on Wetland Delineation

There was no on-site delineation associated with wetland Resource Areas. The site plan outlines "Centerline of Brook." The brook is depicted as starting at a stone box culvert $\pm 35'$ from the western property boundary. I spoke with Mr. Brigham during the site visit who gave me a thorough history of the land, and he told me that the stone culvert is part of a wider crossing that is associated with a 20' wide easement to property located to the south. The stream passes through the culvert from points north and west. The northern bank of the stream should be marked as such, and is roughly equal with the 96 el. line and the section of the 97 el. that runs parallel with the stream.

The stream and wetland system exist on Lot 89 to the west and make a northerly turn that likely extends the 100' AURA/BZ into the western portions of the Property. Although off-site wetlands cannot be delineated, the boundaries must be at least estimated and an approximate 100' AURA/BZ depicted on the plan associated with it.

There is an old irrigation/cow pond on Lot 89 near Boston Rd. that is marked by NHESP as a Potential Vernal Pool. The depression it sits in was visible from Boston Rd. and well defined. I measured $\pm 55'$ from the eastern bank to the stone wall that makes up the western Property boundary. That means that $\pm 45'$

of the AURA associated with the PVP extends onto the Property. The AURA associated with this feature should be depicted on the plan *separate from that associated with the BVW*.

There is wetland on the south side of the stream. In fact, if the more level ground near the stream wasn't actively maintained as lawn since the 1950's (per Mr. Brigham), it would also be classified as wetland. This includes areas within elevation 97 and portions of the lawn within elevation 98, which comes right up to the Limit of Disturbance. This doesn't have to be delineated but should be marked on the plan.

I have red-lined the plan commensurate with the comments above.

Current Proposal

The project purpose is to convert a cesspool to a Title V compliant septic system to replace an existing cesspool. The cesspool is behind the house. The proposed septic is also located behind the house.

Mr. Brigham showed me the location of the existing cesspool, and is marked on the plan as "Approx. Location of Existing Septic Tank," which, according to my conversation, is a cesspool because there isn't a leaching field associated with it.

The current layout seems to take the 100' well radius, gravity-feed, and existing plumbing into consideration. A small corner of the leaching field incurs into the 50' buffer from the bank of the stream.

Compliance w/ Bylaw

The Bylaw does not specifically exempt new septic systems from the provisions of the Bylaw. The only outright exemptions or exceptions from the Bylaw include those associated with agriculture. Conditional exceptions are given for existing structures under Section 3.1. In this case, the septic system, including the leach field are replacing a cesspool, which is technically not an 'antecedent of record' under Section 3.1.1 under the definition of "existing." As such, the Commission has the right to enforce the full weight of the performance standards for work. The above being said, it has been the *practice* of the Commission to give flexibility with the Bylaw's performance standards associated with Title V upgrades, including those associated with cesspool to septic system upgrades.

Compliance with 310CMR 10.00

The best guidance for this kind of project exists in 310 CMR 10.03(3): "Presumption Concerning 310 CMR 15.000: Subsurface Disposal of Sanitary Sewage." This section states that you can't construct a system in a resource area, and makes statements on setbacks from resource areas. In this case, we will consider bank of the intermittent stream as the resource area.

Per 310 CMR 10.03(3), Title V compliant septic systems are presumed to protect the eight interests of the Wetlands Protection Act ('Act') if the soil absorption system (i.e. leaching field) is set back at least **50 ft.** horizontally from a the BVW boundary. This applies to *new* construction. I would agree that this system consists of new construction because there is no existing leach field (i.e. this is a brand new system).

Recommendations

1. Although the Commission has the right to keep the leach field as much as 100' away from wetland resource areas, this is not practical due to constraints associated with setbacks to the well. In this case, the leach field is exactly 100' away from the well. The Commission *could* go as far as making the Applicant move the well, but I have yet to see this Commission put that kind of burden on an applicant (even though the burden is on the Applicant). It should not be counted out for future applications, but I don't see it as necessary here. However:
2. Have the Applicant explain why a variance could not be gained for placing the well within 100' of the well and therefore gain additional distance to the stream by placing the system closer to the house. The Applicant states that the current septic system was already approved by BOH. Applications under the Wetlands Protection Act and Bylaw must be made concurrently with other Boards and Commissions, per Section 4 of the Bylaw and stated below:

"Any such application must be filed concurrently with any application(s) for variances and approvals required by any other Town Board or Commission or their Regulations, or after such are issued, if the Commission so decides to waive this requirement."

By not filing concurrently, it potentially affects the Commission's ability to enforce the Bylaw. With that:

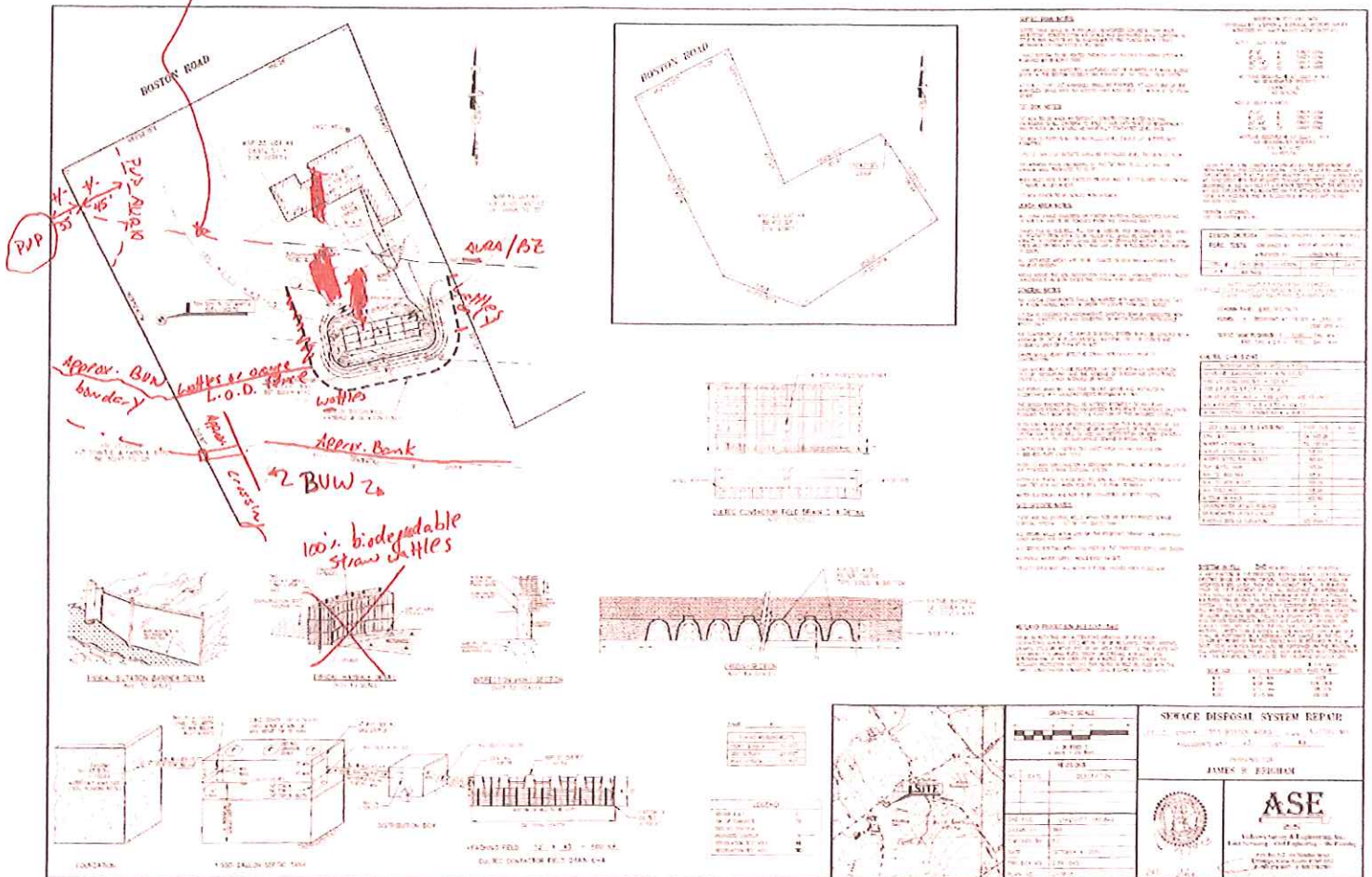
3. Have the Applicant explain why the leach field could not be moved into another area of the yard that is a) farther away from wetland resource areas and b) >100' from the well.

Sincerely,
Ecosystem Solutions, Inc.
Brandon B. Faneuf
PWS, RPSS, CPESC, CWB
Principal



Extend AURA/BZ
assoc. w/ BUW

* Make sure L.O.D. gets extended to property lines so there
are no open ends.



Date: 6-25-14

[illegible]