

SUTTON CONSERVATION COMMISSION

October 1, 2014

MINUTES

Approved: \_\_\_\_\_



Present: Daniel Moroney, Chairman, Joyce Smith, Co-Chair Lauren Rothermich, Robert Tefft, and William Wence  
Staff: Wanda M. Bien, Secretary  
Brandon Faneuf, Consultant

**Unexpected Business**

**7:00pm 171 Worcester Providence Turnpike/PV Crossing  
DEP#303-0604**

Present: Patrick Doherty, project manager  
Robert Tefft stepped down

P. Doherty gave an update so they could get started ASAP with a start date of October 7, 2014

B. Faneuf stated that this was just a minor field change and didn't see any need to amend the Order.

Motion: To accept the minor field changes with the replication area, subject to an inspection of the final grades and an as-built for the replication area, by J. Smith

2<sup>nd</sup>: W. Wence

Vote: 4-0-1 R. Tefft

**Public Hearing (Cont.)**

**15 W. Sutton Road**

**DEP303-0796**

The Public Hearing was opened at 7:10pm. D. Moroney read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of demolition of existing house and construction of a new single family house, driveway, septic system, grading and utilities.

Present: Paul Hutnak, Andrews Survey, Paul & Lynn Dahlin, owners

This has been continued, with the applicant's permission, to November 5, 2014 at 7:00pm

B. Faneuf summarized his site visit on the property.

Motion: To continue, with the applicant's permission, to November 5, 2014 at 7:00pm by J. Smith

2<sup>nd</sup>: L. Rothermich

Vote: 5-0-0

**Public Hearing (New)**

**612 Central Turnpike**

**DEP#303-0799**

The Public Hearing was opened at 7:15pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a three bedroom house, well, and septic system within the 100' of the buffer zone.

Present: Margaret Bacon, Mike Yerka, Civil Site Engineering, Gary & Judy Vaillancourt, owners  
Daniel Moroney stepped down

M. Bacon reviewed the revised plans from the previous meeting. They still need to determine if the stream is intermittent or perennial. She explained that the ANRAD confirmed the wetland line, and that they have the ZBA approval for the variance, but they have not received the information from National Heritage yet. They are asking for a continuance to the next meeting.

J. Smith read the comments from DEP.

B. Faneuf summarized his site visit from September 24, 2014 for this property.  
See Attachment #1 Ecosystem Solutions

R. Tefft questioned the roof runoff and had a driveway concern.  
M. Bacon replied both would be addressed.

Motion: To continue, with the applicant's permission, to October 15, 2014, at 8:00pm, by W. Wence  
2nd: L. Rothermich  
Vote: 4-0-1 D. Moroney

#### **BOARD BUSINESS**

The Board voted on the minutes of September 17, 2014

Motion: To accept the minutes of September 17, 2014, by J. Smith  
2nd: L. Rothermich  
Vote: 5-0-0

Unexpected Business for 171 Worcester Providence Turnpike/PV Crossing see 7:00pm

#### **Discussions:**

The Board reviewed the Bylaw so it can be sent to Town Council for the Town Warrant in October.  
They reviewed the Tracking Sheets for on-going projects going forward.

Motion: To accept the Bylaw with the changes made at this meeting, by J. Smith  
2nd: L. Rothermich  
Vote: 5-0-0

Correspondence was reviewed

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](http://www.suttonma.org).

Motion: To adjourn, by J. Smith  
2nd: L. Rothermich  
Vote: 5-0-0

Adjourned at 9:20pm.

**Brandon B. Faneuf, Conservation Consultant**  
**Sutton Conservation Commission**

**Application Type:** Notice of Intent  
**Project Location:** 612 Central Turnpike / Map 35, Parcel 94  
**Applicant:** Gary Vaillancourt  
**Owner:** Same  
**Representative:** Michael Yerka; Civil Site Engineering, LLC  
**Inspection Date:** 9/24/14  
**Memo Date:** 9/27/14

Introduction

The location is 612 Central Turnpike, which is an undeveloped parcel of land. There is a valid ORAD (DEP file no. 303-0756) for this site from 2012. At the time, the applicant made an attempt to take 4 days of pictures to overcome the presumption that a perennial river, as depicted on the most recent USGS topographic map, was actually intermittent. However, the river did not dry up and the ORAD continued the presumption that it was perennial. In this NOI, the applicant has taken 4 days of pictures showing the river as dry. I also observed the stream as being dry.

The property is located within Estimated Habitats of Rare Species per the most recent NHESP mapping (EH 436). As such, the applicant is required to apply with (or send a duplicate copy of the NOI to) NHESP. NHESP has 30 days to respond.

Being a single-family house, the stormwater standards found at 310CMR 10.05(6)(k) through (q) and the requirements of 310CMR 10.02(2)(b)2.f.,g., and h do not apply under the state regulations. They do, however, apply under the Bylaw to the extent the Commission agrees that stormwater attenuation is required in order to avoid Adverse Impact.

This lot is currently in common ownership with Mr. Vaillancourt at 616 Central Tnpk. An NOI for 616 Central Tnpk. was approved in 2012 as well.

Wetland Resource Areas

1. Bordering Vegetated Wetland (BVW) w/ 100' Buffer Zone (BZ) and Adjacent Upland Resource Area (AURA);
2. Bank of intermittent stream\* w/ 100' BZ & AURA

\*In order to complete the requirement to overcome the presumption that the perennial river depicted on the USGS map per 310CMR 10.58(2)(a)1.d., the applicant must make a statement that pictures were taken during a non-drought period on a stream not significantly affected by



drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other man-made flow reductions or diversions. The Commission normally requires this statement to be in writing.

#### *Comments on Wetland Delineation*

The wetland delineation is accurate as depicted on the site plan, as was approved in the ORAD in 2012. The OOC associated with this application, if approved, will extend the validity of the delineation into 2017.

- The line directly connecting flags CS7 and CS7 can be removed.
- If proven intermittent, the "200' from stream" line can be removed.
- Change "50 Buffer" and "100' Buffer" to "50' AURA" and "100' AURA."

#### Public Interests significant to Wetland Resource Areas under 310CMR 10.00 and the Bylaw

BVW & AURA:	Public and Private Water supply (both) Groundwater protection (both) Flood Control (both) Erosion & Sedimentation Control (Bylaw only) Storm Damage Prevention (both) Water Quality & Level Water Pollution Control (Bylaw only) Fisheries (both) Wildlife Habitat (both) Wild and Aquatic Life Habitats (Bylaw only) Recreation & Aesthetic Values (Bylaw only)
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#### Current Proposal

The primary project is to construct a new, single-family house with a septic system and well. The driveway will be paved. The leach field for the septic system is >100' from the BVW and completely outside of jurisdiction, if the river is deemed intermittent. Most of the house and the entirety of the driveway, along with associated grading, is within the 100' AURA. The well is proposed 107.9' away from the septic system a little more than 50' from the nearest wetland flag. A settling basin is proposed next to the well during construction.

Some of the construction, such as the septic system, will be in an area that was a gravel mining operation decades ago and exists in an early to mid-successional state. But portions of the house, driveway, the well, and associated clearing and grading will occur in areas that are well forested with mature trees including, but not limited to numerous 15"+ white oak, red oak, and white pine. The understory is varied and fairly open in the portions of the AURA not disturbed by the gravel mining operation, with species including, but not limited to witch hazel, various ferns and herbaceous cover.

#### Compliance with 310CMR 10.00

Provided the Commission agrees that the river is an intermittent stream, with the additional evidence required from the applicant as described above, this is all

buffer zone work. As such, with the proper installation and maintenance of erosion and sedimentation controls until the ground is stable, this project can be considered in compliance with 310CMR 10.00.

If the stream continues to be perennial, then the performance standards in 310CMR 10.58(4) shall apply. If so, at a minimum, a 100' undisturbed buffer between the mean annual high water (MAHW) mark of the river must be maintained. Further, the applicant will be limited to a disturbance of 5,000sf, or 10% of the total Riverfront Area on-site, whichever is *greater*, for disturbance between 100' and 200' from the MAHW line of the river.

#### Compliance w/ Bylaw

Per §7.2 of the Bylaw, the performance standard for work in and around resource areas is that "work and activity within 100 feet of wetlands is to be avoided and discouraged and all reasonable alternatives pursued." Further, the next paragraph adds: "Accordingly, the Conservation Commission shall begin with the presumption that lands within the adjacent upland resource area(s) of a wetland resource are best left in an undisturbed and natural state."

Wildlife habitat, at a minimum, will be affected by the project. The removal of vegetation, including numerous large diameter trees and their understory will occur. Without adequate mitigation, the Commission could find that Adverse Impact could occur as a result of the proposed project. The applicant has not provided stormwater attenuation for roof or driveway runoff. And the erosion control line is open at the street.

#### Recommendations

1. Do not close the public hearing until NHESP has performed their review;
2. Have the applicant provide a statement, in writing, that the four days of pictures were taken during a non-drought period on a stream not significantly affected by drawdown from withdrawals of water supply wells, direct withdrawals, impoundments, or other man-made flow reductions or diversions. Further, should an extended drought be declared by DCR during the period in which the pictures were taken, then they shall become moot and the Resource Area of Riverfront Area become present.
3. Perform a Bylaw §7.9 Alternatives Analysis to show that impacts are unavoidable and that impacts have been minimized and mitigated in order to avoid Adverse Impact and therefore denial. An accounting of the habitat present, including species, size, and location of trees >5" in diameter, seems appropriate here in order to assist the Commission in the quantification of impacts to wildlife habitat, at a minimum;
4. Provide a way to attenuate (i.e. infiltrate) stormwater coming from the house roof and driveway, at a minimum in order to avoid adverse impact to private and public water supply, groundwater protection, and flood control, at a minimum.

5. Add erosion/sediment controls along the property boundary at Central Tnpk and wherever needed along the road to prevent water and sediment from reaching it and running downhill to the stream.

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





## Conservation Sign in Sheet

Date: 10-1-14

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