


SUTTON CONSERVATION COMMISSION

November 5, 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

Public Hearing (Cont.)

15 W. Sutton Road

DEP#303-0796

The Public Hearing was opened at 7:00pm. D. Moroney waived the reading for 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.

Not Present: Paul Hutnak, Andrews Survey, Lynn Dahlin, owner

This has been continued, with the applicant's permission, to January 21, 2015 at 7:00pm.

Motion: To continue, with the applicant's permission, to January 21, 2015 at 7:00pm, by J. Smith
2nd: W. Wence
Vote: 5-0-0

Wetland Violation

7:00pm 125 Central Turnpike

Present: Seth Enos, new owner

S. Enos explained that he dug out the muck from a section of the pond to save the tad poles. He didn't know this was a Vernal Pool.

J. Smith explained the past history of the Enforcement Order on this site.

B. Faneuf summarized his site visit with Mr. Moroney that occurred just before the meeting. He showed the potential vernal pool, which is within 100' of the swamp area where the owner placed the excavated material. He explained that this is a violation because of unauthorized work of removing this material. He made the suggestion to have the owner restore the area, re-fill and re-grade using the removed materials. The work should be done during the summer months when this area is the driest and this work would be possible.

An Enforcement Order was issued for the records

Motion: To issue an Enforcement Order that would be released when the owner restores the dredged materials to the area and grades it. The work is to be done when it's the driest during the summer months of 2015. The area should be seeded and the ruts filled. by J. Smith
2nd: W. Wence
Vote: 5-0-0

Public Hearing (New)
612 Central Turnpike
DEP#303-0799

The Public Hearing was opened at 7:15pm. D. Moroney 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, Civil Site Eng., Gary & Judy Vaillancourt, owners
D. Moroney stepped down.

M. Bacon reviewed the re-revised plans with the newest information showing the trees to be removed, what would be replanted, and the determination of the Intermittent stream with the four days of pictures taken.

B. Faneuf summarized his site visit on the property using the video.
See Attachment #1 Ecosystem Solutions

The replanting plan as submitted was not sufficient. As time was an issue, it was suggested to temporarily table this so a more detailed planting plan could be worked out.

Motion: To table to a later time at in this meeting to re-configure the plan, by W. Wence
2nd: L. Rothermich
Vote: 4-0-0

The Public Hearing was re-opened at 8:55pm.

M. Bacon explained how they revised the planting plan with the numbers native species and their location as suggested from the discussion with the Commission. The information would be shown on new plans.

Motion: To close the Public Hearing, by W. Wence
2nd: L. Rothermich
Vote: 4-0-0

Motion: To issue an Order of Conditions with the revised PDF sent to Mr. Faneuf and a note on the plan with the four days pictures of non-drought period, overcoming the presumption of the perennial, by W. Wence
2nd: L. Rothermich
Vote: 4-0-0

Public Hearing (New)
25 Grace Ave
No DEP# RDA filed

The Public Hearing was opened at 7:50 pm. D. Moroney read the hearing notice as it appeared in the Millbury Sutton Chronicle, however the wrong owner was listed, and this would be re-advertised, as the present owner would not be available until spring of 2015.

The project consists of removal of dangerous trees close to residence.

No one Present:

Motion: To continue, with the applicant's permission, to April 15, 2014 at 7:00pm, by J. Smith
2nd: L. Rothermich
Vote: 5-0-0

Public Hearing (New)
10 Old Common Road
DEP#303-0801

The Public Hearing was opened at 7:53pm. D. Moroney read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a single family house, septic system, well, and associated site work.

Present: Paul Hutnak, Andrews Survey, for Judith Briggs, owner

P. Hutnak reviewed the proposed house plans, showing the septic system that is outside of the buffer zone and the grades of the driveway. Paul Hutnak was asked if this lot meets the 60/40 requirements and he was going to check on that. They would re-plant trees.

B. Faneuf summarized his site visit on the property.

Motion: To continue, with the applicant's permission, to November 19, 2014 at 7:15pm, by J. Smith
2nd: L. Rothermich
Vote: 5-0-0

Public Hearing (New)
197 Central Turnpike
DEP#303-0800

The Public Hearing was opened at 8:20pm. D. Moroney read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of

Present: Paul Hutnak, Andrews Survey, James & Amy Levins, owners

Paul Hutnak explained the proposed work to be done and the location.

B. Faneuf summarized his site visit on the property. Explained he spoke to a past Commissioner about this property and that there was gravel stored there in the 1970's for Route 146. That explains the excavation area. However the area has been altered over time, so the owner needs to get the wetlands delineated, and to find out how much of the BVW was filled in. He sees no issues with the placement of the garage as it is an already disturbed area.

Motion: To continue, with the applicant's permission, to November 19, 2014 at 7:20pm, by J. Smith
2nd: L. Rothermich
Vote: 5-0-0

Public Hearing (New)
8 Medbury Road
No DEP# RDA filed

The Public Hearing was opened at 8:40pm. D. Moroney read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of an addition to an existing house, new septic system, and repair of the driveway in the existing 50' buffer zone.

Present: Tom Murphy, Murphy Custom Homes, Wendy Mead, owner

T. Murphy explained the proposed project and showed the locations on the plans for the septic and driveway.

B. Faneuf summarized his site visit on the property.

Motion: To continue, with the applicant's permission, to November 19, 2014 at 7:30pm, by J. Smith
2nd: W. Wence
Vote: 5-0-0

BOARD BUSINESS

Project Update:
129 Hartness Road, Ronald Whitney

Motion: To lift the Enforcement Order and refund his balance, by J. Smith
2nd: W. Wence
Vote: 5-0-0

The Board reviewed the minutes of October 1, 2014.

Motion: To accept the minutes of October 1, 2014, by J. Smith
2nd: L. Rothermich
Vote: 5-0-0

As-Built Site Visit would be done for the next meeting on: **420 Putnam Hill Road** – addition, **25 W. Sutton Road** – Septic, **21 Marsh Road**- boathouse.

Site visit was done for **132 Eight Lots Road** - septic

Motion: To issue a partial Certificate of Compliance, by J. Smith
2nd: W. Wence
Vote: 5-0-0

Discussions:

26 Providence Road/Auto Magic – Mr. Faneuf received a call from Phil Nadeau, DEP saying that he got another complaint that Auto Magic was working in the wetlands again. Mr. Faneuf did a site visit with the owner and explained what he needed to do to be in compliance with the Order that he received in the past. A letter was sent on 10-16-14 with instructions from Mr. Faneuf's site visit.

114 Manchaug Road/Old Holbrook Campground-Linda Nelson- this project can go forward.

83 Griggs Road/Michael & Maggie Meagher, owners – D. Moroney did the site visit and Mr. Faneuf explained this was a minor field change, requiring a letter from the engineer to make the change.

26 Mallard Way/Alan Murray – Mr. Faneuf did a pre-construction meeting with Tracy Sharkey, GBI and Paul Hutnak, however the day to day working person needed to be at this meeting also.

Enforcement Orders were sent out to:

297 Manchaug Road

Motion: To issue an Enforcement Order to the current owner at 297 Manchaug Road on the replication area disturbance, by J. Smith
2nd: L. Rothermich
Vote: 5-0-0

277 Central Turnpike

Motion: To issue an Enforcement Order to the current owner at 277 Central Turnpike, by L. Rothermich
2nd: W. Wence
Vote: 5-0-0

78 Torrey Road – Mr. Faneuf reviewed the email he received from the owner, and showed the Board the straw wattles that Mrs. Kroll was making.

The Tracking sheets and the Correspondence were 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.

Motion: To adjourn, by J. Smith
2nd: W. Wence
Vote: 5-0-0

Adjourned at 9:40pm.

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)

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: 11-5-14

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