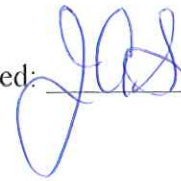


SUTTON CONSERVATION COMMISSION

January 7, 2015

MINUTES

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



Present: Joyce Smith, Co-Chair, Lauren Rothermich, and William Wence

Unavailable: Daniel Moroney, Chairman, and Robert Tefft

Staff: Wanda M. Bien, Secretary

Brandon Faneuf, Consultant

**Public Hearing (New)**

**7:00pm**

**Lot# 1 192 (AKA 208) Manchaug Road**

**NoDEP# Local#SCC01-00-2015?**

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

The project consists of a single-family house and driveway, with associated grading, septic system components, well and utilities.

Present: Lance Anderson, Heritage Design Group, Porter and Mrs. Stephens, owners, and Attorney Edward Taipale

L. Anderson showed the plans with the location of the house and septic. and what the owners want to do on the waterfront property.

J. Smith asked if they knew about the stream on the north side of the property. She also said that if they want access to a beach and a dock, to put that on the plans now so they won't have to come back with another filing. The commission members will so individual site visits to see where the house is staked out.

L. Anderson said that Eco Tec did the delineation and found the water was and overland drainage flow, not a stream.

B. Faneuf summarized his site visit on the property. The water looks like a drainage flow but is actually a stream. He explained the stream flow from the uplands and into the drainage ditch, and how it becomes a stream once it crosses Manchaug Road. The house as located on the proposed plan, is within 100' of the stream and would require a NOI. If they want access to the water for a path no more than six feet wide, and a dock they will have to file something with Conservation.

See Attachment #1 Ecosystem Solutions

Abutter:

Sally Roberts, 184 Manchaug Road, is concerned about the waterfront and asked if they would be dredging to provide access for their boat to be docked.

P. Stephens replied that they have a pontoon boat which sits higher in the water, so they would do no dredging for the boat.

Motion: To continue, with the applicant's permission, to January 21, 2015 at 7:30pm, by W. Wence

2nd: L. Rothermich

Vote: 3-0-0

**Public Hearing (New)**

**7:15pm**

**13 W. Sutton Road**

**DEP#303-0803**

The Public Hearing was opened at 7:45pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of upgrade existing septic system with associated site work.

Present: Tracy Sharkey, GBI, for Mark Briggs, owner

T. Sharkey reviewed the work to be done on the property, showing the access through the neighbor's yard, as a temporary access to install the tight tank. She said that they had the Board of Health approval for the tight tank installation location.

J. Smith that asked about getting a copy of the written agreement with the neighbor.

B. Faneuf summarized his site visit on the property and said that everything appears to be ready for approval by the Commission.

Motion: To close the Public Hearing, by W. Wence

2nd: L. Rothermich

Vote: 3-0-0

Motion: To issue an Order of Conditions with a current plan with revised date in ink, to include the correct abutter's name, and written permission of a temporary easement agreement for access, by W. Wence

2nd: L. Rothermich

Vote: 3-0-0

**Public Hearing (New)**

**7:30pm**

**282 Manchaug Road**

**DEP#303-0804**

The Public Hearing was opened at 7:55pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of upgrade existing septic system with associated site work.

Present: Tracy Sharkey, GBI, for Michael Couture, owner

T. Sharkey explained the upgrade to the septic system and the access which would be from the side of the house.

J. Smith said new plans were needed with the revised stamped dates on the plan. The Board would also like to see the septic system moved as far away from the water as possible. She suggested doing a site visit because looking at the plans is totally different than seeing the site.

B. Faneuf summarized his site visit on the property.

Motion: To continue, with the applicant's permission, to January 21, 2015 at 7:45pm, by W. Wence  
2nd: L. Rothermich  
Vote: 3-0-0

**Public Hearing (Cont.)**

**654 Central Turnpike**

**DEP#303-0802**

The Public Hearing was opened at 8:14pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of replace an existing sewage disposal system.

Not Present: Mike Yeaka, Civil Site Engineering, for Robert DeBoer, owner

This was continued, with the applicant's permission, to January 21, 2015 at 7:15pm.

Motion: To continue, with the applicant's permission, to January 21, 2015 at 7:15pm,  
by L. Rothermich  
2nd: W. Wence  
Vote: 3-0-0

**Public Hearing (Cont.)**

**197 Central Turnpike**

**DEP#303-0800**

The Public Hearing was opened at 8:15pm. J. Smith read the hearing notice as it appeared in the Millbury Sutton Chronicle.

The project consists of construction of a barn/garage on a slab with associated site work and existing lawn.

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

Due to W. Wence stepping down, there was no quorum. This was continued to January 21, 2015 at 8:00pm, without discussion.

Motion: To continue, with the applicant's permission, to January 21, 2015 at 8:00pm,  
by Lauren Rothermich  
2nd: J. Smith  
Vote: 2-0-0 W. Wence stepped down

**Project Updates**

**8:30pm**

**280 W. Sutton Road/Dam #2**

**DEP#303-0782**

Present: Dan Buttrick, Tighe & Bond

D. Buttrick updated the newest members as to what went on in the past and the Order of Conditions that was issued in June of 2014. He explained that the Office of Dam Safety decided that additional trees that must now be taken down for a safety issue. They are too close to the banks of the dam. He then explained the concern with the deep erosion gulley in the stream area.



Motion: To approve the minor field changes of cutting additional trees, adding three bar-ways and replacing the pasture seed mix with a wetland seed mix, by W. Wence  
2<sup>nd</sup>: L. Rothermich  
Vote: 3-0-0

## **BOARD BUSINESS**

### **Project Updates**

**219 Manchaug Road** – B. Faneuf gave an update, stating that the basin isn't draining right. He reviewed the pictures he took.

**114 Manchaug Road** – B. Faneuf said that this project has been completed and needs a Certificate.

**277 Central Turnpike** – Revised updated plan/pond area have been received and the Commission voted to withdraw the Enforcement Order.

The Board approved the minutes December 3, 2014, but tabled the minutes for December 17, 2014 until the next meeting.

Motion: To approve the minutes December 3, 2014, by W. Wence  
2<sup>nd</sup>: L. Rothermich  
Vote: 3-0-0

**8:40pm** Forestry Plan review for **111 Hartness Road** has a wetland concern with a potential vernal pool. A note will be sent to the forester with this concern.

### **Discussions:**

The **Special Conditions** proposal wording changes were postponed..

**Leland Hill Estates** – B. Faneuf gave and update on some of completed areas. Completed areas that are stabilized can have the silt fences taken down. He will notify Mr. Burns.

This information was tabled to the February meeting when Mr. Moroney returns.

### **Bylaw Review & Create a Wetlands Pamphlet**

**7 Point Way** – It was noted that Mr. Windle still needs to file an NOI with an inked Concom plan, and attached fees for the removal of the rock/s in the lake.

The Correspondence and Board of Health information 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 W. Wence  
2<sup>nd</sup>: L. Rothermich  
Vote: 3-0-0

Adjourned at 9:35pm.

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

**Application Type:** Notice of Intent  
**Project Location:** 192 Manchaug Road/ Map 48, Parcel 83\*  
**Applicant:** Porter Stephens  
**Owner:** YMCA of Central Massachusetts  
**Representative:** Heritage Design Group  
**Inspection Date:** 12/23/14  
**Memo Date:** 01/02/15

\*Applicant presented the address as "Lot 1, 208 Manchaug Rd" on WPA Form 3. I have found out from the Sutton Assessor's office that the designated address is 192 Manchaug Rd., being Map 48, Parcel 83.

Introduction

The location is 192 Manchaug Rd (see above)., which is a recently subdivided "Form A" parcel that is currently owned by the YMCA of Central Mass. as part of Camp Blanchard. Two lots were recently cut out from Camp Blanchard: 192 & 198 Manchaug Rd. The subject parcel abuts 188 Manchaug Rd., which has an active Order of Conditions on file for Andrew Mosher (DEP File no. 303-0724) and is of interest due to the existing determination on the waterway that leads from Manchaug Rd. to Manchaug Pond.

The subject parcel is 100% forested with mature trees and understory, with Manchaug Road being on the east side of the parcel, Manchaug Pond being on the west side of the parcel, 188 Manchaug Rd. to the north, and 198 Manchaug Rd. (also undeveloped) on the south side of the parcel.

Wetland Resource Areas

1. Inland Bank of Manchaug Pond, a Great Pond of the Commonwealth w/ 100' Buffer Zone (under the WPA) and 200' Riverfront District under the Sutton Wetlands and Riverfront District Administration Bylaw ("Sutton Bylaw").
2. Inland Bank of an intermittent stream in the northern portion of the parcel w/ 100' Buffer Zone (under the WPA) and 100' Adjacent Upland Resource Area (AURA) (under the Sutton Bylaw).
3. Land Under Waterways and Waterbodies (of Manchaug Pond) under the WPA and Sutton Bylaw.
4. Bordering Land Subject to Flooding (BLSF). No base flood elevation is given on the Flood Insurance Rate Map, but the Commission has used, unofficially for regulatory purposes, el. 526.75' as the BLSF elevation for Manchaug Pond per precedents set in DEP file no. 303-0668.

*Comments on Wetland Delineation:*

A and B-Series flags: no comments. The delineation is accurate.

The intermittent stream in the northern portion of the property should be delineated and depicted on the plan as an intermittent stream and not an "upland drainage channel." It was determined in DEP file no. 303-0724 for 188 Manchaug Rd. that this channel is an intermittent stream and not a drainageway. The OOC for 303-0724 is still valid per the Permit Extension Act. As way of explanation, the stream appears to form from discharge from a drainage ditch on the east side of Manchaug Rd. Although that is true, it is not the entire story. Upgradient of the subject parcel, an intermittent stream flows out of the woods of Map 48, Parcel 57, and into the drainage ditch. Downgradient of the point at which the intermittent stream on Map 48, Parcel 57 enters the drainage ditch, the ditch becomes an intermittent stream. That includes the portion on the subject parcel. This was also point of discussion for the NOI at 219 Manchaug Rd. (DEP file no. 303-0772) because the same drainage ditch goes by that property. The portion of the ditch that went by 219 Manchaug Rd., however, was determined to be a non-jurisdictional (not an intermittent stream) because it occurs upgradient of the intermittent stream that comes off Map 48, Parcel 57.

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

Bank of Manchaug Pond & Intermittent Stream	:	Public and Private Water supply (both) Groundwater Supply (both) Flood Control (both) Storm Damage Prevention (both) Prevention of Pollution (both) Fisheries Habitat (both) Wildlife Habitat (both) Erosion & Sedimentation Control (Bylaw only) Water Quality & Level Water Pollution Control (Bylaw only) Wild and Aquatic Life Habitats (Bylaw only) Recreation& Aesthetic Values (Bylaw only)
BLSF		Flood Control (both) Storm Damage Prevention (both) Public and Private Water supply (Bylaw only) Groundwater supply (Bylaw only) Prevention of Pollution (Bylaw only) Erosion & Sedimentation Control (Bylaw only) Water Quality & Level Water Pollution Control (Bylaw only) Fisheries Habitat (Bylaw only) Wildlife Habitat (Bylaw only) Wild and Aquatic Life Habitats (Bylaw only) Recreation& Aesthetic Values (Bylaw only)



Riverfront District of Manchaug Pond	Flood Control (Bylaw only) Storm Damage Prevention (Bylaw only) Public and Private Water supply (Bylaw only) Groundwater supply (Bylaw only) Prevention of Pollution (Bylaw only) Erosion & Sedimentation Control (Bylaw only) Water Quality & Level Water Pollution Control (Bylaw only) Fisheries Habitat (Bylaw only) Wildlife Habitat (Bylaw only) Wild and Aquatic Life Habitats (Bylaw only) Recreation & Aesthetic Values (Bylaw only)
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#### Current Proposal

The primary project purpose is to construct a single-family house, paved driveway, with associated grading, septic system, well and utilities. A garage is proposed as being attached to the house. A deck is proposed on the "pond side" of the house. Although not specifically depicted, the area within the "ECB" is presumed to be converted to lawn, permanently. The lawn associated with the house stops just short of 100' from Manchaug Pond.

#### Compliance with 310CMR 10.00

The entire project is located greater than 100' from Manchaug Pond. The applicant has proposed this application as non-jurisdictional under MGL c.131, §40 due to this fact. However, the determination of the waterway in the northern portion of the site as an intermittent stream under 303-0724 necessitates that the application be filed with the MADEP under MGL c.131, §40 due to activities and alterations proposed within 100' of the stream, as well as under the Sutton Bylaw.

The above being said, the current proposal would comply with MGL c.131, §40 and its Regulations at 310CMR 10.00 because all work is Buffer Zone work, and erosion control barriers are proposed at the (*presumed\**) Limit of Work.

\*See recommendations on depiction of the Limit of Work in the Recommendations section below.

#### Compliance w/ Bylaw

Section 7 of the Bylaw is the main, guiding section of the Bylaw for placement of projects and activities in jurisdictional areas under the Bylaw. In this case, the Adjacent Upland Resource Area of the intermittent stream and Riverfront District of Manchaug Pond apply. Section 7.2 of the Bylaw states that:

"...the Conservation Commission shall begin with the presumption that lands within the adjacent upland resource area(s) of a wetlands resource are best left in an undisturbed state."

As clarification, the Riverfront District is included in the standards for work in Adjacent Upland Resource Areas in Section 7.7 of the Bylaw.

Section 7.2.6 clarifies that:

"The applicant shall carry the burden of proof for demonstrating to the Conservation Commission's satisfaction that the proposed work or activities in the adjacent upland resource area(s) are *necessary* [emphasis added] and that reasonable alternatives, including reducing the scale and scope of the project, do not exist using best management practices and scientific techniques."

The above being said, the Commission has, under Section 7.2, the discretion (not obligation) to entertain proposals for "temporary, limited, or permanent disturbance" within jurisdictional areas:

"...as it deems appropriate, when the applicant can demonstrate to the Commission's satisfaction that the proposed work or activity will not affect wetland values, singularly or cumulatively, and that reasonable alternatives to the proposed work or activity do not exist."

Further, Section 7.9 of the Bylaw specifically states that:

"...proposed projects and associated disturbances should be located outside of any resource area(s) that falls under the Jurisdiction, Rules and Regulations, of this Bylaw, including all adjacent upland resource area(s). Practical alternatives to located the project outside these areas must be investigated and should one or more prove feasible the plan must be amended to relocate or redesign such activities accordingly."

"If, in the Commission's view, there are no practical alternatives, project impact(s) must be minimized and mitigated so there are no adverse impacts to resource area(s). If the Commission determines that the project will have significant adverse impact(s) o the resource area(s) then the project should be denied."

The Applicant provided an alternatives analysis with three (3) alternatives. The first was house and site work within 100' of Manchaug Pond. The second is the proposed project, which keeps site work >100' from Manchaug Pond but places the majority of the house, well, septic tank, grading, and yard in the Riverfront District (the leach field is located outside of the Riverfront District, and *most of the driveway* is located outside of the Riverfront District). The third alternative was to place all components of the project outside of the Riverfront District near Manchaug Rd. None of these alternatives took into consideration the AURA associated with the Intermittent Stream.

My opinion, based on the Sutton Bylaw, is that the applicant has an obligation to prove to the Commission why the preferred alternative, as currently proposed, is



*necessary*, has adequately avoided and minimized impacts to the AURA and Riverfront District, and will not cause adverse impacts to the AURA and Riverfront District.

It appears to me that there is room to move the house and other project components further away from Resource Areas. That being said, even if some configuration of the project is found to be practical within the AURA or Riverfront District by the Commission, the applicant still has the obligation to mitigate for permanent and/or temporary impacts to the AURA and/or Riverfront District. In this case, it would be mitigation to mature forest. As currently proposed, there is no mitigation proposed. In order to receive an Order of Conditions, the Commission must find that the mitigation offered equals or outweighs the impacts proposed.

My professional opinion of the parcel as a Professional Wetland Scientist and Certified Wildlife Biologist is that the land provides above average functions and values toward the protection of the Public Interests. Based on my own auguring, there appears to be a seasonal high water table throughout the site. There appears to have been no prior development with no fill on-site, there is little to no invasive species intrusion, there is good variety in vegetational species and canopy cover (i.e. there is ample herbaceous, shrub, and tree canopy layering), there is good tree/shrub cover over the bank of Manchaug Pond and the intermittent stream. Mountain laurel is present on-site, adding an evergreen component in the understory, which is not present on most sites in Sutton that I have experience with. The land slopes toward the intermittent stream and Manchaug Pond, and the trees and soil filter and slow runoff on its way to the Pond.

### Recommendations

1. The portion of the drainage ditch on the east side of Manchaug Rd. should be depicted, labeled as intermittent stream, and given a 100' BZ and AURA. Show it all the way down to Manchaug Pond.
2. The applicant should present a more detailed explanation why the proposed alternative is the most practical alternative in regards to Section 7 of the Bylaw. The applicant should take into consideration and provide a more detailed narrative, taking Sections 7.2.1 through 7.2.6 into consideration, but starting as to why the current configuration is necessary and adequately avoids and/or minimizes impacts to Resource Areas.
3. Regardless of the above, a Limit of Work line should be depicted around the project area that completely encloses work, with no open ends. It may double with the erosion control barrier, as applicable.
4. Show a detail for roof drains and show how runoff from the paved driveway will be infiltrated into the ground and prevented from running off into the lawn/woods.

5. Label what areas will be maintained as lawn.
6. Anticipating that the topic will arise, I will address view corridors to the pond. The best guidance I have come across for view corridors comes from the Rhode Island Coastal Resources Management Council (CRMC). Under their guidance, view corridors may be allowed within a defined corridor. On residential lots of 2 acres or less, only one view corridor is typically considered acceptable. View corridors may not affect more than **25% of the length** of the bank of the waterbody and **no more than 25% of the total area of the** buffer zone, or in this case, the Riverfront District. Clearcutting is not allowed: coppicing of trees to a certain height necessary to allow the view is allowed and no lower. However, the applicant is allowed to have a 6' wide path of either grass or gravel/stone (no landscaping on either side such as cobblestone borders) and a 200 square foot "recreational area" at the edge of the waterbody where they are allowed to have enough lawn for a picnic area. Cutting down the bank and adding sand for a beach area, and/or placement of docks are not mentioned. I personally would agree with this type of allowance as a policy and/or regulation, which should be further discussed by the Commission.

### Conclusion

In the end, it is up to the Commission to determine what is reasonable and practical for disturbance in jurisdictional areas, and there should be a debate between the Commission members on that topic. However, the Bylaw first requires impact avoidance if possible. Regardless, if work is proposed in jurisdictional areas, the applicant has the burden to show why it was impractical to build farther away from jurisdictional areas, why the project and its components are necessary and impacts have been minimized, in the proposed location. And perhaps most important of all: what mitigation may be offered to offset permanent impacts to jurisdictional areas.

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





## Conservation Sign in Sheet

Date: 1-7-15

[illegible]