



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 11-SEP-2020

ORM Number: LRB-2005-00375 Barone Homes, Inc

Associated JDs: PJD for Wetlands I, J, and C on the site

Review Area Location¹: Adjacent to 6046 Southbrook Drive

State/Territory: NY City: Ontario County: Wayne County

Center Coordinates of Review Area: Latitude 43.217564 Longitude -77.355841

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list **MUST** be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are "navigable waters of the United States" within Rivers and Harbors Act jurisdiction within the review area (complete table in section II.B).
- There are "waters of the United States" within Clean Water Act jurisdiction within the review area (complete appropriate tables in section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A	N/A	N/A

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A	N/A	N/A	N/A

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A	N/A	N/A	N/A

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A	N/A	N/A	N/A

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A

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² If the navigable water is not subject to the ebb and flow of the tide and included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

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⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.429 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Wetland A is a PFO wetland that is 0.429 acres in size and located near the middle of the parcel. During the October 2018 site visit, the boundary was walked and no drainageways or streams were located within the vicinity of the wetland. The wetland is surrounded by farmland, woods and residential subdivision. All resources reviewed and the site visit confirms Wetland A is an excluded water. The nearest A(2) waters, Fourmile and Mill Creeks, are approximately ~2505-4,462 linear feet to the East and West of the delineated parcel. Wetland A is outside any visible floodplain based on topography and visual observations. Observations during the site visit and an in-house review of resources support the determination that Wetland A does not abut an (a)(1) through (a)(3) water. Also, the distance of Wetland A to Fourmile and Mill Creeks, A(2) waters, indicates the wetland would not be inundated by flooding by an (a)(1) through a(3) water. Finally, wetland A is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure or feature.
Wetland B	0.798 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Wetland B is a PFO wetland that is 0.798 acres in size and located near the middle of the parcel. During the October 2018 site visit, the boundary was walked and no drainageways or streams were located within the vicinity of the wetland. The wetland is surrounded by farmland, woods and residential subdivision. All resources reviewed and the site visit confirms Wetland B is an excluded water. The nearest A(2) waters, Fourmile and Mill Creeks, are approximately ~2705-4,262 linear feet to the East and West of the delineated parcel. Wetland B is outside any visible floodplain based on topography and visual observations. Observations during the site visit and an in-house review of resources support the determination that Wetland B does not abut an (a)(1) through (a)(3) water. Also, the distance of Wetland B to Fourmile and Mill Creeks, A(2) waters, indicates the wetland would not be inundated by flooding by an (a)(1) through a(3) water. Finally, wetland B is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure or feature.
Wetland D	0.067 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-	Wetland D is a PFO wetland that is 0.067 acres in size and located near the middle of the parcel. During the October 2018 site visit, the boundary was walked and

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		categories	no drainageways or streams were located within the vicinity of the wetland. The wetland is surrounded by farmland, woods and residential subdivision. All resources reviewed and the site visit confirms Wetland D is an excluded water. The nearest A(2) waters, Fourmile and Mill Creeks, are approximately ~2750-4,465 linear feet to the East and West of the delineated parcel. Wetland D is outside any visible floodplain based on topography and visual observations. Observations during the site visit and an in-house review of resources support the determination that Wetland D does not abut an (a)(1) through (a)(3) water. Also, the distance of Wetland D to Fourmile and Mill Creeks, A(2) waters, indicates the wetland would not be inundated by flooding by an (a)(1) through a(3) water. Finally, wetland D is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure or feature.
Wetland E	0.462 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Wetland E is a PFO wetland that is 0.462 acres in size and located near the middle of the parcel. During the October 2018 site visit, the boundary was walked and no drainageways or streams were located within the vicinity of the wetland. The wetland is surrounded by farmland, woods and residential subdivision. All resources reviewed and the site visit confirms Wetland E is an excluded water. The nearest A(2) waters, Fourmile and Mill Creeks, are approximately ~2300-4,650 linear feet to the East and West of the delineated parcel. Wetland E is outside any visible floodplain based on topography and visual observations. Observations during the site visit and an in-house review of resources support the determination that Wetland E does not abut an (a)(1) through (a)(3) water. Also, the distance of Wetland E to Fourmile and Mill Creeks, A(2) waters, indicates the wetland would not be inundated by flooding by an (a)(1) through a(3) water. Finally, wetland E is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure or feature.
Wetland F	0.641 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Wetland F is a PFO wetland that is 0.641 acres in size and located near the middle of the parcel. During the October 2018 site visit, the boundary was walked and no drainageways or streams were located within the vicinity of the wetland. The wetland is surrounded by farmland, woods and residential subdivision. All resources reviewed and the site visit confirms Wetland F is an excluded water. The nearest A(2) waters, Fourmile and Mill Creeks, are approximately ~2200-4,850 linear feet to the East and West of the delineated parcel. Wetland F is outside any visible floodplain based on topography and visual observations.

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			Observations during the site visit and an in-house review of resources support the determination that Wetland F does not abut an (a)(1) through (a)(3) water. Also, the distance of Wetland F to Fourmile and Mill Creeks, A(2) waters, indicates the wetland would not be inundated by flooding by an (a)(1) through a(3) water. Finally, wetland F is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure or feature.
Wetland G	0.647 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Wetland G is a PFO wetland that is 0.647 acres in size and located near the middle of the parcel. During the October 2018 site visit, the boundary was walked and no drainageways or streams were located within the vicinity of the wetland. The wetland is surrounded by farmland, woods and residential subdivision. All resources reviewed and the site visit confirms Wetland G is an excluded water. The nearest A(2) waters, Fourmile and Mill Creeks, are approximately ~2200-4,800 linear feet to the East and West of the delineated parcel. Wetland G is outside any visible floodplain based on topography and visual observations. Observations during the site visit and an in-house review of resources support the determination that Wetland G does not abut an (a)(1) through (a)(3) water. Also, the distance of Wetland G to Fourmile and Mill Creeks, A(2) waters, indicates the wetland would not be inundated by flooding by an (a)(1) through a(3) water. Finally, wetland G is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure or feature.
Wetland K	0.144 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	Wetland K is a PFO wetland that is 0.144 acres in size and located near the middle of the parcel. During the October 2018 site visit, the boundary was walked and no drainageways or streams were located within the vicinity of the wetland. The wetland is surrounded by farmland, woods and residential subdivision. All resources reviewed and the site visit confirms Wetland K is an excluded water. The nearest A(2) waters, Fourmile and Mill Creeks, are approximately ~2505-4,462 linear feet to the East and West of the delineated parcel. Wetland K is outside any visible floodplain based on topography and visual observations. Observations during the site visit and an in-house review of resources support the determination that Wetland K does not abut an (a)(1) through (a)(3) water. Also, the distance of Wetland K to Fourmile and Mill Creeks, A(2) waters, indicates the wetland would not be inundated by flooding by an (a)(1) through a(3) water. Finally, wetland K is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial

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			structure or feature.
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III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: Wetland delineation conducted by Environmental Resources, LLC, was submitted on June 11, 2018 with accurate, completed data sheets, photographs, NWI map, web soil survey with hydric soil ratings and other supporting information.
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *(NA, aerial, other, aerial and other) Title(s) and/or date(s)*.
- Corps Site visit(s) conducted on: October 2018
- Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: NRCS/USDA Web Soil Survey – Reviewed September 10, 2020
- USFWS NWI maps: USFWS Wetland Mapper – Reviewed September 10, 2020
- USGS topographic maps: USGS Ontario Quad – Reviewed September 10, 2020

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	NYSDEC Environmental Resource Mapper – Reviewed September 10, 2020; a portion of regulated State wetland ON-8 is in the Southern portion of the delineated parcel.
Other Sources	N/A.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD:

The site visit confirmed the conditions and wetland boundaries described in the delineation report and support documents/maps. The delineated parcel is an undeveloped parcel that is surrounded by farms and residential development. During the October 2018 site visit, the wetland boundaries were walked and no drainageways or streams were located on the delineated parcel or within the vicinity of the wetlands. A review of in-house resources, USFWS NWI Maps, USGS Quad Map and NRCS Web Soil Survey and indicated no mapped wetlands or streams are located within the vicinity of the delineated parcel. A review of the NYSDEC Environmental Resource mapper indicated a portion of State regulated wetland ON-3 is located on the Southern portion of the parcel All resources reviewed support the determination that Wetlands A, B, D, E, F, G and K don't directly abut an A(1)-A(3) waters, are not separated from

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an A(1)-A(3) waters by a natural or man-made feature and are not adjacent to an A(1)-A(3) waters. Therefore, wetland A, B, D, E, F, G and K are “excluded” and are not jurisdictional waters of the United States. Wetlands I, J and C will be reviewed under a PJD.

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