

**Town of Milford
Zoning Board of Adjustment Minutes
July 7, 2011
Case #11-11
34 Hammond Rd, LLC, dba J.P. Pest Services
Special Exception**

Present: Kevin Johnson, Chairman
Laura Horning
Fletch Seagroves
Zach Tripp - Alternate

Absent: Steve Winder
Steve Bonczar
Michael Unsworth - Alternate

Secretary: Peg Ouellette

The applicant, 34 Hammond Rd., LLC, dba J.P. Pest Services, owner of Map 43, Lot 70, Hammond Rd, Commercial district, is requesting a special exception from Article VI, Section 6.02.6.B to impact not more than 9,400 SF of total combined wetland buffer for the construction of a proposed commercial building and associated site improvements.

MINUTES OF THE JULY 7, 2011 MEETING WERE APPROVED ON JULY 21, 2011

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

Kevin Johnson, chairman, opened the hearing by reading the notice of hearing into the record and the list of abutters: Map 43/Lot 70, 34 Hammond Road LLC, 17 Grant Drive, Bedford NH ; Map 48/Lot 33 and Map 43/Lot75, Sarah & Steven Desmarais, Trustees, 19 Pine Top Road, Amherst, NH; Map 43/Lot 69, Frederick Lorden, Linda Devine & Norma Glow, Trustees, 19 Ponemah Hill Road, Milford, NH; Map 43/Lot 71, Charles E. & Joanna Willette, 30 Hammond Road, Milford, NH; Map 48/Lot 78, Rhonda J. Young, Trustee, 18434 Black Bear Trail, Normand, OK; Map 48/Lot 32-2, Beehive Investments, Inc. 5 Grand Hill Rd., Mont Vernon, NH; Map 48/Lot 39, Delmar H. & Barbara Patten, 59 Emerson Road, Milford NH; Map 48/Lot 19, Roger & Bonnie Chappell, P.O. Box 424, Milford NH; Sandford Surveying & Engineering, Inc., Bedford NH. No abutters were present.

Earl Sandford and Joseph Pestana were present for the applicants.

Kevin Johnson reminded the applicants that there were only four Board Members present and if they choose to have the hearing with four Board members they will need to sign a waiver. They have the right to have the application approved by three members. They agreed to the hearing with four members and Joseph Pestana signed the waiver.

Earl Sandford stated the site is one seen from Route 101 right before the ramp. It has been purchased and they are looking to change it to meet the needs of JP Pest. They have met with the Conservation Commission and have the Commission's synopsis. The red in the plan marks the boundary which comes to the end of Hammond Road. The tan area is the delineated wetlands which Milford regulations say needs a 25 foot buffer. They have drawn a 25 ft. buffer around it. They are not affecting anything on the back side of the wetland. On the front side of the wetland there is land that has already been disturbed, mowed lawn, a building that was a domicile and a shed in the buffer. So part of this lot that is unique is they are not taking a virgin buffer and converting or disturbing it; they are taking something that's all been disturbed and re-working it to benefit, he believes, both environmentally and as a function of the site. He displayed a map of the site and explained where the buffer would be affected. He stated they will have a treatment swale; currently there is gravel all through it but not much to keep it. If it's a wash it washes directly into the wetland. They want to provide a safeguard against things going directly into the wetland. It will be done in two major components. The first (referring to the plan) is the treatment swale in blue and a second area partially in green. They will put a berm along the edge of the wetland and create a shallow basin which will basically remain dry; but in any surge or storm it will collect water and have it sit for a time with a slow enough release to allow sediment to settle out in a storm. The red is where they are disturbing it to get rid of the existing buildings, a domicile and a shed. There is a little are of yellow as far as the embankment to facilitate grading necessary to direct it. Instead of letting it spill it catches on a curve and is directed down into the retention basin. He said they are disturbing the buffer but in some cases making it conform more to the intent by removing buildings. They are only working in an area where there is existing lawn and already disturbed. He also pointed to a gravel area which will be returned to green. It's a mixture of things now. When done it will all be green and will have different grading for purposes of the swale for treatment and the retention basin. Applicants are asking for relief from the ordinance that says you cannot disturb in a 25 foot buffer. On the site it is very tight along the Rt. 101 embankment. With more room different things could be done, but they are right up against it going into existing structures. The existing structures will come down, except the garage; they are keeping the garage. Pavement to be added is very close to the gravel that is there now. They are not taking virgin ground, but are taking what has already been disturbed to improve it to meet current regulations for stormwater management. There is a parking area in the back. Kevin Johnson asked if the purpose of the natural vegetated filter strip zone in the parking lot is to slow the water runoff from the parking lot.

Earl Sandford said you are using something that's natural, the State allows you if you have something that's less than fifty per cent slope and you direct water to it, nature has a filtering system. So this is saying that if you can dedicate an area that's natural and not wetland so it directs drainage, that will act

as a filter in its own right as it flows down through the natural vegetation. That's what is being proposed there and since it's natural there will be no disturbance of that area.

It is also a matter of getting drainage to the lip. If you analyze the topography, they are trying to achieve a lip so that when the water gets to the lip it will flow easily down over.

Kevin Johnson asked if that would be existing vegetation rather than vegetation that would be planted.

Earl Sandford said that is correct.

Kevin Johnson noted that on the preliminary site plan it is down as a variance note. He pointed out that this is not a variance, but a special exception. The criteria for each are significantly different. This Board is considering a special exception in this case.

Earl Sandford said he would amend that note.

Kevin Johnson opened the meeting to questions.

Zach Tripp asked if the marked area #9 on the site plan is parking.

Earl Sandford replied yes, the note refers to the number of spaces.

Zach Tripp asked if that parking is all contained outside the buffer.

Earl Sandford replied that is correct. The buffer will be one hundred per cent green when it is done.

Zach Tripp inquired if the driveway, the parking and the building are all outside the buffer.

Earl Sandford said that is correct.

Zach Tripp asked if the parking they are disturbing is existing.

Earl Sandford replied, largely yes. Some is more of a restoration of existing lawn. He stated they are restoring and protecting and putting the berm in to prevent water from sheeting directly across the present lawn.

Zach Tripp asked if it would be a more paved area than gravel, requiring additional drainage.

Earl Sandford said that is built into it. The berm is three feet or less, sized so that all the water off the pavement can collect and build up and filter out.

Laura Horning wanted to clarify that the applicants are effectively designing and recreating a type of gray water area so that sediment will collect and go to the bottom in slow release and is designed to function for a fifty and one hundred year flood? She asked what the flood range they are looking at for the site.

Earl Sandford replied he believes Milford requires ten and twenty-five. They ran the fifty and 100 and it will contain those to make sure there is enough so that if it did go over the berm. Typically rainwater doesn't have septic components.

Laura Horning said she was using a layman's term for the benefit of viewers who may not be familiar with the terminology.

Earl Sandford said they do have a separate septic system to handle black water and gray water, which doesn't require any special exception.

Laura Horning asked if they have taken all the impervious surfaces into consideration.

Earl Sandford replied yes.

Kevin Johnson said he recalled the application saying that the property is outside the one hundred year flood plain.

Earl Sandford replied he believes that is correct. The one hundred year flood plain is a macro; they will get a little flooding in the wetlands but nothing that would come up. They have grading for this all to drain off. He stated that is the other advantage; if they did let it just go into the wetland it would allow overburden capability to release downstream so there is an anti-flood component to the proposed design.

Kevin Johnson asked Fletcher Seagroves for any questions.

Fletcher Seagroves stated most of his questions had been answered.

Kevin Johnson opened the meeting for public comment; there were no comments. The public hearing portion of the meeting was closed.

Kevin Johnson read into the record a letter received from the Milford Conservation Commission: *To the Zoning Board of Adjustment from Conservation Commission, Fred Elkind-Conservation Coordinator. Subject: Map 43 Lot 70, 34 Hammond Rd., Buffer Alteration by JP Pest. Dated June 13, 2011. At its June 9, 2011 meeting, the Conservation Commission voted unanimously to recommend that the ZBA approve the Special Exception for the proposed buffer alterations as required for the subject property development. Please let us know if you have any questions.*

Kevin Johnson invited the applicant to read the application into the record.

Earl Sandford read the first part, the five criteria supporting a special exception.

1. The proposed use shall be similar to those permitted in the district.

The proposed use is an expansion of an existing, permitted business located across NH Rte. 101. There are other commercial uses on Hammond Road.

2. The specific site is an appropriate location for the proposed use because:

The lot is properly zoned, the site was previously occupied by a commercial use and it is nearby to its parent building and main office.

3. The use as developed will not adversely affect the adjacent area because:

The site will be designed in accordance with Town regulations and the adjacent wetland will be better protected by the proposed drainage system design.

4. There will be no nuisance or serious hazard to vehicles or pedestrians:

Access is limited to one driveway off the end of the existing town road where there is little vehicular or pedestrian traffic. Increase in traffic will be minimal due to the low impact use of the property.

5. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:

Adequate parking, vehicular circulation, drainage and septic systems are being designed to ensure proper and safe operation of this facility.

Earl Sandford then read through the seven special exception criteria for a wetland buffer.

1. The need for the proposed project:

The project is necessary to allow for the expansion of an existing business. That business is located on property across NH Rte. 101 from this site and has no additional room to expand.

2. The plan proposed is the alternative with the least impact to the wetlands, surface waters and/or their associated buffers:

This design uses and enhances previously disturbed buffers to redirect, detain and filter drainage before it enters the wetland, therefore acting as a buffer should in protecting the wetland from untreated storm runoff.

3. The impact on plants, fish and wildlife.

The water entering the wetland from this site will be cleaner and should have a positive affect on plants, fish & wildlife.

4. The impact on the quantity and/or quality of surface and ground water.

The quality of water will be improved and the swales and detention pond will mitigate the increase in flow and will allow for more and cleaner water to infiltrate into the ground.

5. The potential to cause or increase flooding, erosion or sedimentation:

The swales, vegetated filter strips and detention pond will ease flooding, prevent erosion and keep sedimentation from flowing directly into the wetland.

6. The cumulative impact that would result if all parties owning or abutting a portion of the affected wetland, wetland complex and/or buffer areas were also permitted alterations to the wetland and buffer proportional to the extent of their property rights:

The buffer impacts proposed for this property are to improve the function of those previously disturbed. If similarly disturbed buffers on abutting properties were improved as well it would have a positive cumulative impact on the wetland complex.

7. The impact of the proposed project on the values and functions of the total wetland or wetland complex:

The proposed project should have no negative affect and some positive affect on the wetland complex by improving the previously disturbed buffers and treating currently untreated runoff that flows across the existing parking/storage areas.

Kevin Johnson asked if there were any additional questions. There were none.

Kevin Johnson then read from the Town of Milford Zoning Ordinance: Section 6.02.6 A Special Exception is Required for *B. Buffer: A Special Exception from the Milford Zoning Board of Adjustment is required for any project not listed in 6.02.5 that is located within a wetland buffer and not in the right of way of any public road.*

Kevin Johnson asked Fletcher Seagroves if he felt this application met both the criteria for special exception and the criteria for special exception for a wetland buffer.

Fletcher Seagroves said he does feel it meets the criteria. He said it appears they are improving the area Laura Horning agreed, and as the applicant read into the record all of his responses to the special exception and the ordinance #6.02.6 and he has read all the criteria that he was requested into the record. She does not find any problem with any statements the applicant made in response to those criteria. She stated this is an improvement to the area.

Zach Tripp stated he agreed with everything the other Board members had stated so far regarding the criteria for the wetlands. He believes there may be a benefit from removing structures from the property and returning it to a green area. On #5, the parking lot has potential to cause or increase flooding but applicant testified they are putting in proper drainage to account for any runoff from that impervious surface.

Kevin Johnson said he concurs with the other members of the Board. He thinks this is a well-thought-out project with minimal impact to the wetland complex as stated in the application. He believes there would be no negative impact and that it actually improves the buffer. Applicants have stated they are moving a structure that existed prior to the wetlands overlay district being placed on this particular property so there is actually a net improvement to the buffer. The plan takes into consideration all the potential impact this would have and has met not only all criteria for Special Exception but also the criteria required for the wetland buffer impact.

Kevin Johnson called for a vote on the criteria.

Is this exception allowed by the ordinance?

Zach Tripp – Yes Fletcher Seagroves – Yes Laura Horning – Yes Kevin Johnson – yes

Are the specific conditions present under which the exception may be granted?

Fletcher Seagroves – Yes Laura Horning – Yes Zach Tripp – Yes Kevin Johnson – Yes

Kevin asked if there was a motion to approve this application.

Zach Tripp made a motion to approve Case # 11-11

Laura Horning seconded the motion.

FINAL VOTE:

Fletcher Seagroves- Yes Zach Tripp – Yes Laura Horning – Yes Kevin Johnson – Yes

Kevin Johnson stated that Case #11-11 was approved by unanimous vote.

Kevin Johnson reminded the applicants of the 30 day appeal period.