

**Town of Milford
Zoning Board of Adjustment
September 5, 2019
Case #2019-19
William Mahar
Special Exception**

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Present: Steve Bonczar, Chair
Michael Thornton
Wade Scott Campbell, Alternate

Absent: Joan Dargie, Vice Chair
Rob Costantino
Tracy Steel
Karin Lagro, Alternate
Paul Dargie, Board of Selectman Representative

Secretary: Peg Ouellette

William Mahar for the property located at 19 Perry Road, Milford Tax Map 7, Lot 25, in the Integrated Commercial – Industrial 2 (ICI 2) zoning district, is seeking a Special Exception of the Milford Zoning Ordinance per Article VI, Section 6.02.6 to permit the construction of storm water improvements/structures and property restoration work within the 50 foot wetland buffer from Tucker Brook (Continued from August 15, 2019)

Motion to Approve: _____
Seconded: _____
Signed: _____
Date: _____

1 Chairman Bonczar opened the meeting and introduced the Board members. He informed all of the procedures of
2 the Board. He stated that Case #2019-19 had been continued from the August 15th meeting. The presentation of
3 the proposal had been done. The application was continued in order to get input from the Conservation
4 Commission.

5
6 S. Bonczar referred to a letter from the Conservation Commission dated August 20, 2019 (Labeled_Exhibit C) and
7 stated that it appeared the applicant reviewed said letter.

8
9 W. Mahar agreed.

10
11 S. Bonczar said there were five items the Conservation Commission was looking to have done as part of the
12 project. He read the August 20th letter submitted by the Commission into the record.

13
14 After a brief discussion, W. Campbell was seated as a regular voting member.

15
16 S. Bonczar stated that he had questions. He said these points were discussed with the applicant and accepted. He
17 had questions regarding some of the referenced locations and asked for maps to be brought up. Referencing the
18 map and August 20th memorandum, items #2 and #3, he asked for further clarification and where would those
19 trees and boulders have to be placed?

20
21 C. Guida of Fieldstone Land Consultants, representing the applicant, pointed out one area. He said they had
22 proposed trees on the landscape plan. They were not worried about somebody driving there. It was the
23 applicant's home and back yard. Somebody would have to really want to get back there. Worried about people
24 using self-storage getting into certain areas and into filtration area and buffer, he pointed out areas the
25 Conservation Commission was concerned about.

26
27 S. Bonczar asked about the site of the existing and the specific area.

28
29 C. Guida responded by pointing out and identifying some boulders. He said there were a number of them on the
30 site that could be placed physically on the edge close enough that somebody would not drive in there accidentally
31 or back in and go over the edge. No issue with a physical barrier.

32
33 S. Bonczar asked how deep.

34
35 C. Guida said two to four feet. It was shallow and if someone did go in there, they could get out.

36
37 S. Bonczar asked the Board for any other questions. No further comment by the Board Members. He asked if the
38 applicant had anything to add based on the Conservation Commission's walk-through and site visit.

39
40 C. Guida confirmed that the property owner completed some work in the wetland buffer area. He stated that
41 there was a letter to the Director of Community Development and he spoke to Mr. Daley about it. C. Guida
42 continued by stating that the owner was concerned about the current condition of the property and possible safety
43 hazards. The work included some grading and the filling in of holes prior to the site walk.

44
45 S. Bonczar said that the work was limited in scope.

46
47 S. Bonczar opened the public portion of the meeting. He designated the letter received from Suzanne Fournier as
48 Exhibit "D". He then summarized the letter in which the concern was the disturbance that the applicant
49 (representative) just mentioned. He read a brief portion of the letter and said the letter was in the file and sent to
50 L. Daley.

51
52 S. Bonczar acknowledged Chris Costantino, Conservation Commission Coordinator, in the audience and that the
53 Board may have questions.

1 Suzanne Fournier of 9 Woodward Drive, Milford, came forward. She said this site was about 600 feet from the
2 Tucker Brook land. The whole area was documented to have numerous wildlife species that were threatened and
3 endangered. She said the applicant continued to fail to adequately address impacts to wildlife that live near
4 Tucker Brook. The NH Department of NHF&G (NHF&G) had not been contacted, but should have. She
5 continued by stating that the Applicant should get advice of the experts on wildlife citing nesting turtles as an
6 example.

7
8 S.Fournier continued by inquiring about Question #4 on the application regarding impacts to fish and wildlife.
9 Applicant didn't mention wildlife in that. In the site, applicant was asked to address that. He said he had. But
10 nothing had been said about it this evening. NHF&G should be consulted. She conveyed her concerns to the
11 Conservation Commission and was given acknowledgment by a couple of the members. They incorporated some
12 of her concerns that came up at the site walk. She suggested the Zoning Board lacked information on that
13 question of wildlife. They should contact the state prior to any work.

14
15 W. Campbell asked how far away from any recorded turtles or snakes or anything of that sort?

16
17 S. Fournier said about one quarter mile. It was a particular snake (species) that liked that location. There was
18 gravel and ponds that they liked. One quarter mile into the brook. NHF&G had done a three year study and had
19 more information. The Heron Pond School was about one half to three quarters of a mile. Nobody had looked at
20 particular site. They only know where they had looked and what was reported.

21
22 M. Thornton about the topography. Was there continuity for the animals?

23
24 S. Fournier said Tucker Brook went behind Cote Machine and eventually to the wetlands. Tucker Brook was a
25 significant area. As it was explained to her, animals love to travel water corridors.

26
27 S. Bonczar said this was quite a distance off Tucker Brook.

28
29 S. Fournier said it was Tucker Brook.

30
31 S. Bonczar said it was off Tucker Brook fifty foot buffer. It was not wet.

32
33 S. Fournier said they walk along the corridors. They nest in the sandy dry land. They are along it, not in the water.
34 That was the continuity of the habitat. It was all connected with Tucker Brook. A few pieces but all undeveloped
35 land into Brookline.

36
37 M. Thornton said his question concerned her suggestion about NHF&G. The applicant had no control over
38 NHF&G. How would that apply? S. Fournier said they had access to NHF&G. They represented the town.

39
40 S. Bonczar said this was private property.

41
42 S. Fournier said they had reports showing these animals were within this district.

43
44 M. Thornton asked, on this property? S. Fournier said a report from the National Heritage Bureau.

45
46 S. Bonczar said she had that. She said it was a quarter mile.

47
48 S. Fournier said it was on the report from National Heritage.

49
50 S. Bonczar said that was his problem. Not in this area. Citing a quarter a mile away. Not next door or within
51 this buffer area.

52
53 S. Fournier again mentioned the National Heritage Bureau.

1 S. Bonczar asked if she wanted to force this applicant to have a study done on this? Should every citizen in the
2 town that went into a buffer have to go to NHF&G?
3
4 M. Thornton said that was his question.
5
6 S. Fournier said the Chair was being extreme. She was only asking for a phone call to NHF&G. They knew the
7 site.
8
9 S. Bonczar said they didn't.
10
11 S. Fournier said they had the map.
12
13 S. Bonczar asked if she brought information for the Board.
14
15 S. Fournier said it was for the applicant.
16
17 S. Bonczar said she was asking for the applicant to do something.
18
19 S. Fournier said the National Heritage Bureau looked for an entire mile radius around that site because animals
20 migrate. Asking for their advice and suggestions was the wise thing to do given the location of sensitive and
21 endangered species within 1 mile radius. She continued by stating that last month, they gave the Conservation
22 Commission time to conduct a site visit on Aug. 8, 2019. She stated that the Commission members expressed
23 shock and dismay on what they were seeing on recent impacts – not the ones in 2001. However, since the
24 Planning Board meeting in printout they were done with this special exception. The Conservation Commission
25 letter didn't tell them about the letter and they crossed it off. She was there when they were addressing the letter.
26
27 S. Bonczar said because the applicant addressed it. He addressed it a few months ago. He had to believe what the
28 applicant said.
29
30 M. Thornton said unless there was evidence.
31
32 S. Fournier said she had evidence. She went on the site walk.
33
34 S. Bonczar asked her to continue.
35
36 S. Fournier said some of the members on the site called out to others and said this was a violation, said "This is a
37 big disturbance." She had it in her field notes she took.
38
39 S. Bonczar said they would get that verified by a Conservation Commission member.
40
41 S. Fournier said the Conservation Commission didn't choose to tell this Board about those.
42
43 S. Bonczar said this Board was not an enforcement Board. They were dealing with applicant's request per what
44 he submitted. It may be unfortunate that there was a disturbance but that was not the purview of the Board.
45
46 S. Fournier said he was already jumping to a conclusion.
47
48 S. Bonczar asked her not to put words in his mouth.
49
50 S. Fournier said she had a right to say that.
51
52 S. Bonczar said she didn't.
53

1 S. Fournier said she informed L. Daley about the wetland disturbance. She sent an e-mail with pictures and said
2 this was what happened at the site visit. She went to the Planning Board. She filed a complaint. She didn't hear
3 back from L. Daley. She only found out what was happening because of what was posted on line and what they
4 were talking about this evening. In his administrative review, he didn't mention her.

5
6 S. Bonczar said that wasn't true. That letter was included in the record that the Board received.

7
8 S. Fournier said that was what she was referring to. Was it a one page letter?

9
10 S. Bonczar said no.

11
12 S. Fournier said she was talking about a letter from L. Daley dated Aug. 24 talking about the Conservation
13 Commission on site.

14
15 S. Bonczar said he believed that was from the previous one.

16
17 M. Thornton said comments August 28.

18
19 S. Fournier said right. It was a one page letter with aerial map. That was after the visit. She didn't hear from
20 him and in his administrative review, he chose not to inform the Board about those impacts.

21
22 S. Bonczar said, again, it was not this Board's jurisdiction. Why was she worried about getting to information
23 when it was not their jurisdiction?

24
25 S. Fournier agreed. Their job was this application and whether the applicant provided all the information.

26
27 S. Bonczar said the letters sent to the Town were in the town so they were aware of what went on. Citing that the
28 Conservation Commission did make them aware. It was in the packet and in the letter sent to L. Daley.

29
30 M. Thornton said the letter from the Conservation Commission to the Zoning Board said they approved it. They
31 gave five issues. The Zoning Board can consider that.. Anything else was really enforcement and outside of their
32 purview. It was not be a service to them by the proper people who they believe were as concerned as he. He
33 encouraged her to be in contact with the Conservation Commission to make sure they were continuing to give
34 information that what they are supposed to give credence to.

35
36 S. Fournier said she brought pictures and hoped some of them were in the packet. The applicant provided pictures
37 within the site. She would compare them to the pictures she took on the site on August 19. Evidence of what
38 they did or didn't do. In the first photo she had "Before" and "After". On August 19. B was what the applicant
39 was calling a boulder wall. The "Before" showed natural vegetation and Tucker Brook on the far side. She
40 pointed out the 50 ft. buffer.

41
42 M. Thornton asked if she was saying the nesting habitat was on the far side.

43
44 S. Fournier said no.

45
46 S. Bonczar said they didn't know.

47
48 W. Campbell said there was no documentation saying those animals were nesting there.

49
50 S. Fournier said not on a report.

51
52 W. Campbell asked to see her pictures.

53
54 M. Thornton asked if she was alleging destruction of habitat prior to authorization.

1 S. Fournier said she was not calling it special wildlife habitat. It was getting started on special exception
2 approval. It was what would be starting today. They took walled boulders and aligned them. On picture #2 the
3 applicant's photo showed rocky material and vegetation and a blue shed to be taken down. The owner used the
4 word on-site grading. The applicant or gentleman from Fieldstone used the word align. Third set of photos. She
5 pointed out Tucker Brook over the wall and a The focal point was the tree with the blemish. Next
6 vegetation in area - good buffer to slow down water. Already acting as a good buffer. "After" was boulders
7 replacing the vegetation. Look how close they put boulders to Tucker Brook. Last picture you could see they
8 took on August 12. Overview of the wetland buffer disturbance. Seeing the whole row in boulders and grading
9 and 50 ft. buffer that went to the shed. They called it a boulder wall. This was done already without
10 authorization. This was shown to the Conservation Commission. They used words violation and big disturbance.
11 Any questions? Why have a boulder wall? This was a grandfathered house. A lovely property. It was
12 grandfathered. To continue that into a commercial area. Didn't understand putting a boulder wall along Tucker
13 Brook. If anything they would put it at the edge of the 50 ft. zone telling people to stay out of the 50 ft. zone.
14 She would suggest getting an explanation from the applicant.

15
16 S. Bonczar asked if she had anything to address to the Conservation Commission that she hadn't covered. So they
17 could bring it back to the Zoning Board.

18
19 S. Fournier said at the site meeting it was understood that the applicant would come to this meeting with further
20 answers about impact to the wildlife. Applicant said he would be happy to provide more information. She would
21 like the Conservation Commission to continue to get answers on that. Look at the pictures. The Before pictures
22 were provided by the applicant to the town. Can see the After pictures of what was there today.

23
24 S. Bonczar said they were talking about the plan. Should be commenting about the plan. Not the fact they did
25 some type of disturbance. They (ZBA) were not going to be the ones to review that. She put a complaint in L.
26 Daley's hands - that office. The Zoning Board was dealing with the plan submitted by the applicant.

27
28 S. Fournier said he was not understanding her.

29
30 M. Thornton said she had channeled through the Conservation Commission to come to them with
31 recommendation. Their letter said they supported it unanimously to accept contingent upon these
32 recommendations.

33
34 S. Fournier said they had five good conditions. They had photos that were Before pictures. They want a false
35 representation to the Zoning Board, never mind the Conservation Commission. It was before then and they didn't
36 give an accurate representation.

37
38 M. Thornton said the pictures were stamped 2008. It was titled 2008 with a description. They were only given
39 what they were given. They can't go out.

40
41 S. Fournier said somebody did. The Conservation Commission. She did too. They were provided updated
42 information. It was up to them to do what they do. It was up to L. Daley to do enforcement. The Conservation
43 Commission gave them a pass. She had heard nothing from the Conservation Commission.

44
45 S. Bonczar said the Commission provided their evaluation.

46
47 S. Fournier said she was giving her point of view to the Milford people. The public was watching and then going
48 to do like the Conservation Commission did.

49
50 W. Campbell said they were not giving a pass. They would look at the evidence.

51
52 M. Thornton said they were in their boundary. If they step out of their boundary.

53
54 S. Bonczar said she was inferring that because the Conservation Commission disagreed with her.

1
2 S. Fournier said they agreed with her. They called it a violation. S. Fournier asked if she didn't have a right to
3 say they will give a pass. It was up to the Zoning Board how to handle this.

4
5 S. Bonczar said they would handle it fairly to the people and applicant.

6
7 S. Fournier asked if they were going to include the premature impact in the evidence she provided – they didn't
8 have a special exception then. Were they going to take pictures from the Planning Board? She had pictures that
9 showed boulders, vegetation and piles of gravel. Greater than what they were seeing. The question was to
10 consider these buffer disturbances and treat them as if they never happened. Only they did. Applicant finished
11 with the Commission and started his work. The project should go forward. It was a good project. But going
12 forward without any further impact to the wetland buffer which has suffered all these years, recently impact to the
13 wildlife. Tucker Brook should have natural wetland. Wetlands are only as protected as the buffer is protected.

14
15 S. Bonczar said the applicant made disturbance. What disturbance and what area?

16
17 M. Thornton asked what was the problem of doing that prior to approval.

18
19 C. Guida said S. Fournier mentioned a boulder wall. It was an existing boulder wall. If she looked at the plan,
20 there was no plan to have that there. The land owner did that mistakenly. Those were not part of this design.
21 They were getting moved. They would be put back and properly replaced along the buffer. He said S. Fournier
22 mentioned restoring the buffer and they were doing that.

23
24 M. Thornton said re-vegetating.

25
26 C. Guida said re-vegetating and making sure it didn't go into the brook. He continued by stating that the owner
27 had erred by continuing to work within the buffer zone. However, the land within the buffer area has historically
28 been disturbed prior to applicant's ownership of the property. The applicant was not the builder of this project
29 was not aware the land was in the wetland buffer. It was an honest mistake. He presented this to the
30 Conservation Commission and was probably the reason they decided not to pursue it. C. Guida stated that he
31 spoke to them today and it was their position that the disturbance was pre-existing. What was done was not part of
32 the project. The property would be restored, reseeded, and become a habitat for turtles and everything that uses
33 this buffer 50 ft along Tucker Brook. It was not useable property because it was dropped and there was
34 machinery there. It will be returned and not touched.

35
36 C. Guida address the concern raised by S.Fournier regarding the National Heritage Board, which had one mile.
37 This was one mile. There probably are not any in the area and next to Tucker Brook was residential and
38 commercial area. Not ideal for habitat now. Will restore it and allow it to revegetate.

39
40 M. Thornton said under the plan presented there would be no access once it was restored.

41
42 C. Guida said that was correct. He further expressed that his client had no issue with some type of physical
43 barrier or the five conditions.

44
45 C. Costantino came forward and presented on behalf of the Conservation Commission. She said the Board had a
46 letter regarding the concerns brought up. They noted that the activity was done without permission. However,
47 members acknowledged that a tone of work had been completed, but were not shocked. The Commission
48 believed it was an exaggeration from S. Fournier. As far as they were concerned it was not relevant. He said it
49 was going to be addressed.

50
51 M. Thornton asked, didn't he think it was willful.

52
53 C. Costantino responded that she didn't know. She avowed that the work done within the buffer did not have a
54 negative impact on the pre-existing disturbed area. The land owner was asked not to continue activity until after.

1
2 S. Bonczar said decision by NHF&G was communicated by Conservation Commission and they had no response.
3
4 M. Thornton asked if there was an explanation of what no response indicated, if anything.
5
6 C. Costantino said they would send a letter, not a phone call. They didn't get back to the Commission.
7
8 S. Bonczar asked if there was any other comment.
9
10 S. Fournier said following up on what C. Costantino said, who did she speak to NHF&G. She listed a number of
11 names.
12
13 C. Costantino asked if that was pertinent to this discussion. She said she would get back to Ms. Fournier.
14
15 S. Bonczar agreed that it was not pertinent.
16
17 S. Fournier said it was pertinent to her comments.
18
19 S. Fournier asked if she would give an answer.
20
21 C. Costantino and S. Bonczar said this was not the time.
22
23 S. Fournier then raised a concern involving the proposed infiltration basin with the buffer area. In the first letter
24 from Conservation Commission, they supposed it would not go into the buffer and in addition, didn't want
25 boulders at the edge of the 50 ft. She stated that this will be will be a manmade creation.
26
27 S. Bonczar said she was against a manmade creation. When the State builds a highway and does revegetation?
28
29 S. Fournier said the project had impact on wetland, wetland buffer and wildlife. They were saying it was not
30 relevant.
31
32 S. Bonczar asked who said it was not. She was saying manmade.
33
34 S. Fournier said they were putting in a third building.
35
36 S. Bonczar said it didn't have that.
37
38 S. Fournier said didn't they pay attention to the Planning Board? The whole project goes back.
39
40 S. Bonczar said other things were going on in town near this project.
41
42 S. Fournier said it would be reviewed.
43
44 S. Bonczar said that was the whole project now – a 50 ft wetland buffer. They could eliminate the building. Or
45 add one. that was not part of this review.
46
47 S. Fournier said the reason they put in a filtration basis was because it was maximimize the number of storage
48 buildings on the property.
49
50 S. Bonczar said that was part of the design which required this temporary disruption.
51
52 S. Fournier said the filtration was permanent.
53
54 M. Thornton agreed.

1
2 S. Bonczar asked if there was anything else from the public or the Board.

3
4 C. Guida said as far as the buffer it was already disturbed and to request any change of infiltration or flow of
5 water required a special exception.

6
7 S. Bonczar said that was what they were focused on. It was part of the project, but the rest he was not concerned
8 about.

9
10 M. Thornton said since the infiltration word came up within the zone, what could be the negative impact?

11
12 C. Guida said the word infiltration being used made it sound like a concrete pool. It was simply a contoured piece
13 of land, a grass area.

14
15 S. Bonczar said it was not for runoff into the brook.

16
17 C. Guida said it was only being proposed in the existing vegetation. All work being done in area already
18 disturbed. Whole intent was to keep storm water from going into the brook untreated.

19
20 M. Thornton said that was what he thought he read in the Conservation Commission letter.

21
22 S. Fournier said she believed they were putting it somewhere into the buffer.

23
24 S. Bonczar said no.

25
26 M. Thornton said it didn't say that.

27
28 S. Bonczar asked if they would put a condition on. He read from #3 in the Conservation Commission letter.

29
30 M. Thornton said #3 stated there will be a physical barrier so that snow removal remained in the buffer. If they
31 accepted that, it was part of the record.

32
33 S. Fournier believed snow was going into the buffer.

34
35 S. Bonczar said it would be hard to push it into the brook with the barrier there.

36
37 S. Fournier said she felt the Conservation Commission didn't like snow being put into the buffer because it was
38 contaminated from the parking area. It was a one time disturbance. They will go into the buffer unless the
39 applicant clarified.

40
41 C. Guida said the Conservation Commission letter didn't say on site. It will be snow storage.

42
43 M. Thornton said it will not be put into the retention basin or where it would be intentionally into the retention
44 basin. C. Guida said there will be melting.

45
46 M.Thornton said not pushing it in there. C. Guida said no.

47
48 S. Bonczar asked for any other questions. None. He moved into discussion of the criteria. He said they were not
49 an enforcement Board. Any disturbance that happened prior was not the purview of this Board. May be
50 unfortunate, but not their purview. They were worried about the design moving forward and whether it was
51 adequate and met the requirements.

52
53 M. Thornton said if they accepted the Conservation Commission's five conditions and incorporated them by
54 reference in doing their decision, that becomes a condition?

1
2 S. Bonczar said correct. One thing to decide was whether the criteria for evaluation were met. Had applicant
3 given enough information to satisfy those seven criteria for wetlands – special exception for wetlands? Also had
4 to meet the other normal criteria for a special exception. In the application and through the presentation the
5 applicant addressed the seven items for wetlands.
6

7 S. Bonczar proceeded to discussion of the seven criteria for special exception for wetlands.
8

9 **1. The need for the proposed project:**

10
11 S. Bonczar asked if anybody wanted to speak to that. He said need was due to this project there was need to
12 prevent any runoff, etc. into Tucker Brook, actual wetland area. You were proposing to develop this buffer
13 and whether it retains and disperses any runoff in the wetland and prevents it getting into Tucker Brook. Any
14 questions?
15

16 W. Campbell said they pretty much covered it with what they were saying with reply to #2.
17

18 **2. The plan proposed the least impact to the wetland, surface waters and/or their associated**
19 **buffers:**

20
21 S. Bonczar said based on the design information available he felt that was the case. You were not going into
22 wetland area. They were going in area previously disturbed years ago and, based on S. Fournier's testimony,
23 recently. This will solve the problem long term and he thought it was the best approach.
24

25 **3. The impact on plants, fish and wildlife:**

26
27 S. Bonczar said looking at the terrain there was already an impact. Not to say there is not some type of
28 wildlife in there and this was an improvement.
29

30 W. Campbell agreed.
31

32 S. Bonczar said especially taking into account the recommendations of the Conservation Commission.
33

34 M. Thornton said it should be restored with native vegetation equal to or better than the non-malicious
35 disturbance.
36

37 S. Bonczar said #1 of the conditions stated that.
38

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

40
41 S. Bonczar this was the key part of this. Otherwise you could just seed and level it and be done. This was
42 where the applicant was making an attempt to improve the quality of the surface and groundwater.
43

44 M. Thornton said his reading re the proposed intention was to have a higher elevation between the residence
45 area and the brook to prevent unrestrained runoff.
46

47 S. Bonczar said not create a pond.
48

49 M. Thornton said an alluvial pool.
50

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

52
53 W. Campbell thought they were trying to prevent that. Also trying to keep whatever is coming by that two ft
54 grade it is not spilling down in. Didn't look like a lot of runoff into Tucker Brook.

1
2 **6. The cumulative impact that would result if all parties owning or abutting a portion of the affected**
3 **wetland, wetland complex and/or buffer area were also permitted alterations to the wetland and buffer**
4 **proportional to the extent of their property rights:**

5
6 M. Thornton said if all of the cumulative impacts were no worse than this, he didn't believe there would be a
7 net negative.

8
9 S. Bonczar thought that was true. This was an improvement of an existing situation within that buffer.

10
11 **7. The impact of the proposed project on the values and functions of the total wetland or wetland complex:**

12
13 S. Bonczar said that buffer was not wet based on applicant's testimony and pictures. He stated that the project
14 will actually improve values and functions of that total wetland around the brook based on what was there
15 previously, in his opinion. This was one of the few cases where the proposal was an improvement except for
16 removal trees and there was a necessity for this. The area under questions had been previously disturbed at
17 some point in the past. However, the project will rectify the situation and a better alternative to what had been
18 occurring in the recent past.

19
20 S. Fournier had talked about denying the special exception and not putting a drainage system in. What would
21 be the gain?

22
23 M. Thornton didn't see any gain to the public, to wildlife, or the environment, to any habitat. Didn't see a
24 problem within the zone to be a higher negative issue unless somebody were to dump stuff in there and they
25 could make a condition.

26
27 S. Bonczar said no. That would be a violation.

28
29 M. Thornton said yes. It was a violation action.

30
31 S. Bonczar asked if there was anything else regarding the criteria for special exception around wetland? None.

32
33 S. Bonczar proceeded to discussion of the general criteria for a special exception.

34
35
36 **1. Is the proposed use similar to those permitted in the district?**

37
38 M. Thornton said yes.

39
40 S. Bonczar said wetland, not just a use. The ordinance allowed changes in a wetland buffer by special
41 exception. This was the case and there were others in the town. Couldn't tell specifically but others in the
42 town where this type of thing had been requested. In many cases those take a natural environment and disturb
43 it.

44
45 M. Thornton said the original project was a change in that area. It was a positive change. If the execution
46 matches the plan, this will be.

47
48 **2. Is the specific site an appropriate location for the proposed use?**

49
50 S. Bonczar said, based on the design this change to that wetland buffer area was appropriate for the intended
51 use for this project.

52
53 **3. Is the use as developed not adversely affect the adjacent area?**

1 M. Thornton said he didn't see so.

2
3 W. Campbell concurred.

4
5 S. Bonczar said he didn't see any either. No plan to actually go into the wetland. It was all in the buffer area.
6 They were trying to mitigate any affect on adjacent areas as far as possible.
7

8 **4. Will there be no nuisance or serious hazard to vehicles or pedestrians?**
9

10 M. Thornton said it was for the use.

11
12 S. Bonczar agreed.
13

14 **5. Are adequate appropriate facilities provided for the proper operation of the proposed use?**
15

16 S. Bonczar said based on the design it made sense.
17

18 M. Thornton said once it was executed it was a good design.
19

20 S. Bonczar said before voting, he wanted to discuss whether they felt it was appropriate to add a condition that
21 the recommendations by the Town. He mentioned a letter from the Conservation Commission dated August
22 20, 2019 to the ZBA with regard to this case and those five items that were discussed with the applicant and
23 accepted by the applicant. That the letter or memo to them be made a condition of approval.
24 That as part of approval if they do approve, those five items in that memo be part of the approval.
25

26 W. Campbell agreed.
27

28 M. Thornton moved that the Conservation Commission memo being made by the August 20, 2019 memo be
29 read into the record and be made a pre-condition in its entirety of the approval of the special exception.
30

31 S. Bonczar read the memo into the record. Exhibit C
32

33 M. Thornton pointed out that the Conservation Commission memo said those conditions were discussed with
34 and accepted by applicant.
35

36 S. Bonczar said M. Thornton made a motion; needed a second.
37

38 W. Campbell seconded.
39
40

41 **Vote on Conditions:**
42

43 M. Thornton – Yes
44

45 W. Campbell – Yes
46

47 S. Bonczar – Yes
48

49 S. Bonczar said it was unanimous to include the conditions into the approval, should it get approved.
50
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52 **Vote on Special Exception:**
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54 **1. Is the Special Exception allowed by the Ordinance?**

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M. Thornton – Yes

W. Campbell – Yes

S. Bonczar – Yes

2. Are all the specified conditions present under which a Special Exception may be granted?

W. Campbell – Yes

M. Thornton – Yes

S. Bonczar – Yes

S. Bonczar said, along with the other condition just stipulated and the vote, the criteria for the Special Exception had been satisfied. Application was unanimously approved. He reminded applicant of the 30-day appeal period.

Other Business:

S. Bonczar asked if there was any other business. He said they would not approve minutes. One set of them to approve didn't have necessary quorum.

M. Thornton moved to adjourn seconded by W. Campbell. All in favor.

Meeting adjourned at 8:25 p.m.

