

Town of Milford
Zoning Board of Adjustment
April 30, 2020
Case 2020-05
Andrew and Krista Gardent
Special Exception

Present: Jason Plourde, Chair
Rob Costantino, Vice Chair
Wade Campbell
Joan Dargie
Lincoln Daley, Director of Community Development

Absent: Karin Lagro (Alternate)
Paul Dargie, BOS Representative
Tracy Steel
Michael Thornton

Good evening and welcome to the Town of Milford Zoning Board of Adjustment meeting for April 30, 2020. My name is Jason Plourde and I will be serving as chair tonight.

As Chair of the Board of Adjustment, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically. This meeting is held in accordance with the applicable New Hampshire State statutes, Town of Milford ordinances, and the Zoning Board of Adjustment Rules of Procedure.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

- a) *Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:*

We are utilizing ZOOM for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #646 558 8656, and entering the meeting ID #999 9810 6664 We will also be live streaming the meeting on Granite Town Media, Government Channel 21:

[Http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2](http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2)

- b) *Providing public notice of the necessary information for accessing the meeting:*

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions

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have also been provided on the website of the Board at www.milford.nh.gov/community-development.

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:

If anybody has a problem, please call 603-249-0620 or email at: ldaley@milford.nh.gov.

d) Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that all votes that are taken during this meeting shall be done by roll call vote.

Let's start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law: Jason Plourde at Town Hall with Lincoln Daley in the room; Rob Costantino at home alone, Wade Campbell at home alone, Joan Dargie in her office alone.

This evening, we have 4 new cases and no old cases and no minutes for review.

Each case will proceed as follows:

- The Chair will read the notice of hearing.
- The applicant will be asked present their case. Before proceeding, please state your name and address.
- The board members may ask questions at any time during the presentation.
- Once the applicant has finished their presentation, Joan will either read into the record any letters or emails regarding the case that the board may have received, or reference them by exhibit number and provide a brief summary of the content. I will then open the hearing for public comment. Those members of the audience who wish to speak must first dial * and 9 and the Chair will recognize you in the order you are received. Before proceeding, you must state your name and address. All questions and comments should be directed to the chair.
- After all interested parties have been given an opportunity to speak, the Chair will close the public portion of the hearing. The board will then, at its discretion, either deliberate the case, following the criteria required by the applicable statutes and ordinances, or continue the deliberation until the next regularly scheduled meeting.
- Following deliberation, the board will vote on each of the required criteria.

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- *The chair will then ask for a motion to either approve or deny the request made in the application. Conditions may be attached to the final decision based on the deliberations of the Board.*

Before all cases have been heard, the Board will seat any alternates in the event that regular members are absent. After a full Board has been seated, the Board may approve minutes from previous meetings depending on the length of the agenda. Once the hearings are complete, we will discuss any "other" business. After considering the other business, the meeting will be adjourned.

This evening, we have a full agenda. Our Rules allow us to adjourn the meeting at 10:00 pm and either continue the open hearing or table any cases not yet heard until the next regularly scheduled meeting. If it is necessary, an alternate location, date and time may be scheduled at the end of the hearing for a non-regular meeting to continue the case. There will be no additional notification to the applicant or abutters when a hearing is either continued or tabled to a date, place and time certain.>>

Let us begin by seating our alternates who will hear tonight's cases-it was noted that no alternates required seating this evening as there are four regular members in attendance.

Let us move to the next case on our agenda.

Case 2020-05

Andrew and Krista Gardent, Milford Tax Map 3, Lot 10, is seeking a SPECIAL EXCEPTION of the Milford zoning Ordinances per Article VI, Section 6.02.5.B to allow approximately 1,500 sf of wetland buffer impact associated with the construction of a wetlands crossing in the Residential "R" district.

K. Gardent explained that this application is for an access to another site of the property and to keep vehicles off the wetland. The State DES and Fish & Game have reviewed their State application. The Gardents are taking precautions regarding the endangered species and spotted turtles. This will mitigate and provide a better flow of water. This is being done for a private property, the culvert will be concrete piping to help with the flow and for the wildlife crossings. Milford Conservation Commission has approved the crossing. The culvert will be embedded in the earth to assist wildlife.

R. Costantino said the wetland permit application was submitted, asking the applicant if that was approved? Andy Hughes, Milford Conservation Commission, stated the Conservation Commission approved this and the State has approved it; it is a seasonal watershed and seasonal flow. J. Plourde asked if the Board had questions. W. Campbell and J. Dargie had no questions. J. Plourde said that Rob asked the question he was planning to ask, asking if DES has provided approval? K. Gardent said she has that approval and can provide to the Town and will email to Lincoln Daley. J. Dargie noted if the Town of Milford is cc'd on the approval, it has come in. K. Gardent will scan and send to Lincoln. J. Plourde said there is no other supporting documentation to add to the record.

J. Plourde opened the public meeting, noting if people wish to comment or ask questions, please enter *9 so that they can be recognized. Seeing no people waiting to speak, J. Plourde asked L. Daley if he sees anyone waiting to speak. There were none. J. Plourde asked if there were further questions or comments from the Board. There were none.

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R. Costantino moved to close the public meeting. J. Plourde seconded. R. Costantino yes, J. Dargie yes, W. Campbell yes, J. Plourde yes. The public meeting was closed.

The Special Exception 10.2.1 criteria was discussed by the ZBA:

- A. R. Costantino said yes, they are trying to put a culvert in and all required applications have been approved. W. Campbell and J. Dargie agreed, J. Plourde agreed this is a special exception that has been requested for this type of crossing.
- B. R. Costantino yes, it is appropriate to put in the culvert; W. Campbell, J. Dargie agreed; J. Plourde yes, it is minimally invasive and has been engineered by a reputable engineering firm.
- C. R. Costantino, W. Campbell, J. Dargie yes, J. Plourde yes and it will not adversely affect the area and they will provide a culvert for wildlife to cross.
- D. R. Costantino yes it will not cause nuisance or hazards; W. Campbell, J. Dargie yes, J. Plourde yes it will be used to drive over the wetland and they are using concrete to support the vehicles crossing
- E. R. Costantino yes by design it is appropriate for this use; W. Campbell, J. Dargie yes; J. Plourde yes, it has been designed by a reputable engineering firm and will serve its purpose.

The Special Exception Wetland Buffer 6.02.6 criteria was discussed:

- 1) R. Costantino yes the applicant has hired professional engineers to design this to protect the wetland; W. Campbell yes they have proven what is needed for Conservation Commission and wetlands; J. Dargie yes; J. Plourde yes the focus should be the wetland buffer the need has been addressed.
- 2) R. Costantino yes that is the reason a culvert is being put under the road; W. Campbell yes; J. Dargie yes; J. Plourde yes based on the studies this is the least impact for the area.
- 3) R. Costantino yes, just by allowing the water to flow; W. Campbell yes, J. Dargie yes; J. Plourde yes they have made this accommodation.
- 4) R. Costantino yes, this is a seasonal flow, sometimes it is wet, this culvert allows a crossing; W. Campbell, J. Dargie yes; J. Plourde yes.
- 5) R. Costantino yes, that was part of the plan for the culvert; W. Campbell yes; J. Dargie yes; J. Plourde yes that is the reason for the culvert.
- 6) R. Costantino yes, he does not feel the abutters are affected, this wetland does not extend where anyone else is, it won't affect the wetland flow; W. Campbell yes; J. Dargie yes; J. Plourde yes, it is only a seasonal flow.
- 7) R. Costantino yes the reports provided by the engineering firm address this; W. Campbell yes; J. Dargie yes; J. Plourde yes Meridian has put together a report and study to look at the function of the wetland area.
- 8) R. Costantino yes, we have a copy of the approval; W. Campbell yes; J. Dargie yes; J. Plourde yes

SPECIAL EXCEPTION VOTE:

- A. The proposed use is similar to those permitted in the district? R. Costantino yes; W. Campbell yes; J. Dargie yes; J. Plourde yes.
- B. The specific site is an appropriate location for the proposed use? R. Costantino yes; W. Campbell yes; J. Dargie yes; J. Plourde yes
- C. The use as developed will not adversely affect the adjacent area? W. Campbell yes, R. Costantino yes, J. Dargie yes; J. Plourde yes.
- D. There will be no nuisance or serious hazard to vehicles or pedestrian due to the proposed use? R. Costantino yes, W. Campbell yes, J. Dargie yes; J. Plourde yes.
- E. There would be adequate and appropriate facilities provided for the proper operation of the proposed use? W. Campbell yes, R. Costantino yes, J. Dargie yes; J. Plourde yes.

Is the Special Exception allowed by the Ordinance? W. Campbell yes, R. Costantino yes, J. Dargie yes; J. Plourde yes.

Are all the specified conditions present under which the Special Exception may be granted? R. Costantino yes; W. Campbell yes; J. Dargie yes; J. Plourde yes.

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1 L. Daley asked if the ZBA would like any conditions associated with the motion, such as the receipt of DES approv-
2 al? R. Costantino moved to grant the Special Exception 2020-05 with the condition that the Town of Milford re-
3 ceives the approval from DES for this crossing. W. Campbell seconded. R. Costantino yay; W. Campbell yay; J.
4 Dargie yay; J. Plourde yay.

5
6 Chair J. Plourde stated that the criteria of Special Exception have been satisfied and Case 2020-05 has been ap-
7 proved; there is a 30 day appeal process, end date for that is May 18, 2020. J. Plourde thanked the applicants for
8 attending this ZBA virtual meeting. Krista and Andrew Gardent likewise thanked the Board for hearing their case.
9

10
11 Motion to Approve: _____

12
13 Seconded: _____

14
15 Signed: _____

16
17 Date: _____