

**Town of Milford
Zoning Board of Adjustment
April 5, 2018
Case #2018-10
Sandra and Neal Gassman
Special Exception**

Present: Steven Bonczar, Chair
J. Plourde, Vice Chair
Michael Thornton
Joan Dargie
Rob Costantino
Wade Scott Campbell, Alternate
Karin Lagro, Alternate
Tracy Steel, Alternate

Absent: Robin Lunn, Zoning Administrator
Laura Dudziak, Board of Selectmen Representative

Secretary: Peg Ouellette

Case #2018-10

Sandra and Neal Gassman, for the property located at 29 Spaulding Street, Milford Tax Map 20, Lot 2, in the Residential A district, is seeking a Special Exception of the Milford Zoning Ordinances per Article VI, Section 6.02.6.B to allow for the construction of stormwater management and municipal sewer and water connections within the wetlands buffer.

APPROVED June 7, 2018

Steven Bonczar, Chair, opened the meeting and introduced the Board members. All five regular Board members were present, so the Alternates, T. Steel, W. Campbell and K. Lagro could ask questions of the Board and applicants but not participate in the deliberation or voting. He informed all of the procedures of the Board. He read the notice of hearing.

Chad Banon, Civil Engineer, of Fieldstone Land Consultants, representing Sandra and Neal Gassman and Raisenen Homes Elite, LLC, came forward and stated reason for seeking a variance. Looking at existing conditions plan, property was located at 20 Spaulding St. on north side. Zoning was Res. A. which had a minimum lot size requirement of 15,000 SF with 100 ft. of frontage for properties served by municipal sewer and water. Property consisted of approx. 5 acres with 252 ft. frontage on Spaulding and 62 ft. on

Knight St. He went on to describe the existing property's wooded areas, mild terrain, and mild slope. He pointed out on the plan the perimeter of the property lined in blue. This project proposed subdividing into six new residential lots. One parent lot consisted of existing multi-family home with improvements and open space property along western portion of the site. Total of eight lots will be served with 400 ft. cul-de-sac and municipal sewer and water and underground electric and communications. All new lots take frontage of the new proposed roadway. Plans have taken shape over last 12 months. They have been before the Planning Bd. nine times and a joint site walk with Planning Bd. and Conservation Commission. Initially started with 7 new residential lots and larger roadway and cul-de-sac design. Also had larger stormwater management because they were contemplating a lot more impervious cover. They had worked with the Planning Bd. and Conservation Comm., town staff and abutters to generate current plan. It was conditionally approved by Planning Bd. at 2/27 meeting. They approved the layout primarily because applicants worked in addressing staff reviews, working with Dept. of Public Works (DPW), local Conservation Comm., Fred Elkind the Environmental Stormwater Coordinator and general comments from the Community Development Office, and feedback from Planning Bd. It meets all local requirements from geometric standpoint. In Res. A, you are supposed to provide 15 percent of overall land to open space. Looking at this project they are proposing to place 39 percent of the land in open space. Of that 15 percent, 50 percent must be upland area – non wet, non steep slope. They are exceeding that by almost two times. Road layout has been completed to ultimately minimize impact to adjacent wetlands and buffer areas – 20 ft. wide paved area. They got a waiver from Planning Bd. to reduce the cul-de-sac design and gained support from Fire Dept. and DPW. Stormwater management design will be handled through series of closed drainage along the road and open drainage from the lots. Majority to the west side of the proposed road. It will mitigate all runoff from the project. They analyzed 2, 10, 25 and 50 year design storm projections. Net result is decrease of rate of runoff into jurisdictional wetland area. Reviewed by town staff and DPW. It met intents of the open space conservation district ordinance as determined by Planning Bd. when they gave conditional approval. He was there to get special exception for impacts to the wetlands buffer area. Broken into two categories. Had color coded copies of the plan, which he distributed to the Bd. Looking at plan, the proposed area of buffer impacts in two categories. Yellow hashed area represented buffer impacts needed to construct stormwater management, consists of 4,950 SF. All of this will be temporary as stormwater area will be re-vegetated after construction. In working with Conservation Comm. and staff comments, they had incorporated a landscaping plan within the footprint of that.

M. Thornton asked if it would be native vegetation.

C. Branon said yes. This stormwater management area will result in improvement offsite as they will be mitigating stormwater at Knight St. by reducing runoff leaving the stormwater area. The blue area on the plan represented the buffer impact due to utilities, showed total of 6,225 SF., majority of which would be temporary. Will also result in improvement to the water quality to the neighborhood after water connection from Spaulding to Knight will eliminate some of the dead end of the municipal water runs in the area. This was requested by the Water Dept. He had letter to share that outlined their approval because it will help the infrastructure. He offered copies to the Bd. Declined.

R. Costantino said he rode there that day. Wanted to look at the wetlands. From the car he could see 20 yards or so. Nothing wet. Was there a river back there?

C. Branon said no. In fact when he walked the site during the site walk there was a lot of asking if they were in the wetland yet. There was a low spot. Mostly it was area where the seasonal high water table is within 6 inches of the surface.

R. Costantino said since there had been rain the day before, he expected to see something accumulating, but didn't see anything. Did see puddles in the plowed field. It wasn't a high functioning wetland?

C. Branon said it wasn't; it was a forested wetland.

J. Dargie asked if the forest area would be cut down.

C. Branon said a good portion of the stormwater management area was located in the open field. There was a finger of forested area where they will be cutting trees (which he pointed to).

J. Dargie concerned that when the trees were gone that could change the water table.

103 C. Branon said it didn't, but that was reason for this stormwater management area. They were proposing
104 re-vegetation with a lot of vegetation and shrub. Also some elm trees along Spaulding St. All of those
105 factors were contemplated in the design - change of terrain, impact - and will still have net decrease in
106 rate of runoff from this project. Cutting trees won't have negative impact.

107 J. Plourde said Conservation Comm. sent letter 1/15/18 with ten comments. Was he able to address them
108 and reach an understanding?

109 C. Branon said they did. Part of getting Planning Bd. approval in that process they worked on addressing
110 a number of comments and review from Conservation Comm. The 1/15 letter was acknowledging some
111 of the changes made to the plan and their request. In response to #1, they were able to reconfigure the
112 road more favorably to abutting properties. Also able to make the lots larger. Re #2 that was suggestion
113 incorporated in the plan. #3 the Comm. were the ones who made that suggestion. Applicants proposed
114 those landscaping features. The letter acknowledged those were acceptable. In response to #4, the road
115 was removed from the buffer. None of the roadway or impervious cover from the roadway is proposed to
116 be located in the buffer. Only thing in the buffer was stormwater management and utilities to Knight St.
117 Re #5 C. Branon said this was a misunderstanding. If you have more than 15 percent you need to
118 provide a stormwater management plan. That was provided. They were meeting all requirements in that
119 section of the regulations. Responding to #6, he said this was a function of the open space ordinance
120 which allowed for stormwater management practices to be located in the open space. Planning Bd. had
121 jurisdiction over that particular ordinance, voted that they liked the layout. They felt it made sense where
122 they were building homes on the high side of the lots. Because of public benefit of the stormwater
123 management system, they are improving on poor drainage on Knight St. The Planning Bd. took a vote to
124 say they were okay with the stormwater management being in the open space. Re #7, he said they had an
125 outlet structure designed in the basin so that outflow of the pipe exiting basin is low. Design was not for
126 it to be a wet pond. No standing water or safety hazard or mosquito breeding ground.

127 J. Plourde was concerned when he read that comment.

128 C. Branon said they addressed that with F. Elkind. #8, re sewer easement. It terminated in the open
129 space. Town can't hold an easement on their own property, which was why it terminated at the open
130 space line. The legal document provided to the town allows for the municipal utilities to exist in the
131 location they designed. Re #9, this was depicting the berm of the basin, which explained at the Planning
132 Bd. meeting. Conservation Comm. wanted ability to construct a trail because of conservation land at end
133 of Spaulding St. That has been accommodated and public will be able to pass in those areas. They did
134 fully address this before the Planning Bd.

135 S. Bonczar asked for any other questions from the Bd. None. He said rather than have C. Branon read
136 the criteria, Bd. members had had a chance to read them. Asked Bd. if any questions re the Special
137 Exception criteria, which he read. He said C. Branon had a lot of them in his presentation and text [in
138 application] and the only thing S. Bonczar would ask him to address was cumulative impact to abutters,
139 #6.

140 C. Branon said in general with cumulative impact question it was their position every project needed to be
141 taken on an individual basis. They were proposing buffer impacts but the buffer was really there to
142 address stormwater mitigation and treatment. Impacts were temporary. It will be re-vegetated. Will
143 provide same functions and flow. Will provide improvement to the downstream wetland system where
144 you reach Knight St. and there is known issue. If every project was proposing improvements to the
145 surrounding area and being cognizant of the design and working with the Conservation Comm, etc, you
146 end up with a good system. They have incorporated elements that will benefit general public and not be a
147 detriment. Re utilities extension, it was an expansion of the municipal infrastructure. Was not needed for
148 this, but was requested by the Water Dept. He asked them to write a letter re that. With sewer they could
149 have gone either way. Because of going in that direction with the water it also made sense to do so with
150 the sewer. Water Dept. stated that in their letter. For the record, he handed out a letter by Kevin Stetson
151 of Water Dept. dated 4/4/18 stating this extension would eliminate dead end that would otherwise stop at
152 development, eliminated stagnant water at dead ends and allowed water to flush system. Ultimately

quality of water in that line will improve. It allowed them to backfeed other areas in town if there was ever a water main break; they could isolate the area and still provide water.

S. Bonczar stated that the letter from K. Stetson dated 4/4 would be designated as Exhibit 1.

J. Plourde said he understood why applicants were there and the process and incorporated different comments from town staff, Bds. etc. One of the questions in the criteria was need for the proposed project. Understood buffer impact and why it was needed. But it was addressed by saying there was need for affordable housing in town Will there be income restrictions?

C. Branon said they weren't income restricted, but this developer also did the property off West St. across from the high school football field. They know the market for this area and there was a strong market for a low to mid-200s house. Looking at the neighborhood, lot sizes and setting, that was where these homes will be. In this area it was considered affordable market. Talking about houses in general there was a need for houses in that area. Not much inventory. Ultimately, it will provide housing for the community. The open space ordinance allows for infill development in proximity to the Oval and that is important for local businesses and keeps things vibrant in the area. Believed there was a need. There was a need for the buffer.

S. Bonczar said that was why they were there [the buffer impacts].

C. Branon said when they met with R. Lunn and L. Daly they mentioned the need for housing. Need for the buffer impact was to mitigate proposed improvements and the need for municipal water extension. No other place to put it because of the way the property narrowed down. That was a direct need, construction of those improvements.

J. Dargie asked, re need for the buffer, no other place for them that wouldn't impact?

C. Branon said they worked on layout area in the project and had number of meetings. Ultimately what you had with this project, taking into consideration a number of features. They did a lot of test pits to see where the seasonal high water table was. Wanted to focus the development in area for homes with no issues with water. Because of homes on Spaulding St., came to agreement where that road would fit in. Navigating that road from Spaulding St., that left side of the road was lower. In order to capture drainage you have to design for that, which pushed it into the buffer. Ultimately stormwater mitigation had to be in a lower elevation. Important is that they are temporary impacts. They have put together a good design with landscaping to rejuvenate area right from the start.

T. Steel asked how long it would take for plantings to be established to do their job in keeping the buffer.

C. Branon said basins were self-contained so most of those impacts would drain internally. They will be vegetated, lawn seeded and plantings on the berm on the downhill. Mother Nature will take over and vegetation will take over.

S. Bonczar asked about plantings in there.

M. Thornton said plants will go grow to meet the needs of the water.

J. Dargie commented, look at West St. and see how that looked after a big storm.

R. Costantino they were discussing stormwater management but the road impacts the buffer in couple of minor places?

C. Branon said road didn't get into the buffer.

R. Costantino asked him to point out, which C. Branon did.

S. Bonczar said that was the right of way [that R. Costantino was referring to].

C. Branon said that was what the Conservation Comm. looked at in the right of way. The road itself didn't impact the buffer.

R. Costantino said it was minor. Only a couple of feet. It was a 50ft. setback?

C. Branon said 50 ft. right of way and cul-de-sac slightly larger.

S. Bonczar asked for comments from the public. None. He asked for further questions from the Bd. None.

S. Bonczar closed public comment. He then wanted to go over criteria for evaluation for wetlands, Sec. 6.02.7. Applicant had lot of detail in the packet. Any one that anybody had any issue with? This focused on need to impact the wetland buffer. That the proposed plan was alternate with least impact to the wetland? Any comment? None. Applicant also met with Planning Bd. and other agencies. Impact on

plants, fish and wildlife? None. Impact on quantity and/or quality of surface and ground water? None. Potential to cause or increase flooding, erosion, or sedimentation? None. The cumulative impact that would result if all parties owning or abutting a portion of the affected wetland, wetland complex and/or buffer area were also permitted alterations to the wetland and buffer proportional to the extent of their property rights? None. The impact of the proposed project on the values and functions of the total wetland or wetland complex. None.

J. Plourde said looking at information and hearing testimony it was clear that the stormwater management was why they had a buffer impact and will result in benefit for the proposed lots and on Knight St., and impacts will be temporary.

S. Bonczar agreed. There seemed to be restoration after.

J. Dargie said you don't know the unknown. Have had some horror shows in town.

J. Plourde said we had.

J. Dargie didn't know how to verify that what they say will be done will be done except going back to the plan. This was the same developer that did wetlands on West St. Without any experience, it was tough. They had to go on information they had from the Conservation Comm.

J. Plourde said Conservation Comm, Planning Bd. and Water Dept.

S. Bonczar said the whole blue was because of that. Otherwise it sounded like that portion wouldn't be necessary. The town wanted sewer that way toward Knight St., not toward Spaulding or another direction.

R. Costantino said wetland seemed to be pretty minor.

S. Bonczar said they were talking about [impacts to] the buffer, not the wetland.

J. Dargie said how you affected the buffer affected the adjacent wetland.

R. Costantino said will be low impact because there was not much of a wetland.

J. Dargie agreed.

S. Bonczar moved on to discussion of criteria for special exception:

A. Is the proposed use similar to those permitted in the district?

S. Bonczar said they were focusing on the wetland buffer, not the actual completed project. There had been situations in this zone that, if there were wetland impacts when solutions like this had come before them to solve those issues – other developments to minimize impact of the buffer. This is one of those situations where you have to fit the criteria to fit the wetlands which wasn't easily done.

B. Is the specific site an appropriate location for the proposed use?

S. Bonczar said, again focusing on the stormwater mitigation.

J. Dargie said whether it could be someplace else. Others said it looked like the required location by the town.

R. Costantino and J. Plourde agreed that it was it was not only desired by the applicant but by the town.

C. Will the proposed use adversely affect the adjacent area?

J. Dargie – will be back from the road.

S. Bonczar – it will be restored. If any, it had been minimized. Not going into actual wetland buffer. All will be reclaimed after the fact. The part highlighted in yellow won't be exactly the same at it was but will be restored.

J. Plourde – it was project that they were there for, the stormwater and buffer, was actually going to improve conditions on Knight St.

D. Will there be no nuisance or hazard to vehicles or pedestrian?

No – all agreed.

E. Will adequate appropriate facilities be provided for the proper operation of the proposed use?

All agreed.

S. Bonczar moved on to vote on the Special Exception:

VOTE: On Special Exception:

1. Is the Special Exception allowed by the ordinance?

J. Plourde – yes

J. Dargie – yes

R. Costantino – yes

M. Thornton - yes

S. Bonczar - yes

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

R. Costantino – yes

M. Thornton – yes

J. Dargie - yes

J. Plourde - yes

S. Bonczar - yes

S. Bonczar said due to the voting the criteria for special exception were satisfied and the application was unanimously approved. He reminded applicants of the 30-day appeal period.