

**Milford Zoning Board of Adjustment Minutes
Leisure Acres Mobile Homes, Inc.
March 2, 2006**

Present: Len Harten
 Katherine Bauer
 Bob Levenson
 Fletcher Seagroves
 Kevin Taylor

Alternates: Ron Pieper, Jr.
 David Michel

Recording Secretary: Kathryn Parenti

Case # 05-06: Leisure Acres Mobile Homes, Inc. – Special Exception. The owner of Leisure Acres Mobile Home Park, located at 26 Melendy Road, Map 42, Lot 73, in the Residential “R” district, is requesting a special exception from Article VI, Section 6.021.E to impact 3,027 SF of wetlands for the removal and replacement of two pipe culverts on Leisure Way.

Motioned by: _____

Seconded: _____

Signed: _____

Date: _____

L. Harten read the notice of hearing into the record.

B. Levenson noted that abutters at Map 42, Lot 66-1 were not notified initially. He said that Shirley Wilson had then notified them of the hearing and confirmed this with him via email.

F. Seagroves said his daughter lives in Leisure Acres and wondered if he should sit on the hearing.

L. Harten asked if he would be able to make an impartial, unbiased decision.

F. Seagroves replied that he could. He just wanted this fact noted in the record.

K. Bauer said she didn't have a problem with it; it would be different if there was a financial interest in this.

R. Pieper asked if he had discussed this case with his daughter.

F. Seagroves replied that he had not.

L. Harten felt it was his decision to make; if there was an issue and it ended up in the court system, then there might be a problem but he didn't feel that was the case. The applicant also stated he did not have an objection with F. Seagroves sitting on the case.

L. Harten asked the applicant to present his case. Gerry Gagne of Meridian Land Services, Inc. introduced himself.

G. Gagne said he represented Leisure Acres Mobile Home, Inc and said there was a letter in the file introducing him. He said the area of concern, Leisure Acres Mobile Home Park, has 100 units and is located at the intersection of Melendy and Armory Road. The application is to replace a culvert underneath Leisure Way, which is the only means of egress for some of the mobile homes in the development. The request for special exception is under Article VI, Section 6.021.E, and 6.026 and he is also requesting a special exception be granted from #5, 6, 8 and 10. Ox Brook goes under Leisure Way through 3 culverts, 2 of which are corroding. Wetlands delineation was done in accordance with the Federal Manual for Wetlands Delineation by Tom Karr of his office. Because they are replacing a culvert, no mitigation is required. He showed the makeup of the culverts on Exhibit A, locally quarried granite that allow water to migrate both through the culvert and causes both erosion and corrosion. The corrugated metal culvert was constructed in the 1980's and has exceeded its lifespan. The upper areas of the culvert are falling apart. Due to the fact it is a triple culvert, debris has a chance to accumulate on the upstream side of the culvert, causing clogging. They propose a single cell 24", 3' x 6' box culvert with no internal obstructions. Wing walls on both the upstream and down stream side are to be made of pre-cast concrete. The end of the headwall extends under the culvert so the water doesn't migrate under the culvert but goes through the structure, which is the intent. They are proposing a 48" corrugated metal pipe as a temporary means of conveying Ox Brook around the structure so the structure can be made properly. This is the only means of egress for 37 of the 100 units of the park. The permanent structure would be built in stages. There is also a sewer line that is present under the existing structure and it would need to be lowered to meet current standards. This whole project will take some time. He wasn't sure if the contractor would bypass flow above grade to avoid delay or obstruct use for the tenants or whether he'll make a temporary structure. The contractor will handle

that. They are also proposing 2 cofferdams in the downstream phase. Cofferdams will be made of steel plates pounded in to the ground vertically and earth material placed behind them in order to minimize the amount of disturbance around them. They will provide a dry area in which to work once the water is pumped out. These cofferdams are temporary as well as the riprap and bypass culvert that will allow the flow to be conveyed around the work area.

B. Levenson said that all of this work contributes to the disturbance of the wetland area.

G. Gagne said that was correct.

B. Levenson asked if that would all be restored after construction was finished.

G. Gagne replied yes. The permanent impact is 691 square feet; the temporary impact is 2336 SF making a total of 3027 SF, which exceeds the threshold of 3000 SF in the ordinance.

L. Harten asked about the disturbance created by the temporary structures and if the cofferdams would be removed once construction was completed.

G. Gagne replied yes.

L. Harten asked if the disturbance at that point would go down.

G. Gagne reference Exhibit A and delineated where the permanent and temporary disturbances would be.

L. Harten asked what the permanent square footage would be.

G. Gagne replied it was 691 SF.

D. Michel asked what portion of the 691 feet were pipes.

G. Gagne said it was essentially the same size.

D. Michel asked if it would grow at all.

G. Gagne replied it would be 36', 36", 24" and about one foot in between. The existing inverts of the box culverts are partially silted up. In discussions with the State Wetlands Board and the Milford Conservation Commission, they've established the proposed culvert invert to be identical to the silt level so the backwater and upstream wildlife habitat won't change. The State Wetlands Board has given them a permit and that is in the file. They also went before the town Conservation Commission to discuss the project prior to filing it with the State Wetlands Board. Only one special request was listed on the public notice but he is envisioning 4 special exception items, of Section 6.026, #5, 6, 8 and 10. G. Gagne then went through each one. #5 –alteration of the stream or channel, there's a threshold in the regulations of 50 linear feet; they are altering 120 LF because they are taking one structure out and putting another structure in, as a matter of record.

#6 – the combined temporary and permanent impact should not exceed 3000 SF; they are at 3027 SF with 691 SF being permanent impact.

#8- work within wetland not previously permitted. In 1980 the planning board allowed the time to run out on the review process and was approved by default. At that time, state permits were not as intently looked at and the mobile home park did not apply for state permits to construct the culverts. In discussions with Kevin Lynch, they thought they should make that a matter of record, number one to get a state permit which was required under current regulations and to go before the ZBA to make it a matter of record.

#10 – special exception for work in a perennial stream. They will be working in Ox Brook both for the placement of riprap and the culvert itself. There will be also be work on the water and sewer lines to make them meet the current requirements.

G. Gagne then read Section 6.027, Criteria for evaluation.

1. **The need for the proposed project.** The failure of the existing structures and the need to convey traffic over Ox Brook since this is the only means of egress for 37 units of the park.
2. **The plan proposed is the alternative with the least impact to the wetlands, surface waters and/or their associated buffers.** It's a replacement in kind at the same location, bringing it up to current standards and better quality.
3. **The impact of plants, fish and wildlife.** A concern with the State Wetlands Board was banded sunfish, which exist in Osgood Pond and immediately downstream from the pond but do not exist in Ox Brook. It was discarded by the State Wetlands Board.
4. **The impact on the quantity and/or quality of surface and ground water.** A silt fence in the brook would be used in the construction of the temporary structure. Once the cofferdams were constructed, the silt fence would be removed. The intention would be to minimize any loss of sediment beyond the actual construction site.

D. Michel asked about the sediment control.

G. Gagne said they would install a silt fence both upstream and downstream, sections at a time, to control the silt. The impact is minimal to Ox Brook.

5. **The potential to cause or increase flooding, erosion or sedimentation.** The 48" culvert is to allow the flow to occur. The contractor will have to leave one lane of traffic open at a time. Referring to Exhibit A, he showed that the contractor would have to work in sections, completing one section at a time.

B. Levenson stated that the project would take some time.

G. Gagne agreed but stated that it would take much less time with the pre-cast concrete culverts, no curing time.

L. Harten asked about the time frame.

G. Gagne said the construction would occur during lower flow, in August, when streams are lower. They may start some activity earlier but would not break into Ox Brook until low flow.

6. **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.** This is a replacement in kind; it's not going beyond the existing use.
7. **The impact of the proposed project on the values and functions of**

Total wetland or wetland complex. It's not a new structure; it's a replacement. The new culvert elevation will be kept the same as the current silt level to maintain the wildlife habitats.

- B. Levenson noticed that there wasn't any buffer mentioned.
- G. Gagne replied that he and K. Lynch felt it wasn't an issue.
- B. Levenson replied that any time you disturb wetlands you disturb the buffer and wondered why this was not mentioned.
- G. Gagne replied that it was a replacement in kind and that might be the reason.
- L. Harten then said if K. Lynch felt it wasn't an issue, then he'll feel the same.
- B. Levenson replied that it wasn't an issue, he didn't see it marked.
- G. Gagne pointed out on Exhibit A the wetlands delineation and the buffer area.
- L. Harten asked if any one had any questions.
- D. Michel states that the best time of year to do this type of work was August. If the board gives approval, what happens if they decide to do the work when it doesn't make sense, during high water. Maybe they could put a condition on it stating when they could do the work.
- R. Pieper stated the State denotes that on the permit, item #3.
- G. Gagne pointed out #6 on the State permit "*cofferdams should not be installed during periods of high flow.*"
- K Bauer and B. Levenson both pointed out that the Conservation Commission was very thorough.
- L. Harten then closed the public portion of the hearing.
- L. Harten asked if everyone was ready to vote.

1. Is the exception allowed by the ordinance?

- F. Seagroves- yes
- B. Levenson – yes
- K. Bauer- yes
- K. Taylor – yes
- L. Harten – yes

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

- B. Levenson – yes
- K. Taylor – yes
- F. Seagroves- yes
- K. Bauer- yes
- L. Harten – yes

- L. Harten asked if there was a motion.
- B. Levenson moved to approve the request for the special exception.
- F. Seagroves seconded.
- All were in favor.