

**Town of Milford
Zoning Board of Adjustment Minutes
October 18, 2007
Sanford Engineering/The Meadows of Milford
Case #34-07
Special Exception**

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Present: Len Harten, Chairman
Katherine Bauer
Fletcher Seagroves
Rick Westergren - Alternate
Steve Bonczar – Alternate

Absent: Bob Levenson
Ron Pieper

Secretary: Kathryn Parenti

DRAFT

The applicants, Sanford Engineering and The Meadows of Milford, along with Oak Meadow, LLC, the owner of Map 7 Lot 5, 0 Hollow Oak Lane, in the Integrated Commercial/Industrial “ICI” district, are requesting a special exception from Article VI, Section 6.026.A.2 to permit the disturbance of 7,514 square feet of wetlands.

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

46 L. Harten, chairman, read the notice of hearing into the record. He read the abutters list; John
47 Pollock, representing Oak Meadows, LLC, Joseph Swiezynski, representing The Meadows of
48 Milford, LLC, Attorney Andrew Prolman, representing Joseph Swiezynski, Earl Sanford,
49 representing Sanford Surveying & Engineering and Hub Seward of the Conservation
50 Commission were present. He then invited the applicant forward.
51 E. Sanford passed out a map showing the area in question to all the board members. He
52 noted the shaded area represented the wetlands and he noted a large portion of the lot is
53 wetlands. Their plan would be to eliminate the tongue of the wetlands where the proposed
54 building would go. There are three (3) acres for development and three (3) acres for a
55 conservation easement on the lot. They had worked with the Conservation Commission with
56 regard to the conservation land. He stated they did not want to move forward on the project
57 without their blessing. He noted on an aerial photograph the area with the trees represents
58 the conservation easement and the open area they are looking to develop. He also noted the
59 Conservation Commission had some issues with plantings in detention basins and those were
60 addressed; there would be native plantings in the detention basins to replicate the function
61 being lost by the filling of the wetland. The wetland area to be impacted is 7,514 square feet
62 with the construction of the building and the parking area. They will be handling the storm
63 water off site with three catch basins and a long, shallow swale. He noted they are filling the
64 wetland area mostly for parking. In addition, there is a man-made drainage swale that runs
65 all within the conservation easement. He noted for case #35-07, the impact to the wetland
66 buffer, the buffer goes around the wetland and it makes no sense to maintain the buffer once
67 the wetland is filled. He noted 16,616 square feet of wetlands and buffer would be made
68 obsolete if they gain permission to fill the area. He noted the letter from the Conservation
69 Commission summarizes their meeting and their working together. The retail building will
70 be 32,000 square feet and is consistent with the Integrated Commercial/Industrial zone it is
71 in. He noted Hollow Oak Lane is a hodge podge of commercial uses, but this use is
72 consistent with those on the road.
73 L. Harten read the Conservation Commission letter into the record and asked if Hub Seward,
74 of the Conservation Commission if he had any comments.
75 H. Seward stated the Commission had reviewed this case a few times and have made some
76 minor changes to the plan. He noted the amount of parking is required for that size of the
77 building and there is a lot of impervious surface with the pavement and the large roof area.
78 He noted the basins have the probability of becoming man-made wetlands in the future. In
79 addition, he stated this was not approved unanimously but it was approved.
80 L. Harten asked if the wetlands were continuously wet or if there was any standing water.
81 H. Seward replied he believed it was farmland in the past and part of the area is very poorly
82 drained soil and most of the area is just poorly drained soil and these areas are just minor
83 depressions in the hayfield. He stated the area is not a significant wildlife habitat and is not
84 unique. The area meets the criteria for a wetland but is not prime wetland.
85 L. Harten asked the Board if there were any questions regarding the Conservation
86 Commission's opinion.
87 K. Bauer asked the applicant if the building would be built on a slab.
88 E. Sanford replied it would be, with a four (4) foot deep frost wall where they will dig down
89 one (1) foot and build up three (3) feet. He also noted the building plan was not finalized.
90 With regard to the wetland, they did look at the area again and originally it was delineated at
91 the toe of a large gravel embankment and the embankment has since been removed. Other

92 than that change, the area is similar to the way it was mapped ten (10) years ago. He noted it
93 was clear the land was humanly altered as it is not in its natural state. It is all grown in but it
94 is the result of the work of humans in the past.

95 L. Harten asked if they would be applying for a dredge and fill permit.

96 E. Sanford replied they would.

97 K. Bauer asked the applicant to point out the poorly drained area.

98 E. Sanford showed where they were highlighted in blue on the plan.

99 S. Bonczar inquired about the two (2) detention ponds in the buffer area and asked if the
100 larger detention pond was ever marked and if they were planning on taking that pond away,
101 how much would be replaced.

102 E. Sanford replied the new basins would be 12,000 square feet and would be used for
103 drainage purposes and would be approximately sixty (60) by eighty (80) feet.

104 S. Bonczar noted detention ponds are a good thing and in addition, a prior case dealing with
105 wetlands, buffers and detention ponds had not been disturbed. He felt creating them was a
106 good thing, especially if they become wetlands themselves.

107 E. Sanford stated effected by drainage mechanisms water is treated and a few hundred square
108 feet is not a detention pond.

109 S. Bonczar noted the parking lot is right up against the lot line. He asked if it would be
110 curbed and if there was any landscaping planned for that area.

111 E. Sanford noted there would not be any curbing to allow the water to sheet of the
112 impervious surface. He noted they could put in a swale to treat the storm water.

113 S. Bonczar asked about the swale.

114 E. Sanford replied it would be built to allow the water to travel at no more than one (1) foot
115 per second velocity and it would be vegetated to filter the storm water.

116 K. Bauer asked about snow plowed into banks near the wetland area.

117 E. Sanford noted there was an area in which to store snow that would not affect the wetland
118 or buffer in the rear.

119 K. Bauer asked if the Conservation Commission asked about the amount of salt to be used
120 for the treatment of ice.

121 S. Bonczar noted he was concerned with the storage of snow in detention ponds as it will
122 have some amount of salt in it and could prevent vegetation from growing. He asked how it
123 would be mitigated in order to not affect the wetlands and buffer.

124 E. Sanford replied there would be a judicious use of salt due to the fact the site was flat
125 enough and it would not require heavy salting.

126 K. Bauer asked if the applicant would consider a “no salt” condition and if that would be
127 acceptable.

128 E. Sanford replied it would be.

129 K. Bauer asked H. Seward if he had any comments regarding treating ice that would end up
130 in detention ponds.

131 H. Seward replied he did not recall any decisions regarding this issue. They did feel that a
132 little salt would not be too bad but a lot of salt would be very bad. He noted the use of no salt
133 and several tons of sand is equal to or more damaging to plant growth.

134 K. Bauer asked what the substitute for salt was.

135 H. Seward replied calcium chloride could be used; it costs more but is more effective at
136 lower temperatures. He noted the affect on plant life is similar to that of salt but less is

137 applied. He also stated something the Commission has discovered, that snow plow drivers
138 do not read notes on site plans.

139 S. Bonczar asked if they would post signs along the wetlands stating there would be no snow
140 storage in that area.

141 E. Sanford noted the most intense use of salt is on turn-arounds. He said he was not an
142 expert and unable to determine how much salt is too much.

143 L. Harten wondered who would police this.

144 K. Bauer noted other site plan have no salt conditions written on them. She wondered how
145 the plow drivers are notified of the restriction, if not for signage, as suggested by S. Bonczar.

146 R. Westergren noted the site was level and there would not be the need for much salt and
147 thus not a problem.

148 K. Bauer stated her concern was with the parking lot and building next to the wetlands.

149 E. Sanford noted, on the original plan, the roof drain would be going off the northeast corner
150 and staff wanted the water to come off the southeast corner to go into the treatment swale.
151 He noted the site is designed for sheet flow.

152 K. Bauer asked about the ditch on the east side that was not in the wetlands, how far they
153 would be extending past this lot.

154 E. Sanford noted all improvements would be restricted to this lot. He noted there was a spot
155 that had the appearance of being dug and that drains to the Souhegan River. He noted all
156 construction stops twenty (20) feet before the swale. He also noted one hundred (100) feet of
157 trees are on the Hitchiner property.

158 S. Bonczar noted, in the Conservation Commission letter, the statement about granting a
159 conservation easement. He asked what the delineation of the easement would be and if it
160 concerned the Board enough to make it a condition for approval.

161 E. Sanford noted there was a straight line that goes diagonally along this lot, dividing the lot
162 into 2.8 acres and 3.2 acres.

163 R. Westergren thought the Board could site the Conservation Commission's letter in its
164 approval.

165 L. Harten asked the Board if they wanted to add the no salt requirement as a condition.

166 S. Bonczar replied he would not make that condition since it would be hard to enforce. He
167 did feel posting signs along the detention ponds, like at Cirtronics, would be a good thing.

168 K. Bauer read from page 44 of the Town of Milford Zoning Ordinance: "4. *The impact on*
169 *the quantity and/or quality of surface and ground water; and 3. The impact on plants, fish*
170 *and wildlife*".

171 E. Sanford replied the detention ponds provide excellent buffers for the wetlands behind
172 them. He did note the wetlands are not the first line of defense and that is why they are
173 installing the detention ponds.

174 L. Harten then asked him to go over the five criteria for a special exception.

175 A. Prolman, attorney for the applicant, proceeded with the criteria.

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

177 A. Prolman responded this use complies with that of the ICI district and it is the last
178 lot in the commercial subdivision.

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

180 A. Prolman stated this is an allowed use which is compatible to the area, with uses
181 that range from waffle manufacturing to oil storage.

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

183 A. Prolman replied this is an allowed use and as there were not any abutters present,
184 they must not have any issues.

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

186 A. Prolman replied there would be no traffic issues and no hazards and since there
187 were not many pedestrians, no hazard is present.

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

190 A. Prolman stated E. Sanford had worked with staff to provide the appropriate
191 facilities.

192 A. Prolman then continued on with Section 6.027 - Criteria for Evaluation:

193 **1. The need for the proposed project.**

194 A. Prolman stated this lot has been vacant for a very long time due to the wetland
195 area. He noted nothing can be accommodated on the site without impacting the
196 tongue of the wetland.

197 **2. The plan proposed is the alternative with the least impact to the wetlands,**
198 **Surface waters and/or their associated buffers.**

199 A. Prolman stated this project would have the least impact on the wetlands and buffer
200 and would be providing a conservation easement on half of the lot. There would be a
201 long drainage swale at the back of the site and they would only be impacting the
202 tongue of the wetland.

203 **3. The impact on plants, fish and wildlife.**

204 A. Prolman stated the site is an old hayfield without high value wetlands and no
205 vernal pools. There will be a conservation easement which he will be drafting,
206 which will state the area will be a “no touch” area, an area that must be left alone
207 forever more and granted to the town. He also noted there were no rare or
208 endangered species on the site.

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

210 A. Prolman said there was some standing water but the area is mostly dry. He noted
211 they would try to have as little impact on the wetlands as possible. The site is very
212 flat from Elm Street to the end of Hollow Oak.

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

214 A. Prolman stated there was no potential to cause or increase flooding erosion or
215 sedimentation.

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

220 A. Prolman replied he was not aware of any impact that would be the result of this
221 project.

222 K. Bauer asked about the impact to the abutting Hitchiner land.

223 E. Sanford replied it was agricultural land. He also noted much of the conservation
224 easement is in the one hundred (100) year flood plain. During the floods of this past
225 April, he had someone mark where the flood waters rose to and that mark was not far
226 up into the area.

227 A. Prolman stated he had walked in the area of the proposed building and to him, it
228 looked like an open field.

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

A. Prolman stated this was the last or next to last vacant lot on Hollow Oak Lane and he did not feel this would have any impact on the values and functions of the area.

L. Harten asked if the board members had any questions for A. Prolman and if there were any comments from the audience before he closed the public portion of the hearing.

A. Prolman asked if he would need to respond to the same criteria for case #35-07 and if the ones he had just made applied to both cases.

L. Harten replied they did apply and he would not have to restate them.

A. Prolman also stated his client would agree to a no salt restriction on the site but the condominium owners in the proposed building may not agree to the no snow storage request.

S. Bonczar asked if his client would be amenable to signage.

K. Bauer asked if this plan was on the Planning Board agenda.

A. Prolman replied it was not.

K. Bauer asked if the board needed to have the discussion in the record for both cases.

R. Westergren stated the board could acknowledge the testimony is for both cases.

K. Bauer wanted to make sure the same conditions were for both cases.

L. Harten asked if there were any more comments. Since there were none, he closed the public portion of the hearing. He then asked if the board wanted to address the proposed conditions.

K. Bauer wanted it known that the applicant was addressing this case as a use variance and it is not a use variance, as the use is allowed in the district. She noted all of the use questions are addressed by the Planning Board. She didn't see there was any need to discuss the general criteria. She also did not have any problem wetlands criteria as long as they put conditions in place.

All were in agreement.

K. Bauer then proposed the following condition: "The condition that a conservation easement be placed on the western section of the property and that the detention basins be planted with a variety of species appropriate for the area."

F. Seagroves seconded the condition.

All were in favor.

S. Bonczar proposed a second condition: "That there be a restriction on salt use on the property and a no salt use sign be posted at the entrance to the property."

K. Bauer seconded the condition.

F. Seagroves, K. Bauer, L. Harten and S. Bonczar were in favor. R. Westergren was not in favor.

L. Harten then called for a vote.

1. Is the exception allowed by the ordinance?

K. Bauer – yes S. Bonczar – yes F. Seagroves – yes R. Westergren – yes

L. Harten – yes

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

S. Bonczar – yes F. Seagroves – yes R. Westergren – yes K. Bauer – yes

L. Harten – yes

275 L. Harten asked if there was a motion to approve the case.
276 S. Bonczar made the motion to approve case #34-07 as presented and with the two (2)
277 conditions mentioned above.
278 F. Seagroves seconded the motion.
279 **Final Vote:**
280 F. Seagroves – yes R. Westergren – yes K. Bauer – yes S. Bonczar - yes
281 L. Harten – yes
282 L. Harten reminded the applicant there was a thirty (30) day appeal period.
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