

**Town of Milford
Zoning Board of Adjustment Minutes
August 16, 2007
Carole M. Colburn Revocable Trust
Case #27-07 and 28-07
Special Exception**

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

Absent: Bob Levenson
 Ron Pieper

Secretary: Kathryn Parenti

Case #27-07

The applicant, Carole M. Colburn, Revocable Trust, owner of Map 51 Lot 1, Osgood Road, in the Residence “R” district, is requesting a special exception from Article VI, Section 6.026.A.6 to impact 10,800 square feet of wetlands for the construction of a roadway.

Case #28-07

The applicant, Carole M. Colburn, Revocable Trust, owner of Map 51 Lot 1, Osgood Road, in the Residence “R” district, is requesting a special exception from Article VI, Section 6.026.B to impact 19,762 square feet of wetlands buffer for the construction of a roadway.

Motion to Approve: _____

Seconded: _____

Signed: _____

Date: _____

L. Harten, chairman, read the notice of hearing into the record. He did not read the abutters list as none were present. He then invited the applicant forward.

Bill Davidson, of Meridian Land Services, stated he would be representing Carole Colburn and there was a letter in the file authorizing him to do so.

L. Harten read a letter from the Conservation Commission into the record. He inquired who Edna Nye was, since she was referenced in the above mentioned letter.

B. Davidson replied she was Carole Colburn's mother. He noted the trust was formerly called the Edna Nye Trust and is now known as the Carole Colburn Trust. He noted they had met with the Conservation Commission when they filed for a wetlands permit. He continued by noting the parcel in question is off of Osgood Road and abuts the Badger Hill subdivision to the south; Woodhawk Drive ends before the parcel. He noted the proposed road crosses wetland areas in two (2) spots. He noted Map 46 Lot 38 is owned by Carole Colburn's brother and is next to this parcel. He stated this subdivision would relieve a problem with the Badger Hill subdivision by allowing another road out of the subdivision. The two (2) wetlands crossings would have 4 foot by 4 foot box culverts even though an 18 inch pipe would be enough. He noted the State prefers box culverts with their natural invert to allow the migration of animals through the pipe. The DES looks for a horseshoe with an open bottom, and this would be a concrete box that fills in with a natural bottom. This process causes less destruction to the wetlands during construction. There is a large amount of open space in this development which connects with Hitchiner Town Forest and he had worked hard to keep the proposed lots outside of the wetlands area. There are 32 lots, two (2) cisterns, a detention basin and four thousand (4000) feet of road that connects to Woodhawk Drive. In regard to the wetlands disturbance, there would be a total impact of 10,800 square feet of disturbance. He noted the Conservation Commission's favorable letter was forwarded to the DES. He noted they are still in the review process with DES.

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

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

B. Davidson noted the site is located in the residence "R" district which permits two (2) acre lots and open space subdivisions and the Hitchiner Town Forest is to the west of the property. He noted the road, on the plans submitted to the Planning Board, would be called Woodhawk Drive Extension.

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

B. Davidson replied the development is allowed by the Zoning Ordinance and the site is conducive to residential development. The site will be providing a connection to an adjacent subdivision.

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

B. Davidson replied the use is similar to the adjacent area and the subdivision provides a large amount of open space.

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

B. Davidson replied the road will be twenty-four (24) feet wide and meets the Town of Milford sight distance regulations and provides an additional connection to an existing adjacent subdivision.

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

B. Davidson stated this subdivision will comply with all applicable local, state and federal standards and a storm water management plan had been included as well.

After some discussion regarding why there were two applications, it was decided B. Davidson would be dealing with the wetlands and the wetlands buffer requests at the same time.

B. Davidson continued by stating the impact to the wetlands buffer would be 19,762 square feet. This will be a residential development and there is a need for such a development.

K. Bauer asked if they develop the parcel, did they have the specific wetlands disturbance permits.

B. Davidson replied that this development would need to be approved for the wetlands disturbance and they were in the process of doing that. He continued by stating this would improve the Badger Hill subdivision by adding an additional entrance, as there is only one onto Osgood Road and other ways in were difficult due to the topography. He then continued on with Section 6.027 - Criteria for Evaluation:

1. The need for the proposed project.

B. Davidson replied this will alleviate a good portion of the problems with Badger Hill but there was still a large section of that development would have some issues.

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

B. Davidson noted the road would skirt up to and cross the wetlands at the narrowest points to avoid the wetlands and buffers and meeting detention and storm water criteria.

3. The impact on plants, fish and wildlife.

B. Davidson stated four (4) foot culverts would be installed to allow wildlife to pass through.

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

B. Davidson said there would be no increase in the quantity of water from the development and all disturbance is with the state for site specific. They will comply with altering the swales with level spreaders and rip rap and will have site specific permits from the state.

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

B. Davidson noted there would be none of the above due to rip rap and detention basins.

S. Bonczar asked if the wetlands area was a stream.

B. Davidson replied it was forested wetlands and there was one section of tall grass and was meadowy. He noted you could walk through it all and there were no defined channels. He also noted they would be building up the areas to about six (6) feet in order to cover the pipe and there would be rip rap and a silt fence as erosion controls.

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.

B. Davidson noted this would be proportional to the extent of the property and any disturbance above three thousand (3000) square feet would have to go before the ZBA and the Conservation Commission and there would be no negative result from that.

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

B. Davidson replied they have protected 98% of the wetlands on the site by the open space area. The run off would be treated by the treatment swales prior to entering the wetland area and there would be no negative impact.

S. Bonczar asked if there would be any impact on the growth of the wetlands, i.e., would building a road and disturbing the environment around the wetlands. He wondered if this disturbance would cause the wetland to become larger.

B. Davidson noted the wetlands area drains eventually and by putting in the pipe saddle, water will drain off on both sides of the pipe. He didn't feel there would be an increase in wetlands but there would be slightly more water draining from the site. He noted the detention basins may become wetlands as well, with cattails and thrushes.

There was some discussion regarding the proposed hammerhead and that the Planning Board may not approve it and it may become a cul de sac.

L. Harten asked if the board had any additional questions.

K. Bauer stated because these requests were approved by the Conservation Commission she had no problems with these requests and she felt Meridian did a good job with their planning of the subdivision. She had no opposition to either case.

S. Bonczar stated he did not like any wetlands disturbance and felt, if the wetland is disturbed, new wetlands should be created in its place. He just wanted to make sure the minimum amount of wetlands and buffer have been disturbed, as other plans presented in other cases have not done that.

F. Seagroves agreed with K. Bauer regarding the approval by the Conservation Commission. He felt that has a lot of weight in making his decision.

R. Westergren agreed and thought Meridian had done a thorough job in their presentation.

L. Harten felt there were enough safeguards in place and since the Conservation Commission and the Planning Board also look at the plan, he had no problem with it. He did note it would be nice to replace the disturbed wetlands with new wetlands.

S. Bonczar stated that if the culverts have a tendency to become wetlands, which might equal out what is disturbed. He noted if there were changes to the amount of disturbance, they would have to come back before the board.

L. Harten asked if there were any more questions or comments by the board. Since there were none, he called for a vote. It was decided to vote on each case separately.

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

L. Harten asked if there was a motion to approve the case.

R. Westergren made the motion to approve case #27-07 as presented.

F. Seagroves seconded the motion.

Final Vote:

F. Seagroves – yes R. Westergren – yes K. Bauer – yes S. Bonczar - yes
L. Harten – yes

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

L. Harten asked if there was a motion to approve the case.

K. Bauer made the motion to approve case #28-07 as presented.

F. Seagroves seconded the motion.

Final Vote:

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

L. Harten – yes

L. Harten reminded the applicant there was a thirty (30) day appeal period.