

*Town of Milford*  
**ZONING BOARD OF ADJUSTMENT**  
**Milford Police Training Room**  
**AUGUST 15, 2024**  
**Public Hearings**

**Case 2024-09: Cellco Partnership, 476 NH Route 13 South, VARIANCE**  
**Case #2024-14: Karen Therrien, 6 Chestnut Street SPECIAL EXCEPTION**  
**Case #2024-13: Squirrel Hill Properties LLC, 21 Emerson Road, SPECIAL EXCEPTION**

**Members**

**Present:** Andrea Kokko Chappell, Chair  
Joan Dargie, Vice Chair  
Rich Elliott, Member  
Dan Sadkowski, Member  
Michael Thornton, Alternate

**Not Present:** Tracy Steel, Member

**Non-Members**

**Present:** David Freel, BOS Representative  
Lincoln Daley, Town Administrator via Zoom

**Not Present:** Jane Hesketh, Recording Secretary, Community Development

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**MEETING AGENDA**

1. Call to Order

2. Mtg. Minutes Approval: 7/11/2024 Mtg. & 7/25/2024 Mtg.

3. Public Meetings:

a. **Continuance of Case #2024-09**-Variance Requests for New Cell Tower for Cellco Partnership (dba Verizon Wireless & Tarpon Towers III, LLC) The applicant, Cellco Partnership, proposes a new 135-foot high (above ground level) cell tower mono-pole (w/ attached 10' whip antennae) to be located at 476 NH Route 13 South, Map 48 Lot 11. The newly proposed cell tower requires relief in the form of a Variance Request from three requirements contained within the Milford Zoning Ordinance, Section 7.09.4.A.3 (cell tower clearance above avg. tree canopy) & Section 7.09.4.A(4 & 5) seeking relief from the cell tower fall zone requirements encroaching onto off-site properties, & requirements for a fall zone easement.

**Case Continuance from the July 11, 2024 ZBA Mtg.**

b. Case #2024-14- Karen Therrien, Special Exception Request for Detached Accessory Dwelling Unit (ADU), located at 6 Chestnut Street The applicant, Karen Therrien, has proposed the addition of a detached Accessory Dwelling Unit (ADU) for the .26-acre Lot located at 6 Chestnut Street, M 26 L 23. The proposed two-level ADU will have a 750 square foot living area on the first level, with dedicated attic space exclusively on the second level. The Lot is zoned Residence "A", and is subject to Section 5.02.2.13 (ADU-Special Exception, Milford Zoning Ordinance) & Section 10.10.02.6.A.

1 **MINUTES OF THE ZBA MEETING AUGUST 15, 2024**

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4 **MEETING AGENDA**

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6 c. Case #2024-13-Squirrel Hill Properties, LLC-Special Exception Request for Wetland Buffer Impact located at  
7 21 Emerson Road The applicant has requested the approval of a Special Exception for approximately 1,852  
8 square feet of wetland buffer impact for an area lying adjacent to the onsite northern wetland area contained  
9 within the 1.566-acre Lot, located at 21 Emerson Road, M48 Lot 35-2. The partially developed Lot is zoned  
10 Commercial (“C”), pursuant to Section 5.05 of the Milford Zoning Ordinance. Pursuant to Section 6.02.6.B  
11 (Wetland Conservation), any proposed wetland buffer impacts must obtain a Special Exception. No wetland  
12 impacts are proposed with this request.

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14 4. Other Business: TBD

15  
16 5. Next Meeting(s): September 5, 2024 & September 19, 2024

17  
18 6. Adjournment

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23 **1. CALL TO ORDER**

24  
25 Chair Andrea Kokko Chappell opened the meeting by welcoming everyone and introducing herself.

26  
27 The Chair stated you may attend this meeting in person at the Milford Police Training Room.

28 If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and  
29 enter the Meeting ID: 851 6407 7601 and Password: 269952 or log in via [www.zoom.com](http://www.zoom.com) using the Meeting ID  
30 and Password previously stated.

31  
32 A digital copy of the meeting materials can be found on the Town website at:

33 <https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda>. We will be live streaming this  
34 meeting on Granite Town Media, Government Channel 21, but will be on Zoom.

35 <http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2>.

36  
37 Roll call attendance with all present at Milford Town Hall: Mike Thornton, Dan Sadkowski, Rich Elliott, Joan  
38 Dargie, Andrea Kokko Chappell. Chair stated Alternate Mike Thornton would be acting as a full member to bring  
39 the board to 5 members.

40  
41 Chair explained the process for the case hearings. The Chair said a full agenda may not allow all cases to be heard  
42 and that at 10:00 p.m. the meeting will end. The Chair explained how the meeting would proceed for the cases  
43 that may not be heard in that they would be continued or tabled to another agreed upon meeting; also explained  
44 was the process for public notification.

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46 Chair moved to the Public Hearings and stated Meeting Minutes will be reviewed at the end of the Public Hearings.

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56 **MINUTES OF THE ZBA MEETING AUGUST 15, 2024**

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3 **3. PUBLIC HEARINGS**  
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5 **a. Continuance of Case #2024-09-Variance** Requests for New Cell Tower for Cellco Partnership (dba Verizon  
6 Wireless & Tarpon Towers III, LLC) The applicant, Cellco Partnership, proposes a new 135-foot high (above  
7 ground level) cell tower mono-pole (w/ attached 10' whip antennae) to be located at **476 NH Route 13 South,**  
8 **Map 48 Lot 11.** The newly proposed cell tower requires relief in the form of a Variance Request from three  
9 requirements contained within the Milford Zoning Ordinance, Section 7.09.4.A.3 (cell tower clearance above  
10 avg. tree canopy) & Section 7.09.4.A(4 & 5) seeking relief from the cell tower fall zone requirements  
11 encroaching onto off-site properties, & requirements for a fall zone easement.

12 **Case Continuance from the July 11, 2024 ZBA Mtg.**

13  
14 Chair Kokko Chappell recused herself from this case as she did at the July 11, 2024 meeting; Joan Dargie was  
15 seated as Chair for this case.

16  
17 Attorney Mark Beaudoin from firm Nixon Peabody came forward as a representative for Tarpon Towers and  
18 Verizon Wireless (co-applicants). Also seated at the table were Project Manager Amy White and Executive Vice  
19 President of Tarpon Towers Ken Curley.

20  
21 Chair Dargie stated she wished to continue the case again due to the fact the original application packet dated  
22 May 17, 2024 was not received by the board until just before the meeting. Therefore, the board members did not  
23 have an opportunity to review it.

24  
25 Attorney Beaudoin questioned why this happened and J. Dargie apologized for the inconvenience and answered  
26 she did not know but there are exhibits the board has never seen.

27 Attorney Beaudoin then reviewed the dates of the various packets that have been submitted:

- 28 - May 17, 2024 original application  
29 - June 20, 2024 first supplemental application (ZBA has seen this information)  
30 - July 31, 2024 second supplemental application (ZBA has seen this information)

31 Joan Dargie and Mike Thornton reiterated the information requested at the July 11 meeting. There was then  
32 discussion about continuing the case, but still move forward with the prepared presentation and a review of the  
33 balloon test. Attorney Beaudoin preferred to move ahead with the presentation since the hearing at the July 11  
34 meeting was shortened due to time constraints. It was agreed the case would still need to be continued so the  
35 board could have an opportunity to review the material in the original application dated May 17, 2024.

36  
37 Attorney Beaudoin began: The second supplemental application being submitted addresses the noise  
38 specifications as requested as well as a letter from the engineer regarding the tethering of the pole. In addition,  
39 the supplemental application includes the results and photo simulation of the Balloon Float on  
40 July 20, 2024.

41  
42 Attorney Beaudoin: The presentation will include a review of the second supplemental application, a review of  
43 the site plan, review of the variance criteria and legalities/indemnification (Telecommunications Act of 1996).  
44 In regards to the indemnity, it would be helpful for the ZBA if Tarpon Towers would be willing to indemnify  
45 the Town to the extent the Town was held liable for purposes of granting the variance to the applicant. This is  
46 because the applicant did not have a fall zone easement. Due to the fact they are very confident about the  
47 stability of the tower (that it will not fall), and if it should fall it will bend onto itself, the Town will be immune  
48 from liability under the Telecommunications Act of 1996 and Tarpon Towers will be pleased to provide an  
49 indemnity agreement. It was stated the wording of the indemnity agreement will be finalized at the Planning  
50 Board stage. In addition, Zoning Board approval of the variance will be contingent upon a mutually agreeable  
51 indemnity agreement as part of the Planning Board process.

52  
53 Joan Dargie stated she would be in agreement with that.

54  
55 Moving ahead, Attorney Beaudoin turned the meeting over to Project Manager Amy White.

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5 **a. Case #2024-09**  
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7 Amy White: Tarpon Towers and Verizon Wireless are proposing a monopole tower at 476 NH Route 13 South.  
8 The tower will be located in the northern part of the parcel which is currently open space. The parcel has one  
9 residence on it and abuts a commercial property to the north. Access from Rt. 13 is on an existing paved drive  
10 and from that driveway a road will be developed (87 ft.) to the tower location. There are overhead electrical  
11 lines that will run to the site and will be underground once into the compound.  
12

13 Amy White: The tower will be 135 ft. with Verizon Wireless at 131 ft. and is designed for 2 additional carriers.  
14 The Milford Police Department will have a whip antenna at 80 ft. and a 10 ft. whip antenna at the top of the  
15 tower. Each carrier will have space in the compound as well as the Milford Police. Verizon Wireless will have 2  
16 equipment cabinets and a Diesel Generator (will have additional layer of protection in case of a possible leak);  
17 all will be on a concrete slab. Evergreen Plantings (arborvitae trees) will be planted around the north and  
18 northeast side of the compound as a buffer.  
19

20 Amy White then answered questions about the ground underneath being sand and how this will be handled and  
21 about the type of plantings around the compound. Ken Curley responded to the question about the soil.  
22 Additional questions were about security cameras; there will be no cameras but there will be a 6ft high fence  
23 with 1 ft. high of barbed wire around the compound.  
24

25 Joan Dargie: how will this affect the value of properties in the area in view of the fact there is a residence on the  
26 property? Amy White: typically people feel this will improve the property with better cell phone service.

27 Attorney Beaudoin: Noted he has seen numerous articles from realtors across the country stating that cell towers  
28 do not affect value; in fact, millennials ask more about cell phone service than about the schools. In addition,  
29 this is not located in a neighborhood but on a state highway where the closest neighbor is the landlord for the  
30 land being leased.  
31

32 Amy White asked if there were any more questions about the site plan and there were none.  
33

34 Amy White reviewed the results of the balloon float on July 20, 2024. Photos were taken from 13 various  
35 locations and the balloon was visible from only 3 of these locations; the northerly side of Rt. 13 (photo 1), Rt. 13  
36 (photo 2), and Federal Hill Rd. at the corner of Emerson Rd. (photo 5). The pole is made of galvanized steel  
37 which blends in better with the sky much better than a painted pole; galvanized steel works better from a visual  
38 standpoint.  
39

40 Joan Dargie questioned if photos were taken from across the street specifically Brookline Rd. Amy White stated  
41 homes on this road are setback and the site is not visible from there; there are storage units on Rt. 13 and the  
42 balloon was visible from that location.  
43

44 Amy White asked if there were any further questions or comments about the photo simulation and there were  
45 none.  
46

47 Attorney Beaudoin moved ahead to reviewing Exhibit C from the original application of 5/17/2024 stating this  
48 application is subject to Section 704 of the Federal Telecommunications Act of 1996.

49 Attorney Beaudoin read excerpts of the act into the record:

50 ***“The TCA establishes National Standards that apply to zoning applications for wireless facilities and places***  
51 ***limitations on multiple zoning authorities. These standards preempt or override inconsistent State and Local***  
52 ***Laws so they must be considered by Zoning Boards or Commissions when making decisions on applications***  
53 ***for wireless facilities.”***  
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5 **a. Case #2024-09**  
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7 Attorney Beaudoin explained at that time Zoning Boards and Planning Boards across the country were treating  
8 everything differently. The Federal Government wanted to assist wireless networks in order to promote growth  
9 and progress.

10 Attorney Beaudoin continued with another excerpt:

11 *“Although the TCA does not preempt all the local zoning laws, it expressly preempts schools and laws*  
12 *attempting to regulate the placement, construction and modification of personal wireless service facilities that*  
13 *effectively prohibit the provision of effective wireless services.”*  
14

15 Attorney Beaudoin explained there has been extensive research and analysis done for this project before it was  
16 presented to the Zoning Board to ensure all aspects were covered; this is not something new for Verizon.

17 Attorney Beaudoin moved ahead to the criteria.  
18

19 **Variance Criteria per New Hampshire RSA 674:33.I:**

20 **1. This will not be contrary to the public interest.**

21 Per Attorney Beaudoin, this will address the three areas for the variance: height of the tower, setback, and  
22 fall zone easement.

23 “The Project’s proposed location and height will not be contrary to the public interest. The Project, at its  
24 proposed location and height, will enhance governmental facilities and promote the public welfare by  
25 providing a modern, more efficient system of communications for police, fire and other emergency services,  
26 as well as provide modern wireless telecommunication service to business, industry and individuals in and  
27 around this Cell.”

28 “Further, the public interest served by the Integrated Commercial Industrial zoning district is to  
29 accommodate industrial and commercial uses, both of which require reliable wireless telecommunication  
30 services. Hence, the proposal is not contrary to the public interest, it is the complete opposite. It is very  
31 much in the public interest to provide better wireless service to meet the growing demand and the necessity  
32 for such service in this area of the Town.”

33 “The public interest set forth in the Ordinance specifically related to the ‘fall zone requirement’ is to  
34 ensure the public safety’. The Project, as proposed, will not create any health or safety concerns related to  
35 structural failure or otherwise. As illustrated in the structural design letters, the Project is designed to (i)  
36 meet the latest governing standards for support structures, and (ii) in the extremely unlikely event of a  
37 structural failure, the upper portion of the Project will be intentionally designed to buckle at 80 feet, thus  
38 limiting the Project’s fall radius to a maximum of 55 feet. Given that the nearest lot line is approximately 58  
39 ft. from the center of the Tower, the Tower is designed to be contained entirely with the Project site. In  
40 support of the Project, Captain Frye of Milford’s Police Department wrote in a letter, ‘*construction of the*  
41 *Project will enhance the existing infrastructure utilized by (Milford’s) emergency services and will increase*  
42 *public health and safety in the Town of Milford*’.”

43 “Lastly, during the Planning Staff talks, there were concerns expressed about Town liability. In answer to  
44 this an Indemnity Agreement will be provided because of the following concerns:

- 45 - In the unlikely event of a structural failure  
46 - The Project not breaking as designed and falling over the Project Site property line  
47 - The structural failure caused damages  
48 - The Town ultimately sued for the purposes of recovering said damages  
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5 **a. Case #2024-09**  
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7 **Variance Criteria per New Hampshire RSA 674:33.I:**

8 **1. This will not be contrary to the public interest.**

9 Given that similar projects exist across the State of New Hampshire located within close proximity to actual  
10 existing improvements (not unimproved land) without structural failures, the potential for these events  
11 actually occurring as stated is extremely unlikely. However, even in the event of such a failure and all the  
12 conditions described actually occurring, the Town would be immune from liability. The common law  
13 doctrine of discretionary function immunity grants municipalities immunity from tort liability in:

- 14 - The exercise of a legislative or judicial function.
- 15 - The exercise of an executive or planning function involving the making of a basic policy  
16 decision characterized by the exercise of a high degree of official judgement.

17 *(Merrill v. Manchester, 114 N.H. 722, 729 (1974))*

18 In sum, discretionary approvals made by a Zoning Board or Planning Board, like merely granting zoning  
19 relief or related approvals, as requested in this Application, would be a protected discretionary decision  
20 subject to the doctrine of discretionary function immunity.”

21 **2. The spirit of the Ordinance is observed.**

22 “The spirit of the Code will be observed. The Project, at its proposed location and height, would provide the  
23 Town with an essential public service that will enhance the health, safety and welfare of its citizens.”

24 “Further, a relaxation of the height requirement and fall zone easement requirement as proposed in this  
25 Application would not violate the spirit of the Code because it would ‘not alter the essential character of the  
26 locality’ or ‘threaten the public, health, safety or welfare’ (*Farrar v. City of Keene, 158 N.H. 684, 691*  
27 *(2009)*). As noted herein, (i) the proposed location and height of the facility is not inconsistent with other  
28 properties in this and other typical industrial neighborhoods, (ii) the Project will not jeopardize the public  
29 safety and (iii) the affected abutter has provided a letter in support of this Application despite not granting a  
30 fall zone easement. Accordingly, the spirit of the Code will be observed.”

31 **3. Substantial Justice is done.**

32 “Substantial justice is measured against the applicant and against the community at large. Substantial justice  
33 will be done by granting the requested variance to both the public, Tarpon Towers and Verizon Wireless.”

34 “The guiding rule in this determination is that ‘any loss to the individual that is not outweighed by a gain to  
35 the general public is an injustice’ (*P. Loughlin, 15 New Hampshire Practice, Land Use Planning and*  
36 *Zoning 24.11(3d ed. 2000)*). Verizon Wireless and Tarpon Tower satisfies this requirement as there would be  
37 little, if any, public benefit to be derived if the variances were denied because, as set forth above, allowing  
38 the facility at this height and location is not inconsistent with neighboring properties, enhances the public  
39 safety and has a positive impact on the continued success and future development of industrial uses in the  
40 Town. However if denied, the loss to Verizon Wireless would be dramatic and would be in violation of the  
41 TCA.”

42 **4. The Values of Surrounding Properties will not be diminished.**

43 “The values of the surrounding properties will not be diminished. The Project is proposed to be sited within  
44 an industrialized area within the Town, along a State highway. The Project is not proposed to be placed  
45 within or adjacent to a residential historic or otherwise sensitive area. As such, Tarpon Towers’ and Verizon  
46 Wireless’ proposal will not interfere with the neighbors’ use or enjoyment of their properties because the  
47 wireless facility will not create any noise, light or use beyond what is typical in this zoning district. Based  
48 on these factors and Tarpon Towers’ and Verizon Wireless’ knowledge of the local and national real estate  
49 market, granting this variance would not diminish the value of surrounding properties.”

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5 **a. Case #2024-09**  
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7 **Variance Criteria per New Hampshire RSA 674:33.I:**

8 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

9 “Literal enforcement of the provisions of the Code would prohibit Verizon Wireless from exercising the  
10 right granted to it by Federal law to expand and maintain its wireless network. No fair and substantial  
11 relationship exists between the general public purpose of the Code’s setback, fall zone and height restriction  
12 and the application of the provision to the property. The location proposed for the Project as sited is  
13 necessary due to the location of existing structures on the Project Site. The height of the Project is necessary  
14 to ensure its functionality. The Project is also a reasonable use within the Integrated Commercial zoning  
15 district. The Project will not pollute, will not create noise or vibration, will not create any significant  
16 increase in traffic, will not create any environmental problems, will not increase population density, and will  
17 not create any demand on governmental facilities.”

18 **A. Owing to special conditions of the property that distinguish it from other properties in the area;  
19 denial of the Variance would result in unnecessary hardship because:**  
20

21 **i. No fair and substantial relationship exists between the general public purposes of the ordinance  
22 provision and the specific application of that provision to the property because:**

23 “There is no fair and substantial relationship between the general public purpose of the Code and the  
24 specific application to the location and height of the Project. The Integrated Commercial Industrial zoning  
25 district is meant to accommodate to Town’s industrial and commercial uses, which require wireless service.  
26 As such, strict application of the Code’s height and setback requirements to the Project would run contrary  
27 to the spirit of the Code. Also, the Alternative site analysis illustrates the locations of the various parcels  
28 included in the applicable Cell. Prohibiting the Project at this location effectively prohibits modern wireless  
29 service from this area of the Town, to the detriment of local business and residents, as well as the public  
30 health and safety of the Town. Consequently, no fair and substantial relationship exists between the general  
31 public purposes of the Code and the specific application of that provision to the Property.”

32 **ii. The proposed use is a reasonable one because:**

33 “The proposed use is also reasonable pursuant to the TCA. One of the TCA’s goals is to facilitate the rapid  
34 deployment of telecommunications infrastructure in the United States. In doing so, a state or local  
35 government may not prohibit or have the effect of prohibiting the ability of any entity to provide any  
36 interstate or intrastate telecommunications service (47 W.S.C. 253). Verizon identified the most feasible site  
37 within Verizon’s search ring and proposes to use the Property to provide telecommunications services.”  
38

39 **B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to  
40 exist if, and only if, owing to special conditions of the property that distinguish it from other  
41 properties in the area, the property cannot be reasonably used in strict conformance with the  
42 ordinance, and a variance is therefore necessary to enable a reasonable use of it**

43 “The New Hampshire Supreme Court declared that on the determination of a property’s special conditions  
44 within the context of this application to construct a wireless telecommunications facility is different than in  
45 routine cases (*Daniels v. Town of Londonderry, 157 N.H. 519, 527 (2008)*). The Court held that ‘*when an  
46 application to build a wireless telecommunications tower is designated to fill a significant gap in coverage,  
47 the suitability of a specific parcel of land for that purpose should be considered for purposes of determining  
48 hardship*’. The Court went on to state that factors such as the placement of the parcel in relationship to the  
49 gap are all special conditions that may make a certain location unique.”

50 “Verizon Wireless has selected this unique site based on a variety of considerations, including present  
51 coverage needs, local geography, the position and availability of existing towers and structures in the Town  
52 on which telecommunications antennas might be placed, and the refusal of other property owners to lease  
53 space. These factors indicate that, given the location of the significant gap, a facility located at the Property  
54 is necessary in order for Verizon Wireless to meet wireless coverage needs in the Town. This distinguishes  
55 the Property from surrounding properties.”

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5 **a. Case #2024-09**  
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7 Attorney Beaudoin concluded his presentation.  
8

9 **Questions:**

10 Joan Dargie: asked about other locations that were looked at. Amy White stated she had lengthy discussions  
11 with the property owner and they did not want to lease; also had discussions with the Quarry and they were not  
12 interested and did not want to use the land that was prohibitive.

13 Mike Thornton asked about the Federal Hill location with existing towers. Amy White said this site was  
14 investigated and the tower in question is not available; also spoke with the State. US Cell is the only carrier on  
15 that tower and US Cell was not willing to work with Verizon. A. White stated the State was unable to give a  
16 date when availability on this tower would be available, but even so the tower itself is too tall which could cause  
17 interference with other sites around it. Amy White noted the first thing Verizon does is to look for existing  
18 structures; there are not many structures in the Milford area and those that are did not fulfill the needs required.  
19 Rich Elliott asked about the proposed tower and if other carriers would be able to use this tower therefore the  
20 tower would benefit other cell users. Amy White replied other carriers could use the tower and explained  
21 Verizon would be the first locator and the tower is designed to accommodate 2 other wireless carriers and  
22 reserved space for the Town of Milford.

23 Mike Thornton asked about coverage to Amherst. Amy White displayed the 2 coverage maps included in the  
24 original application material; one map showed the area of the coverage gap and the other map showed how that  
25 gap would be filled along Routes 101 and 113 and the surrounding areas.

26 Mike Thornton noted there will still be areas of reduced coverage, but it is an improvement. Amy White stated  
27 Verizon designed the smallest tower to go along with what the town wanted and a tower that would fill in a  
28 number of gaps in the coverage areas, but to the east and west there will still be gaps in coverage as shown on  
29 the updated coverage map.

30 Mike Thornton then asked: would the gaps shown on the new coverage map be filled in if height were added to  
31 the proposed tower which could then prevent having another tower elsewhere?

32 Amy White: The height of the tower was analyzed extensively given the objective of seamless coverage and the  
33 need for a variance and fall zone easement. In addition, the land is not conducive to a higher tower.

34 Mike Thornton stated his reasoning for asking is that he would prefer to see one tower that provides the  
35 necessary service instead a number of towers spread out.

36 Amy White then stated she was under the assumption at the last meeting that the committee had access to the  
37 original application packet. A. White then pointed out the two letters from Engineer Michael Plahovinsak dated  
38 May 14, 2024 and another dated July 31, 2024 both addressing the construction of the monopole tower and how  
39 it would collapse on itself within the fall zone.  
40

41 Joan Dargie then stated the next meeting will be September 5, 2024 and asked the committee if that will allow  
42 enough time to review the original application packet.  
43

44 Lincoln Daley, Town Administrator via Zoom, questions for the applicant:

- 45 - Is there a note on the plan (it was verbally expressed) that a portion of the tower has been  
46 allocated for Town use, is that on the site plan?

47 Amy White: Yes it is.

- 48 - In regards to the generator, will it be enclosed?

49 Amy White: It is a diesel generator and it will be enclosed.

50 Mike Thornton noted the Generator Set Sound Data Sheet provided by the applicant.

- 51 - With one generator on the property, and soon to be three running at full capacity, can there be a  
52 condition that they only run during daylight hours and not at night?

53 Amy White: Typically the generators are run on a weekly basis for 10 minutes and that can be  
54 scheduled at any time. During an emergency, it will need to run 24 hours. Also, it is not known  
55 if other carriers require a generator. That is up to each carrier.  
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**MINUTES OF THE ZBA MEETING AUGUST 15, 2024**



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**3. PUBLIC HEARINGS**

**a. Case #2024-09**

Lincoln Daley, Town Administrator via Zoom, questions for the applicant:

- Can the owner of the tower then specify in the lease that the operation of generators will only be during the daylight hours?  
No response on this.

Lincoln Daley: Regarding the indemnification agreement, it was recommended to the Board this be part of the condition of final approval because a fall zone easement is a requirement for zoning. Also, the document should be drafted as part of the ZBA decision because it falls under Zoning jurisdiction and not Planning Board jurisdiction.

There was then discussion about the indemnification agreement. Attorney Beaudoin asked if this needed to be drafted by the next meeting on September 5, 2024.

Lincoln Daley stated the staff will work with the applicant to draft wording that is agreeable to all parties so it will be ready for the September 5, 2024 meeting.

Joan Dargie asked for a motion for continuance. Rich Elliott made a motion to **continue Case #2024-09** to the meeting of September 5, 2024 and Mike Thornton seconded. A vote was taken and all were in favor.

Chair Andrea Kokko Chappell returned to the meeting for the next cases to be heard.

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3 **3. PUBLIC HEARINGS**  
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5 **b. Case #2024-14:** Karen Therrien, **Special Exception** Request for Detached Accessory Dwelling Unit (ADU),  
6 located at **6 Chestnut Street** The applicant, Karen Therrien, has proposed the addition of a detached Accessory  
7 Dwelling Unit (ADU) for the .26-acre Lot located at **6 Chestnut Street, M 26 L 23**. The proposed two-level  
8 ADU will have a 750 square foot living area on the first level, with dedicated attic space exclusively on the  
9 second level. The Lot is zoned Residence “A”, and is subject to Section 5.02.2.13 (ADU-Special Exception,  
10 Milford Zoning Ordinance) & Section 10.10.02.6.A.  
11

12 The applicant came to the table and Chair explained the process for them. Kiel Clark was speaking for the  
13 applicant who was present.  
14

15 It was explained a detached ADU is being considered to plan for future expansion and changes with the family  
16 for caring/retirement. The Special Exception Criteria was then presented.  
17

18 **Special Exception Criteria under 10.02.1:**

19 **a. Criteria: proposed use is similar to those permitted in the district**

20 “It will be used for residential purposes and is a single family dwelling.”

21 **b. Criteria: specific site is in an appropriate location for the proposed use because**

22 “It is located on the same lot; placed behind the existing structure, in keeping with the same use and  
23 aesthetic of the existing structure.”

24 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

25 “It is of similar use and style of existing structures not requiring modification of current neighborhood  
26 look or feel.”

27 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

28 “No curb cuts will be required, no additional traffic patterns or changes needed. Pedestrian and vehicle  
29 traffic will not be affected or altered. Existing driveway will be used and extended further back”.

30 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the**  
31 **proposed use**

32 “Access to all utilities and amenities exist at the lot already. All building plans are code compliant for  
33 appropriate facilities.”  
34

35 **Accessory Dwelling Units Criteria under 10.02.6:**

36 **1. Is the property going to be Owner Occupied?**

37 Yes

38 **2. Has a Building Permit application been made?**

39 In process; submitted.

40 **3. Is the ADU developed in a manner which does not alter the character/appearance of the**  
41 **principal use as a single-family residence?**

42 Yes

43 **4. Is the ADU intended to be secondary and accessory to a principal single-family dwelling unit?**

44 Yes

45 **5. Does the ADU impair the residential character of the premises or the reasonable use, enjoyment**  
46 **and value of the neighborhood?**

47 No

48 **6. Is there adequate off-street parking?**

49 Yes; 2 additional spots.

50 **7. Are any additional curb cuts being proposed?**

51 No

52 **8. Are all necessary additional entrances or exits located to the side or rear of the building to the**  
53 **maximum extent possible?**

54 Yes  
55

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5 **b. Case #2024-14**  
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7 **Accessory Dwelling Units Criteria under 10.02.6(continued):**

8 **1. Is there adequate sewer/septic and water for the additional inhabitants?**

9 Yes; public sewer and water.

10 **2. Is there only one (1) ADU on the property?**

11 Yes; only one.

12 **3. Is the ADU no more than 750 sq. ft. gross floor area? How many sq. ft. is the ADU?**

13 Yes; 750 sq. ft.

14 **4. Does the ADU have no more than two (2) bedrooms?**

15 Yes; only 2 on the site plan.

16 **5. If inside the existing dwelling, is there at least one common wall with a door between the two spaces at least 32 inches wide?**

17 N/A; detached ADU.

18 **6. If a connecting hall is proposed, is the hallway at least 36 inches wide?**

19 N/A

20 **7. Has a Code Compliance inspection been conducted by the Building Inspector?**

21 To be done.

22 **8. Is the ADU in compliance with Section 10.02.6:A of the Milford Zoning Ordinance? How so?**

23 Yes; all criteria are met where applicable.  
24  
25

26 **Questions:**

27 Will driveway extend to the back on the left of the house? Yes for 2 additional spaces.

28 Will it be on a slab? There will be a full basement to accommodate natural gas service; the attic will be just for storage.

29 Will water and sewer be new? Water will not be but sewer will be and electrical will be new.

30  
31  
32 There were no further questions from the Board and the Chair opened the meeting to the Public.

33  
34 Tuan Nguyen of 26 Orchard Street (an abutter) came forward and asked how the town allows a second home to  
35 be built on the abutting property; concerned about access for emergency vehicles. Chair explained that an ADU  
36 of no more than 750 sq. ft. are allowed with a special exception and this proposal is for a 750 sq. ft. ADU that  
37 will be contained within the setbacks of their property. State Law allows this and the Town allows this with a  
38 special exception. The existing driveway will be extended to the back for access. The other concern expressed  
39 was that the new ADU be built properly. The Chair stated as a new construction, all protocols will be followed  
40 for inspections to ensure everything is in compliance and numerous permits will be required. The Chair  
41 provided Mr. Nguyen with a copy of the plot plan.  
42

43 There were no further questions from the Public and this part of the meeting was closed. Public portion was  
44 reopened to allow Mr. Nguyen to ask another question.

45 Mr. Nguyen: please keep the trees between the properties intact.

46 Applicant agreed.  
47

48 Chair closed the Public portion again and moved to deliberations.  
49  
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2 **3. PUBLIC HEARINGS**  
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4 **b. Case #2024-14**  
5

6 **Deliberations:**

7 **Special Exception Criteria under 10.02.1:**

8 **a. Criteria: proposed use is similar to those permitted in the district**

9 R. Elliott: this is allowed by special exception.

10 J. Dargie: there are other ADU's in this area.

11 D. Sadkowski: this is a single family in a residential area.

12 M. Thornton: agrees.

13 A. Kokko Chappell: agrees.

14 **b. Criteria: specific site is in an appropriate location for the proposed use because**

15 D. Sadkowski: located on the same lot and keeping the same esthetics.

16 M. Thornton: within the setbacks as stipulated and the existing landscaping will remain and maintained.

17 R. Elliott: the ADU will be in the backyard which is private; this is the best location

18 J. Dargie: this is the best location in the back.

19 A. Kokko Chappell: agrees with what has been said.

20 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

21 J. Dargie: will not be seen from the road and will complement the existing house.

22 D. Sadkowski: will not affect neighborhood; similar style, look and feel.

23 M. Thornton: agrees.

24 R. Elliott: the abutters concerns were addressed and satisfied.

25 A. Kokko Chappell: this will not adversely affect the area; variety of single families and multi families;  
26 new construction will be one of the nicest additions to the area

27 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

28 M. Thornton: it will be in the backyard where vehicles and pedestrians do not belong.

29 D. Sadkowski: agrees; no curb cuts or additional traffic.

30 R. Elliott: emergency access is covered with access to the back via a driveway.

31 J. Dargie: extended driveway for emergency vehicles.

32 A. Kokko Chappell: ADU is for a family member so there will not be an overflow and there is enough  
33 parking for the residents.

34 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the**  
35 **proposed use**

36 J. Dargie: there will be adequate facilities; have already met and established plan for water and sewer

37 D. Sadkowski: amenities already exist on the property.

38 M. Thornton: it is a house and will be built as such; with the suggested expanded electrical service all  
39 utilities will be available.

40 R. Elliott: agrees.

41 A. Kokko Chappell: agrees.  
42

43 Chair Kokko Chappell then read the ADU Checklist.

44 **Accessory Dwelling Units Criteria under 10.02.6**

45 **1. Is there only one (1) ADU on the property?**

46 Yes

47 **2. Is the property going to be Owner Occupied?**

48 Yes

49 **3. Is the ADU no more than 750 sq. ft. gross floor area? How many sq. ft. is the ADU?**

50 Yes; 750 sq. ft.

51 **4. Does the ADU have no more than two (2) bedrooms?**

52 Yes  
53

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5 **b. Case #2024-14**  
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7 **Deliberations:**

8 **Accessory Dwelling Units Criteria under 10.02.6**

9 **5. No additional curb cuts being proposed?**

10 Yes

11 **6. The ADU shall be located in an existing building as an attached ADU or as a standalone.**

12 Yes

13 **7. An existing non-conforming single family residential structure or its detached ADU shall not be**  
14 **made more non-conforming.**

15 Yes

16 **8. An ADU shall meet all applicable Local and State building, fire, health and safety codes.**

17 Yes

18 **9. Is there adequate sewer/septic and water for the additional inhabitants?**

19 Yes

20 **10. Is the ADU developed in a manner which does not alter the character/appearance of the**  
21 **principal use as a single-family residence?**

22 Yes

23 **11. Is the ADU intended to be secondary and accessory to a principal single-family dwelling unit?**

24 Yes

25 **12. Does the ADU impair the residential character of the premises or the reasonable use,**  
26 **enjoyment and value of the neighborhood?**

27 No

28 **13. Is there adequate off-street parking?**

29 Yes; 2 additional spots.

30 **14. Are all necessary additional entrances or exits located to the side or rear of the building to the**  
31 **maximum extent possible?**

32 Yes  
33

34 **Voting:**

35 **Special Exception Criteria under 10.02.1:**

36 **a. Criteria: proposed use is similar to those permitted in the district**

37 J. Dargie yes; D. Sadkowski yes; R. Elliott yes; M. Thornton yes; Chair votes yes.

38 **b. Criteria: specific site is in an appropriate location for the proposed use because**

39 D. Sadkowski yes; R. Elliott yes; M. Thornton yes; J. Dargie yes; Chair votes yes.

40 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

41 R. Elliott yes; M. Thornton yes; J. Dargie yes; D. Sadkowski yes; Chair votes yes.

42 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

43 M. Thornton yes; J. Dargie yes; D. Sadkowski yes; R. Elliott yes; Chair votes yes.

44 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the**  
45 **proposed use**

46 J. Dargie yes; D. Sadkowski yes; R. Elliott yes; M. Thornton yes; Chair votes yes.

47 **Is the Special Exception allowed by the Ordinance?**

48 D. Sadkowski yes; R. Elliott yes; M. Thornton yes; J. Dargie yes; Chair votes yes.

49 **Are all the specified conditions present under which the Special Exception may be granted?**

50 R. Elliott yes; M. Thornton yes; J. Dargie yes; D. Sadkowski yes; Chair votes yes.  
51

52 Chair Kokko Chappell stated all the criteria have been met and **Case #2024-14** has been **approved**.

53 There is a 30 day appeal period that can be filed with the Zoning Board.  
54

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5 **c. Case #2024-13, Special Exception** Request to impact the rear lot wetland buffer at **21 Emerson Road, M 48**  
6 **L35-2**, Squirrel Hill Properties, LLC. The applicant, as part of a proposed site plan revision to convert the  
7 existing building's office use on the 1.566 acre Commercially-zoned Lot (under Section 5.05 of the Milford  
8 Zoning Ordinance) into three pairs of Two-Family residential (duplex-style) multi-family buildings, requests a  
9 Special Exception to impact approximately 812 square feet of the existing rear lot's 25-foot wetland buffer to  
10 provide sufficient building & associated site work areas around the proposed buildings (pursuant to Sections  
11 6.02.3.D & 6.02.6.B of the Milford Zoning Ordinance)  
12

13 Chad Branon from Fieldstone Land Consultants came forward and noted also in attendance with him is  
14 Attorney Tom Quinn and via Zoom owner of Squirrel Hill Properties, LLC Cynthia Dokmo. Mr. Branon began  
15 the presentation by summarizing the request for a special exception to impact a wetland buffer by approximately  
16 1852 sq. ft. for construction of a new duplex on the site. This is primarily for the backyard area and to develop a  
17 storm water management area. The property is currently an office building that is being converted for residential  
18 housing along with 2 new residential structures. There are existing features of the property that will be utilized  
19 (driveway, parking area, walkways).  
20

21 C. Branon stated he will first describe the Existing Conditions Plan and Proposal before moving ahead to the  
22 criteria; the property and the project are unique which goes along with the request for a special exception.  
23 Mr. Branon then displayed the site plan (included in the application packet) to begin his description.  
24

25 Mr. Branon:

- 26 - Displayed Site Plan showing the area as outlined in blue and pointed out existing building,  
27 driveway, parking area and walkways.
- 28 - Significant to property is a utility easement; runs east to west through property; sewer, water  
29 and overhead electric
- 30 - North side in dark green is wetland and lighter green wetland buffer of 625 ft.
- 31 - Wetland is associated with the highway drainage system; not a high functioning, high value  
32 wetland (will be addressed with criteria).
- 33 - The existing office building will be converted into a duplex residential structure.
- 34 - West side it is proposed to build a residential duplex with a lawn area.
- 35 - North side it is proposed to build another residential duplex but this must be placed behind the  
36 utility encumbrance.
- 37 - Initially North side building was to be situated right at the easement line, but it was determined  
38 the water line is on the easement line; must be 10 feet away.
- 39 - North side building was positioned as close to the south as possible to minimize wetland buffer  
40 impact.
- 41 - Orange shows the impact areas; total of 1852 sq. ft. with 401 sq. ft. associated with the storm  
42 water management basin (permitted use under the Zoning Ordinance).
- 43 - Grading Plan was displayed; drainage will be into the storm water basin.  
44 Mike Thornton: Will there be a barrier for this runoff?  
45 Run off will be treated and captured through filtration.
- 46 - The Storm Water Management System will be improved with the construction; Conservation  
47 Commission at the meeting of August 8, 2024 made recommendations for this. The basin will  
48 be upgraded to a rain garden.
- 49 - Another filtration system will be established in the southwest corner of the property; vegetation  
50 currently along Emerson Road will capture the run off and this system will offset the other  
51 basin.
- 52 - There has been a full Storm Water Management design done that will be explained further.
- 53 - 6 Residential Duplex Structures are proposed; 2 new buildings and the converted office  
54 building.  
55

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7 Mr. Branon:

8 A. Kokko Chappell: To clarify, the impact is temporary during the building process and after  
9 that it will be put back. What is the actual building sq. footage that is in the wetland buffer?  
10 There will be 67 sq. ft. in the wetland buffer.

11 A. Kokko Chappell: A permanent future wetland buffer impact will be 67 sq. ft. and the reset  
12 will be restored when building is completed. Also, with the exception of an egress door, there  
13 will be no patios.

- 14 - There will be decks with a small slab under for a basement walkout. Again, after construction  
15 the impact will be restored except for 67 sq. ft. for the building on the North side.  
16

17 Mr. Branon finished his description of the site plan and then displayed a rendering of the architectural design.

18 C. Branon moved ahead to the criteria.  
19

20 **Special Exception Criteria under 10.02.1:**

21 **a. Criteria: proposed use is similar to those permitted in the district**

22 The proposed use is a residential development with three duplexes. This is a permitted use within the  
23 commercial district. Permitted uses include two-family and multi-family dwellings and their accessory  
24 uses and structures. Other properties in the area have similar uses, such as a duplex on the adjacent lot to  
25 the west (48-37) and a three-unit multifamily house two lots to the east (48-35). There are a number of  
26 residential homes on Emerson Road. In general, the proposal will be an improvement to an already  
27 vacant lot.

28 **b. Criteria: specific site is in an appropriate location for the proposed use because**

29 The site is located at 21 Emerson Road in the Commercial C District and is already developed with an  
30 office building, paved driveway, and parking lot. These existing features will be utilized as best possible  
31 in the new design by converting the office into a duplex, repaving the existing driveway, and using the  
32 flat parking lot area for access to a new duplex. These existing features make the property ideal and  
33 appropriate for the proposed improvements. There is also a utility easement and utility services running  
34 through the property that make it unique. These utilities require the proposed building to be moved  
35 further toward the wetland buffer. The North side building location is due to the easement which puts  
36 the building closer to the off center water line.

37 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

38 The proposed use will not impact adjacent areas as the residential use will be in harmony with the  
39 neighborhood. As a residential use, there will not be any light or noise pollution from the property. The  
40 proposed improvements also include landscaping and drainage. Where there are proposed construction  
41 and grading activities adjacent to wetlands or buffers, erosion and sedimentation control will be  
42 installed and disturbed areas finished with loam and seed. The proposed development will improve the  
43 visual appearance of the site and reduce runoff to adjacent wetlands. There is currently no Storm Water  
44 Management and with this plan there will be.

45 Mike Thornton: Will there be buffers during the construction? C. Branon: Temporary buffers will be in  
46 place during construction; noted being adjacent to the highway, this is not a pristine wetland system.

47 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

48 The site is already developed with a paved driveway and the new driveway will be constructed in the  
49 same location. This means there will be no additional curb cuts on Emerson Road and existing sight  
50 distance can be maintained. There are no sidewalks and minimal pedestrian traffic on Emerson, so the  
51 proposal will not be a nuisance or a hazard to vehicles or pedestrians. There will not be an increase in  
52 traffic and there will be adequate parking and space to turn around.  
53  
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7 **Special Exception Criteria under 10.02.1:**

8 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

9 A. Kokko Chappell: To understand the parking/traffic impact in the area, what is the design and size of  
10 the units? C. Branon: 2 story units; 1 garage; walkout basement; 1 BR down and 2 BR up; 2.5 Baths, 30  
11 ft. x 36 ft.; Deck 10x10.

12 Rich Elliott: To clarify, in reading the letter from the MCC, a smaller unit to reduce the Wetland Buffer  
13 impact would not be practical. C. Branon: That is correct; has no issues with the MCC letter and  
14 recommendations and will take steps to implement 2 of the 3 recommendations. The suggestion for a  
15 permeable (porous) pavement is not needed due to the run off being captured in the MCC recommended  
16 Rain Garden.

17 Mike Thornton: Will the driveway at the entrance to Emerson Road be canted to handle run off?

18 C. Branon: The driveway will direct run off to the basin and under the driveway at the entrance is a  
19 culvert this will capture all of the run off.

20 Mike Thornton: Parking for Guests. C. Branon: There will be sufficient overflow parking available;  
21 some driveways can allow for 2 cars parked beside each other and other driveways will allow for 2 cars  
22 one in front of the other and there is the parking area.

23 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the**  
24 **proposed use**

25 This site is serviced by municipal sewer, water and electrical. The services are all there. The total  
26 additional units on site are 6 units which will not have a major impact on the school system, fire or  
27 police, or other utilities.  
28

29 **Wetland and Wetland Buffer Criteria 6.02.6.B**

30 **1. Has the need for the project been addressed?**

31 There is no question that housing is needed, and this project is providing six additional units for the  
32 town. The utility easement on site forces the proposed dwelling into the wetland buffer as a temporary  
33 impact and allowing relief that would allow the needed residential use to be built on site.

34 **2. The plan is the least impact to the site.**

35 The proposed impacts are as minimal as the site allows. The proposed building is only with the buffer  
36 by 3.5 linear feet, and will be permanently located with the buffer by 67 sq. ft. The total temporary  
37 buffer impact including the building, lawn area, and drainage basin is 1,852 sq. ft. The location of the  
38 building is determined by the separation from the utility easement on site. The impacted area will be  
39 cleared so that the building can be constructed and once finalized will be loamed and seeded to provide  
40 a small backyard area. The final impact will be as minimal as possible and disturbed area will be  
41 revegetated.

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

43 Since the project has been designed to have the least impact to wetland and the associated buffer, the  
44 project will have minimal impacts on plants, fish and other wildlife. The project will only clear a  
45 minimal number of trees within the buffer, and will not impact the wetlands directly. The impacted are  
46 is less than 2,000 feet, does not impact wetland areas, only the buffer.

47 **4. The impact on the quantity and quality of surface and ground water.**

48 A Storm Water Management design has been developed and submitted to the Planning Board. The  
49 proposed development includes the construction of two infiltration basins. The basins will capture  
50 runoff from paved areas and treat the runoff by removing suspended solids, phosphorus, and nitrogen.  
51 The drainage design meets the requirements of the Town of Milford Development Regulations.  
52  
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7 **Wetland and Wetland Buffer Criteria 6.02.6.B**

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

9 A detailed Storm Water Management Plan has been developed. Potential flooding will be handled by  
10 the proposed infiltration basins on site. The basins will capture and treat runoff from the site and  
11 infiltrate back to groundwater. This will reduce the flow rates and volume of water leaving the site. Silt  
12 fence will be installed downstream of all improvements to prevent sediment from the development  
13 entering the wetland areas per the design requirements of the Town of Milford Development  
14 Regulations and the Storm Water Management and Erosion Control Ordinance.”

15 **6. The cumulative impact if all parties abutting this wetland or buffer were permitted to make**  
16 **equivalent alterations to the wetland and buffer proportional to the extent of their property**  
17 **rights.**

18 Every case would need to be taken on an individual basis and evaluated on the individual conditions and  
19 merits through the Conservation Commission and Zoning Board of Adjustment. Each would be subject  
20 to their own review and conditions. The subject property is uniquely encumbered by a utility easement  
21 that runs through the center of the lot in conjunction with the wetlands on site.

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

24 This is answered by the Professional Wetland Scientist that walked the site.

25 “On site wetlands are typical New Hampshire Palustrine Forested wetland with mixed hardwood canopy  
26 and varied herbaceous understory of ferns, shrubs and other flowering plants. In accordance with U.S.  
27 Army Corps of Engineers Highway Method for wetlands functions and values, the primary functions  
28 and values associated with this palustrine forested wetland are groundwater recharge, flood flow  
29 alteration, sediment/toxicant/pathogen retention, nutrient removal/retention/transformation, and  
30 production export. No vernal pools were identified on site. The wetland displays extensive signatures of  
31 historical manipulation/human impact, including push piles and ditching, as well as secondary impacts  
32 associated with the proximity to NH Route 101 (salting/sanding, petroleum exposure, and habitat  
33 fragmentation).”

34 There are no direct impacts proposed to the wetland complex. Proposed impacts are limited to the buffer  
35 exclusively. Site development plans include significant supplementary design features to support the  
36 primary functions and values of this wetland as part of the integrated Storm Water Management System.  
37 The infiltration basins proposed will enhance the existing capacity for the wetland buffer to capture and  
38 treat storm waters prior to infiltrating to groundwater or discharging downgradient. This design will also  
39 help moderate water level fluctuations and trap and retain sediments and nutrients preventing impact to  
40 the wetlands.

41 **8. Has a comment from the Milford Conservation Commission been solicited?**

42 Met with the Conservation Commission on August 8, 2024; as previously stated, 2 of the 3  
43 recommendations will be implemented.  
44

45 **Questions:**

46 Mike Thornton asked about the trees being eliminated. C. Branon stated he does not have a number but it will be  
47 minimal to allow for a small back yard. Mike Thornton suggested a row of trees be planted along the property  
48 line to mitigate possible noise from the highway.  
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7 **Questions:**

8 A. Kokko Chappell brought up the various road ways in regards to the runoff in answer to the Conservation  
9 Commissions request to implement alternative paving to asphalt.

10 C. Branon: Overall there will be a tremendous improvement with the Storm Water Management. With the  
11 creation of a Rain Garden and a new basin, all the run off will be captured, treated and mitigated. This will be an  
12 improvement from the Storm Water Management standpoint and, again, the reason there is not a need for the  
13 porous pavement is because all the areas are being captured and mitigated anyway. It would be different if there  
14 were a parking lot, or an abutter or a slope where the run off could not be captured. This type of pavement is  
15 used as a last resort; needs to be maintained extensively or it will become impermeable.

16  
17 Chair opened the meeting to the Public. Hearing none and seeing none the Public part of the meeting was  
18 closed.  
19

20  
21 **Deliberations:**  
22

23 **Special Exception Criteria under 10.02.1:**

24 **a. Criteria: proposed use is similar to those permitted in the district**

25 J. Dargie: Buffer impacts ae allowed by Special Exception; the use is permitted

26 D. Sadkowski: the use is permitted and similar to other structures in the area.

27 R. Elliott: agrees with what has been said.

28 M. Thornton: Low impact and similar to everything else and is permitted.

29 A. Kokko Chappell: agrees with what has been said.

30 **b. Criteria: specific site is in an appropriate location for the proposed use because**

31 D. Sadkowski: commercial district; driveway and available space

32 M. Thornton: this is made difficult with the easement so location is appropriate

33 R. Elliott: To maximize the use of the property, it is the best location even with an impact to the buffer.

34 J. Dargie: agrees.

35 A. Kokko Chappell: Residential structures are allowed and this will improve the area.

36 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

37 R. Elliott: adding the Storm Water Management will be an improvement; a general overall  
38 improvement.

39 M. Thornton: Will enhance the adjacent area and will somewhat alleviate the housing shortage.

40 D. Sadkowski: This will improve the appearance and reduce run off.

41 J. Dargie: The impact will not affect the area in regards to storm water.

42 A. Kokko Chappell: agrees and there are other multifamily dwellings in the area.

43 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

44 M. Thornton: Using an existing curb cut with no problems; and the extended driveway is private  
45 property where there should not be vehicles or pedestrians other than the occupants and guests; sees no  
46 danger to pedestrians on the private area.

47 R. Elliott: The signage for the wetland should minimize the impact.

48 D. Sadkowski: No sidewalks; No vehicles or pedestrians; private property.

49 J. Dargie: minimal impact to the wetland buffer.

50 A. Kokko Chappell: agrees  
51  
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7 **Deliberations:**  
8

9 **Special Exception Criteria under 10.02.1:**

10 e. **Criteria: adequate and appropriate facilities will be provided for proper operation of the**  
11 **proposed use**

12 R. Elliott: there will be municipal water, sewer, electric and services; building inspection will be done.

13 D. Sadkowski: Six units will not affect utilities or services.

14 M. Thornton: inspection prior to the issuance of a CO will ensure proper utilities.

15 J. Dargie: Storm Water basin will make this appropriate.

16 A. Kokko Chappell: Added there will be barriers for protection and they will be regulated.  
17

18 **Wetland and Wetland Buffer Criteria 6.02.6.B**

19 **1. Has the need for the project been addressed?**

20 Yes

21 **2. The plan is the least impact to the site.**

22 Yes

23 **3. The impact on plants, fish and wildlife has been addressed.**

24 Yes

25 **4. The impact on the quantity and quality of surface and ground water has been addressed.**

26 Yes

27 **5. The potential to cause or increase flooding, erosion or sedimentation has been addressed.**

28 Yes

29 **6. The cumulative impact if all parties abutting this wetland or buffer were permitted to make equivalent**  
30 **alterations to the wetland and buffer proportional to the extent of their property rights has been**  
31 **addressed.**

32 Yes

33 **7. The impact of the proposed project on the values and functions of the total wetland or wetland complex**  
34 **has been addressed.**

35 Yes

36 **8. The Milford Conservation Commission has been contacted for advice.**

37 Yes.  
38  
39

40 **Voting:**  
41

42 **Special Exception Criteria under 10.02.1:**

43 a. **Criteria: proposed use is similar to those permitted in the district**

44 J. Dargie yes; D. Sadkowski yes; R. Elliott yes; M. Thornton yes; Chair votes yes.

45 b. **Criteria: specific site is in an appropriate location for the proposed use because**

46 D. Sadkowski yes; R. Elliot yes; M. Thornton yes; J. Dargie yes; Chair votes yes.

47 c. **Criteria: the use as developed will not adversely affect the adjacent area because**

48 R. Elliott yes; M. Thornton yes; J. Dargie yes; D. Sadkowski yes; Chair votes yes.

49 d. **Criteria: no nuisance or serious hazard to vehicles or pedestrians**

50 M. Thornton yes; J. Dargie yes; D. Sadkowski yes; R. Elliott yes; Chair votes yes.

51 e. **Criteria: adequate and appropriate facilities will be provided for proper operation of the**  
52 **proposed use**

53 J. Dargie yes; D. Sadkowski yes; R. Elliott yes; M. Thornton yes; Chair votes yes.  
54

**MINUTES OF THE ZBA MEETING AUGUST 15, 2024**

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**3. PUBLIC HEARINGS**

**c. Case #2024-13**

**Voting:**

**Special Exception Criteria under 10.02.1:**

**Is the Special Exception allowed by the Ordinance?**

J. Dargie yes; D. Sadkowski yes; R. Elliott yes; M. Thornton yes; Chair votes yes.

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

M. Thornton yes; J. Dargie yes; D. Sadkowski yes; R. Elliott yes; Chair votes yes.

Chair Kokko Chappell asked for a motion to approve **Case #2024-13** Squirrel Hill Properties LLC, 21 Emerson Road, Special Exception.

M. Thornton made a motion to approve **Case #2024-13** and it was seconded by J. Dargie. All were in favor.

Chair stated **Case #2024-13** has been **approved**. There is a 30 day appeal period that can be filed with the Zoning Board.

**4. OTHER BUSINESS**

Chair tabled approval of the minutes for the next meeting.

**Motion to Adjourn**

Chair asked for a motion to adjourn. J. Dargie made a motion to adjourn and it was seconded by M. Thornton. A vote was taken and all were in favor. Meeting adjourned.

**Motion to Approve:**

\_\_\_\_\_

**Seconded:**

\_\_\_\_\_

**Signed**

\_\_\_\_\_

**Date:**

\_\_\_\_\_