

SEEKONK ZONING BOARD
PUBLIC HEARING and WORK SESSION
September 11, 2023

ZONING BOARD MEMBERS PRESENT:

G. Sagar, G. Gauthier, N. Almeida, R. Read, and M. Demty

TOWN REPRESENTATIVE PRESENT:

N. Abelson, Zoning Enforcement Officer

MEETING CALLED TO ORDER: 7:00 p.m.

Ch. Sagar read the applications in their entirety as follows:

PUBLIC HEARING:

1. **2023-13 Northeast Alternatives Retail, LLC**, 1903 Fall River Avenue, Seekonk, MA 02771 Petitioner, Nolan's Holding Trust, LLC, 5 Lang Road, East Freetown, MA 02717 Owner requesting an appeal of the Zoning Enforcement Officer's Determination and/or seeking relief in the form of a **Special Permit** under Section 6.10.5 of the Seekonk Zoning By-law to amend the **Special Permit** in Petition #2021-02, Recorded in the Northern Bristol County Registry of Deeds, Book 27239, Page 64 on August 4, 2021 as to the hours of operation on the property located at 1903 Fall River Avenue, Plat 1, Lot 104 in an Industrial Zoning District, (Marijuana Overlay District) lot containing 1.14 +/- Acres.

Steve Labelle of 5 Lang Road, E. Freetown, MA presented to the Board that he is requesting to amend his business hours of operation to 8am - 11pm which would include Sundays and Holidays. His original decision from 2021 stipulated the hours of operation be Monday - Saturday, 9am-9pm; and Sundays and holidays 11am - 5pm. His reasoning for this change is there are a lot of customers who have asked for this time change due to their work schedules. Mr. Labelle noted that this will spread traffic throughout the day since they will be open longer each day.

G. Gauthier asked if there are any bus routes, particularly school buses, along this area? Ch. Sagar replied there are none; the property is located in an Industrial Zone. It was noted that this is not a residential neighborhood.

There was no one in the audience either in favor of or opposed to the petition.

R. Read made a motion to close the Public Hearing, seconded by N. Almeida.

VOTE: 5-0-0

R. Read made a motion to uphold the decision of the Zoning Enforcement Officer, G. Gauthier seconded the motion.

VOTE: 5-0-0

N. Almeida made a motion to approve as submitted, seconded by G. Gauthier

VOTE: 5-0-0

2. **2023-14 Darling Development Corporation**, 1105 Fall River Avenue, Seekonk, MA 02771
Owner/Petitioner, requesting an appeal of the Zoning Enforcement Officer's Determination and/or seeking relief in the form of a **Variance** under Section 5.1.4-Dimensional Table of the Seekonk Zoning By-law to increase the number of stories/height from 3 stories and 40 feet in height to 4 stories and 43 feet in height on the property located at 928, 934, and 940 Fall River Avenue, Plat 7, Lots 345, 57, and 64 in a Highway Business and Economic Development Area Overlay Zoning District lot containing 10.84 +/- Acres.

Atty. Eric Brainsky, Partner of Brainsky and Levinson
Ross Hamlin, Partner, Project Manager with Hamlin Development, LLC
Taylor Dowdy, P.E., Engineer with BSC Group
David Darling, Property Owner

Atty. Brainsky presented to the Board that this is a redevelopment of the existing Clarion hotel site. The property owner purchased the adjacent car lot and the lawnmower repair business (the Saunders property). He noted that the existing site hotel is being demolished. The site will be developed as a multi-tiered use; there will be a 40,000 s.f. grocery store, a stand-alone restaurant, possibly a retail component, another commercial use (i.e., a bank), and a new hotel. Since this is a franchise-type hotel, the franchisor has requirements that must be met; all of the hotels in this franchise are in the height range as what is being requested. The height requirement in Seekonk is currently 40 feet and 3 stories; what they are looking for is 4 stories with a variance needed of 3 feet.

Mr. Dowdy informed the Board that the hotel is situated on a low spot of the site; 195 is higher than this portion of the site.

Mr. Hamlin discussed the importance in the hotel industry of having a franchisor maintain the look of the franchise as it pertains to customer visibility. He stated that in the past there used to be a 13 or 14 floor to floor height and now it has become a 10.5-foot floor to floor height. He went on to say that you can fit more rooms in a smaller footprint since you can build up to 4 stories. This would create less impervious soil; tremendous changes in the hotel industry designs in the last few years.

Mr. Hamlin reported that the property is in the lowest part of the site; plus there will be architectural elements along the top of the building. The proposed additional story will to put in a 4th floor will meet the design criteria and a create financially viable hotel.

Ch. Sagar suggested that the existing building is almost 50 years old; property owner, David Darling, responded that it is approximately 60 years old. Mr. Hamlin said that the request is to reflect modern day design.

Ch. Sagar informed the Board that this property is zoned Highway Business since the beginning of zoning. He went on to say that a number of years ago, the Town added an overlay district, the Economic Development Area Overlay District. Ch. Sagar read the definition of this district to the audience. Ch. Sagar said the biggest part of economic development is someone to pay for it; we are lucky that the Darlings were the pioneers in Seekonk investing in the Town. He believes the Board should help them and move the petition forward.

N. Almeida asked if the gas station on the corner was purchased? Mr. Hamlin replied that they would love to purchase that property, but it is not for sale. Mr. Almeida asked if there were intention to access the property from Rte. 195? Mr. Dowdy said it is under Department of Transportation (DOT) control and is not allowed. Mr. Hamlin further explained that there is no access off of any interstate onto private property anywhere in the United States.

M. Demty asked what the existing grade was at the Saunders property? She said it looks as if it is all getting leveled out at 43. Mr. Dowdy replied that it has been regraded to 41; the site has been dropped globally 2 feet. He did not have a copy of the existing conditions plans. He said they are bringing in fill to go above the water table; not to make the building higher.

Ms. Demty then asked if the 43 feet goes to the flat roof? Mr. Dowdy replied it does; the parapet goes beyond that. Mr. Darling replied that the decorative parapets are a requirement of the brand. He explained that the HVAC also sits on top of the flat roof. He estimated the height of the parapets to be approximately 48 to 49 feet to the top of the highest one. There was a brief discussion in regard to parapets; per the Definitions in front of the zoning by-law book under *Building Height* parapets would be excluded from the height requirement.

It was noted that the applicant would need to submit a copy of the updated site plan submission to reflect the 41-foot elevation on the decision.

G. Gauthier said there were a number of septic tanks being removed per the site plan; he asked if any gas tanks, oil tanks, etc. were identified and are going to be removed? Mr. Darling said there are no others underground tanks on the site; there is one oil tank that is above ground.

The Chair asked if there was anyone who spoke in favor of or opposed to the petition? There was none.

Ch. Sagar stated there was one housekeeping issue. Per the Zoning Determination Letter included a reference to a possible need for a second variance for landscape buffer. It was noted that is not necessary since the site was redesigned.

R. Read made a motion to close the Public Hearing, seconded by G. Gauthier.

VOTE: 5-0-0

G. Gauthier made a motion to accept the Zoning Determination Letter of 7/26/23 by Neal Abelson (Zoning Enforcement Officer), R. Read seconded the motion.

VOTE: 5-0-0

N. Almeida made a motion to approve the petition as submitted with a completed as-built plan be submitted for the files, seconded by R. Read.

VOTE: 5-0-0

The Board asked what the timeline is for this project? Mr. Darling said the Earth Import Permit is next followed by a site review by the Planning Board. Mr. Hamlin is hoping to start demolition in March.

3. **2023-15 Brittney Josefson**, 49 Mayfield Street, Seekonk, MA 02771, Owner, Oakhill Engineering, 75 Oak Hill Avenue, Seekonk, MA 02771, Petitioner requesting an appeal of the Zoning Enforcement Officer's Determination and/or seeking relief in the form of a **Special Permit** under Section 4.3-Non-Conforming Uses and Structures of the Town of Seekonk Zoning By-laws to allow for the construction of an addition on a non-conforming lot of record at 49 Mayfield Street, Plat 33, Lot 87 in an R-1 District containing 11,250 +/- s.f.
4. **2023-16 Brittney Josefson**, 49 Mayfield Street, Seekonk, MA 02771, Owner, Oakhill Engineering, 75 Oak Hill Avenue, Seekonk, MA 02771, Petitioner requesting an appeal of the Zoning Enforcement Officer's Determination and/or seeking relief in the form of a **Special**

Permit under Section 6.4-Water Resource Protection District, Subsection J of the Town of Seekonk Zoning By-laws to allow for the construction of an addition while being 15% over the allowable impervious area at 49 Mayfield Street, Plat 33, Lot 87 in an R-1 District containing 11,250 +/- s.f.

Mark Mariano of Oakhill Engineering, 75 Oak Hill Avenue, Seekonk, MA presented to the Board that the applicant proposes an addition to the home. The parcel splits the aquifer protection zone; half of the lot is in and half is out. This lot was created in 1911 which predates the zoning by-laws. The lot originally consisted of 2 lots; the lot is approximately 3,000 s.f. of meeting conformity by today's standards. The proposed addition falls within the setbacks of the current regulations. Mr. Mariano said the applicant is proposing to make improvements to the site. They will be reducing the impervious footprint by removing pavement found in the driveway; through ground infiltration in collecting rainwater that shedding off of the proposed addition as well as the rear side of the building. He said that any rain will fall into the gutter and be collected into the infiltration basin.

He went on to say that as far as the lot and the current zone, they will still be over the 15% allowable; they will be at 17%. The positioning of the infiltration basin is a direct result of keeping a certain distance away from the septic system; you need to provide 25 feet away from any drainage structure. A single level structure is being proposed.

G. Gauthier asked if the addition is on a slab? Mr. Mariano replied it will have a crawl space. There will be no additional bedrooms; they are expanding the kitchen and living room. The crawl space will consist of vapor barrier with stone; the area is not prone to flooding.

M. Demty asked how the impervious surface is going to be reduced? Mr. Mariano gave the equation of how this is calculated. He stated that the Zoning By-law allows for up to 15% coverage by right with anything beyond that requires a Special Permit. He stated that they are infiltrating the roof; removing 125 s.f. of pavement which allows that they meet these requirements. Ms. Demty asked for clarification from Mr. Abelson in regard to the section that was quoted in the Zoning Determination Letter. Mr. Mariano replied that they currently conform; they wouldn't need the second Special Permit.

G. Sagar asked if the second petition is necessary? Mr. Mariano said they are less than 2,500 s.f. with the infiltrators; they are within the by-law requirements. Ch. Sagar asked Mr. Abelson if he was satisfied that the second Special Permit is not necessary. Mr. Abelson is satisfied by what was presented at the meeting. Ch. Sagar informed Mr. Mariano that he could request the second Special Permit be withdrawn without prejudice. Mr. Mariano asked to keep it in place for future reference.

Ms. Demry asked if they were approving the Special Permit up to the 18% or not more than 25%? Mr. Abelson replied up to the 18%.

Ch. Sagar scanned the audience to see if anyone was in favor of or opposed to the petitioner or had general comments or questions; there were none.

**G. Gauthier made a motion to close the Public Hearing 2023-15 and 2023-16, seconded by R. Read
VOTE: 5-0-0**

**R. Read made a motion to uphold the decision of the Zoning Enforcement Officer, for 2023-15 and 2023-16, seconded by G. Gauthier
VOTE: 5-0-0**

**G. Gauthier made a motion to approve petition 2023-15 to extending the non-conforming use;
seconded by N. Almeida
VOTE: 5-0-0**

**G. Gauthier made a motion on petition 2023-16 to approve up to 18% of allowable impervious area,
seconded by N. Almeida
VOTE: 5-0-0**

WORK SESSION:

1. Discussion of Zoning By-laws and potential amendments

Ch. Sagar informed the Board that he and Keith Rondeau (former Chair) attended a Planning Board Meeting to discuss amending or correcting parts of the zoning by-laws. He went to a second meeting by himself and explained to the Planning Board that any opinions were his and his alone since Mr. Rondeau was no longer on the Zoning Board. It was suggested by the Planning Board that this discussion be continued with the other members of the Zoning Board. John Aubin, the Town Planner, submitted a memo dated April 3rd in regard to a Preliminary Review of Zoning Districts and the Seekonk Zoning Map. The Planning Board received a list of streets that have been zoned improperly for many years. Mr. Abelson clarified that a previous Planning Board changed zones, i.e., there were subdivisions that were designed in an R1 or an R2 which after the by-laws were changed became an R4 (which made these lots non-conforming). Ch. Sagar clarified that since there is an issue with the Map Geo system, Mr. Aubin was hesitant to move further with this.

Ch. Sagar said that the Planning Board was initially considering eliminating all of the R1 and R2 lots and require a minimum to match R3 zones. After the meeting with the ZBA members, it was found that this would create a lot of hardship for residents.

When the Darling Development application came in proposing to build the hotel at 4 stories and 45 feet, Ch. Sagar started researching the by-laws. He noted that the Luther's Corner Village District is allowed to have 4 stories and 45 feet. He would like to propose that Local and Highway Business be the same. Ch. Sagar spoke to Mr. Aubin who is also in favor of this change. Mr. Read asked if the reasons for having the buildings this height was for fire safety? Mr. Abelson said that was the initial reasoning since these by-laws have been in place for a very long time.

Ch. Sagar suggested to Mr. Aubin that the parking requirements are in excess of what is necessary. He noted that legal parking spaces are 9 x 20 (180 s.f.); all of the shopping areas on Rte. 6 are built with the old parking requirements. He recommended to Mr. Aubin to increase the amount of building area that is allowed; instead of being 30% in Highway Business (HB), we should go to 40% and Local Business (LB) should go to 50%. This would cause the potential increase for tax revenue for the Town. There had been a discussion with Mr. Aubin to change from 30% building coverage in a Highway Business to 40% and Local Business from 40% to 50% and mirror the Luther's Corner Village District with height requirements of 4 stories and 45 feet. He noted that the Planning Board would like to see a recommendation from the ZBA. A discussion of parking ensued with various properties.

During discussions with Mr. Aubin, it was said that the current accessory residential uses in HB allows up to 8 units with a Special Permit; Mr. Aubin suggested to make it a use by right (property owners would not have to get a Special Permit). A property owner would still need to get a Special Permit in a LB. The LCVD allows for a Special Permit by right; this proposed change would then consist of 2 uses requiring a Special Permit and 2 uses would be use by right. There were no comments from the Board on this proposal.

The Board continued a discussion on permissive by-laws vs prohibitive by-laws as pertaining to common driveways. It was explained that permissive means you can do it unless it says you can't; prohibitive says you can't unless it says you can. This would give the ZBA more discretion and is a little more user friendly to the landowners.

Ch. Sagar read from his notes to further discuss with the Board. Dimensional regulations in the Zoning By-Laws there used to be a "6:10 waiver" which allowed you to reduce the amount of frontage you had provided you had additional land area. A land owner had gone before the Planning Board to request that availability in an R4 zone. The Chair gave the following example: "in an R4 zone there is 200' of frontage. If you are building a new subdivision, by the regulations, you can only have 6 lots on either side of the street. If there were the same number of lots, with a smaller amount of frontage but deeper, there would then be less road; from the perspective of the Town, that creates less road to plow and maintain".

The last recommendation was as follows: LB would have a maximum building coverage of 50; HBD would go from 30 to 40; and maximum height (feet and stories) would go from 4/45 LB and HBD.

Recommendations:

- **Local Business District: Maximum building coverage would go from 40 to 50.**
- **Highway Business District: Maximum building coverage would go from 30 to 40.**
- **Maximum Height feet and stories: 4/45 in the Highway Business and Local Business Districts to mirror the Luther's Corner Village District.**
- **Highway Business District: A use by right for an accessory residential use.**
- **Change prohibitive to permissive**
- **Change to include R4 Zoning District in alternative minimum**

N. Almeida concurred with these recommendations.

**N. Almeida made a motion to accept these recommendations listed above, seconded by M. Demty
VOTE: 5-0-0**

Ch. Sagar stated from the ZBAs perspective, they would want a maximum height in stories 4/45 in Local Business District also. He noted that these are the recommendations that will go to the Planning Board who will then decide whether or not to go forward to Town Meeting for approval.

M. Demty started a discussion on setting standards for all developers to follow for building designs in Town. She informed the Board that some of the towns she works in have certain requirements for how newly constructed buildings should look. Seekonk does not have these types of specifications/design standards. Ch. Sagar replied that this is a common factor in some communities; this would appease some residents if there were opposition to projects. Ms. Demty noted that a huge feasibility study would have to be done. G. Gauthier believes that the Board should have more say in the multi-family projects that are allowed in the town; it increases the tax rate because of the addition of schools, need for more police and fire, etc. The Chair told the Board that the state has control when a 40b is proposed. He noted that every residential unit is a net loss because of services given.

A new type of tax basis for multifamily over 40 units, impact fees, and what the biggest hurdle for tax rate for multifamily were all discussed by the Board.

The Chair suggested that M. Demty discuss her idea with Mr. Aubin and report back to ZBA.

2. *Discuss changing the meetings start time*

Ch. Sagar suggested changing the meeting time from 7 pm to 6 pm for a start time.

M. Demty made the motion to , seconded by G. Gauthier

VOTE: 5-0-0

3. *Approval of minutes from: July 10, 2023*

G. Gauthier made a motion to accept, seconded R. Read

VOTE: 5-0-0

N. Almeida made a motion to adjourn, seconded by G. Gauthier

VOTE: 5-0-0

Meeting adjourned: 8:26 p.m.

Respectfully submitted by:

Lori Trenteseaux

Secretary of the Zoning Board of Appeals

Formally accepted on: October 2, 2023

4 in favor, 0 against, 1 abstention (A. Walsh abstained)

[Full Video available to view on TV9 Seekonk Community Access Television Link:](http://tv9seekonk.com/)

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