

TOWN OF AMHERST
Planning Board

October 4, 2023

APPROVED

In attendance at Town Hall: Arnie Rosenblatt – Chair, Tracie Adams, Cynthia Dokmo, Bill Stoughton – Board of Selectmen Ex-Officio, Chris Yates, Tom Silvia, Pam Coughlin (alternate), Rob Clemens (alternate), and Brian Cullen (alternate).

Staff present: Nic Strong (Community Development Director), and Kristan Patenaude (Recording Secretary) (remote)

Arnie Rosenblatt called the meeting to order at 7:00pm.

Pam Coughlin sat for Tom Quinn.

COMPLETENESS REVIEW OF APPLICATION AND PUBLIC HEARING IF APPLICATION IS ACCEPTED AS COMPLETE:

1. **CASE #: PZ17700-080823 – Beaver Meadow Investments, LLC (Owners & Applicants); 48 Ponemah Road, PIN #: 004-025-007** – Subdivision Application. To condominiumize the existing eight residential rental units in two existing buildings. *Zoned Residential Rural. Continued from September 6, 2023*

Arnie Rosenblatt read and opened the case.

**Tom Silvia moved to continue CASE #: PZ17700-080823 to November 1, 2023, at 7pm, at Town Hall, with the understanding that all associated deadlines will be extended. Seconded by Tracie Adams.
Vote: 6-0-0 motion carried unanimously.**

2. **CASE #: PZ17708-080923 – Riley Investment Properties, LLC c/o Tom Riley (Owner & Applicant); 125 NH Route 101A, PIN #: 002-035-001-C.** – Non-Residential Site Plan. To amend the previous site plan approval for Phase C involving the construction of a 12,000 square foot single story retail building and propose a 2,400 square foot single story drive-thru only café. *Zoned Commercial. Continued from September 6, 2023*

Arnie Rosenblatt read and opened the case.

**Chris Yates moved to continue CASE #: PZ17708-080923 to November 1, 2023, at 7pm, at Town Hall, with the understanding that all associated deadlines will be extended. Seconded by Tracie Adams.
Vote: 6-0-0 motion carried unanimously.**

CONCEPTUAL CONSULTATION

3. **CASE #: PZ17704-080923 – Mohamed Ali Ewiess (Owner) & Meridian Land Services, Inc. (Applicant); 134 Route 101A & 1 Truell Road, PIN #: 012-037-000 &**

October 4, 2023

APPROVED

012-036-001. – Non-Residential Site Plan – Conceptual Consultation. To construct a restaurant with 42-49 seats on Map 12 Lots 36-1 and 37. *Zoned Commercial.*

Arnie Rosenblatt read and opened this consultation. He explained that this conceptual consultation is entirely non-binding and any comments made by members of the Board are also non-binding and should not be relied on. The public will have an opportunity to comment on any application when an application is submitted.

Sam Foisie, PE, Meridian Land Services, explained that Bentley's Roast Beef is proposing to raze the entire building on the site and construct a 3,600 s.f. building essentially in the same footprint of the existing building. This will function as a restaurant. The existing lot is 12-36 and the owner has purchased the adjacent lot to the rear of this to the north, known as Lot 12-36-1. This is zoned Commercial. The total property size is approximately 8.4 acres. The applicant is proposing a 3,600 s.f. restaurant with approximately 45-50 seats. The applicant will require a Non-residential Site Plan, stormwater permit, driveway permit, and Board of Health permit to allow the restaurant to exceed the septic loading requirements. A variance will also be required for the front corner that will intrude into the front setback. Some additional permits will be needed from the State, including a subsurface septic and a water connection through Pennichuck. Potential other items include a variance from the lighting requirements, specifically pole heights. Regarding access to the site, there are currently two driveways for the two lots, and these are both proposed to be used to access the site. The access proposed will help with site maneuverability for deliveries. Two spaces to the north of the building would be utilized for drop off of goods outside of business hours. During business hours, those spaces will be reserved for pickup orders. The current site is over parked and the new design could support close to 70 seats. Some of the proposed parking spaces can be used as snow storage areas. The parking calculation was done for 43 seats and six employees, and easily supports 50 seats as well. Regarding utilities, this site is served by an on-site well, on-site septic, and a natural gas connection. The proposed site will be served by a Pennichuck Water connection.

Sam Foisie explained that the septic loading for the site, per the Amherst ordinances, would allow 43 seats/employees. Essentially, an employee and a seat use up the same gallons per day, per the Amherst septic regulations. The State would allow 84 seats through the septic loading, but the applicant is only seeking 50. This will allow the owner to keep the business in this location and justifies the proposed construction of the building size. The applicant is requesting the Board's input on this item. If the Board determines it is reasonable, he stated that he believes the appropriate process is to seek relief from the ordinance through the Board of Health.

Sam Foisie stated that, regarding landscaping, the site will be compliant for the most part with all landscape regulations. Specifically, there will be a 10' landscape buffer around the perimeter of the site, leading to the proposed parking configuration. The applicant is also proposing a 6' tall opaque fence to screen the residential use that is to the rear of the site. This will allow for an extra buffer to the nearby residential use. Regarding the landscaping requirements that there be a 10' deep area of trees and shrubs around a building with public access, this site is accessed by the public parking lot which would require a 10' wide landscape area around this. The applicant

TOWN OF AMHERST
Planning Board

October 4, 2023

APPROVED

is intending to increase the existing building size in order to expand the business and a 10' wide buffer would lead to the loss of some of the building. Also, there is a potential stormwater pond in the middle of this area, which would require the stormwater pond to be condensed down. A basin in the middle of this area would be able to treat all the parking and small basins in the front would be able to treat the impervious area associated with patios and the building.

Sam Foisie explained that the rights of way for Route 101A and Truell Road do not connect at 90-degrees, they connect at an angle which forces an abnormal building setback. The goal of this project is for the owner to increase his building size by having a regularly shaped building, to allow his equipment to fit better inside. A regular shape will allow for a more efficient building and allow for a bit of extra square footage. There may need to be a variance granted for the building setbacks related to that front corner, and any Board input would be helpful.

Arnie Rosenblatt asked the Board for comments and questions.

Rob Clemens asked if the new proposed septic area is on the new lot. Sam Foisie stated that this was correct. The state allows use of 2,000 gallons per day per acre; the Amherst ordinance allows 1,000 gallons per day per acre. The proposed system is a chambered system, due to it being underneath the parking lot. The existing septic system is located underneath the patio and is a pipe and stone system. Regarding seeking relief, the applicant could propose a pretreatment system to recognize that the proposal is more than allowed by the ordinance but to mitigate for this. It is unclear how old the existing system is, but the new system would be new.

Pam Coughlin and Brian Cullen had no questions or comments at this time.

Bill Stoughton noted that, regarding the septic item, if the applicant were to offer an improvement in some other area, such as pretreatment, this may be an easier approval. He asked what the current status of infiltration is in this area and if NHDES will allow it. Sam Foisie stated that he is unclear about this for this site in particular, but other local sites have been able to infiltrate. He stated that he will need to be able to infiltrate on this site for the plan to work appropriately. He thought the site was far enough from the hotspot further to the west along Route 101A.

In response to a question from Bill Stoughton, Sam Foisie stated that there are no wetlands on the site.

Bill Stoughton asked if the parking being requested is because the owner wants that many spaces or if it was because of the requirements of the regulations. Sam Foisie explained that the required number of spots would be 23, but there are 35 proposed. Bill Stoughton stated that he is not a fan of the current parking requirements, because he looks around Town and sees a lot of empty parking spaces that are never utilized. If the applicant wants this many parking spaces, Bill Stoughton stated that he is okay with that, but if the applicant is proposing this many due to the current requirements, he would be receptive to looking at a waiver for a lower number.

TOWN OF AMHERST
Planning Board

October 4, 2023

APPROVED

Bill Stoughton asked about the lighting. Sam Foisie stated that he believes the light poles may be placed around the stormwater basin, which may be okay, but if the poles are required to be on the outside of the property, there is a requirement that they be half the distance to the property line plus 3' and this may not allow for the required pole height. Bill Stoughton explained that these requirements are new, and the purpose is to keep the light from crossing the boundary of the site. He would want to review this more closely. Sam Foisie stated that the applicant's argument would be that the plan would meet the foot candle requirements and there would not be any spillover but there may need to be a waiver for the height of the poles.

Cynthia Dokmo stated that she has concerns regarding the proposed lighting as there is a residential area behind this site. Over the years, when lots along Route 101A have been developed, residents generally come in and complain about lighting. She asked if these lights would be facing towards Route 101A. Sam Foisie stated that they would, and that the ordinance requires them to be shielded and dark sky compliant. He noted that it would be beneficial for lights to get shut off and for the site to have only security lighting when the building is closed.

In response to a question from Cynthia Dokmo, Sam Foisie explained that the two sites will be merged as part of this proposal.

Tom Silvia asked how the impervious area will be changed as part of this proposal. Sam Foisie stated that he does not have these specific numbers, but this will be increasing. The proposal will still meet the 30% open space requirement for the site. This plan has 39.8% open space, including the outdoor seating area.

Tom Silvia asked about the nature of the expansion of the business. Sam Foisie explained that the owner is currently allowed 20-25 seats in the restaurant. The expansion of the business will almost double that size. The owner has recently noticed more pickup orders, leading to the parking proposal. In addition, the owner would like to make the business more efficient by reconfiguring the kitchen. Mohamed Ali Ewiess explained the nature of his business. He explained that he has had this business since 2003 and would like to remain in the same place. Tom Silvia asked if an expanded seat count would lead to an increase in water use. Sam Foisie stated that this is where septic loading comes into play. Pickup orders may need to be considered as part of the accumulation. Information from last Friday showed 45 carry out orders, 63 dine in orders, 34 online orders, and 35 phone orders.

Chris Yates asked how the lot for this site compares to other commercial restaurants nearby, such as Longhorn. Sam Foisie stated that he believes these occupy a similar footprint. Chris Yates stated that Longhorn probably benefits from having parking spaces in the back.

Chris Yates asked if there will be an employee entrance from the back of the building that goes right into the parking lot. Sam Foisie stated that an access spot in that area is being discussed. There is currently employee access at the back of the building. The applicant is also considering deliveries on the rear side of the building. This would be outside of the required landscape buffer.

October 4, 2023

APPROVED

Tracie Adams noted that this proposal will increase the volume of people accessing the site, whether dine in or takeout. She asked how this will impact the traffic pattern and the use of Truell Road. Sam Foisie stated that this has not yet been considered. The site does have immediate access to the State road, which is a high-capacity road, so he does not believe this would affect the traffic in the residential area. It may affect the nearby intersection on the State road. Tracie Adams stated that she would like to know more about the impact of doubling the size of the restaurant.

Regarding the septic, Arnie Rosenblatt suggested speaking with Nic Strong about this item.

Sam Foisie asked for input on the front corner potential variance item. There was no specific comment at this time. Arnie Rosenblatt wished the applicant luck in moving forward with this expansion and continuing to operate the business in Amherst.

4. **CASE #: PZ17893-091823 – Nelson Realty Trust (Owner & Applicant); 66 NH Route 101A, PIN #: 002-083-000** – Non-Residential Site Plan – Conceptual Discussion –To depict a proposed 11,250 SF warehouse with the associated site improvements. *Zoned Commercial.*

Arnie Rosenblatt read and opened this consultation. He explained that this conceptual consultation is entirely non-binding and any comments made by members of the Board are also non-binding and should not be relied on. The public will have an opportunity to comment on any application when an application is submitted.

Sam Foisie, PE, Meridian Land Services, explained that Nelson Realty Trust is proposing to construct a 11,250 s.f. +/- warehouse on Lot 2-83, located at 66 Route 101A. The property is zoned Industrial, and the lot size is approximately 1.97 acres. This site is immediately adjacent to the Resin Systems building. The site is currently being used as an auto wholesaler, with a small office within the building. The remainder of the existing building is used by Resin Systems for storage materials. Resin Systems is proposing a new building for storage of additional items associated with Resin Systems. The following permits will be needed, Non-residential Site Plan, a stormwater permit, a variance from the Zoning Ordinance to allow for relief for the building to be in the rear setback (at the closest, approximately 10'), an update to the New Hampshire DOT driveway permit, a New Hampshire DOT excavation permit for connection of the utilities, subsurface construction approval for the septic to connect to the existing septic system located on the adjacent lot, and potentially a variance for the lighting.

Regarding access points, Sam Foisie stated that there are currently three businesses that use the access points to the site. The main access point is off Route 101A. There is an additional access point to the rear property through a narrow-paved access drive and a third access point to the adjacent property to the left. The applicant is proposing one new access connection and one expansion of an existing connection, the first one being on the left-hand side connecting to the parcel to the left. This access point was chosen to avoid an existing power pole and to not impact

TOWN OF AMHERST
Planning Board

October 4, 2023

APPROVED

any of the existing parking. The proposal will not impact any of the parking area on the adjacent property. There is a large stretch of pavement to allow any vehicles that need access to the existing overhead doors. This leads to the proposed building getting pushed into the setback. The second access point is rather wide, as the property will be used in conjunction with the surrounding parcels. This includes a pavement connection that will access the overhead garage bays and allow for a forklift.

Sam Foisie explained that it is not expected that this proposal will need additional parking spaces, as it will be used in conjunction with the neighboring properties and no new employees are expected. The intention was to prove that the site can support itself in case it was ever not used in conjunction with Resin Systems. The plan shows the required parking spaces of 29 but the site currently supports 45 spaces. Currently, many of those parking spaces are associated with the auto wholesaler.

Regarding utilities, Sam Foisie explained that the existing utilities to the existing building are served by Pennichuck Water, an on-site septic system located in the front left corner of the site, and natural gas. The proposed building will be served by Pennichuck Water, a new gas service running parallel to the water service, and a sewer connection. A pump is proposed to be placed in the new warehouse, connecting to the existing force main, with backflow preventers.

Sam Foisie explained that the existing site does provide some challenges for landscaping. The landscaping requirements require a 10' buffer associated with the right of way and around the perimeter. There is existing parking that sits along the right of way line and no changes are being proposed in this area. The applicant would be seeking relief from the landscaping requirements in this area. There is an existing fence along the property line. The applicant will also be seeking relief from the 10' perimeter planting requirement. He explained that this site is not open to the public and therefore this section is not required, however a waiver will be requested if the Board feels it necessary. Building perimeter plantings cannot be provided as there is access all the way around the building and placing landscaped areas in between the doors would not make sense.

Sam Foisie stated that the site is served by two stormwater ponds. Some preliminary stormwater calculations were completed to confirm that these are sized appropriately to treat and attenuate any new stormwater runoff generated by the new impervious area. As much of the existing area would be captured as possible.

Sam Foisie stated that the applicant is seeking input on the landscaping requirements, input on the variance required for the building setback in the rear, and any other information the Board may want the applicant to provide as part of a final application.

Arnie Rosenblatt asked the Board for comments and questions.

Tracie Adams stated that she believes it would be helpful for the applicant to make justifications for the proposed waivers needed from the landscaping requirements. She asked for more information about the proposed parking. Sam Foisie explained that the need for the warehouse is

TOWN OF AMHERST
Planning Board

October 4, 2023

APPROVED

for Resin Systems storage. Currently, Resin Systems employees park on the adjacent lots and use forklifts to go back and forth to the warehouse. The parking calculation would require more parking based off the building footprint, but the building is not expecting more employees and thus additional parking is not needed.

Chris Yates stated that he had no questions or comments at this time.

Tom Silvia asked if the front lot parking lot area will be changed. Sam Foisie explained that no changes are proposed to this area. Landscaping in this area would require a change to the existing feature of the property. Tom Silvia stated that a waiver from this landscaping requirement seems reasonable as the proposed construction will not disturb this area. Sam Foisie agreed that there will be no visual change from the public right of way.

Cynthia Dokmo asked what is located behind the site. Sam Foisie stated that there is an additional Industrial lot behind this, also controlled by Resin Systems. There is a residential use along the nearby corner of the lot. This area was inspected for wetlands regarding potential stormwater issues and, while there are some wetlands near this site, there is no development proposed adjacent to them.

Bill Stoughton noted that the applicant was before the Board approximately a year ago to further extend an old existing plan for Resin Systems. He asked how this proposal fits into that. Sam Foisie explained that this proposal satisfies an immediate need, while the previous application that was extended satisfies future needs. Bill Stoughton stated that the Board did place a “no kidding” deadline on that extension. Dan Prawdzik, the owner, explained that this is understood and that the process is currently being worked though. He noted that this proposal is a faster build with very little site work needed, in close proximity to the existing buildings for the needs of the business.

Bill Stoughton asked about the percentage of impervious area on this lot. Sam Foisie stated that there is currently 30.3% open space on this lot, where the requirement is 30%. The first proposal for this site was at 25% open space, but the applicant navigated the process to reduce the amount of impervious area. Bill Stoughton stated that it is okay if the applicant needs all this impervious area for parking, but if the applicant is only doing this to meet the requirements, he would be receptive to a waiver request for less pavement on the site.

In response to a question from Bill Stoughton, Sam Foisie stated that there are no wetlands within 100’ of this site.

Bill Stoughton asked about the nature of the materials that will be stored on this site. Sam Foisie explained that the owner has had conversations with the Fire Chief regarding this item, as the goal is not to sprinkle the building and that dictates which materials can be stored. Bill Stoughton stated that he is also concerned about spills that could go into the ground. Dan Prawdzik stated that the building just to the north of this proposed building is currently being used for storage and will be replicated in the proposed building. This building also does not require sprinklers and has

TOWN OF AMHERST
Planning Board

October 4, 2023

APPROVED

been walked with Matt Conley, Fire Chief, many times. Dan Prawdzik stated that nothing will be stored in this building that would trigger the sprinkler requirement. It would also not be heated but kept just above freezing.

Rob Clemens asked about the current land cover of the site. Sam Foisie stated that the lot is partially open where some vehicles are stored and there is also a small, wooded area. Rob Clemens asked if the applicant would consider rain gardens for a stormwater feature in order to get some landscaping/vegetation. Sam Foisie explained that what can be stored in an infiltration basin exceeds what can be stored in a rain garden.

Pam Coughlin and Brian Cullen had no questions or comments at this time.

Arnie Rosenblatt thanked the applicant and wished him good luck in the process.

OTHER BUSINESS:

10. Minutes: September 6, 2023

**Tracie Adams moved to approve the minutes of September 6, 2023, as amended [Line 313: remove the word “stated”; Line 497: add “Tracie Adams retook her seat on the Board;” Line 522: change “come” to “comes;” Line 545: change to “dead-end road length;” Line 982: add a period at the end of the sentence; Line 988: change to “this will then infiltrate.”] Seconded by Chris Yates.
Vote: 5-0-1 motion carried [B. Stoughton abstaining.]**

11. Any other business that may come before the Board.

**Cynthia Dokmo moved to adjourn the meeting at 7:51pm. Seconded by Tom Silvia.
Vote: 6-0-0 motion carried unanimously.**

Respectfully submitted,
Kristan Patenaude

Minutes approved: October 18, 2023