

**Town of Sandisfield  
Board of Selectmen  
Notice of a Public Hearing**

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L.c. 30A, 20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, which has since been extended, this public hearing of the Board of Selectmen will be conducted via remote participation. For this public hearing members of the public who wish to listen to the meeting may do so in the following manner: To participate remotely call 855-855-9834 or 518-860-1995, enter meeting Id 1160221382#. No in person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town's website an audio recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

In accordance with the requirements of Massachusetts General Law Chapter 40A and the Sandisfield Zoning Bylaws, the Sandisfield Board of Selectmen will hold a public hearing on Monday, February 8, 2021 at 7:00 p.m. at the Town Hall Annex, 66 Sandisfield Rd., Sandisfield, MA, on the application of Nicholas Smigel for zoning relief in the form of a special permit in accordance with Section 3 of the Sandisfield Zoning Bylaws, codified as Chapter IX of the Sandisfield Bylaws, as follows:

A special permit under Section 3.B 24 of the Zoning bylaws to use 768 square foot store building located at 83 South Main St., Sandisfield, MA, map and parcel 204-51 as a general store.

The special permit application including plans is posted on the Town's website at [Sandisfieldma.gov](http://Sandisfieldma.gov), Board of Selectmen, Agenda for Feb. 8, 2021.

Board of Selectmen  
Brian O'Rourke  
George Riley  
Mark Newman



Kaily Hepburn Law

BY: .....

September 30, 2020

Town of Sandisfield  
Board of Selectmen  
66 Sandisfield Road / P.O. Box 90  
Sandisfield, MA 01255

Town of Sandisfield  
Board of Appeals  
66 Sandisfield Road / P.O. Box 90  
Sandisfield, MA 01255

VIA FACSIMILE TO: (413) 258-4225

RE: Nicholas Smigel’s Special Permit Application for General Store  
83 South Main Street, Sandisfield, MA

Dear Members of the Board of Selectmen & Board of Appeals,

Please be advised that this office has been retained to represent Mr. Smigel in his application for a Special Permit to operate a General Store on his property. As such, pursuant to the Zoning Bylaws we are submitting our request for a Special Permit and Variance to the Board of Selectmen for consideration and public hearing. This application is also being submitted to the Board of Appeals as indicated in the application supplied by the Town Clerk.

Mr. Smigel wishes to convert the existing 768 sf building at the front of his property into The Farmington River General Store. He has retained Foresight Land Surveyors to prepare a site plan and Notice of Intent to the Conservation Commission. The site plan includes a gravel parking area that will not alter the current grading or impervious surface coverage.

In support of this application we are submitting the following: a definitive description supporting the reasons for the variance and special permit; a complete, accurate and to scale plot plan to show measurements and location of pertinent structure and any systems relating to the application completed by Foresight; a written denial is not included because this is an original application directed to the Board of Selectmen as appropriate under the Sandisfield Zoning Bylaws. We have no objections to a site visit at 83 South Main Street/Route 8, Sandisfield, which is located between the intersections of Tolland Road/Route 57 and Carpenter Lane. We do not propose an addition or new structure.

Please find electronically attached: the application provided by the Town Clerk; the plan prepared at the appropriate size; a plot plan showing north arrow, scale, distance and bearing along bounds, area in acres, size of existing buildings including floor area, location of existing buildings and proposed parking lot including set back in feet from lot lines, and location of on-site sewage system.

**Section 3: Use Regulations**

The applicant’s proposed use requires a Special Permit from the Board of Selectmen. *Zoning Bylaws (“ZB”) §3.* The proposed use can be characterized as a general store or convenience store, and we request a determination that the use is similar in character to a

permitted use under §3.B.24. The proposed use does not fit into any category listed in §3.C. Prohibited Uses. ZB §3.

#### **Section 4. Dimensional Requirements**

His lot is 1.2 acres, contains 167.7 feet of frontage and 311.4 feet of lot depth. The setbacks for the existing building at issue are: 35.7 feet front setback, 273 feet rear setback, and 19 feet and 112 feet side setbacks. All are in conformance except the frontage which is 32.2 feet short of 200 feet and the side setback for the existing building which is 11 feet short of 30 feet. ZB §4. However, this building is an existing nonconforming structure and we request one of the two options posed in the following section.

#### **Section 5. Nonconforming Structures, Uses and Lots**

The nonconforming structure is pre-existing, and the only alterations will be interior improvements as well as a change of use to a general store. As such, we request a determination that the provisions of the bylaw do not apply under §5.A. or a Special Permit from the Board of Selectmen which requires a finding that the alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood under §5.B. ZB §5.

#### **Section 6. Off Street Parking Requirements**

We propose a 1200 sf gravel parking area off of the existing driveway. The gravel parking area is not 100 feet from the lot lines; however, Foresight opines that storm water should not be an issue considering the minimal change from grass to gravel. We will utilize the current slope so that runoff continues to run to the existing drainage (photo attached). We do not propose additional impervious surface coverage. The gravel parking is capable of accommodating parking vehicles for maximum use of the proposed facility. ZB §6. We request a variance for the 13 foot distance from the street lot line to the parking area, 65 foot distance from the side lot line and 95 feet from the other side line.

#### **Section 7. Sign Regulations**

The applicant proposes three signs, not to exceed 20 sf in area each, to be placed on the front, north and south facing sides of the building and requests a variance for the two additional signs. ZB §7.A.3. Each sign will comply with all zoning restrictions. ZB §7.B. The applicant also proposes a temporary grand opening banner to be used for a ten (10) day period. ZB §7.A.4. Finally, the applicant proposes one non lit open/closed sign to be placed on the inside of front picture window or front door.

#### **Section 8. Special Regulations**

The driveway plans are in compliance with §8.B. and include access to the parking area from the existing conforming driveway (photos attached).

We request exemption under §8.E. as earth removal will be under one hundred cubic yards in twelve months. We simply need to convert a grass area to gravel with no grade change.

### **Section 9. Overlay Districts**

We request a determination that we qualify as an exception under §9.A.5. which states: “The requirements of this section [§9] are not intended to govern the normal customary grading in the area of an existing or newly constructed building, including but not limited to, the preparation and construction of sidewalks, driveways, and patios. Such grading and earth moving shall be approved by the Building Inspector at the time of the issuance of the building permits, provided that a plan showing proper drainage and protection of adjoining property has been submitted.” The building is existing and the parking entails only conversion of an area from grass to gravel with no change in grading or additional impervious surface coverage.

Please see plans and application by Foresight for compliance with the requirements of the Floodway/Floodplain District.

### **Section 10. Special Permits**

We request a special permit from the Board of Selectmen to convert the use of the existing building to commercial under §3 and for an existing nonconforming setback under §5. Please note that the applicant has obtained approval from the Board of Health (attached).

We are requesting variances to utilize three signs instead of one and because the project will be nonconforming with our parking lot setback.

We request that you consider our application and find our proposed project allowable under the cited provisions of your Zoning Bylaws. *ZB §10.*

Thank you for your time and attention to this application. We look forward to working with you.

Sincerely,

*Kaily S. Hepburn*

Kaily S. Hepburn, Esq.  
KSH/








# 83 S Main St

Sandisfield, MA

1 inch = 45 Feet



	PWater		Water-poly
	Property Line		
	Public Road		
	WaterLines		

Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse

Farmington River General Store 83 S Main St, Sandisfield, MA

