

**SEEKONK ZONING BOARD  
REGULAR MEETING  
MINUTES**

**September 22, 2014**

Present: Ch. Edward F. Grouke, Roger Ross, Robert Read, Neal Abelson (for Ron Blum)

Absent with cause: Keith Rondeau, (Mr. Rondeau will review the recording of the meeting and attend the next meeting using the adopted Mullin Rule)

7:06 Chairman Edward F. Grouke called the meeting to order.

Ch. Grouke This is the meeting of the Town of Seekonk Zoning Board of Appeals, September 22, 2014. I am going to go over our Rules and Regulations. I am going to read each petition as it was advertised and call upon the petitioner or their representative to present their case. All testimony, including the testimony and statements of the petitioner and/or the representatives or witnesses will be taken under oath. The Board will ask questions of the petitioner and witnesses. Any questions from the podium will go through the Chair. We will hear from anyone in the audience to speak either in favor of or against the petition or with any questions. At the close of the evidence, we have a discussion and then take a vote. We also usually make a decision on the same night, although we are not required to do that. There are times that we may postpone a petition for another meeting either for a site visit or to gather some information. Once we have closed the public hearing and taken our vote, it is then reduced to writing and filed with the Town Clerk within 14 days of the date the vote is taken. Any person who feels that he is negatively affected by our decision, as long as he has the proper legal standing, has the right to appeal to the courts of the Commonwealth of Massachusetts; and anyone considering taking such an appeal has to have the proper legal standing and comply with very strict time limitations that are applicable to a court appeal. The time limits are very strict.

**2014-19 Edward F. Lundgren**, 49 Mink Street Seekonk, MA, Owner by Nine Warren Avenue, LLC, 49 Mink Street, Seekonk, MA Petitioner, requesting a **Comprehensive Permit**, pursuant to Massachusetts General Law Chapter 40B, and the Town of Seekonk, MA Zoning Board of Appeals Comprehensive Permit Regulations to allow construction of eight (8) homeownership units at 9 Warren Avenue, Plat 2, Lot 9 in an R-3 zone containing 5.96 acres +/- (This was continued from 8 /25/2014)

Ch. Groucke Lets make note of the fact that the board consists of only 4 members; one of our members is not here tonight, he is ill and called ahead and said that he would be watching so he will be able to hear what is being presented tonight, he will also have the tapes and transcripts available to him so he can participate in the decision.

Paul Cusson, Delphic Associates and Edward F Lundgren, 49 Mink St, Seekonk, MA both Sworn in.

Ch. Groucke For the record, there is no one here in the audience tonight. Mr. Lundgren and Mr. Cusson are the only two people present for the meeting tonight. After our first meeting, one of the reasons to have a second hearing was to ask other departments in town for input regarding this project. We received written responses and I thought one of the things we would do tonight is review the responses and have discussion regarding those.

P. Cusson The only correspondence I received was a letter dated September 10 from the Seekonk Water District. I think we should note that there was a meeting out at the site that gave everybody an opportunity to look at the property and that was the only letter that we received. I think there was some discussion about an email that might have been received from the Fire Chief, I have not seen that.

Ch. Groucke We did receive several emails and we are happy to share them with you. We did have a site walk tonight and four of us were there to take a look at the lay of the land. I did intend to go over each and every one of the responses that we got. The first one was from the Fire Chief.

P Cusson I did not personally meet with the Fire Chief and from what I see in his email, he suggests that there be a fire hydrant at the site. There was some discussion about the turnaround. It might make sense to make a minor modification to the plan lining up the two roadways to make ease of operating the fire truck, backing up and turning it around, that sort of thing. We would have no problem in making that change; it certainly could be a condition of the permit to be finally reviewed by the Fire Chief. The location of the fire hydrant is something we could work out with the Fire Chief as well if that was a condition of your permit.

Ch. Groucke So you are referring to two things, one was to straighten out those two areas, even it off where the back two buildings are and that is something that can be fairly easily done.

P. Cusson Yes, absolutely.

Ch. Grouke And then as far as the hydrant is concerned.

P. Cusson Ned is most familiar with that problem.

E. Lundgren The hydrant is basically here at the corner of the property. The farthest point of this building over here is 280'. That certainly is in conformity to the Planning Board's Rules and Regulations of being 500' as a maximum. I think what the Fire Chief is saying is he would prefer, although it is not always possible, going to the fire hydrant before turning in. I guess they run the hoses off the truck and then drive in. In this case they have to go by the site, connect up and then drive in. It might not be the ideal condition but I certainly think it's a safe condition being 280' from the farthest building.

Ch. Grouke Reading what he is saying, "The hydrant past the entrance would delay our operation of fire suppression due to the fact that we would either have to back up to the hydrant or go past the development, turn around and connect to it going into the development. I feel there should be a hydrant placed in the development for fire suppression." Well, he does seem definitive about that. What kind of cost is involved with that?

E. Lundgren About \$80,000 to put a hydrant in, which is extensive for this small development.

N. Abelson They would make you run the main right down the driveway because you could not run a hydrant off a 2" line.

E. Lundgren It would mean putting in a main down to here. It is very expensive to do and I was assuming that a hydrant 280' from the farthest structure it wouldn't be something we would have to do.

P. Cusson If it meets the existing subdivision rules and regulations, it's like treating the affordable housing differently than market rate. If we comply, like Ned said, it might not be the ideal situation, but if we comply, we comply.

N. Abelson What do you think it would cost to put a hydrant before the street?

E. Lundgren I don't know. If I put it before the entrance I guess it would be in the neighborhood of \$30,000-\$40,000 to put a hydrant right here in the existing line but it would be within 100ft of the (existing) fire hydrant. If these houses were to catch on fire, God forbid, and very few houses in Seekonk actually catch on fire and burn, the trucks would probably be parked out here on the street within 100' of the fire hydrant.

R Ross Did you say one person was going to be here tonight from the Fire Department?

N. Abelson I thought one of the fire fighters that is on the (Planning) Board was coming.

R. Ross That would have been helpful.

N. Abelson He was more concerned about the turnaround.

E. Lundgren We certainly agree. I met with acting Chief Healy the other day. He thought this was a good configuration right here that if either of these structures caught fire, they could basically parallel the trucks. They like two trucks close by for a fire; he didn't really mention getting out. I assumed he was going to back out. We could make this adjacent to each other and perhaps a little wider. These driveways are 12' we could make them 14' and up here is 20' (by the garages) The access road coming in is 22' with a berm on each side making it 24'. The only narrow section of any part of this driveway is here and I would certainly agree to make those 14' wide and adjust the angle so they can pull in and back out.

Ch. Grouke He mentioned he preferred a cul-de-sac but then he said he thought the proposed layout is fine.

E. Lundgren To do what the Planning Board requires as a radius in here would encompass this entire area here. I think the diameter of the circle would end up being 140' wide.

R. Ross As a lay person, I don't profess to address with any acting knowledge what the Fire Chief said but with the fire hydrant being 270' at the street line from the rear building, in my opinion, it seems it would be adequate to service the unit.

R. Read Personally, I agree with all of the above.

R. Ross And to impose an additional \$80,000 assuming Mr. Lundgren's testimony is accurate, and I have no reason to think otherwise. To put an additional \$80,000 to whatever his development and construction costs are seems a bit excessive given the nature of the improvement.

Ch. Grouke \$80,000 I am shocked at that. Not that I know anything about it. I would like to have more information from the Chief on that subject. There are a few more questions in my mind about it.

P. Cusson But no one is here.

Ch. Grouke I understand that.

- E. Lundgren I am in no hurry. We want to make this a safe development. To get something out of my refrigerator to get a glass of milk or something, sometimes I have to walk by it to go to the cabinet; it is not always on the way. This is basically the same thing.
- R Read He could come down Warren Ave, turn into your development and back up to the fire hydrant.
- Ch. Grouke Then we have a letter from the water district from Robert Bernardo, Superintendent of the Water District, dated September 10, 2014. There is reference to the fact that the plan incorrectly identifies the existing water main as an 8" whereas it is actually 6"; and the plan must provide details on the proposed meter pit and also indicate the size of the proposed water line.
- E. Lundgren That is correct, I have met with him about that and we are doing a meter pit because the houses are "x" number of feet away from that, you have to do an underground meter pit. At one time we talked about an above ground heated meter pit, but I don't really like the idea of it because we do lose electricity and need generator backup, it seems complicated. If you put it 4' in the ground you don't have to worry about it freezing. There was no meter pit shown on any of these plans but after meeting with him, we will have to modify the plans showing traditional Seekonk approved water meter pit right after the road. It would not be in the asphalt, which is one thing that he likes. You don't have to worry about cracking. Based on the flow test coming out of this meter, we will determine if the line will be a 2" or a 1.5" line. A 2" line provides 12,400 gallons per minute which is probably double what these houses would ever use. InSite's plan shows 8" line but this area is 6" and then it changes to 8" after Woo Drive. We will certainly make those changes. I have contracted with a firm that does it for the Seekonk Water District and will set up time for flow test because it has to be witnessed. I believe they have to do the same thing with the other hydrant on either Balmoral or School Street. I don't know which one is in the flow of that main service.
- R Ross On the issue of the water line, you stipulated you are going to put in 2" line instead of 1.5"?
- E. Lundgren Correct, even though the flow may be acceptable coming out of this hydrant, it is just better.
- R. Read Did he indicate the 2" would be sufficient?
- E. Lundgren Yes, with 12,000 gallons per minute, these septic systems are rated for 4,000 gallons per day at most.

- P. Cusson One of the things I would suggest is that these could be conditions of the permit; that we would have to satisfy Mr. Bernardo prior to getting a permit to start construction.
- Ch. Grouke So you are just referring to the hydrant flow test which is what he is talking about in paragraph 3?
- E. Lundgren Yes, and that is being scheduled with the Water Department and the details of the meter pit are approved with the Water Department.
- R. Read Why does he need a flow test if he already agreed to the 2”?
- E. Lundgren I don't really know.
- P. Cusson Even though he agreed to the 2”, they are still going to want a flow test.
- Ch. Grouke We also have an email from the Town Planner sent on August 26, 2014.
- P. Cusson I didn't get a copy of that.
- Ch. Grouke We are happy to share a copy with you. I can summarize by saying that the Town Planner recognizes that the Town is low in affordable housing, we are at 1.5% the state mandate is 10% so in that sense, the project is positive. The project's location is appropriate so the only issue that Mr. Hansen raises is the location of the affordable units and the fact that you are planning the units to be in the front.
- E. Lundgren I had planned them to be in the front but we can certainly change them to be one here and the other here. They will be in different buildings and both will not be fronting on Warren Avenue. I do not want to put them in the back.
- Ch. Grouke You want to keep them in the front buildings but not both the front units?
- P. Cusson We had submitted with our application a site location plan showing where the affordables were going to be located so we will just push back one unit. Ultimately, what happens is DHCD is the one who has; the process is once you issue a comprehensive permit, we then have to get final approval from DHCD, a bunch of documents. One of those approvals they will be looking at is the location of the affordable units. They will take into consideration should your decision say, “Well, we want the units to be the second unit back in the first building.” they ultimately make that decision. I don't know if you are familiar with the Amesbury decision?
- Ch. Grouke Not off the top of my head.

- P. Cusson Amesbury decision talks about what are the rules and responsibilities of the subsidizing agency and the ZBA. For example, you could agree to the location of the affordable units in the front, they have the right to override you and say “No, that’s not acceptable to DHCD and we want the units here and there.” In the final approval, they will determine what the location is of the affordable units. And, they will take a look at your decision, so in your decision, you should say what we just discussed and it will be up to them to finally approve it.
- R. Ross Far be it from me to speak for the Commonwealth of Massachusetts, but this is the point I addressed to you sir, a month ago, on the location and the way I read this in the letter of approval dated July 21 of this year, addressed to Mr. Lundgren; assuming for purposes of this discussion, that we approve one unit on Warren Ave., and one in the adjacent building but not on Warren Avenue, I don’t think they will approve that based on what I read here.
- P. Cusson She may or may not.
- R. Ross To me the language is pretty clear. Comp Permit guidelines, specifically part 6 of the LIP, require that “Affordable units must be proportionately distributed throughout the project in terms of both location and unit size. The submitted application has the two affordable units located next to the street, rather than dispersed within the development; this shall be addressed at the Zoning Board”. I may be wrong but I think dispersed throughout the development suggests pretty strongly, one unit in one of the two front buildings and one unit in one of the two rear buildings.
- P. Cusson You possibly could be right. My experience...
- R. Ross For whatever it is worth, and for me it is worth a significant amount, that is John Hansen’s understanding as well.
- R. Read He says that in his last sentence, it depends on what you mean by clustered, but he says Toni Hall indicated that these units should not be clustered in the two front units, (one in the front unit and one in the back unit).
- R. Ross Just to be clear, I got that email and I spoke to John.
- P. Cusson That is basically what I was saying, no matter what we approve here, or what you approve or what we will consent to is that they ultimately will make that decision.
- R. Ross You are absolutely right, but my position on this is: if my understanding with the state law is absolutely clear, I am not going to vote contrary to my understanding with the knowledge that somebody is going to be looking over my shoulder. I haven’t decided this issue, I am just telling you. Just because the state is

reviewing what we decide, doesn't mean I can go off willy-nilly and do what I want.

- P. Cusson I don't disagree with what you are saying although the regulations were not really considering, this is a tiny development. Typically they are looking at distribution, we have units within 60, 70, 80 units in a development. They want some units on this street, some units on that street. They want some unit As affordable and some unit Bs affordable. This is a little different in that regard in that it is small. The real test is when you drive down the street; you should not be able to tell what the difference is, which ones are affordable. We have a whole bunch of developments, they don't want to stigmatize the developments or stigmatize the people living in the development.
- R. Ross Statutes and regulations aren't written that way unfortunately. As they say in my business, "Tough cases make bad law." The regulations are broad and apply to a 200 unit development as well as Mr. Lundgren's 8. That is the way those things are drafted.
- P. Cusson That's right.
- E. Lundgren Originally we told them we were going to put both affordable units over here and build this last. They said we couldn't build it last so at that point, I decided to do the first building, the first would be affordable and the last would be affordable and that is how they turned out that way. I would prefer, if we do disperse these units to do one on Warren Avenue because it is the least valuable location and I would prefer to keep these all non-affordable because this obviously is the best location. This is where the money is to be made on this project. So in retrospect, because of this, if we make this unit and affordable unit and this unit and affordable unit, I would love if you would agree to that; or vice versa. These would command, they would be more marketable and would be easier to sell and would bring more money.
- R. Ross Quite frankly, the trade-off on that, in the scheme of this is the density issue, because you couldn't put 8 units here otherwise.
- E. Lundgren Right, even though the density on Balmoral Court is much higher than here. This is 6 acres of land and these are 10,000 sq ft lots.
- P. Cusson The previous plan we had about 4 years ago was 12 units with no garages.
- E. Lundgren There are very few affordable units with 2 car garages, we did that so there is not a lot of junk and bicycles outside. The price of the affordable units is based on the square footage of the living space; the garages are an expense to the builder.



He does not reap any more money with the garage. Without the garages, this unit would sell for the exact same price.

P. Cusson The pricing of the affordables, you could have a 2,000 sq ft house or a 4,000 sq ft house or a 1,000 sq ft house, and they are all the same price because it is based on the area median income formula, not the housing formula.

E. Lundgren And the bedrooms. Two bedrooms sell for less than 3 bedrooms and all the affordables are three bedrooms and that is what affordable people need because they have children and they are probably a single parent.

R. Ross Same area but smaller bedrooms, three rather than two.

P. Cusson What he has done is the footprint of the buildings is basically all the same except the two bedroom has bigger bedrooms, but the square footage is basically the same.

Ch Groucke Are there any more questions about the Town Planner's comments? None. We also received revised plans, would you just summarize that?

P. Cusson Paul Carlson provided a set of plans that were approved by the Conservation Commission. They have issued an order of conditions and referenced a certain set of sub-plans. I wanted to make sure those plans were the same so we wouldn't have a problem later on as we go through the final approval with DHCD, etc., that the Conservation plans and your plans are the same set of plans, which they are. And I submitted those to you. Paul Carlson from InSite Engineering has provided and explanation of the differences between the set of plans you had and the set they approved. Primarily it had to do with a change in drainage and I sent those changes in an email to the Board.

E. Lundgren The drainage for all these driveways is an open drain, a swale that comes where the black dot is, a depression here in the property and they made a couple of changes to the rock, there are no drywells on the property or manhole pits, it is just an open swale. Conservation changed it very minutely.

P. Cusson The email I sent on September 9<sup>th</sup>, from Paul Carlson it said, "As far as the plans go, the only difference you will see will be in the drainage design and layout. The original design was to include a super-elevated driveway to the south which would drain to one catch basin, a stormceptor unit and infiltration basin and finally to a pipe outlet that discharges at the 100' riverbank. The new design includes a conventionally crowned driveway both north and south; each section of the driveway will drain to a sedimentation basin, grass swale, to an infiltration pond and grass swale as the outlet. That was his narrative as to what the difference was.

E. Lundgren The sedimentation basin was just the depression in the earth, it is not a structure.

P. Cusson So basically, they split the drainage areas in half and eliminated the closed drainage system and designed an open drainage system.

Ch. Grouke Does this relate to the Order of Conditions from Conservation?

E. Lundgren Yes.

R. Ross Just to clarify the plans that relate to the Order of Conditions have the preparation date of 7/21/14, which is the most recent revision date. So they approved what was just represented to us as “the plans”.

P. Cusson With all due respect, in your decision, you should refer to the same exact plans.

R. Ross Yes, we just incorporate the Order of Conditions.

Ch. Grouke Those are the responses we received that we just went over; Water Department, Fire Department, Town Planner and Conservation. As far as any other issues we would like to address at this time. I have one question that I believe I read in the paperwork. You do not intend to have central air in the units?

E. Lundgren Yes, we intend to have central air. Absolutely.

P. Cusson What we did talk about was a Home Owners Association vs. a Condo Association. It will be Condo Association.

E. Lundgren That is being set up by Marty Slepko.

N. Abelson I wanted an idea of what you are using for materials.

E. Lundgren We are bringing gas in from Warren Ave., forced hot air with central air in the same duct work; most likely two zones. They will have Town water, cable, underground electricity, asphalt driveways; most likely vinyl siding for ease of maintenance; additional landscaping, architectural roof shingles.

P. Cusson In the application that we submitted, we submitted a set of specifications and in the specs, my error, it said central not included; that is probably where you read it. But all the units will have central air. Each unit will be completely independent.

E. Lundgren I don't know what to use for windows, I have only used Anderson windows but I don't know how they work with vinyl.

- P. Cusson They do on the Builder Series but most of my clients use Harvey windows.
- E. Lundgren The divided windows will have the grillwork in there, it makes for a nicer look. We will have fiberglass garage doors, as opposed to wood.
- P. Cusson Our specs on the windows says they will be maintenance free, vinyl, double hung, tilted double paned windows.
- E. Lundgren I am developing covenants so people aren't doing crazy things out there. I am presenting something to Marty Slepko and he is reviewing it.
- P. Cusson Typically in a condo, it is done a little different, the covenant becomes rules and regulations what they can and can't do.
- N. Abelson The market rate units will probably have some hardwoods and granite countertops I would assume.
- E. Lundgren Yes, that is correct. Everything will have wood or concrete deck depending on the elevation. Some in the back might be partial walkouts because of the elevation. Those would most likely be wood decks.
- Ch Grouke One of my concerns with the air conditioning, is that if it is not central air, then you have window units which doesn't look good.
- P. Cusson I have seen some condo documents where they won't allow window units or window units in front of the building. It is included so we won't have that issue.
- Ch. Grouke I know you have said that they are going to be nice, but how do we ensure that? And I would like to get as specific as possible as to what nice means.
- P. Cusson In the original application, we have 4 pages of specifications; if you want to in your decision you can refer to the specifications. We just need to make the correction on the air conditioning. I know Ned is getting a little bit more specific but these specs are general, we talk about standard asphalt shingles. If he decides to do architectural, that is up to him. The siding we have talked about, the interior, painting, doors, insulation, plumbing code, water supply, and sewage is septic according to Title 5. We also submitted architectural plans in section 5. We have the farmer's porches. To be specific in your decision you could refer to the plans should be substantially in compliance with those architectural plans or some wording similar to that.
- E. Lundgren I own the property next door. I am not a total newcomer to the Town of Seekonk. I have two houses on Prospect Street that Neal has seen and I have built some pretty nice stuff in town.

- Ch. Grouke I understand what you are saying but by the same token, I just want to be thorough and as specific as possible.
- E. Lundgren I am sorry about that error about the central air conditioning, I certainly always intended there to be central air, it is clearly a big selling point especially in an affordable house; as garages are. It is nice, it is totally open when you are on the first floor in the kitchen, it is a clear view right out. Very open, that is what people want now. Full concrete basements, I think most affordable are on concrete slabs that is the cheaper way to do it. These will all be 2x6 construction. Laundry, washer and dryer on the first floor, open concept first floor.
- Ch. Grouke Are you specific about the landscaping in what you submitted?
- E. Lundgren I have not hired a landscape architect. Before I started building 25 years ago, I owned a company called "Cheapscape", my brother and I used to do landscaping.
- Paul Cusson What happens is that the affordable component is an important part of the development but it is the market rate units that drive it. It has to be acceptable to the market, attractive and that is what drives the economics of this deal. There is not going to be any cheap landscaping so to speak.
- E. Lundgren That equipment that is there is all my equipment, the excavator, the landscape tractor, the bulldozer that we have had for years and I know how to use them all well. The nicer you make this look, the more value it brings. Landscaping really pays off.
- Ch. Grouke I would like more information from the Fire Chief and I am not comfortable making decision without our 5<sup>th</sup> member here and his input. I would like to digest everything before we get to the final stages.
- R. Ross Do you see any reason why we can't close the public hearing tonight?
- Ch. Grouke Out of an abundance of caution I would like to keep it open.
- N. Abelson If we get more information from the Fire Chief, we shouldn't close it.
- P. Cusson There is not too much public input at this time. You only have so many days to make that decision and you can do that in the public session without any additional input from the public. You could close the public hearing, the hearing is closed but the decision process continues for the period of time you need to take to make that decision.

- E. Lundgren I think most of the abutters know what I am doing, I have met with them. Mrs. Olean was not in favor of it at one point, but I have met with her. She is okay with it now. There is not a lot of public input at this time.
- R. Read Mrs. Olean is not even on the abutters list, she is farther down.
- R. Ross Could we schedule this either October 20 or the 27<sup>th</sup> with the other petition that is pending?
- P. Cusson That is kind of a ways out, but we are at your mercy. We are trying to get the thing going for the winter. The sooner the Board can do it, we are willing to work with the Board; close the hearing whatever you want.
- R. Ross The threshold issue is Keith, you want input from Keith who is not here tonight.
- N. Abelson The stuff from the Fire Chief...
- P. Cusson Those things will help you, the Board, make a decision. It is unfortunate nobody from the Fire Department could be here. I personally get upset sometimes with some of that stuff. We go around submitting a million copies and we sent it to 15 boards and we got 2 or 3 comments.
- E. Lundgren Is it you want to close the public hearing so you don't have to be here?
- P. Cusson Yeah, that is what I would like to do, if you feel uncomfortable that's fine. What we can do is extend, you said that the board needs 14 days to make a decision, a written decision to file with the Town clerk?
- Ch. Grouke From the date we take the vote.
- P. Cusson If you want to close the public hearing tonight, we could agree to extend the period of time by which you need to make that decision.
- Ch. Grouke We still need Keith here to take the vote.
- P. Cusson I am not asking you to take a vote, I am asking you to close the public hearing.
- Ch. Grouke The only reason I don't like to do that is because, we closed a public hearing not so long ago and then we had to reopen it and in order to reopen it, we had to re-advertise. I would prefer to keep it open.
- E. Lundgren I am in no hurry. I have been working on this, I have a job I go to every day, and it is okay with me.

N Abelson made a motion to continue the public hearing until October 20, 2014 at 7:00PM, seconded by R. Ross; **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, and Neal Abelson

**VOTE: (Approve 4-0)**

**Approval of Minutes:**

N Abelson made a motion to approve the minutes of August 25, 2014, seconded by R. Read; **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, and Neal Abelson

**VOTE: (Approve 4-0)**

**Adjournment:**

N. Abelson made a motion to adjourn the meeting, seconded by R. Ross **and so voted unanimously by:** Ch. Grouke, Roger Ross, Robert Read, and Neal Abelson

**VOTE: (Approve 4-0)**

The meeting adjourned at 8:08 PM

Respectfully submitted by:

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Christina Testa, Secretary