

## Arundel Staff Review Committee

### Notice of Public Hearing

Dear Abutter:

You are being notified of a public hearing and meeting regarding the application noted below. All members of the public are welcome to attend both the site walk and the meeting on the date listed below. The application is available for viewing at the Municipal office at 257 Limerick Rd. during our normal business hours or on the Town website at [www.arundelmaine.org](http://www.arundelmaine.org) under Staff Review Committee Submissions 8/21/23. If you wish to comment on the application, you may do so via mail to the Town Planner at the address listed above or via email at [townplanner@arundelmaine.org](mailto:townplanner@arundelmaine.org).

### Meeting Agenda August 21, 2023 @ 9:00 am Kennebunk River Food Court Walker's Lane- Tax Map 35 Lot 1

#### Call to Order

#### I. Site Walk at 9:00am on Walker's Lane

- Item 1:** **Kennebunk River Food Court; *Conditional Use Application*:** Proposal to construct a 3 station food truck court with associated picnic tables with seating for 39 and thirteen parking spaces. Adam Burgess and Jennifer Wasson are the applicants.

#### II. Administrative Review: 10a.m. Municipal Meeting Room

#### Adjourn

Lee Jay Feldman, Contract Planner

The application and submissions for this item can be viewed at the link below or in the planning office during normal business hours.

<https://arundelmaine.org/index.asp?SEC=AF9C0BAB-5C2D-4626-9DA6-2D8A647096A9>



# 100 foot Abutters List Report

Arundel, ME  
August 07, 2023

*Notices  
mailed  
8/8/23*

*Adam Burgess  
Jennifer Wasson*

### Subject Property:

Parcel Number: 035-001  
CAMA Number: 035-001  
Property Address: WALKER'S LN

Mailing Address: BURGESS, ALLAN W TRUSTEE  
171 SUMMER STREET  
KENNEBUNK, ME 04043

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### Abutters:

Parcel Number: 035-002  
CAMA Number: 035-002  
Property Address: 157 WALKER'S LN

Mailing Address: RIDLON, DEBORAH E ✓  
157 WALKERS LN  
ARUNDEL, ME 04046

Parcel Number: 035-002A  
CAMA Number: 035-002A  
Property Address: 159 WALKER'S LN

Mailing Address: NADEAU, STEPHANIE L ✓  
PO BOX 584  
KENNEBUNKPORT, ME 04046

Parcel Number: 035-002B  
CAMA Number: 035-002B  
Property Address: 158 WALKER'S LN

Mailing Address: ROBERTS, CHRISTINA G ✓  
158 WALKER'S LN  
ARUNDEL, ME 04046

Parcel Number: 035-002D  
CAMA Number: 035-002D  
Property Address: WALKER'S LN

Mailing Address: NADEAU, STEPHANIE L  
P O BOX 584  
KENNEBUNKPORT, ME 04046

Parcel Number: 035-005  
CAMA Number: 035-005  
Property Address: 154 WALKER'S LN

Mailing Address: SHILLINGTON, KURT W ✓  
154 WALKER'S LN  
ARUNDEL, ME 04046

Parcel Number: 035-005A  
CAMA Number: 035-005A  
Property Address: 140 WALKER'S LN

Mailing Address: WALKER, WARREN D ✓  
140 WALKER'S LN  
ARUNDEL, ME 04046

Parcel Number: 035-005B  
CAMA Number: 035-005B  
Property Address: 13 DUNHAM LN

Mailing Address: CATE, DAVID N ✓  
13 DUNHAM LN  
ARUNDEL, ME 04046

Parcel Number: 035-005C  
CAMA Number: 035-005C  
Property Address: 23 DUNHAM LN

Mailing Address: DUNHAM, DEBORAH ✓  
23 DUNHAM LN  
ARUNDEL, ME 04046

Parcel Number: 035-005D  
CAMA Number: 035-005D  
Property Address: 148 WALKER'S LN

Mailing Address: KEEN, THERESA S & ✓  
148 WALKER'S LN  
ARUNDEL, ME 04046

Parcel Number: 035-006  
CAMA Number: 035-006  
Property Address: 126 WALKER'S LN

Mailing Address: MASON, KENNETH E & PATRICIA K ✓  
126 WALKER'S LN  
ARUNDEL, ME 04046



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8/7/2023

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# 100 foot Abutters List Report

Arundel, ME  
August 07, 2023

Parcel Number: 035-006B CAMA Number: 035-006B Property Address: 130 WALKER'S LN	Mailing Address: GAJKOWSKI, CLIFFORD A & 130 WALKER'S LN ARUNDEL, ME 04046 ✓
Parcel Number: 035-006C CAMA Number: 035-006C Property Address: 132 WALKER'S LN	Mailing Address: BEAN, ADAM S & 132 WALKER'S LN ARUNDEL, ME 04046 ✓
Parcel Number: 035-007 CAMA Number: 035-007 Property Address: 120 WALKER'S LN	Mailing Address: PILON, JOHN J 120 WALKER'S LN ARUNDEL, ME 04046 ✓
Parcel Number: 035-008 CAMA Number: 035-008 Property Address: 1024 PORTLAND RD	Mailing Address: WASSON, JENNIFER & 1024 PORTLAND RD ARUNDEL, ME 04046 ✓
Parcel Number: 035-008B CAMA Number: 035-008B Property Address: WALKER'S LN	Mailing Address: WASSON, ELIZABETH J 1940 NW MILFORD WAY SEATTLE, WA 98177 ✓
Parcel Number: 035-009 CAMA Number: 035-009 Property Address: 1048 PORTLAND RD	Mailing Address: LUX, MICHAEL A & SHARON E 1048 PORTLAND RD ARUNDEL, ME 04046 ✓
Parcel Number: 043-051D CAMA Number: 043-051D Property Address: PORTLAND RD/OLD POST RD	Mailing Address: WOODSUM, BELINDA-TRUSTEE 34 OLD POST RD ARUNDEL, ME 04046 ✓
Parcel Number: 043-052 CAMA Number: 043-052 Property Address: 1005 PORTLAND RD	Mailing Address: BOUCHER, ELIZABETH C 1005 PORTLAND RD ARUNDEL, ME 04046 ✓
Parcel Number: 043-052A CAMA Number: 043-052A Property Address: 1009 PORTLAND RD	Mailing Address: BOUCHER DEVELOPMENT COMPANY LLC 1009 PORTLAND RD ARUNDEL, ME 04046 ✓



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# PROJECT SYNOPSIS

## KENNEBUNK RIVER FOOD COURT APPEAL

Our intention was to put 1 to 3 food trucks on our “Downtown Business 1” Route 1 lot. The vision was to create a small park-like setting where families could enjoy lunch at a picnic table under the large shady trees. Our intention was to preserve the natural beauty of the lot, adding no permanent structures, and just a small unpaved parking area. When we first met with the town, we were told that it would likely be a fairly fast and straightforward process. Unfortunately, the process has been anything but straightforward. We encountered the following ordinance violations and other procedural due process failures along the way.

- **Determination of a “complete” application lacked thoroughness, and lacked prompt decision-making**

In section 10.6.2, the Town Ordinance explains that the Staff Review Committee shall determine that an application is complete once it contains all relevant information necessary to make a reasonable and informed decision. Once the application is complete, then notifications to abutters are sent out. In our case, our application was deemed complete after submission of our site plan, Maine DOT permit, deed, and food truck application. At that point, notifications were sent and a staff review was scheduled. However, many further studies and documents were required of us over the 9 months following (as explained below). Those documents should have been requested by the town planner at the beginning of the process if they were needed to make “a reasonable and informed decision”.

- **Equitable application process**

The due process clause requires that both the process and the result of governmental decision making be equitable. Procedural due process ensures that decisions are reached in a fundamentally fair manner. While we recognize that each application is unique, the application process for similar projects is intended to be fair and comparable, to the extent possible. In 2023, an application was submitted to the Town of Arundel for a new food court of the same size, abutting a wetland, and also located on Route 1. This food court was proposed in a stretch of Route One with twice as many curb openings. This application consisted of only a hand-drawn site map, and a MaineDOT new entrance permit. It was approved at the initial staff review meeting, with no concern regarding the number of “curb openings” in the vicinity.

Our application process was significantly different. Initially, we were asked to provide a site plan, and a MaineDOT “change of use” permit for our existing site entrance on route one. After the first staff review meeting, a decision on our application was tabled, and we were asked to provide a wetlands delineation, and a site drainage plan. We provided both documents and six months later at our second staff review meeting, our application was once again tabled. We were then asked to submit a traffic assessment in order to meet our final missing “requirement”. In a follow up meeting Town Planner Lee Jay suggested we use Tom Erico at T.Y. Lin as he was a local expert in traffic assessments. Once our traffic assessment was submitted, we were scheduled for another staff review. During the review meeting, the town planner did not discuss our traffic assessment conclusions (points 1-4). These points address traffic circulation and safety concerns directly, and state that our project “would not be expected to create any safety or traffic mobility issues”. **At our final staff review, we were not given the opportunity to be heard, and were not allowed to present evidence.** Within minutes, a vote was taken to deny our application. It is

important to note that the town did not provide any factual evidence for their position.

- **Notice of Application was not mailed in compliance with the ordinance**

Within the Town Ordinance, Administrative Site Plan Review Procedures, 10.6.2, states “The following procedures shall govern the administrative site plan review process.” Paragraph 2 then states “Notification of this application shall be sent to all property owners within a **100 ft radius** from the applicant's property line at least 7 days prior to the issuance of the final approval.”

The Town of Arundel mailed notices of application to all property owners on Walker's Lane and Dunham Lane, reaching residents in **excess of 700 ft** from our property line. Per the ordinance, notifications should only have been sent to the 7 other owners, within 100 ft. By mailing to all property owners on Walker's Lane, the owner of a competitive food truck was alerted to our application, and was able to quickly mobilize opposition.

- **Ex Parte Communications**

We are aware of several ex parte communications regarding our project. These communications that have not been revealed to the record.

- **Multiple conflicting versions of Mobile Food Truck ordinances & operational standards**

Under the guidance of the town planner, we pursued our application following the “Mobile Food Truck” criteria outlined in the Town of Arundel Land Use ordinance, on the Town of Arundel website. After 6 months, it was brought to the town planner's attention that a second Mobile Food Truck ordinance (adopted on the same date of April 1, 2019) existed under a different section of the website. This second version contained conflicting standards. Shortly after, Adam Burgess discovered a third version of the Mobile Food Truck ordinance. Having multiple versions of the same ordinance, with conflicting information, caused a great deal of confusion and presented possible limitations to our application.

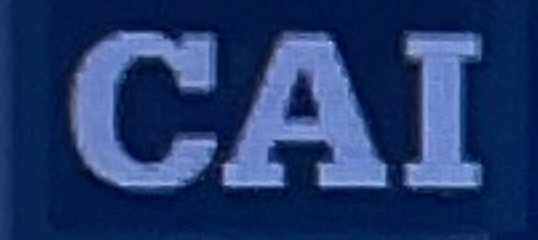
- **Town Planner unavailable after our denial**

Immediately following our staff review denial, the town planner immediately departed from his position at the Town of Arundel. We requested a follow-up meeting, but there was no town planner available for the first 8 days of our 20 day appeal “window”. Lack of staff to consult with during our appeal window felt concerning from a procedural fairness perspective. We were also denied an extension of 8 days.

In summary, we find the decision by the Town of Arundel to be arbitrary, capricious, unlawful, and not supported by findings of fact.



# Town of Arundel, ME



1024 PORTLAND RD



<search results < feature details

## Buffer Options

100 feet

## Subject Features (1)

035-001

## Abutting Parcels (10)

035-002

035-006

035-005A

035-006C

043-051D

043-052A

043-052

035-008B

035-007

035-008

