

Arundel Planning Board Minutes

April 6, 2021 7:00 pm

Zoom Meeting

Board Attendees: Rich Ganong, Chair; Susan Roth, Vice Chair (7:09 pm); Tom McGinn (7:07 pm), Secretary; Jens Bergen (7:08 pm), Marty Cain, Jamie Lowery, and Roger Morin.

Public Attendees: Jason Vafiades, Atlantic Resource Consultants; Erik Christensen, South Coast Builders; Paul Green, Lisa Frates, Kristle Broch, Naoto Inoue, Susan Sinnott, Dan Dubois, Joan Hull, Daniel Clukey, Dolly Court, Tony Panciocco, Atlantic Resource Consultants, and Walter Woods.

Call to Order: Chair Ganong calls meeting to order at 7:01 PM.

I. APPROVAL OF AGENDA:

Motion: Mr. Morin motions to approve the agenda. Mr. Cain seconds.

Vote: Aye: Messrs. Ganong, Cain, Lowery, and Morin

II. APPROVAL OF MINUTES

Consideration of Minutes of March 16 are deferred to the end of the meeting when a quorum of attendees is present.

III. PUBLIC COMMENT

No one from the public spoke.

IV. PENDING APPLICATIONS

Item 1: Arundel's Keep- Major Preliminary Subdivision Application: *Determination of Completeness:* Proposal to develop an 8-lot cluster subdivision with a 675-foot-long private way serving two lots located off Irving Road on a 58.02-acre parcel, Tax Map 19, Lot 8, in the R4 and Shoreland Zones. Arundel's Keep LLC is the owner and Jason Vafiades PE is the applicant.

Mr. Vafiades reviewed the additional submissions provided by the applicant. Planner reported that the applicant had submitted all of the required missing submissions specified by the Planning Board. Mr. Redway reported that the framework for the ACT Conservation Easement has been supplied, *First Light Way* is properly aligned, there are some details that need to be corrected before Final Subdivision submission, but the Planner recommended determining the Preliminary Subdivision application complete and scheduling the public hearing.

Motion: Mr. Morin motions to determine the Preliminary Subdivision application of Arundel's Keep subdivision complete and schedule a public hearing for April 20, 2021. Mr. Bergen seconds.

Vote: Aye: Messrs. Ganong, McGinn, Bergen, Cain, Lowery, and Morin

V. NEW APPLICATIONS

Item 1: Oak Ridge Terrace I: *Amendment to an Approved Subdivision:* Proposal to realign the property line between Lots 4 and 5 in the Oak Ridge I subdivision to correct a violation of the rear yard setback for a dwelling constructed on Lot 4 in the R2, SO, and SP districts. The owner of Lot 4 is South Coast Construction, Inc and the owner of Lot is Oak Ridge LLC, and the applicant is Walter Wood.

Erik Christensen of South Coast Construction, Inc. and owner of Lot 4 testified that a mortgage survey

revealed that the completed dwelling unit on Lot 4 was intruding 8 feet into the side yard setback with Lot 5. Mr. Christensen measured the foundation line off the existing pins for Lots 4 and 5 before commencing and suspected that the corner stakes had been tampered. Local residents denied the claim. Mr. Redway reported that the applicant's proposed solution to shift the southeastern pin of Lot 5 twelve feet to the west and the conveyance of 933 sf from Lot 5 to Lot 4 would correct the side yard violation and have no deleterious impact upon either lot nor on the designated open space in the project.

The Planner also reported that he had sent notifications to all abutters of the application two weeks prior to this meeting.

Motion: Mr. McGinn motions to waive any requirement for a public hearing and to approve the Amendment to Lot 4 and 5 in the Oak Ridge Terrace Subdivision as shown on the submitted surveys. Ms. Roth seconds.

Vote: Unanimous in favor

Item 2: Oak Ridge Terrace II: Subdivision Preapplication & Sketch Plan: Proposal to construct a 2,365-linear-foot loop road through Phase II residual land and an adjoining 63-acre lot (Tax Map 10 Lot 10) connecting Oak Ridge Terrace to the upgraded Laura Lane in order to facilitate the development of additional lots generating more than 250 vehicle trips per day. The property to be developed is Map 17, Lot 15A and Map10 Lot 10 in the R2, SO, and SP districts, and the respective owners are Oak Ridge Terrace LLC and Rene Turgeon, and Anthony Panciocco PE is the applicant's agent.

Mr. Panciocco reviewed the applicant's efforts to connect Oak Ridge Terrace to a second means of egress either onto Liberty Acres or the Lessard Way in the Bartlett Farms II subdivision in order to develop more than 25 lots in the project. Failing to secure a second road connection, the applicant proposes to create a long loop road connecting Oak Ridge Terrace through the Phase II land and adjoining land north of the project site, currently owned by Rene Turgeon, and reconnecting to the cul-de-sac of Laura Lane.

Mr. Panciocco proposed that Laura Lane remain at its current design width and referenced a letter from Arundel Public Works Director, Roger Taschereau, stating that it would be preferable if Laura Lane remain a 21.5-foot-wide road rather than the 24-foot road required for a 26+ lot subdivision. Mr. Panciocco also requested that the Board approve the concept that the proposed loop road could be designated a 20-foot-wide minor road since traffic would be easily divided between the upper portion of Laura Lane and Oak Ridge Terrace.

Mr. Ganong responded that Mr. Taschereau's recommendation was incorrect. The Arundel Street Design and Construction Ordinance specifically requires a collector street serving in excess of 25 lots be built to a 24-foot width with 3-foot shoulders, and there is no provision in the ordinance for the Planning Board to waive that requirement.

Mr. Woods was reminded that he and his engineers were forewarned multiple times by the Board and staff that Laura Lane should not be paved until it was widened to 24-feet if the applicant intended to build more than 25 lots, including the seven existing lots on Laura Lane.

Ms. Roth observed that it was likely that the loop road would also have to be built to the collector road standard.

Residents of Laura Lane confronted the applicant about abrogating the original agreement that Mr. Woods made to secure access to Laura Lane for the development. Dolly Court stated that the easement

granted to the developer limited the total number of houses served by Laura Lane to 24. Susan Sinnott stated that the initial agreement with Mr. Woods was that his development would be limited to one entrance on Laura Lane. the applicant promised that she would not have any more traffic passing her house than pre-development but the loop road would channel a constant stream of traffic past her house.

Mr. Woods responded that he always promised to improve Laura Lane and have it accepted as a Town Road alleviating the residents of the burdens of maintenance. He also stated that he went beyond securing the Association's easement and purchased Laura Lane and its 10-foot spoiler strip from the original owner. As such he had rights to improve the road to any requirement for his development.

In response to a question from Mr. Dubois, the Planner stated that the Planning Board had no authority to enforce private agreements made between private landowners.

Mr. Bergen asked if the option to purchase the Turgeon Land occurred before or after the agreement with the HOA, to which Mr. Woods stated after.

Ms. Roth and Mr. Lowery observed that if Laura Lane was not expanded to 24 feet in width, then Mr. Woods would be limited to seven additional lots in Phase II.

Given the Planning Board's rulings regarding road widths, Mr. Woods concluded that only three options were available:

1. Continue to seek a second means of egress other than Laura Lane;
2. Increase the width of Laura Lane and the loop road to collector road standards;
3. Limit Phase II to seven lots with access from Oak Ridge Terrace.

Mr. Woods thanked the Planning Board for their input.

VI. LAND USE ORDINANCE AMENDMENTS

Item 1: Citizen Request to delete the 1,000-foot setback requirement of a Medical Marijuana Caregiver facility from a church and day care facility. The applicant is Naoto Inoue of the Solar Center, 25 Limerick Road Tax Map 35 Lot 13 in the DB1 and DB2 districts.

Mr. Redway reported that the new rules that the Maine Office of Marijuana Policy released last month for medical marijuana caregivers did not address any facility setbacks from any adjoining land use.

Mr. Inoue restated his proposal that the 1000-foot setback of a medical marijuana provider from a church or a child care center was excessive requirement given the benign nature of the activity. He pointed out that the attitudinal survey conducted by the Board in 2017 addressed retail or adult marijuana establishments and did not reflect citizen opinions on medical marijuana use or provision.

Mr. Inoue also noted that the Cole Memorandum was poised to be reinstated, thereby negating DEA enforcement of Drug Free zones that form the basis for setbacks between marijuana establishments and other uses.

The Chair observed that the cessation of Federal enforcement did not abrogate home rule or zoning authority of the Town. Setbacks between sensitive uses like day cares and schools and a medical marijuana caregiver facility with clients coming and going is relevant.

Ms. Roth was troubled with amending an Ordinance just to benefit one property owner, while ignoring the potential impact to all other property owners. The Planning Board should take a more comprehensive review of Medical Marijuana Caregiver facilities rather than dismantling portions of it.

Mr. McGinn expressed support for the proposed amendment, citing the fact that church goers and day care children will have no direct interaction with such a facility and will not be impacted by the use. Mr. Bergen questioned the actual impact of medical marijuana facilities on church and child care attendees and expressed misgivings about delaying a decision until the Board developed a more comprehensive set of regulations.

Ms. Sinnott reiterated the fact that the existing Child Development Services in the neighboring building is actually a school operated by the Maine Department of Education. The Planner confirmed that representatives from the Department had asked for applications to establish a specialty school and a playground for disabled children at the same location.

. **Motion:** Mr. McGinn motions strike churches and day care facilities from the setback requirements for a medical marijuana caregiver facility as specified in LUO § 6.5.2.12. Mr. Lowery seconds.

Vote: *Aye:* McGinn, Bergen, and Cain *Nay:* Ganong, Roth, Lowery, and Morin.

Motion fails.

Item 2: Discussion with Action: Application of Home Occupations Type 1 and Type 2 to all residential districts as well as the Rural Conservation District

The Planner explained the need to amend the R2, R3, and R4 residential districts to accept Home Occupation Type 1 as permitted uses and Home Occupations as Conditional Use applications as the Town had adopted back in 2017.

Motion: Ms. Roth motioned to adopt the proposed inclusion of Home Occupations Type 1 and Type 2 into the R2, R3, and R4 districts of the Land Use Ordinance. Mr. Bergen seconds.

Vote: Unanimous in favor

Motion: Mr. McGinn motioned to schedule a public hearing on May 4, 2021 on the proposed inclusion of Home Occupations Type 1 and Type 2 into the R2, R3, and R4 districts of the Land Use Ordinance. Mr. Bergen seconds.

Vote: Unanimous in favor

Item 3: Discussion with Action: Proposed addition of Chapter 1000 DEP Shoreland Zoning performance standards in LUO 8.6.1

The Planner discussed the need to include the four proposed Shoreland Zoning performance standards in order to remain in conformance with DEP Chapter 1000 Model Shoreland Zoning for Municipalities. DEP had approved the Arundel Shoreland Zoning Ordinance three previous times without noting that these standards were absent.

Motion: Ms. Roth motioned to adopt the proposed inclusion of Home Occupations Type 1 and Type 2 into the R2, R3, and R4 districts of the Land Use Ordinance. Mr. Bergen seconds.

Vote: Unanimous in favor

Item 4: Discussion with Action: Residential Growth Ordinance – Bundled growth permits for age-restricted and multi-family housing

The Board engaged in significant discussion on the how to modify the Residential Growth Control Ordinance so that it did not preclude multi-family and age-restricted housing currently in the LUO. Recommendations included:

- Bundling or assigning multiple units per growth permit based on the potential impact to Town services
- Allocating an annual number of growth permits reserved for single-family dwellings and another set of growth permits for PUD/multi-family dwellings
- Enabling transfer of unused growth permits between single-family and multi-family
- Providing density bonuses to compensate for low density zoning penalizing multi-family development

The Planner was instructed to pursue a bifurcated system of permit numbers for single-family and multi-family and propose a minimum for both as well as graduated multipliers for multi-family/age-restricted units.

Item 5: Discussion with Action: Proposed Amendments to LUO 9.3.12 Cluster Housing/Planned Unit Developments

Item was tabled by the Chair until the April 20th meeting.

VII. OTHER BUSINESS

The Planner reported that there will be two applications on the agenda for April 20th.

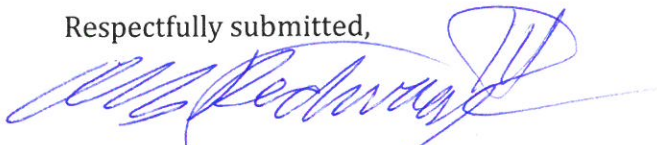
APPROVAL OF MINUTES – MARCH 16, 2021

Motion: Ms. Roth motions to approve the minutes of the March 16, 2021 minutes. Mr. Morin seconds. motions to waive any requirement for a public hearing and to approve the Amendment to Lot 4 and 5 in the Oak Ridge Terrace Subdivision as shown on the submitted surveys. Mr. Morin seconds.

Vote: *Aye:* Ganong, Roth, McGinn, Bergen, Cain, and Morin. *Abstain:* Lowery

ADJOURN **Motion:** Mr. Bergen motions to adjourn the meeting at 9:28 pm. Ms. Roth seconds.
Vote: Unanimous in favor

Respectfully submitted,



Tad Redway
Secretary Pro Temp to the Planning Board