

Arundel Planning Board Minutes

August 27, 2020 – 8:00 pm

Planning Board Zoom Meeting

Board Attendees: Rich Ganong, Chair; Susan Roth, Vice Chair, Marty Cain, Jamie Lowery, Roger Morin and Tad Redway, Town Planner

Attendees: Elizabeth and Tom Boucher, Tom Shoening, Esq; Alicia Oulette, William Stilphen, Stacy and Dewey Giles, Emily and Robert Ingwersen, Jason Vafiades, ARC; and Susan Sinnott.

Call to Order: Chair Ganong calls meeting to order at 7:53 PM.

I. APPROVAL OF AGENDA:

Motion: Mr. Lowry motions to approve the Agenda as written. Ms. Roth seconds.

Vote: Unanimous in favor.

II. APPROVAL OF MINUTES-

Motion: Ms. Roth motions to approve the minutes of August 13, 2020, as written. Mr. Morin seconds.

Discussion: Mr. Lowery reported that the minutes did not reflect he attended the August 13th meeting.

Motion: Ms. Roth motions to approve the minutes of August 13, 2020, as corrected. Mr. Cain. seconds.

Vote: Unanimous in favor.

III. PUBLIC COMMENT: No person spoke from the public.

IV. PUBLIC HEARING

Item 1: Wellness Center: *Plenary Site Plan Review-Determination Completeness:* Proposal to expand an existing parking lot serving two commercial structures by approximately 5,100+/- square feet at 1009 and 1005 Portland Road on a 4.18-acre parcel, Tax Map 43 Lots 52 and 52A, in the DB-1 and the RP Districts. Elizabeth Boucher is the owner and applicant.

Chairman Ganong opened the Public Hearing at 8:00 pm.

No person from the public spoke.

Chairman Ganong closed the Public Hearing at 8:01 pm.

V. PENDING APPLICATIONS

Item 1: Wellness Center: *Plenary Site Plan Review-Determination Completeness:* Proposal to expand an existing parking lot serving two commercial structures by approximately 5,100+/- square feet at 1009 and 1005 Portland Road on a 4.18-acre parcel, Tax Map 43 Lots 52 and 52A, in the DB-1 and the RP Districts. Elizabeth Boucher is the owner and applicant.

The Chair read the findings of fact:

FINDINGS OF FACT AND NOTICE OF DECISION

Wellness Center Parking Lot Expansion

WHEREAS on June 11, 2020 the Arundel Planning Board received a Plenary Site Plan application from Elizabeth Boucher to expand an existing parking lot serving two commercial structures by approximately 5,100+/- square feet at 1009 and 1005 Portland Road on a 4.18-acre parcel, Tax Map 43 Lots 52 and 52A, in the DB-1 and the RP Districts.

WHEREAS on June 25, 2020, the Planning Board conducted a site walk of the property and notified the applicant of a number of submission omissions and corrections that needed to be made in order to determine the application complete.

WHEREAS, on August 13, 2020 the Planning Board reviewed the applicant's amended application and site plan and deemed the plenary site plan application complete.

WHEREAS, on August 27, 2020 the Planning Board conducted a public hearing in accordance with LUO §

AND WHEREAS the Arundel Planning Board has determined the following *Findings of Fact and Notice of Decision*:

FINDINGS OF FACT

1. The owner of the property is Boucher Development Company and 1005 Portland Road LLC. And the applicant is Elizabeth Boucher who has interests in both companies.
2. The property is located at 1005 and 1009, Tax Map 43, Lot 52 and 52A in the DB1 and RP Districts.
3. The properties currently contain an existing 2,630 sf structure containing a residence an accessory apartment and a retail space and a 4,705-sf medical services facility, serviced by shared parking lot providing spaces for 17 vehicles.
4. The applicant proposes to expand the parking lot approximately 5100 sf in order to better organize interior circulation and to provide 21 parking spaces and two handicap spaces located in proximity to the retail store and the medical facility.
5. In addition to the 23 commercial parking spaces, two parking spaces are provided for the residence within the attached garage, and two existing spaces in a separate driveway for the accessory apartment located on the south side of the residential/retail structure.
6. The applicant proposes to pave the entire parking lot and parking areas.
7. Runoff from the parking lot currently disperses into a large undeveloped field located in the southeastern portion of the property adjacent to the Kennebunk River. Since the area is within the 100-year floodplain, the area's future development potential is negligible. To accommodate the increased runoff from the expanded parking lot, the applicant proposes to construct a 30-foot long level spreader that will discharge runoff into a field.
8. The applicant proposes no outdoor lighting nor any changes to existing signage on the property.
9. The Arundel Fire Chief has reviewed the project and is satisfied it meets the standards of LUO section 5.7.
10. A mature stand of yews and shrubs provide required buffering between the parking lot and Portland Road, and the applicant proposes to install two Flowering Pears (*Pyrus calleryana* "Cleveland Select") in the front of the parking lot to meet LUO street tree standards.
11. All proposed improvements are documented on a Plan Set entitled Parking Lot Plan 1005 Portland Road, Arundel Maine, prepared by JPA Consulting and dated January 29, 2019 with revisions to August 24, 2020.

CONFORMANCE WITH SITE PLAN REVIEW USE CRITERIA

After due review and consideration, the Arundel Planning Board has determined the application to be in conformance with the criteria of Section 10.6.4 of the Arundel Land Use Ordinance as follows:

1. The proposed project conforms to all standards of the zoning district and meets performance standards specified in Sections 5, 9, and 10 of this Ordinance;
2. The proposed project does not meet the threshold for a DEP Stormwater Permit and therefore the applicant is not required to seek to any Federal and State permits;
3. The proposed project does not unreasonably impact public safety and fire protection, and will not create a financial burden for the Town of Arundel in the provision of emergency services and law enforcement to the project site and the neighborhood. The Fire Chief has determined that the applicant's project is in conformance with LUO § 5.7 Fire Protection;
4. The proposed project will not have an adverse impact upon the quality of surface or groundwater resources, in that the applicant's project will properly dispose of parking lot runoff into a large field area with suitable soil filtration to protect groundwater quality;
5. The proposed project provides adequate stormwater management facilities to produce no additional peak runoff from the site during a 25-year storm event and will not have an undue impact on municipal stormwater facilities or downstream properties;
6. The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community;
7. The proposed project will not produce noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life of surrounding parcels.
8. The proposed project will have a positive fiscal impact on municipal government.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions, the Arundel Plenary Site Plan application from Elizabeth Boucher to expand an existing parking lot serving two commercial structures by approximately 5,100+/- square feet at 1009 and 1005 Portland Road on a 4.18-acre parcel, Tax Map 43 Lots 52 and 52A, in the DB-1 and the RP Districts, subject to the following conditions:

1. Prior to construction, the applicant will submit a surety in the amount of \$5,000 in conformance with LUO §10.7.2 for all approved site construction activities.
2. Prior to the release of the surety, the applicant's design engineer shall certify in writing that the construction of the drainage facilities including the level spreader has been completed in accordance with the approved plans.
3. Prior to the issuance of a building permit, the applicant shall reimburse the Town of Arundel the cost of the peer review prepared by Atlantic Resource Consultants.
4. No Certificate of Occupancy shall be issued until the Code Enforcement Officer receives certification from the design engineer and a written statement from the Town Planner that

all improvements mandated by this permit have been installed in accordance with the record drawings.

5. In compliance with LUO § 10.9, this permit shall expire in the event that construction does not commence within one (1) year of the approval date and if the project is not substantially completed within two (2) years of the approval date.

SO APPROVED by the Arundel Planning Board this 27th day of August 2020

Motion: Mr. Morin motions to approve the proposed project as specified in the Findings of Fact. Ms. Roth seconds.

Discussion: Mr. Cain noted that both buildings on the site were already occupied and therefore Standard Condition # 4 was moot. The Planner agreed and noted that Standard Condition # 3 was also moot since the CEO had already issued a building permit for structural renovations. Mr. Redway observed that conditions 1 and 2 would accomplish the goal.

Motion: Mr. Cain motions to amend the Findings of Fact by Conditions # 3 and #4 Mr. Morin seconds. **Vote:** Unanimous in favor.

Vote on the amended Findings of Fact: Unanimous in favor.

- Item 2: PaveTek Inc: Major Conditional Use Application- Determination of Completeness:** Proposal to construct a 1,196 square foot garage to store construction equipment for an existing bituminous paving business located on a 5-acre parcel of land, Tax Map 37 Lot 8A, located at 31 Stilphen Way in the R4 District. William Stilphen is the owner and applicant.

Chair Ganong stated the purpose of the meeting is to determine the completeness of the application, especially since the last two submissions were incomplete.

Motion: Mr. Morin motions to grant the submission waivers requested by the applicant including outdoor lighting plan, groundwater study, traffic impact study, fiscal impact study, sign schematic, and stormwater management plan. Mr. Cain seconds.

Vote: Unanimous in favor.

The Chair asked the Planning Board if a site walk is appropriate.

Motion: Mr. Lowery motions to schedule a site walk for September 10. Mr. Morin seconds.

Vote: Unanimous in favor.

Vice Chair asked if the site walk and the public hearing can be expedited. Mr. Redway reported that the Board can determine the application complete at a site walk and special planning Board meeting and then schedule the public hearing for seven days later provided quorum is in attendance. The special meeting requires three days' notice which can be achieved if the Special Meeting is scheduled on September 1st.

Motion: Ms. Roth motions to re-schedule a site walk and a Special Planning Board meeting at the PaveTek site on September 1, 2020 at 6:00 pm. Mr. Morin seconds.

Discussion: Mr. Cain asked the Planner if he will notify abutters of the meeting. Mr. Redway responded that he is not required and usually does not make such notifications. Given the abbreviated window of time, abutters would likely receive the mailed notice the same day as the meeting. Stacy and Dewey Giles, abutters to the applicant, stated they had no issue with the lack of notification and they would personally notify all of the other abutting property owners.

Vote: Unanimous in favor.

VI. NEW APPLICATIONS

Item 1: White Pine Subdivision- Subdivision Amendment: Proposal to alter a side building line and exchange 189 square feet of area between lots 9A-06 and 9-07 in the White Pine Subdivision, Tax Map 36 Lot 9A in the R2 district, in order to correct a side lot line encroachment. Ginger Hill Properties LLC is the owner and applicant.

Ms. Roth asked the Planner if this amendment qualified as a de minimis change to the subdivision boundaries between lots 6 and 7. Mr. Redway responded that the exchange of property between the two parcels is equal, the lot line adjustment would not create a setback hardship for either party, and the setback encroachment created by a survey error would be easily remedied.

The Planning Board Chair read the following Findings of Fact:

Findings of Fact and Approval Motion *White Pine Subdivision Amendment*

WHEREAS, on October 8, 1992, the Arundel Planning Board approved a Major Subdivision application from Wilbur C. Cluff for the development of a 10-lot subdivision on 36.31-acre parcel Tax Map 36, Lot 9 Tax in the R-2, and Stream Protection and Shoreland Protection districts.

WHEREAS the project was never fully developed and the subdivision was purchased and completed by Ginger Hill Properties LLC in 2018.

WHEREAS, in August of 2020 and as a result of a mortgage survey, the applicants, discovered that the eastern corner of the dwelling constructed on Lot 9A-06 encroached five feet into the eastern side setback line of the lot.

WHEREAS, on August 27, 2020 the applicants made application to the Planning Board for a Subdivision Amendment to a portion of the lot line between Lots 9A-06 and 9A-07 in order to remedy the 5-foot encroachment of the dwelling on Lot 9A-06 into the side setback line.

WHEREAS at the August 27, 2020 meeting, the Planning Board determined that the proposed amendment was minor in nature, involved only two concurring property owners and therefore required no public hearing.

WHEREUPON the Arundel Planning Board has reviewed and given due consideration of the applicant's amended application and has arrived at the following findings:

FINDINGS OF FACT

1. The owner with right title and interest in Tax Map 36, Lot 9A-06 is Ginger Hill Properties LLC and the owner of Lot 9A-07 is Brenda Mitchell.

2. The northwest corner of the dwelling constructed on Lot 9A-06 has encroached into the westerly side setback by 5 feet according to a survey prepared by *Titcomb Associates* and dated August 7, 2020.
3. To remedy this zoning violation, the applicant proposes to move a section of the side lot line of Lot 9A-06 to the west and be conveyed 189 square feet of land from Lot 9A-07, in exchange for 189 square feet of property at the southwestern corner of Lot 9A-06 to be conveyed to Lot 9A-07, as illustrated on the *Titcomb Associates* survey dated August 7, 2020.
4. The proposed land swap will restore the 25-foot side line setback requirement for the dwelling on Lot 9A-06 without any reduction in land area on either of the two lots.

CONFORMANCE WITH ARTICLE XI PERFORMANCE STANDARDS

After due review and consideration, the Arundel Planning Board has determined the Amendments of the approved Subdivision Plan application dated August 7, 2020 have not effectively impacted the findings of conformance with the criteria of Section 11 of the Arundel Subdivision Regulations, as originally approved by the Planning Board on October 8, 1992.

CONCLUSIONS OF THE PLANNING BOARD

1. The criteria of Title 30-A MRSA §4404 have been met.
2. The standards of the Arundel Subdivision Regulations have been met.
3. The standards of Section 5.7, 6.2, and 8.0 of the Arundel Land Use Ordinance have been met.

THEREFORE, BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the proposed amendments to the Subdivision Plan as prepared by Lower Village Survey, Co and dated May 14, 2020 contingent upon the following conditions:

1. The revised subdivision must be recorded in the York County Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board otherwise it shall become null and void.
2. The applicant is required to submit a mylar, paper copy and a pdf of the signed plan, as registered in the York County Registry of Deeds, to the Town Planner within 90 days of the approval date.
3. The applicant shall also submit copies of the recorded deed changes for Lot 9A-06 and 9A-07 prior to the issuance of a Certificate of Occupancy.
4. Revised property line pins and monuments shall be set by a Maine registered Land Surveyor for the adjusted property lines of Lots 9A-06 and 9A-07 prior to the issuance of a Certificate of Occupancy for the dwelling unit being constructed on Lot 9A-06

So, approved by the Arundel Planning Board this 27^h day of August 2020

Motion: Mr. Morin motions approve the proposed Subdivision amendments as documented in the amended Findings of Fact. Ms. Roth seconds.

Discussion: Mr. Cain stated that he would like to see the survey of the entire White Pine subdivision plat as it was approved by staff. The applicants stated that they will send a PDF of the revised plans to the Planner to be disseminated to the Board.

Vote: Unanimous in favor.

- Item 2: Irving Road Subdivision- *Subdivision Pre-application:*** Proposal to develop 5-6 lot cluster subdivision with a 500-foot private way on a 32.8-acre lot located at 23 Irving Road, Tax Map 19. Lots 1 and 1B, in the R4 and Shoreland Zones. Randrick Trust is the owner and Jason Vafiades PE are the applicant.

Ms. Roth stated that after reviewing the substantial deficiencies in the application documented in the Town Planner's report, the application should be tabled. Mr. Vafiades that he is aware of the deficiencies but resubmitted the same plan that was offered in January in order to meet the six-month time limit required by the Subdivision regulations. He has completed a Preliminary Plan that addresses these issues and will submit that soon.

Chair Ganong recommended that the application be tabled until the applicant submits either a modified Sketch Plan or a Preliminary Subdivision Plan that addresses the deficiencies and the Planner's concerns.

- Item 3: Arundel's Keep- *Subdivision Pre-application:*** Proposal to develop an 8-9 lot cluster subdivision with a 700-foot long private way 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.

The Chair asked the Planner to highlight some of the concerns in his staff review dated August 25th. The Planner cited a number of issues with the lack of a net residential calculation, the lack of the Resource Protection district delineation, several non-conforming frontage and lot configurations, the encroachment of septic systems, and undersized lots. Mr. Vafiades stated that they had addressed some of these concerns in the Preliminary Subdivision application, which has not been submitted yet.

The Chair recommended tabling the application until the Planner and Mr. Vafiades meet and resolve these conflicts. All parties agreed.

- Item 4: Oak Ridge Terrace II- *Subdivision Pre-application:*** Proposal to develop Phase II of the Oak Ridge Terrace Subdivision consisting of eleven (11) cluster lots on an 880-foot road discharging onto Oak Ridge Terrace off of Laura Lane on a 22.44-acre parcel, Tax Map 17 Lot 5A in the R-2 and Shoreland Districts. Walter Woods is the owner and Jason Vafiades PE is the applicant.

The Chair stated that upon reading the Planner's review, it may be appropriate to conduct a site walk of both Phase 1 and the proposed Phase II sections of the project. Mr. Vafiades concurred that the Board should revisit the site to see the progress and to walk the second phase property.

Motion: Ms. Roth motions hold a site walk of the Oak Ridge Terrace property on September 12, 2020 at 9:00 am. Mr. Morin seconds.

Vote: Unanimous in favor.

Susan Sinnott asked if the developer would be completing the unfinished improvements in Phase 1 before proceeding with Phase 2. In particular she asked why Laura Lane had not been completed by August as promised and why the extension of the road in Phase 2 is proceeding. Mr. Vafiades stated he would check the completion schedule of Laura Lane with the developer get back to the Town and the abutters.

The Chair reiterated the Board's concern with Phase 2 exceeding the 250 vehicle trips for Oak Ridge Terrace/Laura Lane that would necessitate widening Laura Lane from the proposed 20-foot Minor Road width to a 24-foot width for a Collector Road. Roads serving more than 250-vehicle trips per day must be constructed to Collector Road standards, and the Planner warned the applicant that Laura Lane should be widened to 24 feet before paving commences. Mr. Vafiades stated that the applicant is investigating alternatives to either reducing the total trip load on Laura Lane or using an alternative second means of egress.

VI: OTHER BUSINESS

The Board discussed changing the Planning Board meeting dates from the second and fourth Thursdays to first and third Tuesdays to accommodate some members schedules and to keep staff newspaper and abutter notifications within the workweek.

Ms. Roth recommended that the new schedule commence on January 1, 2012. The Planner reminded the Board that the Planning Board Bylaws would also have to be amended. In response to Mr. Morin's question, the Planner explained that we still require mylars because they are 1) to scale, 2) reproduceable, 3) permanent, and 4) not subject to corruption like a digital file. Staff also requires CAD and digital files to assist in mapping and to have a backup reproduceable.

ADJOURN

Motion: Mr. Cain moved and Ms. Roth seconded the motion to adjourn the meeting at 9:38 pm

Vote: *Unanimous in favor.*

Respectfully submitted,



Tad Redway
Secretary Pro Temp to the Planning Board