

**Arundel Planning Board
Minutes
December 12, 2013 at 7:00 pm
Mildred L. Day School**

Board: James Lowery, Bob Coon, John Der Kinderen, Roger Morin, Rich Ganong, Marty Cain, Tad Redway, Planner, Ann Tardif, Board Secretary

Public: Gary & Joy Welch, John Fornella, Jered Jacobs, Ron Malloy, Bud Legros, Randy Dubois, Rick Dubois, Marcel Dubois, Sol Fedder, Steve Katon

Call to Order: Chairman Morin called the meeting to order at 7:00pm. Attendance was taken and the agenda was reviewed.

I. Approval of Minutes: *November 14, 2013*

Coon moved to approve the minutes of November 14, 2013 as written. Ganong seconded the motion and it passed with all in favor.

II. Old Business

Item 1: Dubois Automobile Salvage-Conditional Use Renewal: Proposed application to renew expired permit to continue operation of an existing 85,000 sf +/- automobile salvage area on a 3.6 acre site located at 2 Irving Road, Tax Map 19, Lot 6 in the R-4 District. Dubois Livestock, Inc. is the applicant.

Der Kinderen recused himself from the Board as he is a property abutter to this applicant.

The Chair reminded the board that this application had previously been deemed complete and the only unfinished matter is the final approval.

The Chair read the following Findings of Fact and Conditions of approval for consideration by the Board.

FINDINGS OF FACT AND MOTION FOR APPROVAL

Conditional Use Application for Dubois Automobile Salvage Yard

WHEREAS, on October 10, 2013 the Arundel Planning Board did receive a Conditional Use permit application from Dubois Livestock Inc to relicense an existing 85,000 +/- sf automobile salvage yard automobile salvage area on a 3.6 acre site located at 2 Irving Road, Tax Map 19, Lot 6 in the R-4 District;

WHEREAS on October 24, 2013 the Arundel Planning Board conducted a public site walk of the existing facility;

WHEREAS on November 14, 2013 the Planning Board conducted a public hearing on said application;

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

FINDINGS OF FACT

1. The land owner and applicant with right title and interest is Cynthia Dubois, Trustee for Dubois Livestock. Inc.
2. The property is located at 2 Irving Road and is identified as Arundel Assessors Tax Map 19 lot 6;
3. The parcel consists of 3.6 acres of grassland currently containing salvage vehicles of various types and is contained within a 98 acre parcel.
4. The applicant proposes to continue utilizing the designated area for storage of salvage commercial vehicles and automobiles.
5. The applicant has general plans of the salvage area entitled Automobile Salvage Re-Licensing Plan N/F Dubois 2 Irving Road as prepared by Albert Frick Associates Inc. dated April 9, 2010 with revisions through to June 17, 2010.

6. The existing facility is not located over a sand and gravel aquifer or aquifer recharge area as mapped by the Maine Geological Survey;
7. Neither the designated facility nor any abandoned or salvage vehicle is located within the 100-year floodplain as mapped by FEMA, nor is the facility located within 300 feet of a church, school, public park, cemetery, recreational area, or neighboring dwelling.
8. The designated facility has been configured to be situated more than 300 feet from the upland edge of Brimstone Brook and other natural watercourses on the property.
9. The facility is not visible from any adjacent property or Irving Road with the exception of the residence of Claude Dubois located on Map 19 Lot 6A. Claude Dubois has submitted a letter to the Planning Board dated June 11, 2010 indicating that the 1,100 foot distance between his house and the salvage facility provides adequate visual buffer to meet his needs.

CONFORMANCE WITH CONDITIONAL USE CRITERIA

After due review and consideration the Arundel Planning Board has determined the application to be in conformance with the criteria of Section 9.7.H of the Arundel Land Use Ordinance as follows:

- 9.7.H.1 *The use is compatible with and similar to the general categories of uses of neighboring properties, in that –*
The proposed use is not similar with other residential uses in the district, but is consistent with the operation of an industrial mixed use farm complex. The use is not permitted in the R-4 district but is a pre-existing non-conforming use and cannot be expanded beyond the existing boundaries.
Ganong moved to approve 9.7.H.1, Second by Lowery, Vote: All in favor.
- 9.7.H.2 *The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood, in that –*
The use is in conflict with the comprehensive plan and the anticipated development of the neighborhood as an agricultural and low-density residential zone. The use is legally non-conforming and therefore has standing as an existing use.
Coon moved to approve 9.7.H.2 , Second by Ganong, Vote: All in favor.
- 9.7.H.3 *There is adequate and safe pedestrian and vehicular access to and into the site to accommodate anticipated traffic to and from the proposed use, in that-*
The site has ready access via a gravel road from the Dubois Livestock complex and adequate sight distance and access to Irving /Brimstone Road.
Ganong moved to approve 9.7.H.3, Second by Cain, Vote: All in favor.
- 9.7.H.4 *That there is adequate water supply and sewage disposal available to service the use in that-*
Water supply is not essential to the operation of the facility. Waste liquids are drained from incoming vehicles and incinerated on site. The draining operation is conducted in the barn on impervious surfaces.
Ganong moved to approve 9.7.H.4, Second by Cain, Vote: All in favor.
- 9.7.H.5 *That there will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties,*
All vehicular fluids shall be drained from all vehicles before storage within the salvage yard. Waste petroleum fluids will be burned on site in accordance with State of Maine permits, and waste coolants shall be recycled.
Ganong moved to approve 9.7.H.5, Second by Lowery, Vote: All in favor.
- 9.7.H.6 *The physical characteristics of the site including location, slope, soils, drainage and vegetative cover are suitable for the proposed use, in that-*
The physical characteristics of the site are suitable for the use. The underlying impervious soils prevent percolation of petroleum fluids into the groundwater and proposed improvements and erosion control measures shall preserve the integrity of the existing lands.
Ganong moved to approve 9.7.H.6, Second by Coon, Vote: All in favor.

9.7.H.7 *That the use will not constitute a public or private nuisance.*
The facility will not present public or private nuisances to the adjoining property owners or the neighborhood. The site will not be visible from the street and most adjoining property owners. One potentially impacted property owner, Claude Dubois has submitted testimony that property line buffering for visual impacts is unnecessary.

Ganong moved to approve 9.7.H.7, Second by Coon, Vote: All in favor.

9.7.H.8 *The proposed use conforms to all other requirements and applicable provisions of this ordinance, particularly any pertinent shoreland zoning standards.*

The applicant has designed the facility in compliance with all other performance standards and technical requirements of the Land Use Ordinance.

Ganong moved to approve 9.7.H.8, Second by Cain, Vote: All in favor.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the application of Dubois Livestock to continue operation of the existing Automobile Salvage facility contingent upon the following conditions:

1. The applicant shall maintain all State of Maine Permits in full force and shall maintain compliance with all state regulations and standards at all times.
2. No salvage parts or vehicles shall be stored outside of the designated area shown on the record maps, nor shall any materials be located closer than 300 feet to any stream, intermittent stream, well, or body of water. No salvage materials shall be stored within the Shoreland Zones located on the property.
3. This conditional use permit shall expire on December 12, 2016. Failure to renew this conditional use permit prior to its expiration date shall result in the loss of legal non-conforming status of the salvage operation.

SO APPROVED by the Arundel Planning Board this 12th day of December 2013:

Ganong moved to approve the Conditional Use renewal of Dubois Automobile Salvage based on the stated findings of fact and conditions of approval. Second by Coon, Vote: All in favor.

The Board signed the paper copies of the Findings of Fact.

III. New Business

Item 1: OneSteel Recycling- Conditional Use Application- Determination of Completeness: Proposed application to renew expired permit to continue operation of an existing 43,000 sf +/- solid waste recycling facility on a 22.9 acre site located at 2244 Portland Road, Tax Map 12, Lot 9 in the BI District. OneSteel Recycling is the owner/applicant, and Jered Jacobs is the applicant's agent.

Present this evening are Jered Jacobs, agent for the applicant, Ron Molloy, and John Fornella, attorney for the applicant.

The Planner gave a brief overview of the application. The applicant's conditional use permit has expired. The last approval of the conditional use permit was in 2006. The applicant was notified by the Planning Office in 2010 that their permit had expired; no action was taken by the applicant until now. It was noted, however, that the State of Maine and the Arundel Board of Selectmen at the recommendation of the Code Officer have granted renewals of the Automobile Graveyard/Junkyard permit. The Planner explained that this is considered to be a new application. The applicant is seeking submission waivers on several items as indicated on their application.

The applicant is claiming that they have not altered the extent of the salvage operation since 2003 and have submitted the plan that was approved in 2003 with this application.

Coon moved to accept the current application and to grant the waiver requests other than the submission of a landscaping plan subject to a site walk. Ganong seconded the motion for purposes of discussion. Ganong commented that the review by the Fire Chief was needed. Der Kinderen commented that because this is being considered as a new application that granting a waiver for "no changes" is not appropriate. Morin agreed with Der Kinderen. Coon disagreed. Lowery proposed that the Board might consider accepting submission of the older dated plan if it can be certified by a surveyor and site conditions verified by a site walk.

John Fornella gave the board a new landscape plan. They had one prepared today in the event that the Board deemed it necessary.

Der Kinderen commented that he feels there should be a new site plan, showing current conditions, with a new date and certification stamp submitted to the Board.

The Planner commented that the Board can schedule a site walk to address their concerns.

Vote: one in favor (Coon) and five opposed.

The Board continued discussion of the submitted site plan.

Der Kinderen moved that the applicant will submit a current plan, properly validated by a registered surveyor. Ganong seconded the motion. Lowery inquired if the board would accept a letter from a surveyor validating the plan submitted is as it exists. Der Kinderen stated he would find that acceptable. Vote: 2 in favor (Ganong & Der Kinderen), 3 opposed and one (Cain) abstention. Motion failed.

The Board reviewed the Application Checklist with the applicant.

The applicant will need to do the following:

Submit a new site plan or obtain a certification statement from a surveyor indicating that the submitted plan is an as built/existing plan.

There were several waiver requests made which the Board was not inclined to grant as well as some items that had been marked as N/A by the applicant which the board did not agree with, therefore, the following will need to be added to the plan and/or submitted by the applicant to the Board:

Add the following to the plan: setback lines, any legal right of way/easements, information block, blank approval block for board signature (7 lines min.), location of all streams, watercourses, etc., delineation of any public and private easements, location of existing site features, location of utilities, location of drainage facilities, zone line, sight distance, location, type/size of noise sources such as machinery, location/inventory of outdoor materials storage, show the location of all existing/proposed exterior lighting fixtures,

The following written submissions will be required:

A copy of the medium intensity soil survey, if they still want a waiver then clearly explain the reasoning in the comments section.

Detailed Cost estimates (pertaining to landscape plan).

Stormwater Drainage Calculations.

Groundwater Study: The applicant was advised that there should be a yearly report submitted to the Town Office in addition to the required reporting done to the State of Maine.

Letter of compliance from the Arundel Fire Chief, Bruce Mullen.

The Board set a Site Walk for Saturday, January 4, 2014 at 9:00 am.

The applicant will return to the Board with the revised plans and other required submissions on January 9, 2014.

The Planner will advertise and schedule a public hearing for the application on January 23, 2014.

Item 2: Gary's Auto Salvage- Conditional Use Renewal: Proposed renewal for an existing auto salvage yard on a portion of a 16.5 acre site located at 258 River Road, Tax Map 40, Lot 3 in the R-4 District. Gary Welch is the owner and applicant.

Gary Welch is present this evening. He explained to the Board that there have been no changes since his last renewal was approved in 2010.

The Board reviewed his plan and application that was submitted.

Ganong moved to deem the application complete, second by Cain, vote: all in favor.

The Board set a site walk for Saturday, January 4, 2014 at 10:00 am.

IV. Zoning Ordinance Amendments:

Item 1: Zoning Ordinance Amendment Request: Request to modify section 8.4 of the Land Use Ordinance to increase threshold lot size for mandatory cluster subdivision from 6 to 13 acres. Manon Cote & Sylvain Theriault are the applicants.

The Planner informed the Board that this is not a formal application in that Mr. Theriault has not paid the fee to the town for such a formal request. He is simply asking the Board to consider making this change as part of their work in the re-writing of the Land Use Ordinance.

The Board discussed the various pros and cons of cluster subdivision. The consensus is that there are certain advantages to the developer and the Town in creating a cluster subdivision but the majority of the Board did not agree with it being a mandatory thing. The Board will re-consider the current cluster subdivision ordinance in their re-writing of the L.U.O.

Tad will draw up a draft proposal for the Board to consider.

Item 2: Zoning Map Change: Request to change Shoreland Resource Protection (RP) and Natural Resource Protection (NRP) district boundaries on land surrounding Brimstone Pond on property identified as Map 19, Lot 7 and Map 23, Lot 15. Florian Legros is the applicant.

Mr. Bud Legros is present this evening and distributed a copy of an aerial photo map in which the State of Maine depicts the Deer Wintering Area surrounding Brimstone Pond.

Mr. Legros is proposing that the Town remove the 250 foot perimeter for the Deer wintering yard from his property.

The Planner indicated that the Town map needs to be changed to reflect the testimony of the state wildlife specialist.

Der Kinderen moved the board reassess the RP area around Brimstone Pond and consider the new information provided by the State and the applicant, Second by Coon, Vote: all in favor.

Item 3: Discussion with Action: Schedule a meeting with property owners in the proposed DB-2 District to discuss proposed change from residential to commercial uses.

The Board and the Planner discussed briefly and set a date to hold the meeting with property owners during the January 9, 2014 Planning Board meeting.

Item 4: Discussion with Action: Review of meeting with Comprehensive Plan Committee and scheduling of revision workload:

The Board briefly reviewed the meeting they had with the Comprehensive Plan Committee. The Board was in agreement that the work on the DB-1 & DB-2 districts is a priority and needs to be completed as soon as possible.

V. Planner's Business:

The Planner advised the Board that there were two private ways approved recently by the Staff Review Committee.

VI. Public Comment:

There were no comments from the public.

Adjourn

Der Kinderen moved to adjourn at 9:58 p.m., second by Ganong, Vote: all in favor.