

Arundel Planning Board Draft Minutes

May 28, 2020 - 7:00pm

Remote Zoom Planning Board Meeting

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

Attendees: Kris Woodward, David Lourie, Esq; Bob Metcalf, JMitchell & Associates, John Fitzpatrick, Beth Grabowski; Joy Naifeh, Linda Zuke, Paul Gadbois, PE; Amy McNally, Esq; Dwight Raymond, Nickolas Raymond, Steven Doe, Sebago Technics

Call to Order: Chair Ganong calls meeting to order at 7:05 PM.

I. APPROVAL OF AGENDA:

Motion: Mr. Morin motions to approve the Agenda as written. Mr. McGinn seconds.

Vote: Unanimous in favor.

II. APPROVAL OF MINUTES- May 14, 2020

Motion: Mr. McGinn motions to approve the Minutes of May 14, 2020 as written. Mr. Morin seconds.

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

III. PUBLIC COMMENT: No one from the public spoke

VI. PENDING APPLICATIONS

Item 1: Rontu's Run Dog Daycare: Major Conditional Use Application: Proposal to establish a Pet Day Care Center in an existing Riding Stable located at 496 Limerick Road, Tax Map 27 Lot 2, in the R1 District. Kristin Woodward is the owner and applicant.

Chair Ganong acknowledged receiving the testimony and certificates Meredith Manor International Equestrian Centre of Waverly, West Virginia verifying that the applicant had received adequate training in 1977 and 1978 to be regarded as a certified Horse Trainer. The Chair stated that the Ordinance did not require the operator of a Dog Day Care Facility to be a certified Canine Trainer, only a certified Animal Trainer and therefore the applicant met the requirements of LUO §9.3.33.3. d. The Board was in consensus.

The Chair resumed reading of the **Findings of Fact** beginning with section 9.2.9.8 *Conformance with Conditional Use Criteria* tabled at the May 14, 2020 meeting:

9.2.9.8 That all other requirements and applicable provisions of this ordinance, particularly any pertinent performance standards, are met.

The applicant has substantially met all of the performance standards of LUO section 9.3.33 and all other pertinent sections of the Land Use Ordinance.

Motion: Mr. Cain motions that the proposed use will not constitute a public or private nuisance. Ms. Morin seconds.

Vote: Unanimous in favor.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions, the Arundel Planning Board hereby approves the conditional use application of Kristen Woodward to establish a Pet Day Care Center serving no more than ten (10) canines in an existing garage located at 496 Limerick Road, Tax Map 27 Lot 2, in the R1 District, subject to the following conditions.

1. All outdoor exercise area fences shall have semi-opaque screening attached to a height of 6 feet facing all adjacent residential structures.

2. The applicant shall present an executed contract with Casella Waste to specifically remove accumulated canine wastes from the facility of a weekly or bi monthly basis. All fasces shall be removed from the indoor and outdoor facility spaces on a daily basis and kept in an airtight container until removal of waste by Casella Waste.
3. The applicant shall successfully present her Permanent Kennel license from the State of Maine to the Coder Enforcement Officer within 8 months of this approval. Failure to secure said license shall nullify this permit.
4. All improvements specified in this application and approval shall be installed and operational prior to the issuance of a Certificate of Occupancy by the Code Enforcement Officer.
5. The applicant is reminded that according to LUO section 9.3.33.3.p, excessive barking of dogs at the facility constitutes grounds for revocation of this conditional use permit by the Planning Board.

Motion: Mr. McGinn motions to approve the Conditional Use application as presented in the Findings of Fact as read. . Mr. Morin seconds.

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

(Copy of the complete and approved Findings of Fact attached as Exhibit A to these minutes)

Item 2:

Arundel Children’s Garden: Major Conditional Use Application- Determination of Completeness: Proposal to operate a 24 child, 4 staff Day Care Center in a 2,460 square foot existing building, known as The Grange, with associated parking and an existing 4-unit apartment complex on a 2.53 acre parcel, Tax Map 39, Lot 15 , located at 34 Arundel Road in the Townhouse Corner District. Arundel Grange LLC is the owner/applicant and Robert Metcalf of Mitchell & Associates is the applicant’s agent.

The Planning Board discussed the findings of the Site Walk conducted earlier on the evening of May 24th, specifically in relation to the existing mature buffer between the facility parking lot and the Grabowski residence to the west (Map 39 Lot 14). Mr. Lowery stated that the intervening vegetation between the two lots appeared to be sufficient to buffer the parking lot and the facility lights. Mr. Ganong was concerned about turning vehicle lights entering and leaving the facility. Ms. Roth observed that even in the winter vehicle lights would cease being a nuisance by 6 pm. Mr. Grabowski who is the affected neighbor and whose wife will be the proprietor of the Day Care facility stated that there are no issues with either the facility or vehicle lights and that the facility lights will be modified in the future.

Motion: Mr. Cain motions to determine the the Conditional Use application complete and Ms. Roth seconds the motion.

Vote: Unanimous in favor.

Motion: Mr. Cain motions to schedule a public hearing for the application on June 11, 2020. Ms. Lowery seconds the motion.

Vote: Unanimous in favor.

V. NEW APPLICATIONS

- Item 1: Weirs Buick GMC Service Expansion: Plenary Site Plan Application-Determination of Completeness:** Proposal to construct a 2,9041 square foot expansion on the north side of the existing showroom, amend the current parking layout, and relocate site lighting for an existing vehicle sales and service facility located 1513 Portland Road, Tax Map 33 Lot 2 in the DB-1 and DB-2 districts. Weirs Motor Sales Inc is the owner and the applicant.

Mr. Gadbois, engineer for the project, reviews all of the submissions provided thus far, noting that the only items absent are the Cost Estimates and the DEP Site Location Permit amendment. The Town Planner stated that the application was complete, and could be deemed so subject to the submission of cost estimates before the next meeting.

Motion: Mr. Morin motions to determine the the Plenary Site Plan application complete subject to the submission of cost estimates and Ms. Cain seconds the motion.

Vote: Unanimous in favor.

Motion: Mr. Cain motions to schedule a public hearing for the application on June 11, 2020. Ms. Lowery seconds the motion.

Vote: Unanimous in favor.

- Item 2: Raymond Acres- Subdivision Amendment:** Proposed amendment to alter the approved property line between Lots 5-03 and 5-03A on Tax Map 30 as well as reduction in the 75-foot Shoreland Stream Protection setback from Goff Mill Brook tributary on Tax Map 30 Lot 5-03A off of Black Dog Road in the R2 and SP Districts. Nickolas Raymond is the owner/applicant and Amy McNalley is the applicants agent.

The applicant has constructed a dwelling unit on the recently-approved Lot 5-03A in the Raymond Acres Subdivision such that it intrudes 15 feet into the side setback line to the north and 25 feet + into the 75 foot Shoreland Zone Stream Protection District. The applicant's attorney proposes a plan to amend the subdivision line between Lots 5-03 and 5-03A to alleviate the side yard intrusion, and requests a waiver to the 75-foot setback from the SP district as provided in LUO § 8.6.4.5

Chair Ganong states that in accordance with correspondence from Jeffery Kalinich of the DEP Shoreland Zoning Unit and his conference with the Maine Attorney General's Office that the Planning Board has no authority to grant an exception to a shoreland zone violation. The only remedy available is therefore through the Board of Appeals. Mr. Kalinich also reports The applicant's application for an NRPA Permit to intrude within 75 feet of a tributary stream was denied by the DEP since the action also was a violation of Arundel Shoreland Zoning.

Board members asked if the Town Attorney agreed with the AG's opinion. The Planner reported that the Town Attorney stated that a remedy was available through the Special Exception provision in LUO§ 8.6.3.4 under extraordinary ofr unique circumstances. Ms. Roth asked how to define a "unique circumstance". The Planner stated the original intent of the Board was to limit such exceptions to unique *environmental* circumstances. Ms. McNally stated that a mislocation of a house by a contractor and not by the fault of the owner constituted a unique circumstance. Mr. Ganong disputed that a "self-inflicted wound" did not constitute a unique circumstance.

Ms. McNally advocated for the Board to conduct a site walk. Mr. Lowery stated that the Board should conduct a site walk to perform its due diligence. Ms. Roth agreed.

Motion: Mr. Lowery motions to schedule a site walk of the Raymmond parcel on for the application on June 11, 2020 at 5:30 pm. Mr. McGinn seconds the motion.
Vote: Aye: Lowery, Roth, Cain, McGinn, and Morin. **Nay:** Ganong. Motion passes 5-1.

VI. LAND USE ORDINANCE REVISIONS:

Item 1: **Discussion: Proposal to Amend LUO §3.2 Definition of Front Lot on a Corner Lot to be restricted to only one street**

Per the Planning Board's direction, the Town Planner provided four different options for identifying only one front yard and front yard setback on a corner lot. The options included: 1) The road with the highest traffic volume would be designated as the front lot line; 2) The Owner would designate which street would be designated as the front yard; 3) the street frontage of the greatest length would be designated at the front lot line, ; and 4) make no change to the current definition.

The Board discussed the pros and cons of each of the three new options and proposed a fourth option in which the street upon which the driveway entrance to the dwelling was located should be designated as the front lot line.

Mr. Lowery expressed dissatisfaction with all of the proposed options and stated that the current definition of a corner lot has never proved to be a burden to property owners. He questioned fixing something that is not broken.

Motion: Ms. Roth motioned to maintain the current definition of a corner lot with thwe front yard setback applying to both streets. Mr. McGinn seconds the motion.

Vote: Unanimous in favor.

V: OTHER BUSINESS

There was no other business discussed.

ADJOURN

Motion: Ms Roth moved and Mr. Morin seconded to adjourn the meeting at 9:42 PM.

Vote: *Unanimous in favor.*

Respectfully submitted,

Tad Redway
Secretary Pro Temp to the Planning Board

Exhibit A
Town of Arundel
Arundel Planning Board

FINDINGS OF FACT
Rontu's Run Pet Day Care Facility
MOTION for APPROVAL

WHEREAS, on March 26, 2020, the Arundel Planning Board received a Major Conditional Use application from Kristen Woodward to establish a Pet Day Care Center serving no more than ten (10) canines in an existing garage located at 496 Limerick Road, Tax Map 27 Lot 2, in the R1 District.

WHEREAS, on April 17, 2020 the Planning Board conducted a virtual photographic site walk at the proposed facility to assess the existing facilities conformance with the standards of LUO § 9.3.33.

WHEREAS, on April 23, 2020 the Planning Board determined the application Complete and scheduled a public hearing for May 14, 2020.

WHEREAS, on May 14, 2020 the Planning Board conducted a public hearing, in conformance with LUO section 9.2.9.

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 Kristen & Hildegard Woodward.
2. The property is located at 496 Limerick Road, Tax Map 27 Lot 2, in the R1 District.
3. The property currently contains a residence, detached garage, and a horse stable operation and adjoining fields and woods.
4. The applicant proposes to develop a dog day care facility serving 10 canines in the detached garage located east of the residence.
5. The proposed facility is located within a detached garage that is partially conditioned consisting of a 322 square-foot kennel room with 10 individual transport cages, an attached 184 square foot garage bay designated as an indoor group play area, and an outdoor 5,900 square foot group play area enclosed by an 8-foot high wire fence. The applicant proposes to install semi-opaque screening on all portions of the outdoor fencing facing adjacent residences and living areas to both screen the pens from said residences and to discourage exciting the kenneled dogs. The outdoor play area will provide animals with approximately 590 sf per canine while the indoor space will provide 18 sf per canine, assuming all dogs are using the space at one time.
6. The outdoor exercise/play areas meet all setback requirements of LUO section 9.3.33.2.a
7. The indoor kennel space is proposed to contain a double-gated entry with a top-latch to prevent canines escaping the facility upon egressing or ingressing the main entrance.
8. When not in the indoor or outdoor play areas, dogs are proposed to be housed in ten individual cages. The compliment of cages is proposed to be six (6) extra-large cages measuring 4' x 2'-6"x 2'-8" serving large dogs; two (2) cages measuring 3'.51 x 2'4"wx 2'7" h serving medium sized dogs and two (2) cages measuring 3'1 x 2'w cages serving medium to small sized dogs. Cages shall have a pan on the bottom. The floor of the

existing kennel area consists of a wood substratum. An opaque plastic divider is proposed to be placed between adjacent cages to provide privacy and reduce aggression.

9. The kennel area and the indoor exercise area will be heated and cooled by two proposed heat pumps to be installed prior to operation.
10. Water supply is to be either carried from the main house to the kennel building or supplied by a garden hose.
11. Access to the outdoor play area shall be from a single door at the rear of the kennel room.
12. An “acclimation” pen is proposed to be located off the main outdoor exercise area to acclimatize new dogs to the facility and sequester timid canines.
13. The applicant proposes to provide six (6) parking spaces in the existing parking lot on the property to serve clients and one handicap space located in front of the garage and designated and striped as an ADA parking space.
14. The applicant proposes to illuminate the parking area and kennel floor entrance by two wall-mounted KAD 250w metal halide “shoebox” type fixture mounted at no greater height than 20 feet over the main facility entrance and the corner of the main house. Plans for the proposed lighting are documented by submissions from Camille’s Electric LLC of Biddeford Maine and dated June 27, 2018.
15. The applicant has submitted a document from Casella Waste, dated April 9, 2020 indicating a willingness to contract with the property owner for trash removal. The letter of intent does alternative strategy for disposing of canine feces.
16. The applicant has submitted adequate evidence that she is a qualified animal trainer in accordance with LUO § 9.3.33.3.d.
17. The Arundel Fire Department has certified that the facility is in compliance with LUO section 5.7 provided two fire extinguishers are provided in the kennel area.
18. The Arundel Public Works Department has determined that the driveway entrance onto Limerick Road is sufficient to accommodate ingressing and egressing traffic to the proposed facility.
19. Plan documentation of the applicant’s proposed improvements include a Parking Plan prepared by John W Einsiedler, RA and dated 4/18/18; lighting plan and specifications prepared by Camille’s Electric LLC and dated June 27, 2018; Interior architectural drawing and layouts as well as a dimensional plan of the outdoor exercise yard prepared by the applicant.

CONFORMANCE WITH CONDITIONAL USE CRITERIA

After due review and consideration, the Arundel Planning Board has determined the application to be conformance with the criteria of Section 9.2.9 of the Arundel Land Use Ordinance as follows:

- 9.2.9.1 That the use is compatible with and similar to the general categories of uses of neighboring properties.
Pet Day Care facilities are conditional uses in the R1 district the use is consistent in scale and use with other uses in the surrounding neighborhood and the district.
- 9.2.9.2 The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood in that:

- The Comprehensive Plan does not specifically address the introduction of Pet Day Care facilities in the residential districts. Kennels are in fact prohibited from the district. However, the Town Meeting has approved this use for the R1 district, given specific performance standards.*
- 9.2.9.3 That there is adequate and safe pedestrian and vehicular access to and into the site to accommodate anticipated traffic to and from the use.
- The proposed parking layout meets the minimum requirements for pet day care as specified in LUO section 5.12.4. The Public Works Department has approved the driveway access onto Limerick Road.*
- 9.2.9.4 That there is adequate water supply and sewage disposal available to service the use.
- There is no direct water supply provided to the proposed facility to meet sanitation or animal hydration needs. All water will be carried in by hand or delivered to the facility by garden hose. Potable water supply and toilet facilities are located in the adjacent main house in compliance with LUO section 9.3.33.3.r. The applicant has proposed a plan for canine feces pickup by Casella Waste in compliance with Luo section 9.3.33.3.o.*
- 9.2.9.5 That there will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties in that -
- There is the potential for noise nuisances from barking dogs. The applicant has a plan for remedying excessive barking.*
- Glare: The applicant proposes exterior lighting that meets LUO section 5.10.*
- 9.2.9.6 That the physical characteristics of the site including location, slope, soils, drainage and vegetative cover are suitable for the proposed use.
- The proposed use will not measurably change the existing topography, slopes, soils, or vegetative cover of the site.*
- 9.2.9.7 That the use will not constitute a public or private nuisance.
- No additional nuisances will be generated by the proposed use.*
- 9.2.9.8 That all other requirements and applicable provisions of this ordinance, particularly any pertinent performance standards, are met.
- The applicant has substantially met all of the performance standards of LUO section 9.3.33 and all other pertinent sections of the Land Use Ordinance.*

THEREFORE BE IT RESOLVED that based on the above findings and conclusions, the Arundel Planning Board hereby approves the conditional use application of Kristen Woodward to establish a Pet Day Care Center serving no more than ten (10) canines in an existing garage located at 496 Limerick Road, Tax Map 27 Lot 2, in the R1 District, subject to the following conditions.

6. All outdoor exercise area fences shall have semi-opaque screening attached to a height of 6 feet facing all adjacent residential structures.
7. The applicant shall present an executed contract with Casella Waste to specifically remove accumulated canine wastes from the facility of a weekly or bi monthly basis. All fascses shall be removed from the indoor and outdoor facility spaces on a daily basis and kept in an airtight container until removal of waste by Casella Waste.

8. The applicant shall successfully present her Permanent Kennel license from the State of Maine to the Code Enforcement Officer within 8 months of this approval. Failure to secure said license shall nullify this permit.
9. All improvements specified in this application and approval shall be installed and operational prior to the issuance of a Certificate of Occupancy by the Code Enforcement Officer.
10. The applicant is reminded that according to LUO section 9.3.33.3.p, excessive barking of dogs at the facility constitutes grounds for revocation of this conditional use permit by the Planning Board.

SO APPROVED by the Arundel Planning Board this 28th day of May 2020