

Arundel Planning Board
Minutes of Regular Meeting
August 27, 2015
Firestation Limerick Road

Attendees: Tad Redway, Planner; Marie Burgie, Secretary

Board Members: Richard Ganong; chairman, Tom McGinn, Roger Morin, Bob Coon, John derKinderen, Marty Cain

Public: Karen Perka, Paul Dest, Jacob Aman, Eric Williams, Craig Millett, Brenna Reali, Paulette Millett, Kenneth Millett, John Leach, Tom Danylik, Walter Pelkey, Jason Nedeau, John Andrews, Judy Andrews, Nathan Lynch, Jason Beaulieu

Call to Order: 7:03pm

I. Approval of Agenda: *der Kinderin motioned* to approve, *Morin second*, **Unanimously agreed**

II. Pending Applications:

Item 1: **Goff Mill Brook Dam Removal: Conditional Use/Shoreland Zoning:** Proposal to demolish an existing 25 +/- foot wide dam on the Goff Mill Brook in order to facilitate the migration of marine fish, eel and lamprey species from the Kennebunk River at a property located at 94 River Road, Tax Map 40, Lot 8 in the R4, Resource Protection, and Shoreland Overlay Districts. Mary Castner is the owner, the Wells National Estuarine Reserve is the applicant, and Jacob Aman is the applicant's agent.

Letters were read from Mary Castner, Jacob Aman, Danielle E. D'Auria, Att. Bruce Reed, Charles Bassett and Judy & John Andrews. Questions were raised as to whether or not the applicant wanted to rebut information in letters and delay the board's vote until the next meeting. After asking if the town had any more questions, Dest and Aman felt ready for the board's vote.

Judy Andrews repeated the question made at last meeting wondering if site-walks had included walking 900' up the brook. Aman said he walked it and cited several biologists that have also walked the site (stream). Redway asked Aman what the approximate elevation would be taken down to. They agreed that it would be lowered by approximately 5 feet although it wouldn't really be known exactly where it would be. Cain asked if we left it alone didn't take away the man-made dam, what would Aman speculate would happen. He suggested that if the dam is going to wash away anyway (in 25 yrs or so), we may as well remove it now while we have resources to do it and give the fish species a better chance to survive. der Kinderen stated that ecological impact will happen. He's not convinced that this impact will be positive or negative. But, based on "private property rights", he feels the Castners have the right to remove the dam providing there isn't a major impact on the neighbors.

Finding of Facts #1 - 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 That the use is compatible with and similar to the general categories of uses of neighboring properties. The proposed dam removal will extend the existing tidal portion of the Goff Mill Brook. *der Kinderen motioned* that this doesn't apply to this situation. Not applicable, since not a use in our ordinance. **Coon second All approved except Cain**

9.7.H.2 The use is consistent with the Comprehensive plan and the anticipate future development of the neighborhood in that - The Comprehensive Plan designates the existing Goff Mill Brook both downstream and upstream from the dam as a high value wetland/watercourse complex, and important wildlife habitat, and as a critical scenic cultural resource for the community. The removal of the dam will change the pond north of the dam into a tidal zone similar to the estuarine conditions at the brook's confluence with the Kennebunk River.

While the dam impoundment does have local historic significance, the dam structure itself does not have any unique or important architectural or construction characteristics that would make it eligible for status on the National Register of Historic Places. The marine species that will be introduced to the exiting habitat by the dam demolition will change the micro ecology to a more natural state.

Morin motioned to accept motion as changed, **McGinn second, Coon opposed, Passed**

9.7.H.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 dam removal will be conducted on private land and will nt impact pedestrian access. Travel on the brook surface by watercraft or by fishermen will be temporarily impeded during demolition. *McGinn motioned* to approve, *Morin second, unanimously agreed.*

9.7.H.4 That there is adequate water supply and sewage disposal available to service the use. The proposed use will not generate needs for human water supply or sewage disposal. *Coon motioned* to approve, *der Kinderen second unanimously agreed*

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 in that - Demolition procedures will produce a temporary noise, dust and vibration impacts to adjacent properties. *Coon motioned to approve, McGinn second.* Cain asked time frames of work - will be between 7am and 10pm. **unanimously agreed** (Aman said it would take one day to complete job.)

9.7.H.6 That the physical characteristics of the site including location, slope, soils, drainage and vegetative cover are suitable for the proposed use.

The proposed dam demolition will significantly alter the existing water regime in the freshwater habitat north of dam and will flush excess sediment into estuary creating a more natural channel. (Edited by der Kinderen per discussion as Coon pointed out that they would be removing sedimentation. *der Kinderen motioned* per recorded above, **McGinn second, Unanimously agreed.**

9.7.H.7 That the use will not constitute a public or private nuisance. No nuisance will be generated by the proposed demolition (changed from "expansion".) *Coon motioned* to accept as changed, *Morin second* 1 opposed - **Approved**

9.7.H.8 That all other requirements and applicable provisions of this ordinance, particularly any pertinent performance standards are met. While the dam removal will have a significant and immediate impact upon the environmental quality of the freshwater impoundment pool behind the dam, the impacts to the freshwater ecosystem will be confined to the head of tide and not to the entire Goff Mill watershed. Displaced fish species will move to holding waters upstream from the impact area, and the target anadromous species will colonize the new brackish and tidal areas. *der Kinderen motioned, Morin second - Unanimously approved* Cain warned that if water goes quickly, fish may flop around and die where they are.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions, the Arundel Planning Board hereby approves the application of the Wells National Estuarine reserve to demolish an existing 25 +/- foot wide dam on the Goff Mill Brook in order to facilitate the migration of marine fish, eel, and lamprey species from the Kennebunk River at a property located at 94 River Road, Tax Mp 40, Lot 8 in the R4, Resource Protection and Shoreland Overlay Districts subject to the following conditions.

1. Per changes noted by der Kinderin, the applicant shall install all soil erosion control measures shown on the approved site plan prior to any construction activities on the site. Such soil erosion control devices shall be maintained at all times and all exposed soil shall be stabilized with an SCS approved grass mix as soon as possible. No exposed soil shall be left unstable after the winter.
2. There shall be no excavation of parent bedrock material at the dam site. Only non-native material shall be removed including concrete.
3. Removal of sediment deposits behind the dam structure shall not extend in excess of 60' north of the dam structure.
4. All improvements on the site within the Shoreland Zone shall be constructed in strict conformance with the approved plans and both the DEP and ACOE permits.
5. Any change from the plans signed by the Planning Board shall require submission of revised plans to the Board.

So APPROVED by the Arundel Planning Board this 27th Day of August 2015

Cain asked how far they were going upstream to stabilize the banks. Ant disturbance made by excavator will be seeded.

Morin motioned to accept in total with conditions, *der Kinderen second*

McGinn explained that he sympathized with neighbors. Based on evidence, it appeared this change will mostly be a benefit based on expert testimony and our ordinances. Coon agreed that there were lots of emotions involved, but the bottom line was property rights. Cain said if it was up to him, they wouldn't remove the dam, but there's no reason to stop private property rights. Ganong also felt that the main issue was what the property owner wanted. The documentation was there to back what they wanted. **Unanimously Agreed**

Bittersweet Farms Subdivision: Amendment to an Approved Subdivision: Proposal to configure existing lots with the actual location of the subdivision road as well as to combine Lots 2 and 3B and lots 4B and 5 on the previously approved Bittersweet Farms Subdivision located on Bittersweet Drive, Tax Map 22, Lots 8, 10, 11, and 13 in the R-4, NRC, Resource Protection, and Shoreland Overlay districts. Bittersweet Farms Homeowner's Association, Tom and Nancy Danylik, and Chris and Rae Reimer are the owners, and Tom Danylik is the owners' agent.

der Kinderen explained that this had been previously reviewed and discussed. Redway stated that the town of Lyman deferred all consideration to the Arundel Planning board. **Coon motioned** to accept as written, **der Kinderen second** Cain verified that road was in conformance with standards for private way exemption. **Unanimously agreed.**

Item 3: **Plenary Site Plan Application: Champagne Energy Parking Lot :** Proposal to construct new 41,000 sf parking lot for the storage of delivery/transport vehicles associated with the fuel storage and distribution facility on a 6.36 acre parcel located at Old Post Road in the BI district.

Eric Williams presented and dealt with questions of transfer of fuel, fully fueled vehicles not being parked etc. Vehicles return to facility once their fuel has been delivered. They are installing gravel surface which they may pave later which covers ordinance in servicing 15 vehicles or less. No secondary access will be used from paved Old Post. The revised lighting height is 20' high and they are installing 5 overhead lights. Letter from Arundel Fire Chief stated no extra water supply was needed. Landscaping to create buffer between the business and residences seemed resolved. Coon asked for time for the board to review newly submitted information, written revised buffer plan and testimony that the neighbors are satisfied with buffer. Williams suggested bringing remaining information to planner on Monday. Therefore, the application could be deemed complete to schedule a public hearing. The market study & fiscal impact assessment were waived due to not being relevant. **Coon motioned** to waive the on-site soil test **Cain second. Unanimously agreed.** After discussion, the board agreed that although the application needed revised information, it is complete. **Cain motioned** to deem submissions complete. **Coon second Unanimously agreed.**

Morin motioned for public hearing on 9/10/2015. McGinn second Unanimously agreed

Item 4: **J Group: Subdivision Pre-application:** Proposal to develop 14 age-restricted homes in a cluster subdivision located on a 17.3 acre parcel located at 182 Log Cabin Road, Tax Map 32 Lot 14C in the R3 and SO districts. J Group is the owner and applicant and Jason Nadeau is the agent.

Applicant is to submit deed proving ownership. A site walk had been done and it was determined that visibility needed to be improved. Beaulieu said Oak trees will be trimmed with bucket truck for sign. McGinn had questions about density. Redway mentioned this is the first project to take advantage of the age-restricted increased density advantage since the new ordinances. All board members stressed how important it is to receive covenants as soon as possible to show how the age-restriction will be presented, etc. The applicant mentioned changing the plan to remove a shared driveway on two units which improves the plan. Board members suggested getting the rest of the information to them for them to schedule a public hearing.

VI. Planners Report: The staff has been very busy at Town Hall. The application for the dam removal was time intensive with a lot of information to read over as well as Redway going back to walk site. He stated he has two more applications coming in. There's a large agricultural project and a commercial building coming on Route 1. Two more minor applications are in for staff review. Ganong asked if ServePro was all set. Redway said they want to come in as a business entity, but are having set-back issues. Redway is waiting to hear back, but phone problems at town hall may have prevented it. Cain said he heard others in area had phone problems as well. It appears that Aquaviva's property is being sold. Discussion about Hydrant being removed at request of former town manager because it would cost \$1000/year after third year. Cain felt strongly that a hydrant was needed at an unknown location. This would need to be taken up with Selectman.

Coon motioned to Adjourn, der Kinderen second Adjourned: 9:35pm

Respectfully Submitted, Marie Burgie