

Arundel Planning Board Minutes

November 8th, 2018 - 7:00pm

Mildred L. Day School Library - 600 Limerick Rd. Arundel

Board Attendees: Mr. Cain, Mr. McGinn, Mr. Morin, Ms. Roth, Mr. Lowery, Mr. Ganong, Mr. Bergen, Town Planner Mr. Redway, Secretary Ms. Goulet

Attendees: Jason Vafiades, William Stilphen, David Jones, Matthew Collard, Tony Donovan, Bree Gajtkowski, Cliff Gajtkowski, Rick Licht, Kim White Rogers, Joe Paolini, Dewey Gile, Stacy Gile, Craig Raincourt, Bruce Read, Ted St. Amand, Alan LaBrequé, Josh West, Paul F. M., Julie Pitt, Nick Raymond, Dwight Raymond, Emily Brewer, Joshua Prevatt, Hayley Mandeville

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

I. APPROVAL OF AGENDA:

Motion: Mr. Morin 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 October 13th Minutes as written. Mr. McGinn seconds.

Vote: Mr. Cain abstains. All others in favor.

Motion: Mr. McGinn motions to approve with the correction on page 6 to insert Mr. Bergen instead of Mr. Morin in the second for adjournment.

Vote: Mr. Ganong abstains. All others in favor of approval with correction.

III. CITIZEN COMMENTS

Citizen comment period opened and closed at 7:04pm with no comments to record.

IV. PUBLIC HEARINGS

Item 1: Raptor Falls: *Plenary Site Plan Review: Proposal to construct an 18-hole miniature golf course with a dinosaur theme complete with range building, and associated off-site parking on an 8-acre (formally Fritz's Tire). Located at 1912 Portland Road, Tax Map 15, Lot 12, in the DB-1 District. Clifford Gajtkowski and Bree Gajtkowski are the owners and applicants.*

Public Hearing opened at 7:04pm.

Mr. Paolini voices concern about traffic in light of his eventual Route 1 upgrades to accommodate future commercial use in his development. He is also concerned about expected uplighting and how much clearing will occur to install the septic system. For additional detail regarding these concerns, he defers to Mr. Licht.

Mr. Licht follows up with an inquiry about the standard requirement for a traffic study – has it been waived? The concern regarding the septic area is due to uncertainty about whether required clearing for installation will remove a substantial amount of the vegetative buffer and cause the business to be visible by the residents of the Cottages. Would it be possible to obtain a cross section of the site? The purpose of this request is to identify if the largest dinosaur will be visible by the residents. He would like confirmation from the Board that the height of the club house is indeed conforming. And, lastly, will there be blasting on site?

Mr. Gajtkowski indicates that there will be no blasting.

Ms. White Rogers reads two letters into record from residents of Cape Arundel Cottages.

Mr. Gajtkowski provides the sounds study to the Board. The assessment was that the noise generated would fall well within the Code Requirements. He also provides correspondence with his contact in DOT that indicates a traffic study would not be required. The updated plans are also

Mr. Licht points out that DOT's lack of requirement for a traffic study does not mean that the Board's obligation to require a study is automatically waived. It remains the Board's responsibility to assess the need for a study independently of the DOT.

Mr. St. Amand speaks up to note that he feels this is the worst stretch of Route 1 in Arundel for visibility. As a long-term neighbor across the way he has concerns about increased foot and bicycle traffic on Route 1.

Public Hearing closed at 7:21pm.

V. PENDING APPLICATIONS

Item 1: Pave-Tech Corp Contractor Yard: Major Conditional Use: *Proposal for the establishment of a Contractor Yard 2 operation for an existing paving contractor business located on an interior 5 acre parcel. Tax Map 37, Lot 8A, served by the private way Stilphen Lane with access off Sinnott Road in the R4 District. William Stilphen is the owner and applicant and Atlantic Resource Consultants are the applicant's agent.*

Mr. Ganong reminds the attendees that this is *not* a public hearing. Additionally, *if* the Board does not grant the applicant the requested Contractor II Yard permit, that does not revoke his existing right to operate his current permitted Contractor I Yard.

Mr. Ganong then asks the Board if they believe that the Noise Easement should apply or if the Board would prefer to defer to Town's legal counsel?

Stand in Counsel, Durward Parkinson, explains that the concept is that you can't gain the benefit of the of the easement in that you must still measure the noise in question at the property line.

Mr. Morin, Mr. McGinn and Mr. Lowery speak up to note that they do not want to go against Counsel's recommendation.

Mr. Bergen points out that he feels there may be a place for a noise easement but that he has not had the opportunity to appropriately research the topic. At this point he feels that it's important to heed Town Counsel's recommendation.

Motion: Mr. Morin motions to accept Town Counsel's recommendation regarding the noise easement. Mr. Lowery seconds.

Ms. Roth asks for additional clarification on the letter from Town Counsel on the topic.

Mr. Parkinson explains that the easement is creative but lacks precedent. Town Counsel's research lead to the stance that an easement should not allow for a property line to be "extended". Additionally, if this were to be allowed, in what potential situation is the line drawn?

Vote: Mr. Cain opposed. All remaining members in favor.

In light of the Board's decision not to allow the noise easement to take effect, it is noted that Pave-Tech's representation has requested a second 30-day extension.

In effort to create further clarity on this, and other applications, Mr. Ganong addresses the inconsistencies in the categorization of this Zone as mixed use or "residential". The Comprehensive Plan refers to this area as mixed use.

Mr. Jones speaks to explain the request for the extension: It was not foreseen that the Board would dismiss the noise easement. Original application and the referenced Table (Table 5.11-1) refers to the area as mixed use. Lynn Howe feels otherwise and has submitted a letter detailing her opinion.

Motion: Mr. Cain motions to create clarification and confirm that the Rural Conservation District is indeed a mixed-use district. Mr. Bergen seconds.

Mr. Redway explains that the Rural Districts and/or the R-4 have historically been intended to be mixed use according to the Comprehensive Plan.

Vote: Ms. Roth and Mr. McGinn opposed. Mr. Ganong, Mr. Bergen, Mr. Cain, Mr. Morin and Mr. Lowery in favor.

Regarding Table 5.11-1, the Board needs to evaluate if this table is accurate given the affirmative mixed-use vote.

Motion: Mr. McGinn motions that the content found in Table 5.11-1 applies. Mr. Morin seconds.

Vote: Ms. Roth opposed. Mr. McGinn, Mr. Ganong, Mr. Bergen, Mr. Cain and Mr. Morin in favor.

Motion: Mr. Morin motions to grant the applicant a 30-day extension. Mr. McGinn seconds.

Mr. Read speaks to ask why the extension should be granted. Will the public hearing be reopened? Will there be opportunity for rebuttal?

Mr. Ganong points out that the applicant is hopeful to resolve the noise issue along the property where there is a noise violation. Any resolution would not necessarily apply to the Howe's property.

Counselor Parkinson suggests that the Board take public comment at the next meeting and reserve the right to make a decision regarding the application that night or to take more time to deliberate appropriately.

Significant discussion occurs surrounding the timeline to hopefully discover an adequate compromise. The Board also continues to review the Land Use Ordinance in hopes of finding additional clarity.

Vote: All in favor with the stipulation that any proposal is due to noon on 11/21/18 and will be discussed on 11/29/18. As a last resort, due by 11/29/18, to be reviewed at a special meeting on 12/6/18.

Item 2: Raptor Falls: *Plenary Site Plan Review: Proposal to construct an 18-hole miniature golf course with a dinosaur theme complete with range building, and associated off-site parking on an 8-acre (formally Fritz's Tire). Located at 1912 Portland Road, Tax Map 15, Lot 12, in the DB-1 District. Clifford Gajtkowski and Bree Gajtkowski are the owners and applicants.*

Mr. Gajtkowski reviews how the plans now reflect the updated driveway location, that the requested sound study has been done and sight lines from the DOT have been approved.

The Board inquires where the septic system is located on the map/plan and what the height of the club house is planned to be.

Mr. Gajtkowski shows that the septic design is located approximately 200 feet from the property line.

In response to concerns regarding the lack of required traffic study, Mr. Lowery points out that DOT wouldn't require a study due to the trip generation not meeting a threshold and that necessary sight lines have been met. DOT would not require any improvements. So, what would the value in requiring a study be?

Mr. McGinn asks Mr. Lichte if it is known where the turning lane will be extended to in the eventual Route 1 improvements expected to be made by Cape Arundel Cottage Preserve.

Mr. Lichte did not know the exact locations but will look into it.

Mr. Ganong notes that the use is a seasonal one so the gravel drive and parking area is permitted.

Mr. Cain asks how the meeting went at the Cottages Clubhouse.

The applicant and Ms. White Rogers say that there were approximately 30 attendees. It alleviated many concerns and folks left with a better level of comfort with the project. Concerns remain regarding the impact on traffic on Route 1.

Mr. Ganong asks the Board if a traffic study should be required or not.

Motion: Mr. Morin motions to dispense with the requirement of the traffic study. Mr. Cain seconds.

Mr. McGinn expresses concern about the future (regarding Route 1 traffic and expected upgrades by Cape Arundel)

Vote: All in favor.

Mr. Redway asks the applicant to fix the topographical discrepancy (the numbering of the contours) and requests that the Board be supplied with 10 copies.

Item 3: Brookside Estates: Revision of Approved Subdivision Plan: Discussion with Action: Remedial landscape plan for required 25-foot landscape buffer on Lot 10 in the approved Brookside Subdivision located at 182 Log Cabin Road, Tax Map 32, Lot 14C in the R3 and Shoreland Overlay Districts. J Group LLC is the owner/applicant and the owner's name is Jason Nedeau.

Mr. Nedeau indicates that his goal is to fill in the overcut that occurred on Lot 10.

Mr. Redway states that plans have been coordinated with him and that he feels the plan is acceptable.

Mr. Ganong asks the Board if they feel a site walk is necessary or if they can consider the issue now. The Board finds it acceptable to weigh in on the issue now.

Mr. Cain asks when the trees would be planted.
The applicant indicates that he hopes to install the trees after building the home because it would be very difficult to install the septic system.

Mr. McGinn notes that withholding the building permit has traditionally been The Board's insurance of completion. Why approve now?

Mr. Lowery suggests shifting from building permit to certificate of occupancy because of the constrictions caused by lot shape/size why not?

Mr. Redway points out that the trees would have a higher likelihood of surviving if they were planted in Spring instead of now in Late Fall.

Motion: Mr. Lowery motions to amend the original condition on Lot 10 to allow the building permit to be issued but no occupancy permit issued until these trees are planted, with no substitutions. Deadline of April 30th, 2019. Mr. Morin seconds.

Vote: Mr. Ganong and Mr. McGinn against. Mr. Cain, Mr. Morin, Ms. Roth, Mr. Lowery and Mr. Bergen in favor.

VI. NEW APPLICATIONS

Item 1: Raymond Acres: Re-subdivision Preapplication: *Proposed resubdivision of Lot 5-03 and addition of 0.63 acres from Lot 5A to create a fourth buildable lot in the Raymond Acres subdivision located at Black Dog Road. Tax Map 30, Lots 5-03 and 5A in the R-2 and SP districts. Marianne Raymond is the owner and Nicholas Raymond is the applicant.*

Mr. Raymond gives an overview of the intent behind the proposed resubdivision. They propose to buy .63 acres from an abutter to allow for a buildable lot since the original fell short of the 2 acre minimum after wetland delineation.

Mr. Redway suggests that the Board perform a site walk ASAP so the ground is as visible/least snow covered as possible.

Motion: Mr. Morin motions to schedule a site walk on November 17th, at 8am. Mr. Bergen seconds.

Vote: All in favor.

VII. LAND USE ORDINANCE REVISIONS

Item 1: Discussion regarding Home Occupations: *Definitions, limitations, and zoning districts.*

The Board reviews what needs to be in a public hearing prior to the Special Town Meeting.

Motion: Mr. Cain motions to hold a public hearing regarding Contractor I yards in the R-1 District.

There is no second on the Motion. Motion fails.

There is a reminder that the joint Planning Board/COMP Plan Committee meeting is on the 15th.

Ms. Roth volunteers to review LUO from other communities regarding uses in each residential zone.

Mr. Redway asks what exactly is considered a home occupation. It should be better defined in the LUO.

V. OTHER BUSINESS

Mr. Bergen brings it to the Board's attention that some of the affidavits (concerning the Stilphen application) have the incorrect date on them. Members should strike out and initial corrections now instead of doing so later.

Mr. Morin motions to adjourn at 9:45pm. Mr. McGinn seconds.

Adjourn

Respectfully submitted,



Corinne A. Goulet
Secretary to the Planning Board

