

Arundel Planning Board
Regular Meeting
Minutes of July 9, 2015
ML Day Library 600 Limerick Road

Attendees: Richard Ganong, Chairman; Marie Burgie, Secretary

Board: James Lowery, Bob Coon, John de Kinderen, Roger Morin, Marty Cain

Board Members Absent: Tom McGinn **Absent: Planner Redway**

Public: Tom Sanarelli, Keith Tretethier, Bud Legros, Paul J. Sfreddo, Tom Danylik, Rae Reini, Paul Dest, Jacob Aman, Sally Bates, Tony Parciocco, Att. Lea Rachin

Called to Order: 7pm

I. Approval of Agenda: der Kinderen suggested moving minute approval to the end of agenda to allow more time for discussions of current meeting *der Kinderen motioned* to approve agenda, *Morin second, unanimously agreed*

II. Election of Officers:

a) *Morin motioned* to have Ganong continue as Chairman, if he agrees to be, *der Kinderen second, Motion passed* with 4 agreeing and *Ganong abstaining*.

b) *Morin nominated and motioned* McGinn to continue as the Vice Chairman, *Lowery second, Unanimously agreed*

c) *der Kinderen nominated and Motioned* Lowery to continue as the Secretary, if he agrees to be, *Cain second, 4 agreed and Lowery abstained motion passed.*

III. Old Business:

Item 1: *Dubois Livestock Inc: Reading of the Planning Board Findings of Fact regarding alleged Planning Board Bias in the matter of a Conditional Use Permit Renewal for Dubois Livestock Inc Composting Operation* located at 2 Irving Road, Tax Map 19, Lot 6 in the R-4 District and the Shoreland Overlay districts. Ranrick Trust is the owner and Dubois Livestock, Inc. is the applicant.

Attorney Lea Rachin briefly spoke to state that her recommendations to the board were her opinions based on what she has heard and read; and the board can make decisions as they see fit. *der Kinderen recused* himself as a property abbuter

FINDINGS OF FACT AND CONCLUSIONS

Date: July 9, 2015

Name: Dubois Livestock, Inc.

Address: 191 Brimstone Rd Arundel, ME 04046

Re: June 11, 2015 Hearing on Dubois Livestock Inc.'s Claim of Planning Board Bias: This letter represents the Planning Board's Findings of Facts and Conclusions regarding Dubois Livestock, Inc.'s claim that the Planning Board should be disqualified from hearing its application to renew its 2011 conditional use permit on account of bias.

BACKGROUND: Dubois Livestock, Inc. (“Dubois Livestock”) alleges that the Arundel Planning Board is not qualified to make any determinations regarding its application to renew its Conditional Use Permit issued on February 24, 2011. Dubois Livestock claims that because of the alleged bias of the Planning Board (both individually and collectively), the board would be incapable of giving its application a fair hearing, thereby denying Dubois Livestock its constitutional due process rights.

Dubois Livestock bases its bias claim on the following assertions:

1. By delegating to the Town Planner the initial determination of whether Dubois Livestock’s application meets the applicable submission criteria under § 8.10.D of the Town of Arundel Land Use Ordinance (the “LUO”), Dubois Livestock claims that the Planning Board “no longer operates as an independent, unbiased and dispassionate body.” Rather, according to Dubois Livestock, “it is a mere shell of a board, operating at the will and influence of other town entities and persons.” See Tab 1 of the document submitted by Dubois Livestock at the June 11, 2015 hearing entitled, “Dubois Livestock’s Book of Bias.”
2. Dubois Livestock claims that the Planning Board held an “impromptu, ex parte ‘executive session’ on January 15, 2015” during which Dubois Livestock’s renewal application was discussed. Dubois Livestock claims that during this meeting, the Chair of the Planning Board “exposed prejudice” by having “pre-decided” issues about Dubois Livestock’s renewal application because the board allowed the Town Planner to make a determination that the application was incomplete rather than making that determination itself. See Tab 3 of “Dubois Livestock’s Book of Bias.”
3. Dubois Livestock alleges that because the Planning Board was not responsible for calling or setting the agenda for the April 2, 2015 executive session, this resulted in Planning Board bias. Dubois Livestock asserts that the Town Manager (in concert with the Town Planner, Code Enforcement Officer and Town Attorney) “orchestrat[ed] the assembly under guise of executive session.” See Tabs 4 – 7 of “Dubois Livestock’s Book of Bias.” See Tabs 6 and 7 of “Dubois Livestock’s Book of Bias.”

FINDING OF FACTS:

1. Dubois Livestock operates a solid waste processing/agricultural composting facility off Irving Road in Arundel on an approximately 6 acre parcel owned by Randrick Trust (the “Property”). The Property is identified on the Town’s tax maps as Map 19, Lot 6 and is located in the R-4 District. **Cain motioned to approve, Morin second Unanimously Agreed**
2. Dubois Livestock’s composting operation is a non-conforming use. Solid waste processing and/or composting facilities are not permitted in the R-4 zone, pursuant to § 6.2 of the LUO, but they were permitted when Dubois Livestock’s operation was commenced. **Morin motioned to approve, Cain second Unanimously Agreed**
3. Dubois Livestock received its most recent operating permit from the Arundel Planning Board on February 24, 2011. **Morin motioned to approve, Cain Second Unanimously Agreed**
4. Section 8.10.B.3 of the LUO states that such operating permits expire within three (3) years from the date of issue. Accordingly, Dubois Livestock’s permit

expired on February 24, 2014. **Morin motioned to approve, Cain Second Unanimously Agreed**

Discussion that it was allowed to go through because of the court case. Redway accepted into presence after expiration date due to on-going litigation.

5. Dubois Livestock filed its renewal permit application on or about December 9, 2014. **Morin motioned to approve, Cain Noted** - Process was delayed due to court proceedings. Redway had received application after permit was expired for approximately 10 months. ongoing litigation (**Not voted on due to amendment**)

6. On January 15, 2015, during his "Planners Report," the Town Planner advised the Board of a number of new applications that had been filed recently. The "Planner's Report" is a regular agenda item at all Planning Board meetings. Its purpose is for the Town Planner to advise the Board of new applications and to provide updates regarding the status of pending ones. One of the various applications discussed during the Planner's Report was Dubois Livestock's renewal application. The Town Planner advised the Board that the application was incomplete given that it lacked certain submission requirements. **Coon motioned to approve, Cain second** Cain commented that they did not meet during Christmas Holidays **Unanimous approved as amended**

7. Section 8.10.D of the LUO sets forth the submission criteria for renewal permits. It provides as follows:

An application to renew a operating permit shall be accompanied by a fee of one hundred (\$100) dollars, a *written report by the Codes Enforcement Officer on the facility's operation since the previous conditional use permit was issued which demonstrates the facility's compliance with the requirements of this ordinance, groundwater monitoring results and compliance with...specific conditions of a permit.* In the circumstance of demonstrated non-compliance the Board may require the filing of a technical review fee as stated in Section 8.10.C.3. (emphasis added)

Lowery Motioned to approve, Coon Second Cain didn't remember discussing this nor was it brought up in bias hearing. Board felt this information is here to set ground-rules. **Unanimously approved**

8. It is this Board's practice not to schedule applications for hearing unless and until the applicable submission criteria have been satisfied. As the Chair noted, it has been the Board's long-standing practice to delegate the determination of whether an application is complete (i.e., whether all of the relevant submission criteria have been met) to the Town Planner. This practice is authorized under §§ I(B), IV(C)(1)(d)(1), and V(D) of the Planning Board's By-laws. **Coon motioned to approve, Cain second - Unanimously approved**

9. Because Dubois Livestock's renewal application did not meet all of the applicable submission criteria set forth in 8.10.D of the LUO, it was not presented to the Planning Board for consideration. Specifically, the evidence suggests that the applicant provided only one copy of the application (rather than the 10 required under § 9.8.E(2)). Additionally, the application was not accompanied by the required report by the CEO noting compliance with the LUO and conditions of its prior permit. [1] Because the applicant would not allow the CEO on the property to conduct an inspection, this precluded the possibility of such a report being generated. **Coon motioned to approve, Cain second** after discussion of snow cover, etc. revision was made and revised wording above was voted and **unanimously agreed to.**

CONCLUSIONS

Based on the above stated facts and the provisions of the LUO cited herein, the Board concludes as follows:

1. A successful claim of bias requires the applicant to establish either statutory or common law bias. The applicant has not alleged that any statutory bias exists, i.e., that a planning board member has a blood or marital relationship to an applicant or to another party. *See* 1. M.R.S. § 71(6). Rather, the applicant alleges common law bias, i.e., that board members are so biased against the applicant and its operation that they could not make an impartial decision, thereby depriving the applicant of its due process right to a fair and objective hearing. *See Gashgai v. The Board of Registration in Medicine*, 390 A.2d 1080 (Me. 1978); *Pelkey v. City of Presque Isle*, 577 A.2d 341 (Me. 1990). Based on the evidence presented and for the reasons that follow, the applicant has not satisfied its burden of proof of establishing bias on the part of the Planning Board and/or its individual members.

2. This Board rejects Dubois Livestock's first argument in support of its bias claim, i.e., that by delegating to the Town Planner the initial determination of whether the applicable submission criteria set out in § 8.10.D of the LUO, this stripped the Planning Board of its ability to operate as an independent, unbiased and dispassionate body. We base our rejection of Dubois Livestock's first ground of bias on the following reasons:

Coon questioned if this is the "board's finding of facts". Attorney Rachin explained that the board is a pseudo court. This applies the determined facts to law. They wondered if they needed to vote on conclusions. But, they generally don't vote on conclusions, but do vote on finding of facts.

a. As the Chair noted, and as the Planning Board's By-laws reflect, it is the Board's standard policy to delegate the largely housekeeping task of making the initial determination of whether an applicant has met the governing submission requirements. *See By-laws of the Arundel Planning Board* (the "By-laws").

b. In particular, § I(B) of the By-laws states that it is the purpose of the Arundel Planning Board to "review and make decisions on complete applications..." (emphasis added) As discussed above, the application was not complete as it was not accompanied by the requisite CEO report and therefore it was not considered a complete application to come before the board. There was also credible evidence to suggest that the applicant did not provide 10 copies of the application package as required by § 9.8.E(2) of the LUO.

c. Moreover, § IV(C)(1)(d)(1) of the By-laws provides that the Chair may delegate the preparation of meeting agendas. If an application is not accompanied by the requisite submissions, then it is not in order to become an agenda item.

d. Additionally § V(D) states that applications for development review "will be placed on the agenda *only after the Town Planner...is satisfied that all procedural requirements have been met by the applicant.*" (emphasis added)

e. In our view, delegating to the Town Planner the initial determination of whether an applicant has met the governing submission criteria under the LUO does not constitute, evidence, or result in Planning Board bias (either individually or collectively). Rather, the Board is simply delegating a largely administrative task to the Town Planner, as specifically authorized by the By-laws. Nonetheless, out of

courtesy to the applicant and given Dubois Livestock's strong objection to this practice (and to the Town Planner generally), the Planning Board agreed to schedule a hearing on the issue of completeness so that the Planning Board, not the Town Planner, would make the determination in this case.

f. We also reject the applicant's related argument that the Town Planner's alleged bias inevitably resulted in Planning Board bias. We need not address here allegations of the Town Planner's purported bias. As noted above, the Planning Board honored the applicant's objection to the Town Planner making the determination regarding whether the application's completeness and scheduled a hearing on this very issue. See Planning Board Agenda for June 11, 2015, Item III, entitled, "Dubois Livestock Inc. Agricultural Composting Operations: Conditional Use Permit Renewal – *Determination of Completeness*." (emphasis added) Accordingly, the Town Planner would not have been the decision maker on this issue. Therefore, any purported bias on his part is irrelevant. It is the bias of the Planning Board that it is at issue here and the applicant has not satisfied its burden of establishing how the Town Planner's alleged bias tainted the Planning Board.

4. We also reject Dubois Livestock's second basis for its bias claim, i.e., that the Planning Board's participation in an "impromptu, ex parte 'executive session' on January 15, 2015" necessarily resulted in its inability to make a fair and impartial decision on the question of whether the renewal application was complete. Dubois Livestock alleges that because the Town Planner expressed his opinion at the Board's January 15, 2015 meeting that the application was incomplete, it necessarily follows that the Planning Board must be biased against its application. This second basis for Dubois Livestock's bias claim is largely related to the first. It is based on the assumption that because the Planning Board delegated to the Town Planner the task of determining whether the applicant satisfied basic threshold submission requirements, and/or, because he offered his opinion on this issue, the Planning Board is incapable of making a fair and objective determination on this or any other issue relating to Dubois Livestock's application. We disagree for the following reasons:

a. First, the brief discussion at the January 15, 2015 meeting was held during the "Planners Report," which is a regular agenda item at every Planning Board meeting. The discussion of the status of Dubois Livestock's application was one of several status updates to the board. The Town Planner simply provided factual information regarding why he deemed the application incomplete, i.e., it was missing certain information. Moreover, to state that this discussion occurred in an "executive session" is incorrect. Any and all comments were made in open session.

b. Second, the issue of whether an applicant has satisfied various submission requirements is a non-discretionary housekeeping issue. Either the required submissions have been made or they have not. In this case, the evidence supports the conclusion that the applicable submission requirements were not met. While there was some dispute as to whether or not the requisite 10 copies were submitted, it is undisputed that there was no CEO report accompanying the application. Accordingly, even if a Board member was biased (either for or against the applicant), he would nevertheless be compelled by the facts to conclude that the applicable submission requirements were simply not met. As a result, the applicant cannot establish bias. See *Grant's Farm Associates v. Town of Kittery*, 554 A. 2d 799, 801, n. 1 (Me. 1989) (where the court rejected the developer's claim that proceedings

were tainted by the board's predisposition against development because the court found ample record evidence to support the board's decision to deny approval in any event).

5. For the following reasons, this Board also rejects Dubois Livestock's third contention in support of its bias claim, i.e., that the executive session held on April 2, 2015 regarding its pending application resulted in bias.

a. Even assuming that there were procedural irregularities regarding the executive session (which is denied), Dubois Livestock has failed to establish how any such purported procedural failings would result in the lack of a fair and objective hearing on the merits of its application.

b. Dubois Livestock also asserted that because the Planning Board did not set the agenda for the executive session (rather, the Town Manager did so in conjunction with the Town Planner and Town Attorney), this necessarily resulted in Planning Board bias. Again, Dubois Livestock failed to satisfy its burden of establishing that the manner in which the executive session was organized resulted in bias. We note that it is common practice for town managers and other municipal officials to set the agendas for executive sessions.

c. We also note that municipal boards regularly conduct executive sessions prior to hearing pending applications. The right of such boards to confer with counsel regarding their rights and duties is specifically recognized by Maine's "Right to Know" law. See 1 M.R.S. § 405(6)(E). We therefore reject Dubois Livestock's claim that holding an executive session prior to hearing its renewal application would necessarily result in board members' prejudging it. (Coon clarified & amended)

d. Regarding Dubois's allegation that there was a "secret pre-assembly session" between the Town Planner, the Code Enforcement Officer and the Town Attorney prior to the April 2, 2015 executive session, we cannot conclude that such a meeting resulted in Planning Board bias. There is nothing unlawful or inappropriate about town staff meeting with the legal counsel to share information and to seek advice. Moreover, there is no allegation that any board members were actually present at such meeting. Accordingly, we reject Dubois Livestock's implications that said meeting violated Maine's "Right to Know" law or resulted in board bias.

Coon motioned to accept conclusions as amended and ***Lowery second Unanimously agreed***

DECISION

Based on the above facts and conclusions, on June 11, 2015, the Planning Board voted 6-0 (1 abstention) finding that neither the Planning Board as a whole nor any individual members were biased against Dubois Livestock's application.

Note: After the vote regarding the issue of bias, Dubois Livestock formally withdrew its application to renew its 2011 operating permit. Accordingly, the Planning Board decided not move forward with its next agenda item, i.e., a determination of whether its renewal application was complete. Given that Dubois Livestock withdrew its application, both the threshold issue of completion and the substantive question of whether the permit should be renewed became moot and were no longer heard before this Board. [2] Attorney Rankin would correct final draft to note that the whole board didn't vote due to der Kinderen

APPEAL RIGHTS

_____Any appeal from this decision must be made pursuant to § 10.3.C of the Town of Arundel Land Use Ordinance.

Dated: July 9, 2015.

_____Richard Ganong,

Chair

cc: Keith Trefethen, Town Manager

Tad Redway, Town Planner

James Nagle, Code Enforcement Officer

Leah B. Rachin, Esq.

Coon motioned to accept decisions and appeal as amended and ***Lowery second***
Unanimously agreed

[1] Certain conditions of Dubois Livestock's 2011 permit (particularly, Conditions #7 and #9) were the subject of a lawsuit brought by Dubois Livestock. Condition #7 required Dubois Livestock to provide the Town with bills of lading and an annual summary report regarding materials imported to the facility. Condition #9 required Dubois Livestock to permit the CEO and the Town Planner to make annual inspections of the facility. Although Dubois Livestock never appealed these conditions of approval, Dubois Livestock later objected to the Town's attempt to enforce them arguing that any local regulation of its facility was preempted by Maine's Agricultural Protection Act ("MAPA") and the Solid Waste Act ("SWA"). The Town prevailed at both the York County Superior Court and at Maine's Supreme Judicial Court, which upheld the Town's right to impose said conditions. *See Dubois Livestock, Inv. v. Town of Arundel*, 2014 ME 122. Both courts rejected Dubois Livestock's arguments that the Town's ability to regulate its operations was preempted by state law. Both Courts held that neither the MAPA nor the SWA preempted either the Town's Land Use Ordinance or Conditions #7 and #9.

[2] The Applicant's withdrawal of its application appears due, at least in some part, to its position that recent amendments to the Maine Agricultural Protection Act ("MAPA") preclude this Board from considering its application. The Applicant asserts that now that MAPA expressly includes agricultural composting facilities within the scope of its protection, local regulation by the Town of Arundel is preempted. While the preemption doctrine is a legal issue beyond this Board's authority to determine, we note the following instructive language from the Law Court in its recent decision denying Dubois Livestock's virtually identical prior claim that all local regulation of its operation is preempted by MAPA:

Even if Dubois's operation were a farm, the Agricultural Protection Act does not preempt the Town's Ordinance. Although the Act prohibits a municipality from determining that a farm's method of operation violates a local ordinance if a farm has used "best management practices," there is no indication that, in enacting [MAPA], the Legislature intended to preempt any ordinance or occupy the field. In fact, [MAPA] explicitly states that it "does not affect municipal authority to enact ordinances." The Ordinance also does not frustrate the purpose of [MAPA]....The conditional use permit allowed representatives from the Town to inspect Dubois's premises to ensure that the compost pad was intact and that the facility was in compliance with the permit...Dubois made no showing that it was following best

practices when it violated the Ordinance by failing to report its annual intake to the Town or to allow Town representatives to inspect its premises.”

See *Dubois Livestock, Inc. v. Town of Arundel, et al.* 2014 ME 122, ¶¶ 17, 18.

Coon motioned to have the Chairman sign on behalf of the board, **Lowery second, 4 agreed and one abstained** (from Chairman)

V. New Applications:

Item 1:

Goff Mill Brook Dam Removal: Conditional Use: 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.

Ganong questioned about the map submitted with application. Boundary line shows to edge of brook, so ownership of dam is unclear. Jacob said he was told the deed determines. Attorney Bruce Reed had spoken to Ganong and Aman earlier today. der Kinderen noted the deed submitted by Att. Reed shows the dam is owned by the Castners. de Kinderen read Att. Reed's explanation written by Reed.

Lowery, de Kinderen and Ganong expressed concerns of the high-water mark and true ownership of the dam. Although a site walk and public hearing will be held, applicant was asked to communicate with the property abutters to see if there was a potential problem there der Kinderen commended applicant for a much better presentation of the application. He felt satisfied with the drawings, etc. that the sediment wouldn't be an issue. As a board member, he felt good about the application.

Coon wondered how far up the mix of salt and fresh water would occur as well as the displacement of the current ecosystem that is there.

Aman - included a two page report in the application packet addressing that. It would depend on the elevation of the stream. Less than 9' - wasn't much change in the elevation of the water at the dam itself. The duration of that flooding - at peak high tide, increase in salinity. Lasting for about 3 hours around the time of high tide. Salt water is denser and moves along the bottom. Salt water will creep up to a certain point. Fresh water will back up. Water level keep salinity to reach too far upstream. Based on their observations and data collected; slope of bank is steep, not allowing much vegetation. The vegetation is along the banks. Any flooding over the banks, tend to be fresh water and therefore tolerable to the existing plants.

Cain - when/if the dam is gone, won't vegetation grow downward into the stream? Aman said what will likely happen, the banks are a V or U shape; banks will become more vertical with plants that can tolerate periodic flooding. Some plants will tolerate and others won't. Cain wondered how the removal of dam would affect the beaver dam. It is at least 500' upstream. Ganong asked if salinity would get that far up. Aman said that was something he couldn't speculate on. Any impacts should be negligible to. Lowery felt that the upcoming site walk would answer many questions and **Lowery motioned** application complete. **der Kinderen second** - Cain wondered if this should be done prior to site-walk. Ganong explained the site walk may bring on more questions. **Unanimously agreed** that the application is complete. Notice must be posted by tomorrow to schedule site walk 10 days ahead. Investigate tide chart to schedule during a low tide and determine day/time of site walk at next meeting. der Kinderen urged them to get a letter from the Funks and clarify that they will hear from Redway. They should expect to hear on the 24th about the site walk since the next meeting is July 23rd.

Item 2:

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.

Danylik wondered if the board had the original subdivision plans. They did not. He showed 1975 subdivision with five, 10 acre lots. Two lots are bisected by road. Danylik would eliminate 3 and 4B and combine with 5 on new plan. Lots 2 and 3B, and 4 would stand alone. Redway said board may have concerns the travelled-way would be an issue to the board. Gadbois came a second time and it was found that the road had "drifted".

Issue about the road itself. Association is going to convey back to the road and convey back the change. B lots are disappearing. Lot Danylik lives on is part of the original subdivision.

Cain remembered a lot being a Family lot = 3A which is staff level - to come to today's standards with engineering, etc.

Two interior lots are not developed so don't have to comply. Bud Legros said those lots were set aside as mini-farms.

Being asked to waive a number of requirements. der Kinderen would like to see the old subdivision. He asked for Danylik to provide an original map.

1) Waive water supply requirements - no fire pond because DEP wouldn't allow it. Current ordinance requires submission to staff. Since there is no change in overall occupancy, the board agreed. **der Kinderen motioned, Lowery second unanimous but** - Striken due to bundling

2) Street plan will fall under site plan review, board agreed

3) Erosion Control - improvements to the private way with materials coming in. **Coon motioned** that board is in agreement that it can be waived to where the staff can review. **Lowery second. Unanimously agreed**

4) Storm water Management

5) Flood Hazards

6) Construction

7) Construction and Management

Administrative in nature - Cain asked if it was reviewed by firechief and was told it was due to being part of site plan review. Questions if board needed to do site walk. Danylik will be doing a formal change to subdivision plan to be re-recorded

Motioned by Coon, second by Lowery Unanimously agreed

Item 3: Seashore Trolley Museum: Conditional Use Pre-application: Proposal to construct a 9,696 square foot addition to the existing Fairview Barn for the storage and rehabilitation of museum equipment and exhibits on a combined 40.09 acre property, Tax Map 31, Lots 12 and 13, located at 195 Log Cabin Road in the R-3 and Shoreland Overlay districts. Seashore Trolley Museum is the owner applicant and Sally Bates, Executive Director, is the owner's agent.

Tony Parcicocio with SMRT, Inc. and Tom Santarelli of the Seashore Trolley Museum showed expansion plans which are being done towards the interior of the property. Cain asked about property lines/neighbors - Goffs Mill Coon noted there was no proposal to increase the height of the building.

der Kinderen asked about a run-off analysis, Parcious said it was essentially gravel. Filter square with storage. One will help museum control water between the buildings. Frost wall shall be up 6" to force water to move away.

Since they already have a site location permit, DEP is not requiring more analysis and have offered exemptions to the site walk. DEP allows up to 10,000 sf of development per year. Cain asked if they were exceeding their maximum with changes. Major or minor improvements would be determined by the DEP. Perimeter road will be installed for fire truck accessibility, etc. Boundary survey is not available. However, for the planning dept. purposes, it is not necessary.

der Kinderen motioned to grant waiver of boundary survey requirement, *Lowery second motion*. Cain said we don't do it for anyone else. "We make small businesses jump through hoops. This is a large, non-profit company" Cain, Coon & Ganong voted against waiver. Lowery, der Kinderen and Morin voted for **Motion failed 3 to 3**. Site walk will be scheduled at next meeting and will also be discussed with Redway.

VI. Approval of Minutes:

4/23/15 Parker Woods Sitewalk *Coon Motioned to Approve Morin Second; 4 Approved, 2 Abstentions; Approved*

5/14/15 *der Kinderen Motioned to Approve, Cain second, 4 Approved, 2 Abstentions; Approved*

5/21/15 Special Meeting *Cain Motioned to Approve Lowery Second Unanimously Approved*

5/28/15 *Cain motioned to accept, Morin second, Unanimously Approved*

6/11/15 LedgeCliff Drive Sitewalk *Morin motioned, Cain Second with revision 5 Approved-2 Abstentions, Approved*

6/11/15 *Coon Motioned Cain Second with revisions, Unanimously Approved*

General Discussion: Ganong said they had invited the Dubois family to come to this meeting since findings-of-fact were to be read of which they obviously declined. CEO sent information to them that they are in violation. They have now served the Town of Arundel, employees and planning board with lawsuits for violating their Constitutional rights. They would like to resubmit their permit application. They were told by CEO, Jim Naigle, that they have by 5pm, July 10th to resolve issues. Cain requested that anything that comes in is date stamped. He was assured that procedure is in place. Ganong said if the board does receive a permit application, they will need to decide to accept application or not. Dubois had withdrawn their previous application prior to it being reviewed, but if a new application is submitted, the process will be started over from there.

Der Kinderen motioned to adjourn, Morin second, Motion Passed

Adjourned 9:23pm

*Respectfully Submitted,
Marie Burgie, Secretary*