

# Arundel Planning Board Minutes *(corrected)*

October 11, 2018 - 7:00pm

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

**Board Attendees:** Mr. McGinn, Mr. Morin, Mr. Lowery, Mr. Ganong, Mr. Bergen, Ms. Roth (arrives @ 7:06) Town Planner Mr. Redway, Secretary Ms. Goulet

**Attendees:** Wendy Maskell, Bob Maskell, Paul Gadbois, David Jones, Scott Lilly, Jim Littlefield, Diane Littlefield, Cindy Worthing, Doug Worthing, Abigail Worthing, Daniel Dubois, Priscilla Coffin, Stacy Gile, Dewey Gile, Craig Raincourt, Charles Bassett, William Stilphen, Josh West, B. Dube

**Call to Order:** Chair Ganong calls meeting to order at 7:00pm.

## I. APPROVAL OF AGENDA:

**Motion:** Mr. McGinn motions to accept the agenda with "DBF Holdings" corrected to "BDF Holdings" and with the Pending Application for Northern Creek Distillery to be tabled. Mr. Morin seconds.

**Vote:** All in favor

## II. APPROVAL OF MINUTES

**Motion:** Mr. McGinn motions to approve the September 27<sup>th</sup>, 2018 Minutes with the replacement of "stop work order" with "pending litigation" instead for wording in reference to Mr. Lowery's question regarding Hissong Properties. Mr. Morin seconds.

**Vote:** Mr. Ganong abstains. Mr. Lowery, Mr. McGinn, Mr. Morin, and Mr. Bergen in favor

## III. CITIZEN COMMENTS

Comment period opened and closed at 7:06 with no comments from the public.

## IV. PUBLIC HEARINGS

**Item 1: B&B Trucking: Plenary Site Plan Review:** Proposal to demolish and rebuild a truck repair facility with associated parking and support facilities on a 2.04-acre parcel of land. Tax Map 4, Lot 13 in the Alfred Road Business District. Robert Maskell is the owner and applicant, Paul Gadbois, PE is the applicant's agent.

Public Hearing Open at 7:07pm

Abigail Worthing – Daughter of Worthings (neighbors of B&B Trucking) – asks to consider the impact on the family's personal home. Parking lot location has been revised since it had been last shared with them. Specifically, the following topics:

- Dug well and not an artesian well; concerns about runoff
- Flooding; again runoff
- Proposed garage is close to leach field; concerns about runoff
- Concerned about "truck graveyard"; would like to ensure that this will not happen any longer
- Proposed fence; height, type...

- Setback requirements
- Noise pollution/light pollution concerns
- Turn radius on New Road for larger trucks – traffic study done?
- Hours of operation?
- Concerns of excess speed; speed bumps?
- Timeline of construction?
- Rumors that the applicant will buy the Ramsey property – any possibility to change the plan as proposed?
- Asking for responsible considerate development not that it doesn't happen at all

Paul Gadbois responds.

- Setbacks for the zone are being met
- 6' foot stockade fence
- States that there has been no change in parking area
- Town engineer will be reviewing the storm water runoff calculations to ensure that they are up to par
- Expecting to have a 3<sup>rd</sup> party analyze the well water
- Applicant has stated that any unregistered vehicles will be/have been removed
- Lighting on plan is actually being removed since the applicant does not operate during night time hours
- No speed bumps proposed
- Noise – should not change
- Hours of operation are 8am-4:30pm
- Anticipated Spring construction – duration of about 3+/- months

Dan Dubios asks if this plan is in response to the realignment of Alfred Rd by the DOT. Mr. Gadbois and applicant confirm.

Cindy Worthing states that she would like to have the time to speak with a professional, perhaps a real estate lawyer, to identify how these activities will impact the Worthing family's property.

Dan Dubios inquires if all abutters were notified.

Mr. Ganong answers in the affirmative. Mr. Redway states that he sent them out personally.

Cindy Worthing asks for confirmation that the building was more toward the center of the lot in the original plan.

Mr. Ganong confirms that, yes, the original sketch had the building farther from the property line. That was forced to change due to a change in DOT's exact plans for the intersection.

Paul Gadbois offers to speak with the Worthings in more depth at another time to help alleviate concerns. Cindy Worthing indicates that she would like this.

Public Hearing closed at 7:22pm.

**Item 2: BDF Holdings: Plenary Site Plan Review: Determination of Completeness:** Proposal to construct a 5,000 sf single use steel building with associated parking and driveway access on a 31.2-acre site. Located at 715 Alfred Road, Tax Map 4, Lot 23, in the AR and SO Districts. BDF Holdings is the owner and applicant, Paul Gadbois, PE is the applicant's agent.

Public Hearing opened and closed at 7:23pm with no comments.

## **V. PENDING APPLICATIONS**

**Item 1: Pave Tech Corp Contractor Yard: Conditional Use – Request for Review Extension:** 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.

Ganong confirms with Mr. Jones that an extension has been requested. Does the Board have any questions or concerns?

**Motion:** Mr. Morin motions to grant the extension for a 30 day period time. Mr. Lowery seconds.

Mr. Raincourt confirms that the record will remain open. Upon confirmation, he notes that the Giles have no objections.

Ms. Roth asks if it's possible to know why the extension is being requested

Mr. Ganong notes that it would be granted regardless but, in this case, it is being requested for Mr. Jones to research precedent regarding the noise easements.

**Vote:** Unanimous in favor.

**Item 2: Legros Lane: Private Way Application:** Proposal to extend Legros Lane an additional 625 linear feet for the purpose of providing legal access and frontage for two residential lots exempt from subdivision review under 30-A MRSA 4401.4 and 4401.4.D-4. Frances V. Legros is the owner and applicant. Dana Libby RLS is the applicant's agent.

Mr. Ganong notes that the Board had requested to have a road maintenance to be provided before moving forward.

**Motion:** Mr. Morin motions to table Item #2 until such time as a road maintenance agreement can be provided. Mr. McGinn seconds.

**Vote:** Unanimous in favor.

**Item 3: B&B Trucking: Plenary Site Plan Review:** Proposal to demolish and rebuild a truck repair facility with associated parking and support facilities on a 2.04-acre parcel of land. Tax Map 4, Lot

13 in the Alfred Road Business District. Robert Maskell is the owner and applicant, Paul Gadbois, PE is the applicant's agent.

Deficiencies:

Landscaping & Buffering

Lighting (will be removed)

Storm water is expected to be reviewed

Applicant does not intend to build until Spring so that allows for some breathing room to iron out any issues with the Board or neighbors.

Mr. Redway reminds Mr. Gadbois that he'll have 30 days to address issues.

Mr. Gadbois states that the Board should be expecting a request for extension.

The Board notes that the Public Hearing has brought new information to light. The applicant and his agent have work to do.

**Item 4: BDF Holdings: Plenary Site Plan Review: *Determination of Completeness: Proposal to construct a 5,000 sf single use steel building with associated parking and driveway access on a 31.2-acre site. Located at 715 Alfred Road, Tax Map 4, Lot 23, in the AR and SO Districts. BDF Holdings is the owner and applicant, Paul Gadbois, PE is the applicant's agent.***

Watershed calculations were reexamined but the pre and post calculations did not change significantly.

Mr. Lowery confirms that the abutter who was asking questions (in an aside) earlier was satisfied?

Mr. Gadbois states that, yes, he's an abutter in the rear, Mr. Dube, and he just wanted to know what the overall plan was. He is now satisfied.

Mr. McGinn inquires about possible future development. Can the applicant/agent indicate roughly how will that be laid out? And is the future plan being kept in sight when planning the center-line for this project?

Mr. Gadbois shows on the plan where a future cul-de-sac could go.

Mr. Redway asks if the drive/road needs to be paved? Isn't that based on a trips per day? 15 trips?

It is Mr. Gadbois' belief that it's actually based upon parking spots and that he's under the max of 15 spots that would trigger the requirement.

Mr. Lowery asks about fire suppression.

Mr. Redway notes that there are 2 water supply points within 2500' of the site – so plenty of water supply to be had. Only other question: Performance bond or assurance?? What does the Board want?

Mr. Bergen asks what the options are.

In section 10.7.1 it states that 15% of the estimated cost of the improvements is standard, according to Mr. Redway.

BDF's agent states that Phil Labbe has provided an estimate for this project in its current version.

Mr. Ganong calculates that to be approximately \$130,000

Mr. Fitzpatrick states the bank is going to take the funds from a sale that's currently under contract and put those funds in escrow for this project.

Mr. Gadbois asks the Board if that figure high for this particular application. If it were a subdivision road he would agree with the amount as stated, but that isn't the case here. This is a driveway.

Mr. Bergen notes that the ordinance says "may" and not "shall".

Mr. Lowery chimes in to state that he doesn't disagree with that argument but the Board cannot pull a figure out of thin air. If there was a cost break down then the Board could justify a lower figure.

Ms. Roth asks if this language gives the Board flexibility does it not?

Mr. Fitzpatrick states he is ready to have that amount available and was actually expecting that figure.

Ganong reads Findings of Fact:

**Town of Arundel  
Arundel Planning Board  
FINDINGS OF FACT AND MOTION FOR APPROVAL  
BDF Holdings, LLC**

**WHEREAS** on October 12, 2017 the Arundel Planning Board received Plenary Site Plan Pre-application from BDF Holdings, LLC to construct a 50' x 100' metal structure for commercial uses on a 32-acre parcel located at 715 Alfred Road, Tax Map 4, Lot 23 in the AR Business District.

**WHEREAS**, on October 21, 2017, the Arundel Planning Board conducted a public site walk of the project.

**WHEREAS**, the applicant advised the Board that they had partnered with the owners of Ledgecliff Meadows Subdivision to produce a joint project, and would await the approval of the revised Ledgecliff Meadows project.

**WHEREAS**, on September 27, 2018 BDF LLC advised the Planning Board that they would pursue an independent permit for their proposed project and submitted Plenary Site Plan application for consideration.

**WHEREAS**, on September 27, 2018, the Planning Board determined the Plenary Site Plan application complete in compliance with LUO § 10.6.3.2;

**WHEREAS**, on October 11, 2018 the Planning Board conducted a Public Hearing in compliance with LUO § 10.6.3.3;

**AND WHEREAS** the Arundel Planning Board has determined the following Findings of Fact and Notice of Decision:

**FINDINGS OF FACT**

1. The owners of the property and the applicants are BDF Holdings, LLC.
2. The property is located at 715 Alfred Road, Map 4, Lot 23 in the AR Business District.
3. The property is approximately 32 acres in size.
4. The property currently is undeveloped.
5. The applicant proposes to construct a 50' x 100' metal structure housing a single commercial use, served by a 585'-long and 24-foot wide gravel road emanating from Alfred Road and terminating in a 10-vehicle parking lot and backup space located to the rear of the proposed building. The proposed parking area also will serve as a backup and assembly area for the proposed business.
6. The proposed commercial use as metal building sales and installation operation is in compliance with permitted uses in the AR District. The proposed site plan is in conformance with all the minimum dimensional standards of the AR district.
7. The proposed driveway/road is aligned and the cross section designed to serve a future commercial expansion and subdivision of the 32-acre parcel.
8. The applicant proposes to fill approximately 950 sf of non-Shoreland designated forested wetland in the northeastern corner of the property, in association with fill designed.
9. The proposed driveway has received a Highway/Driveway Entrance Permit waiver from the Maine Department of Transportation onto Route 111 (Alfred Road), dated August 15, 2018.
10. An HHE -200 form has been prepared by Joseph W. Noel LSE #221 for the construction of an on-site septic system has been designed to be located at the east of the proposed building
11. On-site well is proposed to be installed at the west end of the proposed building.
12. All electrical, telephone, and cable utilities will be provided above-ground from Route 111.
13. On -site lighting will consist six (6) wallpac type LED shielded downlights.
14. The proposed project is located within ½ mile of an established fire suppression water supply located on Route 111, thereby meeting the fire safety requirements of LUO § 5.7.3.1.
15. The applicant proposes to maintain the existing stand of vegetation located along Route 111 thereby meeting the requirements of LUO §6.7.7.1 and 3.
16. The Stormwater Management Plan shows that there will be no net increase in peak runoff generated by the project in a 25-year storm.
17. Engineering documentation submitted in support of this application consists of a 4-page plan set entitled Site Plan of BDF Holdings LLC, prepared by Paul Gadbois, PE and dated September 12, 2018, and Stormwater Management Plan for BDF Holdings LLC prepared by Paul Gadbois, PE and dated September 13, 2018.

## **CONFORMANCE WITH SITE PLAN APPROVAL CRITERIA**

*After due review and consideration, the Arundel Planning Board has determined the application to be in conformance with the criteria of Section 10.6.4 of the Arundel Land Use Ordinance as follows:*

- 1. The proposed project conforms to all standards of the zoning district and meets or exceeds performance standards specified in Sections 5 and 10.6 of this Ordinance;*
- 2. The proposed project is exempt from all Maine DEP Stormwater and NRPA permits.*
- 3. The proposed project does not unreasonably impact public safety and fire protection, and will not create a financial burden for the Town of Arundel in the provision of emergency services and law enforcement to the project site and the neighborhood;*
- 4. The proposed project will not have an adverse impact upon the quality of surface or groundwater resources;*
- 5. The project provides adequate stormwater management facilities to produce no additional peak runoff from the site during a 25-year storm event and will not have an undue impact on municipal stormwater facilities or downstream properties;*
- 6. The proposed project will not have an adverse on-site and off-site impact upon existing vehicular and pedestrian circulation systems within the community or neighborhood;*
- 7. The proposed project will not have an adverse impact upon environmental quality, critical wildlife habitats, marine resources, or important cultural resources. The proposed project could have a deleterious impact upon the visual quality of adjacent residential properties, but this impact will be mitigated by the proposed buffering plan.*
- 8. The proposed project will not produce undue noise, odors, dust, debris, glare, solar obstruction or other nuisances that will adversely impact the quality of life of surrounding parcels.*
- 9. The proposed project will have a positive fiscal impact on municipal government.*

***THEREFORE, BE IT RESOLVED*** that based on the above findings and conclusions the Arundel Planning Board hereby approves the Plenary Site Plan application of BDF Holdings, LLC to construct a 50' x 100' metal structure for commercial uses on a 32-acre parcel located at 715 Alfred Road, Tax Map 4, Lot 23 in the AR Business District, subject to the following conditions:

- 1. Any subdivision of the proposed building or the existing land cannot proceed without first securing a Subdivision approval from the Arundel Planning Board.*
- 2. The driveway and parking lot shall be maintained to ensure that no sedimentation or siltation of adjacent wetlands and waterways occurs.*
- 3. Two street trees selected from the Arundel List of Recommended Street Trees shall be installed in a location approved by the Town Planner on the west side of the proposed driveway entrance once MDOT completes its improvements to Route 111.*
- 4. In accordance with LUO § 10.7.2, the applicant shall submit a performance surety in the amount of \$130,000 to the Town Planner to insure all work is completed in accordance with the approved plan.*

**Motion:** Mr. Morin motions to approve the Finds of Fact with the appropriate corrections. (As seen above) Mr. McGinn seconds.

**Vote:** Unanimous in favor

**Item 5: Northern Creek Distillery: Conditional Use Pre-Application: Proposal to construct a grain spirits distillery as an Agricultural Demonstration Project**

TABLED – the applicant is considering the purchase of a different parcel.

Revisiting the Minutes of Sept 13<sup>th</sup> 2018 – Ganong reiterates that if Board members were not present for either portion of the Pave-Tech public hearing then the member must watch the video and sign an affidavit to that effect.

**Motion:** Mr. McGinn motions to approve the September 13<sup>th</sup>, 2018 Minutes pending the confirmation of the attendance list. Mr. Morin seconds.

**Vote:** Mr. Lowery and Mr. Bergen abstain. Mr. McGinn, Mr. Morin, Mr. Ganong and Ms. Roth in favor.

## **VI. LAND USE ORDINANCE AMENDMENTS**

**Item 1:** Discussion of listing Contractor Yards, Home Occupations, Pre-Release Correctional facilities, Residential Care Facilities, and Wind Energy Conversion Systems into the use tables of the appropriate Zoning Districts.

“Light housekeeping” to essentially create a warrant to provide the Selectmen to provide conformity between the LUO conditional use performance standards and the land use tables for each district. There would be no change to the LUO, only creation of uniformity between sections.

Selectman Dubois voices the question of whether this needs to go to Town Meeting? It seems like it should just be an administrative process.

The Board is under general consensus that there would be pushback and that it would be seen as under-handed if it’s just done administratively.

Regardless of how this is interpreted, Mr. Lowery points out that any application that has been submitted/accepted would stand under the LUO that it was accepted under.

**Motion:** Mr. McGinn motions that the Board asks the Town Planner to put together the Warrant that these items are going to be put together in the appropriate tables. Mr. Morin seconds.

**Vote:** Unanimous in favor

## **V. OTHER BUSINESS**

### **1. Town Planner’s Report**

Mini Golf Folks have decided that they've switched the title/theme of the project to "Castle Golf". Tad met with the course engineer today. Tad provided direction on buffering the parking lot from the road.

Hopefully the Street Design Committee meeting will occur on Monday.

Selectman Dan Dubois is asked to share the Selectmen's news. Port City was approved as the architectural firm for the Municipal building. They were the front runner because the committee felt that they were the right fit to present and get the public on board.

Mr. Redway will put the warrants together so the Board will know what public hearing(s) will be necessary.

The Board discusses the possibility of restructuring the timeline leading up to the public hearing and if the number of extensions/length of extensions should be revised. After fairly lengthy discussion, the Board opts to leave the extension timeline and process as is but to look into notifying abutters when an application (NOT a pre-application) is submitted instead of when it's been deemed complete. To change the notification timeline would require a change in ordinance.

Mr. Morin motions to adjourn @ 9:22pm. Mr. McGinn seconds.

## **Adjourn**

Respectfully submitted,



Corinne A. Goulet  
Secretary to the Planning Board

