

Arundel Planning Board Minutes
October 10th, 2019 - 7:00pm
Mildred L. Day School Spanish Room - 600 Limerick Rd. Arundel

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

Attendees: Tom Cloutier, Amanda Boutet, Shawn Labbe, David Skinner, Drew Olehowski, Chip Haskell, Chip Laite, Steve Doe, Paul Gadbois, Chris Coppi, Linda Zuke, Ben Fitzpatrick, Rick Licht, Joe Paolini, MaryBeth Luce, Steve Stoddard, Dan Dubois, Mark Pinette

Call to Order: Acting Chair, Ms. Roth calls meeting to order at 7:01pm.

I. APPROVAL OF AGENDA:

Motion: Mr. McGinn motions to approve the Agenda with the addition of Wind Farm discussion in Other Business. Mr. Bergen seconds.

Vote: Unanimous in favor.

II. PUBLIC COMMENT:

Citizen comment period opened and closed at 7:03 with no comments to record.

III. APPROVAL OF MINUTES:

Motion: Mr. Morin motions to approve the September 19th, 2019 Minutes as amended – with the insertion of “members” on second page, second paragraph. Mr. McGinn seconds.

Vote: Ms. Roth abstains. Remaining members in favor.

Motion: Mr. Cain motions to approve the Site Walk Minutes from September 12th, 2019 as amended – to remove Mr. Bergen from attendance as he was not present. Mr. McGinn seconds.

Vote: Mr. Lowery and Mr. Bergen abstain. Remaining members in favor.

IV. PUBLIC HEARINGS:

Item 1: Specially Designed Stables: Major Conditional Use Application- Determination of Completeness: Proposal to establish a commercial Equestrian Center serving 16+ equines in conformance with LUO section 9.3.19.2 on 43 acres of land, Tax Map 21, Lot 1, located at 30 Equestrian Way in the R4 district. Specialty Designed Stables, LLC is the owner, the applicant is Amanda Boutet and the applicant's agent is Tom Cloutier.

Public Hearing opened at 7:07pm and closed at 7:08pm with no public commentary to record.

Item 2: Labbe Subdivision: Minor Subdivision Application- Proposal to subdivide three lots on a 5.71-acre parcel, Tax Map 27 Lot 8B, located on Campground Road in the R1 District. Shawn Labbe is the owner and applicant and Steven Doe, RLS, of Sebago Technics is the applicant's agent.

Public Hearing opened at 7:08pm and closed at 7:09pm with no public commentary to record.

V. PENDING APPLICATIONS:

Item 1: AIM American Iron & Metal: Major Conditional Use Application- Determination of Completeness: Application for renewal of an expired conditional use permit for a 43,000-sf solid waste

disposal facility and metal recycling yard located on a 22.9-acre parcel located at 2244 Portland Road, Tax map 12, Lot 9 in the BI District. American Iron and Metal is the owner and the applicant and CES Inc is the applicant's agent.

Mr. Haskell reviews documents that have been submitted and how the dollar figure for closure was determined. \$12,000 figure essentially represents the cost of trucking the material off-site.

Ms. Roth notes that this figure would not accommodate for possible remediation costs if those ended up being necessary.

Mr. Haskell states that water (ground & surface) is currently tested in accordance to regulation. Soil samples are not required or currently performed. At this point in time it would be next to impossible to estimate without knowing if clean up would be required and at what scale if it is indeed needed.

Mr. Lowery and Mr. McGinn suggest Mr. Haskell look into the requirements under state permits and insurance.

Mr. Redway suggests that the applicant consider performing some soil testing to help alleviate concerns. At Ms. Roth's encouragement, Mr. Redway commits to communicating with Mr. Haskell about direction.

Mr. Haskell requests a 60 Day Extension from the Board.

Motion: Mr. McGinn motions that the 60 day Extension be granted. Mr. Bergen seconds.

Vote: Unanimous in favor.

Item 2: Specially Designed Stables: Major Conditional Use Application- Determination of Completeness: *Proposal to establish a commercial Equestrian Center serving 16+ equines in conformance with LUO section 9.3.19.2 on 43 acres of land, Tax Map 21, Lot 1, located at 30 Equestrian Way in the R4 district. Specialty Designed Stables, LLC is the owner, the applicant is Amanda Boutet and the applicant's agent is Tom Cloutier.*

The Board expresses how pleased they are with the facility and how educational the site walk was.

Ms. Roth reads the Findings of Fact.

**Town of Arundel
Arundel Planning Board
FINDINGS OF FACT AND APPROVAL
Major Conditional Use Permit
Specially Designed Stables Inc**

WHEREAS on August 22, 2019 the Arundel Planning Board received Major Conditional Use Application from Specially Designed Stables, LLC to establish a commercial Equestrian Center serving 16+ equines in conformance with LUO section 9.3.19.2 on 43 acres of land, Tax Map 21, Lot 1, located at 30 Equestrian Way in the R4 district.

WHEREAS, on September 9, 2019, the Arundel Planning Board conducted a public site walk of the project. The Planning Board instructed the applicant to add several minor amendments to the site map.

WHEREAS, on September 19, 2018 the Planning Board determined the application complete and scheduled a public hearing on October 19, 2019.

WHEREAS, on October 10, 2019, 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 are Specially Designed Stables, LLC is the owner, the applicant is Amanda Boutet
2. The property is located at 30 Equestrian Way, Tax Map 21 Lot 1 in the R4 district.
3. The property is 43 acres in size.
4. The property currently contains a large private stable, indoor riding ring, and a residence as well as a large outdoor riding ring, 6+ paddocks and over 17 acres of cleared pasture. A manure pit is currently located on the north-central portion of the property with the offal periodically exported off-site to compost operations.
5. The applicant proposes to convert the private facility into a Commercial Equestrian Center in which 16+ horses will be boarded, riding lessons will be offered and equestrian events will be conducted.
6. With 43 acres of land and 15 + acres of pasture area, the applicant meets the minimum area and equine density for 30 equines as specified in LUO section 9.3.19.2. a and b.
7. The existing driveway servicing the proposed equestrian center exceeds the minimum standards of section 2.3 of the *Arundel Street Design and Construction Ordinance* in conformance with section 9.3.19.2.d.
8. All stables, paddocks, and pasture areas are located more than 100 feet away from neighboring residential structures in accordance with LUO section 9.3.19.3.a.
9. All existing paddock and outdoor arena fencing comply with the standards of LUO section 9.3.19.3.c.
10. Outdoor lighting is security based and complies with the standards of LUO section 9.3.19.3.g.
11. The facility provides adequate sanitation and feed storage facilities to prevent rodent infestations in compliance with LUO section 9.3.19.3.e.
12. The facility is well buffered from adjacent residential properties and therefore is in compliance with LUO section 9.3.19.3.d

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 9.2.9 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.
The Equestrian Center is compatible with the scale and agrarian uses in Thompson Road neighborhood.

Motion: Mr. Morin motions that the use is compatible and similar to uses of neighboring properties. Mr. McGinn seconds.

Vote: Unanimous in favor.

- 9.2.9.2 The use is consistent with the Comprehensive Plan and the anticipated future development of the neighborhood in that:

The 2016 Comprehensive Plan encourages the creation of Equestrian Centers in the Rural Conservation District and hence listed as a conditional use permitted in the R4 zone.

Motion: Mr. McGinn motions that the use is consistent with the Comp Plan and the anticipated future development of the neighborhood. Mr. Bergen seconds.

Vote: Unanimous in favor.

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 use will not generate any significant trip generation, except during periodic special events. Both the facility driveway and the servicing Equestrian Way are designed to accommodate trucks and horse trailers that will be frequenting the applicant's facility. The Public Works Department has already approved intersection design of Equestrian Way and Thompson Road.

Motion: Mr. Morin motions that there is adequate and safe pedestrian and vehicular access. Mr. McGinn seconds.

Vote: Unanimous in favor.

9.2.9.4 That there is adequate water supply and sewage disposal available to service the use.

The proposed use already has adequate water supply and septic systems, and has adequate capacity and a maintenance plan for the collection and disposal of manure wastes generated on-site. no need for sewer service.

Motion: Mr. McGinn motions that there is adequate water supply and sewage disposal available. Mr. Cain seconds.

Vote: Unanimous in favor.

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 -

Noise, Dust and Smoke: The nature of the Equestrian Center does not generate any undue noise, dust or smoke or any other nuisance.

Glare: the use will not produce any glare sources for the neighborhood or adjacent properties.

Motion: Mr. Morin motions that there will be no noise, dust, odor, vibration or smoke generated by the use. Mr. Bergen seconds.

Vote: Unanimous in favor.

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 facility is already constructed and no alterations to the site layout will generate additional impact to the physical character of the site.

Motion: Mr. McGinn motions that the physical characteristics of the site are suitable for the proposed use. Mr. Bergen seconds.

Vote: Unanimous in favor.

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.

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

Vote: Unanimous in favor.

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

The applicant has met all pertinent portions of the Arundel Land Use Ordinance and the Street Design and Construction Ordinance in the design of the proposed activities.

Motion: Mr. Morin motions that all other requirements and applicable provisions of this ordinance are met. Mr. McGinn seconds.

Vote: Unanimous in favor.

THEREFORE, BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the Major Conditional Use application of Specially Designed Stables, LLC to establish a commercial Equestrian Center serving 16+ equines on 43 acres of land, Tax Map 21, Lot 1, located at 30 Equestrian Way in the R4 district, subject to the following conditions:

1. Any amendments to the Site Plan or this approval shall be subject to Planning Board or Staff Review Committee approvals.
2. Temporary portable toilets must be deployed at Equestrian events servicing populations beyond the capacity of the septic system.

Motion: Mr. McGinn motions to approve the Findings of Fact as amended for grammatical and name errors. Mr. Morin seconds.

Vote: Unanimous in favor.

Mr. Redway notes that the applicant will need to provide a mylar for the Board to sign.

Item 3: Labbe Subdivision: *Minor Subdivision Application*- Proposal to subdivide three lots on a 5.71-acre parcel, Tax Map 27 Lot 8B, located on Campground Road in the R1 District. Shawn Labbe is the owner and applicant and Steven Doe, RLS, of Sebago Technics is the applicant's agent.

Mr. Redway notes that no cut areas around the stream will need to be included in the deed language.

Ms. Roth reads the Findings of Fact.

ARUNDEL PLANNING BOARD
Findings of Fact and Approval Motion
Labbe Subdivision
October 10, 2019

WHEREAS, on July 23, 2015 the Planning Board received from Minor Subdivision application from Shawn Labbe to subdivide three lots on a 5.71-acre parcel, Tax Map 27 Lot 8B, located on Campground Road in the R1 District.

WHEREAS on September 19, 2019 the Planning Board conducted site walk of the proposed subdivision site.

WHEREAS, on October 10, 2019 the Planning Board conducted a public hearing on the proposed application.

WHEREUPON the Arundel Planning Board reviewed and given due consideration of the applicant's amended application and has arrived at the following:

FINDINGS OF FACT

1. The owner with right title and interest of Tax Map 27, Lot 8B is Shawn Labbe.
2. The applicant proposes to develop 3 lots on a 5.71 acre a parcel which has a net residential density capability of 4 lots.
3. There will be no commonly owned land and the project does not require a cluster design under the Arundel Land Use Ordinance.
4. All lots will have driveway access and frontage on Campground Road.
5. All lots will be serviced by on-site wells, and the applicant has provided documentation that all lots can be serviced by on-site septic systems.
6. The proposed subdivision lots meet and exceed the dimensional minimums for the R1 district.
7. The applicant has submitted plans and engineering drawings, soil surveys and hydrologic study prepared by Sebago Technics and dated August 21, 2019.

CONFORMANCE WITH ARTICLE XI PERFORMANCE STANDARDS

After due review and consideration, the Arundel Planning Board has determined the Final Subdivision Plan application to be in conformance with the criteria of Section 11 of the Arundel Subdivision Ordinance as follows:

11.1 Water Pollution: The proposed project will not discharge runoff directly into any water body and provides a method of disposal and treatment that will not require a license or permit from the Maine DEP and meets the Town water pollution control standards;

11.2 Water Supply: The proposed subdivision is not within 1,000 ft of a public water supply and therefore individual wells and on-site septic systems will be installed for each residential and commercial lot.

The Fire Chief has determined that all lots are within 2,500 linear feet of a public fire pond on Limerick Road and therefore is in compliance with LUO section 5.7.2.

11.3 Impact on Existing Water Supplies: The proposed project will not require and therefore not impact established public water supplies or suppliers. Well logs from the surrounding properties indicate adequate water supply for individual wells.

11.4 Soil Erosion Control Plan: The applicant has submitted a plan demonstrating adequate soil erosion control measures to protect downstream properties and exposed slope during the construction process.

11.5 Traffic Conditions: The vehicle trip generation of this project is anticipated to be less than 30 trips per day, thereby not achieving a Level of Service E rating during the peak hour.

- Given the geometry of the land and the nature of the development, the Planning Board did not require the applicant to provide future road accesses to adjacent properties.

11.6 Sewage Disposal: Sewage disposal shall be accommodated by on-site septic systems. Documentation has been submitted to the Board verifying soil suitability for on-site septic disposal.

11.7 Solid Waste: The proposed project will not generate undue solid waste volumes that will tax the Town's capacity to dispose of solid waste.

11.8 Impacts on Scenic Beauty Historic Sites and Rare Natural Areas: The applicants have designated a large portion of the property for permanent open space that will be retained and maintained by the Homeowner's Association.

- The limits of project forest land removal are delineated on the record plans.
- There are no archeological, historic, or critical shoreland areas identified on the site, nor are any areas identified by the Maine Natural Heritage Program on the site.
- The project is not located within 1,320 feet of any Deer wintering yard identified by the Department of Inland Fisheries and Wildlife.
- No portion of the Project is within a Resource Protection District.

11.9 Conformance with the Comprehensive Plan: The project is in conformance with the 2016 Comprehensive Plan for the R1 district.

11.10 Financial & Technical Ability: The applicant has provided adequate evidence of technical and financial capability to complete the project. No common or municipal infrastructure will be installed as part of the proposed project.

11.11 Impact on Water Quality or Shoreline: The project is not located in the watershed of Brimstone Pond and therefore exempt from the standards of 11.11.

11.12 Impact upon Ground Water Quality: The applicant has prepared a groundwater impact study prepared by Sebago Technics that documents that the proposed subdivision will not increase NO3-N concentrations above 5mg/L at the property line. The Planning Board has determined that the proposed project will not have a detrimental impact upon ground water quality given the existing soils and the location of on-site septic systems.

11.13 Floodplain Management: The project is not located in any FEMA identified 100-year floodplain

11.14 Freshwater Wetlands: The applicant has identified all freshwater wetlands on the project site and has designed the project to have minimal impact upon these resources. The applicant will maintain a 75-foot DEP buffer and a 50-foot stream setback on-site streams. Existing wetlands on the site are not Shoreland Zone qualified wetlands, however the impact to these wetlands consists of driveway crossings on Lots 1 and 2 resulting in less than 4,300 sf of wetlands filling.

11.15 Stormwater Management: The Planning Board has determined that the proposed project will have negligible impact on stormwater discharge for the 2, 5, 10- and 25-year frequency storms.

11.16 Reservation of Open Space, Common Lands, Fire Protection Facilities, and Private Way: There are no common lands to be reserved in this project.

CONCLUSIONS OF THE PLANNING BOARD

1. The criteria of Title 30-A MRS §4404 have been met.
2. The standards of the Arundel Subdivision Regulations have been met.
3. The standards of Section 5.7 and of the Arundel Land Use Ordinance have been met.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the Final Subdivision Plan of Shawn Labbe for the subdivision of three lots on a 5.71-acre parcel, Tax Map 27 Lot 8B, located on Campground Road in the R1 District, as shown on the approved plans and subject to the following conditions:

1. The subdivision must be recorded in the York County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board otherwise it shall become null and void.

2. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications.
3. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan.
4. The applicant shall install all soil erosion devices around wetlands and watercourses prior to the commencement of construction.
5. Failure to complete substantial construction of the subdivision within 2 years of the date of approval of the Plan shall render the Plan null and void.
6. The applicant shall include a restriction on all subdivision deeds prohibiting vegetational clearing of wetland areas except for driveway crossings and wetland fill areas delineated on the Record Subdivision Plan. There shall be no clearing of vegetation within the Town of Arundel's 50-foot stream buffer, as delineated on the Record Subdivision Plan, without prior approval by the Arundel Planning Board.

Motion: Mr. Cain motions to amend wording in resolution 6 (amended version immediately above). Mr. Bergen seconds.

Vote: Unanimous in favor.

Motion: Mr. Cain motions to approve the Findings of Fact as grammatically corrected and with the edit to Resolution #6. Mr. Lowery seconds.

Vote: Unanimous in favor.

Item 4: Cape Arundel Cottage Preserve: Amendment to an Approved Subdivision: *Proposal to acquire an additional acre of Land from an adjacent 10.11-acre parcel, Tax Map 15, Lot 4 and incorporate it into Phase 4A of the Cape Arundel Cottage Preserve project, Tax Map 15, Lot 13 in the BI district. Arundel-Kennebunk Cottage Preserve LLC is the owner and applicant and Rick Licht of Licht Environmental Design LLC is the applicant's agent.*

Mr. Licht presents and notes a couple of "housekeeping" amendments.

- Unit #186 was moved from the location on the original plan.
- Utility building was added
- The additional acre of land that was added to correct the setback issue in Phase 4A.

Motion: Mr. Cain motions to schedule the Public Hearing on October 24th. Mr. McGinn seconds.

Vote: Unanimous in favor

VI. NEW APPLICATIONS:

Item 1: Linda Zuke: Shoreland Zoning Permit: *Request to construct three residential buildings on existing parcels identified as Map 38, Lots 16, 14A and 14B and construct portions of Lady Slipper Way within the Shoreland Overlay District. The applicant is also requesting a Special Exception to reduce the minimum building setback from the upland edge of the wetlands on Lot 16 from 50 feet to 25 feet. Linda Zuke is the owner and applicant and Paul Gadbois, PE is the applicant's agent.*

Mr. Gadbois reviews each lot and its setbacks. Notes that Lady Slipper Way will be upgraded to slightly above the current Private Way standards. The lots are existing and previously approved. They are legal lots of record.

Mr. Redway notes that the road improvements will be reviewed by staff and he reviews for the Board the possible exemption for setbacks in this case – down to 25’.

Motion: Mr. Bergen motions to hold a Site Walk on October 22nd, 2019 at 5pm. Mr. Morin seconds.

Vote: Unanimous in favor.

Motion: Mr. Morin motions to have a Public Hearing on October 24th, 2019. Mr. Bergen seconds.

Vote: Unanimous in favor.

Item 2: Kimball Gravel Pit-Renewal of Conditional Use Permit: *Renewal of an existing 4-acre mineral extraction operation located at 346 Thompson Road Tax Map 20 Lot 8 in the R-4 district. John and Dianna Kimball are the property owners, Sargent Corporation is the leasee and Chip Laite is the authorized agent.*

Mr. Laite presents. Mostly noting that little has changed. That the site has not been used regularly but that the previously required berm & tree buffer has taken off well.

Motion: Mr. Cain motions that the Board consider the application complete and to waive the need for a Site Walk. Mr. McGinn seconds.

Vote: Unanimous in favor.

Motion: Mr. Morin motions that the Public Hearing be held on October 24th, 2019. Mr. McGinn seconds.

Vote: Unanimous in favor.

Item 3: Hardscrabble Farms LLC: Major Conditional Use Application- Solid Waste Permit: *Proposal to establish a residual compost stacking site at 475 Mountain Road Tax Map 16, Lot 11 in the R2 district; at 555 Mountain Road on a 39 acre parcel, Tax Map 16 Lot 12, in the R2 district; and at 449 Limerick Road on a 105 acre parcel, Tax Map 27 Lot 16, in the R1 district. The residuals are intended to be spread onto adjacent hay fields for Agronomic Utilization under LUO § 9.3.38.6.a. Hardscrabble Farms LLC is the owner and the applicant is Mark Pinette.*

Mr. Doddard provides a verbal overview of the plan.

The Board asks a variety of questions.

- At what frequency would material be imported? Percentage of overall volume?
- How would applicant propose to handle complaints regarding odor?
- Would there be any liquid or rubber bands (lobster)?
- When do you envision starting?

Mr. Dubois expresses how imperative it is to ensure appropriate permitting is present given historic issues the Town has encountered on this topic.

Mr. Redway points out that any compost material created on-site would **not** require permitting but any that **is** created off-site would.

The applicant notes that he’s been importing material for 10+/- years at a handful of set times in the season. The new material (seafood based) was stated as representing between 10-40% of the overall stacked compost and will be solid (not slurry) and no bands are accepted. Complaints of

smell that occurred this past Summer were due to a lack of staff/help on one single occasion. A couple of loads had already been imported but, at the Town's request, the applicant ceased the activity.

Motion: Mr. Bergen motions that a Site Walk be held on October 23rd, 2019 at 5pm.

Vote: Unanimous in favor.

VII. OTHER BUSINESS:

Item 1: Discussion regarding the lack of regulation pertaining to solar power farms in the ARD/BI districts.

Mr. Fitzpatrick provides an article and speaks briefly. His chief inquiry is about how to go about developing criteria for solar power farms/projects in the ARD zone.

Mr. Redway suggests that Mr. Fitzpatrick conduct some research on tax exemptions for the equipment. Are there any? Would the business represent a tax revenue gain or loss for the Town?

To change or add language to the Ordinance would require a Special Town Meeting. The Board suggests that Mr. Fitzpatrick research other Maine or New Hampshire communities with existing facilities. How does their Ordinance accommodate? What were the challenges of development of similar facilities? Please share any findings with Mr. Redway.

Planner's Report:

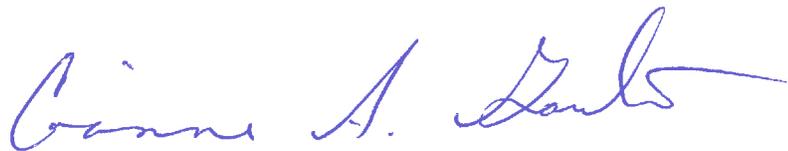
- New submissions from Oak Ridge Terrace have been received.
- 2x 55+ communities in the works
- Zone change request
- Exploration from new owners of the old Swecker farm (132 Limerick Rd) about possible land uses

Motion: Mr. Morin motions to adjourn at 9:43pm. Mr. Bergen seconds.

Vote: Unanimous in favor.

Adjourn

Respectfully submitted,



Corinne A. Goulet
Secretary to the Planning Board