

**Arundel Planning Board**  
**Minutes Regular Meeting**  
**November 10, 2016 at 7:00 pm**  
**Mildred L Day Library 600 Limerick Road**

**Board Attendees:** Rich Ganong, Jamie Lowery, Chip Bassett (in at 7:08 pm), Marty Cain, Tom McGinn, Roger Morin, Rick Pomerleau, and Tad Redway, *Town Planner*

**Public Attendees:** Kurt Hissong, *Hissong Properties LLC*; Paul Marrocco, *Hissong Properties LLC*; Dan Dubois, *Selectman*; Phil Labbe, *Selectman*; Paul Gadbois, PE; Madeline Goulet, John Cote; Peter Lovejoy, *Riverside Excavation*; Elizabeth Clark, applicant; Norman Ouellette; Bob Zuke, *Zuke Roofing & Zuke Firewood*; Tom Benenti, applicant; Noah Wentworth, *Frinklepod Farm*; Chip Laite, *Sargent Construction*.

**CALL TO ORDER:** Chair Ganong called the meeting to order at 7:00 pm. Attendance was taken.

**I. APPROVAL OF AGENDA:**

*MOTION:* Mr. Morin moved and Mr. McGinn seconded the motion to approve the agenda.

*VOTE:* Unanimous in favor

**II. APPROVAL OF MINUTES:** *Minutes of October 13, 2016*

*MOTION:* Mr. Morin moved and Mr. Cain seconded the motion to approve the minutes of October 13, 2016 as written.

*VOTE:* Unanimous in favor

Minutes of October 27, 2016 tabled for lack of quorum.

**III. PUBLIC HEARINGS**

**Item 1: Bartlett Farms II: Amendment to Approved Subdivision Plan:** Request to amend the Condition # 5 of 2007 Bartlett Farms II Subdivision Approval to authorize the issuance of up to 25 building permits prior to the completion of all infrastructure improvements on the Bartlett Farms Subdivision, Tamrox Drive, Tax Map 3 in the R-2 District. Northeast KBS, Inc is the applicant/owner and Kurt Hissong is the agent.

Madeline Goulet asked the status of the right-of-way easement across her driveway for Lessard Road in the event the Town of Arundel adopts it as a Town Road. The Planner explained that the Town would own the easement and be able to exercise all the rights associated with the easement including maintenance. Ms. Goulet still owns the land underneath. Mr. Redway reiterated that the Town usually does not accept new town roads that are not transferred in fee, but that is ultimately the decision of the Town Meeting voters.

John R Cote of Cote Drive asked about the status of the second means of egress to Liberty Acres Drive.

The Chair closed the Public Hearing at 7:13 pm.

**Item 2 Lovejoy Subdivision: Preliminary Major Subdivision Review:** Proposal to develop three single family residential lots on a 1,100 foot long private way in a 5.31 acre parcel located at 295 Limerick Road, Tax Map 28 Lot 6 in the R1 district. Owner and applicant is Peter Lovejoy and Paul Gadbois, PE is the applicant's agent.

Chair opened the public hearing at 7:14 pm. No one from the public spoke. The Chair closed the Public Hearing at 7:15 pm.

### III. PENDING APPLICATIONS

**Item 1: Lot 3 Arundel Commerce Center: Plenary Site Plan Review-** Proposal to construct a 17,700 square foot boat storage building with a 16,350 square foot parking lot on 1.45 acre parcel Tax Map 30 Lot 31A-03 located at Commerce Drive in the DB-2 district. Arundel Commerce Center LLC is the owner, Michael Shea is the applicant, and Corporation is the owner and applicant and Dan Riley, PE of Sebago Technics is the applicant's agent.

The Planner presented a letter from the applicant requesting that the application be permanently withdrawn from Planning Board review. According to the applicant's agent, Dan Riley, of Sebago Technics, Inc a resolution of the issue of the well located on Lot 3 could not be resolved between the property owner, Charles Dolan and the owner of the well easement, and Leo Moreau.

**MOTION:** Mr. McGinn and Mr. Morin seconded the motion to accept the withdrawal of the application and to terminate the Site Plan Review process.

**VOTE:** Unanimous in favor

**Item 2: Bartlett Farms II: Amendment to Approved Subdivision Plan:** Request to amend the Condition # 5 of 2007 Bartlett Farms II Subdivision Approval to authorize the issuance of up to 25 building permits prior to the completion of all infrastructure improvements on the Bartlett Farms Subdivision, Tamrox Drive, and Tax Map 3 in the R-2 District. Northeast KBS, Inc is the applicant/owner and Kurt Hissong is the agent.

Mr. Lowery noted that existing buildings and lots under construction from both Bartlett Farms I and II would be included in the list of 25 building permits issued prior to opening of the second means of egress via Liberty Acres Road. Therefore the lots that could be built upon would include Lots 1-25 as shown on the original master plan for the project.

Mr. Ganong read the Findings of Fact and the Decision Motion for the proposed subdivision application, with revisions proposed by the Board (see attached Exhibit A).

**MOTION:** Mr. Morin moved and Mr. Cain seconded the motion to approve the proposed subdivision revision as read in the Findings of Fact Exhibit A.

**VOTE:** Unanimous in favor

**Item 3 Lovejoy Subdivision: Preliminary Major Subdivision Review:** Proposal to develop three single family residential lots on a 1,100 foot long private way in a 5.31 acre parcel located at 295 Limerick Road, Tax Map 28 Lot 6 in the R1 district. Owner and applicant is Peter Lovejoy and Paul Gadbois, PE is the applicant's agent.

Chair Ganong stated that the nutrient study prepared by StoneHill required a peer review. The Board agreed and instructed the Planner to coordinate the review and inform the applicant of the cost.

The Planner stated that the Board must prepare a Findings of Fact in conformance with Article 14 of the subdivision standards to justify the waiver of the Stormwater Management Plan submission at the July 14, 2016 meeting.

Dan Rush, attorney for the applicant, requested that in lieu of a monetary performance assurance, the applicant be denied any building permits until the proposed Elizabeth's Way is constructed to Town standards in accordance with section 13.1.D of the Subdivision Ordinance.

The Planner insisted that there be a monetary surety as required for all other subdivision roads as a motivation for performance. At the very least there should be some cash retainer to correct immediate deficiencies such as soil erosion or damage to Town roads or drainage systems.

Planner also requested that the applicant provide a market based cost estimate from which to determine the Inspection Fee required under section

**MOTION:** Mr. Morin moved and Mr. Cain seconded the motion to deem the Preliminary Subdivision application complete.

**VOTE:** Unanimous in favor.

**MOTION:** Mr. Cain moved and Mr. Pomerleau seconded the motion to schedule a public hearing for November 8, 2016.

**VOTE:** Unanimous in favor

**Item 1: Zuke Roofing/Zuke Firewood: Registration of Existing Contractor Yard 1 & 2:** Request to register an existing Construction Business as a *Contractor Yard 1* and a Log Yard Wood Processing facility on a 27.7 acre site located at 128 Log Cabin Road, Tax Map 38, Lot 17 in the R-3 District. Linda Zuke is the owner & applicant and Robert Zuke is the agent.

Planning Board members asked the applicant how are the list of supplies, materials, equipment and vehicles distributed between the sites at 22 and 128 Log Cabin Road. Robert Zuke reported :

Firewood, vehicles, 250,000 bricks, log yard, and most of the construction equipment is stored at 128 Log Cabin Road.

- 50,000 board feet of lumber is stored inside the Forefathers Building.
- Firewood is processed at, stacked, and shipped from 128 Log Cabin Road;
- Employees of the roofing/building business meet at the job sites.
- Materials for the building business are usually shipped directly to the job site.

**MOTION:** Mr. Morin moved and Mr. Cain seconded the motion to classify firewood processing as a qualifying activity of a Contractor Yard 2.

**VOTE:** Unanimous in favor

Planning Board scheduled a site walk for Forefathers site at 5:30 on November 10<sup>th</sup> and at 6:00 for 128 Log cabin Road.

**Item 2: Forefathers: Registration of Existing Contractor Yard 1:** Request to register an existing Construction Business as a *Contractor Yard 1* on a 3.5 acre site located at 22 Log Cabin Road, Tax Map 39, Lot 39 in the TC District. JJWZ, LLC is the owner & applicant and Robert Zuke is the agent.

See above

**Item 3: Benenti Recreational Facility: Conditional Use Pre-application:** Proposal to develop a 15,000 square foot mixed use commercial building containing health club, racket sports, warehousing and a contractor storage facility on a 5 acre parcel Tax Map 34 Lot 9E located on Sam's Road in the DB-1 and DB-2 districts. Thomas Benehti is the owner and applicant.

Mr. Gadbois presented the applicants proposal to build a 15,000 multi-use facility on the vacant property on Sam's Road. The Planning Board expressed concerns about buffering of the building from adjacent residential structures especially the property on the east side where only a 25 foot setback is required and the proposed parking lot is located. Also concerns about the extent of on-site wetlands and road conditions were discussed.

The Planning Board scheduled a site walk for November 2, 2016 at 10 am. Mr. Gadbois indicated that he could have building corners staked by the site walk date.

**Item 7: Frinklepod Farm: Major Conditional Use Pre-Application for Expansion of an existing Farm Retail Operation:** Request to construct an additional 3,784 sf two-story structure containing greenhouse, produce storage, work areas, and a residential apartment located on 10.5 acres of land at 259 Log Cabin Road Tax Map 31, lot 3 and 3B in the R-3 District. Noah Wentworth and Flora Brown are the owners and applicants.

Noah Wentworth introduced his proposed 3,784 sf expansion of the Frinklepod Farm Retail store located at 244 Log Cabin Road. Discussion centered on the project's ineligibility for consideration as an administrative conditional use permit, and the proposed submission waivers the applicant will be requesting in his Conditional Use application. Mr. Wentworth also revealed that the Natural Resource Conservation Service USDA has already visited the site and determined there are no wetlands in the project area.

**MOTION:** Mr. McGinn moved and Mr. Bassett seconded the motion to schedule a site walk for Frinklepod Farm Retail expansion for November 19, 2016 at 10 am.

**VOTE:** Unanimous in favor.

**Item 8: 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 7 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.

Chip Laite of Sargent Construction presented the revised plans of the existing gravel pit located on the Kimball Farm off Thompson Road. No material has been excavated in the last 4-5 years except a small amount the landowner removed, however material has been deposited from projects that Sargent in Cumberland County with the intent of adding on-site aggregate to make suitable road construction materials. Mr. Laite noted that Mr. Kimball had subdivided an abutting lot as a gift to his granddaughter that has removed some of the required buffering.

The applicant has requested a waiver of the property boundary survey and a waiver of the required site walk. Although the Board initially considered waiving the site walk

**MOTION:** Mr. McGinn moved and Mr. Pomerleau seconded the motion to waive the requirement to conduct a site walk.

**DISCUSSION:** During the discussion, the applicant revealed that the buffer between the gravel pit and a new house lot had been clearcut. The Board asked the Planner to refer the matter to the CEO.

***THE MOTION WAS RESCINDED.***

In response to the information regarding removal of buffering vegetation the Board discussed the need to observe conditions in the field.

***MOTION:*** Mr. McGinn moved and Mr. Pomerleau seconded the motion to schedule a site walk at 11:00 am on November 19, 2016.

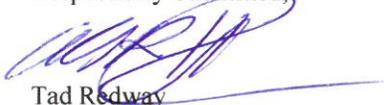
***VOTE:*** Unanimous in favor.

**VII. PLANNER'S REPORT:**

The Planner reported that Cape Arundel Cottage Preserve is preparing preliminary plans to submit to the Board for a pond to be excavated in the optioned property in the rear of the project with an additional phase of cottages. In response to questions, the Planner reported that the Douston land has not been purchased by CACP to date.

***ADJORNMENT:*** Mr. Morin moved to adjourn at 10:10 pm, with Mr. Bassett seconding the motion. Motion passed unanimously.

Respectfully Submitted,



Tad Redway  
*Planning Board Secretary, Pro Temp*

**Exhibit A**

**ARUNDEL PLANNING BOARD**

**Findings of Fact and Approval Motion**

***Bartlett Farms II Subdivision Amendment***

**November 10, 2016**

**WHEREAS**, on May 28, 2015 the Arundel Planning Board received an application from Northeast KBS to amend condition # 5 of the 2008 Major Subdivision approval for Bartlett Farms II so as to authorize the issuance of up to 25 building permits prior to the completion of all infrastructure improvements on the Bartlett Farms Subdivision, Tamrox Drive, Tax Map 3 Lot 11 in the R-2 District.

**WHEREAS**, the Arundel Planning Board determined to waive a Public site walk of the project site given the number of times the Board had visited the property for previous pre-application submissions;

**WHEREAS**, on November 10, 2016 the Planning Board conducted a Public Hearing on the proposed subdivision amendment, after making all required public and abutter notifications;

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

**FINDINGS OF FACT**

1. The owners of the property are Northeast KBS, Inc.
2. The applicants are the owners.
3. The property is located on the Old Alfred Road, Tamrox Drive, and Liberty Acres Drive and is identified as Arundel Assessors Map 3, Lot 11.
4. The Bartlett Farms II Subdivision, Phases 1-5, received Final Planning Board approval October 26, 2006 with conditions.
5. A complete amended final plan and application were submitted on November 1, 2008 and public meetings were held on October 25, 2007 and November 8, 2007, with final approval issued on November 20, 2008.
6. Phase I of Bartlett Farms II Subdivision has been completed and inspected, and up to 75% of the infrastructure of Phase II has been inspected and completed with the exception of the connection of Lessard Road with Liberty Acres Drive.
7. The applicant has requested that the Planning Board amend Condition 5 of the 2006 and 2008 approval to permit up to 25 building permits to be issued prior to completion of all infrastructures and connection of a second means of egress via Liberty Acres Road, in accordance with the requirements of Section 12.2.B.2.e of the Subdivision Ordinance. Section 12.2.B.2.e requires a second connection to a Town street or approved private way only when the daily trip generation exceeds 250 vehicle trips.
8. The applicant cites as a reference the Institute of Traffic Engineers *Trip Generation Manual* [current edition] which establishes the average vehicle trip generation of a single family home at ten trips per day.
9. The applicant proposes to limit building permits to lots 1-25, as identified on the Bartlett Farms I and II subdivision plan.
10. The applicant proposes to provide a surety bond in the amount of \$349,000 for the remaining road and infrastructure improvements.

**Conclusion:**

Based on the above facts the Arundel Planning Board finds that the applicant's request to apply for up to 25 building permits on improved sections of road in the Bartlett Farms II subdivision to be consistent with the intent and restrictions of Section 12.2.B.2.e of the Subdivision Ordinance and the criteria of Title 30-A MRSA §4404 .

**THEREFORE BE IT RESOLVED** that based on the above findings and conclusions the Arundel Planning Board hereby approves the application from Northeast KBS to amend condition # 5 of the 2008 Major Subdivision approval for Bartlett Farms II so as to authorize the issuance of up to 25 building permits prior to the completion of all infrastructure improvements on the Bartlett Farms Subdivision, Tamrox Drive, Tax Map 3 Lot 11 in the R-2 District, contingent upon the following:

1. Any subdivision not recorded in the York County Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board 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
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. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Professional Land Surveyor, stating that all monumentation shown on the plan has been installed.
5. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
  - a. Notify the Code Enforcement Officer and Town Planner in writing prior to the commencement of construction, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
  - b. Deposit with the Municipal Officers a check for the amount of 3% of the estimated costs of the required improvements to pay for the costs of inspection. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
  - c. Provide a performance surety in the amount of \$349,000 to the Town by an instrument and format approved by the Town Planner in conformance with the Arundel Subdivision Ordinance.
6. Each year that construction work has been performed and between November 1 and November 15, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate.
7. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the Municipal Officers.
8. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or their control is placed with a lot owners association.

9. That the agreement made and signed on October 31, 2006 between the applicant and the Town of Arundel regarding the financial participation for future offsite improvements shall be made part of this subdivision approval.