

## Arundel Planning Board Minutes

August 13, 2020 - 7:00pm  
Planning Board Zoom Meeting

**Board Attendees:** Rich Ganong, Chair; Susan Roth, Vice Chair, Tom McGinn, Secretary; Jens Bergen, Marty Cain, Roger Morin and Tad Redway, Town Planner

**Attendees:** Amy McNally, Esq; Elizabeth and Tom Boucher, Tom Shoening, Esq, and Stacy and Dewey Giles,

**Call to Order:** Chair Ganong calls meeting to order at 7:02 PM.

### I. APPROVAL OF AGENDA:

**Motion:** Mr. McGinn motions to approve the Agenda as written. Ms. Morin seconds.

**Vote:** Unanimous in favor.

### II. APPROVAL OF MINUTES-

**Motion:** Mr. Bergen motions to approve the minutes of July 23, 2020, as written. Mr. Morin seconds.

**Vote: Aye:** Ganong, Roth, Bergen, Cain and Morin **Abstain:** Lowery and McGinn

**Motion:** Ms. Roth motions to approve the minutes of July 30, 2020, as written. Mr. Bergen seconds.

**Vote: Aye:** Ganong, Roth, Bergen, Cain, Lowery, and Morin **Abstain:** McGinn

**Motion:** Ms. Roth motions to approve the minutes of July 30, 2020, as written. Mr. Cain seconds.

**Vote: Aye:** Ganong, Roth, Cain, Lowery, and Morin **Abstain:** Bergen and McGinn

**III. PUBLIC COMMENT:** Stacy and Dewey Giles observed that there were no new documents posted on the website for the Pave Tek application even though new maps had been submitted. The Chair explained that the application materials were incomplete, and the applicant was informed immediately. The Planner also explained that the applicant failed to supply PDFs of the new submissions, and hence the new but incomplete site plan could not be posted.

### V: PENDING APPLICATIONS

**Item 1: 35 DMR Drive: Plenary Site Plan Review:** Proposal to construct a 4,251-sf metal building complimenting an existing 3,440 sf commercial building on a 2.83-acre site located at 35 DMR Drive, Tax Map 1 Lot 1D in the BI district. Gary Martin is the owner and applicant and Amy McNally, Esq. is the applicant's agent.

The Planner reported that the applicant had submitted a complete Soil Erosion Plan made all amendments to the site plan, requested by the Board at the July 23, 2020 meeting. Hence the application was ready for Planning Board action.

The Chair read the following Findings of Fact into the record:

### FINDINGS OF FACT AND NOTICE OF DECISION

#### Gary Martin Builders Building Expansion

**WHEREAS** on February 27, 2020 the Arundel Planning Board received a Plenary Site Plan application from Gary Martin Builders to construct a 4,251-sf metal building complimenting an

existing 3,440 sf commercial building on a 2.83-acre site located at 35 DMR Drive, Tax Map 1 Lot 1D in the BI district.

**WHEREAS** the Planning Board concluded that the encroachment of DMR Drive on the applicant's property compromised the integrity of the road as a private way and should be corrected before declaring the application complete.

**WHEREAS**, given the COVID-19, quarantine restrictions, on April 20, 2020 the Planner conducted a Site Walk on behalf of the Planning Board.

**WHEREAS**, on June 25, 2020 the applicant had completed resolution of the DMR Drive encroachment issues and the Planning Board deemed the application complete.

**WHEREAS**, on July 9, 2020 the Planning Board conducted a public hearing, in conformance with LUO section 9.2.9. The Town Engineer had submitted his Peer Review of the project and identified several outstanding issues that required resolution.

**WHEREAS**, on August 13, 2020 the applicant provided amendments to the Site Plan that resolved all outstanding issues regarding the proposed project.

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

#### **FINDINGS OF FACT**

1. The owner of the property is Gary Martin.
2. The property is located at 35 DMR Drive, Tax Map 1, Lot 1D in the BI District.
3. The property currently contains an existing 3,440 sf commercial building on a 2.83-acre site used to house equipment and offices associated with the operation of a construction company named *Gary E. Martin Builders*. The site contains an expansive gravel yard approximately 47,317 sf in area and a 2,600-sf paved parking area containing four (4) identified parking spaces. Other construction equipment is located on the site and the site has been used for seasonal boat storage.
4. Survey of the property has revealed that the travelway of DMR Drive has encroached into the Lot 1D. To resolve the problem of building setback and the integrity of the DMR Drive as a legal private way, the applicant has elected to convey the encroachment area of approximately 2,284 feet to the abutter at Map 1 Lot 1F (n/f Arundel Self Storage).
5. The applicant proposes to construct a second 4,251 sf metal building located in the northern end of the property near DMR drive, containing two separate rental spaces each containing a separate toilet facility, large garage area and a small office area.
6. A paved apron is proposed around the southern and eastern perimeter of the new structure providing 10 total parking spaces and entry pad for the large interior garage areas.
7. The new structure will be serviced by building will be serviced by a new septic system. The HHE 200 for the facility has been submitted to the Planning Board. Potable water to the new building will be provided by a service line tap into the existing water main in DMR Drive owned by Kennebunk, Kennebunkport, and Wells Water District. Overhead electrical service will be provided from the existing pole line on DMR Drive via a 15-foot cut in the existing tree line.
8. Five (5) RAB 26 w shielded downlights shall provide security lighting on the west, south, and east side of the new building.
9. The proposed site development meets all of the dimensional standards of the BI District.

10. Stormwater runoff from the new building, parking lots, and other impervious surfaces are graded discharge into the existing wetland area located on the eastern perimeter of Lot 1D. Stormwater analysis prepared by *Walsh Engineering Consultants* and dated July 23, 2019, indicates that there will be no additional peak runoff generated by the new structure and associated parking. A peer review conducted by *Atlantic Resource Consultants* and dated June 24, 2020, confirms the engineer's conclusions.
11. A soil erosion control plan prepared by *Walsh Engineering Consultants* and dated July 2020, specifies a stump grinding erosion control berm to be installed along the northern and eastern perimeter of the new building site prior to construction, specifications for loaming and seeding disturbed areas and sedimentation prevention maintenance schedules to be observed in the construction process.
12. The applicant has specified a 15-foot wide eight-foot-high stockage fence to be installed in the 15-foot tree line cut along the property line with DMR Drive to meet buffering requirements of the LUO.
13. The revised site plan delineates the location of all existing tree stands and specifies that there shall be no clearing of these existing buffer areas except for the designated 15-foot electrical service corridor without the Planning Board's approval.
14. Record plans include Revised Site Plan prepared by Lower Village Survey company and dated July 22, 2020, and soil erosion plan, detail sheets, and post development stormwater plan prepared by *Walsh Engineering Consultants*, dated 7-23-19 and July 2020.

#### **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 performance standards specified in Sections 5, 9, and 10 of this Ordinance;
2. The proposed project pre-exists the threshold date for a DEP Stormwater Permit and therefore the applicant is not subject to any Federal and State 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. The Fire Chief has determined that the applicant's project is in conformance with LUO § 5.7 Fire Protection;
4. The proposed project will not have an adverse impact upon the quality of surface or groundwater resources, in that the applicant's project will provide adequate septic facilities that will not present a threat to groundwater quality;
5. The proposed 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 has adequate sight distances on DMR Drive and DMR Drive maintains adequate sight distances on Portland Road and therefore 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, important cultural resources, or visual quality of the neighborhood, surrounding environs, or the community;
8. The proposed project will not produce 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 from Gary Martin Builders to construct a 4,251-sf metal building complimenting an existing 3,440 sf commercial building on a 2.83-acre site located at 35 DMR Drive, Tax Map 1 Lot 1D in the BI district, subject to the following conditions:

1. The applicant shall provide to the Town Planner, a deed registered in the York County Registry of Deeds conveying the 2,284-sf strip encroachment of DMR Drive to the owner of Map 1 Lot 1F.
2. The buffering stockade fence in the 15-foot electrical corridor shall be maintained in good working condition for as long as the facility operates. Similarly, all existing tree stands identified on the record site plan shall be retained and no cutting shall occur without the approval of the Code Enforcement Officer.
3. Prior to construction, the applicant will submit a surety in the amount of \$ 11,000 in conformance with LUO §10.7.2 for all approved site construction activities.
4. The applicant acknowledges that at any time the need for more than 15 parking spaces is established on the property, the existing gravel portion of the lot as well as the driveway from DMR Drive shall be paved in accordance with LUO § 5.12.2.2.
5. Prior to the issuance of a building permit, the applicant shall reimburse the Town of Arundel the cost of the peer review prepared by Atlantic Resource Consultants.
6. No Certificate of Occupancy shall be issued until the Code Enforcement Officer receives certification from the design engineer and a written statement from the Town Planner that all improvements mandated by this permit have been installed in accordance with the record drawings.
7. In compliance with LUO § 10.9, this permit shall expire in the event that construction does not commence within one (1) year of the approval date and if the project is not substantially completed within two (2) years of the approval date.

SO APPROVED by the Arundel Planning Board this 13th day of August 2020

**Motion:** M. Morin motions to approve the Site Plan application as read in the findings. Mr. Cain seconds.

**Discussion:** Mr. Lowery asked the purpose of the short stockade fence, and Mr. Ganong explained it was to maintain the front yard buffer where the treelibne was cot for the overhead power lines.

**Vote:** *Unanimous in favor.*

**Item 2: Wellness Center: Plenary Site Plan Review-Determination Completeness:** Proposal to expand an existing parking lot serving two commercial structures by approximately 5,100+/- square feet at 1009 and 1005 Portland Road on a 4.18-acre parcel, Tax Map 43 Lots 52 and 52A, in the DB-1 and the RP Districts. Elizabeth Boucher is the owner and applicant.

The Chair raised the concern regarding designated parking spaces # 22 and 23 on the site plan which required backing out into Route 1 traffic in order to egress the parking space. Dr. Boucher stated that the parking space has always existed, the second floor tenant has historically used the space, and they were simply going to repave.

The Planner reviewed the Stormwater Management Plan and posed several questions about capacity of the level spreader proposed by the design engineer. The Planner recommended that the application be deemed complete and a public hearing set.

**Motion:** Ms. Roth motions to deem the application complete. Mr. Bergen seconds.

**Vote:** *Unanimous in favor.*

**Motion:** Ms. Morin motions to set the public hearing date for August 27<sup>th</sup>. Mr. McGinn seconds.

**Vote:** *Unanimous in favor.*

**Item 3: PaveTek Inc: Major Conditional Use Application- Determination of Completeness:** Proposal to construct a 1,196 square foot garage to store construction equipment for an existing bituminous paving business located on a 5-acre parcel of land, Tax Map 37 Lot 8A, located at 31 Stilphen Way in the R4 District. William Stilphen is the owner and applicant.

Mr. Stilphen was not in attendance at the meeting.

The Chair stated that the Pave Tek application remains incomplete since the revisions submitted after the last meeting requested consideration as a Contractor Yard 1 rather than a Contractor Yard 2. Paving businesses are defined by the LUO to be Contractor Yard 2 and therefore the application would be in violation of the Ordinance. The Planner reiterated that the PaveTek operation was approved by the Planning Board in 2003 as a “*Home Occupation*”, limited to two dump trucks and two trailers and the equipment carried by the trailers. The application for a pole barn should reflect the parking and equipment limitations of the 2003 Home Occupation permit.

Stacy and Dewey Giles asked why the revised application was not posted on the website.

The Chair stated that both he and the Planner notified Mr. Stilphen of the application’s non-conformity, and the intent of the meeting was for the Board to formally table the application until such time that a complete and conforming submission is provided.

## V. LAND USE ORDINANCE REVISIONS:

**Item 1 Discussion:** Proposal to establish uniform construction and dimensional standards for commercial driveways in LUO section 5.2.

The Board decided to defer consideration of the LUO revisions until the Planner had completed a set of proposed revisions to present. In addition Ms. Roth recommended reexamination of whether grandfather status of existing non-conforming uses should remain with the property owner or the property. The Board discussed the future of home occupations in context to changing demographics and the suburbanization of Arundel, especially in light of new immigration resulting from the SARS CoV-2 epidemic. Board is interested in limiting non-conforming operations to the property owner.

Mr. Cain asked whether any agricultural operation had introduced new regulations pertaining to animal husbandry, as proposed last year. The Planner reported that he has not heard from those interested parties since last September.

## VI: OTHER BUSINESS

Mr. Cain asked for an update on the large clearcut he referenced at the last Planning Board meeting. The Planner reported that he did go to the site, which is owned by Norman and Deb Cloutier, and it has been clearcut and stumped. Review of the files indicated that neither the CEO or the Planning Board had issued a timber harvesting permit for the activity and the Planner reported the violation to the Codes Enforcement Officer for action.

Mr. Bergen proposed that some of the clerical load could be taken off the Planner by requiring the applicant to write their own Findings of Fact. Ms. Roth observed that the fee schedule should be increased so that the Town Attorney can become involved in the drafting of approval motions.

Mr. Bergen countered that raising fees would be less supported by the Selectmen, but the Board could mandate the applicant providing draft findings. Mr. Lowery confirmed the Planner's observation that the Maine DEP encouraged applicants to write findings for their applications, but that practice has been discontinued.

Mr. Ganong suggested that the Planner's Office provide a template to an applicant to complete that would reduce the Planner's time composing the Findings.

Mr. Bergen proposed that Planning Board meetings be held on another evening besides Thursday. Mr. Ganong and Mr. Redway have existing commitments on Wednesdays. Tuesday was proposed as an alternative. Given the new four-day workweek at Town Hall, Mr. Lowery noted that a Tuesday meeting date would enable public hearing notices to be posted without the Planner making a special trip. The Planner will inform the Manager that the Board will shift its meeting dates to Tuesdays in September or later.

**ADJOURN**

**Motion:** Mr. Cain moved and Mr. Bergen seconded the motion to adjourn the meeting at 8:36pm

**Vote:** *Unanimous in favor.*

Respectfully submitted,

Tad Redway  
Secretary Pro Temp to the Planning Board