

Arundel Planning Board Minutes

August 23, 2018 - 7:00pm

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

Board Attendees: Mr. Bergen, Mr. Cain, Mr. McGinn, Mr. Ganong, Ms. Roth, Town Planner Mr. Redway, Secretary Ms. Goulet

Attendees: David Jones, Stacy Gile, Dewey Gile, Teresa O'Donnell, Charlie O'Donnell, Craig Raincourt, William Stilphen, Jason Vafiades, Juan Landry, Emily Nedeau, Jason Nedeau, Mike Ouellette, Alicia Ouellette, Shelley Collard, Matt Collard, Josh West, Charles Bassett, Phil Labbe, Norman Nunan, Frances Legros, Dan Erickson, Elizabeth Kelley Erickson, Carl Marcotte, Denise Marcotte, Rosalie Canosa, Nedra Santiago, Mark Howe, Lynn Howe, Bruce Read, Dana Libby, Jessica Robichaud, Alan Dow

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

I. APPROVAL OF AGENDA:

Motion: Mr. Cain motions to approve the agenda with Item 6 in Section IV tabled. Mr. McGinn seconds.

Vote: All in favor.

II. APPROVAL OF MINUTES

Motion: Mr. Bergen motions to table the approval of minutes until the end of the meeting. Mr. McGinn seconds.

Vote: All in favor.

III. CITIZEN COMMENTS

Citizen comment period opened and closed at 7:06pm due to no citizen comments unrelated to items on the agenda.

IV. PUBLIC HEARINGS

Item 1: Pave Tec Corp Contractor Yard: *Conditional Use:* 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.

Mr. Ganong opens the public hearing at 7:07pm. At this time, he also warns the attendees against character assassination and outdated information against the applicant. All discussion must be relevant and less than 6 years old.

Attorneys Craig Raincourt and Bruce Read dispute this warning and explain that the body of evidence about Mr. Stilphen's past has been put forth as a character reference.

David Jones, lawyer for Mr. Stilphen, voices appreciation for Mr. Ganong's warning to keep discussion current, relevant and productive.

Attendee Bassett speaks up to draw attention to the wetland setbacks. The wetlands have not been specifically identified. This makes it impossible to accurately identify the appropriate setback distance whether it be RP or Shoreland Overlay. Mr. Bassett also states that Mr. Stilphen has been in non-compliance since 2001.

Bruce Read, Howe's attorney, notes letters previously submitted to the Board and passes out another for consideration.

Mr. Ganong reads the letters from Mr. Read into record as well as those from Realtors Randal Simon and Betsy Ames-Fitzgerald, as well as neighbor Laura Stolt.

Mr. Read again urges the Board to look at the history of Mr. Stilphen's activities while under consideration.

Ms. Howe speaks up to question the standards used for the noise study. The levels used to create the plan of staggered vehicle start ups. The max decibels allowed in the recommendation are those for Mixed Use. The Rural Conservation maximum levels are 10 decibels less. Does this not represent a problem? Ms. Howe continues to express grave concerns about how disruptive an expanded contractor yard would be. She highlights her personal concerns with the likelihood of loss in home equity as identified in the letters from local Realtors. She also reminds the Board that the applicant has a history of serial non-compliance that spans 15 years.

Mr. Bassett steps up again to voice that he is **very** concerned about the water study. It only focuses on the water supply/wells on the property. What about the water that drains downhill off of the property and onto his own? Could this not cause financial harm?

Craig Raincourt, attorney for the Gile's, speaks up to read a letter reviewing the applicant's historic non-compliance to previous permits/Land Use Ordinance in chronologic order, reviews misdemeanor record, the lack of wetland identification/size for setback purposes, notes the Giles' feel that increasing commercial activity will decrease the property value of their home, and presents an April 2018 Facebook photo from Pave-tech's page that appears to show a power washer in relation to machinery.

Alicia Ouellette speaks up and states, with emphasis, that a picture only shows one perspective!

Mr. Gile speaks to just how wet the land is (primarily Mr. Bassett's acreage) to express how drainage from the applicant's land will affect the area. Mr. Gile speculates that the wet area could comprise of approximately 20 acres. A recent aerial photo is also presented to further identify potential drainage hazards.

- Weekend activities

Ms. Gile also reviews that neighbors have witnessed the violation of the existing consent agreement regarding the number of vehicles/trailers allowed on site.

Mr. Raincourt reminds the Board that the decibel level/max allowed in the noise study is not appropriate for R-4/Rural Residential.

Dan Erickson, an abutter, speaks to note that he has no issue with the current usage but does have concern with the potential loss of property value as described earlier in the meeting. He requests that the Board be cognoscente that it represents ALL residents.

Mr. Jones, applicant's attorney, reads several letters from neighbors in support of Pave-Tech's current usage and potential expanded usage. Notes that the pressure washer from the Facebook photo was **not** used to clean paving equipment. And, lastly, notes that further identification of wetlands would require permission from other landowners to access and assess their properties to get the full range of existing wetlands identified.

Ms. Rosalie Canosa speaks to state the feeling that Pave-Tech is disrupting the peace of the neighborhood.

Public Hearing adjourned at 8:44pm until it can be resumed September 13th.

Item 2: Champagne Energy: Preliminary Site Plan Review: *Determination of Completeness:* Proposal to install and operate a 12,000-gallon propane filling station open to the public on a 6.65 acre site currently used as a fleet parking lot at 833 Old Post Road, Tax Map 1, Lot 1A in the BI District. Champagne Energy is the owner and applicant. Eric Williams, PE of SGC Engineering LLC, is the applicant's agent.

Public Hearing open at 8:47pm.

No comments.

Public Hearing closed at 8:48pm.

V. PENDING APPLICATIONS

Item 1: Brookside Estates: Revision of Approved Subdivision: Proposal to amend record subdivision plan by conveying 3,546 sf of designated Open Space land to Lot #14C-05 in a 10 lot cluster subdivision and age restricted community. The 11.98-acre lot is located at 182 Log Cabin Road, Tax Map 32, Lot 14C in the R3 and Shoreland Overlay Districts. J Group LLC is the owner/applicant and the owner's name is Jason Nedeau.

Jason Nedeau has secured the signatures from all existing property owners, and spouses, within the community as confirmation that this change is acceptable to them.

Mr. Redway reads Findings of Fact.

**Findings of Fact and Approval Motion
Amendment to Record Plan Brookside Estates Subdivision
August 23, 2018**

WHEREAS, on March 10, 2016 the Planning Board granted a Major Subdivision and Conditional Use permit to J Group LLC a proposal to develop 10 age-restricted homes in a cluster subdivision located on a 11.98-acre parcel located at 182 Log Cabin Road, Tax Map 32 Lot 14C in the R3 and SO districts.

WHEREAS on July 28, 2018, the Planning Department was made aware that an amendment had been made to the Record Subdivision Plan where 3,546 sf of land had been conveyed to Lot # 5 from the 6.25 acre dedicated common open space to offset setback encroachments of decks on Lot 5.

WHEREAS, on August 9, 2018 the Planning Board reviewed the executed conveyance of the land from the dedicated open space and determined that the remaining 6.17 acres in the open space met the minimum requirements of LUO section 9.3.12.2.a and as such the conveyance would not violate the Land Use Ordinance. However, given the fact that four properties had been conveyed to private owners and said owners retained interest in the open space, the Board required that the applicant obtain unanimous consent of owners for the open space out conveyance.

WHEREAS on August 10, 2018, the applicant presented to the Planning Department an agreement whereby the four lot owners consented to convey the 3,546 sf of land to J Group LLC and Lot 5 in accordance with Planning Board conditions.

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 in the dedicated open space for the Brookside Subdivision include J Group LLC, Denise Hodson and John Culloton (Tax Map 32 Lot 14C-06); Virginia and Robert Huntley, (Tax Map 32, Lot 014C-09); Robert and Lisa Caputo (Tax Map 32, Lot 014C-04), and John and Nina Lephohon (Tax Map 32, Lot 014C-07).
2. The proposed conveyance of 3,546 sf of land from the former 6.25-acre open space will yield an open space parcel of 6.17 acres.
3. The 6.17 remaining acres will remain in compliance with the required 50% open space provision mandated by section 9.3.12.2.a of the Arundel Land Use Ordinance for clustered subdivisions.
4. J Group LLC has submitted an agreement dated August 10, 2018 signed by all aforementioned owners in the Brookside Subdivision consenting to the conveyance of land from the dedicated open space to Lot 5.
5. A revised record subdivision plan has been prepared of the Brookside Subdivision showing such conveyance, prepared by BH2M Engineers and dated April 25, 2018.

THEREFORE BE IT RESOLVED that based on the above findings and conclusions the Arundel Planning Board hereby approves the revision to the Record Final Subdivision Plan of J Group LLC for the conveyance of 3,546 sf of land from the dedicated open space to Lot 5, subject to the following conditions:

1. *The revised subdivision plat 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. A copy of the recorded subdivision plat shall be submitted to the Planning Department.*
2. *Amended deeds for both the dedicated open space and Lot 5 shall be recorded and submitted to the Planning Department.*
3. *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.*

Motion: Mr. Cain motions to approve the amendment to the subdivision plan. Mr. McGinn seconds.

Vote: All in favor.

Item 2: Pave Tec Corp Contractor Yard: *Conditional Use:* *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.*

Discussion postponed until after the second portion of the Public Hearing can occur. Currently scheduled for 9/13/18.

Item 3: Champagne Energy: Preliminary Site Plan Review: *Determination of Completeness:* *Proposal to install and operate a 12,000-gallon propane filling station open to the public on a 6.65 acre site currently used as a fleet parking lot at 833 Old Post Road, Tax Map 1, Lot 1A in the BI District. Champagne Energy is the owner and applicant. Eric Williams, PE of SGC Engineering LLC, is the applicant's agent.*

Discussion moved to last since the applicant's representative was not immediately present.

Item 4: The Capable Canine: *Conditional Use Application:* *Proposal to convert a portion of an existing residential structure into a dog kennel and training facility on an 8.9-acre parcel located at 863 Alfred Road, Tax Map 5, Lot 1 in the R-4 District. Jessica Robichaud is the owner and applicant.*

Applicant Robichaud reviews the updated map with both the well and composting area indicated. Discusses composting methodology. Confirms that the required parking spaces have been/will be added and that the sign has been designed with the appropriate inclusion of the 911 designation.

Motion: Mr. McGinn motions to deem the application complete. Mr. Cain seconds.

Vote: All in favor.

Motion: Mr. Cain motions to schedule the public hearing as the first one on September 13th, 2018. Mr. McGinn seconds.

Vote: All in favor.

Item 5: 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.

Site walk occurred prior to the meeting. It is confirmed that the building envelopes are dry and that the back lot will be accessed from the cul-de-sac.

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

Vote: All in favor.

Motion: Ms. Roth motions to set the public hearing for September 13th, 2018, second position. Mr. Bergen seconds.

Vote: All in favor.

Item 6: Request for Amendment to Land Use Ordinance: *Request to add "Museum" to the list of Conditional Uses specified in the Business Industrial Office District (BI) in LUO section 6.6.2. Motorland Classic Cars is the applicant and Sandra Guay Esq. of Woodman, Edwards et al is the applicant's agent.*

ITEM 6 WAS TABLED

Item 7: Request for Amendment to Land Use Ordinance: *Modification of Section 9.3.14.2 to extend the period of registration of an existing Contractor Yard as an "Existing Operation" from August 1, 2016 to August 1, 2020. The applicant is John West.*

Mr. West discusses how he was unaware of the, now past, registration period and inquires if there is a better/alternative way to make notifications. He feels that it is impossible that he is the only one that missed the notification period. To bring his landscaping/property management business back from a non-compliant status, he requests that the registration period be extended to August 1, 2020. Essentially, he was unaware that he was non-compliant until a complaint was filed.

Attendee Bassett suggests sending notifications with tax bills. Asks if it would be possible to extend the registration period for Contractor Yard 1 only; not Contractor 2 yards.

Motion: Ms. Roth motions to amend Section 9.3.14.2 as written to replace August 1, 2016 with August 1, 2020. Mr. McGinn seconds.

Vote: Mr. Cain against. Ms. Roth, Mr. McGinn, Mr. Ganong and Mr. Bergen in favor. Motion carries.

*This modification applies to both Contractor Yard 1 and Contractor Yard 2 establishments.

Item 3: Champagne Energy: Preliminary Site Plan Review: *Determination of Completeness: Proposal to install and operate a 12,000-gallon propane filling station open to the public on a 6.65 acre site currently used as a fleet parking lot at 833 Old Post Road, Tax Map 1, Lot 1A in the BI District. Champagne Energy is the owner and applicant. Eric Williams, PE of SGC Engineering LLC, is the applicant's agent.*

Topic is revisited. The applicant's representative has not returned but it's decided that attendance is not required in this instance.

Mr. Ganong reads the Findings of Fact.

**FINDINGS OF FACT AND MOTION FOR APPROVAL
Champagne Energy Propane Filling Station**

WHEREAS on June 14, 2018 the Arundel Planning Board received a Plenary Site Plan application from **Champaign Energy** to install and operate a 12,000-gallon propane filling station on a 6.65-acre site currently used as a fleet parking lot at 833 Old Post Road, Tax Map 1, Lot 1A in the BI district.

WHEREAS, on June 28, 2018, the Arundel Planning Board conducted a public site walk of the project.

WHEREAS, on August 9, 2018 the Planning Board determined the application to be complete.

WHEREAS, on August 23, 2018 the Arundel Planning Board conducted a public hearing of the project in accordance with Section 9.8.F.3.c of the Arundel Land Use Ordinance;

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 Champagne's Energy.
2. The property is located at 833 Old Post Road, Map 1 Lot 1A-1E in the BI district.
3. The property is approximately 6.36 acres in size.
4. The property currently is used as a paved parking lot for the Champagne Energy fleet of delivery and transport vehicles.
5. The applicant proposes to construct a install and operate a 12,000-gallon propane filling station at the northwest corner of the parking lot. While the applicant initially intended to offer retail filling services to the public, the applicant amended his application to limit filling service to the Champagne fleet.
6. The proposed parking area is an accessory use to the adjacent repair facility on Lot 1E and therefore will not generate any additional vehicle trips, nor result in a net loss of employee parking.
7. The applicants propose install Jersey barriers around the proposed tank on the south and east side in order to protect the tank from truck collisions. A chain link security fence will also be installed surrounding the tank for security purposes.
8. As shown of the site plan prepared by SGC Engineering LLC, vehicle approach to and from the filling station will be in a counterclockwise fashion and will not interfere with the parked vehicles on the site.

9. The applicant has prepared a Fire Safety Analysis for the proposed propane tank that has been approved by the Arundel Fire Chief. Existing hydrant water sources have been deemed adequate on Route 1 to meet water supply demand in the event of a tank rupture or tank flame impingement.
10. There is adequate on-site lighting to provide security and surveillance of the tank site.

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. An approval from the tank must be secured from the State Fire Marshall.
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 landscape and 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 neutral 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 **Champaign Energy** to install and operate a 12,000-gallon propane filling station on a 6.65-acre site currently used as a fleet parking lot at 833 Old Post Road, Tax Map 1, Lot 1A in the BI district. subject to the following conditions:

1. No construction shall commence until the applicant presents the Code Enforcement Officer and Town Planner with a permit of approval from the Maine State Fire Marshall.

Motion: Mr. Cain moves to accept the Findings of Fact as written and grant the requested permit. Mr. McGinn seconds.

Vote: All in favor.

VI. APPROVAL OF MINUTES

Motion: Mr. Bergen motions approve the July 26th 2018 minutes as written. Mr. Cain seconds.

Vote: Ms. Roth and Mr. McGinn abstain. Mr. Bergen, Mr. Cain and Mr. Ganong are in favor. Motion carries.

Motion: Mr. McGinn motions to approve the August 9th, 2018 minutes as written. Mr. Cain seconds.

Vote: Mr. Ganong abstains. Ms. Roth, Mr. Cain, Mr. Bergen and Mr. McGinn are in favor. Motion carries.

V. OTHER BUSINESS

Stop work order has been provided to Hissong at Bartlett Farms. Bond needs to be posted in order to make final connection to Liberty Acres. Hissong is looking to reduce the original bond amount to \$236,663.70. The Board finds that this figure plus 10% would be acceptable.

Motion: Mr. McGinn motions to approve a bond amount of \$260,330.07 for Hissong Properties Bartlett Farms connection to Liberty Acres. Ms. Roth seconds.

Vote: All in favor.

Mr. Cain motions to adjourn at 9:55pm.

Adjourn

Respectfully submitted,



Corinne A. Goulet
Secretary to the Planning Board

