

LIMERICK PLANNING BOARD

MINUTES JULY 6, 2016 – Approved 7-20-16

Aaron opened the meeting at 7:07 pm with Barbara Fifield, Dottie Richard, Sean Carroll and Wendy Farrand present.

WALK-INS:

None

CORRESPONDENCE:

1. Notice of Appeal for Santa's workshop from the BOA. Aaron stated we'll talk about that later in the agenda regarding that conditional use permit.
2. A letter from Kathy Ward, Aaron stated it was pertaining to a conditional use permit. I'll read it if you want. Wendy stated, I don't think we have to. Aaron, I'll put this in the file, so just file it.

MINUTES:

Aaron asked if everyone had read the June 1st minutes, I didn't get a chance to read them yet.

Sean stated I just printed them out this afternoon and I haven't read them.

Aaron stated I just printed them out a while ago, motion to table those.

Wendy motioned yes.

Dottie seconded and added that she went through them and only found one typo but didn't look at them closely.

Vote to table 4-0 In Favor.

NEW BUSINESS:

Aaron stated I have been asked to provide a letter stating that we have in fact denied this application. (Santa's Workshop). I would like some verbage as to how this letter should read and direct Joanne to send a letter to Mr. McLean and the board of appeals. It's my recollection that the board should deny the application, there was discussion after that there wasn't sufficient evidence and we didn't have enough time. I don't know what we want to say, that's my recollection.

Sean stated I thought we ruled based on him not answering the questions appropriately, time wasn't an issue.

Wendy directed her response to Dottie and stated you just said because nothing could get done.

Aaron stated I'm not sure that was the motion.

Dottie stated I think that was the way I made the motion.

Aaron asked because we can't get anything done?

Dottie stated well it took us eight (8) weeks to get to number two.

Aaron stated, if that's the case I think we should reconsider the motion, if that's what you think the motion was I think we reconsider that motion and make it that the applicant has not provided the appropriate information.

Sean stated I'd like to find out what the actual motion was because that is not what I remember the motion being; I remember Wendy saying that, then Dottie made a motion, and we clarified the motion not to make the motion that.

Dottie stated when Aaron said I don't think we can make a motion like that then Sean seconded it.

Sean asked the secretary about the motion and the secretary stated that she remembered it was based on the fact that you couldn't get anything done.

Sean stated I want to check that I don't think I would have voted on that motion, not that ambiguous. I believe I stated something more to the fact that we were asking the application things and he wasn't giving the information we had asked him for so I would check the date and find out what it was.

Aaron, OK.

Wendy stated that the hard thing for me I've seen the appeal and I feel that we wouldn't be able to be an unbiased board.

Aaron stated well that doesn't have any barring, we've already taken care of that.

Wendy stated I made a motion that Sean and Barbara recuse themselves.

Sean stated yes but we've worked through that so we are rehashing that Barbara recused and we came back to the board, so let's not rehash.

Dottie stated there's a statement in the MMA manual that if we are off the board and if there is no quorum it goes to another board that has the authority to hear it and that would be the appeals board so they would do a de novo appeal.

Sean stated we ruled based on what we thought was the rule and we're not any wiser now.

Dottie stated I believe I made the statement that the appeals board would hear it but I don't have the wording in front of me.

Aaron stated alright but the appeals board, while there is some case law, I guess it does state that but the appeals board in Limerick has always acted an appellate so I think they have the jurisdiction to hear it in that manner at this point.

The secretary asked Aaron about the notification on the appeals board hearing it de novo.

Aaron stated no I have gotten no information regarding that.

The secretary asked Aaron when the BOA asked for a letter.

Aaron stated Mike asked me to provide a letter that we have in fact denied the application so without that there's no action at this point, no action and no minutes, so we either produce that letter or I'm not sure what they will do, review the tape, I'm not sure.

Sean stated the minutes should be done and a letter should be drafted stating what we did, we discussed it and that should be a matter of record; let the appeals board review our work, I think our work will hold up to review, whatever the motion was, it was, and that is what the board can come up with as a conclusion so that should be moved forward for the permanent record and if the BOA feels it was done incorrectly they will kick it back to us. We don't need to rehash what was done in that meeting; I don't think we can change anything we have done so get the minutes written and move on with the agenda.

Aaron stated we can reconsider, I believe it is 2/3 of the members who voted needed to reconsider, it is possible.

Sean stated so we need to find out what the motion was.

Aaron stated so at this point the appeal is scheduled for the 13th and we have no minutes for them and we don't have a denial letter but we won't have approval by the 13th.

Dottie just an FYI what I was referring to is on page 25 and the top of page 26.

Aaron stated that's not our bible it's our guideline there is a difference for what we've found and what we should use.

Wendy stated she is just letting you know where she got that information.

Dottie stated it's the rule of necessity what I've been talking about, it's on page 26.

Aaron stated so there is no decision at this point, we're going on to Brett's review.

COGILL REVIEW:

Brett Cogill passed out a paper to the board.

Brett stated, I'm Brett Cogill 67 Emery Corner Road, last time I was here you asked me to get hold of Bob Richardson; after our site walk you mentioned another parking spot. I talked with him and this is exactly what he told me to write up and I made copies for you. (No copy was provided to the secretary).

Barbara asked did you get a chance to look at the state requirements?

Brett stated yes I did and one of the requirements is I have to have a small garage but I need to get approval from the town before I go to the state.

Barbara stated one of those things in the list is five thousand (5,000) square foot area for a display area, this would not make that (indicating the plan).

Brett stated it's actually 5,000 sq. ft. for the whole area, I have over two and a half (2 ½) acres if you want to make that whole area a parking spot, you can, I only have four (4) cars most places have 50-60 cars I only have 4, it doesn't say I have to pave it or anything, I can park them on grass.

Sean stated he can get his state license but he has to get town approval first, other than that I don't think it's our business. If he needs to have a 5,000 sq. ft. excavated then he has to do it to get his state approval.

Barbara asked what are the little circles at the bottom of the sketch plan?

Brett stated that is trees, it was going to be a fence but I'm going to put in a couple of shrubs, they will look prettier.

Dottie asked is this parking down in the front.

Brett stated yes.

Dottie stated so that is the turn around.

Brett stated yes and there will be more since looking at the property there will be leveled areas so I'll have other parking at the end.

Sean asked, so Bob said the parking spot next to the road is OK.

Brett said yes he told me to have a foot and a half (1 ½) to two (2) feet from the road.

Sean asked should we get something from him or did he sign off on it; we did decide for you to have some sort of a turn around so you wouldn't be backing into the road. I just want to make sure that is legal and you can excavate that and you don't infringe on the town right of way.

Brett stated no he said everything was alright just make it so someone can pull in there and leave.

Sean stated I guess I would want to know, is that an eight (8) foot wide parking spot, so where is that front corner of the parking space in relation to where the measurement was taken from.

Brett stated I went in two (2) feet from the road and then measured in eight (8) feet.

Sean I would just like to know where that front corner is, the town owns so far from the center of the road so if the town puts in a strip.

Brett stated they can't do that it's my land.

Sean stated that's why I want to see where that is.

Brett stated I measured in eight (8) feet and I measured four (4) feet from the blue spruce.

Sean asked Ron Phinney, code officer, if he knew the width of that road, is it like a three (3) rod road.

Ron responded from the audience but it was not audible.

Sean directed to Brett, I think this is great you did exactly what we asked I would really like to see where that is.

Aaron stated I don't know how the rest of the board feels, I think this sketch has come a long way but it just isn't there yet. There is no way to define where it is on the earth, no distance to the corner and no delineated house on the lot, it just isn't quite there yet.

Sean asked if these distances were surveyed.

Brett stated my whole property was surveyed when I bought it 2 ½ years ago and I spoke to your road officer and this is what he told me, that's his job, I would think this would be perfect, it's his job to tell me where to park, it's the road inspectors job.

Aaron I'm not speaking to the road commissioner's job, I'm speaking to the planning boards job, it's our job to decide if a sketch plan can be reproduced later on, on the ground, and this is a nice drawing but you need to have reference points and swing ties so it can be reference to where it is on the ground.

Dottie asked if the tree was a reference point.

Aaron stated the tree could be gone, if the corner of the house were referenced, if the house had been drawn on there to scale then I would have said yes he's done it. There are a few things missing.

Dottie stated Ron just looked at it and he said he needed a better reference point.

There was a discussion about him leaving and coming back later with the measured distances but that was rejected.

Aaron stated you need to mark the left side of your property line and the right side the feet to the paved driveway and the house needs to be drawn on.

Wendy asked is there anything else he needs to do.

Barbara stated we haven't even gone through the 16 requirements that needs to be done.

Brett stated we have gone through the 16 requirements, I remember you asking the questions.

Aaron we have not gotten to the review part, we have not started your review, I want to make sure that the sketch plan has those measurements on it. If I were going to do it I would have it to scale, have a north arrow and distances to different points. I would have done it on a tax map so I could use that scale and show exactly where things are on the land.

Brett stated I did that and he said he wanted more.

Aaron stated drawing a box on it and actually doing it to scale are different. What I want to see is a boundary marker on the left side which would probably be the north side, a boundary point on the right side and drawing the house and the distance off the driveway, probably should be off the road from there.

Dottie asked if he was going to put a fence outside of the front.

Brett stated yes I've been planning to do that anyway.

Aaron you need to indicate if it's an iron pin or rebar.

Brett stated I know exactly where it's going I just get the measurements and draw in the house.

Aaron stated what I would like to do instead of you going home is to move forward but before we issue the permit that has got to be done.

Brett stated not a problem.

Barbara asked if the area under the cars would be paved too.

Brett stated yes that will be paved too.

Aaron asked so at that point is everyone OK with going through the review criteria.

No response.

REVIEW:

Article VII – Conditional Uses

Aaron started by reading A.

A. A conditional use permit is designed for those uses, which may be permitted as a service to the community or for the benefit of the town's general welfare. The standards of this provision are designed to ensure adequate control of the location, design and operation of conditional uses.

B. The Planning Board may approve an application for a Conditional Use Permit if the applicant demonstrates that the proposed use:

1. Will meet the definition and specific requirements set forth in this ordinance for the specific use;

Barbara stated that on the Land Use Chart this is allowed under Section E of our ordinance; new used car lots are allowed in the district after issuance of a conditional use permit by the planning board. No structure will be located within fifty (50) feet of any property line, public way or within two hundred (200) feet of any dwelling not on the property so I think this is the answer to number one (1) listing those for a specific use.

Aaron stated that is one of the four (4) requirements we generally go through the sixteen (16) conditions before we do those four (4) conditions. That is a hold over by the appeals board and it wasn't very well thought out.

Dottie stated that seems to be more for junkyards or salvage yards instead of used cars.

There was discussion about what should be applied in this instance, a fifteen (15) foot planting was discussed.

Aaron stated I don't personally think those things apply to this and I would like to move on to the 16-conditions and we may go back to these after.

Dottie motioned and Wendy seconded the motion that the applicant has met number one (1) based on the fact that a used car lot is allowed in the RFF district with a conditional use permit.

Aaron stated that it is also a C2 and requires a permit by the Selectmen; he asked if there was more discussion and hearing none called for the vote.

Vote 3 In Favor – 1 Opposed

- 2 Will not have a significant detrimental effect on the use and peaceful enjoyment of adjacent or nearby property as a result of noise, vibrations, fumes, odor, dust, light, glare or other cause;

Dottie motioned that based on the applicant's statements and information provided at the site walk, the applicant will be selling on EBay and not having much foot traffic, the only lighting will be a motion light on the house and no operation in the evening this is met.

Sean also added that there were no abutters who objected.

Barbara if we take each one of these one at a time like noise if the answer is no as long as nobody races engines, vibrations probably no vibrations, fumes probably some, odor kind of falls into that same area, the cars are going to be paved so no dirt to create dust, light you said only one light on the house, that kind of takes care of glare too, you also said you are not operating in evenings.

Aaron so the motion is based on the information at the site walk and statements here the applicant has met this condition, Dottie that's your motion and Sean you seconded that, both said yes.

Vote 4-0 In Favor

3. Will not have a significant adverse effect on adjacent or nearby property values; Barbara stated that this meets the criteria based on #3 having no public objection.

Vote 4-0 In Favor

4. Will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion; Sean motioned and Dottie seconded the motion based on information at the site walk and the road commissioner's letter # 4 meets the conditions.

Vote 3-1 In Favor

5. Will not result in significant fire danger; Sean motioned and Dottie seconded the motion based on the approval of the fire chief this is met.

Vote 4-0 In Favor

6. Will not result in significant flood hazards or flood damage, drainage problems, ground or surface water contamination, or soil erosion; Dottie motioned and Wendy seconded the motion based on information at the site walk and at tonight's meeting and the applicant having some sort of spill kit and use kitty litter this is met.

Vote 4-0 In Favor

7. Will not create a safety hazard because of inadequate access to the site, or to the buildings on the site, for emergency vehicles; Dottie motioned and Wendy seconded the motion that based on the site walk, the plan and information provided by the applicant this is met.

Vote 4-0 In Favor

8. Will not create hazards to motorists traveling on adjacent public streets, is adequate to the safety of occupants or users of the site and will not damage the value and diminish the usability of adjacent properties; Dottie motioned and Sean seconded the motion that based on there being only one (1) motion light and on the site walk this condition has been met.

Vote 4-0 In Favor

9. Makes provisions for buffers and on-site landscaping, which provides adequate protection to neighboring properties from detrimental features of the development; Wendy motioned and Barbara seconded the motion that based on the sketch plan buffers shown and shrubs included this condition was met.

Vote 4-0 In Favor

10. Makes provisions for vehicular loading and unloading and parking for vehicular and pedestrian circulation on the site and onto adjacent public streets which neither create hazards to safety nor impose significant burdens on public facilities; Dottie motioned and Sean seconded the motion that based on the sketch plan, the applicants description and the site walk this is met.

Vote 4-0 In Favor

11. Makes adequate provision for disposal of wastewater or solid waste and for the prevention of ground or surface water contamination; Dottie motioned and Sean seconded the motion that based on information provided by the applicant, the site walk

and having a spill kit this is met. The applicant stated there will be no car washing all detailing done when he purchases the cars at auction.

Vote 4-0 In Favor

12. Makes adequate provision to control erosion or sedimentation; Wendy motioned and Dottie seconded the motion based on the site walk, information from applicant that the site will be paved this is met.

Vote 4-0 In Favor

13. Makes adequate provision to handle storm water run-off and other drainage problems on the site; Wendy motioned and Dottie seconded the motion that based on the topography, site walk, information from applicant that the site will be paved or grass this is met.

Vote 3-1 In Favor

14. Provides for a water supply that will meet the demands of the proposed use; Sean motioned and Dottie seconded the motion based on the fact the property is on town water, there is a fire hydrant across the street and there is a silcock on the house this has been met.

Vote 4-0 In Favor

15. Makes adequate provisions for the transportation, storage and disposal of hazardous substances and materials as defined by State law; Sean motioned and Dottie seconded the motion that based on the applicants statements that he will adhere to requirements by the state this has been met.

Vote 4-0 In Favor

16. Will not have an adverse impact on significant scenic vistas or on significant wildlife habitat, which could be avoided by reasonable modification of the plan; Dottie motioned and Sean seconded the motion that based on the site walk and the plan this is met.

Vote 4-0 In Favor

Article VI Section E 1-4

1. No structure (buildings or equipment) shall be located within (50) fifty - feet of any property line, public way, or within two hundred (200') feet of any dwelling not on the premises.

Vote 4-0 In Favor

There was lengthy discussion or if these 4 conditions were intended for used cars or just junkyards and salvage yards.

2. The issue of burning torches for repair or dismantling of vehicles shall be confined to non-combustible floors in enclosed buildings, or in the open, only upon areas cleared of all vegetation and other combustible materials; Dottie motioned and Sean seconded the motion that based on the applicant stating very limited repairs if any this is met.

Vote 4-0 In Favor

3. A screen of plantings not less than fifteen (15') feet in depth shall be maintained as a visual barrier to conceal salvage operations, and dismantled or stored vehicles from view of any dwelling or public right of way. Such vegetative screen shall have a mature height of not less than fifteen (15') feet; Dottie motioned and Wendy seconded the motion that this is not applicable to used cars.

Vote 4-0 In Favor

4. Planning Board may require construction of an eight (8') foot high wooden fence, which shall blend harmoniously with its environs, in such cases where vegetation is not feasible, desirable, or effective; Dottie motioned and Wendy seconded the motion this is not applicable.

Vote 4-0 In Favor

The proprietor of any such facility shall apply for renewal of his/her conditional use permit every two (2) years. Failure to comply with the provisions of this ordinance, as interpreted by the Planning Board shall be cause for revocation of the conditional use permit after public hearing of non-compliance.

SPECIFIC CONDITIONS OF APPROVAL:

1. The applicant is to provide additional measurements completing the sketch plan with reference points from the boundaries, parking lot, road, and adding the house and all reference point locations on the plan including the North Arrow.
2. The applicant agrees he will meet all applicable local, state and federal regulations

Dottie motioned and Sean seconded the motion to grant the permit contingent upon the approval of the final sketch plan.

Vote 4-0 In Favor

UPCOMING AGENDA:

Aaron discussed the agenda and the fact that the board set the agenda for the July 20th meeting.

- Approve the tabled minutes for April 6th.
- SA McLean CU Used Car review
- Brett Cogill Findings of Facts
- Workshop if extra time

The board asked the secretary to have the June 1st and July 6th minutes ready as well as the findings for Cogill for the July 20th meeting.

ADJOURNMENT:

The meeting was adjourned at 9:55 PM, all were in favor.

Respectfully submitted,

Joanne L Andrews

Secretary