

**LIMERICK PLANNING BOARD – approved 11/19/12**  
**Minutes August 20, 2012**

Dave Coleman, Adam Wardwell, Andrews Ivey, Aaron Carroll were present, Frank Carroll II and Jean Pellegrino were absent.

**PUBLIC HEARING:**

**Dave** opened the public hearing being held jointly with the Board of Selectmen for Pending Ordinance and Zoning Changes at 7:03 PM.

**Dave** read the public hearing notice for the changes proposed to the town's ordinances: Repeal Sludge Ordinance, amend the Sign Ordinance, Amend the Building Code Ordinance, Repeal Article 1X Section E, Accessory Dwelling Units Ordinance and change the zone for Map 24 Lot 61 the Smith property from residential to business on request of the property owner. **Dave** stated that the first 5-ordinances were items that the code enforcement officer and the planning board have been working on at various workshops during the past year; the CEO has had problems in the past that he feels require these proposed changes. **Dave** asked the CEO Norm Hutchins to come up and explain the problems he has encountered with these various ordinances.

**Norm Hutchins** stated that the sign ordinance the town has currently has provisions that hurt businesses in town. A business cannot advertise anywhere else in town except on the business property therefore the changes he is proposing gives businesses in town more opportunity to advertise and increase business. Looking through the existing ordinance with the planning board I feel we have come up with proposals that will help everyone and spell out more clearly what can and cannot be done thereby helping me to enforce your ordinance.

**Dave** stated he would begin with the Sludge Ordinance asking for comments or concerns from citizens or the board members. Dave continued stating that Norm had brought it to the board's attention that the Maine DEP now enforces this.

**Robert T. Libby** stated that for his self he would like more information as to why Norm feels it necessary to change the sludge ordinance. We have an ordinance in town that does not allow sludge coming from wastewater being spread, are we trying to allow this now.

**Dave** asked Norm to speak to this also stating that repealing this will eliminate the town enforcing this and allow the State to become the enforcement of this repealed ordinance.

**Norm** stated that the current ordinance is one of the ordinances he feels is outdated and if this were ever brought to court could not be upheld. The State ordinance is more restrictive on spreading sludge as well as other chemicals that can be used by farmers. The State will enforce its ordinance and specifically stated in 30A Section 3001 that municipalities shall follow the rules and regulations set forth by the State also there have

been many changes since the town's ordinance was enacted and even changes made by the State in 2007 appear to me to be outdated.

Selectmen **Bob DeVilleneuve** asked that Norm relate to the board information that was told to him by Norm; if a homeowner has their septic system pumped and that is spread on land what would happen.

**Norm** if that should happen, and it possibly could happen, if the landowner was turned in by a neighbor then the company that spread that material would lose its license. Companies know that it is illegal.

**Dave** stated that what Robert appears to be concerned about is sludge that come from waste water, can this be spread.

**Norm** stated no, this is not allowed the State is very restrictive in this area. My problem is that if someone comes to me with a possible violation I am not an expert on this subject and what is good stuff or bad stuff that is being spread, I am not a farmer.

**Cheryl Kontos** asked can human waste be spread on land.

**Norm** stated, no and there are State restrictions on anything being spread without permits, permits are required, you also cannot spread within so many feet of wells or water bodies as far as the State is concerned.

**Robert T. Libby** stated he is still confused, we have an ordinance in town if its septage or any other kind of sludge it cannot be spread in this town, are we trying to change this; why has this been brought up. Is it the code enforcement or the planning board that has brought this up and we do not need any guidance from the State we can figure this out on our own.

**Mike Welch** stated that not mentioning any names he has been told that a farm in Limerick has gone through the permitting process with the State and has a permit to spread on its farm. It appears to me that the board wants to eliminate the town sludge ordinance and replace it with the State DEP laws and rules.

**Dave** stated yes.

**Mike** stated he thinks that when the town ordinance is repealed at the same time the State ordinance should replace the repealed ordinance; the town can be more restrictive but cannot have an ordinance that is less restrictive. Raw sewerage or septic material cannot be spread it just not allowed but if we take this ordinance out it should be replaced by the State laws.

**Tony Carroll** stated that there is some confusion on this issue, sludge is permitted to be spread in this town now but the bonds required are so expensive that no one can afford it. Jonathan Malamute was instrumental in drafting this ordinance and he put the bonding

requirements so high that it just isn't feasible, nobody can afford it and I do not believe there is anyone in town that has a permit and I don't believe there will ever be one, it's just too expensive. There are different classes of sludge Class A and Class B and a lot of these classifications have human waste in them that have been treated and tested and unless a person is licensed to take this material the fines are so high if they do use it then they would probably be out of business. Even if I wanted sludge on my farm, and I don't, I am not licensed to take it. I don't know what brought this around. I just got some short paper fiber from a paper mill and this is a good source of lime, other farms in the area have used this to. Our farm operates under a State required Comprehensive Nutrient Management Plan, we are required to do soil tests every 5-years and if we exceed allowed levels we lose all federal funding we have to abide by this plan if we want to stay in business. Another thing that comes under the management plan is odor and we work very hard to keep the odor down, sometimes the weather does not cooperate and we may look like the bad guy but we try hard to keep the odor down.

**Denise Benton** asked if the Sludge Ordinance was passed in 1994.

**Dave** stated correct.

**Denise** stated that the bonding required by the town in the ordinance is three million dollars.

**Dave** stated correct and asked if there were any more questions, after hearing none then he moved on to the Sign Ordinance. As Norm has indicated to us he has encountered some enforcement issues under the current ordinance and would like to see some changes. The board does not usually see any issues pertaining to signs only if it is a part of a conditional use permit.

**Denise Benton** stated that looking back she has found an almost mirrored ordinance that was supposed to have passed in 2011, was that passed?

**Dave** stated that this ordinance was among those that the board has been working on for about two years and if passed it was not worded as was proposed by the board.

**Denise** stated this looks like the same wording except it looks like a \$10.00 fee to be paid to the code office has been taken out, am I mistaken.

**Dave** stated that one change is signs advertising for businesses outside of town would not be allowed. The one we proposed last year was supposed to change only numbers were added where the words were and the words were added where the numbers were.

**Denise** stated I am not sure what the difference is, am I looking at the correct book?

**Dave** stated that what he has is the attested copy from the town clerk.

**Frank Carroll** asked if what we are discussing is just signs in right of way. We aren't talking about signs on private property are we?

**Denise** stated that a sign according to State law that is not 33-feet back from center line of a road is not allowed. Denise continued by reading MRSA 23.

**Frank** stated that road right of ways a different like Route 11 the right of way is 100-feet, where do you find these.

**Norm** stated that State Law states agricultural signs are allowed but has to be outside of the right of way.

**Frank** stated he is questioning the width of different roads.

**Norm** stated that he goes by where the telephone pole are set, assuming that those poles are set on the edge of the right of way.

**Denise** stated that she feels if this ordinance passes it will open up and allow signs from out of town businesses to put signs all over the town; and she feels the best thing the state ever did was get rid of billboards. All a business needs to do is go to the State and pay a fee and have their business sign on a state post that is up in the air out of the line of vision, there seems to be 3 or 4 businesses that refuse to do this and I don't know why.

**Mike Welch** stated that one thing to consider is having a definition of business sign, if you look at the camp roads there are signs all over the trees.

**Dave** continued by going on to the Building Code Ordinance.

**Mike Welch** stated that on March 3, 2012 the exact wording passed by a vote of 174 to 68, to save time I would like to skip this.

**Dave** stated that is correct but the old BOCCA Ordinance was never repealed it still remains as part of our ordinance so there is conflict between all the old codes and the new code voted on in 2011.

**Mike** once we voted in this new state code it supersedes all the old codes it is required by state law.

**Dave** yes the new code supersedes everything else.

**Robert T. Libby**, I am confused why is this here and what are we trying to do. If we're trying to keep up with state code that's one thing but if the CEO or the board is trying to come up with more rules than I think we should nip this in the bud.

**Dave** stated this is not a rule, its housekeeping; if someone wants to build a house using BOCCA code can they, it's still there in our ordinances.

**Norm** stated this is a housekeeping thing, the state says if you vote in something new then you have to vote out the old.

**Dave** then goes on to repeal the \$1,000.00 required for a building permit, that \$1,000.00 needs to come out.

**Norm** stated I want to see this repealed because the new State Building Code Ordinance actually states what is required for a permit, maintenance of your home does not require a permit. Siding or a new roof does not require a permit, it is maintenance, a structural change does require a permit, everything is spelled out in the new State code and this \$1,000.00 just confuses everything.

**Mike Welch** stated replacing windows, roof, siding these are not structural changes. Structural changes are home additions or adding a deck and Norm has a check list of what changes need a permit and those that don't require a permit.

**Dave** stated that anyone wishing to talk has to go to the podium because their comments cannot be heard by Scott who is taping the meeting.

**Robert** asked Norm if you have a cottage on the lake that is sagging, doors will not close can it be leveled by jacking it up and putting in a foundation.

**Norm** stated shoreland zoning is a whole different ballgame, anytime you do digging it requires a permit.

**Robert**, I am outside of shoreland zoning 250-feet do I need a permit.

**Norm** stated that putting foundations under a house is not routine maintenance it is a structural change.

**Bob DeVilleneuve** asked if a camp is out of level can it be jacked up a blocks set to level it not a foundation just setting it on blocks.

**Norm** stated no not a camp in shoreland zoning, both the Building Code and Shoreland Zoning Ordinance stand alone you have to look at one and then the other to see what is allowed or not allowed they don't work together.

**Tony Carroll** stated I know that our building code is confusing and this should be changed.

**Dave** stated that he is going on to Accessory Dwelling Units and asked Norm to address this change.

**Norm** stated that he suggested this as an ordinance because right now in the FFR zone multifamily units are not allowed, multi means more than one. This ordinance will allow a family member to have an apartment in your home as an accessory unit, right now the

way your ordinance is written this is not allowed. This will allow an apartment contained within your home to keep the look of a single family home it requires an entrance through your home or breezeway and will not allow an apartment so big that it is obvious and looks like an apartment house. Another problem with multifamily use is the septic systems, are they large enough to accommodate the added usage.

**Aaron** asked if you can have more than one dwelling per lot.

**Norm** stated yes as long as there is the required setbacks, square footage and road frontage.

**Aaron** asked if an apartment is allowed over a garage.

**Norm** stated yes as long as the garage is attached to the house.

**Aaron** what if the garage is a secondary building.

**Norm** right now your ordinance does not allow it unless the garage is more than 30-feet from your house and has at least 350-feet of road frontage for two separate buildings so that they can be separated with the required setbacks.

**Mike Welch** asked if you have garage 20-feet from your house and I put in a separate septic system for a 1-bedroom apartment over the garage that wouldn't fall under this accessory dwelling ordinance and be allowed.

**Norm** stated no.

**Mike Welch** stated then I wouldn't be in favor of this ordinance. What's the difference between an apartment within your house and an apartment over your garage?

**Norm** stated an apartment over a garage is multifamily and is not allowed in the FFR zone unless you can meet the setbacks, lot size square footage and road frontages then you don't need this accessory dwelling ordinance.

**Denise** stated I would be against it for the same reason as Aaron and Mike; I don't have 350 feet of road frontage but I do have enough room for an outbuilding or garage with an apartment over it and I think that should be allowed in RFF.

**Dave** asked for more input and hearing none went on to the rezoning of Map 24 Lot 61 as requested by Patricia Smith.

**John Hutchinson** from Corner Post Engineering and Surveying stated he was asked by Sanford Institution for Savings to look at the Smith property as a potential site for a new branch office for the bank by looking at the boundaries and zoning.

**Dave** stated that this change the board feels is necessary to accommodate a business, currently there is very little land available in Limerick for businesses to relocate there's only a couple of places for lease and a couple of parcels for sale.

**Mike Welch** asked if spot zoning comes into play here.

**Dave** agreed that spot zoning is not allowed, this parcel was originally zoned business in 1962 and was changed by a special town meeting years ago to residential.

**Mike** asked if this is considered spot zoning.

**Patricia Smith** the land owner in question stated that her current property is made up of three separate lots and the land in the back behind the two house lots they bought is part of the airport and is still zoned business, they had the house lots changed from business to residential in 1968 or 1969.

**Dave** read the warrant article voted on to change four homes from business to residential by a special town meeting. Dave stated that the problem with the zoning maps is that O'Donnell overlaid some of the lots.

**Aaron** asked if there was a reason why a conditional use permit wouldn't work.

**John Hutchinson** stated representing the bank that this is the residential zone and business is not allowed in the residential zone so a conditional use permit would not work. Mr. Hutchins said that in his research he has found a map that shows the Smith property as now being in the business zone.

**Aaron** stated that it may be more prudent to amend the zoning to allow business in the residential zone.

**Denise Benton** asked how the bank would feel about only having one lot re-zoned business and leaving the other lot residential.

**Robert Libby** stated that he is very much in favor of the re-zoning, the bank has chosen Limerick once and they are choosing Limerick again, they faced circumstances a year ago and are still here. My recommendation is to give this business a lot of support. This will increase the value of the abutting property nothing but more value.

**Blaine Boudreau** representing SIS gave an overview of the plans summarizing the banks position and showing the lot layout and what the new bank will look like.

**Dave** asked if this were the only property the bank considered.

**Mr. Boudreau** stated he couldn't say what other property they considered but this lot has the traffic and location that is more feasible to the bank there are no limitations at this site like they are facing with the current bank building. The Main Street bank is a very old

building needs substantial rehab and they will still have a very old building. This new location works for a new facility.

**Tony Carroll** stated that his brother owns the airport and he is unable to attend the meeting but told Tony he has no problem with this plan. Tony stated that this is not spot zoning it is only extending the business zone and when you live near a business zone your property will be included when that zone is extended.

**Maureen Libby** stated she is very much in favor of this and the town should support SIS in any way so that we may keep our bank in town.

**Joe Racicot** stated he is in favor of this plan.

**Pat. Lamontagne** the abutter is worried about what other business may be brought in so close to the ball field, she also asked how large a lot was needed for a commercial lot.

**Dave** asked the code enforcement officer how many businesses could be built on this property.

**Norm** stated that two businesses would be allowed.

**Pat Lamontagne** the abutter asked about fencing.

**Dave** stated he could not answer that question, in this case where it is business zoned it would be up to the bank.

**John Hutchinson** stated there will be engineering and landscaping and showed her the pictures of the new bank in Sanford.

There was brief discussion about keeping one of the lots residential and just re-zoning the lot next to the hardware store but this would not be acceptable to SIS.

**Dave** stated that as a Planning Board we need to look at these zones and make recommendations as to how we can expand the business space as it seems to be needed. Dave continued by stating that he has brought before the board the request from the Smith's and that includes the whole parcel that they own.

**David Snyder** stated he has concerns about a business being built on Park Street so close to the ball field.

**Joanne Andrews** stated that where the back portion of this lot is already zoned business even splitting the two front lots would not prevent someone from building a business to the back of the lot using one of the front lots as an access to the back.

**Pat Lamontagne** stated that they are still very worried about what will be next to them on the lot where the Smith house is located.



**Dave** stated again that what is before the hearing tonight is the request received from the Smiths and that includes all of their land being put in Business Zone.

**Dean LePage** asked about a restriction as to what can be put on the other lot.

**Mr. Boudreau** stated that the bank does not want to limit what they may be able to do with the rest of the property.

**Dean** stated that the neighbors should be considered in whatever is done with the property.

**Cheryl Kontos** stated she doesn't know why the bank doesn't utilize the whole lot for the bank.

**Aaron** stated that it should be considered that the back of this lot is now business and a road could be put in and the bank could be built on the back lot right now. In the future the abutter's lot will be worth a lot of money for a business.

**Robert Libby** stated that this is progress, things change and this is on a main artery on Route 11.

**Pat Smith** stated she has to sell this property her husband is in a nursing and she cannot afford to keep it, if the bank doesn't buy it she has to sell it to someone and they may not be a nice bank. The Lamontagnes are good neighbors and she doesn't feel that the bank will be a problem they aren't open Saturday afternoon or on Sunday.

Someone in the audience stated was it spot zoning so **Dave** stated that in his opinion this is not spot zoning, this is a natural progression extending the existing business zone with this lot for a bank. The planning board is going to workshop the lack of business property and will start at an existing business zone when recommending an extension of that zone.

**Tony Carroll** stated that the bank is not going to sell the other lot for a business that is not going to be a good neighbor for them; this is not something that the bank would do.

**Dave** stated that applicants come before us and the code enforcement officer comes to us with requests and I do not feel that the six of us on this board have the right to say what goes on the warrant and what doesn't go on the warrant for the townspeople to vote on. The board will decide tonight if we recommend to the Selectmen that this be moved forward to be voted on by the people.

**Bob DeVilleneuve** stated that he feels a nice bank in this location is much better for the neighbors.

**Dave** read some of the uses that could be built in this location with a conditional use many of which would be a lot more intrusive than a bank.

**Dave** stated that the regular meeting will follow this public hearing at which time the board will decide which of these requests they will recommend to move forward to a vote on a warrant article. After hearing no other questions or comments **Dave** closed the public hearing at 8:56 PM and move on to the regular meeting after recessing for 5-minutes.

### **CORRESPONDENCE:**

1. Holding tank information from Norm Hutchins.

### **MINUTES:**

**Adam** motioned and **Andy** seconded the motion to accept the minutes of July 16, 2012 as presented.

Vote 3-0 In Favor - Aaron abstained

### **WALK INS:**

**Selectmen LePage** addressed the board with a request to change the meeting night of the Planning Board to the 3<sup>rd</sup> Wednesday of the month so that the Selectmen can meet on Monday nights instead of Wednesday nights. Dean is on the county budget committee and therefore would miss Selectmen's meetings as the York County Budget Committee meets every Wednesday night. Dean has checked with Scott to see if this is alright for taping the meetings. Dave asked if this is alright with the board members present, the members present all agreed to this change.

**Norm Hutchins** addressed the board concerning up-dating of the ordinances. The subject he wishes to address is the single-family seasonal that has been a concern he has dealt with from the time he first took the CEO position. Right now he has 21 homes in Lake Arrowhead with people living year round on lots that range from 14,000 sq. feet to 22,000 sq. feet and I am sure I will find more I have just looked at some of the maps and tax bills I haven't checked with the town clerk concerning vehicle registrations. This has taken place since the town increased the requirements in this zone to 35,000 sq. feet. In looking at the maps I can understand why the town included Lake Arrowhead in the single family seasonal zone but I don't understand why Sokokis Lake and Pickerel Pond were included. I also have a problem trying to determine dimensions in the shoreland zone; the maps don't define the distances.

**Dave** stated that the problem with zone dimensions is the fact that the original zoning map was done in 1962 and then the other zones were overlayed over that original map and then on top it off at various times the town would change zones, a good example of this is the Smith zone change, some of the maps that he and the secretary still show the Smith property as being totally in the business zone. You are right with all this overlaying one on top of the other you lose where a zones begin and end and that's why the state want a written description of where the zone begins and ends. My question concerning

those people that are living in the zone without the proper square footage what do we do to correct these problems with people that have been living there for years.

**Norm** stated that it is his job to enforce the town ordinances but for him to go to someone that has been living on these lots for 5 or 6 years and tell them they have to move out, this is just not going to happen and this would only result in the town being involved in a lot of lawsuits. I'm trying to avoid all this but it isn't fair to the people who complain to me that their neighbor is living on 17,000 sq. feet and they know this is not legal.

**Dave** stated that he admits the town has known that this elephant has been in the room for a long time and nothing has been done to change this, we have had meetings and talked about it but the change has not been written on paper. I put this on the list of agenda items and we will try and work through this.

**Norm** stated that another problem that has arisen that I have been dealing with is accessory dwelling units. Right now I have an individual that has bought a piece of property with a garage on the property and an apartment over the garage, actually this apartment is not supposed to be there, it was supposed to be an office and there were no plumbing permits ever issued. The individual also wants to build a duplex on the property and in going through the ordinance I find this is not allowed as duplexes are not allowed in the Residential Farm Forest District, no multi-family units are allowed and I consider a duplex to be a multi-family just like three or four units.

**Dave** looked to see if there were a definition for duplexes or just multi-family and he read the definition for multi-family that states not more than 4 dwelling units, in RFF multi-family buildings are not permitted. Dave stated that the board will look into this in upcoming workshops; the workshops will now be on Mondays. The board set the next workshop for Monday September 10<sup>th</sup> at 7:00 PM at which time the board will be discussing, back lots, driveways, roads, holding tanks, single-family seasonal and duplex definition.

**Dave** asked Norm to stay as he wants to run through some of the pending ordinances.

**Aaron** stated the he was told that Standish just enacted a new sludge ordinance.

**Norm** stated that was not the case he has talked with Standish and was told that no that Standish is using the State Sludge Ordinance.

**Aaron** stated that he must have been misinformed.

**Dave** stated that he wants the board to vote on some of the pending ordinances, voting on sending some of them on now to the Selectmen so they can be placed on the ballot in November; the sludge ordinance he would like to see tabled and further discussed in the next workshop, have another public hearing and have it ready for the March ballot, now it does not seem to be workable.

**Adam** stated he has a problem with doing away with the bonding.

**Norm** stated that he had read the state ordinance and some things can be more restrictive than the state and some things can't be more restrictive.

After a brief discussion **Adam** motioned and **Aaron** seconded the motion to table the Sludge Ordinance until then October workshop.

Vote 4-0 In Favor

**Dave** stated the next ordinance is the amendments to the sign ordinance and the board has worked on these changes for over 2-years.

**Andy** motioned and **Aaron** seconded the motion to send the Sign Ordinance to the Selectmen to be added to the Warrant for the November vote.

Vote 4-0 In Favor

**Dave** went on to number three the amending of the Limerick Building Code Ordinance.

**Aaron** motioned and **Andy** seconded the motion to send it on to the November ballot.

Vote 4-0 In Favor

**Adam** continued with number 4 repealing Article IX Section E Enforcement, he stated he thinks everyone is in favor of this and he would like to be able to shingle his house without having to get a building permit and he is sure the townspeople will like being able to do the same.

**Adam** motioned and **Andy** seconded the motion to send this on to the November ballot.

Vote 4-0 In Favor

**Dave** stated that the Accessory Dwelling Unit Ordinance was adding more rules but it also is adding a permitted use.

**Adam** stated we are adding more rules but the people can actually do more.

**Andy** motioned and **Adam** seconded the motion to send this on to the November ballot for a vote.

Vote 4-0 In Favor

**Dave** read the changes for the change in zone for Map 24 Lot 61 and Aaron made a motion and Adam seconded the motion to send this on to the Selectmen for a vote to

change the zone from Residential to Business on Map 24 Lot 61 as requested by the Applicant.

**Dave** stated he would like to add expanding the existing business zones to the board's agenda, when you have businesses in town looking to expand or relocate and they have difficulty finding property in the proper zone then we should discuss this in upcoming workshops, expand the existing Business Zones. I will put that on our next workshop and I hope folks will come forward as our workshops are open to the public.

**Selectmen Dean LePage** stated that he is in agreement that the board should consider looking into expanding the Business Zones; the land use chart was adopted in 1994 I think.

**Dave** stated that the changes to the Land Use Chart was updating everything that was changed between 1962 to 1994 just documenting those changes, the only changes made recently was the change made to include a Business/Industrial Zone.

**Dean** stated that some of the things not allowed in the Land Use Chart under residential should change because things have changed. Dean stated that it was noted by the Secretary that the Business Zone on Main Street ends somewhere around the Tea House and from there south on Main Street for a ways is residential with few options for business being allowed, then the RFF District runs to the Burnham Road and Range E Road and this zone allows more businesses than in the residential zone. Changing this would allow more opportunity for business along Main Street and I would like this to be addressed by your board as well.

There was a brief discussion about looking into expanding the business opportunities.

**Dave** reminded the board there was a motion on the floor.

Vote 4-0 In Favor

**Dave** stated he had no further business to come before the meeting.

**REMINDERS:**

The next Planning Board meeting will be Monday September 17<sup>th</sup> at 7:00 PM unless the Selectmen fail to change their meeting night.

**ADJOURNMENT:**

**Adam** motioned and **Andy** seconded the motion to adjourn the meeting at 9:50 PM.

Vote 4-0 In Favor

Respectfully Submitted,

Joanne L. Andrews, Secretary