

LIMERICK PLANNING BOARD  
MINUTES MARCH 2, 2016 – Approved 6-1-16

Aaron opened the meeting with Ilene Dashner, Wendy Farrand and Dottie Richard in attendance.

**WALK-INS:**

There were no walk-ins so Aaron went on to correspondence.

**CORRESPONDENCE:**

1. Notification of the next MMA workshop for planning board members. Aaron stated that the board members need to make sure and check in with the chairman before going to any workshops, the chairman should be notified, that is something that has always been done so let the chairman know before going.
2. Board of Appeals decision on the appeal of Barbara Fifield on the used car permit for Steve McLean. Aaron stated the BOA overturned the planning board approval and sent it back to us to review and change.

Dottie made a motion for the board to send it to the town attorney for her review, there were a number of issues that were not considered and the BOA may not have been legal because they had not met in a year and a half and had not voted for officers. Dottie continued, if we did wrong that's one thing but this may set a precedence in the future for anyone coming before us for a conditional use and the town attorney should look at all that we did and all the BOA's did and let us know what we did wrong and what we do to change and go forward from there.

Aaron stated I disagree with you, we do not need to do this. If the applicant wishes to appeal that is his right but I don't think we should go against another board.

Dottie stated I would rather have the town attorney look at this and motion to have her look at this.

Aaron asked for a second to that.

Wendy stated, when you look at that, when you want to appeal that, it has to go to court.

Dottie stated I'm not appealing it, I just want the town attorney to look at it and what conditions we need to look at, so the attorney can look at it and tell us what we did wrong and if the appeal was legal.

Wendy stated it can't hurt to have someone look it over, so I'll second that.

Dean LePage asked to be heard and asked the secretary if the Board of Appeals members had been appointed by the Selectmen in March of 2015.

The secretary stated she could not remember.

Dottie stated that swearing in was not the problem, they had not had a meeting to establish officers and according to the state statute the chairman has to initiate that meeting and the chairman was not present, that's why I feel it should go to Natalie (town attorney).

Aaron stated, I am against a board fighting another board in town, I think that is spending money to fight another board, is just ridiculous and a waste of the town's money. The appeals board has said we did not provide enough information and before we send it to anyone we need to ask what kind of additional information has to be included in the conditional use permit. Aaron stated the motion is to send the appeals board decision and the conditional use application to the town attorney.

Wendy changed her mind but stated that we should find out if the BOA was in fact legal.

Aaron stated if the applicant wishes to do something it's up to him and it's his job to review it and it's up to us to review it and act on it.

Frank Carroll II stated he knows quite a lot about the appeal process and for the planning board to appeal the appeal board's decision it has to be done in court, it states that very clearly in MMA; it's not your job to circumvent the law it's your job to protect the farm & forest district, you didn't listen to the citizens you just pushed it on through, I was here for all of it. You need to get yourselves educated as a board and do the right decisions and review your MMA book before spending tax dollars.

Barbara Fifield, I am the one that brought the appeal and it is my understanding that the three appeals board members were sworn in prior to the appeal.

Dottie stated it is not being sworn in that I'm questioning, it's the meeting to elect officers that I am questioning that was their first meeting in a year and a half.

Steve Malmude stated if it's a question of expense I think it would be much cheaper to have the town attorney look at it and not risk going to district court that would be very expensive.

Steve McLean, as a member of the appeals board and just having completed the appeals board training last week the board was not sitting legally at the time so you should be aware of that.

Aaron stated again that I do not believe it is our job to go after another board, we have been given a job and if the applicant feels there is a problem then the applicant needs to pursue it and speaking to Steve McLean he stated it is up to you to pursue this I don't think this board should get into a disagreement with another board.

Denise Benton stated she agrees with Aaron and if Mr. McLean did not agree with this he sat right there that night and chose not to say anything. So the town's attorney is not for the applicant he should use his own attorney and should have to prove if it was legal.

Dean LePage stated what's the path of least resistance here, we can spend a couple of thousand dollars to have the town's attorney look at this and if it was not legal then we would have to have another appeal's board meeting in six to eight weeks and they will come to the same conclusion, the decision has been made; so this board needs to go over the conditions and they may come up with the same decision, is this because someone didn't like the outcome of it; let's just get on with it.

Aaron asked if there were any other motions, the other motion was not seconded so it died; so every one of the conditions need to have written documentation and we need to do this before spending money on it.

Wendy stated I think we do need to go through the conditions. I never thought we were questioning their decision only if they were legal.

Ilene stated as far as I'm concerned we need to go through the conditions, that's all we need to do, do it again.

Aaron stated he did not know when this will come up again we have so much to do.

3. The Board of Selectmen letter dated 2/22/16 stated that the Selectmen have received a citizen petition covering a change in zone from RFF to Business District on Route 11. The Selectmen want the planning board to look at this petition and to give this top priority and the select board takes this petition seriously.

Aaron stated this puts a wrench in our schedule and we have had people waiting for things and this makes people cutting the line and pushes other people back. This petition

has to be voted up or down, I would like to go through this next meeting in March and see if we can get citizen input.

Wendy asked about the legality and the time frame involved.

Aaron stated the planning board will have this for a public hearing.

Denise Benton stated that what Aaron is stating is that if this is not correct it cannot be changed, 154 people signed this and I don't know what it says because I haven't seen it yet but it will have to either be voted up or down even if it is not correct.

Wendy asked Aaron if this was what Aaron asked the applicants to do when you said go get some signatures.

Aaron stated I guess I was confused as I didn't actually know it was a citizen petition and I was hoping to wrap up some other things we were working on and now we have this.

Dean LePage stated that about a year ago he had come before the board with a request to have his property changed from Residential for RFF and we actually had an informational meeting mostly attended by my family and the planning board was working on changing my property, can you tell me where I am in this process.

Aaron stated the informational meeting was to change from Residential to Business right.

Dean stated I originally wanted to change to Business but changed my mind because RFF would be fine as more things can be done in RFF than in Residential.

Aaron stated I guess it's just been kicked down the line and I'm sorry about that.

Ilene stated that this was pending before I rejoined the board and I don't see why we can't move forward with this.

Aaron stated yes, we should be able to schedule a public hearing.

Dean asked, so you think that my request might be in line with Mr. McLean's request or will mine come after.

Aaron stated no, they should be done together.

Together the board went over the maps that had been worked out by work that Howard Burnham had done.

Aaron stated I will try and get the information that Howard did.

Ilene stated she will try and track down the petition information from Judy LePage the next day and make the information available to people.

Steve McLean stated he did not intend that their petition come before anyone else.

There was a lengthy discussion between Aaron and Steve concerning what order these requests should be in.

Aaron stated he wants to move on at this point.

4. Saco River Corridor Commission letter of intent from a landowner in the corridor.
5. Letter to the town attorney was read by Aaron from Aaron to Natalie Burns concerning the use of the public to use the proposed private road as access to the Santa's Lookout Gift Shop. The attorney's response back to Aaron stated "Aaron I'm not sure who the applicant is but generally an after tenant easement runs with the land that it benefits, that means that the easement rights pass to a grantee. Of course the only thing that the board reviews is that the applicant demonstrates the right title and interest to be able to proceed with the application; under Maine law the applicant shows the administrative standing and a deed should be sufficient." (Aaron read these letters from his phone because he couldn't print them out the lettering was too small).

Wendy stated that this is what it says in the MMA book that the board should not get involved and the parties involved need to deal with it.

6. A letter from Steve McLean dated March 2, 2016 asking that Aaron Carroll recuse himself from voting on his application, according to the table of consanguinity where his mother has a similar gift shop and it is similar to the proposed gift shop and that mother/son relationship is rated number 1 on the table of consanguinity he should step aside for the continuance of this conditional use process.

Aaron stated that he is not going to step aside, if it were for his mother's gift shop when she applied yes he would step down but not for this, I don't think I have to. The board can do something about it but I won't step down. The board took no action.

## **MINUTES:**

Dottie motioned and Wendy seconded the motion to accept the minutes for November 18, 2015.

Vote 3-0 In Favor

## **NEW BUSINESS:**

Aaron asked to schedule a time for rescheduling the used car conditional use permit, which they had talked about.

Wendy stated don't you think we should go over the application and tell the applicant what it is we need from him.

Aaron stated that would be the next step and at this time I would like to go through all 16-conditions not as it reflects any particular application but go through them asking what generally we will be looking for each and every condition in the future.

Wendy stated she did not agree she had spent a great deal of time drafting proposed new 16-conditions, we worked on this and got it done and now we are going to put this off again, I think we should proceed with this conditional use permit (for the gift shop).

Steve McLean asked if he is correct, are you not going to go over the 16-conditions that is on the agenda for tonight, if you are not going to do that just say so. You, the board voted last time that this would be a continuation of that review; everyone was told the last time that this would be a continuation of that meeting.

Aaron stated that he did not know how the board could move forward with that review without going through the 16-conditions and provide to the applicant what we are going to require from you to give us for those 16-conditions.

Steve stated you have already had the public hearing and stated that now there will be the review and now you are changing everything.

Aaron stated we can require whatever we need to make sure that for these 16-conditions that there is evidence and if we don't have evidence and you don't have any way to give us, we can't move on.

Steve stated but I have already answered the 16-conditions and you have accepted that.

Aaron continued by stating, so say if we get to number three and you don't have evidence then you are going to have to get some and that's the way it's going to be.

Steve stated he wants to go forward now.

Aaron stated I would like to go through the 16-conditions and see what we need for evidence, these people are here for this gift shop review and you need to know what you need for evidence and this will be the same for your used car application, we need more information.

The board went through the conditions adding several more items of evidence to many of them, please review the tape for this lengthy process which had much input from the audience present, said discussions took about an hours and a half and after completing Aaron stated that he would type these up.

Someone in the audience asked about a road maintenance requirement being a part of the 16-conditions.

Aaron stated that maintenance of a road really doesn't fit in any of these conditions and can be addressed on a case by case basis; many of these questions have been asked in the past but were not documented, we need check boxes for documentation.

Bernie Gerry had come in part way through the 16-condition discussions and stated that 3 or 4 people shouldn't make these changes to a process that worked for years after discussing it for only an hour or two.

Aaron stated that concrete thoughts have been written down but he doesn't think these changes have changed anything to make it harder for anyone.

Aaron read the reminder that on March 16<sup>th</sup> for a workshop to discuss the Route 11 zoning changes from RFF to Business.

**ADJOURNMENT:**

Wendy motioned and Ilene seconded the motion to adjourn the meeting.

Vote 3-0 In Favor

Respectfully submitted,

Planning Board Secretary