

DRAFT- LIMERICK PLANNING BOARD – Approved 5-4-16

Minutes February 3, 2016

Dottie Richard, Aaron Carroll, Ilene Dashner, Wendy Farrand were present Dave Coleman was absent.

Aaron opened the meeting at 7:00 pm and went directly into the public hearing for the McLean gift shop. Aaron asked Steve to give a brief overview of his project.

PUBLIC HEARING: Steve McLean Santa's Lookout Gift Shop/Workshop

Steve McLean stated that his conditional use application is for a gift shop at the top of the mountain. He went on to say it will be mostly for Christmas gifts and toys and will be in relation to the Christmas tree business below. The building already exists, I don't know what else I can say about that.

Aaron asked the board if they had any additional questions, there were none.

Kathy Colby stated she and her husband Steve are the owners of Kingfield Road that will be the access to the gift shop, this is a private right of way and they are concerned about creating traffic.

Aaron stated that the board will take this into consideration.

Denise Benton asked if there were hours of operation and days of operation on the application.

Aaron stated no that was not on the application.

Denise asked if she could request that hours and days of operation be set by the board. She also stated that when on the site walk she asked about the flashing light on the flag pole on the other side of the road and was told it was for air traffic. She stated that during the public hearing for the tower it was determined that there was no air traffic and he could put up a two hundred foot flag pole, so what is the need for a flashing light and can the board put on a restriction for no flashing lights.

Bill Jones asked the chairman if at the tower hearing didn't he bring up the fact that there is a Limerick Airport and there needs to be a flight plan conducted.

Aaron stated that his uncle flies out of that airport and as far as he knows that when he takes off from the airport he flies out and around and flies over that mountain.

Bill stated so if there is low flying airplane then there should be a blinking light for safety.

Aaron stated I don't think that's at that height I think it's at tree height, but the board can discuss that.

Wendy asked since she was not able to attend the site walk was there anything that she should know about the site walk.

Aaron stated that in the past this has been handled by a board member going to the site on their own. Aaron continued by telling Wendy that he is going to use the building on the top for the shop and there wasn't much more information than that at the site walk.

Denise Benton asked if the EMS had signed off on the road.

Aaron stated that there is nothing there.

Denise, is that something the board will be asking for since there was another situation with a driveway being too steep and the fire department wouldn't sign off and that driveway was nowhere near as steep as this road; I suggest an independent third party sign off on this because there is a conflict with the fire department on this.

This conversation went on for some time between whether or not the fire department was possibly approving this location and did not approve the other location on Carroll Lane.

Aaron stated this will be discussed by the board and hearing no other questions closed the public hearing at 7:16 pm.

WALK-INS:

There was no walk-ins.

CORRESPONDENCE:

1. Copy of letter dated 1-29-16 from Attorney Joseph V. Lenkowski addressed to the Limerick Selectmen concerning the citizen petition to change several lots on Route 11 from RFF District to the Business District.
2. A copy of the petition from Steven McLean and several others concerning the above mentioned change in business zone on Elm Street on Map 32 and Map 33.

Aaron stated that he isn't sure what the planning board needs to do with this at this point, this petition needs to be sent back to the Selectmen to hold a public hearing and move forward with this, the Planning Board has no jurisdiction over this, it's a citizen petition and the Selectmen need to have a hearing and move it forward.

Wendy asked if Andy hadn't asked Steve to get these signatures.

Aaron stated this has to go back to the Selectmen, this isn't like the usual request the board gets for a zone change, this is a citizens petition and the Selectmen need to move it forward as it is with no changes. I would like a motion to send this back to the Selectmen. Wendy motioned to send this back to the Selectmen, Dottie seconded the motion.

Vote 3-0 In Favor

OLD BUSINESS:

Aaron listed the conditional use Findings of Facts that are before them for approval, Matt Baron, Larry Whiteley and Steve McLean used cars conditional use. Aaron went on first to Matt Baron's and said he has gone through the facts and removed anything that said discussion, this is the Findings of Facts and any discussion should not be part of the findings, or discussion from the public hearing or approval; I want you to look at it and see if it's appropriate for you to accept.

The board continued discussion concerning the removal of the discussion from the findings and after the discussion the board signed the findings for Matt Baron.

The board then signed the conditional use permit renewal for Larry Whiteley's Used Car business.

The Findings of Facts for the McLean used car conditional use permit were added to by the chairman including the statement that all meeting minutes pertaining to the applicant as well as the minutes of the public hearing were to be included and given to the applicant as they are completed and approved; also the date of the application was added 10-7-15. The chairman wanted these changes to be discussed prior to the board signing the findings of facts; the board signed the minutes.

Judy LePage, town clerk came in and asked what the conversation was concerning a ballot.

Aaron showed her a copy of the citizen petition that was given to the board and questioned the language that accompanied the petition to change the zone on Map 32 and 33.

Judy asked about a map that also accompanied the petition and explained how she has to treat a citizen petition, accepting it she also has to verify all signatures before sending it to the Selectmen for a public hearing before it goes on a ballot. Judy continued by stating that the planning board needs to make the determination if this change is legal, if this goes to public hearing before this is determined and the planning board decides it may be illegal or spot zoning then the process has to be done all over again. The state statute says that any changes to zoning has to go before the planning board.

Aaron stated he was confused as to what the board need to do at this point.

Judy stated the planning board has to determine if it is legal or not.

Aaron stated he will have to speak to someone concerning this.

There continued to be a lengthy discussion concerning how the petition was worded and what the role of the Selectmen is as well as the role of the planning board. There was also discussion about the timing to meet the June ballot since it is too late for the March ballot.

Dean LePage asked the board who was responsible to pay the expenses for this change and Judy stated the town.

Dean stated that was not right for the town to pay for this for one person.

Steve McLean stated that the planning board had asked him to get signatures of all the landowners that want their zone to change and that is what he has done, it's several land owners not just one.

MINUTES:

Many sets of minutes were approved:

August 5, 2015 Wendy motioned and Dottie seconded the motion to approve as presented.

Vote 3-0 In Favor

August 19, 2015 Wendy motioned and Dottie seconded the motion to approve as presented.

Vote 3-0 In Favor

December 2, 2015 Wendy motioned and Dottie seconded the motion with changes to the wording from purposed to proposed and also the words the sketch plan was given at the site walk, change to the sketch plan was given at the public hearing.

Vote 3-0 In Favor

September 2, 2015 Wendy motioned and Dottie seconded the motion that the minutes be accepted with a typo change.

Vote 3-0 In Favor

NEW BUSINESS:

Aaron made the announcement that the Appeals Board meeting was held over until February 9th.

Wendy asked if it would be helpful if she did a draft of a proposed new conditional use permit, to have this done for the next workshop to help save some time.

Aaron stated it would also be helpful to get some applications from other towns.

Dottie also stated she would like to make a motion that the board send the zoning ordinance to Southern Maine Planning to have them look it over and see if they can help since the board doesn't have much time.

Wendy stated that she could second that, that's a great idea.

Dottie stated our ordinances are gray and need work and we don't have the time.

Aaron stated that the board does not have that in our budget and we can't vote on something with no money budgeted.

There was a lengthy discussion concerning the ordinances and the fact that even the statutes are not up to date. There was quite a bit of discussion from the audience with all not being in favor of this motion. The motion was not voted on.

Dottie made a motion to have a discussion with So. Me. Planning to find out what would it take to have them look at our ordinances and what it might cost. Aaron stated he would be in favor of having a discussion with them and have them have look at an overview of our ordinance and get some feedback on it; I'll entertain that as a motion, Wendy motioned and Dottie seconded the motion to have a discussion with So. Me. Planning about what was just discussed.

Vote 3-0 In Favor

Sean Carroll asked if the board had already had a hearing on Santa's workshop.

Aaron stated yes, do you have a question.

Sean stated yes I have a question regarding egress to the shop, this is the same question I brought up about the egress to the tower on that mountain. Sean handed the board a letter signed by assistant chief Jason Johnson concerning his project on Carroll Lane which required a 1" rise to 20 foot run or a 5% grade and he was told it was for ambulance egress. Why has the fire department signed off on the tower project and now this project when they would not sign off for our project, ours was for a driveway not 150 feet long.

Aaron stated the fire department has not signed off at this time.

Sean stated that he would like the fire department to explain the difference.

Aaron asked the board if they wanted to continue with the gift shop and Wendy stated that there would probably not be time.

Aaron stated he would like to take up the letter from Steve and Kathy Colby and he has read the letter and has a question if anyone other than Steve McLean has the right to use this road.

Dottie stated she took that as being a private deed between Mr. McLean and the Colby's.

Aaron stated that doesn't appear to be a private deed.

Wendy stated that there may have to be an opinion from an attorney.

Aaron stated if the applicant does not have the right to have anyone else go across the property.

Wendy stated if someone buys land with a right of way then others have the right to use that right of way, that's my interpretation of that.

Wendy stated I don't think we can decide that we need to have that looked into legally.

Aaron stated the deed says an easement to Steve McLean it does not say assigns or heirs and right to utilities, does it mean one person has the right to access.

James McLean stated he would like to see the board make a decision one way or the other, either get legal counsel or not, one way or the other.

There was extended conversation concerning the easement and rights, the owners of the road Kathy Colby stated that Steve was granted the easement but she is concerned about the traffic using the road there are homes and other lot owners using that road and the traffic is their concern.

Steve stated that when he received that easement it was to his 95 acres that would be developed in the future if I had been told when I took the easement that it was just for me I wouldn't have taken it I would have used a different road.

Aaron stated that he thinks legal council should give them direction and should he get the answers or have the applicant.

Dottie state she would like two questions asked what is the restriction on the easement and does that use come to play as far as the board goes.

Aaron stated Ok what are the questions.

Dottie stated she should be asked if the board has a standing on this issue and should the board deny this because it is a private deed and secondly is this easement just for one person.

Aaron stated Ok I'll get those answers.

There was continued discussion about what was or what should have been included on past applications.

Frank Carroll Sr. asked to be heard and stated that he is responsible for that easement and he spoke to Attorney John Elman with Steeves and Graff in Standish and Attorney Elman

said it was bad because they didn't put in the language what probably should have been put in there but the intent was that Steve would have an easement to his parcel of land but when you put in a business it might overburden the easement, so you can take that point.

There was discussion concerning when to continue the review for the workshop and Dottie asked if the form from the fire department was needed at the next meeting which will be March 2nd.

Aaron stated yes.

Dottie asked if someone other than Jason Johnson should sign the letter and Aaron said he didn't know what to do in that case.

There was continued discussion on who should represent the fire department on signing the Fire/EMA form.

Aaron stated to Mr. McLean he should get the form signed by the fire department and if the board chooses at the next meeting to require something else that will be decided at the next meeting; and Steve should be prepared with that signed and be at the meeting on March 2nd and the board will hold a workshop on March 16th to go over the conditional use application changes.

ADJOURNMENT:

Wendy motioned and Ilene seconded the motion to adjourn.

Vote 3-0 In Favor

Respectfully submitted:

Joanne L. Andrews
Secretary