

Draft -LIMERICK PLANNING BOARD MINUTES

March 4, 2020

Dottie opened the meeting with Laura, Ed, Aaron and Wendy present.

Dottie opened the meeting with the Pledge of Allegiance

WALK-INS:

None

CORRESPONDENCE:

Dottie read an email dated 2/30/20 from Arthur Carroll an abutter to CIA property on Range E Road to become a part hereof stating concerns of pollution and loss of value to his property.

Ed asked if Dottie had received an email from the Attorney.

Dottie stated no and went on to the minutes.

MINUTES:

Wendy motioned and Laura seconded the motion to approve the minutes for January 8, 2020 as presented.

Vote 5-0 In Favor

NEW BUSINESS:

None

OLD BUSINESS:

Dottie stated the board will continue with the review of the 16-conditions for CIA Salvage.

Wendy stated I am going to recue myself, I have had a couple of requests to do that, I was going to at the last meeting but I was sick so to protect the integrity of the board I recuse myself. She asked Dottie if she could go to the podium.

Dottie stated no, I did double check on that.

Laura asked do we have to vote on that.

Dottie no we only vote if she doesn't (recuse herself).

Dottie asked the board if they had a chance to look at his site plan; we asked him to do this at the last meeting because to many questions and I am not seeing things really addressed on here, there still not clear to me. Dottie asked Shawn, are you proposing to put a stone wall around the property.

Shawn stated that is just a survey done many years ago there is a date on there (9/12/05 by Lewis and Wasina Inc. to become a part hereof); you wanted to know where the building was going and where the fences were going. I put those on there. I was out there with Mike (Gilpatrick) the building is close to where the house is going, the house is in front.

Aaron stated none of the buffers, I wasn't here but I reviewed the tape and none of the buffers. I haven't had much time to review this but it looks like the 50 foot buffer around the property were to be shown on this and where you intended to put the fencing and trees.

Dottie asked if that is what is in blue.

Shawn stated yes and if we need more fencing after that we will put in more fencing but there is nobody on the left side of me where Arthur Carroll owns and we have fencing on the front, there is going to be a building on the front and that will be the screening on the right, Brulotte's and there is nobody behind us.

Dottie asked is the stone wall in the middle of the field is that the property line.

Aaron stated I don't think that is still there.

Dottie stated he said yes it is still there.

11.44

Dottie asked if he had taken measurements to see where the Brulotte's well is to make sure it.

Shawn interrupted, we're far enough away from it.

Dottie, it's supposed to be 300 ft.

Shawn stated to store junk.

Dottie stated for either.

Shawn I have no problem meeting that setback.

Shawn stated the reason we are here is for a conditional use for a junkyard you can give me all the restrictions you want that does not mean we are going to put five-thousand dollars (\$5,000.00)for setbacks.

Dottie stated so you don't want to do used cars.

Shawn stated no I'm not saying that, this board has taken upon themselves which I hope that taxpayers and voters of this town will come out on March 13th to vote against it, that all junkyards in the town (did not finish statement – at 14.37 minutes read the rest of his statement. Shawn continued that he is here because the code officer and this board has dragged him here; I wanted a building permit for a house I was told I couldn't build a house because of the junkyard; I got a piece of paper in here that states I was in violation of the junkyard ordinance that I was running a junkyard so this is why we are here; you can put all the restrictions you want and when you vote March 13th there will be only two junkyards in town, if I want another junkyard over there I'll come forward to meet the conditions or we will go to court and say the conditions you proposed are not within the guidelines of the town ordinance.

Dottie asked so you don't want the automobile graveyard now you only want the junkyard.

Shawn stated, junkyard, graveyard, automobile graveyard whatever you want to call it; he went to his file and read the violation dated July 18 stating he was in violation of his conditional use permit; it states that a junkyard is allowed in there if it meets certain conditions, he continued and read his violation notice and his continued statements about the March 13th article through 17.55 minutes into the meeting.

Aaron stated he had a couple of concerns; as far as your plan you intend to have a house on the property as a rental property. I have some reservation about that not being a fenced off portion of that lot, there's a lot of little kids that would love to climb that berm and be in the middle of that junkyard.

Shawn stated that is not the town's concern. Shawn continued with a discussion of not being treated fairly, comparing his conditional use to the daycare permit just approved; see the CD for continued discussion through 20 minutes on the CD.

Dottie asked how far back from the road is the berm and determined using the plan that the berm is about 153 feet back from the road.

Shawn stated it is just beyond the telephone pole on the plan.

Dottie stated so basically these 231 feet by 153 feet is the lot the building will be on and in back of that is the junkyard.

Dottie asked the board if they were ready to continue with the 16-conditions and because number 2 failed at the last meeting we will continue with number 2, number 1 passed at the prior meeting.

Shawn stated he thought that they had gone through the conditions except for a couple at the last meeting and that it was tabled.

Dottie stated no they went through the others just to see what other information the board was asking for and they would continue with number 2.

REVIEW:

Article VII – Conditional Uses

- 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:

At the prior meeting on February 19, 2020 Dottie read article VII – A and B and then read the answer submitted by the applicant in the original application dated 10/10/19 for each and every condition said applicants responses are hereby attached to these minutes and becomes a part hereof.

- 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; Ed motioned and Laura seconded the motion that based on information provided that this condition number 1 has been met it is allowed in that district as a conditional use.

Vote 3-0 In Favor

The following is a continuation of the February 19, 2020 meeting.

- 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;

Ed asked the board how to determine what is "significant" there was a lengthy discussion concerning this question between board members starting at 25 minutes on the CD.

Ed motioned that the applicant has met this condition based on Ed's observation during the site visit and not based his answer which Dottie read.

Dottie stated make the motion and have it seconded and we will go into further discussion.

Ed stated the motion that the applicant has met this condition that it 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 based on what is occurring at the site now, Laura seconded the motion.

Dottie state now we go into discussion at 30 minutes on the CD.

Aaron stated first, there was a man at the public hearing that brought up several of these things that we are talking about here and number two how are we going to discuss his concerns and answer them for his piece of mind. Aaron continued and said to Ed, I would agree with you that as of today there is little impact but it is hard to know what Shawn's impact will be down the road if he gets a full-fledged junkyard, salvage yard used car lot that could be a different dynamics.

Shawn stated I will have to come in every two years.

Aaron, I agree with you Shawn, some of the ones on this board don't feel that when reviewing every two they make conditions to fit the current situation, many feel that the conditions are the conditions and that's what we live by; I personally don't feel this way but some on the board do. I feel we should be looking down the road a long ways and you are not really giving us a whole lot that you really want to do, it's a lot of maybe I'll do this, maybe I'll do that.

Shawn stated I want to build a house and I want to get a permit for it.

Aaron stated that is the way I feel but I am in the minority on this board.

This discussion went on until 39 minutes on the CD.

Aaron asked if the board can table number 2 and jump to number 9 so we can talk about buffers.

This started a discussion on setbacks and Shawn did not agree that he needed a 50 foot setback for a junkyard.

Dottie stated it's for both an automobile graveyard and a junkyard.

Aaron stated once you have this permit Shawn anything that is parked or buildings or anything within those 50 feet is a violation.

Shawn said, yes I agree.

The discussion moved on to the crushing of cars and Shawn stated he could have 100 cars in the field and call a company with a portable crusher and they would crush the cars and they take care of the fluids and everything.

Dottie stated then we could have a condition against crushing.

Shawn said I don't think it's the boards power to do that, to say you can't bring in a car crusher, I could bring in a chipper to chip wood.

Aaron stated ok Shawn let's say you tell us I am going to have 75 cars here and 3 days a year I am going to bring in a crusher and I will have 3 guys work here 6 days a week, we then know what you are planning but now we don't have that plan we have no idea what your plan is going to be; there isn't a lot of detail showing what you plan to do so it's hard for us to come up with conditions that are going to meet that.

Shawn gave up the podium for code officer Mike Gilpatrick.

Mike stated the first thing the board should consider is did he come here with a site plan showing what his intention are and where they are going to be confined too, if he meets the setbacks, is there enough information on that plan so you can move forward with the 16 conditions.

Dottie stated no.

Mike stated then we need to find out what information we need to consider going forward with the 16 conditions and ask him to come back again unfortunately that would what is done.

Ed stated that we asked for a site plan but there is no provision for one in the ordinance. It should show the boundaries, setbacks, fencing , a house and what fencing on the Carroll side of the property, which would be close.

Mike stated that if his memory is correct the board asked Mr. Girard to bring a plan showing what areas are going to be limited to.

Ed stated that is what we asked him to do, there are no setbacks shown on what he gave us that is required under the ordinance.

Aaron stated I make a motion to table (2) and move on to (9) to discuss buffers, Laura stated she seconds that if this will move things along.

Dottie stated all in favor.

Vote 3-0 In Favor, Ed did not vote.

Moved to number 9 at 50.41 minutes on CD. Dottie read the condition and read Shawn's answer to this question (see list of answers attached) ; Makes provisions for buffers and on-site landscaping, which provides adequate protection to neighboring properties from detrimental features of the development; Ed motioned and Laura seconded the motion that there be a 50 foot buffer from the property line in with the addition of plantings from the berm to the back of the property to the end of the existing building.

Dottie stated that on the Brulotte side the buffer has to be 60 feet in because their well is only 240 feet from the property line.

Ed stated to get this going at this point we have talked about the 50 foot and the 15 foot he shouldn't have to go from the berm to the back of the building. as the yard expands the 50 foot buffer and the 15 foot of evergreen trees will extend beyond the back of the building.

Shawn stated before they vote he wants to make sure that you are asking for 15 feet of trees on both sides of the property and the fence in that 15 feet.

Ed stated we are not asking for a fence if you want a fence it will be in those 15 feet.

Aaron stated that this buffer has to be maintained throughout the life of the property and they will have to plant additional trees and maintain that 15 foot height.

Ed said I agree with that if the trees get to be say 40 feet high and no limbs on the bottom they will have to put more trees to maintain those 15 feet.

Dottie called for a vote.

Vote 4-0 In Favor

Dottie read number 2.

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 and Laura seconded the motion that base on what was said in number 9 and the existing lighting he has on the building this condition has been met.

Vote 4-0 In Favor

3. Will not have a significant adverse effect on adjacent or nearby property values.

Dottie asked Shawn if he had received a letter from a realtor. (This was one of the conditions the board asked of Shawn during the February 19th meeting.)

Shawn stated Nope.

Ed stated that he had talked with a realtor and the key is what are significant, 10 or 20 percent. Especially if you are screening things that would negate that, you are probably not going to have a crusher in there every day that may not be negated; so based on that I do not believe it is significant. Ed motioned and Laura seconded the motion that the applicant has met the condition number 3 in such there is no evidence that there is a significant impact.

Aaron stated that he does not know how this can be the case with no evidence of that.

There a discussion ensued at 1hour 24 minutes on the CD.
Dottie called for a vote, all in favor.

Vote 3in Favor Aaron voted in the
negative.

4. Will not result in significant hazards to pedestrian or vehicular traffic or significant traffic congestion.

Dottie read the applicants answer.

Laura motioned and seconded the motion that based on his answer and the site walk he has met this condition.

Vote 4-0 In Favor

5. Will not result in significant fire danger.

Dottie read the applicants answer.

Ed motioned and Laura seconded the motion that the applicant has met number 5 with open burning be done with a permit with proper fire suppression equipment.

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 read the applicants answer.

Aaron motioned and Dottie seconded the motion that this condition will be met by the SWP Plan and the surface water contamination plan and that all dismantling will be on cement pad.

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 read the applicants answer.

Ed motioned and Laura seconded the motion that based on the applicants answer and the site visit that showed the access and around the buildings.

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 read the applicants answer.

Ed motioned and Laura seconded the motion that this condition has been met and that no additional lighting be placed without the approval of the code enforcement officer.

Vote 4-0 In Favor

9. Makes provisions for buffers and on-site landscaping, which provides adequate protection to neighboring properties from the detrimental features of the development.

This condition was taken out of sequence after number 2.

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 creates hazards to safety nor impose significant burdens on public facilities.

Dottie read the applicants answer.

Laura motioned and Dottie seconded the motion that this condition was met by the applicants answer.

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 read the applicants answer

Ed motioned and Laura seconded the motion that based on the fact that there is a permit for a system that will be installed this spring.

Vote 4-0 In Favor

12. Makes adequate provision to control erosion or sedimentation.

Dottie read the applicants answer

Aaron motioned and Laura seconded the motion that based on the information provided by the applicant and the fact that the applicant will slope the sides at a 2 to 1 slope this condition will be met.

Vote 4-0 In Favor

13. Makes adequate provision to handle storm water run-off and other drainage problems on the site.

Dottie read the answer by the applicant

Ed motioned and Laura seconded the motion that based on an approval of the Storm Water Plan (SWP) by the DEP this condition will be met.

Vote 4-0 In Favor

14. Provides for a water supply that will meet the demands of the proposed use.

Dottie read the applicants answer.

Laura motioned and Ed seconded the motion that this condition has been met because there is a well on site.

Vote 4-0 In Favor

Aaron asked if there is a well on site.

Shawn stated yes.

Aaron asked are you planning to use that well for the house.

Shawn stated he was not sure.

Aaron asked what the plan was for a buffer around that well.

Shawn stated he does not have to buffer around his own well, Mike may have agreed but this couldn't be heard what he said.

15. Makes adequate provisions for the transportation, storage and disposal of hazardous substances and materials as defined by State law.

Dottie read the applicants answer.

Shawn stated they will do whatever the state requirements are for this condition.

Ed motioned and Laura seconded the motion that the applicant will meet this requirement based on complying with state laws.

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 read the answer by the applicant.

Aaron stated that since Shawn cut the trees in the back corner his uncle and grandmother could see the property.

Ed stated that there are court cases that no one can control a view, if you are 4 rows back from the ocean you can't tell people to take down their houses because they are blocking your view, if you want to maintain the view you need to buy the property.

Laura motioned and Ed seconded the motion that this condition has been met.

Vote 3-1 In Favor – Aaron voted in the negative.

Ed stated he would like to put a time frame on this.

Aaron wants to add a condition that if he is in violation of the DEP standards he is in violation of his conditional use permit.

Dottie stated that motion failed no second.

Aaron asked the code officer a question but his answer could not be determined.

Dottie read from the ordinance under section 7B a copy of that section is hereby attached to this conditional use and is a part thereof.

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. Ed motioned and Laura seconded the motion that this condition applies to this conditional use.

Vote 4-0 In Favor.

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; Laura motioned and Ed seconded the motion that this condition applies to this application.

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. Ed motioned and Laura seconded the motion that this applies to this application.

Vote 4-0 In Favor.

4. The proprietor of any such facility shall apply for renewal of his 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.

Vote 4-0 In Favor

SPECIFIC CONDITIONS OF APPROVAL:

Dottie read this statement.

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents, including the supplemental and revised plans, the oral representations submitted and affirmed by the applicant, and conditions of approval imposed by the Board. Any variation from the plans, proposals and supporting documents and representations, except a change determined by the Code Enforcement to be a minor change that

does not affect approval standards or conditions of approval, is subject to the review and approval of the Planning Board prior to implementation.

Dottie asked for a motion to approve the conditional use.

Ed motioned and Laura seconded the motion to grant the renewal approval for CIA Salvage.

Vote 4-0 In Favor

Shawn thanked the board.

ADJOURNMENT:

Laura motioned and Ed seconded the motion to adjourn at 8:58 PM.

Vote 4-0 In Favor

ANNOUNCEMENTS:

Next Meeting March 18, 2020.

Respectfully Submitted,

Joanne L. Andrews

Planning Board Secretary