

**Board of Appeals
February 23, 2022**

Members Present:

David Coleman- Chairman
Steve McLean
Brad Libby
Howard Burnham

Public Present:

Dr Merrill Farrand

Dave Coleman: I apologize for the delay. Welcome to the Appeals Board meeting of February 23, 2022. We're going to have a Public Hearing for Farrand vs the Limerick Planning Board regarding a Planning Board decision of March 4 in reference to Shawn and Dennis Girard's application for a salvage license on Range E Rd. First I need to make an announcement that the livestream is not working this evening and this meeting is being recorded and will be available for livestream tomorrow on SRC TV. We'll begin the hearing with Dr. Farrand speaking about his application and his administrative appeal to the Appeals Board regarding the Planning Board's decision and then we'll afford time for the Planning Board to respond, if they wish, or any interested party and then afford Dr. Farrand the opportunity to rebut anything that he feels is necessary after that fact. So with that I will turn it over to you Dr. Farrand. Dr. Merrill Farrand: Good evening. The voters and the taxpayers of Limerick directed their wishes and have in the past and will in the future in many forms that include what town ordinances contain. Town Boards are certainly comprised of lay persons, many backgrounds variable knowledge and there's a need to therefore understand the process may not always go through cleanly. That's certainly where I understand things may have become a problem. The Conditional Use Permit clause was likely allowed potential uses of a property within certain zones that had not been considered when defining the permitted usages for that zone, here we are talking about farm and forest. Hence why the Conditional Use Ordinance starts with 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 location, design, and operations of the conditional uses. Therefore I consider this to mean a conditional use is granted when there is a community need satisfied and when that use satisfies the community's requirement, so it does not adversely impact the community. It's a privilege that's granted. I don't consider it a right. The Maine Statutes title 30A chapter 183 subchapter 1, junkyards and automobile graveyards, statute 3751 states, under the purpose of this statute, that junkyards, automobile graveyards, and automobile recycling businesses pose potential risk to the environment. Particularly to groundwater and surface water quality. If gasoline, oil, or other fluids are not managed and disposed of properly. Proper location and operations of these facilities are critical to ensure protection of groundwater and surface water quality, other natural resources and the health and welfare of Maine citizens. As you all have

done before this meeting I reviewed all the meeting minutes, I've reviewed all the records that are there, I refreshed all my memories of how things went and I hope that you were able to perhaps even listen to the CD's. I've heard how that flavor of what's in those minutes really came through over the several hours of most every meeting that occurred. I'm not against business, I've not been before any town board before opposing a business development but I do care about my community and this conditional use is fraught with technical errors in the process that is putting my neighbors, this community, and my family at risk. I outlined those in my original appeal letter to you and I'm going to do that tonight but I think it's really important that I read from the 2019 Maine Land Use Law booklet because without having the foundation of what is supposed to be considered by the Planning Board to grant this conditional use then we're going to be missing a lot of the points of what I say are absences in the record. So I read the original thing that I cited this specific Maine law and I guess I'm going to read one more sentence from the end of that quote where I finished with "and health and welfare of Maine citizens." These facilities may create nuisance conditions potentially affecting abutting landowners and others if not located and operated properly for these reasons it is declared that these facilities are properly subject to environmental and operational standards and appropriate municipal and state regulation. So they provide definitions and I think you should understand the definition of an automobile graveyard. It means a yard, field, or other outdoor area used to store three or more unregistered or uninspected motor vehicles as defined in title 29-A section 101 subsection 42 or parts of the vehicles. Automobile graveyard includes an area used for automobile dismantling, salvage, and recycling operations and I am jumping so there's a ton of more material that you certainly could read to help ensure you understand what they define as a graveyard. A junkyard means a yard, field, or other outside area used to store, dismantle, or otherwise handle A) discarded, worn out, or junked plumbing, heating supplies, electronics or industrial equipment, or household appliances or furniture, B) discarded scrap and junked lumber, and C) old or scrapped copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, and all scrap iron, steel, and other scrapped ferris or nonferrous materials. I wish I knew what that squiggly little S meant and what I should call that. Mr. Coleman: Subsection. Dr. Farrand: Subsection 3754, Municipal Officers or County Commissioners as provided for subsection in 3753 should hold a Public Hearing before granting a permit to establish a new automobile graveyard, automobile recycling business, or junkyard and may hold public hearings annually regarding the relicensing of these facilities. This next sentence and I'm skipping a few and I'd be happy to read the in betweens but I don't believe it's been done. The Municipal Officers or County Commissioners shall give written or electronic notice of the application to establish a new automobile graveyard, or automobile recycling business to the Automobile Dealer Licensing section of the Department of Secretary of State Bureau of Motor Vehicles by mailing the copy of the application at least seven and not more than 30 days before the hearing. When I checked the town offices at least asking Ms. Richard she said I've never heard of such a thing but it's here written in Maine law. I would imagine that's so they can provide their input about it, if they have an input they want to have about this application they could have had that opportunity to do it. I'm sorry, what is that, subsection? Mr. Coleman: I believe it's subsection. Dr. Farrand: Subsection 3754-A, limitations on graveyards, automobile recycling businesses, and junkyard permits versus subsection 1 highway interstate system and primary system. A permit may not be granted for automobile graveyard or junkyard, I'm skipping a major highway

cause it's not on a major highway within 600 feet of the right-of-way of any other highway except for, meaning if he follows these conditions these automobile graveyards or junkyards are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings, or fences. One subsection more sub sectioned at a height density and depth sufficient to accomplish complete screening from ordinary view, two) well constructed and properly maintained at a minimum height of six feet, three) placed outside of the highway right-of-way, and four) acceptable to the Municipal Officers or County Commissioners. One section is a little difficult because I never heard an answer at several Planning Board opportunities but there is a subsection of 3754 known as public facilities, a new permit may not be granted for an automobile graveyard or junkyard that is A) located within 300 feet of a public building, public park, public playground, public bathing beach, school, church, or cemetery. One argument was and I never heard the exact answer was the old school house in the front that was historic not certainly functional but B) within ordinary view from a facility, that would mean the cemetery that's up on the hill on route 5 from paragraph A and you can see from the back of that cemetery you can see this property. Then there is a subsection, public and private water supplies this is relevant to some of the discussion the Planning Board had so I think I should read it to ensure you understand it. A permit may not be granted for an automobile graveyard, junkyard, or automobile recycling business that handles junk, scrap metal, vehicles, or other solid waste within 300 feet of a well that serves as a public or private water supply. Subsection 5 of that same numbered law, operating standards, all automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards and I am skipping to B a vehicle containing fluids may not be stored or dismantled and I am going to numbers two and three because they are going to be relevant to my further conversations within the 100 yard flood plain or over a mapped sand and gravel aquifer. So I apologize for people in the back in the room because I put a timeline, I believe everything is about process, when I watch how the Planning Board tries to do things, they try to use a process, they try to look at making sure all the i's are dotted and the t's are crossed and that's the same thing the CEO does when they are deciding whether someone's following the ordinances and the rules that they have been granted. So I took the liberty of taking dates and how I think these are sort of high points for the events and I am going to be looking over there because I wish I could remember all 14 pages that are up there and everyone's quotes but I don't but I think they're relevant and that's why I did them so you'd also have an opportunity to see them and read them in case I get too mumbly or whatever else happens. So the original violation notice was sent by the CEO on July 18 of 2019, from anything that I could find in any paperwork that I could get from what records when I requested them there was no reply by Mr. Girard and therefore on October 4, 2019 a notice of violation letter was sent. Now if we read through Mr. Ordway's letter which I was just given tonight I could go back and forth and I don't want to do it and perhaps in the rebuttal opportunity that would come up as relevant because he implied some stuff that you know Mike Gilpatrick's not here to represent what he saw but he is the person who would know why he initially issued that Notice of Violation letter. Within a week Mr. Girard from CIA submitted on October 10 the Conditional Use application again I remind you what the law said, I do not believe that the Department of Motor Vehicles has been notified of this application submission. On October 30 there was a revision made of this application and then on or about November 5 in response to an email generated by Joanne Andrews questioning the DEP and

what involvement they would have with this, they received a response. The basic of that response was under the guidelines of what you have described is applied for, we will not have any involvement with this operation, in other words the municipality will regulate this and monitor it. If I sidestep for a moment, if a public member comes forward and reports to DEP that they have a pollution suspicion then perhaps the DEP would step in but that would be their only reason for having any start to being in this project as was applied for. So that letter from DEP, Mr. Eric Hamlin, was before the Planning Board started it's process. So the first time that this application is mentioned is November 20 of 2019. The application was again revised on questioning further what was planned for the activity at this site and Mr. Shawn Girard at that time went to the Planning Board saying if you don't give me this basically I'm going to do the same thing at my seven other properties in town, he did this twice during the process. That's why I believe if you listen to the CD it really gives you the character of what happened at the meetings and how cooperative it seemed to go. On January 15, 2020 there was a Planning Board meeting that included the sitewalk of the day and a Public Hearing. Citizens that stood up before the board and expressed concerns are outlined here, there were several other citizens that signed in that night but they did not provide any input to the board. Mr. Shultz, who I believe just got a letter tonight in the packet, discussed twice, once in the beginning when the Public Hearing was opened and the second at the end when he said excuse me I didn't understand all these rules and I can't talk and said these comments during that second part. So not all came during the open Public Hearing so I'm not going to try to imply that they are but these were the total contents. He was worried about the environmental impact, we did talk about dust and noise vibration that he is experiencing from the facility that was there preceding this application and he was concerned about property devaluation. Tony Carroll spoke, he talked about that the property is sitting entirely on a ledge in his opinion or much of it's ledge, he's very concerned about water run off. He did discuss that his brother Arthur owned property next door and that that's a great concern to both of them. He talked about an area of the property having compacted or impervious soul and was worried therefore about run off from that portion, he had buffer concerns, and abutting property devaluation concerns. Mr. Pellegrino, Charles Pellegrino, came forward because he wanted to share his experiences from his route 5 property and what happened over there, his experiences, and I don't want to say much except you could listen and you probably know them if you've lived in town all this time but there are concerns about pollution that he's observed and noises and I didn't put down there fumes. I expressed concerns about the groundwater and stormwater runoff, I had concerns about the threatening nature of his prior interactions with the board and I questioned how many times can an application be revised before it should be restarted, the process restarted because I didn't think it was the board's position to constantly fix a problem because many of these things were fixes after they finally established with three different revisions what it was going to be. So we come to February 19, 2020 Planning Board meeting, in regards to this particular process it's going to seem confusing because the Planning Board started to go through the conditions but their process of going through them became haphazard, they're not in order and when I put something like condition two they were starting to talk about condition two when all these quotes came forward and they may not be in order as the quotes and what they're relevant to. Condition two is the one that talks about there won't be a significant detrimental impact upon the neighboring individuals by dust, noise, fumes, vibration, etc. I can pull out the exact reference, I will later on

have it written up here but that's what condition two is about and in there Ms. Richard said in quotes and these quotes are what I actually took off of the minutes, so these are the way that Mrs. Andrews transcribed that meeting. So I am quoting the minutes but they may not actually be what the individual said exactly if she did not take that down correctly. So Ms. Richard said "We are going to need a set of drawings showing exactly what you are proposing. You should have given that to us with your application. " So in other words a new revision opportunity and then as it went forward she said, "If Ed's motion passes this fails so the best thing we can do is to stop this right now" because if they were to start voting on that condition based upon what they had for information they would have turned it down, the project down and he would have had to reapply for it so she stopped it, hey let's not go that way and they voted not to go that way. Mr. Morgan, Ed Morgan said somewhere in this same condition discussion, "We want something from someone that deals in that to say on your behalf there is no decrease in value for having that property there." Now obviously that's about item number three, condition number three, which is about its effect on values of neighboring properties. Again I'll get the more exact wording a little later in the presentation but that came up during that point and time. Mr. Morgan again said, he reinforced the need for a detailed site plan, buildings, 50 foot setback, house, if you plan to build or a shed anything that you planned has to be designated on the plan. They made it down to condition three and Ms. Richard said the burden of proof the value whether it's influencing neighboring values is on you, not on like Mr. Ordway implied it's on me but at that meeting and at all the Planning Board meetings it's on the applicant to prove this information. Laura May said when Shawn brings the letter to satisfy number three then the board will accept it as answered that's what we need and Mr. Morgan somewhere further down in the discussion said yes the realtor has experience in this area and the board does not. Further, Morgan said I wanted an engineer to come in and say the groundwater situation here is acceptable, we will follow everyone from then, for every person. I quoted so what he is saying is that this is what they are going to do from now on as a Planning Board is to be better at getting these details from everyone this wasn't singeling Shawn out for this. That's what the ordinance is for, they moved on, again they jumped to condition six, Laura May said we had to be sure that this satisfies, our job is to see that these conditions are met. Mr. Coleman: Six is flood hazards. Dr. Farrand: Yes, flood hazards. So again we'll go back, I'll start at the beginning Laura May said we have to be sure that this is satisfied, our job is to see that these conditions are met so that we are satisfied. Mr. Morgan request for a letter from DEP that said yes he does or no he does not need a SWP plan and I'm sorry SWP is probably SWP and I have two P's in there. Mr. Coleman: Storm Water Protection. Dr. Farrand: Storm Water Protection. Now remember Eric Hamlin already sent a letter to the Planning Board that was read to them at an earlier meeting saying they're not going to be involved, there's no reason, because he doesn't satisfy what state criteria would be for them to be there. Condition nine, which is about burming and landscaping, Mr. Morgan wrote, needs to put traffic flow and entrance on his submitted site plan. Number 11 is disposal of waste water, solid waste, prevention of ground surface water contamination, Ms. Richard said that would be a permit with Mike and that's for the septic system, then prevention of ground or surface water contamination will be on the site plan and from the DEP letter. Condition 16 has to do with part of its wildlife and enjoyment of scenic vistas or something, I'll have better wording in a moment. So the vernal pool or the wetlands that if all of you are aware Range E Road, this property that we are talking about, 41 Range E Road is at the top of the hill

as you go down the hill you get to the property on the right that becomes Mr. Arthur Carroll's and in there is a whole wetland area. The streams that feed that area and there's a stream that goes culverted under Range E Road goes to Piper Ridge Farm at some point it may touch Lena Goodhues, cause Lena Goodhues in front of her property has a bunch of wetland and the very forward section, they're all interconnected but the vernal pool was discussed. Mr. Girard somewhere in condition 16 discussion said he would put up a fence and maintain the fence and make it presentable and nobody can see through it, a pressure treated fence was after some discussion was what he further added to that, Morgan said put it on the plan. March 4, this is a big long day, March 4 is when the final vote occurred, so it's going to have a few more details but you heard the flavor of that prior meeting of February 19, you heard their request. On March 4, according to the paperwork I received written on the back of this copy that I received was a copy received on that date. The Planning Board received this copy of a site plan on March 4, the date of their meeting and I hope all of you got it. I hope you saw what was on it and talk about it somewhere in here. I think I want a few comments about that to start off with however. At the start of that meeting Arthur Carroll had sent an email to the board and that was read to the board. On March 4, Arthur Carroll wrote an email that was dated February 20 it was read that it included concerns about and I'm really shortening this, pollution, loss of property value, he was concerned about setbacks, fencing, and requested a soil impact and groundwater study. I had sent in the email dated February 4, that was not read, it was not acknowledged, it was not in anything I originally got from copies of materials when I asked for a copy of all the materials. So I don't know where it got buried but it went to all board members. In it I had concerns about still that cemetery question about how state law was being satisfied and I had provided in there because groundwater had been talked about so many times a statement that I had learned after that first public meeting that Lena Goodhues that owns the home, a small ranch that is a little after the dip following 41 Range E Road, her home had, when it was built, had a well, that well was contaminated by salt. It was contaminated by salt that came from the old school house not because it's an old school house but because it was a salt shed for the state. So my relevance to that, or my thought for the board was, you have to look into this. You saw the law discussion about sand and gravel aquifers and the need to review that kind of information when you're going to be looking at cars being on them and the chemicals that could leach out. So that was in there, I much later on talked to Ms. Richard about this and said how come that was never brought up and she said well as far as that letter goes that's all hearsay, we don't do anything about hearsay. No one asked for evidence, hence when I appealed this the first time and never got very far you have a letter that is notarized from Ms. Goodhues saying that is true. Again who are we protecting, we're trying to protect the town's citizenry I thought, when we do these things. I recommended because of that well contamination that perhaps it was wisdom to check the survey maps from the geological survey whether this was a regional thing or not. So further discussions that then started as they opened the meeting with the board members and again public can't participate so there's no public input here. Ms. Richard said regarding your submitted site plans and she didn't say that but that was what this discussion was about, we asked them to do this at the last meeting because too many questions were left unanswered and I am not seeing these things really addressed on this plan, this is still not clear to me. Richards again asked Mr. Girard if he had taken measures to see where the Brullottes well is to make sure and he interrupted her and said we're far enough away from it but again I think that

board had a responsibility to know exactly where that well was compared to where all the boundaries are for what we are talking about here. Later on maybe there is some clarity to that but no one at least no one in this moment brought it forward. Aaron Carroll said as far as your plan, you intend to have a house on the property as a rental property. I have some reservations about that. Not being a fenced off portion of that lot, there are a lot of little kids that would love to climb that burm and be in the middle of that junkyard. Mr. Girard's answer that is not the town's concern. I want to stop for a moment and talk about this site plan. I apologize for people who can't see this site plan. It's tiny but I believe this is what they got. It has two markings on it in blue and what it represents is a 2005 boundary survey that was done by the Brulotte's in order to split their lot. It was not something that was done by the applicant looking to show you exactly how things stood at the site as it was on the date of the application it was an old survey and on it it shows a building, square black box. Guess what that building is not that building only he has had two additions that were there in 2019 and 2020 that aren't even shown on this survey expanding that building, one that's pretty much the footprint of that building and another smaller portion of the front more like an office but they're there not shown on this very important detail that I think the Planning Board should have in order to make a good quality decision on how to work with this individual. On that he has no delineation of any existing barriers, what you see is only one thing: all the little black lines here and here which are circles is rock walls. There was a burm there that is talked about during the Planning Board and that's not located there, the line of trees is on the Brulotte's side which is a fairly bigger line of trees wasn't there. There's just no indication of what existing stuff was there even though you'll see that he answers in his application on condition 12 the property has trees, burms, and adequate vegetation around said property meaning as a visual barrier. He did not mark the 50 foot setback line that the Planning Board specifically asked for, they asked what services would be done there, where they would be done and none of that was indicated. There is no indication of any fencing except this small portion right here, which says a 10 foot setback with a fence. It is only from the stone wall to the stone wall on the Carroll side of the property. Otherwise no other fencing, no gating, no new plantings, or other visual barriers are added or indicated. There is no indication of where storage and materials would occur, now at that time we already know he's out of compliance and it's the stuff there, none of it's showing up on here and although Mr. Ordway and his letter to you implies we don't have any idea why it was out of compliance cause nothing was there, there was quite an extensive amount of material there but no indication of where the storage materials would be maintained and no indication of what items were currently there. No indications of stormwater drainage topography or the slope of the land and basically some of that was implied in the questions of what they wanted to see. Important outside features like the Brulotte's well or the wetlands area, they were not put on to that and the request for a traffic flow pattern was not upon that material. So let's go back, now they're gonna vote, condition one they decided that it was in regulation, condition two, so condition two reads it will not have a significant detrimental impact on use and peaceful enjoyment of adjacent or nearby property as a result of noise, vibration, fumes, odor, dust, light, glare, or other cause. So Mr. Morgan said as the board comes to it, what's significant? He made the motion to move forward. Mr. Aaron Carrol said there was a man at the public meeting, brought up several of these things and how are we going to discuss his concerns and answer them for his peace of mind, we have no idea what your plan is going to be. Mike Gilpatrick decided to step forward and give the board the opportunity saying first

thing the board should consider is did he come here with the site plan showing what his intentions are and what they are going to be compliant to, is there enough information on that plan so you can approve the 16 conditions. Ms. Richard no, black and white, Mr. Morgan reiterating the need for the proper site plan, and Mr. Carroll then deciding to renege on his favor. I don't know why they didn't go to condition 3,4 but they jumped to condition 9. Condition 9 next provisions, buffers, and on site landscapes adequate protection to neighbors properties from detrimental features of the development. The discussion was very minimal in regards to asking Mr. Girard anything but the board said so here's how big you think it will be. We're just gonna go for it and you've already have a 50 foot setback the burm and you have planted things to the back of the existing building, again this is without any indication except there was a little blurb on the side my operation will be limited to the back of the building, it wasn't on the site plan. Does that mean the CEO can enforce things if there were ever a change of what happens on that property. I don't know, I'm not the expert, I guess he could answer that for us but if you don't have these things on the outline how do we know everything should end at the back of that but it does apply to both sides. Ms. Richard did come back with some interesting information again. I don't know where this came from in the midst of the meeting but she said well on the Brulotte's side the buffer has to be 60 feet because their well is 240 feet from the property line. I didn't really that applicant's, Mr. Morgan said hey that's just confusing us right now and they skipped over it, I don't know if it really became 60 feet on that side before anything could be there but that wasn't voted in. So back at condition two Ms. Richard reads condition two again and the board decision was based on answers from condition number nine and condition two has been met, they voted for it no further discussion. I did not know that evergreens and burms stopped fumes, dust, noise, and all the other nuisances that were part of condition two or help mitigate them very much but apparently something happened in that conversation that I totally missed. Condition three came up, condition three will not have a significant adverse effect on adjacent or nearby property values. Ms. Richard asked Mr, Girard if they had received a letter from a realtor, Mr. Girard's answer no. Mr. Morgan said that he had talked to a realtor, now I've been told my wife is sort of stickler for details of what the law says, now I'm told that board members cannot go outside the board and ask things and get all sorts of opinions and do their own research, whether that's true or not that what I'm being told but Mr. Morgan had found an expert opinion and shared it with the board and said that he had talked to a realtor and he said what is significant, 10 or 20% and that was a question. Now I wanna know how anyone can look at Mr. Shultz and I'm going to just throw a number out, wild and crazy, not in real estate his home is worth \$300,000, it's \$60,000 is 20% significant? Do you like \$60,000 in your pocket? What's significant? I don't know what it exactly is but maybe it's because it seems perfect that you get to do whatever you want as a board but there was no realtor's letter and guess what there was a solar farm that was talked about not about a month or two later. They had a letter from real estate agency that said it was not going to have an adverse effect on neighboring values. Do we have double standard on who gets to provide this and who doesn't? Even though multiple people asked and inquire of me of that information. Mr. Carroll said I don't know how this can be the case when there is no evidence of that, I mean how is he going to vote without having that letter and they went ahead and firmly voted. A man had asked for it, Mr, Carroll was not at the February meeting, May asked for it, Richards asked for it, and Morgan asked for it, they didn't get it but that's okay. I don't understand the logic. I guess the public doesn't have to.

Conditions 4 through 8, 10, 14, 15 I'm going to skip those probably more that could be set but you guys are getting tired. Condition 5 will not result in significant fire danger, Mr. Morgan conditions now with the applicants answer, his answer is the applicant's use of the property will not result in significant fire danger. Use of torches for repair or dismantling of vehicles is confined to non combustibile floors and enclosed buildings or in the open only in areas cleared of all vegetation and other combustibile material. Employees are trained on the proper use of burning torches. Emergency vehicles have access to all developed area of the property. So they voted for this condition however at least I have a blank copy, sorry to anyone trying to listen to the microphone, I don't know if you folks have it but I have a copy of the Fire Department's I think it's called a site permit, Mr. McLean might know better but when things like this come forward it requires that the Road Commissioner provide a letter saying everything is fine and I thought the Fire Department was also required. So I have a copy of Mr. Richardson's but this is the one for Limerick Fire Department and EMS and you can see it is blank and I verified this the other day in town offices with Ms. Richard because Mrs. Andrews wasn't in to help me go through the Planning Board's file and we found it was blank. Condition 6 will not result in significant flood hazards or flood damage, drainage problems, ground or surface water, contamination or soil resin, and the board voted to approve this condition stating that it met with SWP, Soil Water Plan and surface water contamination plan. I heard that was a new word to me, Surface Water Contamination Plan, no one had exactly mentioned that before although they did talked about his need for an engineer to review things and to provide input as well as to put stuff on the site plan that showed how things were going to be drained. So they approve that again I don't know how. Remember how many citizens expressed concerns about groundwater and surface water run off and contamination potentials. Condition 7, will not create a safety hazard because of inadequate access to the site or to the buildings on the site for emergency vehicles, that one is voted through, on the applicant's answer he maintains gravel roads and parking areas for every building and concrete pad with sufficient access for Fire and EMS a gravel road is also maintained to the area where vehicles exit and enter. The applicant will not create a safety hazard because of inadequate access to the site or to the buildings on the site for emergency vehicles. Reminder the Fire Department hasn't looked at this to say that they can get a vehicle anywhere around that building, if you have seen what is stored around that building you know that there's significant lumber which I think they call that a fire hazard and so can you get a Fire Truck all the way around that building I don't think on the backside you can. So I would argue that that makes no logic, that that was approved and second, how could they do that. I listened to so many people come before the board and ask to divide a piece of land or put a driveway in and they want to know how a Fire Truck is going to get down to the end of it and do what they have to do and turn around and whatever. Some reason it wasn't needed here I don't know what the reason was but it wasn't needed. Condition 11, makes adequate provisions for disposal of waste water or solid waste and for the prevention of ground or surface water contamination. It was approved based upon the fact that there was a permit for a septic system to be installed in the spring and there was no discussion on the prevention of water contamination prevention that septic system has not been installed yet, though in the spring of 2020 the indication was it was going to be. Condition 12 it makes adequate provisions to control erosion or sedimentation, his answer is adequate trees I mean it had to be directly, I apologize, the property has trees, burms, and adequate vegetation around said property. I don't

know how many people drive Range E Road, answers there, the board voted for it but they did indicate the desire for the I don't know what they thought but something required a 2-1 ratio of side slope pitch, there's a pretty high frigging mountain on Arthur Carroll's side of the property. I don't know what 2-1 pitch is, only you guys know. That's what they put in there again Mr. Carroll provided information, Arthur Carroll, about his concerns about his side of the property. Condition 13 makes it about stormwater runoff, it's going to get repetitive again they said they were going to depend on the DEP and SWP. We already know they were told before this whole process began there isn't gonna be such a thing. How does a CEO have anything to enforce when you just put that in there and they've already said they're not going to have anything to say. He has nothing he can do about it unless he has some trick up his sleeve which you can ask and finally we're getting close condition 16 will not have an adverse effect on significant vistas or significant impact on specific wildlife, which is worded funny. Which that could be avoided with provisional planning, Mr. Morgan court cases and no one can control the view that's what he shared with the board which I'm not saying is true or not, if it's truly true maybe it shouldn't be in there as a condition but it still brings up the condition and Mr. Carroll thought there was something funny there so he voted against it but it still does bring up the same things I'm saying over and over again. There's nothing to address the protection of the community and it's water supplies, surface pollution, underground pollution, etc. There's state law I read it to you in the very beginning that talks about the sand and gravel aquifers. There was nothing done by the Planning Board to check it out. You won't find a single shred of evidence in there of that, nor was there an engineer's plan provided to the town by the applicant to say it's fine. Everyone knows where that water goes, most of you have been here for so many more years than I have been, some of you have hunted back there so you know it's all connected. Everyone keeps talking about all these places, you have a horse farm right across the street, a stream runs right through it, you have Pendexter Brook, you have several swamps that are all interconnected and do their thing. Nevermind what's happening deep underground right under this piece of ledge that's gonna wash off down to someplace. Surface water, deep ground water I feel like the Planning Board failed. It failed on multiple points, it asked for very specific things that sounded wonderful in February, in March it was like that whole conversation did not exist and what was provided to the Planning Board for the Code Enforcement Officer to enforce, piece of crap, has nothing on it that's of significance of enforceability. A board did not listen to it's own secretary's reading of a letter to start it all off to know that the DEP is not going to be involved, not going to be unless someone finds the pollution thing happening, that's after the fact. So that's why I came all this distance, it's not for any other reason than the process was credibly flawed and I know there is more to be answered with Mr. Ordway's information which I don't know if that gets read or if that's just going to be something that you guys have read and I get to respond to later but I do have some responses later, for now I'll try not to bother everyone. Mr. Coleman: Thank you, Dr Farrand. To be clear this hearing is your administrative appeal against the decision of the Planning Board. So how we arrived here, I kind of neglected to read the notice and I'll do that now. The Limerick Zoning Board of Appeals will hold a Public Hearing on Wednesday February 23 at the Limerick Brick Town Hall to review an application for an administrative appeal by the Board of Appeals by Merrill R Farrand Jr in reference to Limerick Planning Board decision on March 4, 2020 to grant a conditional use permit to Shawn and Dennis Girard at 41 Range E Road, tax map 30 lot 18B for a junkyard, automobile graveyard and you went through

your timeline. You did apply and this board had met in May and stated that we felt it did not meet the time limits requirement and over almost two years now it was remanded back to us by the Superior Court. So I wanted to make sure that that's known by all the folks that are here as well. *There was a comment by someone in the audience that could not be heard.* Mr. Coleman: The Superior Court remanded this application back to us because the judge felt that this board needed to hear this appeal based on, what's the circumstance. Mr. McLean: Erred on our judgment. Mr. Coleman: There's a specific term that they used, good cause, I'm sorry. That this board should have heard that as a good cause and that is why we are having this hearing tonight. Dr. Farrand: I think he said it was at a minimum that would fall under that, that I submitted the materials on time, I submitted them during the midst of a pandemic to town hall to a town official to confirm their receipt within the 30 days that the ordinance indicates is the required time to submit. It was not submitted to the Zoning Board of Appeals because no such a thing that's an entity. Mr. Coleman: There is now. Dr. Farrand: It has been fixed and you have fixed that process so you can read if it becomes a bigger conversation piece then the hearing minutes ought probably be read or the hearing not minutes. Mr. Coleman: I just wanted to make sure that if you had anything to say about that that you had the opportunity. Dr. Farrand: I think the judge said you guys ought to hear it, is what he was basically saying in spite of what Mr. Ordway says in that particular presentation. Mr. Coleman: So I will ask if any representatives from the Limerick Planning Board would like to respond to anything Mr Farrand had said. Dorothy Richard: No. When I asked Shawn for his site plan and he gave me that piece of paper with two blue lines on it I should have stopped it there and waited to get more information. That's pretty much all I have to say. Stanley Hackett: I did say that I wouldn't speak, I do have after hearing everything tonight, something that maybe the board should consider. With everything that was presented tonight and everything in the past there was wrongdoings on both sides and I think for the consensus and with his now conditional use coming up within a week maybe two weeks, I think maybe if the Appeals Board would agree to leave all of the evidence under the Code Enforcement and everything has to be presented to Code Enforcement before it goes before the Planning Board for renewal. If anything is missing it doesn't go but there has been so many mistakes on both sides I don't really see anybody really winning without going further into litigation. There's a lot of rights on one side and a lot of wrongs on one side so I think probably for the town's best interest and for the applicant's best interest maybe in the future because he'd still applied, well it was an existing ordinance, an allowable junkyard that he did have the opportunity to prove that he could have a junkyard under different definitions which could be many things, so let him prove it now and let him put all that proof together including DEP and everything that is required at this point. So that's a consideration and that's only if the applicant and the person that's against the Planning Board, I think there were both wrongdoings. There was some presentations that were denied the public the right to know but there are some other issues on the other side. So I think maybe if we combine the two and they would agree let's see where the new Code Enforcement go under the current law. Mr Coleman: Thank you Stan. Mr. McLean: Stan, to address that though it has to be a town ordinance. Mr. Hackett: I'm sorry? Mr. McLean: That would have to be a town ordinance for an application to go through the CEO first before it goes to the Planning Board. Mr. Hackett: No it doesn't. Anything that goes before the Planning Board has always naturally gone before the Code Enforcement. Code Enforcement makes sure everything is presentable before the Planning

Board gets it. If the Planning Board gets things before it's presentable then it delays a process or the process get's ignored or overlooked. Mr. McLean: Right I agree with you but in this town. Mr. Hackett: It's not just any town it's every town. It's not an ordinance, it is an expectation under state law that the Code Enforcement oversees everything before it goes before anyone. Mr. McLean: Well that has never happened here in the Town of Limerick, we're not going to start with yours. Mr. Hackett: No I'm sorry, Steve. You're looking at something that is passe and what's been done for ever and ever and ever but under state law the Code Enforcement has always overseen everything that goes before anything before the town. They have to enforce everything that is being presented as an ordinance or regulation or condition. So Code Enforcement has to make sure that everything before it goes before anybody is presentable and there before they can review it. Otherwise you're gonna have the same situation everyday all day. Mr. McLean: And that's why we're here; this has not been done prior to your arrival. Mr. Hackett: Exactly. So it needs to be and that's why I'm asking you to do that now because that is the correct way. Mr. McLean: No, yes I totally agree. Mr. Hackett: It's not one eye, it's multiple eyes. So it's not my decision, it's not the Planning Board's, it's not anybody, it's multiple eyes. So that's why I'm asking for that now and the Appeals Board has the authority and nobody can override that authority other than a District Court. That's why I'm asking that at this point and maybe Mr. Girard and the Dr. will concede at this point because at this point what's been done is done and maybe we can proceed and do things the right way in the future and make sure that the community, the environment, and everybody is treated fairly and well by law. That's what I'm asking. Mr. McLean: Well we have the town's attorney here with us so we'll let him speak in a minute but from our perspective this was remanded back to us to make a decision whether he had standing. Mr. Hackett: I know but Steve you gotta also look at reducing litigation because some of this is negotiation and some of it's understanding and misunderstanding. Mr. McLean: I've been on this board long enough, we've done a lot of stuff for the benefit of the town. Mr. Hackett: Steve, there are things you don't know about me too but I am also authorized under ADK, under legal authority to do some things myself with the town's consent. So again sometimes it's better to look at things in a broader span then it is a narrow span. We gotta look at the total community and for the town's benefit and be fair and equal and transparent all the way. Mr. Coleman: Thank you Stan. Ben did you want to speak to the Town of Limerick's portion or. I know Natalie was the representative at Superior Court but put you on the spot. Ben McCall: You can put me on the spot, I'm fine with that. For those of you who don't know me, I'm Ben McCall. I'm from Jensen Baird in Portland and one of the town's attorney's. I'm here tonight only in my capacity as a town attorney to advise the board on procedure which has been the general thought of this. Just wanna make a couple of points that I think the board should consider, I think it's true that what you're dealing with here tonight is sort of a hybrid if you will. It is an administrative appeal; you have the authority under the town's Zoning Ordinance to hear appeals from the decisions of the Planning Board. As the Chair already mentioned you did take this up in 2020 and it took a while but it has been remanded back to you for further proceedings and the instructions from the Superior Court were pretty clear, which were to look at the merits of Dr. Farrand's appeal and then make a decision on that. Your scope of review is a pellet which is to say that your task tonight is to look at the decision of the Planning Board and decide whether the Planning Board erred in granting the Conditional Use Permit to CIA Salvage for a junkyard in its current location. What the Code Enforcement Officer just spoke to perhaps can

be discussed after this meeting, certainly without this board's involvement a couple of things could happen between the parties to the appeal. Obviously the appeal could be withdrawn. I'm not suggesting that that's what's going to happen. Also, theoretically the application for Conditional Use Permit which has already been granted by the Planning Board could be withdrawn and I'm not suggesting that that could happen either, the parties theoretically could settle this but that opportunity has also passed. So what happens after tonight could take a number of different forms but this board's job tonight is rather straightforward and that is to look at what was granted by the Planning Board in 2020 and decide whether they made an error of law or more importantly whether all of the decisions they made on all of those 16 criteria in your ordinance for conditional uses were supported by competent evidence in the record. So that's the scope of what you're looking at tonight. I know Brad Morin is here on behalf of the applicant and I think it's best if you give him an opportunity to address his client's stance and then obviously a chance for Dr. Farrand to rebut but ultimately it is true that conditional uses need to be renewed every two years in Limerick, that is unique to Limerick, I'll point out but regardless what happens with the need for renewal of that permit if it's sustained it's outside of the scope of what you're looking at tonight. You're looking only at the 2020 decision whether that was correctly decided and I'm obviously here taking notes and once all the sides have presented what they want to present we can talk about next step. I'll sit down. Mr. Coleman: Thank you, Ben. Mr. Hackett: Before you sit down, options on both sides would you say there is a contesting to allow things again at this point he's got to go before a new conditional use in the next few days just to say at this point because of everything's that's gone back and forth with litigation and the cost to the town to say there's no contest, there's no whatever, let's try this the right way beginning with the new conditional use. Mr. McCall: So that's a fair point, I can't speak for Dr. Farrand he's already done. Mr. Hackett: That would be the options on both sides. Mr. McCall: What the parties choose to do one with their permit and two their appeal respectively is up to them but absence of any of that the Zoning Board of Appeals needs to make a decision on Planning Board's decision. Mr. Coleman: Thank you. Brad. Brad Morin: Hello everyone I'm Brad Morin I'm a lawyer out of Sanford I'm covering tonight for Dave Ordway who is ill and couldn't be here today. So I agreed to kind of jump in and help him. Shawn I'm probably going to need you as well for just a few things. David submitted a written submission that all of you have that had been talked about where he raised certain legal arguments. I do believe having read the Superior Court decision and as David wrote about it that the judge wanted you to make a finding tonight about whether the appeal was timely and whether it met the good cause exception. He reversed it saying that you didn't take enough information from the petitioner in that case as to whether he got it in on time and whether he met the good cause exception. I'm not going to read David's letter verbatim but I'll just summarize it. He makes some arguments in there contending that it didn't meet the good cause exception and that there wasn't board due diligence in putting it forward to get it in front of the Zoning Board of Appeals, there was more of a self-created hardship from someone who is familiar with the process and should have done more and it really wasn't fair necessarily to Mr. Girard to have it kind of come back at him two months later but that's put forth in writing by Mr. Ordway in his written submission. I am going to address the merits of the appeal, assuming that if you make that finding that you get to that issue and I'll be brief because this isn't a do over of the entire process really we're just looking at what they did and determine whether they made an error. The Planning Board in this case clearly from this

record was not rushed into doing this, they weren't threatened into doing this they didn't base it on a piece of crap, I mean they took a lot of information in and had multiple meetings of this. They considered each standard as you can see they debated it and what you've heard a lot is sections of the debate being plucked out and then used to try to attack the decision but what it is is just back and forth between the Planning Board saying maybe we should get this or maybe we should look at this all those things are going to come back and forth when you have multiple meetings and ultimately they voted on each standard. We should look not just at what was going on with the debate but ultimately their conclusions. There was also a lot of talk about the revisions being made to the application, revisions are okay they're good I mean you want that, you want people to put forward and fix when a deficiency comes about. You know it's not just one thing and boom you have to start back over again, revisions get made all the time. if you've got a very complex project with lawyers and engineers and all that stuff you're getting feedback and sometimes you change your applications that's a good thing. There was a lot of emphasis about Notice of Violations that's not part of this, this is not what the Zoning Board of Appeals does it's not an enforcement mechanism that's done by the Code Officer and again it's very common when there's a Notice of Violation for the Code Officer to say go get your permit for it to fix it, so that's what happened here. There's a lot of discussion on the values, property values, the reality is property values in this time are soaring, they're still soaring, that issue is addressed as well in David's letter with some legal authority and basically emphasizing in there that you might want to consider, and he points to a specific case, was there some specific circumstance that made this salvage yard worse than any other salvage yard. This is a conditional use that's allowed in the zone, with this permit. The evidence of Mr. Girard can say he didn't find any realtor's to say that there was an impact on it because again the property values are soaring at the time and again I think you should also consider the fact that the Planning Board knew that they took that into consideration and they used that to craft the conditions that they needed to be done to put onto this permit to allow the use while meeting that concern. There was a lot of talk about what was on the plan and in the submissions they had a chance to go back and forth with him to make sure that what they wanted got put on. They wouldn't have approved it if it didn't meet what they felt they needed, same thing with the environmental concerns, the Planning Board did consider those, it's been mentioned several times DEP did not come in and oppose this thing if there were things like aquifer concerns and all of those things they would have been heard and addressed and believe me I wasn't part of the process but I'm sure they were brought up multiple times. Again the role here is not to substitute anyone's judgment for the Planning Board it's did they fumble the ball on this did they blow it? I mean if that's the case then that's when these get overturned but otherwise was there enough evidence in the record to support them. Did they make the necessary findings? You don't pluck out what one person what member of that board felt at that time because they have to vote on it and the majority vote was to approve this and for that reason we think that it should be affirmed. Shawn come up, please. Is there anything I didn't go over that you wanna say to the board? Shawn Girard: You know we brought down the application, it was submitted, they thought they had everything then they came back and wanted a survey which was done for the Brulotte's. We then turned around and did that. The outlines that you see are faded but they were on print that I brought down there with a piece of paper showing the proposed house, the proposed fence and then we went through to meet the 16 conditions, so everybody there knew

there was proposed duplex out front house and conex boxes to line that, the side, and fencing and we have to get everything approved before we can move forward and do that stuff. So that was all submitted and you know everybody saw it at the meetings. Mr. Morin: I do want to mention something that had come up and as David noted, he needs to get it renewed anyways and I don't think the Zoning Board of Appeals has a role in telling the Planning Board how to review an application or what gets submitted if they don't what they need they're going to raise that with him but Mr. Girard's going to get them whatever he is required to do and what he needs to try and get his permit renewed. I mean this is unusual that he has to do this every couple years. Mr. Girard: And I would like to point out that it is only salvage yards that's been singled out in this, I am the only one that has to come back, there's probably 30 different conditional use permits in this town and the salvage yard is the only one that has to come back every two years. We had a chance to change that when we went about the board making it so there was no more junkyards, yes I did say that Tony Carroll owns a thousand acres of land and if he wanted to make a thousand acre junkyard at the time under the current zoning ordinance he'd do that and that was what was expressed but CIA Salvage having the only two junkyard licenses in town has to come back every two years. Nobody else does. Mr. Morin: I did want to point out one more thing I think that Dr. Farrand had mentioned certain other approvals from other entities, the Municipal Officers, all those other things, those I would argue are not in front of you either, you're just simply looking at the Planning Board decision. If there are other licenses he needs somewhere else he'll need to get those from anyone else. Mr. Girard: We met everything the Planning Board wanted. That's why we had continuances and we didn't have what they wanted. They asked us to come back with different things and we came back with them and we met everything they had, the 16 conditions. Mr. Coleman: Thank you Shawn, Brad. Mr. McLean: You gotta go up to the mic. Mr. Hackett: A lot of towns require anything with junkyards or anything with DEP that's including extractions and unfortunately Limerick does not have those ordinances yet but most towns will require a yearly review and a yearly renewal of a license which requires a new inspection and requirement of DEP evaluations. So it's not a two year usually it's a yearly and that's, you can check with most towns, Westbrook, Standish, Sanford, Limington does it yearly again it's just one of those things that we just haven't gotten to yet in this town but it's coming and it needs to be. It's not because of the industry or the individuals it just needs to be done fairly across the board. Mr. Coleman: Thank you, Stan. Dr. Farrand would you like to respond? Dr. Farrand: So there's been a statement made tonight I didn't know where it would become appropriate to bring this up the 2018 ordinance of the Planning Board indicates that in farm and forest there can be an automobile graveyard, junkyard under conditional use permit and there's a subscript with a permit from the Selectboard the only thing that has happened for this particular operation has been that it was approved by the Planning Board and given a thumbs up. I for a long time went to every Selectmen meeting right after and there was never a permit issued by the Selectmen at any town meeting. So there's a difference between this going forward with what I have appealed and whether I back off and just say I know it's been coming for review. I've known that all along, however there's a difference. The town ordinances no longer allow automobile junkyard, graveyard. So the real decision is can the Planning Board feel that there is a way to give Mr. Girard, CIA this, whatever criteria they put upon it that means something to them because if they decide they can't then the application fails, the application fails he cannot reapply. There's a really critical difference here

that no one, two attorney's have not brought up and no one else has recognized so far. If you'd like I'll pull the 2018 Zoning Ordinance to show you that but that's what the facts are and I'm all for negotiation I think you guys wasted a whole lot of money going down this road as a town, as a board without just conversing with us and sitting down to do it. There was a brief trial to try and have something that was compromised that didn't go anywhere. A lot of money has been spent, no big deal, it's a fun game to play I'm sure Mr. Girard's having a good time, I am. It's not really the way it should be, people should try to talk. Mr. Coleman: I can understand the mediation aspect of it but as a Municipal Official sitting on this board if I try to do that outside of a meeting with these other individuals as a board, that's illegal. Dr. Farrand: I understand, no one, no town attorney came forward and said let's try to talk about this and really did try to talk about it but that's beyond how the town does things but I brought that up to the Selectmen but this is a different thing. So if I decide to go with what Stan just said a few minutes ago then I've accepted that this is an entity that exists and it doesn't exist right now. It does not exist. Unless there's an emergency meeting and next week or whatever, the Selectmen say we got to put this on the board right now cause we want to turn this into an official thing even though I think you're going to, well I don't know what you're going to do. I hope you see what the validity of my argument is. I pulled bits and pieces from the presentations. I would have been very happy to have every single one of you listen to the CD's or the meeting and just come in here and say we already know it all, I would have been very happy to do that. I didn't pull out little bits and pieces it's sounds good but it wasn't bits and pieces. These were quotes and they were the flavor and I could have been a lot stronger about some of the characters' flavors and maybe some of you did listen to them. You can change and revise things, Mr. Morin said sometimes attorneys and engineers working together and they come in with more information and you change the application. What attorney was here, what engineer, there was a request for an engineer's input but I don't remember one being here. So it's an awesome sound but I'm gonna just say that it's just as flowery as they are saying my presentation was. It's aloud in this zone and therefore you're treating me differently in Mr. Ordway's statement that was reiterated by Mr. Morin. It's allowed with a conditional use, poor Mr. McLean tried to put something up on route 5 and the Planning Board, you know what they did to him? They did things like we need to know how you're controlling things like petroleum prifrate are leaking out of your vehicles. They were really pretty picky on him for weeks after weeks of Planning Board meetings, gee that don't sound like they should be doing that at all. It's just the same things with the chocolate house or the same thing as anything else. This is an operation that has a ton of chemical potentials leaking from vehicles, everyone's listened to what's going on. Did you know in this that for spreading sludge you have to have a \$3,000,000 bond and we don't care about a junkyard and everything that can fall out of them. I went over the whole list of chemicals at the Planning Board, when the Public Hearing was so please you can review that if you decide tonight you can't make a decision and you'll hear all those chemicals. We just talked about a junkyard including plumbing supplies, who's been talking about lead leaching out of plumbing fixtures in schools and everywhere else lately. We don't think that there's not in a junkyard a whole difference than someone making chocolate candies or a daycare and dirty diapers. So this is not the same thing and that's why the CEO has said that this is reviewed by everyone. It's so funny how oh no one else does it, the state law says it could be done annually, I read it to you at the very beginning. So the state thought it was pretty important and the state put down how important it was that we

protect the citizenry. Is there enough evidence because Mr. Morin implied that the evidence is in the record that they made this decision. You have the record did you see the evidence that changed their mind from February to March. I think Ms. Richard already answered tonight that she probably should not have gone forward with at least as you asked her the question about the site plan. Shawn Girard just mentioned something about his use of the conex boxes to hide what's happening at the property as part of the fencing or he said conex boxes and fencing, well the Planning Board specifically said no that is not adequate. So to say tonight that there are a ton of conex boxes out front including within the 50 foot setback those are not appropriate. They said no just like he wanted to put car hoods, well he didn't say that he said in the old day I could put car hoods and put them on the fence and that would have been just fine, it's a different day but that would be structure for your Code Enforcement Officer to do what they need to do. I'm sorry that I didn't get to read that Ordway letter well enough and I would be happy to respond if you see something within it because he is trying to imply that you guys have to look at whether I have standing and everything else. I wish you could read the entire judgment by Judge Douglas because maybe Mr. McCall will say how Ms. Burns felt afterwards but she could not answer many of his questions as to why this wasn't listened to. I think he was aghast, that's just my opinion. I'm sure you can have access it's public record, you should go read it. I don't think Mr. Ordway's comments in many of his citations, they're beautiful and they sound eloquent and I don't know how to go counter all those great cases, well those cases were in many of the presentations he gave to the court already and apparently Judge Douglas didn't think they were worth squat, I guess in interpretation. Thank you for your time, if you have any questions from anyone I'll be glad to.

Mr. Coleman: Thank you, Dr. Farrand. So are there any questions from the board before we close the hearing and move to meeting to deliberate. *Someone in the audience made a comment.* Mr. Coleman: It's actually meant to be between Dr. Farrand and the Limerick Planning Board. Unless Dr. Farrand feels someone else needs to speak on his behalf. Anything else? Hearing none I will close the Public Hearing and we will move on with our review of the administrative appeal. In summarizing the appeal, once again February 23 the Limerick Zoning Board of Appeals will hold a Public Hearing and meeting on review of application of administrative appeal by Merrill R. Farrand Jr in reference to Limerick Planning Board decision on March 4, 2020 to grant a conditional use permit to Shawn and Dennis Girard at 41 Range E Road, tax map 30 lot 18B for a junkyard, automobile graveyard. On this board make a finding on quorum, Steve McLean **motioned** that we have a quorum. Howard Burnham **second. All were in favor.** Mr. Coleman: D) Timeliness of the appeal, we said before this has been remanded back to us by Judge Douglas in Superior Court as of November 24, 2021. Is there a finding on the timeliness of this appeal? Howard Burnham: I think it was brought in on time, within the time allotted. Steve McLean **second.** Mr. Coleman: So we can discuss it. To reference Mr. Ordway's concern, I gotta dig for it here, hold on one second. Well I'll start with the judge, the judge basically stated that we should hear the merits of the case by Dr. Farrand and that's why we are here tonight and that's why Dr. Farrand had the opportunity to speak. If this board wants to move forward with this administrative appeal, I guess this is the opportunity here where we say it is now timely based on the remanding by the judge and I personally think we should move forward with the review. Mr. Burnham: I second that. Mr. Coleman: So to that end the good cause exception was discussed in the letter from Mr. Ordway. Mr. McLean: But it wasn't good cause it was in the mail in the slot picked up by the Chairman of the Planning Board that day.

Mr. Coleman: There were mistakes made. Mr. McLean: That's not our decision. Mr. Coleman: Right and the quote on quote Town of Limerick did have the application on time. Mr. McLean: On time. Mr. Coleman: As a member of the board had left I was not notified nor was the former chair, notwithstanding, Dr. Farrand did have the paperwork there prior to the 30 days. Is there any other discussion? **All were in favor.** Mr. Coleman: Moving on to jurisdiction, the Limerick Zoning Board of Appeals has jurisdiction to hear appeals of decisions by the Limerick Planning Board under the Zoning Ordinance article X section E paragraph 1.A and state statute title 30- A MRSA subsection 2961, Steve McLean **motioned** that's been met. Howard Burnham **second.** **All were in favor.** Mr. Coleman: Standing, does the applicant have a right to appeal? Steve McLean **motioned** that he does. Howard Burnham **second.** **All were in favor.** Mr. Coleman: Completed application, again we did receive that application and the fee was paid. Steve McLean **motioned** completed application. Howard Burnham **second.** **All were in favor.** Mr. Coleman: The applicant presented their case. Are there any other questions for Dr. Farrand or the Planning Board that you guys would like to ask or any discussion that you want to have about it? Mr. McLean: I guess the only question I have is Dottie you there? The only question I have of the Planning Board is that a couple of these questions were asked and information was requested that the Planning Board did not receive. Ms. Richard: Correct. Mr. McLean: So why did the Planning Board continue? Ms. Richard: I asked if they wanted to continue and nobody answered me and instead of saying we'll continue this when we get the information I went forward with the meeting. Mr. Burnham: Having said that you could have stopped the meeting at that point. Ms. Richard: I could have. Mr. Coleman: Are there any specific findings that we need to make? I mean we've made a finding that we are going to move forward under. Mr. Girard: Can I speak? Mr. Coleman: In one second, let me complete my thought. We are moving forward with the good cause exception so that is a finding that we are going to have. We need to make specific findings on whether or not the Planning Board acted appropriately. Mr. McLean: But on the good cause thing, why is it good cause when we've determined he had it in on time? I don't think we're going with the good cause when it was determined to be in on time. Mr. McCall: So to clarify I haven't read David Ordway's letter but my opinion is that this board doesn't have authority to determine whether or not a good cause exception applies. That can only be applied by a court, what happened instead is there was a decision from Superior Court that found that this board erred by dismissing the initial appeal as being timely and it has remanded that appeal back to you for consideration on the merits. That in and of itself is sufficient for this board to have jurisdiction in fact a court has told you that you should hear the case on the merits. For the remainder of where you're going keep in mind in order to be granted a conditional use permit an applicant needs to satisfy the Planning Board of there are 16 conditions and so to the extent that you feel and I'm not saying that you should or shouldn't but to the extent that you feel that there was for instance not sufficient information for one of those to be met or if you feel that the Planning Board was correct. It would be helpful for you to specify exactly the rationale for that, that way I can prepare a draft Findings of Facts for you to consider at your next meeting but we want to be as thorough as possible. So simply saying the Planning Board was correct or not correct isn't going far enough we need to be very specific in one direction or the other about what was. Mr. McLean: That's a secondary thing compared to what I'm saying, it was in on time the vote was 3-2 against at that time with not knowing the information but the video was there it was there. We sadly to say our Code Officer will change that but we have nothing in Limerick,

everything is gray and we don't have an address as an Appeals Board, okay, but it was given to the town to the Chairman of the Planning Board, received it, picked it up and had it and what happened for the next three months Lord only knows but that's why we're here. Mr. Coleman: I'll let you speak but we're at the point now where the board is going to deliberate. So the hearing was kind of. Mr. Girard: We know Mr. Farrand was in the mailbox but we don't know what he was doing or if he has proof of that. We don't know what day the appeal was delivered, we don't have any proof of any of that. When the board asked me to come back with a drawing from one meeting to another we came back with that we've always come back to the board with whatever they asked for and we've always done what we had to do to meet the 16 conditions and we did that at this meeting to get the conditional use permit. We don't go to the state until after we get everything done and get the DEP involved until you get, you know, you don't go get DEP and everyone fired up and bring them in before you even know if you're even going to be allowed to work there or not. Mr. Coleman: Right. Thank you, Shawn. We need to put together some conclusions and findings so that we can work with. Mr. McLean: Well we have to vote on whether he had a timeliness of that. Mr. Coleman: We had voted on that. Mr. McLean: Okay so we're done with that so it's not the good cause one. Mr. Coleman: No we're down with the Findings of Facts now. Mr. McCall: As this board knows it is required by statute to have a written decision within seven days of making a decision, however this board can proceed one way or the other but my suggestion would be that you deliberate and reach a consensus generally but the final decision would be your adoption of written Findings of Facts and a final vote which would happen at a subsequent meeting. We get an idea tonight about which direction this board decides to go in that allows us time to craft Findings of Facts and conclusions of law that will go along with that. That's my suggestion the board is free to do what it chooses to do but my suggestion would be to have a discussion but not necessarily reach a final decision until those final Findings of Facts are prepared. Mr. Morin: And the only reason I bring it up is the discussion with the Planning Board member. I just think that you should consider that each Planning Board member, I don't think that just one person's opinion on how the deliberations went should sway and I think you should consider each person used their own judgment before they made that vote. Mr. McLean: Right, she was the chairperson at the time who would control the meeting and that's why I said why did it go on cause that would have been her ultimate decision, so to clarify she was the chairperson running the meeting. That's all, I understand what you were saying one person but the chairperson was the one that ultimately would control that meeting. Mr. Morin: And the only reason why I bring it up I don't think the evidence shows that this was any type of oversight. Mr. McLean: No we're not saying that. We're basically here for what he said to decide if this was timeliness and that's what it is. Mr. Burnham: Dave I got a question because there are multiple areas in their errors can we send this right back to the Planning Board? Mr. Coleman: We have the option as a board to remand this decision back to the Planning Board, yes. Howard Burnham **motioned** to remand the decision back to the Limerick Planning Board. Steve McLean **second**. Mr. Coleman: And I'll open it up for discussion. First, do you have anything you want to say about it? Mr. Burnham: Just from the fact of listening to what Dottie was saying that she should have stopped the meeting cause they didn't have the information and the items that Dr. Farrand brought up there's all kinds of holes in this and I feel there's enough holes and I watched this meeting as it was going along that it's not fair to all parties involved. There were errors made and there were grave errors made by the

Planning Board. Mr. Coleman: I agree. Mr. Burnham: And it should go back to them. Mr. Coleman: I think there was a great deal of bait and switch and I think the board in February was asking for things and then later they didn't require them or decided that they felt that it would be satisfied verbally and in fairness to CIA I've been on that board I've asked for more things and the meetings continue to go on and on and it does seem like an arduous process but I think if you're going to ask for something and then not use it it's kind of poor form. Mr. Burnham: I don't remember a time when I was on the board that we asked for material that we just blew off so to speak and approve something without getting that information. Mr. Coleman: I think it does put a lot of onus on the Code Enforcement Officer as well because I've been in that chair, we've given conditional uses in the past to people and like Shawn says sometimes you have to get the permit first and then you fill in all the blanks and whether that has or hasn't happened here because of the process or just hasn't happened, I won't pass a decision on that. I think sending it back to the Planning Board isn't necessarily a bad idea. I do have a question and maybe Ben can speak to it about the whole chicken and the egg thing that Dr. Farrand brought up, is this a legitimate permit up to this point being appealed and if we remand it back to the Planning Board can they decide that it isn't. Mr. McCall: So to first ask you to do something that I was going to raise, I hear the concerns that the board has raised but I also need and I think for the record it needs to be clearer exactly what decision has the Planning Board made and you have a list of 16 that can guide you in that but pointing towards decisions the Planning Board made and why you feel that particular decision was incorrect. So wholistically looking at the process I understand the board's concern but it needs to be more definite than that in order for you to remand it because ultimately if that is your decision and what you choose to do the Planning Board is going to need direction more specifically to look at what your concerns were. To your second point this application, well the conditional use permit was approved by the Planning Board in 2020 so I understand it is a rarity if its ever happened before and it may not have that the situation could potentially be that the Planning Board is dealing with the remand of a permit that was granted in 2020 and subsequently the possibility of having to have that permit renewed, that's certainly a possibility but what's before you tonight is simply 2020 permit and a decision on whether that needs to be remanded back to the Planning Board or if the Planning Board was correct in making its decision. I don't know if that answers your question but I'm happy to. Mr. McLean: Yeah he wants more definition. You can say remands back but you have to say remands back to have what answered. Brad Libby: I'm kind of curious about the whole process, from here forward, should this be remanded back to the Planning Board for new review, does the conditional use process begin all over again with this potential new evidence brought into consideration or are they only going to be able to consider the information that they prior asked for and didn't receive or clarification on those particular items? Example, Mr. Farrand had mentioned that he had submitted an email to the Planning Board that was never mentioned. There was little discussion on some of the other emails and other comments made by other parties that were not addressed. Would those be addressed at this time or are they basically working with the same information that they had. Mr. Coleman: And I think Ben's point was we would have to be very specific about what we want them to redo. That what I'm hearing you say. Mr. McCall: I think to answer the question more specifically by its nature if you were to remand this back to the Planning Board it would have to be premised at least this is the understanding that I'm getting from the board. With the understanding that the prior decision of

that Planning Board was not supported by substantial, sufficient evidence in the record so by its nature the Planning Board's review wouldn't be limited to what was before it in 2020 it would need more information submitted to it in order to make a decision. Conversely your review tonight is only, is limited solely to what was before the Planning Board in 2020. It hasn't been submitted there was no new evidence submitted into the record tonight, there was only argument of the parties but if there was an attempt tonight if there had been to submit new evidence to you that would be improper because you are only looking at what was before the Planning Board. Mr. Burnham: I have a question, if this is remanded back to the Planning Board based with the stipulation in that they would have to look over all things that were presented at that time. Can they at that point ask for any other clarification? Mr. McCall: Yes. Mr. Burnham: So other things can be submitted, to clarify. Mr. McCall: Yes. Mr. Libby: My experience with the Appeals Board in the past is our review has most generally been with the process and for example the fact that the Planning Board did look at each of the 16 conditions, they had some amount of discussion about each and everyone of them, they came to a consensus that each one of them was okay they were happy with that, whether they were happy with it or not they did it. The Appeals Board's job in the past hasn't been so much to decide whether they made the right decision but that they did make one, Mr. McCall: Correct. Mr. Libby: Is that our position here tonight or should we be digging into the fact that maybe they didn't make the decisions with all the information that was available to them or they didn't insist on getting more information. Mr. McCall: I think that's a fair point to clarify and on this I do agree with what attorney Morin said before and what I believe attorney Ordway said in his letter. Your role is a pellet and that means you are not allowed to substitute your own judgment for that of the Planning Board. So it does not matter whether or not you think the permit should have been granted. Instead the question is did the Planning Board have enough information before it in order to make a decision one way or the other. To give an example, one of the 16 criteria that's been brought up before is the conditional use cannot have a significant adverse impact on neighboring property values. Your job is not to determine whether what was proposed in CIA's application would have a negative impact on surrounding property values, it's only to determine whether the Planning Board had enough information before it such that it made a reasonable determination one way or the other whether that was the case. It has been argued here tonight that there was simply wasn't enough information before the Planning Board to allow it to make a decision. Obviously one side believes that the incorrect decision was made but that's the distinction. Mr. Libby: My understanding was they asked the question and didn't get an answer. I find it difficult to believe that they made the right decision there but they did discuss it and decide it. Mr. McCall: So again my role here is not to, I certainly do not represent one side or the other my only job is on process but again that is the question the board needs to decide tonight it does not necessarily need to make that decision with regards to everyone of the 16 criteria. I don't believe all 16 were presented in Dr. Farrand's appeal but certainly the ones that were presented and focused upon think it would be wise for the Zoning Board to take a look at those and decide whether based on what was in the record before the Planning Board or that there was enough information for the board to make the decision, to make a decision regardless of whether you agree with it. Dr. Farrand: The CEO has presented his feeling about how he would like the future to go if you send it back with questions on a certain number of conditions, then my question is, are you getting the most out of your CEO if he happens to think something else has a hole in it? And it's

going to go through and I'm not smart enough to know everything that's right or wrong. My send it back is I know that you're being told by your legal counsel and then you had another opinion come across through from someone else. Since I just want to have a fair and balance I think you have a professional who knows a lot more than I do and those 16 conditions, why not have the whole thing looked at. Mr. Coleman: I don't disagree with you or Stan about that. I think a peer review is always good, as far as jurisdiction goes obviously the Planning Board is the one that has the authority to issue that permit and the Code Enforcement Officer has a duty to make sure that the parameters stay within whatever they defined it as. So to go to him first is probably a good call because he's obviously going to pick it apart a whole hell of a lot worse later on than anybody else would but in terms of us able to remand something back we obviously can't remand it to the Code Enforcement Officer because it's the Planning Board that we're dealing with. Mr. Burnham: I think if this is remanded back to the Planning Board and by saying that it is not going to be reviewed as it would be if it was today, in other words what he said tonight about him looking over all this stuff he would not be able to do that in this situation, this is based on the merit and the information that was presented to the Planning Board at the time. Mr. McLean: Right and by the same token in two more weeks they're reapplying for an application. Mr. Burnham: Right but that's two more weeks from now we're dealing with this situation now. If they want to do something after the fact to reauthorize this that's one thing but we've got to deal with it as it exists right now. Mr. McLean: But by the time they hear it he's going to have his new one anyways. That's the reality of this. Mr. Coleman: So is it still your position to remand it to the board or are we going to make a decision whether the board did it right or wrong? Mr. Coleman: No that's not what we're going to do. Mr. Libby: Someone has to decide whether they made a mistake. Mr. Coleman: I guess I'll put you on the spot Brad, as far as where do you feel they made an error of law? Mr. Libby: I think when they asked about property values and did not get a response that would have been enough for me right there, the site plan it looks pretty vague to me. I would have, had I been on the board.. Mr. Burnham: Would not have gone from that point, would not have started. Mr. Libby: I think there's enough holes in it that if I were on the Planning Board, personally would not have voted for that. That being said I'm not on the Planning Board, I'm on the Appeals Board and I don't think it's up to me or up to us on whether they made good decisions or bad ones. Mr. McLean: That's not what we're here for. Mr. Libby: Only that they reviewed the conditions they had, discussed them, and made those decisions whether we think they're right or wrong. Mr. Burnham: But there was information that wasn't even looked at. Mr. Libby: I know but it's not up to us. Mr. Coleman: So if we are going to remand it back you would ask that they review those two particular conditions. Mr. Libby: Yes, I would like to go over a little bit more. If the decision is made to remand it back to the Planning Board I think it would give Mr. Girard the opportunity to redo his application and potentially move forward with his salvage yard and again potentially I think at that point in time the Planning Board would certainly have to dig really really deeply into their own 16 conditions and make certain the Mr. Girard is in compliance or at least intended to be in compliance or gave them some indication that what he was going to do was going to be in compliance with regulations so that Mr. Farrand could sleep a little better at night, knowing that he'd be able to drink his water in the morning. Mr. McLean: With that being said if we're going to do that we have to say number 1 479 that's what we have to do. Mr. Libby: Get them all squared away tonight. Mr. McLean: Well no we can readjourn in a week or two weeks. Mr. Libby: Well we have a certain

amount of time what we have we can make a decision to remand it back to the Planning Board. Mr. Coleman: We have 30 days to make that decision. Mr. Libby: At that point in time we'd have our next group meeting. We could certainly from what I'm understanding direct the Planning Board to redo that type of information. That being said they may still end up making the same decision with the bad information. Mr. McLean: Has nothing to do with us. Mr. Burnham: The fact of the matter is we're finding where we feel the flaws are. Mr. Libby: Again I'm not sure that's our place to do that. Mr. McLean: We voted to remand it back. Mr. Libby: Well Howard it wouldn't be the first time. Mr. McLean: So we're voting to remand it back. We're gonna have to meet in two weeks. Mr. Libby: I gotta tell you I'm torn. Mr. McCall: So what I'm hearing from you Mr. Libby, correct, by process of elimination. I know that Mr. LePage isn't here tonight, we haven't met before. So I'm hearing from you and there seems to be a consensus from the board that you don't feel at a minimum that there was sufficient information in the record regarding potential delianation of property values for that condition to be made and also that there is a consensus that a more detailed site plan was necessary or at least more information on that was necessary to look at among other things the first two conditions. Mr. Libby: The groundwater, I think those are pretty important considerations. Mr. Coleman: Just give me a minute. Mr. McCall: That's all the direction I need. Mr. Coleman: To that end to the board and to that end the two that you brought up there was a third one and these were the items that were highlighted and bold in Dr. Farrand's original letter. The third one was a letter from the DEP which I think speaks to that stormwater plan that you're talking about. If it's the feeling of this board to remand it back to the Planning Board I guess that I would suggest that the criteria were going to give them are these three highlighted in bold items that were in the original letter with the admin fee. Mr. Burnham: Before I say yes or no on this, if we say we're gonna vote on this to remand this back are we going to have another meeting to go over specifics. Mr. Coleman: So to Ben's point we're discussing it now it's been moved that we're going to remand it. What he's saying is when we make the decision we have seven days to have all of those conditions all completely written out. So if we're going to do that we need to write them all out now, or we need to have another meeting and flesh all of those out before we make the decision to remand it back. Mr. McCall: So you can do one thing or the other, if you make a final decision tonight it's true that you need to have a written decision within 7 days the alternative would be I hear what I have done and what we do with other Board of Appeals or Planning Boards in this situation like I've described is instead of making a final decision tonight we put together a draft, I must stress draft, Findings of Facts and Conclusions of law based on the discussion the board has had send that to the town, that would be considered and if it's in line with what the board wishes to do those Findings of Facts and Conclusions of law could be adopted at your next meeting whenever you choose to schedule that and at that point that would be the date of your decision. From what I'm hearing tonight would be to remand it back to the Planning Board, so instead of making that decision tonight that decision would be made in conjunction with those findings being available and of course if you have any problems with them, suggestions there merely a point for discussion to make sure that the board particularly specifies what it wants to do. Does that make sense? Mr. Burnham: Quite a few minutes ago I asked you about to have that reviewed in its entirety based on the information that was presented at the time. Mr. McCall: So all I was talking about was how you as the Zoning Board of Appeals will proceed so the suggestion is that you allow me a few days to put together a draft set of findings and

conclusions for you to review at your next meeting. My response to you before was only about what the Planning Board would do if and when the matter would come back to them, I'm only talking about how that is set into motion. Mr. McLean: I think Howard what you're trying to say. Howard's saying can we just send it back saying you have to go through all 16, which I think is too vague. Mr. McCall: You can ask them to do that but ultimately at the end of the day you need to be specific in reasons why you wish to remand it and that's why I was asking for more information. Simply saying we don't think there was enough isn't specific enough in case that was ever challenged. Mr. Coleman: Where we think they made specific mistakes. Mr. McLean: Brad's saying value, site plan, stormwater but that's where you gotta. Mr. Libby: Those are my concerns. Mr. McLean: If everyone has those concerns that what you have to send back to them. Not a whole broad thing, you can't tell them do the whole thing over. So you're gonna have to look through and figure out. Mr. Libby: I don't think they need to do the whole thing over there's plenty of stuff on there that I think they did well. I'm just concerned that there are a number of things that they didn't. Mr. McCall: And that's the specificity I was asking for and that's what I'll try and capture in these findings. Arguably in order to require the Planning Board to go over all 16 you would need to find that there wasn't sufficient information in the record to support any of those conclusions. But again what the board will have at its next meeting is a draft which if you feel is inadequate, needs to be changed or added to then you're obviously free to do that it's just our job typically to put that into an easy to follow and use format. Mr. Coleman: So that being said, do you feel like you have enough based on what you've heard are there any additional information from the board? Mr. McLean: No. Mr. Coleman: I would hate to jam up paperwork on three things and find four or five. Mr. McLean: Well I don't think he's going to do it on three things when we meet we can add to it. Mr. Libby: Would we be remiss in saying yes that they go over all 16 conditions, with specific focus on three of the items that we mentioned this evening. Mr. McCall: Like I said before I think it would be challenging to justify all 16 because that would require finding that the Planning Board did not have sufficient information to justify any of those 16 conclusions and I don't think that's been argued here tonight. I think I have sufficient information I've heard about groundwater, I've heard about property values, stormwater runoff and I think that's sufficient for me to put something together. Mr. Burnham: Might want to put the buffering on. *Comments by someone in the audience that could not be heard*, Mr. McCall: My suggestion and my last suggestion I'll leave you with is that there was a motion on the floor to remand I would ask you that in order to keep things clean that that motion either be withdrawn or it's amended to specify or just to indicate that the Zoning Board wishes to continue it's deliberations to its next meeting to consider findings of facts and conclusions. That's again just a suggestion. Mr. Morin: Just one more thing the Planning Board like on the property values I think for the record I need to point out that they didn't make their decisions based on nothing, there's discussion, the argument that swayed them was one of the members saying we can negate many of these things because they're not going to have a crusher there everyday with screening and things like that, that could be negating some of these things like property values. That appears from here to sway the other members to vote in favor. I think we have to be careful about saying they didn't have anything because they didn't have the letter, there was something there that caused them to vote that way. Mr. Libby: But they requested a letter though. Mr. Morin: They did but ultimately they decided they didn't need it and they knew right then that they didn't have it and they kept going on. Mr. Burnham: Well they never got it.

Comments from the audience that could not be heard. Mr. Coleman: We're just cautioning everybody at this point yes because the meeting can go on all night. My style has always been a little loose and that's my fault, usually to clarify it, if one of the members of the board wants something from someone I will allow it but typically just kind of like from there in I'm trying to hold it back. Mr. Libby: I have to step out for a moment. I have some very pressing things on my mind. Mr. Burnham: The attorney's going to make up the letter? Mr. Coleman: Yes he will make those findings. Mr. Burnham: So after reading that if we decide there's one area that you didn't get. Mr. McLean: Yes you can change them. We're going to continue Howard. That will be the motion. *Comments from someone in the audience could not hear them.* Mr. Coleman: And we have done that with a few appeals over the years. Mr. Coleman: At this point if you wanted to withdraw it or motion to continue until our next meeting. Howard Burnham **motioned** to continue. Steve McLean **second**. Mr. Coleman: And with that I would need a date that you guys and well Brad's not here. Mr. McLean: Well sooner. Brad will have to take what we give him. Mr. McLean: We have to have it advertised in the newspaper. Mr. Coleman: Technically we have to have it advertised within one week in three places in town. It doesn't necessarily have to be in the paper but it typically is. Mr. McLean: It always was. Mr. Coleman: So two weeks from today is the 10, not the 9. Mr. McLean: That's when it should be. *Comment from the audience.* Mr. Coleman: Two weeks would have to be either the 10, the 11 is town meeting. So we're looking at it would be the 10 or the 15, third Wednesday is okay the 16? Mr. McLean: Well you guys will just have to do something different. Mr. Burnham: But you're not meeting here. Mr. Coleman: We could do the 15 as long as there is no conflict on the 15. So Brad, we are motioning to continue to discuss our findings on March 15, which is on a Tuesday. Mr. Libby: That should work for me. Refresh me again we're going to. Mr. Coleman: We are continuing the motion on the floor to remand to the Planning Board on March 15. Mr. Libby: And at that time we will have specific recommendations for their review. Mr. Coleman: We will review the draft conditions. Potentially make a decision. Mr. Burnham: Sign them and get them out of here. Mr. Libby: Before we do, do that I would like to just as a moment of clarity for my part if we were to accept Mr. Farrand's assertion that his appeal is proper then this ends it, right here and Mr. Girard would no longer be able to reapply for a junkyard because of the permit ordinance, is that correct? Mr. Coleman: It would go back to the Planning Board to decide. Mr. McLean: It would still go back. Mr. Libby: I think you answered a different question than I asked. Mr. Coleman: I'm probably not the one to answer it. Mr. Libby: Well I think you might be able to Our current zoning ordinance, if anyone came forward, wanted to put a junkyard in they would not be able to. Mr. Burnham: Right. Mr. Libby: Because they are no longer allowed in the Town of Limerick. Which our decision this evening was to accept Mr. Farrand's appeal and say okay forget it, this is over. Shawn wouldn't be able to reapply because. Mr. McLean: Well no, we're not, we're sending it back. Mr. Libby: If we didn't. Mr. McLean: If we weren't sending back but we are sending it back that's what we agreed to do which makes it continuous. Mr. Burnham: And there would be legal issue, what you're asking. Mr. Libby: I'm just curious is all. If it goes back to the Planning Board and the Planning Board says yes go ahead Shawn do what you want, Mr. Farrand still has the opportunity to appeal that decision at some point. If they say no Shawn is probably going to be able to appeal that decision. Mr. McLean: Yes but that's the process. Mr. Libby: So if that's the case then I would go with remanding it back to the Planning Board. Mr. McLean: Well that's what we're going to do, we are going to continue. Mr. Libby: I just wanted to be clear on my own

part what we were doing and the ramifications of what we were doing. Mr. Burnham: Ben is going to make up the paperwork for the high points or whatever we talked about and then we can add to that if we want to. Doing it on the 15 at 7:00. Mr. Coleman: The motion on the floor is to continue our meeting on March 15th at 7PM at the Municipal Building and we will discuss draft findings remanding to the Planning Board. **All were in favor.** Mr. Coleman: Before we adjourn I'll just draw your attention to the meeting minutes of 3/ 1 and meeting minutes inscriptions for 1/20 and 2/23 which is today because we haven't got an administrative assistant yet we haven't gotten transcripts for these meetings I don't know what the boards feelings are I've been hesitant to use Laura May because she was a member of the Planning Board at the time and obviously Dottie has been filling in as administrative assistant and she was as well chair so if the board doesn't mind I'd like to ask Joanne to do them. We obviously have the authority to vote the minutes up or down one way or another. I don't think that she's going to put any particular bias on a verbatim transcript. Mr. Libby: I have no reason to believe that she would be anything but truthful. Mr. Coleman: So I'm going to ask her to do those minutes as well and I will have all three sets of minutes for your review probably not for the next meeting but for our next meeting after our annual town meeting, which I will remind you guys I need two executives because I can't do either one.

Howard Burnham **motioned** to adjourn. Steve McLean **second**. **All were in favor.**