

**Board of Appeals
January 27, 2021**

Members Present:

David Coleman- Chairman
Steve McLean
Brad Libby
Howard Burnham
Roland LePage, Jr. (Sonny)

Public Present:

Jody David
Lydia Allison
Von Scott
Joe Annaloro
Heath Edgerly
Michael Gilpatrick
Ben McCall

David Coleman: Regular Zoning Board of Appeals meeting for Limerick January 27, 2021. We have some new business, we have a reconsideration by Jody David regarding the Appeals Board decision of. *Comments from the audience could not be heard.* I sure can. Let me take it right off. We have new business of reconsideration of the Notice of Decision by the Board of Appeals from December 30. We have some correspondence, meeting minutes, some discussion around the budget, and old business of the Dr Farrand and the Limerick Planning Board. I'm waiting for one other Board member, who I'm hoping will be here shortly, here he comes. Alright so a little background on December 30, the Limerick Zoning Board of Appeals signed and issued a Notice of Decision and Findings of Facts regarding an Administrative Appeal by Jody David and Bad Frog Budz, LLC on a Notice of Violation dated October 23, 2020. On the 30 Mr. David requested that this Board reconsider its decision, in the following 10 days Mr. David filed written paperwork and that was forwarded to the Board as part of our regular correspondence. There was also some correspondence from Mr. David, I believe I sent it on the 30 in the evening after the meeting, regarding some social media posts on Facebook in reference to comments made by Howard Burnham. Mr. David also provided an email on January 19 that I also forwarded to the Board with attached photos with the change made to the sign. So going forward I did speak with Jim Katsiaficas following the meeting regarding the reconsideration, it was his opinion that we needed something in writing from Mr. David which he did submit and it was also his opinion that this Board should hear the reconsideration based on bias as well as any other substantive information that Mr. David provided along with that. So is there a motion by this Board to reconsider the decision made by this Board on December 30. Steve McLean **motioned** that we reconsider. Mr. Coleman: If there's no second, I guess we will not have a reconsideration. Alright moving on, we have correspondence as well from Mr.

Zarthur, I believe you folks got the package. That's about the Code Enforcement Officer's decision on a Notice of Violation for a shed. Steve McLean: When's that coming up? Mr. Coleman: I have that scheduled for February 10, I'll send out an agenda beginning of next week provided no other items are on the agenda and that will be held in this building at 7PM. There is a site walk scheduled for 6PM at their location. Unless this Board feels that we should not have a site walk. I personally haven't been by there so I at least need to go. Howard Burnham: Where is that David? Mr. Coleman: I knew you'd ask me that. East Shore. Mr. McLean: Off of East Shore Drive on Sokokis. Mr. Coleman: It's East Shore Drive, I'll get the address. Mr. Burnham: Steve, is that at the back of your place? Because Mike told me about that. Mr. Coleman: Under old business we have the meeting minutes of 12/30. Has everybody had an opportunity to review those minutes? I have no changes, I read them and they looked fine to me. Steve McLean **motioned** that we accept the minutes. Howard Burnham **second. All** were in favor. *Comment from the audience that could not be heard.* Mr. Coleman: The Board voted not to reconsider. Well the Board did not actually even vote to reconsider. There was no second on the motion to reconsider. Heath Edgerly: Could the chairman have seconded that or your excluded from this? That is my question. Could you have second it for discussion purposes? That's normally how we operate. Even if we are still against something usually we'll at least second it so we can talk about it amongst the Board because you do know that the townspeople have to realize that we just paid the attorney to come in here and more than likely this could have moved forward and could have gone to a federal court, which is going to cost us more. That we could have just talked about and maybe found that there was something we're missing here. The outside looking in I have to look at expense for the townspeople and you guys just cost the town by not at least discussing this. Jody David: And it's not over. Mr. Coleman: The Board did make a decision on December. Mr. David: So here's another problem, Brad Libby and I have done business together. *He made other comments that could not be heard.* Mr. Coleman: By all means. Mr. David: So Brad Libby and I have done business together, we both own businesses in town and I don't think it's fair that he gets to reside over my business, nor Sonny LePage for that matter. He owns a garage, I own a garage. Obviously have issues with businesses. Mr. Coleman: Alright. In that case then if this Board were to reconsider you've already eliminated our ability to develop a quorum. Mr. David: I'm sorry but that's the way it has to be. That's not my. Mr. Coleman: Again this Board did make a decision. You are allowed to make an appeal to the Superior Court by February 6th and that's certainly your right to do that and you can also tell them at that time that the Board was offered the opportunity to reconsider and did not. Mr. David: Perfect. Brad Libby: May I speak? Mr. Coleman: Sure. Mr. Libby: I would like to address the situation and in general. Mr. David: Is that alright to do that? In front of all these people? I don't know. Mr. Libby: As a Board member, I'd kind of like to rebut part of what you had to say, Jody David. Mr. David: But you haven't been here through the whole thing but you get to reside over it. You didn't do that site walk, you don't really know anything you may say you do but you haven't been inside you don't really know the scope of it all and I'm trying to do this the legal way, Brad. Mr. Libby: Yeah I understand and I'm not trying to give you a hard road. Mr. David: You are a fellow pot smoker, I mean, right? I mean we should stick together I thought. Mr. Libby: I guess my statement would be that we live in a small town and everybody here has some opinion about what you're doing, either good or bad but because we're elected to this Board we're expected to keep our personal opinions to one side and look at the

legislation. Mr. David: Obviously, that it hasn't been that way all through the system. Alright you just haven't written it on Facebook, Sonny hasn't written it on Facebook but I caught Howard writing it on Facebook. You know what I'm saying I'm not trying to be a jerk, I'm trying to operate a business and you guys are trying to make it so I can't. if you guys would just tell me what I gotta fix which I thought I fixed since the last time. Mr. Coleman: This Board does not tell you that. I've explained that on a number of occasions. This Board makes a decision on whether or not the Notice of Violation was proper and we made that decision. We do not have the jurisdiction to tell you whether you are or are not in compliance that is the Code Enforcement Office. Mr. David: Right, that's the problem. I've been trying to resolve this problem from day one. Mr. Coleman: Have you met with the Board of Selectmen in Executive Session regarding the Code Enforcement Officer. Have you met with the Board of Selectmen. Mr. David: Will not even respond to me, sir. Mr. Edgerly: I have read emails that the secretary has forwarded to us but outside of my response that I received it he has not had a response from the Board. Mr. Coleman: Alright. Well again this Board does not. Roland LePage, Jr: Again, if the Code Enforcement Office hasn't responded to you that's an issue you can take up with the Board of Selectmen. Mr. David: I have proof, all my text messages, Sonny, that I have sent in. Mr. LePage: That is the end. Von Scott: It's not this Board. Mr. David: I know it's not this Board, it's not their fault. Mr. LePage: We can't tell you what to do. That's the Code Enforcement Officer's job. Mr. David: I've been trying, he won't even respond to me. Mr. LePage: As I said then you take it to the Board of Selectmen and have them talk to him over the issue. Okay, your next step as David has told you, if you disagree with our decision, with who the people are that are sitting here or anything else your next step is to take it to court. Mr. David: For you to take me to court? Mr. David: This Board won't do that. Mr. LePage: You have to take the town to court. Mr. David: Thank you guys for your time. Mr. Edgerly: I guess my last question for the Board is, for you guys. Now based solely on your decision without looking at the thumb drive and all the evidence provided to prove that we were in the right. How can you avidly make a good decision moving forward, yes or no, without all the facts on the table. Mr. Coleman: There was a hearing and there was a decision made. Why wasn't that information presented at that time? *Comments from the audience that could not be heard.* Mr. Coleman: We asked for the information repeatedly before that night. So that we could make that decision that night and we made that decision based on the information provided to us in that period of time. Mr. David: Emails to you and to the town and I have you recorded calling me in the morning telling me what to do. So would I like to bring that out too, I guess, Dave Coleman. Mr. Coleman: I asked you for that information and you provided it. Mr. David: So the day after the meeting. Mr. Coleman: And this Board did not make a motion to reconsider. Mr. David: You weren't supposed to call me, right? Because I have it all recorded. Mr. Coleman: You can play it back. I have absolutely no problem with you playing it back. Mr. David: He called me up and told me. Mr. Coleman: My comment to you was I am not supposed to coach you on how to provide your information to this Board. *Comment from the audience that could not be heard.* Mr. Coleman: Because the ordinance states that the applicant has the burden of proof. I am not supposed to be coaching you on what to submit. I asked you for that information and you provided it. Mr. Scott: Our big issue was that there was an issue with bias. Did you find that there was bias? My biggest issue was that there was bias on the hearing that you are talking about. Did you find that there was bias? Mr. Coleman: I reviewed all of the information that was provided, this Board has decided to not have

a reconsideration or discuss it. Mr. Scott: Did you find that there was bias? That's all I want to know. Mr. Coleman: It is my personal opinion that he was not speaking directly to or about Mr. David, no. Mr. Scott: Are you saying that there wasn't bias? That's all I want to know. Was there bias? I mean I'm going to walk away one way or another. Mr. Coleman: I have no idea because we didn't discuss it as a group. Mr. David: I thought that's what you said at the beginning of the meeting wasn't it, you said there was bias. Mr. Coleman: I said you provided information stating that you feel Mr. Burnham is biased. I haven't heard whether Mr. Burnham feels that he is biased. But we are not here to hear all of that. Mr. Scott: That's what our complaint was and you're not hearing what the complaint was about. Violation of due process. That basically means that the original hearing is void because that's our complaint and you're not hearing it. Mr. Coleman: You didn't state it in the original hearing. Mr. Scott: You're right. That's why afterwards you were informed. You were allowing something that was bias. Mr. Coleman: Feel free to take it to Superior Court. Mr. Scott: I don't have a problem with that. Mr. Edgerly: if they move forward and they either talk to you or the Code Enforcement Officer. The town would have to go after them so the lawsuit can go to court because if they continue business as they have been. What is our, as the towns. Mr. Scott: They have no evidence that we have broken any rules. Mr. Coleman: Again this Board has a very very specific purpose. We reviewed that violation notice and that is it and now it's specific purpose if it were to have happened tonight would be to reconsider the decision that it already made. Now what the town is going to do we have absolutely no jurisdiction and no skin in that game. If the Code Enforcement Office decides to continue on the course that they're on they make that decision, not based on anything we say or do. It's entirely on Mike and the ordinance and them. Mr. David: So can I ask Gil Harris for an Executive Session, is that how this works. Mr. Coleman: That's what I advised yes. Mr. David: Okay so that's how that works. Mr. Burnham: One thing I'd like to state in the emails I've copied that whole scenario that Heath put on. Mr. David: I can't hear you. Mr. Burnham: I copied over 25 pages off the internet that he, his little blog there that he put up. Your name was never mentioned on that. Mr. David: He has a copy of that right in front of him. Mr. Burnham: I have a copy right here Mr. David: You were responding to my post. You can deny it all you want. Mr. Burnham: I was referring to the sidewalks that they were putting in at the time. Mr. David: You can say what you want, sir. Mr. Burnham: That's the way it is. Mr. David: Yeah I know you can read into it any way you want. That's okay but you can still remember that half of your clients are the same clients I have. Mr. Burnham: I doubt that. Mr. Coleman: Is there any other new business? Mr. David: No you didn't want to hear it. Thank you very much guys.

Steve McLean **motioned** to adjourn. Brad Libby **second**. **All** were in favor

Respectfully Submitted

Courtney Davis