

LIMERICK PLANNING BOARD MINUTES. - Approved 7/12/23

June 7, 2023

Aaron opened the meeting with the flag salute at 7:00 pm. Aaron, Jason, Cheryl, and Brian were present, Demetria was absent.

Aaron stated that the first order of business is a public hearing for a conditional use for CIA Salvage on Range E Road, Limerick and he read the ad that appeared in the Shopping Guide on May 24, 2023.

PUBLIC HEARING:

CIA Salvage conditional Use for Range E Road, Map 30 Lot 18B Limerick.

The hearing was attended by the following: Shawn Girard, Steven Sawyer, Merrill Farrand, Ed Schulz, Frances Burridge, Wendy Farrand, and Wade Andrews.

Aaron asked Shawn Girard for an overview of what he is intending to do.

Shawn stated this is a renewal of a junkyard already in existence no DEP required here for renewal.

Aaron asked for input from the audience.

Merrill Farrand spoke to the board and read his testimony, included herein is a written transcript of Merrill Farrand's testimony and asked that it be included in the minutes of this hearing.

Good Evening I'm Merrill Farrand,

This evening I would like you to use your imagination for a little while, and go with me on sort of a time machine adventure.

Imagine please, it's 1968, (55 years ago) and you and your spouse, actually you are Lena and Dick Goodhue, and you want to live in Limerick. You find a spot among the fields, pastures and woods, in a quiet location.

Over the next year, Dick builds their new home. It was almost perfect, except the first well used was seriously contaminated with road salt from the State of Maine's storage of salt in the old schoolhouse.

Fortunately, a new drilled well on the more distant side of the property was satisfactory. Jumping back in our time machine, we jump to 1986, 37 years ago, and you are Dana and Frannie Burridge, excited to start a new chapter in your life, to leave the congested and busy life of the city, and wishing for more land, in a place less congested hoping to build on Frannie's passion and love of horses with that vision completed of a home and stables/riding ring with acres of fields and wood to ride through. Initially, even being able to ride those horses on Range E Rd. until the traffic became unsafe. At the time of purchasing this land Frannie recounts a big open

field and white farmhouse surrounded by woods, at 41 Range E Rd. the elderly woman owning it being in a nursing home.

The Burridges' love of their land has even progressed to the desire to leave it to a land trust for future generations to enjoy in its natural state.

Back into the time machine and turning the dial to 1993, 30 years ago, and you are now Ed Schulz, looking for a family home with your wife, daughter, and recently widowed mother. You are fortunate to find this ideal home surrounded by the same fields, pastures and woods. Its a wonderful home, your daughter has friends visiting often, swimming in the pool, playing in the backyard, Mom sitting on the back porch enjoying the sights and sounds, family time, grilling, badminton.

All of these folks lovingly cared for their homes, enjoying many memories. What an ideal place, and none have plans to leave. But neighborhoods grow.

The State of Maine sells 41 Range E Rd., for the owner's nursing home debt. In about 2003, the Brulotte's build a home and Chris Brulotte builds a garage at the 41 Range E Rd. site, which he used as a permitted usage in the RFF zone, (under construction trade usage). As Fran worded it, the home was a positive for the neighborhood and garage was barely visible. Unfortunately a bankruptcy followed.

Wendy and I moved to Range E Rd. in 2009. Wendy describes our home as "our own little slice of heaven", a serene and beautiful setting. We felt we had won the lottery. At the time 41 Range E Rd was a dirt driveway leading to a building/a vacant site. There was no operating business. To the side of that driveway was the old schoolhouse and lots of trees and other vegetation along Range E Rd.

In 2011 the Girard's purchased 41 Range E Rd. at a bank auction.

You know, I'd like to take a moment to share some words of wisdom Frannie Burrige said to me. "When you move in on people, your going to have a positive or negative effect on neighbors." You know, up to this point Fran has described her and her neighbor's impressions of change and development as positive, but not with 41 Range E Rd. Since its 2011 purchase.

As an aside, Fran also told me, after the Girard's purchase that Shawn told Dana and Fran he'd be happy to purchase the pasture nearest to 41 Range E Rd., I suspect because Shawn knows the negative real estate impact of his intended further operation.

I refer you to Google Earth Pro images of this property, with April 2012 showing a

berm now on the Range E Rd. side of the property with some tree removal near the driveway and later images of more tree removal (by Dale Metcalf) further opening the view from Range E Rd. Images reveal what was going on behind that berm, unknown to abutters and apparently town official until 2019 when I expressed concerns about the vehicles in front of the berm, violating the Girards' 2011 Conditional Use Permit, Michael Gilpatrick inspected the property finding a junkyard had been developed stealthily.

Tony Carroll spoke to this Board in the 2022 Public Hearing, saying he regretted supporting automobile graveyards/junkyards as a conditional use potential in the RFF Zone. This may have been as early as the mid 1990's. Certainly the Planning Board was well intentioned. I'm sure they struggled with many items during this zoning and

ordinance development. They had to decide what would be permitted, not permitted, or perhaps permitted if an applicant could satisfy the terms of a conditional usage.

Looking at the 2018 Zoning Ordinance, Article V-District Regulations they had to decide the status of 60 potential uses of a property in 6 different districts, or make 360 recommendations. That was apparently when it was decided to permit an automobile graveyard/junkyard in the RFF district. Of course those recommendation had to be approved by the majority of voter at the time. Did the voters read this document thoroughly and know this small detail among many details or did they just accept the Planning Board's recommendation? Since, the world, and community has learned more about environmental pollutants, their sources and toxicities. My opinion that is why the town voters removed that conditional usage, or any permitted usage, in any town district in March 2020, when Mr. Gerrard also threatened to turn all seven of his properties in town into junkyards/graveyards as he tried to intimidate this Board in 2019.

I am not here to ask you to rescind this conditional use permit you recently signed, though I would be very happy if that occurred. This Planning Board already expressed its concerns when it voted to deny this permit in September 2021. We are here tonight because the Zoning Board of Appeals forced this Board to grant the permit issued in 2020, with its multiple flaws. The Courts has yet to convene on the ZBA's legitimacy of decision, but tonight I am asking for clarity of structure and safeguards in the renewal of all 16 conditions.

If, and that is the operative word, if this automobile graveyard/junkyard is going to exist, how can the conditions be constructed to protect the neighbors most impacted, the community, and the environment.

There must be well defined structure to each of these conditions because we can't afford to have loose interpretation to exist. I wish a permit could be granted on good faith, that a landowner

with this permit would want to be "neighborly" or would want to protect the environment at whatever cost to profits that meant. Mrs. Burrige stated it best, a neighbor should want to have a positive impact. The CEO needs specificity to the rules CIA must follow. The community needs to know that it is being protected.

Mr. Girard has a long history of noncompliance with the rules, a pattern I have reviewed with some of my prior presentations to the Board, and well documented in State DEP reports which the town has possession of, some of you have seen those and I encourage you to ask for those records, to educate yourself. Ask the CEO about Mr. Girard's record, and how many hours a week the Town is paying the CEO just for time spent on monitoring CIA, and ask Mr. Hackett what Mr. Girard's record for compliance is.

I mentioned to this Board, in prior meetings and Public Hearings testimony that unfortunately I must provide specific material supporting all my concerns if I were to need to have State Court Appeal ability. I don't want to overwhelm you more tonight with significant redundancy of information, but I would like you to review all the historical public record of this matter as it's been presented to this Board, the testimony, the poster contents, the photo packets I most recently provided. These records are full of specific information addressing neighbor and my concerns that include water runoff concerns, pollution concerns, dust, noise and other nuisance concerns, property devaluation concern, and general concerns of loss of peaceful enjoyment of the neighborhood. What I will summarize tonight are property changes of impact on the neighborhood, or violation, and disregard for the rules given by this Planning Board, ordinance, state law, or the Town's CEO since the 2019 discovery of many stored materials on the property fitting the criteria for a junkyard with a Notice of Violation issued by Mr. Gilpatrick, the CEO at the time.

- October 10, 2019 First application for C.U. submitted-modified.

- January 15, 2020 Public Hearing concerns expressed.

- March 4, 2020 Planning Board approves C.U.

- June 2020 Berm along Range E Rd. removed, though part of the Planning Board's Condition #9, (#2 + #12 as well) putting yard content on full view from Range E Rd., no other efforts to conceal the property initiated.

June 24, 2020 ZBA considered my appeal to the Planning Board's decision, deemed it untimely and declined to hear the appeal, court appeal followed.

September 2021 Large quantity of fill brought from Rt. 5 CIA retention pond excavation site work, elevating the southwesterly portion of the Range E Rd. property, platforming the materials stored on the site for those traveling Range E Rd. and the neighbor's view. March 2022

The ZBA hears court remanded appeal and remands to Planning Board to review application deficiencies allowing an "opening of the record".

- September 2022
1. Public Hearing for Planning Board
 2. Planning Board denies application
 3. CIA/Girard appeals to ZBA

- October 2022
1. ZBA grants Girard the 2020 C.U. Permit
 2. Violations persisted and even more violations are created violating the 2020 C.U. Permit conditions
 - materials within the 50' setbacks, 60' of Brullotte side (due to there well location)
 - materials/vehicles in front of prior removed berm
 - berm not restored/no 15'/15' depth and height plantings (4/2023) placed, in fact some removed
 - metal fencing erected on wooden posts placed late 2022, further completed after CEO issued a Stop Order and violation, as metal fencing is against the Town Ordinance
 - Comex box placed as portion of barrier to views, again against the permit of 2020, multiple discussions and the Ordinance
 - persisting excavation hole at site of future discussed duplex though CEO told Girard to fence it or fill it in
 - built a parking area to left of driveway, never part of the prior application, site plan, or permit issued
 - <2:1 slope of fill on Carroll side of property

-no septic system installed (condition 11)

In other words, Mr. Girard has created more violation on the site than existed when Mr. Gilpatrick issued his Notice of Violation.

June 1, 2023

-There are unregistered vehicles there >6 months with continued fluids

-access concerns around building, issues for EMS access and firefighting ability considering the large quantity of wood stored there

-housekeeping issues

-new fill back of property with bricks, rubber, plastic, metal, wood/Eric Hamlin told him to remove demolition contents on last inspection and Mr. Girard reported this was done

-rip wrap/fill on stonewall to Carroll property (>2:1 slope)

-no erosion control for excavation work

-no fencing on Brulotte side of property or other cloaking (evergreen plantings)

-concerns of safety hazards if children are in the neighborhood

-no dust control

-solid gating needed to hide operations (per state law)

One last question I feel should be specifically addressed is: how long should Girard have to fulfill all the permit criteria or requirements.

Thank you for your time.

Frances Burrige stated her concerns about her field which is across from the CIA.

Ed Shulz gave brief statements and his concerns for the continuing activities across from his home and his loss of peaceful enjoyment and the odor from diesel fumes from the trucks entering and leaving the property.

Aaron asked Shawn if he wanted to say anything else.

Shawn stated that he wanted to be sure that it was not their use of any salt that contaminated the well across the street, which was owned by the State of Maine. He also made the statement that he employees twenty-six people.

After hearing no more input Aaron closed the public hearing at 7:53 pm. and continued with the regular meeting with the next item on the agenda the review of the 3-unit building minor subdivision at 21 Main Street, the former owner Jody David and his application being completed by the new owner Steven Sawyer with the formal survey and naming the subdivision Cindy's Place.

The final plan was presented to the board which they reviewed then continued with the formal ordinance review.

REVIEW:

Thirteen (13) Questions for Minor Subdivision

- 1) A copy of such covenants or deed restrictions are intended to cover all or part of the tract.

Aaron motioned and Jason seconded the motion that numbers 1 through 4 have been met by the applicant.

Vote 4-0 In Favor

- 2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required and shall be referenced as shown on the Plan.
- 3) When connection to the district system is possible, the developer shall install a complete sewerage collection system consistent with the specifications and pipe size requirements of the sewer district.
- 4) All proposed on-site sewage disposal systems and / or water supply facilities shall be designed to meet the minimum specifications of these standards and all pertinent State and local codes. Compliance shall be stated on the plan and signed by a licensed civil engineer.
- 5) When connection to the district system is possible, the developer shall install a complete water system including mains, gates, valves, etc., consistent with the specifications and pipe size requirements of the water district.

Aaron motioned and Jason seconded the motion that numbers 5-6- and 9 are not applicable and 7 and 8 are met by the applicant.

Vote 4- 0 In Favor

- 6) If an on-site water supply is proposed, the developer must submit materials which will reasonably satisfy the Planning Board that pertinent State and local code specifications will be met.
- 7) Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located.
- 8) The date, north point, both a written and graphic scale, name and address of record owner and subdivider, and names of adjoining property owners.
- 9) Street construction shall meet the requirements of these standards and be approved by the Selectmen.
- 10) A medium intensity soil survey or a copy of the York County Soil Survey covering the subdivision. When the medium soils survey shows soils which are generally unsuitable for the uses proposed, the Board may require a submittal of a high intensity soil survey or a report by a registered Soil Scientist of engineer.

Aaron motioned and Jason seconded the motion to grant a waiver for this condition.

Vote 4-0 In Favor

- 11) Test pits, which shall include logs and be referenced and shown on the plan with a 100-foot buffer line from each test pit location.

Aaron motioned and Jason seconded the motion that numbers 11 and 12 are not applicable.

- 12) A soil, erosion and sediment control plan prepared by a licensed soil scientist or engineer registered in the State of Maine or York County soil and water conservation.

- 13) Method of fire protection to be provided to the subdivision.

Aaron motioned and Cheryl seconded the motion that this property is covered by fire hydrants close by.

Vote 4-0 In Favor

Aaron went on to the State of Maine to see if there were additional reviews.

Aaron motioned and Cheryl seconded the motion that this was not applicable to this subdivision.

Vote 4-0 In Favor

Aaron motioned and Cheryl seconded the motion to approve the subdivision entitled Cindy’s Place and read the following paragraph to be included in the motion:

This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents, including the supplemental and revised plans, the oral representations submitted and affirmed by the applicant, and conditions of approval imposed by the Board. Any variation from the plans, proposals and supporting documents and representations, except a change determined by the Code Enforcement to be a minor change that does not affect approval standards or conditions of approval, is subject to the review and approval of the Planning Board prior to implementation.

After reading the above statement he asked the code officer Stan Hackett if everything in Jody David's original applicant had been done and was everything OK and if there was a fire chiefs' review, Stan answer was yes.

Vote 4-0 In Favor

Aaron addressed Steven Sawyer asking that a signature block be added to three copies of the plan and the board will sign the plans and the secretary will prepare the Findings of Facts for the subdivision.

MINUTES:

Cheryl motioned and Jason seconded the motion to approve the minutes for May 3, 2023, and May 17, 2023.

Vote 4-0 In Favor

Aaron then went on to begin the review for CIA Salvage Range E Rd. Limerick.

Aaron went back to the 2020 permit and stated there are several things not being done and that you're in violation of; Merrill touched on quite a few of them.:

1. Vehicles, equipment, and stuff pile up within 50 ft. of lot lines.
within fifty' of lot lines.

Shawn stated that they have been moving stuff around shuffling stuff around.

2. Aaron stated you also have one of your conditions, you will have a fifteen-foot-wide buffer of trees and will be fifteen feet in height.

Shawn stated the state requires a fifteen-foot buffer with trees or a fence, we went through this with the previous board when we got it.

Aaron stated in 2020 the conditional use permit it actually say, he read from page 5 paragraph 8. "Aaron stated that this buffer has to be maintained throughout the life of the property and they will have to plant additional trees and maintain that fifteen-foot height" he continued, "Ed said I agree with that if the trees get to be say forty-foot high and no limbs on the bottom they will have to put more trees to maintain those fifteen-feet" both of us said trees. Aaron continued the board voted it must be fifteen-feet in height and fifteen-feet in depth.

Shawn read from the permit, "Shawn stated before they vote he wants to make sure that you are asking for fifteen feet of trees on both sides of the property and the fence in that fifteen-feet.

Aaron continued, "Ed stated we are not asking for a fence if you want a fence, it will be in those fifteen-feet..." Aaron continued reading, "Aaron stated that this buffer has to be maintained throughout the life of the property and they will have to plant additional trees and maintain that fifteen-foot height.

Aaron stated, so just because you said that you didn't want it to be that the board voted that the condition be that it must be fifteen-feet in height and fifteen-feet in depth.

Shawn said it doesn't say that, Aaron.

Aaron said yes it does, and repeated, it says buffer must be maintained throughout the life of the property and they will have to plant additional trees and maintain that fifteen-foot-height,

Shawn said it says, trees or a fence.

Aaron said no it doesn't.

Shawn continued to argue.

Aaron said it doesn't matter the board said you will do this and one tree planted doesn't do it, Shawn still arguing and Aaron added it also says the same thing under special conditions; so now let's go on to the next thing.

3. Aaron stated I have been telling you this for months and months and you still don't seem to understand it under condition number twelve. Makes adequate provisions to control erosion or sedimentation, Aaron motioned, and Laura seconded the motion that based on the information provided by the applicant and the fact that the applicant will slope the sides at a 2 to 1 slope this condition will be met, that is not at a 2 to 1 slope.

Shawn said if you slope that at 2 to 1 and put a fence in, Aaron interrupted and said Shawn it doesn't matter it says it in the conditions that we passed and you argued to have your conditions, this is your conditions you don't just get to, then Shawn interrupted Aaron; I don't believe the condition is a 2 to 1 slope, I don't think the board has that power. Shawn continued to talk over Aaron, Aaron stated it is in your Findings of Facts it was signed by the board members. Shawn said it was in my other conditional use permit no transfer station, where did that come from, but this is one that was approved.

Aaron said I don't know where that came from, I don't remember saying it.

Shawn said if I put a 2 to 1 slope over there and then I put my fence at the bottom of the hill then you're still going to see everything in the yard.

Aaron said, so who said to put the fence at the bottom of the hill.

Shawn said something about a berm then said where do I put it at the top of the hill.

Aaron said yes, I guess so because you must conceal those things.

Shawn said if I put in an eight-foot-high fence then everything above that is fair game.

Aaron said no, it has to be framed by fifteen-foot-high tall trees.

Shawn then compared this to another project in town, a solar farm.

Aaron said, Shawn I am not talking about a solar farm, I don't care about a solar farm now, I am talking about these are your conditions.

Shawn said waving the Findings of Facts, this does not say I need fifteen-foot-high trees.

Aaron again disagreed and said the board determines the conditions.

Shawn said OK then I guess we will go to court.

Aaron said this is your condition.

Shawn said OK then I put in a berm, and the fence and then the trees will be fifteen-feet high.

Aaron said Shawn you have just been going along, doing what you do as always, and you don't even look at your conditions.

Shawn then asked Aaron to step aside stating he thinks Aaron is biased.

Aaron said I don't think I am biased at all.

Shawn said you are biased because someone in your family owns next to it.

Aaron stated I am not biased.

Shawn then asked the code officer Stan Hackett about the ordinance stating that the trees have to be a mature height of fifteen feet.

Stan answered that the ordinance does not say mature.

Shawn said Ok so what else do we need to go on and do, so your denying my permit right now.

Aaron said, we are not even there now, Shawn.

Aaron continued stating so we have the 2 to 1 slope so now we are on number 13.

4. Aaron read adequate provision to handle storm water runoff and other problems on the site.

Shawn said you have a stormwater permit.

Aaron said no we have a stormwater plan, right.

Shawn said yes.

Aaron read the motion, Ed motioned, and Laura seconded the motion that based upon an approval of the Storm Water Plan (SWP) by the DEP this condition will be met. Aaron said that the board found out after the fact that the DEP did not need to approve it but we still wanted a plan.

5. Aaron stated that there are buildings and other things within 50-feet of the property lines.

Aaron said again we voted on this under number 3 (Article VI Section E 1-4) and he read from the findings: A screen of plantings not less than fifteen (15') feet in depth shall be maintained as a visual barrier to conceal salvage operations, and dismantled or stored vehicles from view of any dwelling or public right of way. Such vegetative screen shall have a mature height of not less than fifteen (15') feet. The Limerick Planning Board may require construction of an eight (8') foot high wooden fence, which shall blend harmoniously with its environs, in such cases where vegetation is not feasible, desirable, or effective. Laura motioned and Greg seconded the motion that this condition has been met based on the Applicants answer and the site walks.

Vote 4-0 In Favor – Wendy abstained.

Shawn said that says mature height.

Aaron said yes that seems to contradict the other statements.

Shawn said then you better ask your town attorney.

Aaron then turned to the sweat plan that you provided us and there are several violations in that plan. And he turned to Pg 6 of that plan naming requirements for vegetative buffer area at the East and South corners, and the area east if the former schoolhouse, and the north on the sides of the property that there is no vegetative buffer and there are no trees left there.

Shawn said there are trees and vegetation, Aaron disagreed.

Shawn stated that this plan was required by the board.

Aaron stated yes, we did, and your engineers did this plan.

Shawn said, "What do you want for vegetation.

Aaron said I would think it should be natural, I don't think it should be fill.

Aaron continued OK on Page 9 it talks about best management practices that are not being followed: management practices to prevent erosion grade and crown roadways to allow for drainage, stabilize steep terrace slopes with erosion control fabric with rock, rip rap or a combination of rock and rip rap, erosion control mulch, and native grasses and shrubs, exposed soils and sediment piles, bare soils are easily transported run-off, clogging ditches, culverts, and check dams and degrading aquatic habitat and best management to control erosion, of eroding soils especially on slopes, and embankments by revegetating with native vegetation and mulching a minimum of 4 inches, he then said he was not going to continue reading that whole thing. If soil is not processed within one year, then permanent vegetation will be required. Parking areas shall be constructed so that run-off. Is directed to adjacent buffers without eroding slope, compaction and grading must be done to prevent run-off to buffers and side slopes. Aaron said you have to have your parking area flow into a buffer, and you have destroyed all the buffers.

Shawn stated well, you have an opinion and I have an opinion, my soil engineer.

Aaron asked who your soil engineer is, has he been out there again.

Shawn said yes. and the DEP did not require this.

Aaron said the board required it and this is in your permit.

Shawn said maybe it needs some updates.

Aaron said the board required it so it would be done, and it looks like an awful lot has not been done.

Aaron said I am at a loss for words Shawn.

Shaw said I know where this is going so just spit it out and deny it, what are you going to do.

Aaron stated it's not my decision, it is the entire board's decision.

Shawn then accused Aaron of not being happy and that his father was not happy.

Aaron stated that he has always taken citizens' concerns seriously and I pay attention to the abutters, it wouldn't matter if it were my uncle or someone that I hated everyone is treated the same.

Cheryl asked Aaron about the board signing the amendments a few days ago.

Aaron said this is what happened when the Appeals Board voted that the 2020 Permit stands, we had another one that was completely thrown out.

Cheryl asked when that was.

Aaron said 2022 I believe.

Shawn questioned and stated that the 2020 permit did not include a sweat plan.

Aaron said yes it did Shawn it was part of your 2020 permit, and you never submitted it. In the process of us asking for information from you we said we need a copy of your sweat plan and a copy of your sketch plan for the property, and we needed some other things.

Shawn asked what was the date on the sweat plan?

Aaron said, now if it were me and you submitted that sweat plan in July of 2022 and it was due in March of 2020 you didn't meet the requirements of this (2020) plan.

Cheryl stated so the town can have stricter rules than the DEP.

Aaron stated yes, the town can require that.

Aaron stated so I guess where I am at, I would like to set up an appointment with Zack Brandwein and have the board sit down and discuss with him how we look through these conditions and make them more iron clad.

Shawn asked if this would be for every conditional use permit or am I was being singled out.

Aaron said he is asking the board if this is something they want to do. On this specific one I want to know what their thoughts are.

Brian Havens said he has a couple questions, so the Board of Appeals approved this and it needs to go to the selectboard is that it, so the selectboard has to approve this.

Aaron said the BOA asked the planning board to approve the 2020 conditional use permit, technically that one has to go before the Selectboard before I don't know, that one has expired.

Shawn said, the 2020 one has expired, the 2022 has expired, so now we need to approve this one and then it will go back to the selectmen.

Brian said I guess my question is, if the selectmen have not signed any of these, interrupted by Shawn stating they have expired, Brian continued how can you have all this debris, construction material and vehicles up there if it hasn't been signed by the selectboard.

Shawn stated well I have a junkyard license.

Brian asked, signed by the selectboard.

Shawn stated no they can't sign something that has expired.

Brian stated that you don't have a license signed by the selectboard to have a junkyard.

Shawn said no, I don't have a paper signed by the selectboard.

Brian said OK.

Shawn said this one here will be signed by the selectboard.

Brian said so I guess that's where I am getting stuck with this you are currently performing activities without approval from the town.

Shawn said it's been in court.

Brian said, so you don't have approval, so you have a conditional use permit that has been signed but you don't have approval from the Selectboard, so you don't have a junkyard license signed by the Selectboard.

Aaron said, "That's right.

Shawn said yes, I am going to get one from you, then bring it them, same ropes, same people, same hours and get them to sign.

Brian, yes I understand that, I understand the process but your performing all those activities before you have gone through and got approval for the process.

Shawn said I got a conditional use permit from the planning board in 2020 and have been operating under that. Mike Gilpatrick came to us and said this is what the town feels you must do, because we didn't have cars there at the time.

Aaron said so it is not that simple the 2020 conditional use permit went to the Appeals Board, the Appeals board said it wasn't there in a timely matter and they denied our appeal, then after that it went to court and the court said they must hear the appeal, so then the Appeals Board heard the appeal and said hey you guys made a mistake we didn't include these things on four conditions so fix it and issue a permit. So, we tried and tried and tried to get concrete answers from Shawn and we couldn't come to a resolution that he had presented us with enough information to make the decision. Then Shawn appealed that we didn't have enough information and the Appeals Board said, well you know what that decision we made forget about it, go back to the 2020 decision and sign that.

Shawn said I don't think they said the 2020 decision.

Aaron said no, they said we had to go to the 2020 decision so the additional things that got thrown by the wayside, he was interrupted.

Shawn said the information that was provided he went through the four conditions, and he said he did provide a letter from the fire chief, no glare of lights, no adverse effect property values. And we did the stormwater plan.

Jason spoke saying, so if we look at this now there are violations that exist today under the permit that you are operating under, so there are violations today of the conditions with the permit you have now. So what do we do if we have to evaluate and we went to look at all of those conditions that were set up in the conditional use before and we go through these is the answer going to be yes you met all this, based on what we have just heard I don't think so, there are berms, vegetation that is required, I feel that no matter what when we look at this that the answer will be no. If Stan walks out there tomorrow, you will be in violation not only of the conditions but also the ordinances.

Shawn stated that requiring us to have a salvage permit to be able to do what we have to do with the wood over there, once the town came to us and said you need to do this, so now we are trying to do that and get everything done, I've spent tens of thousands of dollars getting things done, submitting all the paper work, we put up berms, we put up fencing, we put up rip rap on all the bankings, and because Mr. Brulotte doesn't want to see a fence he's asked for a berm. an earth berm so in the new permit we have asked for that.

Aaron stated but you already have violations that the board has asked like the conditional use permit says you will have a 2 to 1 slope.

Shawn said I don't agree with that.

Aaron said it absolutely is, it's in, interrupted by Shawn.

Shawn said it isn't in there it's not in the ten years before that.

Aaron said it is a 2 to 1 slope on the sidelines, Shawn disagreed, Aaron said I don't know when it is in there, I think in 2019 it was in there, I don't know; it doesn't matter we told you that you needed to make it 2 to 1 slope. and you just said the heck with it and put your fence wherever you wanted to.

Shawn said Ok lets talk about the fence, we took out the berm and took the dirt from in front of the building and put it in the back of the building and the neighbor didn't want the fence and Stan gave me a permit for a fence.

Aaron said I don't know but it's not to code, it's not done to what we had for a decision.

Shawn said you're not reading the decision the way I did, or the attorney does.

Aaron said how can I read it any different "Aaron motioned Laura seconded the motion that based upon the information provided by the applicant, I think that's you, and the applicant will slope the side at a 2 to 1 slope this condition will be met; it was voted 4 to 0 in favor.

Shawn continued to argue, and Aaron repeated will slope the sides.

Shawn said it doesn't say whether it's the stuff that's there or the stuff that comes in.

Aaron said, "It's all the sides.

Cheryl stated I think Zach should sit down with us, we have things, here and here. We just did a subdivision in short order, and this dragged on for years. Everything overlaps and something needs to be revamped.

Aaron I think the problem we have is some people bring to you everything they could possibly do to make it so the board can make a decision and some people are looser and try to, interrupted by Shawn starting I take offense to that Aaron, Aaron responded by I think you should Shawn interrupted again Shawn said when I have something to tell you I come and tell you, Aaron interrupted saying you should take offense to that Shawn because over and over and over we ask you for details, Shawn interrupted.

Shawn said, it's in the stormwater report, that's why the appeals board sent it back to you and told you to sign the permit and that's why the town attorney told you to sign the permit. I gave you what you wanted, and you didn't like the way it was read, it's no different that the gentleman that was just here, Jody David six-months ago was not granted a waiver on his fees.

Aaron asked, "What fees are you talking about.

Shawn said whatever fees you waved for Jody David, tonight you waved his fees on his building up here.

Aaron said we didn't have any fees.

Jason said he (the new owner Mr. Sawyer) met some of the conditions, that condition was that he (Jody David) needed to get the property surveyed which is what we told Mr. David to do. If Mr. David had done it then we would have signed the permit when it was done.

Aaron said, even in your findings of facts it says during a discussion we were having I said just let us know what you want to have there. If you want to have what you have there now is one thing, if you want to have 75 cars and a crusher or if you want to have 150 cars and a crusher then, interrupting Aaron Shawn said I want a junkyard if I want 500 cars it's not up to this board.

Aaron said you didn't apply for an automobile graveyard.

Shawn said I applied for a junkyard license.

Aaron said you got a junkyard license not an automobile graveyard.

Shawn said it's the same thing.

Aaron said no it's not, you have a permit for a junkyard not an automobile graveyard, it's a junkyard that's what has been approved; I checked, and it does not say that.

Shawn said it says no transfer station, and he went on to compare this with his other location.

Aaron stated I would like to make a motion that we seek council from Zack Brandwein, Shawn interrupted and Aaron said, Shawn we are having a discussion now, Aaron continued I would like him to come to our meeting I don't know whether that's an executive session type meeting or it's an open type meeting but either way, I would like it to be an executive session so we can talk about our concerns and set conditions that don't have a lot of wiggle room to them.

Cheryl said, and a lot simpler.

Aaron said, I'm not saying simpler.

Cheryl said things don't have to be that complicated.

Jason said they are not complicated; they just need to be clarified. I agree and I think we have been asked to approve something that we know there are violations they are against the conditions that exist and there may or may not be and there is no clarity to that, I just think that all of it should be super clear.

Shawn said as far as Zack you just got approval on this last one, after 3-years how do we know what's going to be approved in court I can go over there and do everything that says I should do and in 2-weeks it gets appealed and it goes on for another 3-year, in the beginning when I first came there was nothing about stormwater, nothing about that. Then the board decided they wanted a report, so we got to do this we got to do that. I can come down and get a permit to build a house and I build a house; this is no different than that.

Jason said you have a special permit not like any other conditional use permit out there, yours needs to get done every 2-years because of the nature and type of permit that it is you can have an automobile graveyard or a junkyard that requires processing and may have a significant impact on your neighbors and everyone around you, it wasn't this board it was the town, the voters that said this is the way we have got to do it, so here we are we are doing it. I know this may not be a perfect system but what would you have us do that's what they have asked for and I think we all agree there is the potential for everything to go sideways and the impact on your neighbors because of the nature of the business that you have; so it has more requirements and we have to have oversight, so we are overseeing and we are trying to get clarity on all these things.

Shawn said so my question is the board is going to go to the attorney and are we going to have a set schedule of what questions your going to ask him, are you going to ask him about the tree ordinance are we going to ask about setbacks or are we just going to, then he started into the discussion about the trees and the tree height and being 15-feet tall.

Aaron said I don't think we have ever meant that, that you can plant a tiny tree and that protects the neighbors, you went and cut every tree on that property, if you had kept 15-feet around your property it would have been a lot better.

Shawn then argued on where there were or were not trees originally there.

Aaron said Shawn I have been hunting that property all my life and I know that there were trees there.

Shawn said on what side.

Aaron said both sides and you had them cut.

Shawn then went on to discuss something about a boundary marker and that during the site walk Aaron said he had removed a boundary marker.

Aaron said no, that's not what I said, I said that you buried, covered up a boundary marker a stonewall is a boundary monument it is not owned by the two entities, it is a stand-alone area that is not owned by either of the two parties it is a boundary monument.

Aaron asked if there was a second on the motion and Cheryl asked if it was decided on a n executive session and Aaron said he had spoken of it I would like to have an executive session.

Cheryl asked, would that be with the board only or with Shawn too.

Aaron said I think it will be just the board first.

The secretary asked if there was a second and Jason stated second.

Aaron asked for discussion.

Cheryl asked if discussion will be wide open.

Aaron said yes, wide open it will be discussion on having him review the conditions that we have, having him talk about the issues that we have, it would be us deciding how to make our conditions clearer and more concise and more enforceable for Stan.

Cheryl said and not changing from time to time.

Aaron said I am not saying that and locking us into anything, the reason we have these conditional use permits reviewed every 2-years is things change, the conditions change so I would never lock the board into not being able to change conditions as they see fit.

Aaron said we have a motion and a second, he stopped and said if I set up an appointment with Zack and we can absolutely not have this in executive session then will everyone still want to have this meeting, both Jason and Brian indicated yes, no one disagreed; I will present it to him as an executive session if not allowable we will have an open meeting. We may have an executive session then continue in an open meeting.

Jason said, that makes sense.

Aaron said we can also discuss the findings, so all in favor.

Vote 4-0 In Favor.

Aaron said I do have to reach out to the selectmen to see how we pay for this, but I feel it is necessary that we do this.

Cheryl asked what the difference between automobile graveyard versus junkyard is, the definition are almost dead on.

Aaron stated graveyard talks about vehicles, junkyard is specific to wood waste and a lot of other stuff.

Shawn said the board first brought us in for wood and once you bring in wood you can have scrap, pipes, trash, rags all of that.

Aaron said Shawn your application reads, storage of lumber for construction projects, store cars working on personal boats trailers and other projects we are working on. That is what you asked for, it is not a graveyard, there is not an automobile graveyard.

Shawn said that's when it got amended because the town was changing the zoning ordinance and it is a junkyard graveyard from day one.

Aaron said no it is not the conditional use is approved for a junkyard.

Shawn said something not understood and added then that's a question for the executive session.

Aaron turned to Stan for the definitions.

Stan said a junkyard has an overall definition in the state statute, there is a difference between junkyard, automobile graveyard and automobile recyclers.

Shawn said there is a provision in the state statute guidelines for hobby vehicles. Stan will know how many.

Stan stated up to 4 unregistered vehicles.

Aaron said you have a conditional use for a junkyard, he then read the state definition as defined in 30-A M.R.S.A. subsection 3752(4).and voted on the ballot March 9, 2007, to add to the existing Town of Limerick Solid Waste- Flow-Control Ordinance the state definition of junkyard.

So, at this point we will reach out to Zack so he can meet with all of us, we will go into executive session with our questions and then come out of executive into our regular meeting at that point you can ask questions.

The board then confirmed the next meeting will be June 28, 2023, and on July 12, 2023.

NEW BUSINESS:

None

ADJOURNMENT:

Aaron stated that the next meeting would be June 28th and the only meeting in July would be the 12th Aaron motioned and Cheryl seconded the motion to adjourn the meeting at 2 hours and 10 minutes.

Vote 4-0 In favor

Respectfully submitted:

Joanne L. Andrews

Planning Board Secretary