

Meeting of Limerick Zoning Board of Appeals January 10, 2017. Appeal filed by Barbara Fifield against the Planning Board for the issuance of a conditional use permit for a used car lot granted to S. A. Mclean.

Members Present:

Michael Carroll, Chairman of the Board
David Coleman
Steven Mclean
Kathy Ward

Public Present:

Barbara Fifield, Appellant
Joanne Andrews
Dorothy Richard
Bill Jones
John Medici

Michael Carroll asked that all present stand for the Pledge of Alliance. He continued that the meeting was to review an application for an appeal filed by Barbara Fifield, of the Planning Boards decision to grant a conditional use permit for a used car lot to S.A. Mclean, Inc. at Sokokis Trail North, Map 17 Lot 66. He stated that there were 4 members out of 5 present and asked if there were any conflicts of interest on the board. Steven Mclean stated that he would step down and Michael Carroll asked for a vote. David Coleman made a motion for Steven Mclean to recuse himself and Kathy Ward second it and with no discussion all were in favor. Michael Carroll continued to the next agenda item of timeliness of the appeal. He stated that he was under the impression that this was that it was November 18th that was discussed, but the actual vote was September 7th 2016. He stated that he had a copy of the Planning Board minutes and September 7th was the date of the meeting and on page 9 Sean (Carroll) made a motion and Wendy (Ferrand) seconded the motion based on the conditions the board issued this conditional use permit and that is on the date September 7th 2016. He stated that he had conferred with the town attorney as well to confirm that his understanding that it is determined by the date of the vote.

Barbara Fifield asked if she could speak and Michael Carroll stated he would like to finish.

Michael Carroll stated that it has been established in the past that it is 60 days from the date of the vote after which time it cannot be appealed. She would have had to appeal by November 7th 2016. He continued that they do not usually allow people to speak at this point in time. He asked the board if they would allow Barbara Fifield to speak and they agreed.

Barbara Fifield stated that she was under the impression that the decision to grant the conditional use permit was at the October 19, 2016 meeting. She understood that this would make her appeal invalid. She continued that regardless of the late filing, there was a vote by less than the majority for all of the conditional uses and that is essentially against the laws of our State of Maine. She admitted that she was not sure what should be done regarding this, and wasn't sure if the Appeals Board would be addressing that. She stated that she would encourage something to be done, i.e., remand the Planning

Board to revoke because it is against the law. She felt that it would be against the law to issue the permit without the majority rule.

Michael Carroll stated that he had spoken to the Town Attorney regarding this, because he was concerned as well. He continued that the chairman of the Planning Board was under the impression that he would only vote if there was a tie and that is incorrect. He stated that he believes in the future that would be different than what has happened in the past. He continued that with regards to this appeal the board would still need to make a motion and vote but that the Appeals Board has no authority to send it back to the Planning Board, but that Barbara Fifield can appeal it to Superior Court. He asked for a motion and David Coleman made the motion, based on the information presented that the conditional use permit was issued on September 7th 2016 the timeliness of the appeal would have been November 7th, 2016, he finds that they do not have timeliness of the appeal and Kathy Ward second it. With no discussion realized all were in favor. 3-0

Barbara Fifield questioned, what Michael Carroll said was that the Appeals Board does not have the authority to look at majority rule regardless of the timing of the filing. He answered that they could not look at this appeal because of timeliness of the filing. She then asked how one would get the Appeals Board to review something like this case. Michael Carroll answered her that the Appeals Board could not review it because it is beyond the 60 days. David Coleman stated that it would go to court. Michael Carroll confirmed that the next recourse would be Superior Court.

Michael Carroll stated that the Appeals Board would be meeting on January 25th to review the ordinance and finalize it and any minutes that still need to be approved. He then asked if there was any other business old, or new and without anything else to discuss, David Coleman made a motion to adjourn, Kathy Ward second it, with no discussion realized all were in favor. 3-2

Respectfully Submitted

Laura L. May