

**TOWN OF LUDLOW PLANNING BOARD
MINUTES OF THE MEETING OF
February 16, 2017**

PLANNING BOARD MEMBERS

Raymond Phoenix – Chairman (Absent)
Edgar Minnie – Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)
Joseph Queiroga - (Present)(4:47 p.m.)

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TOWN OF LUDLOW

Meeting began at 4:34 p.m. in the Selectmen's Conference Room

Mr. Minnie acted as Chairman in Mr. Phoenix's absence.

FY18 Budget

Mr. Stefancik explained that the perimeters for the FY18 budget are a 2% increase for personnel, with 0% for general expenses.

Mr. Minnie: Ok, do we want to vote to approve the proposed budget at submitted?

Ms. Houle: **SO MOVED.**

SECOND Mr. Coelho.

3-0 in Favor.

Zoning Bylaw – Temporary Moratorium on the sale and distribution of recreational marijuana (Mail item #11 included)

Mail item #11 included: Letter from Board of Selectmen in support of temporary one year moratorium on the retail sales of recreational marijuana

The Board members discussed whether or not a moratorium would be advantageous for the Town.

Mr. Stefancik said that the State has to have some type of regulations in place by September 15, 2017, and that the moratorium would give cities and towns time to move forward with their own rules and regulations, after the State regulations have been put in place.

The Board agreed that if the moratorium were to be passed, it become null and void on June 21, 2018. Mr. Stefancik said that he expects that a Town Bylaw would be in place by the May 2018 Town Meeting.

Mr. Minnie: Well, let's put it this way, I'm comfortable that we recommend this, to put it on the agenda, and put it for a public hearing.

Mr. Coelho: **SO MOVED.**

SECOND Ms. Houle.

3-0 in Favor.

Consent Agenda:

The Board approved the Consent Agenda under unanimous consent.

- ◆ APPROVE/SIGN Minutes of January 12, 2017
- ◆ FILE Mail Item 10. - Legal Notices from surrounding communities
- ◆ SIGN Special Permit:
 - Joseph M. Alvavo Jr. – 61 Munsing Avenue (Home office – web development business)
- ◆ APPROVE Change of Occupancies:
 - Sovereign Health of Massachusetts, Inc. – 14 Chestnut Place (therapeutic treatment facility)
 - Taxiway, LLC – 84 Westover Road (Duro-Last Roofing, Inc.)(light manufacturing, warehousing, distribution and sales of roofing products)
- ◆ APPROVE/SIGN Bills – D. Stefancik (reimbursement for travel expenses)

Mr. Queiroga joined the meeting.

ANR – SMD Property Investors, LLC (All Faze Auto Repair, Inc.) – Center Street (Assessors' Map 12D, Parcels 98 & 99)

Atty. Dennis Tully, Don Frydryk, and Stephen Dion were present for the appointment.

Mr. Stefancik noted that there have been concerns from Town Departments regarding if Pell Street will disappear, and what will happen to the rights of access for the abutting property owners.

Atty. Tully explained that Land Court has approved the plan. He said that whenever somebody buys on a street, you own to the middle of the street by operation of law, not by deed (Chapter 183 § 58). He also noted that in this case, as the title developed over the years, the owner to the south, the Butterfield Family Trust, does not have any fee simple rights in the street, however, the easterly abutter, Kub Properties Inc, still has a legal right of access through Pell Street, out to Center Street. He added that they cannot be landlocked, and that it is black letter case law. Atty. Tully also presented a deed for the property owned by Kub Properties, dated August 30, 1997 (from P. & L. Corp. to Antonio F. and Maria E. Mateus) which notes “together with rights to use Pell Street for which public ways are commonly used”. He also explained that Massachusetts recognizes easements by estoppel by two situations which include: “An easement by estoppel may also be found where the land is situated on a street as conveyed pursuant to recorded plan.” He noted that in this case, the recorded plan is Land Court Plan #23367D, dated 1967. In addition, he remarked that the Land Court would not have approved this plan had there not been those rights. Atty. Tully said that his client basically owns the road, but can't prevent anybody from using it for access.

Mr. Dion said that he currently plows and maintains the road since he bought the property. Atty. Tully said that the purpose of the ANR is to consolidate Mr. Dion's (SMD Property Investors, LLC) entire title and to make it conforming with setbacks, etc. Mr. Dion added that he currently has three parcels, which he'd like to combine into one.

Mr. Dion remarked that the only thing that he is not happy with is the Butterfield rental property's access, and wishes that it could go back to their original access on Center Street. He also noted that they (Butterfield) have an additional shared easement on Winsor Street which they can use.

Mr. Queiroga questioned the Land Court decision that stated that it was ordered that Deed Document #192336 be deemed void, and that no further documents are to be accepted against Certificate of Title #12170 without a Land Court order or its approval. Atty. Tully said that they (SMD Property Investors) took care of that issue (satisfying Land Court) by doing this ANR Plan.

Mr. Dion said that although he would prefer that the abutters did not use the Pell Street easement access, he will not prevent them from using the easement.

Mr. Stefancik remarked that Town Counsel did recommend that the Planning Board endorse the ANR.

Ms. Houle read the ANR checklist:

1. *Property owner's name, date of plan, and scale of plan.*
2. *A space for endorsement by the Planning Board.*
3. *The names of all abutters.*
4. *The lines of existing streets, ways, property lines, and easements. Indicate whether streets and ways are public or private.*
5. *The approximate distance from the property to the nearest street intersection, town line, or other definable physical feature.*
6. *Sufficient data to determine the location and length of every property boundary line in the new parcel and to establish these lines on the ground. Indicate the area of the new parcel.*
7. *The location of all property corner monuments and whether they were found or set.*
8. *The location, frontage, and area of the land remaining in the original parcel after establishing the new parcel.*
9. *The north arrow for bearing system used on the plan and whether it is true, magnetic, or assumed north.*
10. *The location of all existing buildings and the distance from the existing*

buildings to the new property lines.

11. *If a building lot is intended, the frontage requirement at the setback line must be shown.*

SUBMISSION: Two (2) Mylar's plus four (4) sets of prints (dark line on white background) shall be submitted to the Board for endorsement.

Mr. Coelho **MOVED** to endorse the ANR for SMD Properties Investors, LLC, All Faze Auto Repair Inc., Center Street, Assessors' Map 12D, Parcels 98 & 99.

SECOND Ms. Houle.

3-0-1 in Favor. (Mr. Queiroga)

Roll call vote: Ms. Houle – yes; Mr. Coelho – yes; Mr. Minnie – yes.

Mr. Queiroga abstained.

Atty. Tully: In the first clause you read, Registry of Deeds, you should add, I think, “and the Land Court”, might be a good idea to say and the Land Court Requirements.

Mr. Coelho: That's our standard, but I'd be willing to amend my MOTION to indicate “and land court”.

SECOND Ms. Houle.

Mr. Minnie: So be it.

Documents included: Master application; property deeds; Subdivision Plan of Land in Ludlow (23367 A – D)(November 8, 1965); Alienation of Land General Laws; Plan of Land in Ludlow, MA prepared for SMD Property Investors, LLC (1/17/2017)

Ms. Houle: **MOTION** to adjourn.

SECOND Mr. Coelho.

4-0 in Favor.

Meeting adjourned at 5:21 p.m.

APPROVED:


Kathleen Houle - Secretary

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(All related documents can be viewed at the Planning Board Office during regular business hours.)