

**TOWN OF LUDLOW PLANNING BOARD
MINUTES OF THE MEETING OF
August 10, 2017**

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TOWN OF LUDLOW

PLANNING BOARD MEMBERS

- Edgar Minnie – Chairman (Absent)
- Joseph Queiroga – Vice Chairman (Present)
- Christopher Coelho (Present)
- Kathleen Houle (Present)
- Raymond Phoenix (Present)
- John Pedro, Associate Member (Present - 7:23 p.m.)

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

Meeting began at 7:01 p.m. in the Selectmen's Conference Room

Discussion – Town Meeting

Mr. Phoenix mentioned that the Chairman, Ed Minnie, will be unable to attend the Special Town Meeting on Wednesday, August 16, 2017. He noted that in order for a Board Member to vote, they need to be Chairman, and that he thinks that it would be appropriate to reorganize until the Chairman is back, and then reorganize back to the status quo at that time.

Mr. Phoenix: So unless anybody disagrees with that, I'll make a **MOTION** to reorganize with Joe Queiroga as Chairman, myself as Vice Chairman, Kathy to stay as the Secretary, and all other appointments to stay as they are as well.

SECOND Ms. Houle.

4-0 in Favor.

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**PUBLIC HEARING – SPECIAL PERMIT/HOME OCCUPATION – Maria Holley –
43 Elaine Drive (home office for pet services business - Holleys Pet Services)**

SEE ATTACHED MINUTES

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File Mail Item #79 - Memo from Ellie Villano, Town Administrator re: Special Town Meeting – Oct. 2, 2017

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File Mail Item #81 - Ludlow Mills Preservation and Redevelopment Project Final Environmental Impact Report

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**PUBLIC HEARING – SPECIAL PERMIT/HOME OCCUPATION – Alexa Wurszt –
531 Pinecone Lane (home office for mobile grooming operation - Country Paw Mobile
Grooming)**

SEE ATTACHED MINUTES

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**CONTINUED PUBLIC HEARING – SPECIAL PERMIT/ESTATE LOT –
Lot 8 Pinecone Lane (Assessors’ Map 7, Parcel 32-1) – Estate of Anthony Grabowski
(c/o Michael Chernick, Esq.)**

SEE ATTACHED MINUTES

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APPOINTMENT – 330 Sewall Street – Site Plan Violations

Leonard Belisle, Adam Hilario, and two other gentlemen were present for the appointment.

Mr. Stefancik explained that at the July 13, 2017 meeting, the Planning Board asked that both the property owner, and the business owner of A & J Auto Detailing come in to speak with the Board regarding a business being run there without an approved Change of Occupancy. He also noted that the any application fees would be doubled. Mr. Stefancik mentioned that there was a new structure put on the property, and (lawn) mowers for sale on the property, without an updated site plan/sketch submittal. The Board reviewed the site plan on file, which was submitted in 1993. One of the business owners, Sam, acknowledged that there are currently two businesses in that location, an auto body shop, and an auto detailing shop. Mr. Phoenix remarked that there is only one business shown on the existing site plan, and pointed out some of the discrepancies in the site plan compared to the existing property, such as a gravel parking area, grassy area, and the existing carport. The Planning Board agreed that a full site plan would be required for the two businesses currently there, or the owners would have to bring the property back to its original status of one business. Mr. Belisle said that he and his son are still repairing lawn mowers and snow blowers out of his house on an abutting property. The owner of the auto body shop, said that he moved his part time business to that location on Sewall Street about a year ago, and that the auto detailing shop moved in a few weeks ago. The Board questioned them about the sign, where the business owner stated that he did not get a building permit for the alterations to the sign, but only changed the lettering, and kept the existing framework of the sign.

The Planning Board agreed that a full site plan would be required for the two businesses currently there, or the owners would have to bring the property back to its original status of one business, or combine the two businesses into one entity, and advised the business owners that a Change of Occupancy needs to be done for the new businesses. The property owner/business owners were also advised that the carport needs a building permit, and that it would need to be put on a new site plan. They were also advised to see the Board of Selectmen regarding a used car license.

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Consent Agenda:

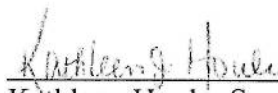
The Board approved the Consent Agenda under unanimous consent.

- ◆ APPROVE/SIGN Minutes of July 27, 2017
- ◆ FILE Mail Item 80. - Legal Notices from surrounding communities
- ◆ APPROVE Change of Occupancies:
 - Tanya Martinez – 326 West Avenue (booth rental/skin care @ Spa West)
- ◆ SIGN Special Permit:
 - Danny Morais – 222 Cady Street (Home office – landscaping business)

=====
Mr. Phoenix: I will make a **MOTION** to adjourn.
SECOND Mr. Coelho.
4-0 in Favor.

Meeting adjourned at 8:59 p.m.

APPROVED:



Kathleen Houle, Secretary

su

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

**TOWN OF LUDLOW PLANNING BOARD
PUBLIC HEARING – HOME OCCUPATION/SPECIAL PERMIT
43 Elaine Drive - Maria Holley
(home office for pet services business - Holleys Pet Services)
August 10, 2017**

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TOWN OF LUDLOW

PLANNING BOARD MEMBERS

Edgar Minnie - Chairman (Absent)
Joseph Queiroga - Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)
Raymond Phoenix (Present)

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

Hearing began at 7:04 p.m. in the Selectmen's Conference Room.

In attendance: Maria Holley, attendees

Mr. Queiroga read the legal notice, gave Ms. Holley a copy of the invoice from Turley Publications, and reviewed the application. The legal notice included the description of: Home Office – pet services business (Holleys Pet Services).

Mr. Queiroga: Alright, Maria why don't you tell us what your plans are, and give us as much details as you can.

Ms. Holley: Sure, what I'm gonna be doing is providing pet services for people, either when they're on vacation, or when they're at work, like walking their dog. I've actually been doing this in the Northampton area, working for my sister, so actually my client base is going to be the Northampton area. I will not be servicing anybody in the Ludlow community. So, it's gonna have zero community impact. And in terms of my office, I really, the only thing I do is check my email. So, it's not as if, I won't be doing any boarding in Ludlow. I won't be meeting clients in Ludlow. It's all gonna be from Northampton.

Mr. Phoenix: Now, as far as the Town's concerned, just so that you're aware...

Ms. Holley: Yes.

Mr. Phoenix: ...basically, as long as you're not generating any traffic, or things like that, at the house, we'd still be ok with you if you were going and pet sitting, or walking other people pets out of their homes, you know, as long as that's not creating a change at your own residence.

Ms. Holley: Yeah, and basically what happens with the pet sitting business, you need a concentration of clients in an area, so that's why if I'm gonna be working out of Northampton, I wouldn't want to come back to Ludlow. So, it's all gonna be Northampton.

Mr. Queiroga: And the, are you gonna have any employees, or just yourself?

Ms. Holley: Just me.

Mr. Queiroga: Just you, ok. Any special cars other than your normal?

Ms. Holley: Just my regular car.

Mr. Queiroga: People come to you with their pets, I'm assuming?

Ms. Holley: Nope.

Mr. Queiroga: No?

Ms. Holley: I don't do boarding. I only do their house.

Mr. Queiroga: Oh, ok.

Ms. Holley: Yup.

Mr. Phoenix: Now on the supplement sheet, the one thing that didn't really get filled in was the, is there any planned signage. I'm guessing that's a no, but just to have it on the record, are you looking to put up a sign at the house advertising the business?

Ms. Holley: No, no.

Mr. Phoenix: Thank you. Based on the description, I'll make a **MOTION** to find that a home occupation, in this case a home office essentially, as described, is a suitable home occupation under the Bylaw.

SECOND Ms. Houle.

4-0 in Favor.

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

Mr. Phoenix: Considering the waiver request has been signed for the full site plan in favor of the sketch and photos, which we've already been provided, I will also make a **MOTION** to waive that, to grant that waiver.

SECOND Ms. Houle.

4-0 in Favor.

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

Mr. Queiroga: That, you're the owner of the house, right? I'd be looking for, it doesn't look like ...

Ms. Houle: The checklists.

Mr. Queiroga: ... yeah, doesn't look like we got a lot of people in the audience objecting to this.

Mr. Phoenix: I don't know, maybe Sue has a strong opinion.

Ms. Holley: Do you live in Northampton?

Ms. Urban: No.

Ms. Houle read the Home Occupation Criteria Checklist:

HOME OCCUPATION CRITERIA CHECK LIST

1. Such use is clearly secondary to the use of a premises for dwelling purposes.
2. The use is pursued by a member of the family residing in the dwelling with not more than two non-resident employees.
3. No trading in merchandise is regularly conducted except for products made on the premises or of parts or other items customarily maintained in connection with, and incidental to, such merchandise.
4. No external change is made which alters the residential appearance of the building on the lot.
5. All operations, including incidental storage, are carried on within the principal or accessory building, and that there is no outward evidence that the premises are being used for any purpose other than residential (except for an accessory sign or vehicle as hereinafter permitted.)
6. The proposed accessory use would be suitably located in the neighborhood in which it is proposed. The use shall not be characterized by outward manifestations (such as traffic generation, noise, public service and utility demand, etc.) not unlike those dwelling units in the particular neighborhood in which the dwelling is located.
7. Only one vehicle parked on the property may be a commercial vehicle and of not more than 10,000 pounds G.V.W. (Gross Vehicle Weight). In all, the total number of vehicles parked on the property during business hours should not exceed by more than two (2) the number of vehicles parked during non-business hours.
8. In all Residence and Agriculture districts, the use will be reasonably compatible with other uses permitted as of right in the same district and with adjoining uses.
9. The use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories, and the use is not a serious hazard to abutters, vehicles or pedestrians.
10. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation on the site and at the intersection with abutting streets.
11. The occupational use shall not occupy more than the equivalent of twenty-five percent (25%) of the total gross floor area of the residential structure plus other accessory structures housing the occupation or not more than 500 square feet of gross floor area, whichever is less.
12. In connection with a home occupation there shall be no display visible from outside the building other than an identification sign not larger than two (2) square feet in area and shall not be lighted.
13. Adequate off-street parking for employees and customers shall be provided and must be screened from view from the roadside and from the neighbor.

Mr. Phoenix read the Special Permit Criteria Checklist:

SPECIAL PERMIT CRITERIA

- a. The proposal is suitably located in the neighborhood in which it is proposed and/or the total town, as deemed appropriate by the Special Permit Granting Authority;
- b. The proposal is compatible with existing uses and other uses permitted by right in the same district;

- c. The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibrations, lights, or visually offensive structures and accessories;
- d. The proposal would not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians;
- e. Adequate and appropriate facilities would be provided for the proper operation of the proposed use;
- f. The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;
- g. The proposal ensures that it is in conformance with the sign regulations of the bylaw. (See Section 6.5)
- h. The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements;
- i. The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;
- j. The proposal provides adequate methods of disposal and/or storage for sewage, refuse, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water;
- k. The proposal ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage, adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow;
- l. The proposal is in general harmony with the general purpose and intent of this bylaw;
- m. The proposed use complies with any and all additional Special Permit Criteria or special use regulations imposed on individual uses in Section VI of this bylaw.

Mr. Queiroga: Thank you Ray. I'd open it up for, to the public, but it doesn't look like we have any public to open it up to. So, at this point in time, I'd be looking for a motion.

Mr. Phoenix: I'll make a **MOTION** in the standard form to approve the Home Occupation.

SECOND Ms. Houle.

4-0 in Favor.

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

Mr. Queiroga: Ok, so, you're approved.

Ms. Holley: Ok.

Mr. Phoenix: ---

Mr. Queiroga: --- what?

Mr. Phoenix: I **MOVE** to close the public hearing.

SECOND Ms. Houle.

4-0 in Favor.

Hearing closed at 7:14 p.m.

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APPROVED:

Kathleen J. Houle
Kathleen Houle, Secretary

su

Documents: Master application; abutters list

(Documents pertaining to this hearing are available for viewing in the Planning Board Office during regular business hours).

TOWN OF LUDLOW PLANNING BOARD
PUBLIC HEARING – HOME OCCUPATION/SPECIAL PERMIT
531 Pinecone Lane – Alexa Wurszt
(home office for pet grooming operation – Country Paw Mobile Grooming)
August 10, 2017

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TOWN OF LUDLOW

PLANNING BOARD MEMBERS

Edgar Minnie - Chairman (Absent)
Joseph Queiroga - Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)
Raymond Phoenix (Present)
John Pedro - Associate Member (Present)(7:25 p.m.)

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

Hearing began at 7:18 p.m. in the Selectmen's Conference Room.

In attendance: Alexa Wurszt, attendees

Mr. Queiroga read the legal notice, gave Ms. Wurszt a copy of the invoice from Turley Publications, and reviewed the application. The legal notice included the description of: Home Office – pet grooming operation (Country Paw Mobile Grooming).

Mr. Queiroga: Why don't you tell us what you have in mind, what ---.

Ms. Wurszt: Pretty much what I do is I go to people's houses, I go in their houses, and I have a table set up that I bring, grooming gear, drier, and it's called a clipper vac that sucks the hair up, and it takes like half an hour to like an hour to do a dog, and everything. And the people don't mind it, they learn different things. They get to watch me and learn, so.

Mr. Queiroga: You been doing this long?

Ms. Wurszt: Yeah, five years.

Ms. Houle: Oh wow.

Mr. Queiroga: Is there a special vehicle that you use?

Ms. Wurszt: A truck.

Mr. Queiroga: A truck? How big?

Ms. Wurszt: A Ram pick-up.

Mr. Queiroga: A Ram pick-up?

Ms. Wurszt: Yeah.

Mr. Queiroga: Do you know what the gross weight is?

Mr. Phoenix: That's not spelled out on here.

Mr. Queiroga: That's not spelled out.

Mr. Coelho: Is it single wheels in the back? It's not dually?

Ms. Wurszt: No. It's single.

Mr. Phoenix: It's also, it's your personal vehicle as well as being used for the...

Ms. Wurszt: Yeah.

Mr. Queiroga: Ok, and...

Mr. Phoenix: And I'd like to point out that on here, whereas most people call out the square feet for the entire room that they're using, she's actually just got the space that she's using. She's got the four square feet. I've been waiting to see somebody actually do that.

Mr. Queiroga: That's for your little computer?

Ms. Wurszt: Yeah.

Mr. Queiroga: Alright, so, nobody comes to you, you go to them?

Ms. Wurszt: Yeah.

Mr. Queiroga: Is that what I understand?

Ms. Wurszt: Yes.

Mr. Queiroga: Ok, the...

Mr. Phoenix: She's got on here no signage planned, no other employees that would be working there, that don't live there.

Ms. Wurszt: Just me.

Mr. Phoenix: Like she said, no customers, no deliveries, nothing that makes it look less residential.

Ms. Wurszt: Yeah, no.

Mr. Queiroga: Are you the owner?

Ms. Wurszt: I am, of the house?

Mr. Queiroga: Yes.

Ms. Houle: Mother is.

Ms. Wurszt: No.

(multiple people talking)

Mr. Queiroga: Mom, ok.

Mr. Phoenix: And she's ok ---?

Ms. Wurszt: Yes.

Ms. ---: --- the neighbors.

Mr. Queiroga: --- this picture, there's some Dunkin Donuts on the counter?

Ms. Wurszt: Yup, you can have them too.

Mr. Phoenix: I got it all, I got the file in here Joe.

Mr. Queiroga: Ok.

Mr. Phoenix: Since everything looks like it's in order, like I said, she's actually got the four square feet. That's the smallest one we've ever had. I'm gonna make a **MOTION** to find that a home office, as described, is a suitable home occupation under the Bylaw.

SECOND Mr. Coelho.

4-0 in Favor.

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

Mr. Phoenix: And with the waiver request also being signed to go from a full site plan down to the sketch and photos that have been provided, I'll make the **MOTION** to make the, to grant that waiver request also.

SECOND Mr. Coelho.

4-0 in Favor.

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

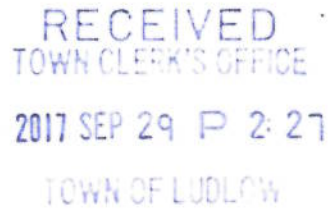
Mr. Queiroga: Ok, at this point I'm gonna open it this to the public. We're gonna be reading these ---.

Ms. Houle: Very exciting lists.

Mr. Queiroga: Ok.

Mr. Coelho: The ten commandments of home occupation.

Mr. Phoenix: Twenty-six, there's thirteen on each list.



Mr. Coelho: I'm sorry, twenty-six.

Mr. Phoenix: Don't short change the number of things we make people say they're gonna do.

Mr. Coelho: Mr. Chairman, are we ready to start?

Mr. Queiroga: We are ready to start.

Mr. Coelho read the Home Occupation Criteria Checklist:

HOME OCCUPATION CRITERIA CHECK LIST

1. Such use is clearly secondary to the use of a premises for dwelling purposes.
2. The use is pursued by a member of the family residing in the dwelling with not more than two non-resident employees.
3. No trading in merchandise is regularly conducted except for products made on the premises or of parts or other items customarily maintained in connection with, and incidental to, such merchandise.
4. No external change is made which alters the residential appearance of the building on the lot.
5. All operations, including incidental storage, are carried on within the principal or accessory building; and that there is no outward evidence that the premises are being used for any purpose other than residential (except for an accessory sign or vehicle as hereinafter permitted.)
6. The proposed accessory use would be suitably located in the neighborhood in which it is proposed. The use shall not be characterized by outward manifestations (such as traffic generation, noise, public service and utility demand, etc.) not unlike those dwelling units in the particular neighborhood in which the dwelling is located.
7. Only one vehicle parked on the property may be a commercial vehicle and of not more than 10,000 pounds G.V.W. (Gross Vehicle Weight). In all, the total number of vehicles parked on the property during business hours should not exceed by more than two (2) the number of vehicles parked during non-business hours.
8. In all Residence and Agriculture districts, the use will be reasonably compatible with other uses permitted as of right in the same district and with adjoining uses.
9. The use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories, and the use is not a serious hazard to abutters, vehicles or pedestrians.
10. Adequate and appropriate facilities will be provided for the proper operation of the proposed use, including special attention to safe vehicular circulation on the site and at the intersection with abutting streets.
11. The occupational use shall not occupy more than the equivalent of twenty-five percent (25%) of the total gross floor area of the residential structure plus other accessory structures housing the occupation or not more than 500 square feet of gross floor area, whichever is less.
12. In connection with a home occupation there shall be no display visible from outside the building other than an identification sign not larger than two (2) square feet in area and shall not be lighted.
13. Adequate off-street parking for employees and customers shall be provided and must be screened from view from the roadside and from the neighbor.

(Mr. Pedro joined the meeting at 7:25 p.m.)

Ms. Houle read the Special Permit Criteria Checklist:

SPECIAL PERMIT CRITERIA

- a. The proposal is suitably located in the neighborhood in which it is proposed and/or the total town, as deemed appropriate by the Special Permit Granting Authority;
- b. The proposal is compatible with existing uses and other uses permitted by right in the same district;
- c. The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibrations, lights, or visually offensive structures and accessories;
- d. The proposal would not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians;
- e. Adequate and appropriate facilities would be provided for the proper operation of the proposed use;
- f. The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;
- g. The proposal ensures that it is in conformance with the sign regulations of the bylaw. (See Section 6.5)
- h. The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements;
- i. The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;
- j. The proposal provides adequate methods of disposal and/or storage for sewage, refuse, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water;
- k. The proposal ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage, adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow;
- l. The proposal is in general harmony with the general purpose and intent of this bylaw;
- m. The proposed use complies with any and all additional Special Permit Criteria or special use regulations imposed on individual uses in Section VI of this bylaw.

Mr. Queiroga: Thank you Kathy. Before we entertain any motions, I'm gonna open it up to the public. Does anybody want to comment on the special permit for Alexa at 531 Pinecone Lane for a home office? Not hearing anything, I'd be looking for a motion.

Mr. Coelho: Mr. Chairman?

Mr. Queiroga: Mr. Coelho.

Mr. Coelho: I **MOVE** to approve the special permit under 7.0.4 a-m and the home occupation under Section 6.2.1-6.2.13, for Miss Alexa Wurszt at 531 Pinecone Lane, with the restriction that the permit shall run with the applicant and not the property.

SECOND Ms. Houle.

4-0 in Favor.

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

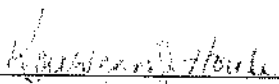
Mr. Queiroga: We've done all the waivers?

Ms. Houle: Yup.

Mr. Phoenix: Yeah we did that. I'll make a **MOTION** to close the public hearing.
SECOND Ms. Houle.
4-0 in Favor.

Hearing closed at 7:28 p.m.

APPROVED:



Kathleen Houle, Secretary

su

Documents: Master application; abutters list

(Documents pertaining to this hearing are available for viewing in the Planning Board Office during regular business hours).

TOWN OF LUDLOW PLANNING BOARD
CONTINUED PUBLIC HEARING – ESTATE LOT/SPECIAL PERMIT
Lot 8 Pinecone Lane (Assessors' Map 7, Parcel 32-1)
Estate of Anthony Grabowski (c/o Michael Chernick, Esq.)
August 10, 2017

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2017 SEP 29 P 2:28

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PLANNING BOARD MEMBERS

Edgar Minnie - Chairman (Absent)
Joseph Queiroga - Vice Chairman (Present)
Christopher Coelho (Present)
Raymond Phoenix (Present)
Kathleen Houle (Present)
John Pedro – Associate Member (Present)

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

The Public Hearing was continued from July 27, 2017.

Hearing began at 7:30 p.m. in the Selectmen's Conference Room.

In attendance: Atty. Chernick, Atty. Silverman, William Cooley, attendees

Mr. Coelho: Mr. Chairman, for the record, I had the unfortunate, I missed the beginning of this hearing, but I have watched the video and read the minutes, so I think I have a, pretty well caught up to speed on this.

Mr. Queiroga: Ok.

Mr. Phoenix: The same situation for you? ---

Mr. Pedro: ---

Mr. Phoenix: Did you watch the video?

Mr. Pedro: I did not.

Mr. Queiroga: Ok, just so that, just to get caught up from the last time, I believe you provided us with a...

Atty. Chernick: We did.

Mr. Queiroga: ...with a study for the 18 or so trees that your neighbor marked out.

Atty. Chernick: Yes. And I have --- color copies. I'll for sure give him one right now.

Mr. Queiroga: Please, if you would.

Atty. Chernick: If I don't, with your permission, hand these out, and these are two for the gentleman down below.

Mr. Phoenix: The black and white did pretty well until that summary page on the end where you can only read every other line, which it looks like the summary page isn't at the end on this one, it's toward the front.

Atty. Chernick: Did it come out? I hope it did. If not, I have the original.

Mr. Phoenix: It's in here, it's just...

Atty. Chernick: Ok. And I have Mr. Bill Cooley from Wallace Tree, who has consented to come tonight to answer questions if need be.

Mr. Queiroga: Ok, just so that, I believe, from looking at the other, with the copy that we had of it, of the 18 trees, that I'm assuming, Mr. Deslauriers put marks on...

Mr. Deslauriers: ---

Mr. Queiroga: Ok, have you seen this before?

Mr. Deslauriers: First time.

Mr. Queiroga: First time?

Mr. Deslauriers: Yes.

Mr. Queiroga: It basically, as I understand it, from my review of it, and your review of it, of the 18 trees, the opinion of the expert, was that four of them need to be knocked down? Is that correct? ---

Atty. Chernick: I'm gonna ask Mr. Wallace, with your permission.

Mr. Queiroga: Four of them need to be knocked down?

Mr. Cooley: No, I don't think so. If you read page two.

Mr. Phoenix: That's what the --- say.

(multiple people talking)

Mr. Phoenix: There are four that say tree removal.

Mr. Cooley: Prune, tree removal, prune, prune, prune, tree removal...

Atty. Chernick: Three...

Mr. Queiroga: Yeah, four.

Mr. Cooley: And as we get further down the line ...

Atty. Chernick: It's four.

Mr. Cooley: Ok.

Atty. Chernick: It's four.

Mr. Cooley: As we get further down the line, they're almost...

Atty. Chernick: It's four. The document's clear, it says four.

Mr. Queiroga: Four, and I think there's something like eight that have to be, that have to have some level of pruning, correct?

Atty. Chernick: That's correct.

Mr. Cooley: If you look, if you read it, it points out the risk factor of each one of those trees. So some of them say low risk, and they're still suggesting to prune. But it's a low risk situation as far as where it's situated on the property.

Mr. Coelho: You're Mr. Casey?

Mr. Cooley: No, I'm not Mr. Casey.

Atty. Chernick: No, by way of knowledge, Mr. Casey, Wallace Tree is a company I've done business with in the past. Mr. Cooley has 40 years or so of tree removal experience. He is not a certified arborist. We hired, retained a certified arborist, Mr. Casey, who was in fact a forester for the City of Springfield, highly credentialed man and ...

Mr. Cooley: I requested him to do this.

Atty. Chernick: Yeah, at Mr. Cooley's request. And he's written what I think is a fabulous report, a detailed fabulous report, with photos and of each tree. And we will, we're willing to do the work he is recommending in this report.

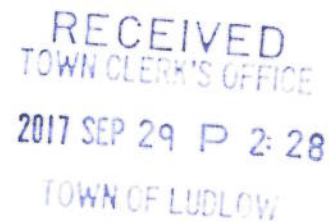
Mr. Phoenix: And that includes the re-inspections and things that are listed in there as well?

Atty. Chernick: Umm, the two year re-inspection, you know, that, you know, we will not be the owner assuming that the property transacts. We will not be the owner at that point in time. This is being done in anticipation of the property being sold. We have a perspective buyer, and we are hopeful this property will be sold to a member of this community, by the way, who is going to be buying a, relocating and building a home on that lot.

Mr. Queiroga: The, questions from members of the Board?

Mr. Phoenix: I just want to go over this one more time.

Mr. Queiroga: Ok. And this was done by Mr. Casey, correct?



Atty. Chernick: It was. Again, feel free to check as a highly credentialed man.

Mr. Coelho: I'm not questioning his credentials.

Mr. Cooley: And Mr. Sherman also. He's another.

Atty. Chernick: Right. --- I forgot, that's actually ---.

Mr. Cooley: There's two arborists on that location, and they're both qualified. They've both gone through the course for this type of inspection of the trees.

Mr. Queiroga: Ok.

Mr. Cooley: There's a guideline for it, and they followed the guidelines ---.

Mr. Queiroga: Ok, so...

Mr. Phoenix: --- estate lot in there.

Mr. Queiroga: Did you want to?

Mr. Phoenix: I saw what I was looking for. I remembered when I was reading it, seeing two years a lot more than once, and then seeing it just once on the table was surprising, but it's because a lot of the times in here it's talking about things that are outside of the two year window.

Atty. Chernick: That's correct.

Mr. Phoenix: But there still is, there still are a few places here where we've got, like on tree number six, an inspection interval of two years is recommended. And on, where was it, I think I saw another one, number five, an inspection interval of two years is recommended. So there's at least five and six that both have that. And five, it's not listed in the table, but it is in the document itself.

Mr. Queiroga: Is that something that can be?

Mr. Phoenix: As far as those re-inspections go, even if you aren't still the property owner, that's a responsibility that could be passed along.

Atty. Chernick: It is, and, you know, the only thing I will say is that, we were guided by the principal in the case of Ponte versus DaSilva, which is the risk of substantial harm. And that's the principal that this arborist worked by. And we'll do whatever, obviously, we would like to work with our potential new neighbors, and make sure that there is no substantial harm. This report takes that into account, to mitigate any risk of substantial harm. The two year window, I saw that as well, that's clearly the guidelines of a certified arborist, it is something that our real estate Atty. Silverman --- about it.

Atty. Silverman: We could possibly, we could, I'm the lawyer that's actually handling the real estate closing. So, if part of the permit requires a two year review of these issues, that could be

built into the closing so that the new owner technically absorbs the obligations of the special permit, that we, as the seller, would make some side agreement with him ---.

Mr. Phoenix: The other piece of it too, the other piece of it is, even if this document didn't exist, ok, even if the trees looked like they were in A#1 fine condition right now, somebody buys that property, those trees start to have an issue, they start to possibly lean toward and be threatening somebody else's property, that's still gonna be the property owner's responsibility regardless of this document, regardless of any other conditions we put on it.

Atty. Chernick: That's correct, that's correct.

Mr. Phoenix: It would kind of be, I don't want to say belaboring, but it's kind of...

Atty. Chernick: It's the law. It's just simply the law, and we're governed by the law, yeah.

Mr. Phoenix: It's basically just tacking on, and saying you have to do this, and you have to do that thing that you already have to do.

Atty. Silverman: All I'm saying is, when we go to have the closing, obviously we're gonna tell the buyer, if this Board required the two year inspection of certain trees, then it's gonna be their responsibility. Well, they're gonna say why should I pay for that. So, we as the seller, will make some arrangements to either indemnify them or do something.

Mr. Phoenix: My...

Atty. Silverman: In other words, we will not, we can't dump it on the buyer anyway, 'cause he's gonna say, wait a minute, why should I have to pay for this, like any other issue that would come up. So, I think we can work that out, and it'll be in the permit. I guess it won't be your problem. It'll be our problem with the new owner.

Atty. Chernick: The only thing I do want to say, is that we are governed by the law and the law is clear that it's got to be a present risk of substantial harm, or foreseeable harm. To carry on inspections in two years to see if...

Mr. Coelho: I think a recommendation by a professional with a two year re-inspection is foreseeing potential harm.

Atty. Chernick: Yeah, it's probably not unreasonable. It's probably not unreasonable, ok.

Mr. Phoenix: My big thing, the reason I wanted to call it out is, if, I think it's applaudable that you're saying that you're willing to do what's in the report...

Atty. Chernick: Yeah.

Mr. Phoenix: ...I just want there to be clarity if we're saying that, if we leave here tonight with that understanding, if everything in the report will be done, whether we're talking about everything in the summary, or everything in the report itself. I just want there to be clarity on that issue because there is that disparity where ---.

Atty. Silverman: The only distinction, I believe, is the two year.

Mr. Phoenix: Right.

Atty. Silverman: I think that's the only distinction.

Mr. Phoenix: It's on several of several of the trees, it's not on all of them.

(multiple people talking)

Mr. Queiroga: It's on five.

Atty. Chernick: Five trees?

Mr. Queiroga: --- each one individually.

Mr. Phoenix: I think it's generally on the ones that recommended pruning to begin with, so.

Ms. Houle: Number four, number five.

Atty. Chernick: The only thing I would, well, yeah, it's obviously something we'll have to negotiate and talk about with the buyer.

Mr. Queiroga: Ok.

Atty. Chernick: And ...

Mr. Phoenix: But as far as the immediate things, those are all not...

Atty. Chernick: We will do what's recommended in the report.

Mr. Queiroga: Before we open it up to the public, reopen it back up to the public, any other questions from members of the Board?

Mr. Coelho: I have a question. Of all the people that are willing to speak on this out there, how many actually abut any of these problematic trees?

(multiple people talking)

Mr. Hill: I do too, I guess.

Mr. Coelho: You do too? Ok.

Atty. Chernick: I don't think these trees though. Is it these trees or another lot? I don't know if he abuts this lot. Do you abut this lot sir?

Mr. Hill: ---

(multiple people talking)

Mr. Coelho: I just wanted to, I needed to visualize it.

Mr. Queiroga: Yes, just identify yourself please.

Mr. Hill: --- are you talking about the 28 acres? --- barn on it?

(multiple people talking)

Atty. Chernick: --- I don't want to speak for you, but my memory from our conversations is that you abut a different lot. I'm not sure.

Mr. Hill: If it's the 28 acres, it's gonna be. ---

Mr. Queiroga: How big is this lot?

Atty. Chernick: It's 27 acres, plus or minus? Steve, Steve, 27 acres, plus or minus, yeah. It's a big lot.

Mr. Phoenix: The gist of it is ---.

Mr. Hill: The barn and the house --- where it's gonna be. Because if it abuts, if it's part of his land, it's part of mine. ---

(multiple people talking)

Atty. Chernick: I believe that these trees we're talking about with this, that Mr., and I don't want to butcher his name, Mr. Deslauriers...

Ms. Houle: Mr. Deslauriers.

Atty. Chernick: ... Mr. Deslauriers property.

Mr. Coelho: Ok, so that's all I needed is just.

Atty. Chernick: There is one issue with Mr. Deslauriers that must be discussed. I think it should probably be on the record. To gain access to some of these trees, which directly abut his yard, to get the equipment in there, it's a fenced in yard, and we're gonna need access to that yard to get in there.

Mr. Coelho: ---

Mr. Queiroga: Please, identify yourself again.

Mr. Deslauriers: Armand Deslauriers, 596 Pinecone Lane. So, --- this report was coming, so here's a report of my own, being in the business for --- years.

Atty. Chernick: --- copy?

Mr. Deslauriers: In the report it shows that tree number 17 is low to moderate. It fell yesterday. Barbara's my witness. It's two feet in diameter, and it fell in the same location that wiped out the front entrance of the driveway.

Mr. Coelho: It fell yesterday?

Mr. Deslauriers: It fell yesterday.

Mr. Coelho: And this is listed as a low risk.

Mr. Deslauriers: There you go.

Atty. Chernick: No, it's listed as a tree removal.

(multiple people talking)

Mr. Coelho: --- tree removal.

Mr. Cooley: Because of it's location it's a low risk.

Mr. Coelho: Oh, because of it's location.

Mr. Cooley: Yeah, some of these trees are encroaching the house, and those are the ones we were really concerned about. Some of these are so far down the driveway, it's not a risk to property damage.

(multiple people talking)

Mr. Deslauriers: So the front entrance that got wiped out is not a risk? --- at the mailbox, my wife would be dead.

Mr. Queiroga: Where's this...

Mr. Cooley: We'd have to cut down...

Mr. Deslauriers: Did you get an estimate yet? May I ask, did you get an estimate yet of the cost to do what you're doing currently?

Atty. Chernick: Yes.

Mr. Deslauriers: May I ask what that amount is?

Atty. Chernick: I'm not sure how that's relevant, but it's significant. It's significant. It's not...

Mr. Deslauriers: May I ask the amount?

Atty. Chernick: It's not an insignificant amount. It's not an insignificant amount.

Mr. Deslauriers: I have an estimate there. It's \$14,000, all the trees come down in one shot. There's no more safety issues.

Atty. Chernick: My estimate is not \$14,000.

Mr. Deslauriers: So, as we know, I'm in favor of this flag lot, 100%. It's not about that. I'm happy with that. We have a legitimate safety problem here that's gonna kill somebody. The tree that's above my pool, all's it's gonna take is one wind storm, and someone's gonna get hurt. If you hit the pool, take a look at the pool. That pool already got hit by that tree. The liner was \$9,200. That same tree that you wrote up, if it hits the pool and comes down, you're out \$100,000. That's what's gonna happen. Cut it down. That's all I got to say.

Atty. Silverman: By the way, just for your information, my understanding of the law is that if someone else's tree is encroaching on your property, you have an absolute right to take that portion of it down, that's overhanging on your property.

Mr. Deslauriers: The limb, not the tree. The trees are dead, not the limbs.

Atty. Silverman: A dead tree's another subject, I suppose.

Mr. Deslauriers: --- conflicting reports, by the way. We've got this report ---.

Atty. Chernick: Well, in all due respect, I have a detailed report from an arborist, where price was not a factor.

Mr. Cooley: That's two arborists.

Atty. Chernick: Two arborists who are extremely well credentialed.

Mr. Cooley: And they went by the guidelines of the law.

Atty. Chernick: I'm not sure what you're looking at. I haven't seen ---.

Mr. Deslauriers: Well, we have another tree down as of yesterday that you got in your report. They need to come down now. They're that bad.

Atty. Chernick: I have a tree, that tree was scheduled...

Mr. Deslauriers: ---

Mr. Phoenix: What's the timeline you guys are looking at for taking down the ones that are listed?

Atty. Chernick: As soon as we, as soon as you say yes. ---

Mr. Phoenix: Why wouldn't you just do those regardless?

Atty. Chernick: It's a question of his schedule.

Mr. Cooley: I could be in there within ten days.

Mr. Queiroga: The ones that you --- some down?

Mr. Cooley: ---

Mr. Queiroga: And the ones that...

Mr. Cooley: I would do the whole job at one time.

Mr. Queiroga: You would do the job at one time, all the trimming and?

(multiple people talking)

Mr. Cooley: Yeah, within ten days I could be there.

Mr. Queiroga: But you're already, 17 is already down.

Mr. Cooley: I got to pick it up. I know what 17 was. The tree, the top of it had already come out of it, and there was a standing butt.

Mr. Queiroga: So these are the same 18 trees that your guy. He didn't identify each one...

Mr. Deslauriers: He did a general inspection of it, because I knew they would go in detail. I just want a safety thing to happen to my property.

Mr. Cooley: They spent three hours at this location, the two arborists. They took pictures of every tree. They inspected. They went around it. They didn't climb each tree to see their condition, but they looked at the trees and the proximity of the property, and it's risk hazard that's there. And they're unbiased. It doesn't matter to them what goes on here. I didn't hire them to favor me or favor anyone.

Mr. Coelho: Who hired them?

Mr. Cooley: He paid for them, but --- requested the report.

Atty. Chernick: --- I gave them instructions, can you kindly hire some arborists.

Mr. Cooley: --- the marked trees that he marked.

Atty. Chernick: Right. ---

Mr. Cooley: We could have gone further than that. We could go back 100 feet into that property and probably find more.

Mr. Queiroga: But that's ---

Mr. Cooley: ---

Mr. Queiroga: --- point.

Atty. Chernick: Yeah, that's a --- point, yeah.

Mr. Deslauriers: ---

Mr. Queiroga: Yes, Armand.

Mr. Deslauriers: So, Ed Minnie being my neighbor, the same problem was behind my pool. Ed did the right thing. Armand, cut them down, take them out of there, if you're willing to do it yourself. At that time, that's when I cleared that lot, twenty years ago. I've been asking for this for twenty years, and they would not let me cut those trees. They're dangerous. --- why fight it. Just cut them down. ---

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(multiple people talking)

2017 SEP 29 P 2: 28

Mr. Coelho: You offered to cut those down at your own expense?

TOWN OF LUDLOW

Mr. Deslauriers: Back then, 'cause I had the logger in there at the time.

Mr. Coelho: Sure, sure. And people that owned the property ...

Mr. Deslauriers: Grabowski would not let me touch it, Natalie and Bill.

---: Were they even alive then?

Mr. Coelho: So, if we vote against this, nothing gets done.

Mr. Deslauriers: I don't want you to vote against it. I'm in favor of it. They need to cut those trees down. To be honest, I'm surprised that these professionals don't have insurance on the property, number one, that's odd.

Atty. Chernick: We actually do have insurance. It's been bound.

Atty. Silverman: I don't know if insurance covers cutting down a tree that's old.

Mr. Coelho: I think insurance certainly covers when a tree falls down in the woods and somebody's not around to hear it.

Mr. Deslauriers: --- insurance on the property?

Atty. Chernick: Shortly after our meeting of last week.

Atty. Silverman: A tree falls down and damages your house --- insurance --- ...

(multiple people talking)

Atty. Silverman: ... an old tree, I don't think an insurance company ---.

Mr. Cooley: You know, if a neighbor's tree falls on your house ...

Mr. Coelho: If an old tree falls on my house ...

Atty. Silverman: I didn't say that, I said if the tree is just an old tree sitting there, I don't know if insurance will pay for you to cut it down. I don't know, maybe they will.

Mr. Cooley: No, they don't.

(multiple people talking)

Atty. Chernick: If I may, I appreciate the concerns of the abutters and of this Board, I have a fiduciary estate, have a duty to, obviously the estate, but also to the abutters to follow the law. The law says if there's a risk of substantial harm. We have mitigated that, we're about to mitigate that risk. Now, I apologize, and I say this to my clients, estate clients all the time, we're fighting over estate money. I can't go back twenty years when the two brothers fought in the sandbox. I can't go back twenty years to what happened with the previous, with the heirs of that estate, if it was the heirs of that estate. I can go back to tell you what I'm doing today. We have, essentially, an insolvent estate that we're trying to market, as you know, with premiere properties for this community's benefit, to put tax payers on the rolls, we're trying to do a good job. I have retained competent, competent people. Now, I apologize to Armand if he is upset and outraged for twenty years for what he believes to be mal or ---, but we're doing what we can do, and what we're required. Above and beyond we're required under the law arguably.

Mr. Queiroga: How long have you represented the estate?

Atty. Chernick: It's been going on, you know, for quite some time, candidly. It's been going on for perhaps two, two and a half years, but early on, there was one heir who we thought was going to buy the property, and we gave that heir substantial amount of leeway to make a bona fide offer. That heir never did. And as a result, the really hard core work probably began about a year and a half ago.

Mr. Coelho: So, we're developing premiere property, and we're squabbling over some dead trees that can be laid down?

Atty. Chernick: It's an estate that essentially has no assets right now, but for the land sir. And there was no money when I got involved. And so we're trying to, we're not squabbling, I want to do, well it's a squabble in this sense...

Mr. Coelho: --- tree guy in there cutting seven trees, or cutting twelve trees, he's there, you know?

Atty. Chernick: It's a squabble in a sense, the law is really clear. We have an obligation to remove trees that create substantial harm. We don't have an obligation to do landscaping or something that a layperson may or may not think creates a hazard. We've hired, again, arborists to do the view. I've had no conversation with them. I did not say to them, here's what I want from them. I said look at the property, and they issued this report. I had no idea what it was going to say, and I'll swear to that under oath. And they produced this report, and I bet if we were to go to hearing, they would sustain, they would absolutely rely on their statements in this report has fair and accurate statements. And we're willing to do this. We can get a crew in there within ten days.

Mr. Cooley: I'd make more money if I cut them all down, but that wasn't what they asked. They asked for a fair assessment of the trees.

Atty. Chernick: Yeah, so.

(multiple people talking)

Mr. Deslauriers: --- cut them down. Do what's right.

Mr. Hill: ---

Mr. Queiroga: Any other people have any comments on this particular issue? 'Cause we got two choices here, we either approve and we take the counsel at his word...

Mr. Phoenix: Can I just point something out, and I'm not trying to be confrontational here, because I also agree that this is a project that should go forward, but as far as saying that you're going to what's mandated of you...

Atty. Chernick: I didn't say that sir.

Mr. Phoenix: Well, you're saying that you're going to follow the letter of the law as far as what's required based off of what you think is an imminent harm.

Atty. Chernick: That's not what I said. What I said was, my interpretation of the law is that we are required to remove those trees, or do abatement of those trees that create substantial harm or risk to an abutting property. I did not give that mission, or have that conversation with these arborists when they went out there. I said, Bill said, simply go out there and do an assessment. That's all I said. So, what, you know, I want to be really clear on that. It's my understanding that the law says what I said it said, the substantial harm to neighboring land owner. Now, and this is what the report is, and we're willing to do this sir. I can, again Wallace Tree can be out there within ten days, we'll rock and roll.

Mr. Queiroga: Ray, you wanted to finish that question?

Mr. Coelho: I'm sorry. Are you done? I'm sorry.

Mr. Phoenix: ---

Mr. Coelho: Who's Titan Tree?

Mr. Deslauriers: Titan Tree's a company that was referred to me. I don't know who he is, to be honest.

Mr. Coelho: And they're the ones that said 18 trees need to go?

Mr. Deslauriers: I marked the 18 trees, so he's just verifying what I marked.

Mr. Coelho: Oh.

Mr. Deslauriers: And that's because...

Mr. Coelho: Oh, ok ---.

Mr. Deslauriers: --- mark the trees which I thought were a problem.

Mr. Coelho: Ok, ok.

(multiple people talking)

Atty. Silverman: Those trees were marked, that he's talking about, when the arborist went out there. They were already pre-marked.

Mr. Queiroga: Do you want to finish your thoughts?

Mr. Phoenix: Well, before I even get back to my thought, I think it also bears mentioning that I think Armand means well by the trees that he picked out, but there's also the possibility that in addition to the 18 that he picked out, there could be 17 more that are in sad shape that weren't tagged, so they didn't get evaluated, and could still be a potential threat.

Mr. Queiroga: Or far away from the border that it's a non-issue.

Mr. Phoenix: That's possible too, but I'm talking about even the ones that could be threatening his property or another neighbor's property, there could be x number of those trees. We're only looking at the subset that he happened to pick out, because he, as a layperson, thought that those are the ones that look like a problem. It wasn't, and I understand that that that's somewhat in the desire for expediency, but that wasn't having the expert go out and take a look and say, which ones do I really need to evaluate, and then go from there. This was starting from a lay point of view, then just assessing them from there. That said, back to what I was trying to get to before, when it comes right down to it, under special permit, which is what we're looking at tonight, Criteria D: The proposal would not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians; F. The proposal provides, the proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance. So, that even goes to appearance, and it says any possible detrimental. So, if this Board and in its decision decides that they all need to go, then that's where we're sitting. I think we need to be clear on that. I don't know that that's where my head is at this exact moment, but I want to be clear, that's the playing field right now.

Atty. Silverman: Can I just make a brief comment on that? Normally you talk about a proposal should not have an adverse impact, somebody's putting up an unusual building, or they're building something on the property that's impacting the neighbors, or they're gonna be parking their cars there or something. These are trees that have been there for I don't know how many years. So, I don't know if you can say that that's part of the proposal, it's not like we're planning, planting dead trees is part of our proposal and it's gonna impact the neighbors. You know what I mean? The trees are there whether we do this or not. You know what I'm saying. -

--

Mr. Phoenix: --- under D, but under F, it says that the proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance. So that's any possible, detrimental, or offensive, including unsightly or obnoxious appearance.

Atty. Silverman: ---

Mr. Phoenix: Under the criteria of the special permit, even if we don't discuss this tonight, those criteria which you would be bound by, after this is all done, even if this discussion never happened, basically say that if the neighbors feel this doesn't really look right, there's still an

obligation to correct it. A special permit means there's additional regulations that are in place on that, above and beyond, your average piece of property. It's no longer just Joe and Jane average homeowner, it's that plus this. So, and I don't know that there's a whole lot of resistance coming from you guys, and I don't want to go down that path, but I just want to be clear where we're kind of sitting.

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ATTY. CHERNICK: I think that the estate has turned down any number of offers that we've had, to do proposals and projects that would have been far more detrimental to the land. I've been approached by loggers. I can't tell you how many loggers have called. We've opposed timber. We've opposed timbering to date because of its potential impact on making viable lots. But, you know, we are doing our best, but in all candor, and the objector has said again tonight, he's been arguing and worrying about these trees for twenty years. Well, for twenty years he could have taken recourse. Only now is he taking recourse, when there's something that could be done productively with the land, and candidly, we're trying to facilitate it. And I'm telling this honorable Board that it's an estate with not a lot of money, and the heirs are not gonna get so much out of this estate after we pay everybody's that been involved. We're gonna clean up the tax rolls. We're gonna clean up more tax rolls. We're gonna be put up more productive tax paying pieces of property here. Mr. Deslauriers certainly had an opportunity to litigate this. He knew who the heirs were. He's friends with some of them. He chose not to. He waited until tonight, and I must tell you, in all candor, I feel that it's unreasonable and unfair. We are here trying to do the right thing, and cooperation. We are not being confrontational. But that said, to expect us to clear, for example, 100 feet of trees that run the perimeter of his driveway, simply unreasonable. Could we do that? Sure, I could call a logging company tomorrow. I don't think anyone would be happy with that. We're trying to do what is esthetically attractive and what is fair. And I'm asking this Board, I understand that, you know, he is a well known figure in Town, and well respected, and well liked, and I appreciate that, I do. I'm not a silly man, I'm not. I've been around politics my whole life, Western Mass politics. I get it. But, that does not give him an unfettered right to do things that he would like to have done on his wish list of life, when we're willing to do things that are required by law. And I feel adamant about that.

Mr. Deslauriers: If I may?

Mr. Queiroga: Yes sir.

Mr. Deslauriers: So, obviously I've been contesting this for twenty years, as Mike said. When finally when big damage happened to the front, ---, which I provided the pictures, you're talking a lot of money, and that's got to be paid for as well. Those brick don't exist no more, so what are you gonna, how am I going to match the brick on the entranceway?

Atty. Chernick: Well, perhaps we can find a stone mason in Ludlow who would do work on it.

Mr. Deslauriers: ---

Atty. Chernick: And I'm not trying to be snotty, but we'll find someone to work on it.

Mr. Deslauriers: When I develop a piece of property, a guy like this gentleman right here, if he had an issue, I would be over there cutting those branches. I wouldn't even contest it.

Atty. Chernick: Sir, we are not developers. That's what I keep telling, we are not developers. I am the fiduciary of an estate ---.

Mr. Deslauriers: --- but you have a problem with something that's gonna create death to somebody. We've seen the pictures. If I was at the mailbox, my wife, that would be a different story now. You wouldn't be talking the way you're talking if my daughter was dead. It's that serious. My opinion, and this is just my opinion, I'm asking this, vote in favor of this for them, but they need to cut the 18 trees. Simple as that, in ten days, get them out of there. I'm asking that. If it doesn't happen, but I'm asking it.

Mr. Stefancik: --- 90 days to make a decision on this ---.

Mr. Coelho: In the absence of a, you know, competing report or anything else, I don't think we can be compelled to ask him to what's, more than what's indicated in this report. And, not doing anything is gonna certainly keep you guys at even more risk at this point. You know, so --- throw the bathwater out with the baby, or however that goes. I don't know, that's the way I'm looking at it. This is something. Maybe once the developers get in there, we can move forward with more trees, and maybe more comprehensive study, as part of whatever needs to be done during that phase of the project, I mean.

Mr. Deslauriers: And as you're aware, I'm in favor of this. I'm not contesting it. I have the right to appeal. I have the right to lien. I'm not doing none of that. I just want what's right. Just do the job right. Take the trees down.

Mr. Coelho: Certainly none of us sitting on this side of the table can argue with what's written in this report. You know, and for me to say, oh 14,000 is nothing to knock down all the 18 trees.

Mr. Deslauriers: No, it's a lot of money.

Mr. Coelho: You know what I mean? I can't say that either, if it was, you know, if I knew for a fact somebody was turning over, you know, 1,000 percent profit on this parcel, once we make our vote, then I would say, you know what, 14,000 really isn't a bad number. But, we don't know that. I think the best thing we can do right now, is to follow what's in this report, and meet halfway on it, in all reality, you know? It's like any other negotiation, in my opinion.

Mr. Deslauriers: Any Chris, I understand, so I'm not one to argue about this report like this. But, there is a tree that's on that report that fell yesterday. Literally two weeks before the one that hit my mailbox. It's not a dead tree. ---

Mr. Coelho: It's slated for removal on this report.

Mr. Deslauriers: Yeah.

Mr. Coelho: So, I mean...

Mr. Queiroga: --- agree with you, agree with the facts. The ...

Mr. Coelho: The unfortunate thing though, is when you're thinking about when somebody could possibly get hurt. I mean, that's always a hard thing to discuss, you know. That's a hard thing to determine, you know.

Mr. Phoenix: I think, for me, I wanted to be clear with where the, with things stand. However, I think my thoughts still go back to what I had said last week, ultimately, that, and I say it kind of again this week, regardless of what we do, whoever owns it, whether it's the heirs as they currently do, or the buyer, once the buyer takes it over, that person still has that responsibility. And I don't really want to see it go too far down that road though, because by the time somebody usually looks at that, it's because they have to pay for damages already done, which nobody wants to have to deal with that, especially if we are talking about safety of people, not just objects. But, that still is something that exists outside of the scope of what we're talking about tonight.

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2017 SEP 29 P 2:28

Mr. Coelho: Can we require a site plan on further development on this property as a condition of the special permit?

Mr. Phoenix: We can require anything we want.

Mr. Queiroga: What, the people that you're talking about, selling it to, is this a single person, and do you know what their plans are?

Ms. Houle: It's just for a single family house.

Atty. Silverman: It's for a single family house.

Mr. Queiroga: Single family house.

Atty. Silverman: I don't have the name in front of me, but, I probably do, but it's a neighbor who lives...

Atty. Chernick: It's a Ludlow resident ---.

Atty. Silverman: --- lived around the area. Just gonna be a single family house, which I think, shows up on the plan ---.

Mr. Queiroga: Ok.

Atty. Chernick: As I understand, it's a well known member of this community, who was very excited about owning a parcel such as this. I have not met this person. I do not know their names.

Atty. Silverman: You may, I don't think you have this, but this is Lot 8, where my finger is.

Mr. Queiroga: Yup.

Atty. Silverman: There's a barn. You see a house and a barn drawn at the bottom.

Mr. Queiroga: Even my glasses are not that good.

Atty. Silverman: That's why I gave it to you. You see the house and the barn at the bottom?

Mr. Queiroga: House and the barn at the bottom?

Atty. Silverman: Yeah.

Mr. Phoenix: Joe, let me blow it up for you.

Mr. Queiroga: Ok, now I can see it.

Atty. Silverman: Now you can see it.

Mr. Phoenix: So, there's the property line, and that's what they're looking to put.

Atty. Chernick: And my understanding, it's not gonna be an insignificant home. It's gonna be a well built home.

Mr. Queiroga: Yeah, nice driveway.

Mr. Queiroga: Well, we need to...

Atty. Chernick: Be polite.

Mr. Coelho: Someone can take down some more trees then, right?

Atty. Silverman: It should be noted that this gentleman is the one who marked these trees that they evaluated.

Mr. Coelho: --- I don't care who marked them.

Atty. Silverman: ---

Mr. Deslauriers: They had asked me to mark them.

Atty. Chernick: We did, we did.

Atty. Silver: That's fine. I'm not complaining about it. I'm just saying, that's why we looked at those trees.

Mr. Queiroga: ---

Mr. Coelho: Is there anybody else? So far we've only heard from Armand ---.

Mr. Queiroga: Yeah, that gentleman lives in the, he abuts the property on some corner, right?

Mr. Hill: No, Lyon Street, 1141.

Mr. Queiroga: Lyon Street?

Mr. Hill: Yeah. My only concern is ---, are they gonna put more homes? Are you gonna cut, gonna allow him to split the land up later?

(multiple people talking)

Atty. Chernick: That's not what we're doing today. What happens after, this is one lot.

Mr. Hill: --- this is one lot.

Mr. Queiroga: This is one lot.

Atty. Silverman: We're splitting up the whole big thing, piece by piece, but this is one special, one individual lot, get the special permit, it's gonna be one house. It's not a subdivision, it's not a subdivision.

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2017 SEP 29 PM 2:28
TOWN OF LUDLOW

Mr. Queiroga: If there's anything different, they have to come in front of us.

Atty. Chernick: We fought long and hard. In all candor, we fought long and hard. --- looking at 145 acres, what's the appropriate thing? Should it be a subdivision and so on, and it became clear to everyone that, in the best interest of everyone, including the Town, this was the right way to do it, with properties that all front existing streets.

Mr. Phoenix: If it helps at all, the section of the Bylaw that this is coming in under, for estate lots that requires the special permit, the title of that section, which is 6.12, the title of it is, single family dwellings on estate lots. So, that's all that's contemplated is the ability for a single family home.

Mr. Hill: I understand. I just want to say one thing, these lawyers are worried about the heirs, what's gonna be left for them, I think life is more important that what's left in their pocket. For this gentleman, that's all I got to say.

Mr. Coelho: --- we all agree with that.

Mr. Queiroga: The, you brought up the, kind of in a left handed way, you brought up the issue of his mailbox. Is that something that can be fixed?

Atty. Chernick: You know, I suppose, I mean, it's something to talk about. I don't know. Frankly, I looked at it, I didn't look at it with ---. I don't know if the blocks are still there. It looked like manmade stone. I t looked like it was, essentially a two by two, perhaps four feet high, a, what's the word I'm looking for, not monument, but pillar, and I suppose that we can bring somebody in to repair that. Whether we can match up the stone and so on, I don't know that.

Mr. Coelho: I don't know that that's our business anyways ---.

Mr. Phoenix: I mean, even this whole thing is kind of getting into a civil dispute, as it stands already.

Atty. Chernick: I think so.

Mr. Phoenix: I think it's semi, the part that we're looking at with the trees is, I think, pertinent to the hearing because it poses an imminent harm that has not yet happened. As far as the mailbox, I certainly have my thoughts on how that should get rectified, but I think that's outside of what we're looking at.

Mr. Queiroga: Alright, well, we've, anybody that wanted to say anything certainly has been granted some time. I don't know if anybody else wants to say anything.

Atty. Chernick: No, I'll rest on what I said.

Mr. Queiroga: And, any members of the Board have any more questions for the applicant?

Mr. Phoenix: I think after two meetings, we've pretty much hit everything, and most of it's hitting a lot of trees.

Mr. Queiroga: So, let's go through the checklists, and then we can proceed from there.

Mr. Phoenix read the Estate Lots Criteria Checklist:

SINGLE FAMILY DWELLINGS ON ESTATE LOTS CRITERIA CHECKLIST

The purpose of this regulation is to allow for the creation of lots for single-family dwelling units only, with less than the required frontage, in exchange for increased square footage, for the purpose of preservation of open space and decreasing density in given areas.

Single-family dwellings on estate lots shall be permitted in the Agriculture and Residential A districts only upon the issuance of a Special Permit from the Planning Board as specified in Section 7.0 of this bylaw, and in accordance with the additional requirement specified herein, unless waived by the Planning Board.

1. No more than two consecutive estate lots shall be located on a public way.
2. The estate lot(s) shall have a minimum street frontage of not less than 50 feet and access-width of not less than 50 feet from the front lot line to the principal structure. The front lot shall meet all the zoning dimensional requirements normally required in the district.
3. An estate lot(s) shall be double the minimum lot area normally required for that district inclusive of the access strip.
4. An access strip that is accessible having a maximum length not exceeding four hundred (400) feet.
5. The width of the lot where the principal building is to be constructed shall be equal to or exceed the distance normally required for street frontage in the district.
6. Front, rear and side yards must equal or exceed those normally required in the district.
7. The Planning Board may require that there be maintained or kept a naturally occurring or a planted vegetated buffer strip between estate lot(s) and adjacent lots to provide effective visual screening between the buildings at grade level.
8. The estate lot entrance/driveway shall be clearly designated with a house number sign. Mailboxes shall not suffice.
9. The driveway is to be located, constructed, and maintained a distance of no closer than ten (10) feet to any abutting property line.
10. Plan submitted shall include the statement, "Lot (fill in the Lot #) is an Estate Lot; building is permitted only in accordance with the Special Permit Estate Lot provisions of the Ludlow Zoning Bylaw."
11. Permit shall run with the property and not with the applicant.

Mr. Queiroga: Thank you Ray. Chris, you gonna do the special permit criteria?

Mr. Coelho read the Special Permit Criteria Checklist:

SPECIAL PERMIT CRITERIA

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2017 SEP 29 PM 3:28
- a. The proposal is suitably located in the neighborhood in which it is proposed and/or the total town, as deemed appropriate by the Special Permit Granting Authority;
 - b. The proposal is compatible with existing uses and other uses permitted by right in the same district;
 - c. The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibrations, lights, or visually offensive structures and accessories;
 - d. The proposal would not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians;
 - e. Adequate and appropriate facilities would be provided for the proper operation of the proposed use;
 - f. The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;
 - g. The proposal ensures that it is in conformance with the sign regulations of the bylaw. (See Section 6.5)
 - h. The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements;
 - i. The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;
 - j. The proposal provides adequate methods of disposal and/or storage for sewage, refuse, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water;
 - k. The proposal ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage, adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow;
 - l. The proposal is in general harmony with the general purpose and intent of this bylaw;
 - m. The proposed use complies with any and all additional Special Permit Criteria or special use regulations imposed on individual uses in Section VI of this bylaw.

Mr. Queiroga: Before we entertain any motions, I'm gonna, one more chance for anybody to say any last words.

Mr. Phoenix: I just noticed a problem on our sheet.

Mr. Deslauriers: I'm in favor, once again. Ten days to cut those trees. This is what I'm asking, that they due diligence and do the job.

Mr. Queiroga: Ok, I would hope that in terms of any of those dead branches, --- sizable piece of property myself, and I would encourage you to do more and not less than what's required.

Mr. Cooley: I normally do.

Mr. Queiroga: Ok.

Mr. Coelho: He's only gonna do what he gets paid to do, so. I would encourage them to do more ---.

Atty. Silverman: I mentioned earlier that there's a fence that they ---.

Mr. Coelho: I'm sure Mr. Deslauriers --- access to his property.

Atty. Chernick: Just for the record though...

Mr. Deslauriers: --- to me, and several other things for that matter.

Mr. Cooley: I'd want to have a hold harmless.

Atty. Chernick: I'm not sure what that means. He's got to get equipment in there.

Mr. Cooley: I have to drive in there.

Atty. Chernick: --- removed.

Mr. Deslauriers: You can access it from the other side. It's just easy access through my driveway. You can access it from the other side.

Atty. Chernick: Not really.

Mr. Deslauriers: Yes you can.

Ms. Deslauriers: Have to cut the trees down as you go.

Atty. Chernick: Exactly, if you cut your way through 100 feet of trees.

Ms. Deslauriers: That's your problem.

Mr. Deslauriers: You're gonna sign a hold harmless. If anything's damaged, you're gonna fix it. You're not just gonna leave it, excavator tracks down the driveway. It's not gonna happen. I'm in the business, and you're gonna do it right. You got ten days.

Atty. Silverman: Yes, but he has to be able to get in there.

Mr. Deslauriers: You're gonna do it right.

Ms. Deslauriers: It's your property.

Atty. Chernick: With all due respect, he will, Wallace Tree will do a very professional job. I can't leave them out exposed.

Mr. Cooley: I may not want the job.

Atty. Chernick: That, that, you know...

Mr. Cooley: It's becoming a ...

Mr. Coelho: That's not for us to --- whether or not you want the job.

Mr. Cooley: I want to do the best thing for everybody here, but...

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Atty. Chernick: I understand, I think that's...

2017 SEP 29 P 2: 28

Mr. Coelho: It's easier to access his lawn through his house, you wreck his grass, you got to fix his grass. I mean...

(multiple people talking)

Mr. Phoenix: I think instead of putting that on the contractor, I think that belongs on the people that are owning the property, and having the work done.

Mr. Cooley: 'Cause they're the one hiring me.

Mr. Coelho: Right. --- that has nothing to do with our motion.

Mr. Pedro: --- with us. Need to concentrate ---.

Mr. Phoenix: However they need to get the trees down, and however they need to get in there to get the work done, I don't think this Board really cares one wit how they go about doing it, as long as it gets done.

Mr. Cooley: Yup.

Mr. Phoenix: I think how they figure out how to do that, how they ...

Mr. Cooley: The abutters have to be cooperative. But, otherwise ...

Atty. Chernick: With respect, that could leave us to, I have been to that property on two, if not three, times. It's a heavily wooded area. The only direct access is through Mr. Deslauriers yard.

Mr. Phoenix: I don't think that he said that you can't access it, I think what he said is that, if you access it through his property, you have to make sure that everything is returned to its normal state, so that it doesn't look like all this work's gone through there. Is that a correct paraphrase?

Mr. Deslauriers: Correct. And what about the pillar? How you gonna fix that?

Mr. Phoenix: Well, that's ...

(multiple people talking)

Atty. Chernick: The pillar. We have agreed to abate the safety hazard. We've agreed to gain access, use all reasonable efforts. We have agreed that we will gain access to his property. Well, I've ---, our tree expert says we have to gain access to his property to do the job safely and appropriately, and I would hope that once the work is done in a cooperative manner, that's the

end of it. I have some concerns that there will be additional subsequent argument thereafter, but that's probably not the purview of this Board.

Mr. Phoenix: ---

Mr. Coelho: Definitely ---.

Atty. Chernick: But, but...

Mr. Coelho: Even you mentioning it right now...

Atty. Chernick: I understand.

Mr. Coelho: ...is almost out of order, and I'm getting annoyed with being out of order on this. We should be done with this already.

Atty. Chernick: I agree.

Mr. Coelho: Ok, so.

Mr. Phoenix: So, how about this, unless anybody has anything new to add to this, I'd like to make a motion at this time.

Mr. Queiroga: Go ahead.

Mr. Phoenix: I'm gonna have to go off script from the standard form, 'cause I noticed there's a slight deficiency in it, so, I **MOVE** to approve the Special Permit for the Estate of Grabowski, fill in the blanks for the lot number, what is it, Lot 8?

Mr. Queiroga: Lot 8. ---

Mr. Phoenix: Lot 8 Pinecone, under 7.0.4 a-m, and 6.12 1-11, with the condition that the special permit run with the property and not with the applicant, which I believe is actually double dipping on that requirement. But also, with the understanding that the applicant is aware of a tree risk on the property, as outlined specifically in the 8/10/2017 report, prepared by Edward P. Casey, and prepared for Bill Cooley at Wallace Tree Service, and the applicant has agreed to take the steps outlined in that report to abate that problem.

Atty. Chernick: Agreed.

**SECOND Mr. Coelho.
5-0 in Favor.**

Roll call vote: Mr. Phoenix – yes; Mr. Pedro – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

Mr. Queiroga: With the conditions as enumerated by Mr. Phoenix.

Mr. Phoenix: So, with the motion made and done, I'm gonna make a **MOTION** to close the public hearing.

SECOND Mr. Coelho.

5-0 in Favor.

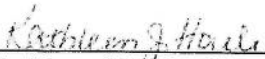
Hearing ended 8:20 p.m.

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2017 SEP 29 P 2:28

TOWN OF LUDLOW

APPROVED:


Kathleen Houle
Kathleen Houle, Secretary

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Documents: Master application/Application for Special Permit; Comments from Town Boards/Departments; Plan for Special Permit, Plan of Land in Ludlow, Massachusetts, surveyed and mapped for The Estate of Anthony Grabowski (June 26, 2017); Draft condition language – (Lot) 8 Pinecone Lane from Ray Phoenix (July 27, 2017); Estimate for removal of 18 trees from Titan Tree Inc (08/09/2017); Tree Risk Assessment Report (8/10/2017) 596 Pinecone Lane (Abutter) Ludlow, MA – Prepared by Edward P. Casey, ISA NE-0454A, MCA 1512 & Alexander R. Sherman, M.S., ISA NE-6472A, TRAQ

(Documents pertaining to this hearing are available for viewing in the Planning Board Office during regular business hours).

