

**TOWN OF LUDLOW PLANNING BOARD
MINUTES OF THE MEETING OF
October 26, 2017**

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TOWN OF LUDLOW

PLANNING BOARD MEMBERS

Joseph Queiroga – Chairman (Present)
Raymond Phoenix – Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)

Meeting began at 7:00 p.m. in the Selectmen's Conference Room

Board to Reorganize *(Mail item #97 included)*

Mr. Phoenix: And Mr. Acting Chairman, sir?

Mr. Queiroga: Yes sir.

Mr. Phoenix: I would like to make a quick **MOTION** to reorganize as follows: For yourself to be the actual Chairman, myself to be Vice Chairman, all other positions and assignments to remain exactly as is.

SECOND Mr. Coelho.

Mr. Queiroga: Are you sure you're a friend? All those in favor?

4-0 in Favor.

Mr. Queiroga read Mr. Minnie's resignation letter (mail item #97). He also read a follow up letter from the Town Clerk to Mr. Rooney of the Board of Selectmen, to advertise for the vacant position on the Planning Board for a term ending March 26, 2018, at which time this position will become available for a two year expired term.

**PUBLIC HEARING – SITE PLAN – Our Lady of Fatima – 450 Winsor Street
(Assessors' Map 14C, Parcels 19,20,21,23,25)(relocate/expand existing retaining wall system, expand existing chapel, electrical improvements, and relocation of some equipment)**

SEE ATTACHED MINUTES

PUBLIC HEARING – SITE PLAN – Anabela Fernandes (Elite Contracting Services) – 135 Carmelinas Circle (Assessors' Map 26, Parcel 7D)(updating site plan)

SEE ATTACHED MINUTES

Mail Item #97 – Edgar R. Minnie II - resignation from the Planning Board (*revisited*)

Mr. Phoenix: Before you do that, I would just ask, going back to mail item #97, if we could have Doug and or Sue draft a letter from the Board thanking Mr. Minnie for his service.

Mr. Queiroga: Absolutely.

SECOND Mr. Coelho.

4-0 in Favor.

Discussion – Town Meeting (11/06/17)

Mr. Stefancik remarked that Mr. Queiroga will need to attend the Town Meeting on November 6, 2017.

PUBLIC HEARING – SPECIAL PERMIT & SITE PLAN – John Garcia (Royal Coach Limousines LLC) – 720 Chapin Street (Assessors' Map 11D, Parcel 102A)(operating a limo service and park limousines in an Agricultural Moderate Density District)

SEE ATTACHED MINUTES

PUBLIC HEARING – Zoning Bylaw (Section III: General Use Regulations. 3.2 Prohibited Uses. Insert Subsection 3.2.3 Prohibition on Marijuana Establishments)

SEE ATTACHED MINUTES

Consent Agenda:

The Board approved the Consent Agenda under unanimous consent.

- ◆ APPROVE/SIGN Minutes of September 28, 2017
- ◆ FILE Mail Item 103. - Legal Notices from surrounding communities
- ◆ SIGN Special Permits:
 - Thomas Lawler – 55 Jackie Drive (Estate lot / ANR)
 - Chris Goulet – 104 Brun Avenue (home office – tree service)
- ◆ APPROVE Change of Occupancies:
 - Sara Spera (Shear Performance) – 300 West Avenue (purchase of hair salon business)
 - Amy B. Royal (West Side Metal Door Corp.) – 190 Moody Street
 - Brandon Seligman (Grilled Specialty Sandwiches) – 206 Holyoke Street (sandwich shop)
- ◆ APPROVE/SIGN Bills – Turley Publications (Public Hearing – Zoning Bylaw)

Discussion – EOEEA – Planning Assistance Grant – Model Subdivision Regulations

Mr. Stefancik asked if the Board is interested in applying for assistance for model bylaw regulations, and it would incorporate complete streets and low impact development standards. He said that the DPW Director would be involved in developing the regulations.

The Board is interested in the assistance.

Discussion – Holiday Schedule

The Board Members discussed the November and December meeting schedule due to the upcoming holidays.

Mr. Phoenix: So, for the time being, I'll make a **MOTION** that we cancel the meeting of November 23rd.

SECOND Mr. Coelho.

4-0 in Favor.

The Board will revisit the December holiday schedule at the meeting of November 9, 2017.

Mail Item #98 – Letter of complaint about Sovereign Health (14 Chestnut Place) from E. Pellerin

Mr. Queiroga read the letter which voiced concerns over the Sovereign Health Facility on 14 Chestnut Street.

Mr. Stefancik will send a reply stating that the letter was received.

Mail Item #99 – Questions and concerns regarding Sovereign Health (14 Chestnut Place) from Susan Stanek

The letter restated the concerns and questions from Ms. Stanek regarding Sovereign Health that she had from the meeting of October 12, 2017.

Mr. Stefancik will forward her questions directly to Sovereign Health.

Mr. Phoenix asked if a site plan has been submitted from the owners of the property (Mid America Properties). He noted that the Board can revoke the Change of Occupancy if a new site plan is not submitted.

Mr. Stefancik mentioned that he also spoke to Town Counsel regarding how the Change of Occupancy was approved, and that it was done appropriately.

File Mail Item #100 – Legal Notice – Conservation Commission – 50 Holy Cross Circle

File Mail Item #101 – Legal Notice – Conservation Commission – 69 Stevens Drive

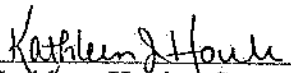
Mail Item #102 – Complaint letter from Brandee Paroline regarding traffic light at Center St / Swan Avenue

Mr. Stefancik said that he feels that any issues at the intersection will be taken care of with the redo of Center Street, and that he forwarded a copy of the letter to the Safety Committee.

Mr. Phoenix: I'll make a **MOTION** to adjourn.
SECOND Ms. Houle.
4-0 in Favor.

Meeting adjourned at 9:00 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 – SITE PLAN

Our Lady of Fatima

450 Winsor Street (Assessors' Map 14C, Parcels 19, 20, 21, 23, 25)

(relocate/expand existing retaining wall system, expand existing chapel, electrical improvements, and relocation of some equipment.

October 26, 2017

PLANNING BOARD MEMBERS

Joseph Queiroga – Chairman (Present)

Raymond Phoenix - Vice Chairman (Present)

Christopher Coelho (Present)

Kathleen Houle (Present)

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

In attendance: Michael Pietras, attendees

Mr. Queiroga read the legal notice, gave Mr. Pietras a copy of the invoice from Turley Publications, and reviewed the application. The legal notice included the description of: for the purpose of: relocate/expand existing retaining wall system, expand existing chapel, electrical improvements, and relocation of some equipment.

Mr. Queiroga: Have you been given a copy of...

Mr. Pietras: The comments? Yes.

Mr. Queiroga: ...comments? Let me read those into the record. The Department of Public Works: We reviewed the site plan for 450 Winsor Street prepared by Engineering and Land Solutions; #1. Show circulation pattern of vehicles entering and exiting the site; All parking areas should be paved and noted on the site plan as either paved or to be paved with type of pavement to be used. That's standard.

Mr. Pietras: Yup.

Mr. Queiroga: Show areas where deliveries will be made on site. That's on there?

Mr. Pietras: Yeah, we've addressed the plan since. Sue sent me those this afternoon, so I updated the plan for you guys.

Mr. Queiroga: Required Site Plan Contents, Subsection o., some of the additional requirements need to be submitted if not waived by the Planning Board. ---

Mr. Phoenix: ---

Mr. Pietras: This is larger scale ---.

Mr. Phoenix: --- waive on a semi-regular basis.

Mr. Queiroga: Chart required in Section 7.1.5 Subsection n. is incomplete.

Mr. Phoenix: Which it looks like that was number of employees, seating capacity, and number of parking spaces.

Mr. Pietras: It's on there now.

Mr. Queiroga: It's on there.

Mr. Pietras: Yup.

Mr. Queiroga: Chart required in Section 7.1.5, oh I read that. If you have any questions regarding comments, please let us know. The Conservation Commission; no wetlands on grounds at Our Lady of Fatima. Board of Health; no comments. From the Ludlow Planning Board; circulation show arrows and pave apron from street to driveway entrance. That's already been done right?

Mr. Pietras: Yes.

Mr. Queiroga: Parking needs to be paved with type of pavement, already done. Number of employees and seating capacity already done?

Mr. Pietras: Yes.

Mr. Queiroga: Number of parking spaces required, already done. Applicant to ask for waivers on o. 1-5 Additional Requirements. Do you have that in writing?

Mr. Pietras: Yes, we put that it right onto the plan, the waivers.

Mr. Queiroga: Ok, we have those.

Mr. Phoenix: So, you're not looking for 5?

Mr. Pietras: Well, we indicate a snow melt area, so we took that off the list.

Mr. Phoenix: I saw in our folder we have the kind of standard version of the request, but it wasn't signed. Do we have a signed copy of the waiver request, or is it just printed on the plan?

Mr. Pietras: Just printed on the plan.

Mr. Phoenix: Ok.

Mr. Queiroga: Just on that one or these two?

Mr. Pietras: What you're looking at there is an exact copy, just smaller scale. Here's one for you too, Ray.

Mr. Queiroga: Ok, do, why don't you tell us, give us an overview of what's happening here.

Mr. Pietras: Sure. The project entails two items, one on the plan in front of you, labeled building 3, the chapel up on the hill, the southeastern side of the parcel. What they're looking to do is, we're looking to put a covered awning type structure onto it, seventeen feet ---, to provide cover for elderly and whoever wants to come up during the outside mass. The rear 1,100 square feet of it, as indicated in orange, on what I just gave you guys, will be interior storage. What's shown in yellow will all be the covered porch structure, like on the conceptals.

Mr. Queiroga: Which does not exist at this time?

Mr. Pietras: Does not exist. The only part that exists is the blue center that you see on the plan in front of you.

Mr. Queiroga: Ok.

Mr. Pietras: And then the other part of this project is the retaining wall to the southwestern side of the parcel.

Mr. Queiroga: Is that below building two?

Mr. Pietras: Building two is looking to be relocated thirty feet back, and fifteen feet easterly.

Mr. Queiroga: Back toward the building?

Mr. Pietras: Nope, back towards the south of the property.

Mr. Queiroga: Oh ok, to give more room for the tables and stuff?

Mr. Pietras: Exactly. To provide the grilling event that they have, it just has taken off as anyone going to the Festa knows. So, they're just looking for more space to provide for the cooking and storage and such.

Mr. Coelho: More meat sticks?

Mr. Pietras: Exactly.

Mr. Queiroga: More what?

Mr. Coelho: Meat sticks.

Mr. Phoenix: It looks like, unless I'm seeing this wrong it looks like you're still leaving 50.2 feet?

Mr. Pietras: On the narrowest side, then it's 77.5.

Mr. Coelho: We're still not within any, approaching even any setbacks.

Mr. Pietras: No. No, everything meets the setbacks for the district.

Mr. Coelho: The electrical improvements I see here listed on the agenda, that doesn't include any additional lighting up high, does it?

Mr. Pietras: Nope. Currently you'll see we indicate three lamp posts on the retaining wall, the existing retaining wall. They're being relocated to the new retaining wall in the same location.

Mr. Coelho: The lamps are already there.

Mr. Pietras: Yeah, and they down light to the parking lot, or not parking lot, but the below grade. And we're showing the easement as well. I don't know if you guys have seen that. It's just to give, the building needs power upgrades, and with Eversource they actually wanted it shown on the site plan, so we included it. You'll see it in the red dash coming from Winsor.

Mr. Queiroga: Ok, here?

Mr. Pietras: Yup.

Mr. Queiroga: Ok.

Mr. Pietras: So that'll be a defined easement as well, once they deed it.

Mr. Queiroga: Has that always been there?

Mr. Pietras: No, it's becoming a new policy from Eversource it seems. We just did one in West Springfield the same thing. They're requiring it to be registered on the site plan.

Mr. Queiroga: Just out of curiosity, is most of that fairly, what's the depth of that?

Mr. Pietras: Depth of?

Mr. Queiroga: Of --- most of those, of those electrical.

Mr. Pietras: Oh, it'll be, I believe Abel said it's gonna be 48 inches to conduit, so.

Mr. Queiroga: Any questions from the members of the Board?

Mr. Phoenix: My only thing is, normally we want waivers on a signed request, so if we could get the standard one even, and just cross number five off and get that signed.

Mr. Stefancik: It was attached to my comments. You could hand that to Mike.

Mr. Pietras: Thank you.

Mr. Queiroga: Is your signature any good Mike?

Mr. Pietras: Yeah, we're under contract, so we can...

Ms. Houle: Just removing the number five?

Mr. Coelho: Yeah, scratch out five.

Mr. Phoenix: It's actually number four.

Mr. Pietras: Number four, yup.

Mr. Phoenix: I was thrown off by the numbering that you have on here.

Mr. Pietras: Yup. Want me to date it as well?

Mr. Queiroga: Please. Ok, before we put it out to the public hearing, any more questions from the members of the Board, comments, requests? Looks like, Ray, anything?

Mr. Phoenix: For the moment I'm good.

Mr. Queiroga: --- complete. Do you, at this time I'd like to open it up to the public, for anybody who might have comments on Our Lady of Fatima's public hearing on their site plan. Anybody want to comment? If anybody does, just give your name and address to the Chair and...

Ms. Brut: We're just wondering, ---

Mr. Queiroga: I'm sorry, what's your name?

Ms. Brut: No, I'm just wondering what they are gonna do in general. I had no idea what was going on ---.

Mr. Brut: Besides the letter ---.

Ms. Brut: The letter.

Mr. Pietras: Oh, you already have it?

Ms. Brut: Yup.

Ms. Houle: ---

Ms. Brut: So, we see the chapel ---.

Mr. Pietras: Yup, we're expanding the roofline out seventeen feet around the perimeter. It's mainly to give, this would be easier to follow as well, with the lines on it, it's just to provide shade during outdoor mass in the summer or when the sun's out.

Ms. Brut: Ok, so that'll be placed back?

Mr. Pietras: Yup.

Ms. Houle: All around the building.

Mr. Brut: This is what's there now.

Ms. Brut: Yeah.

Mr. Brut: This is what they're gonna add on. This is all gonna be enclosed for storage.

Ms. Brut: So, that's gonna be, you said, seventeen...

Mr. Pietras: Seventeen feet.

Ms. Brut: 'Cause I'm on the other side of the...

Mr. Pietras: Yup.

Mr. Queiroga: Are you on the --- behind it?

Ms. Brut: I'd be on the side of it.

Mr. Pietras: She's right here.

Mr. Queiroga: On this side, ok.

Ms. Brut: That'll be up ---.

Mr. Brut: It looks nice.

Mr. Pietras: Thank you.

Ms. Brut: We thought, I thought probably there was another building or something gonna go in to that empty ---.

Mr. Pietras: Nope, we're not proposing any change over there.

Ms. Brut: Ok.

Mr. Queiroga: Ok.

Mr. Phoenix: With that said, unless anybody has anything else that they'd like to add or ask, I think it'd be appropriate to act on the waivers at this time. Does that sound fair?

Mr. Queiroga: Yes.

Mr. Phoenix: Considering that there's no changes being contemplated to the lighting or essentially to the building elevations, since it's all horizontal change, and this isn't anticipated to change any of the traffic, and they're not changing any signage, I would **MOVE** that we waive 7.1.5.o 1, 2, 3 & 5, regarding those items; the lighting, the elevations, the traffic study, and the signage design.

SECOND Mr. Coelho.

Mr. Queiroga: Did you say five?

Ms. Houle: Yeah, it is five.

Mr. Phoenix: Yes.

Mr. Queiroga: One thru five?

Mr. Phoenix: One, two, three and five.

Mr. Queiroga: Oh, one, two, three, and five. Ok, so that's not what's on the plan though?

Mr. Phoenix: No, it's on the signed one that he gave us. He just, he's got consecutive numbering on here, instead of the numbers that are in the Bylaw.

Mr. Queiroga: Oh, I see. Ok, is there a second?

SECOND Mr. Coelho.

4-0 in Favor.

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

Mr. Queiroga: We have any other, who's got the list for, we need anything else?

Mr. Stefancik: The checklist should be on the, in the, attached to the folder.

Mr. Queiroga: Which folder?

(conversation regarding location of the Site Plan Checklist)

Mr. Phoenix read the Required Site Plan Contents Checklist:

7.1.5 Required Site Plan Contents

All site plans shall be prepared by a person or persons registered under the Massachusetts General Laws of the Commonwealth of Massachusetts to practice architecture and/or engineering, and land surveying and shall show the seals of the architect and/or engineer, and land surveyor. All site plans shall be on standard 24" X 36" sheets at a scale of 1 inch equals 40 feet, with additional narrative as necessary: (Amended 1/25/99)

All site plans shall also include the property owner's names, date of plan, and scale of plan; and a space for endorsement by the Planning Board (3" X 5") (Added 10/2/06)

a. Provision for adequate drainage of surface water from paved areas. Use of landscaped areas to provide such drainage in order to relieve storm drainage systems is encouraged. The piping for the storm water drainage systems shall be designed using the ten (10) year storm curve for parking area drains and the twenty-five (25) year storm curve for culverts over existing natural waterways and retention areas.

b. Existing and proposed vegetation. Such vegetation shall be indicated by:

(1) Type and location (whether woods, brush, shrubs, etc.)

(2) Number of plants (if appropriate)

c. Existing natural features such as wetlands, rock outcroppings, slopes, hills, etc.

d. Pedestrian facilities, if any, including walks, plazas, benches, etc.

e.1. Parking spaces and circulation area for automobiles as well as the location of landscaped areas within them. Existing and proposed curb cuts shall be indicated together with approval for such cuts from the appropriate town or state agency. The number of spaces shall be in accordance with Section 6.4.2 of the bylaw.

e.2. All parking areas shall be paved and noted on the site plan as "to be paved," with the type of pavement to be used.

e.3. Area where deliveries will be made on site.

f. Existing and proposed fencing to be used to buffer abutting residential dwellings and/or districts from the intended development (if appropriate). Section 3.0.4 of this bylaw.

g. Existing natural features and vegetation to be retained shall be so indicated. Due regard shall be shown for all existing vegetation and natural features which, if preserved, will add attractiveness and value to the development.

h. The location and type of monumentation at all property corners shall be shown and maintained.

i. Existing and proposed elevations and contours. The contour interval shall be two (2) feet or any interval which adequately depicts the grading.

j. All existing and proposed utilities, and to include utilities with easements.

k. All site plans required herein shall display names of all abutters.

l. All existing and proposed sidewalks and curbs.

m. Landscaping Requirements

(1) Required landscaping shall be provided as set forth in Table 3.

(2) Buffer strips required by Table 3 shall be reserved exclusively for plantings, pedestrian facilities such as benches and walkways, required fences, necessary traffic control signs and those free standing signs which conform to the requirements of Section 6.5.2e of this bylaw.

n. The plan shall also include a chart showing the following information:

(1) Area of lot.

(2) Area and size of building.

(3) Maximum area of building to be used for selling, offices, business, industrial, or other uses, if applicable.

- (4) *Maximum number of employees, where applicable.*
- (5) *Maximum seating capacity, where applicable.*
- (6) *Maximum sleeping capacity, where applicable.*
- (7) *Number of parking spaces required for the intended use, based on Section 6.4.*
- (8) *Number of parking spaces existing at the site (including street parking adjacent to site).*
- (9) *Number of trees and/or shrubs.*
- (10) *Number of trees and/or shrubs shown on plan.*

o. Additional Requirements: All site plans need to have the following information unless waived by the Planning Board:

- (1.) Lighting Plan with Luminaire Schedule, prepared by an engineer.*
- (2.) Elevations showing the front, rear, and sides of the building design.*
- (3.) Signage design with dimensions and locations.*
- (4.) Area where snow will be stored.*
- (5.) Traffic Study.*

Mr. Phoenix: Unless there's anything else, I would make a **MOTION** in the standard form to approve the site plan as submitted.

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?

Mr. Pietras: Thank you.

Mr. Queiroga: You can either send that or ---.

Mr. Pietras: Do you guys send it? Or, I mean, either one, we could write it out or leave it.

Mr. Queiroga: You want to leave it with Doug. Just don't make it out to cash.

Mr. Pietras: Sure.

Mr. Stefancik: Make a motion to close the public hearing, too.

Ms. Houle: So moved.

Mr. Phoenix: Second.

Ms. Houle: **MOTION** to close the public hearing.
SECOND Mr. Coelho.
4-0 in Favor.

Hearing ended at 7:21 p.m.

APPROVED:



Kathleen Houle, Secretary

su

Documents: Master application; abutters list; request for waivers; comments from Town Departments/Boards; Site Plan – Winsor Street Ludlow, MA, prepared for Our Lady of Fatima (07/18/17); Chapel Addition for Our Lady of Fatima Parish Ludlow MA (drawing)

(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 – SITE PLAN
Anabela Fernandes (Elite Contracting Services)
135 Carmelinas Circle (Assessors' Map 26, Parcel 7D)
(updating site plan)
October 26, 2017

PLANNING BOARD MEMBERS

Joseph Queiroga – Chairman (Present)
Raymond Phoenix - Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)

Hearing began at 7:24 p.m. in the Selectmen's Conference Room.

In attendance: David Fernandes

Mr. Queiroga read the legal notice, gave Mr. Fernandes a copy of the invoice from Turley Publications, and reviewed the application. The legal notice included the description of: for the purpose of updating site plan.

Mr. Queiroga: Comments, we have reviewed the site plan for 135 Carmelinas Circle, prepared by Paul Smith, dated June 24. Number one, this from the Department of Public Works, Section 7.1.5 Required Site Plan Contents, Subsection o, some of the additional requirements need to be submitted if not waived by the Planning Board. Did you request waivers on...

Mr. Phoenix: No, I think the form is in the file, but it's not signed. I'm seeing the snow storage area's indicated, so they don't need to ask for that one.

Mr. Queiroga: Ok, alright, just let me finish the comments and we can go to there. Board of Health; no comments. Conservation Commission; updated site plan, no wetlands affected. From the Planning Board itself, the only item I see, there's two; circulation shows arrows, and pave apron from street to driveway entrance. Is that?

Mr. Stefancik: That was the only thing that I saw...

Mr. Queiroga: That was the only thing?

Mr. Stefancik: ...was the directional arrows.

Mr. Queiroga: So, and the applicant needs to ask for waivers on o. 1-3 and 5. He hasn't requested it in writing?

Mr. Stefancik: Yeah, you can give that to him and he can sign that.

Mr. Phoenix: Just kind of scribble out number four, and we can go from there.

Mr. Fernandes: Take out number four?

Mr. Phoenix: Mmmhmm.

Mr. Coelho: Put the date on it too.

Mr. Queiroga: What?

Mr. Coelho: I was telling him to put the date on it.

Mr. Queiroga: Ok, as I recall that was back a few months ago?

Mr. Fernandes: Correct.

Mr. Queiroga: And because the site plan was...

Mr. Fernandes: Outdated.

Mr. Queiroga: Outdated, over twenty. So, you guys are looking at it. I haven't seen it yet, but comments, questions?

Mr. Coelho: You're not changing anything over there, correct?

Mr. Fernandes: Nothing's been changed since day one.

Mr. Coelho: Are you planning on changing anything? Is that we're going through this?

Mr. Fernandes: No. We had to go through this because we changed the business name. I rented the building, so I didn't know --- ordeal.

Mr. Queiroga: You're still there also, right?

Mr. Fernandes: Yeah, I'm still there, yeah.

Mr. Queiroga: Ok.

Mr. Stefancik: I think it triggered it with the automotive repair business that...

Mr. Queiroga: Change of use?

Mr. Stefancik: ...yeah.

Mr. Queiroga: Your tenant? ---

Mr. Fernandes: --- I have half the building, somebody else has the other half of the building.

Mr. Queiroga: Ok. Questions, comments, or do you want to go through the checklist first?

Mr. Phoenix: Seems like a good place to start.

Ms. Houle: ---

Mr. Queiroga: No, it's ok. ---

Mr. Coelho: Memorized it?

Mr. Queiroga: Yeah, memorized it right over your shoulder.

Mr. Coelho read the Required Site Plan Contents Checklist:

7.1.5 Required Site Plan Contents

All site plans shall be prepared by a person or persons registered under the Massachusetts General Laws of the Commonwealth of Massachusetts to practice architecture and/or engineering, and land surveying and shall show the seals of the architect and/or engineer, and land surveyor. All site plans shall be on standard 24" X 36" sheets at a scale of 1 inch equals 40 feet, with additional narrative as necessary: (Amended 1/25/99)

All site plans shall also include the property owner's names, date of plan, and scale of plan; and a space for endorsement by the Planning Board (3" X 5") (Added 10/2/06)

a. Provision for adequate drainage of surface water from paved areas. Use of landscaped areas to provide such drainage in order to relieve storm drainage systems is encouraged. The piping for the storm water drainage systems shall be designed using the ten (10) year storm curve for parking area drains and the twenty-five (25) year storm curve for culverts over existing natural waterways and retention areas.

b. Existing and proposed vegetation. Such vegetation shall be indicated by:

(1) Type and location (whether woods, brush, shrubs, etc.)

(2) Number of plants (if appropriate)

c. Existing natural features such as wetlands, rock outcroppings, slopes, hills, etc.

d. Pedestrian facilities, if any, including walks, plazas, benches, etc.

e.1. Parking spaces and circulation area for automobiles as well as the location of landscaped areas within them. Existing and proposed curb cuts shall be indicated together with approval for such cuts from the appropriate town or state agency. The number of spaces shall be in accordance with Section 6.4.2 of the bylaw.

Mr. Phoenix: Circulation arrows are missing, the rest of it's there.

e.2. All parking areas shall be paved and noted on the site plan as "to be paved," with the type of pavement to be used.

e.3. Area where deliveries will be made on site.

f. Existing and proposed fencing to be used to buffer abutting residential dwellings and/or districts from the intended development (if appropriate). Section 3.0.4 of this bylaw.

g. Existing natural features and vegetation to be retained shall be so indicated. Due regard shall be shown for all existing vegetation and natural features which, if preserved, will add attractiveness and value to the development.

h. The location and type of monumentation at all property corners shall be shown and maintained.

i. Existing and proposed elevations and contours. The contour interval shall be two (2) feet or any interval which adequately depicts the grading.

j. All existing and proposed utilities, and to include utilities with easements.

k. All site plans required herein shall display names of all abutters.

l. All existing and proposed sidewalks and curbing.

m. Landscaping Requirements

(1) Required landscaping shall be provided as set forth in Table 3.

(2) Buffer strips required by Table 3 shall be reserved exclusively for plantings, pedestrian facilities such as benches and walkways, required fences, necessary traffic control signs and those free standing signs which conform to the requirements of Section 6.5.2e of this bylaw.

n. The plan shall also include a chart showing the following information:

(1) Area of lot.

(2) Area and size of building.

(3) Maximum area of building to be used for selling, offices, business, industrial, or other uses, if applicable.

(4) Maximum number of employees, where applicable.

(5) Maximum seating capacity, where applicable.

(6) Maximum sleeping capacity, where applicable.

(7) Number of parking spaces required for the intended use, based on Section 6.4.

(8) Number of parking spaces existing at the site (including street parking adjacent to site).

(9) Number of trees and/or shrubs.

(10) Number of trees and/or shrubs shown on plan.

o. Additional Requirements: All site plans need to have the following information unless waived by the Planning Board:

(1.) Lighting Plan with Luminaire Schedule, prepared by an engineer.

(2.) Elevations showing the front, rear, and sides of the building design.

(3.) Signage design with dimensions and locations.

(4.) Area where snow will be stored.

(5.) Traffic Study.

Mr. Coelho: And Section o we're waiting for a motion on.

Mr. Phoenix: Well, at the very least, we've got number four, 'cause that's the snow storage area which is indicated.

Mr. Coelho: Right.

Mr. Phoenix: I know we have a huge crowd, but before we make a motion on the waiver, we should probably go through the motions and ask for input.

Mr. Queiroga: Ask what?

Mr. Phoenix: Ask for input from all of these people that are chomping at the bit on this one.

Mr. Queiroga: Ok, let's open up the public hearing. Is there anybody out there that would like to comment on this applicant's proposal? Hearing nothing...

Mr. Phoenix: It's deafening in here. Since there's no change being contemplated to the site with regard to the elevations, the lighting, and the signage, and the traffic to the site, I would make a **MOTION** that we grant the waiver of 7.1.5.o 1, 2, 3 & 5.

SECOND Mr. Coelho.

4-0 in Favor.

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

Mr. Phoenix: So, I think the only that we're outstanding on right now is the arrows.

Mr. Fernandes: What do you want, just an arrow in, arrow out? This is the first I hear of it, so.

Mr. Queiroga: --- you've seen it there. This is a dead end here, this is property that doesn't belong to them.

Mr. Fernandes: It's all fenced in, in the back. There's only one entrance in the front.

Ms. Houle: Carmelina.

Mr. Fernandes: Yeah.

Ms. Houle: Off the Carmelina ---.

Mr. Queiroga: I mean, you really, in and out is about ---

Mr. Fernandes: No, that's all fenced in backyard.

Ms. Houle: Here Joe, --- Carmelina.

Mr. Phoenix: All circulation area would show if any of those pass through the parking, would be one way, that sort of thing. --- showing the way the traffic's gonna flow through the site.

Mr. Queiroga: ---

Mr. Stefancik: I told Paul Smith about this...

Ms. Houle: Just gonna mark it off.

Mr. Stefancik: Yeah, Paul Smith will take care of this.

Mr. Queiroga: Ok. Why don't you just ask Paul. He'll do it. Ok.

Mr. Phoenix: Given the size of this particular change, I'll do something that's not completely characteristic. I know, right? I'm gonna start with a **MOTION** that's in the standard form, for granting approval of the site plan as submitted, but with the small change that the approval be conditioned on receiving this exact same plan back, but with the circulation arrows provided as required in 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. Queiroga: So, if you just take care of that and bring it back.

Mr. Fernandes: If he has any questions I can have him give you a buzz?

Mr. Stefancik: Yeah.

Mr. Fernandes: Should be pretty straight forward.

Mr. Queiroga: Ok, and it would probably be good advice to register the site plan so you don't have to come back and have all this fun again.

Mr. Coelho: After we sign it, of course.

Mr. Queiroga: After we sign it, and then a twenty day waiting period, alright?

Mr. Fernandes: Do I make this out to the Town or to?

Mr. Queiroga: To, directly to Turley Publications. Yeah, and you can leave it with Doug.

Mr. Phoenix: **MOTION** to close the public hearing.

Mr. Stefancik: ANR ---. Do you want to make a motion to close the...

Mr. Phoenix: There's a motion.

Mr. Queiroga: What's the motion?

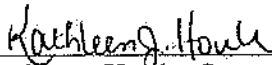
Mr. Phoenix: To close the public hearing.

SECOND Mr. Coelho.

5-0 in Favor.

Hearing ended at 7:32 p.m.

APPROVED:



Kathleen Houle, Secretary

SU

Documents: Master application; abutters list; request for waivers; comments from Town Departments/Boards; Site Plan – 135 Carmelinas Circle Ludlow, MA, owned by Maria & Jose Baltazar (June 24, 2017)

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

**TOWN OF LUDLOW PLANNING BOARD
RESCHEDULED PUBLIC HEARING – ZONE CHANGE
720 Chapin Street (Assessors' Map 11D, Parcel 102A)
John Garcia (Royal Coach Limousines LLC)
(operating a limo service and park limousines in an
Agricultural Moderate Density District)
October 26, 2017**

PLANNING BOARD MEMBERS

Joseph Queiroga – Chairman (Present)
Raymond Phoenix - Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)

Hearing began at 7:35 p.m. in the Selectmen's Conference Room.

In attendance: John Garcia, Tony Goncalves, Michael Pietras, attendees

Mr. Queiroga gave Mr. Garcia a copy of the invoice from Turley Publications, and read the legal notice which included the description of: operating a limo service and park limousines in an Agricultural Moderate Density District.

Mr. Queiroga: Do, Mr. Garcia, do you have a copy of the comments from the other Boards?

Mr. Goncalves: Yeah, ---, yeah.

Mr. Queiroga: Ok. I'll read to you the first, from the public works; we have reviewed the site plan for 720 Chapin Street and have the following comments: *show circulation pattern of vehicles entering and exiting the site.* ---?

Mr. Pietras: I haven't seen those.

Mr. Queiroga: You haven't seen those?

Mr. Pietras: No, thanks. ---

Mr. Queiroga: The following are the comments from the DPW: *show circulation pattern of vehicles entering and exiting the site; All parking areas shall be paved and noted on the site plans, either paved or to be paved with the type of pavement to be used; show area where deliveries will be made on site; the location and type of monumentation on all property corners shall be shown and maintained; all existing and proposed utilities should be shown on the plan; Section 7.1.5 Required Site Plan Contents Subsection o., some of the additional requirements need to be submitted if not waived by the Planning Board; driveway construction will be difficult. It will be difficult to maintain stability in proposed driveway due to steep slope at the end of Victor Street. The proposed construction of the driveway appears to require encroachment on public lands and the encroachment in the 50' BVW buffer. The driveway construction methodology and any Conservation Commission requirements shall be provided.*

Contractor must maintain a Construction within the Public Way permit for all work within the public way including, but not limited to roadway entrance, underground utilities within the public way including but not limited to sanitary sewer, storm drainage, water and gas service. Each lot is allowed one driveway entrance. To acquire a second entrance, applicants would have to petition the Board of Public Works. From the Planning Board, from the Conservation, I'm sorry: Mr. Garcia has concerns north end of his property that has not been rectified with Conservation. He has a current access road without RDA or NOI filed with ConsCom. He needs to file before moving forward. Board of Health: no comments. Ludlow Planning Board: lot does not meet minimum requirements for frontage for agricultural zone. You mean agricultural moderate density, right?

Mr. Stefancik: Yes.

Mr. Queiroga: Will not...

Mr. Stefancik: And both, 'cause it's...

Mr. Queiroga: What?

Mr. Stefancik: ...it's in Agriculture but it has an overlay of Agriculture Moderate Density, and that's from the Building Commissioner.

Mr. Queiroga: Ok, will need a zone change to use parcel for lot that is zoned Residence A. You need a zone change to use portion of lot that is zoned Residence A. From our Planning Board: *circulation show arrows and pave apron from street; parking needs to paved with type of pavement; will there be deliveries made; monumentation; is there any utilities to the building – gas, water sewer, telephone, electric, etc.; 15 parking spaces needed. Based on the square footage of the building?*

Mr. Stefancik: Yeah, based on 3,000 square feet, and that's 200 square feet for a service, and this is what you said a service back when they initially came in. So, I'm just running those comps.

Mr. Queiroga: Ok, *signage design with dimensions and locations; #4. area where snow will be stored; applicant must ask for waivers on o. 1-5 Additional Requirements, unless applicant intends to show any of these items, particularly signage and snow storage; applicant will need a denial to go to the ZBA for a variance of the frontage as per Town Counsel opinion; driveway from Chapin Street across Residence A portion, per Town Counsel opinion, driveway from Chapin Street cannot cross Residence A portion as per Town Counsel opinion, AMD Bylaw only allows for one driveway. Ok, we'll leave this here for now because if any of these waivers are requested, you're gonna need to sign it and date it, ok? Ok, let me, this is from Rebecca Thibault, who is the town attorney, she's new with the Town: Doug, you said that the Bylaws do not prohibit more than one principal use of one's property, and I did not see such a prohibition in the Bylaws. Therefore, yes, I think combining the lots and getting the zone changes would be an alternative option for the owners. If that change was made, the driveway could then be routed so that it comes off of Chapin Street, not Victor Street. Getting the zone change to accommodate the business use now could preclude the owners from subdividing the property in the future if the subdivision causes the business portion not to be in compliance with zoning requirements. Alternatively, and as discussed, the owners could decide to not combine the two parcels and instead just seek a zone change of 720 Chapin Street along with a variance for the*

insufficient frontage. Note that there may be additional buffer requirements (see 4.0.12 of the Zoning Ordinance). I have not reviewed whether having more than one principal use changes the dimensional requirements (for example, building coverage, distance, etc.). Please let me know if you have any more questions. I think there was a back and forth with you and the attorney?

Mr. Stefancik: Yeah, it's almost a seven page.

Mr. Queiroga: *Just to follow up with the zone change portion, 716 and 720 Chapin Street, they could be combined both properties and do a zone change from Residence A to Agriculture Moderate Density.*

Mr. Stefancik: That would be the front portion...

Mr. Queiroga: Right.

Mr. Stefancik: ...on the property, and he would have 140 feet, well he'd have 200 feet if he combined both, and then you would be able to run the driveway through. Part of her opinion is that because this is Residence A and there's case law that dictates this, Residence A is restricted, you wouldn't be able to do a service in Residence A, and only....

Mr. Queiroga: To access the back property?

Mr. Stefancik: Yeah, to access the back property.

Mr. Queiroga: Does that answer the question whether he could access it through the driveway in the back?

Mr. Stefancik: He could access off Victor Street, but he only has 50 feet of frontage and with Agriculture Moderate Density, Agriculture, you need 140 feet, that she says that he would have to go, in this case, and if it's just keeping the Agriculture, Agriculture Moderate Density area, they would just need a variance for the Victor Street entrance access. They don't have to do anything with the front parcel. They don't have to rezone it, but that would push them to the Zoning Board of Appeals for the variance.

Mr. Queiroga: So that's, those are the two options.

Mr. Stefancik: Yeah, and the thing is too is, I mean, you know, part of the front portion is what they want to do in the future with the house. Maybe they don't want it in the future, and they may want to break it off. You don't have 140 feet of frontage for both parcels, so he would still have to go to the Zoning Board of Appeals to do something to subdivide it off.

Mr. Queiroga: *Just to continue on, you asked section ---; to follow up with the zone change portion 716 to 720, could they combine both properties and do a zone change for from Residence A to Agriculture and Agriculture Moderate Density?*

Mr. Stefancik: That was the question, and you just read the answer.

Mr. Queiroga: Just read the answer, ok.

Mr. Stefancik: Actually, if you probably went all the way to the end of the page and read forward, probably might make sense because the questions and then the answers came.

Mr. Phoenix: Before we go too much further down that particular rabbit hole, I have one major issue with what's in front of us right now. And that's that we have an application for a site plan, and the plan does not show the metes and bounds. It does not have the seal of a registered land surveyor. So by default, it fails to meet the basic criteria for being a site plan. And we had established a long time ago that plans that meet the very basic criteria, we weren't going to even review any further, we were gonna kick out with a denial and they'd need to be resubmitted with a new fee. So that's what the Board had decided quite a while ago, we haven't really always had the best of luck with doing that, but I just want to be absolutely clear that the site plan that came in, the number one thing that a site plan needs to do, is show where the piece of property is, and this doesn't do that.

Mr. Pietras: Could I address that, or?

Mr. Queiroga: Yes, please.

Mr. Pietras: Just given the nature of the site that has been in front of you folks multiple times, and I understand the requirement, but this survey is on record, Roger Woods did it. We cite that Roger Woods did it. We could prob., we could follow up with the perimeter survey, but I believe the perimeter survey has already been registered.

Mr. Phoenix: If it's not part of this submission, it's not part of this plan.

Mr. Queiroga: You, what did we approve on February 25th? Did we approve the site sketch?

Mr. Stefancik: Possibly the site sketch, yes.

Mr. Pietras: ---

Mr. Goncalves: We been kind of in the site sketch mode until we knew exactly we were gonna go, and then put the big plan ----

Mr. Phoenix: I think part of the problem is, maybe we really shouldn't have tried to do this as a sketch, and try and find a way to get this to go in an easy way we should have done this the right way from the beginning. But, the bottom line is, for this to be a site plan, it needs to show the metes and bounds, and it needs to have the seal from a professional land surveyor. That is...

Mr. Pietras: I thought it was coming before you guys as a site sketch...

Mr. Phoenix: That is non-negotiable.

Mr. Pietras: ...when we initially spoke, so.

Mr. Goncalves: Ray, we've been, this is about two years now that I've been involved, and we really still don't even know how we're gonna get this thing done, and we're still throwing darts in the dark.

Mr. Phoenix: And that's...

Mr. Goncalves: And ---

Mr. Phoenix: ...turning in a site plan, you're asking us, is this something that the Board is gonna approve, not approve, or approve with conditions. That's the three options --- out of the meeting tonight, other than continuing, are approve, disapprove, or approve with conditions. Those are our options.

Mr. Goncalves: Or continue.

Mr. Phoenix: Like I said, aside from continuing, if we're gonna have a productive thing, where this moves on from here, it's one of those. This is not an approvable plan, period.

Mr. Goncalves: Right, but we don't know what you asked --- approve or how we're gonna do this. --- still confused.

Mr. Phoenix: So why, in my opinion this shouldn't have even made it to a hearing. This should have been kicked out by the office, and said no, we're not accepting this. That's my opinion on a plan that comes in at this standard.

Mr. Queiroga: You said that...

Mr. Pietras: Yeah, if we could have the discussion, I could get Roger to issue for the follow up meeting.

Mr. Queiroga: Ok.

Mr. Pietras: Nothing has changed with this perimeter since Mr. Garcia approached you guys three years ago.

Mr. Queiroga: Who produced this?

Mr. Pietras: The whole perimeter was Roger. Roger Woods gave us the initial survey. We produced the site plan....

Mr. Queiroga: You produced ---

Mr. Pietras: ...or the site sketch.

Mr. Queiroga: Or the, ok. Alright, let's leave that in abeyance for a minute here and...

Mr. Phoenix: Well, I think before we leave that in abeyance, I think we need to make an active decision as a Board, does that decision that we made before mean anything?

Mr. Queiroga: We haven't taken any motions yet. We haven't taken any votes.

Mr. Phoenix: We made a motion as far as what we were gonna do with a plan that failed to meet the criteria like not having the monumentation, not having a seal of a registered land surveyor, that didn't have the chart. We made a motion about that, God even knows how long ago, Joe. It's not specific to this plan, it's specific to plans that come in that fail to meet the basic criteria.

Mr. Goncalves: You also made motions on this Ray, to approve the site plan, to approve the site sketch, to allow us to go ahead with the sketch until we could figure out what we're gonna do ---.

Mr. Phoenix: This submission is not a sketch.

Mr. Goncalves: Right, well this is really a continuation of what we've been here for two years.

Mr. Phoenix: No it's not. This is a submission of a site plan. It needs to have the things that allow it to be approvable, otherwise it's not. We're not looking at a sketch. This application does not say sketch. The legal notice is not for sketch. And a sketch should only really be done if it's really being done on top of a site plan that's already been approved, is less than 20 years old, and has less than two amendments to it already. But, we've tried to extend an awful lot of additional courtesy on this because we feel bad about the situation that the gentleman is in.

Mr. Goncalves: He's also...

Mr. Phoenix: We have bent over backwards trying to make this happen. We've gone to Town Meeting trying to make it happen, and I'm not arguing even on the merits of anything else having to do with this right now, but this submission is not a site plan. What got brought into our office should not be in front of us right now at this level.

Mr. Queiroga: Ok, is there any other comments ---?

Mr. Coelho: Nope.

Mr. Queiroga: This applicant, and we can note that we're not gonna be voting on that, on this.

Mr. Phoenix: Well, that hardly needs to be noted, it's blatantly un-approvable, Joe.

Mr. Queiroga: Can I finish what I'm saying?

Mr. Phoenix: Sure.

Mr. Queiroga: Ok, and because of the situation of how long this has been going on, and the kind of information that he's been able to get, and not been able to get, on the merits of the situation, we're gonna extend him the courtesy to at least tell us what they got on their mind. And did you bring up the subject that you would like an extension of the public hearing?

Mr. Goncalves: Yeah, we would love an extension of the public hearing. We're hopefully getting to the end of this. As many times as we've been here, I think it's probably been the third time we've had a formal hearing of any kind. We went to the Board of Appeals, based on recommendations from here and other departments, in a meeting that was held, and the Board of Appeals basically told us immediately, we didn't get five minutes into the hearing, and told us we didn't qualify and we'd be wasting our time, we should withdraw rather than get penalized and not be able to come back for two years. And Mr. Garcia's been very, very patient, I think, given the options that he has and has had. We just would like, you know, he's cut the building down, no more additions. He's got a building back there. He'd just like to park three vehicles there during the week when they're not in use. And I get it, whether it's two vehicles, three vehicles, in use, not in use, a business or no business, we got to kind of follow the same path, I

get it. It's just that it's really confusing when he's trying to do the right thing, and we've been here probably, I've been here at least eight, ten times, and we still, there's nobody here that can actually tell us, still, for real, what the options are or what, I mean, we know what some of the options are, but there, we don't think they're viable options. We're confused, and even with Mike speaking, we've got a good lot, and we're not too sure that because the, doesn't have a 140 feet, that it still doesn't qualify for a business in the back.

Mr. Queiroga: As long as you don't go through a residence.

Mr. Phoenix: I think the answer to that is pretty straight forward. We looked to try and find out if we could at least extend the driveway through the front portion.

Mr. Goncalves: We can't, that's...

Mr. Phoenix: And the lawyers have made it clear that that's not possible. The only frontage that that back portion has for uses that are not allowable in the front portion, is on Victor Street where there's only fifty feet.

Mr. Goncalves: Fifty feet on Victor, right.

Mr. Phoenix: So, I think, that's been made very clear to us.

Mr. Goncalves: And I think, if Doug, you didn't get a chance to share that Harrison versus Braintree, that you sent over, out of the land plan use, and because there...

Mr. Stefancik: Yeah, the Board does have a copy.

Mr. Goncalves: ...yeah, and there, it doesn't, it talks about that Harrison Braintree, where you have a mixed use of residential and industrial, and it was a split zoning situation where there was limited access on a different street to pick up the industrial portion, and you couldn't go through the residential for the industrial. That's where, probably, Town Counsel is citing, and that's what the land use manager cites that Harrison Braintree says you can't go through an industrial, or a residential neighborhood to access an industrial park, or vice-versa. It goes on to talk about virtually, anything that's opposites of each other. But it doesn't talk about having to have a full fledged entrance somewhere else so long as it's on a public street and you have access, you can do it. And this is what we have here. We don't have 140, but we've got 50 feet on a public access to service the back portion to eliminate the driveway in the residential zone. So, we're really close to Harrison, but we're just, I can't find out if Harrison had the right frontage for the first zone or the second, because it just came in today. And I think that's worth looking into before we go back downstairs to get our eyeballs scratched.

Mr. Stefancik: I can have Town Counsel take a look at that.

Mr. Goncalves: Yeah, I think that'd be a real, that's something that, with the idea of the continuation for a couple of weeks, maybe look at that one and if that's the case, then I think the rest of it, if this is still agreeable to the Board as a viable option for the property, that would solve it all.

Mr. Coelho: What about the grade back there?

Mr. Goncalves: The driveway has been there when Mr. Garcia bought the property. The access is there. It hasn't been changed. Several years ago...

Mr. Coelho: The grades good?

Mr. Goncalves: It's good. He went to the ---

Mr. Coelho: --- Conservation's saying the grade's not good?

Mr. Goncalves: Because he's probably looking at a plan and maybe didn't even visit it, because what's there has been there a million years. Mr. Garcia went to conservation to get some trees cut. They went out there. They allowed him to cut the trees, and he hasn't altered that access in any way, shape, form, or matter. And I think, and he has no problem going to Conservation --- is everything ok. They asked him to put up a silt fence during the process. He put up the fence. It's still there. So, he's not trying to pull a quickie on anybody. It's what was there when he bought it. It's still there, only better because he has maintained it, didn't alter it, but maintained it.

Mr. Queiroga: And now, I was able to get, did some legwork on my own, and we looked at this plan of this lot which goes back to Mr. Edward Brunelle. It was a lot in May of 1952, and was received and registered in the Hampton County Registry of Deeds. That lot's been there a long time, long before we had zoning issues. Again, I understand what Ray's saying, but I also understand, I also know that you need to get somebody to stamp that.

Mr. Pietras: Sure ---. We have the perimeter survey by Roger.

Mr. Queiroga: And it should have been caught.

Mr. Pietras: Well, if you look at the chart, we thought it was being filed as a site sketch. Maybe that was the confusion.

Mr. Queiroga: The site sketch was already approved at one time as...

Mr. Pietras: Oh, I'm not sure when Mr. Garcia and I spoke ---.

Mr. Queiroga: Alright, so, that's one thing. And am I right in assuming one of the issues that you're trying to see if there's a way that this could be done without having to go downstairs again? Is that a fair?

Mr. Goncalves: Absolutely, yes. That's probably the, that and a zone change, I think, and I'm not speaking for Mr. Garcia, but I'm pretty sure in saying that's, those are off the table. There's other avenues for him to go. He, you know, he's done the right thing, I think, up till now and it's, he's got a building lot there, he could turn around, just keep the garage, and do what he's doing now. He keeps cars in there now, and he's in and out probably more frequently than he would be with the limousines. But, it doesn't make sense to torture him at this point any longer. I think we just got to tell him yes or let him off the hook.

Mr. Queiroga: --- Let me just ask him a couple things. One is that the option of rezoning that to make it all Agricultural Moderate Density, going to a town meeting doesn't appeal to you?

Mr. Goncalves: No. Mr. Garcia can speak.

Mr. Queiroga: Is that a fair statement?

Mr. Garcia: Yeah.

Mr. Queiroga: The option of...

Mr. Goncalves: Board of Appeals? They've made it clear that we don't qualify, that they won't approve it, any way, shape, form, or matter.

Mr. Queiroga: So, this lot, that's been an approved lot since 1952, cannot be used, cannot get access to it.

Mr. Goncalves: Not, the access...

Mr. Phoenix: ---

Mr. Goncalves: ---

Mr. Phoenix: You can have access for a use that is in compliance with the front, but even then, the front is limited for what it has for frontage.

Mr. Goncalves: Right, we're just wondering if that frontage is gonna give us the ok in the back.

Mr. Phoenix: --- but if the use in the rear matched the usages allowed in the front, I think that you could probably get a variance from the Zoning Board of Appeals without a whole lot of difficulty, 'cause you've got, I mean, it's at an angle, but there's a 78.33, and a 40.66, so you're a little under 120, minus the angles.

Mr. Goncalves: But it's zoned Residence A ---.

Mr. Queiroga: Zoned Residence A --- only need 90,

Mr. Goncalves: That front part, yeah.

Mr. Phoenix: So, you're fine up there.

Mr. Goncalves: Right, and that's what we're saying. Why isn't that a lot then? 'Cause we've got a good lot, we're putting an Agricultural Moderate Density...

Mr. Phoenix: Because it's got a zoning line right through it, that's the problem.

Mr. Goncalves: Right, and we're doing the business in the part that's zoned for business.

Mr. Phoenix: But you need to get to it from the part that's not.

Mr. Goncalves: No we don't, we can come through Victor Street.

Mr. Phoenix: You don't have frontage on Victor Street.

Mr. Goncalves: We do.

Mr. Phoenix: You have fifty feet which is not adequate in either zone.

Mr. Goncalves: But that's not a requirement of the access for the business purpose. We've got the frontage. We've got everything else in place, the access, and I think your AMD doesn't say that we have to have access of 140 feet, it says we have to have access. And Harrison versus Braintree says we need to have access on a public way, which we have. And it's the access that's been there for probably when you were born and I was born. In 1952, somebody did something there, drafted a street, recorded it, and it's been a way in and out of there forever. I'd like to think that Conservation has been pretty vigilant for the last thirty, forty years in this town, and if there was any trees cut, and that driveway wasn't there thirty, forty years ago, somebody would have known about it.

Mr. Queiroga: Ok, --- from members of the Board or ideas or suggestions?

Mr. Coelho: Not here for my ideas.

Mr. Phoenix: Ray, you're good at finding this stuff. Do you see a way, I mean...

Mr. Goncalves: If we go for a couple weeks from now, we'll come back, and let's just examine that 90 foot frontage. If it is a lot and we can do it, where we've got the access in the back, we eliminate that thing in the front, we bring in a registered site plan, and we're in agreement that the lot's good enough to put this in on the agricultural portion of the land. Otherwise, it, I think this option is gonna be off the table.

Mr. Phoenix: I think, I think this is more or less what you're saying, but just to put it in my own terms. I think the best that I'm really willing to do at the moment is continue until, do we have a good slot in two weeks Sue?

Ms. Houle: I'm not gonna be here.

Mr. Phoenix: Ok, so since we're just the four of us, how about, what do we have in four?

Ms. Urban: On the 9th?

Mr. Phoenix: Sure.

Ms. Urban: --- 7:15.

Mr. Goncalves: No the 9th is two weeks, no?

Mr. Phoenix: Whatever the meeting is two meetings from now.

Ms. Urban: After the 9th we have a holiday on the 23rd.

Mr. Phoenix: Ok.

Ms. Houle: The month of December unless you have a meeting on a non meeting night.

Ms. Urban: Unless you're scheduling a special meeting, after that I have December 14th.

Mr. Phoenix: Which I probably won't be here because that's my birthday.

Mr. Goncalves: That would be five weeks in between meetings?

Mr. Queiroga: No, it's because of the holidays.

Mr. Phoenix: Well, we have a meeting in two weeks. It's just a matter of Kathy won't be here.

Mr. Queiroga: Will we...

Mr. Phoenix: So, we'll have three, which is enough to act on some things, but we can't act on any waivers without four.

Mr. Goncalves: Can we, maybe without Kathy being here, if we get the information that we think is necessary, at least say ok fine, there's a glimmer of hope, or no, it can't happen. And we know absolutely that it isn't gonna work. So, it's either a zone change or an appeal, at least we know where to go.

Mr. Phoenix: ---

Mr. Goncalves: Then do anything else afterwards with Kathy back.

Mr. Phoenix: Well, let me ask Doug this question. Do you think you can hear back from Town Counsel before the next meeting?

Mr. Stefancik: Yeah. I mean, I can firm up with that, but in their opinion, in her opinion she did say they needed the variance too.

Mr. Queiroga: --- pretty good.

Mr. Phoenix: 'Cause I know there was a lot of back and forth, but just looking at the beginning and end dates of that chain I wasn't sure how many back and forths ---, anyway.

Mr. Queiroga: Now the other thing is, if we could, if we need to, we could entertain a meeting out of our normal cycle to fill in, especially if we had anything else.

Mr. Goncalves: I think Joe --- I mean, for somebody else, for us, if we know in a couple of weeks, yes we can or we can't, then we can just go ahead and, you know, either drop it or go to December and that's fine.

Mr. Phoenix: So let's say this, what time do we have in two weeks?

Ms. Urban: 7:15 on the 9th.

Mr. Phoenix: 7:15 on the 9th. ---

Mr. Goncalves: Yeah.

Mr. Queiroga: Alright.

Mr. Phoenix: Alright, so we've got that. And the understanding is that in the meantime we're gonna ask Town Counsel for a little bit more direction still. You guys are gonna give us a plan that's actually approvable.

Mr. Queiroga: Ok.

Mr. Pietras: Yup, we'll change the charts ---.

Mr. Queiroga: And with all the...

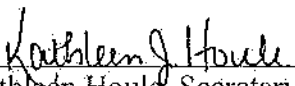
Mr. Coelho: We don't need all the construction detail and stuff either, I mean.

Mr. Phoenix: With that, I'll make a **MOTION** for now, to continue this matter until 7:15 on the 9th.

**SECOND Mr. Coelho,
4-0 in Favor.**

The public hearing was continued until November 9, 2017 at 7:15 p.m.

APPROVED:



Kathleen Houle, Secretary

su

Documents: Master application; abutters list; Emails from/to Tony Gonçalves and Tim Brennan PVPC re: zoning setback questions (10/25&26/17); Emails to/from Doug Stefancik and Rebecca M. Thibault, Esq. re: split lot zoning (8/09/17 - 10/26/17); Comments from Town Boards/Departments; Board of Appeals - Notice of Decision - Variance - 720 Chapin Street (withdrew without prejudice); Administration of the Government - Part I, Title VII - Chapter 41 - Section 81R; Site Plan - 720 Chapin Street / Victor Street Ludlow, Mass. for John & Melissa Garcia - (owners)(April 25, 2016).

(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
PROPOSED ZONING BYLAW REVISIONS**

Town of Ludlow

**Zoning Bylaw (Section III: General Use Regulations.3.2 Prohibited Uses.
Insert Subsection 3.2.3 Prohibition on Marijuana Establishments)**

October 26, 2017

PLANNING BOARD MEMBERS

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

Hearing began at 8:05 p.m. in the Selectmen's Conference Room.

*In attendance: Ellie Villano - Town Administrator, Derek DeBarge - Selectmen, Manuel Silva –
Selectmen, Attendees*

Mr. Queiroga read the legal notice which included the description of: Zoning Bylaw (Section III: General Use Regulations.3.2 Prohibited Uses. Insert Subsection 3.2.3 Prohibition on Marijuana Establishments)

Mr. Queiroga: Why don't members of our --- Board come up? Don't stay away.

Mr. Coelho: They don't need to come up. This is a hearing. They can speak when we let them speak.

Mr. Queiroga: If you want. You don't want to come up? So, this is a (*Mr. Queiroga read the Draft Bylaw*):

DRAFT ZONING BYLAW CHANGES 2017 NOVEMBER TOWN MEETING

ARTICLE _____

To see if the Town will vote to amend the Zoning Bylaws by adding a new section to SECTION III: GENERAL USE REGULATIONS. 3.2 PROHIBITED USES. Subsection 3.2.3 to read as follows:

Subsection 3.2.3. Prohibition on Marijuana Establishments

In accordance with Massachusetts General Laws Chapter 94G, Section 3(a)(2), all types of marijuana establishments, as defined in Massachusetts General Laws Chapter 94G, Section 1 and as may otherwise be defined by Massachusetts law or regulation, to include, without limitation, all marijuana cultivators, marijuana testing facilities, marijuana product

manufacturers, marijuana retailers, on-site consumption at a business location, any other types of licensed marijuana-related businesses, and the conducting of any such activity for commercial purposes by whichever name used, shall be prohibited within the Town of Ludlow. This prohibition shall not be construed to affect the medical use of marijuana as expressly authorized by the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.000 (as the same may be amended from time to time);

and to act on anything relating thereto.

Submitted by the Planning Board.

2/3 Vote Required.

"Report" of the Planning Board Required.

Mr. Phoenix: Just for clarification, 2/3 vote would mean that we need to have all four of us in favor, because the whole board is still a five member board. Also, after our last meeting when this was first put in front of us, kind of at the last minute, I did ask our Town Planner to look into something for me. Did you have any luck figuring out with, when somebody comes in for a change to their zoning, if the Planning Board recommends against, and then Town Meeting decides against, there's a freeze that's put into effect, does that take effect on Bylaw changes as well, or would this be re-submit-table in the spring if Planning recommends against and Town Meeting decides against?

Mr. Stefancik: Yes, it would still fall into play for Bylaws too.

Mr. Phoenix: The freeze would still take effect?

Mr. Stefancik: Yes.

Mr. Queiroga: So, where would that leave us?

Mr. Phoenix: It would mean that if we recommend against, and Town Meeting recommends against, that it wouldn't be able to come back for two years. That's what I seem to be hearing from Doug, so.

Mr. Queiroga: Is that your interpretation?

Mr. Stefancik: Yeah, 'cause it's a bylaw.

Mr. Queiroga: And what if we recommend against and the Town Meeting recommends for?

Mr. Phoenix: Well, if they vote for it, it's approved.

Mr. Stefancik: It goes. It approves.

Mr. Queiroga: It approves, ok. Comments, questions from the Board?

Mr. Coelho: Yes. I have several problems with this. One is the timing. We're having, all of a sudden we're having a special town meeting to, what I'm assuming, or the best I can tell, is to Public Hearing – Proposed Zoning Bylaw Revisions
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allocate funds from one account to another, maybe it looks like we're stretching out funds a little bit. I don't know. Then on the same exact agenda, we are going to completely annihilate a business that would be a viable income tax, a viable tax source that would help us with any future money problems. Two, again, this all happened very quickly right in front of us, and normally we like to take our time and write our own bylaws. Three, the will of the voters of the Commonwealth is pretty clear at this point on this issue. I don't know that we should be going around that. And four, we can keep it all under our control at this point, if we accept it and we make proper zoning regulations to regulate it. If we go ahead and complete, and continue prohibition, it's gonna be out of our control, and frankly, they're still gonna be selling it on the corners and on the back streets, and it's still gonna be in the dark. So, we should get in front of it rather than being behind it. But, that's just one person out of four.

Mr. Queiroga: Kathy any comments before we open it up to our guests?

Ms. Houle: No.

Mr. Phoenix: I have two things that I would say. Number one is largely because I don't want to just echo, I want to emphasize the procedural situation with this. This was brought to us on our last agenda. It'd already had to be put into publication to be able to meet the deadline. It then comes to us for this public hearing, and it's gonna be at Town Meeting on Monday. This is a ridiculously short timeline for something that, whether you're on either side of the issue, I think it's a very important decision. I think that if we were to look at this in the spring at a regular town meeting that would've occurred normally instead of one that's kind of an accidental town meeting, I think that would take away one of my biggest issues with this. But I can't even begin to count the number of times over the years where rushing into a decision on something, especially on something important, has not panned out well in the long run. And I don't think that there's been nearly enough due diligence done with something that's this important in the timeline that we've had. Beyond that, I have a personal objection to the way that, and for the record, I do not partake in marijuana, but the way that it is demonized beyond what cigarettes, beyond what other things are. You can go into Big Y or the gas station and buy cigarettes that have God knows what additives into these things, that are gonna not just affect the people that are smoking them, but the people that are around them, tons of problems. The Town is even seeing fit to enact bylaws about smoking, but we still allow the sale of these products in Town. We're looking to do something much more strict with something that has fewer direct side effects. And again, my biggest concern though, is the procedural that goes with this. I think I could probably wrap my mind around some of the second part if we were looking at this either for the spring or a regular fall town meeting.

Mr. Queiroga: Kathy, you don't want to say anything?

Ms. Houle: No, I don't.

Mr. Queiroga: I, for the record, I'm a child of the 60's, so, and I don't know what it smells like either, and, but, I have, it doesn't take a lot to know what the issues are in terms of whether it's good, something to bring in, as Chris says, as a way of raising revenue. But, I have a respect for, and before I continue, do I have a, was there a vote taken at the Board of Selectmen on this? Was there a vote to be in favor or not to be?

Mr. DeBarge: We are completely against this.

Mr. Queiroga: Ok, so it was 5-0, is what I'm saying, is what I'm asking.

Mr. DeBarge: ---

Mr. Queiroga: What was that?

Mr. Coelho: Against this?

Mr. Silva: No, no, it was 5-0 to put this on the Town Meeting.

(multiple people talking)

Mr. Queiroga: Ok.

Mr. Silva: ---

Mr. Queiroga: Right, and we're not the only town, right Mr. Silva? I know you were gonna say your name anyway.

Mr. Silva: What's brought this forward is what, both the governor and --- legislation has come down and said that communities that, in fact, voted it down can do this. That is the concern.

Mr. Queiroga: Which we did, right?

Mr. Silva: Which we did.

Mr. Queiroga: We did as a town.

Mr. Silva: The vote was 48-52. So, just by going by that, and going by what happened before with the cultivation and whatnot, the residents don't want it. I mean, I actually first voted to have the cultivation, 'cause we would bring in revenues and whatnot, but the truth of the matter is, if more people came out and voiced their opinion against it so much, and the for's really sat back and just let it be. So, what my position is, the residents don't want it, the majority, I'm sorry, some do. Can't say the residents don't want it, but the majority in the Town seem like they don't want it in Town. We have a great organization, well actually two of them that are fighting drugs. You have the Michael J. Foundation, you have the Cares Coalition. We're constantly educating people about drugs and so on so forth. So, that's where I think, I don't want to speak for the Board, but that's where I came to the decision, and that's probably what the Board is agreed with I would say.

Mr. DeBarge: I mean, just Monday night we had a doctor come in to speak to, I think we had what, 300 people, 350, 400 people come in, speak to them about how to speak to their kids about marijuana and the differences in marijuana from when it, from when we were younger to how it is now. I think this is easy rather than difficult, an easy decision other than a difficult one. It hasn't been proven anywhere that these little shops are gonna bring in tons of tax money into the Town. We went over this with the 60,000 square foot building that we fought, where they were gonna cultivate and distribute out to their sister little stores there, and distribute out of those. Now, that one, they tried to show where they were gonna bring in larger sums of money into the Town, and yet, they couldn't prove that.

Mr. Queiroga: ---

Mr. Coelho: That's funny, 'cause I was in Denver and I'll tell you what, there was a construction crane on every corner.

Mr. DeBarge: There's what?

Mr. Coelho: A construction crane on every corner.

Mr. DeBarge: Yup, and there's a lot of problems in Denver too, that go right along with that. A lot of problems with that.

Mr. Queiroga: That was for medical marijuana, am I right?

Mr. Silva: Yes.

Mr. Queiroga: Yes.

Mr. DeBarge: Now, individually..

Mr. Queiroga: Which I didn't have any problems with.

Mr. DeBarge: I don't either, I believe in it.

Mr. Queiroga: Especially with the kind of security that Chief Madera talked to us about at those meetings, but medical marijuana was tried to be accepted here, and it was voted down because the Board of Selectmen required to send a letter of non-adverse to it. Is that what it was?

Mr. Coelho: That's after they send a letter --- for it.

Mr. Queiroga: So, just to continue on what Manny said and what you've said. I don't have any problems with the moratorium. I'm not, to me it's an easy decision, that the majority of the Town has made. I'm not a user. I'm very happy to say none of my kids are users. But, even if that, I understand that there's a decent amount of towns that have opted out, and I was surprised, because they didn't give the same kind of requirements on medical, because that would just require hands up or hands down from the mayor or the board of selectmen involved, ok. This gave, under the regulation, this gave each town, if you were, if you turned it down, that you were able to have it in your town. Now, as I said, I, it was rushed through, but the essence of it is clear, and you're either against it or not, and each one of us here can take a position. I respect Chris and his position, and I have no problems with it, ok. But, the fact that they had little time to put this together is...

Mr. Phoenix: They didn't have little time to put it together. They chose to put it on this town meeting and created this short time span. And I'd also like to mention that, yes, I understand that the way that things have been decided because the Town voted 52 to 48 against, that that gives us the leeway to be able to do this under those decisions. But, to say that the Town voted against it, I think although accurate, is slightly misleading. It's not like the Town voted 60/40, 70/30, 80/20, we're talking 52/48. The Town voted with maybe slightly more than a margin of error against it. But again, my biggest problem is that this is being rushed to the table. I think it could have easily been put onto the spring town meeting. As it had already been mentioned, we

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already have a moratorium in place to give us the time to make these decisions in an educated, informed, and intelligent manner, and instead we're rushing with this.

Mr. Phoenix: Thank you Ray. You, am I hearing something?

(multiple people talking)

Mr. Queiroga: Ok, go ahead.

Mr. DeBarge: Yes sir, I just wanted to get this point across. The Attorney General wanted to get out that they suggested, or that the Attorney General suggests that the towns pass both the general bylaw and the zoning bylaw each together. I think that point should be said as well.

Mr. Queiroga: This is from the Attorney General's?

Mr. DeBarge: Yes sir.

Mr. Queiroga: Now, the, was there time here that we needed to act by, Ellie?

Ms. Villano: As far as?

Mr. Queiroga: You know, as far as this particular prohibition article that's in front of us.

Mr. Phoenix: Are you asking when the moratorium expires?

Ms. Villano: The moratorium expires in June.

Mr. Phoenix: Which is after spring town meeting.

Ms. Villano: It's my understanding that the State will start issuing licenses on April 1st. So, if I might speak for the Board, I think the thought was to put these articles on prior to the May Town Meeting, and get the Attorney General approval for both the general bylaw, 'cause there is a general bylaw banning the recreational sales of marijuana in Ludlow, and a zoning bylaw to have no zoning for the sale of recreational marijuana. And those combined, when the Attorney General, I'm assuming, would vote yes on them, clears the Town from the possibility of a recreational facility coming into Town.

Mr. Queiroga: ---

Ms. Villano: Yes.

Mr. Queiroga: One of the problems, as you can see by looking up here, is that we've had a resignation on the Board, and we have four members.

Mr. Phoenix: Well, that really doesn't affect this. We'd still need four members in favor of it either way.

Mr. Queiroga: Two-thirds?

Ms. Villano: Yeah, two-thirds required.

Mr. Queiroga: Two-thirds required of what?

Ms. Villano: --- the Planning Board ---.

Mr. Stefancik: I don't think it has to be two-thirds vote for you to vote on this to send it to Town Meeting. It needs to be a two-thirds vote at the Town Meeting. That's what that means on there.

Mr. Phoenix: I'm pretty sure for these it's usually two-thirds of us too.

Mr. Queiroga: It's an important issue. Can we have clarification on it?

Mr. Stefancik: Sure.

Mr. Queiroga: What is your opinion? Do we need two-thirds of five, or do we need two out of three?

Mr. Stefancik: Well, you only have four, so ---.

Mr. Queiroga: Yeah.

Mr. Stefancik: A two to two vote is as good as a zero vote.

Mr. Phoenix: A two to two is a failure anyway.

Mr. Stefancik: You need to be three in favor or three against.

Mr. Phoenix: Three to one, yeah.

Mr. Stefancik: And then, you know, Town Meeting's your highest form of government. Let it go to Town Meeting and everyone can have their say there, and let Town Meeting decide the whole matter.

Mr. Phoenix: Yeah, but, if we're gonna just, it's going to Town Meeting anyway, so that's an empty argument. The question is, what does the Planning Board believe on this issue? Does the Planning Board believe this should be in front of Town Meeting, that this should be approved at Town Meeting? That's the whole point of us having this hearing now. 'Cause it's going to Town Meeting whether we give it a thumbs up, thumbs down, whether we don't say anything, whether we vote purple, it doesn't matter. It's going to Town Meeting. So, it will be in front of those voters regardless. So, the question is, what do we think about this? What do we think about the merits of it? What do we think about the timeline on it? What do we think about the whole thing?

Mr. Queiroga: --- that's what the lawyers call a mute point, yeah. But, you can speak your mind and vote your mind, and we can, Manny?

Mr. Silva: I do have a question. I don't know if this party's gonna be able to answer, but we do have a moratorium as you know, and like Ellie said till June, and we didn't want to wait till June because the State is gonna start opening, you know, the licenses and whatnot. If these people apply for a license, even though there's a moratorium, they apply, and it's my belief, I may be

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wrong, but my belief is if they apply for a license in this community, all they have to do is wait for the moratorium to end. Now, if we have, if we wait until June, when's our Town Meeting again?

Mr. Queiroga: May.

Ms. Villano: In May.

Mr. Silva: In May, are they still legally able to open it as soon as the moratorium does, because they applied before the ban was put in. That was a concern that we had.

Mr. Phoenix: I think that's gonna end up getting decided by lawyers and people well above our pay grade. Essentially though, if somebody wants to come into the Town of Ludlow with any business, whether if it's for marijuana or to sell shoes, they need to come through the Planning Board and satisfy our site plan requirements, and I would think it's a pretty simple argument that this type of business is not already in existence in the Town, that we haven't put into effect bylaws for it, that's why we have the moratorium in place in the first place, and if we created bylaws in this interval, then that would be handled in that situation, if we decide against it in that same interval, same thing. If it's not allowable, I would think it's not allowable. But again, that's gonna be on lawyers and judges and people that are actually more likely to take bribes than I am, to be quite honest. The reality here is, and I think this is the real shame, and I want to drive this home, I have a feeling that no matter what we vote, it's probably gonna pass at Town Meeting. That's my gut instinct. But, if we vote against it, for whatever reason, for the sake of argument, let's just say the procedural, and if Town Meeting says you're right, we should take more time to be able to consider this, and it puts a two year freeze on this, and all of a sudden this is off of the table for two years and we don't have it available for the spring because it was put in now, and I think that's a shame.

Mr. Queiroga: Do you think that's a realistic for a two year freeze or was that just ---?

Mr. Phoenix: That's why I asked Doug at the end of our last meeting, which was the first time that this was brought to us, I asked him about that because I felt that we needed clarification on it. And the answer that I got back is that it puts the two year freeze into effect. That's not up to us, that's statutory.

Mr. Silva: You know that, if I may...

Mr. Queiroga: Yeah, please.

Mr. Silva: ...a two year freeze probably the zoning, which that's what we have, zoning. Anytime you're going before zoning to the meetings, you can't do anything for two years. But as far as the ban outright, is that a zoning, or are we talking about a...

Mr. Phoenix: Well, this is a zoning bylaw change.

Mr. Silva: With this the zoning, we're doing two?

Mr. Phoenix: That's why I asked Doug.

Mr. Silva: Yeah, we're doing two things, I believe, right?

Mr. ---: Yeah.

Ms. Villano: Yes, the Article 3 is a prohibition on...

Mr. Silva: Prohibition.

Ms. Villano: ...marijuana establishments through a general bylaw.

Mr. Phoenix: Right I get that.

Ms. Villano: ---

Mr. Phoenix: And they're the exact same verbiage. But, the bottom line is, the merits of both articles are identical. They're both the same language, they both cover the same issue in the same way, and both in the same very expedited timeline. So, any argument that someone makes in favor or opposed to either one, carries on both. I mean, does anybody see it differently than that? Is there any person in this room who can reasonably say that somebody that would vote in favor of one's gonna vote against the other? 'Cause I don't think that's gonna happen. I think people are gonna walk in there, and because this is an emotionally charged issue, I think people are gonna walk in there, more or less saying, not so much I'm in favor of this bylaw change, I think it's gonna be I'm pro marijuana or I'm against marijuana. And I think that's gonna be the way the vote comes down no matter what arguments are said on town meeting floor.

Mr. Queiroga: ---

Mr. Phoenix: And there might be some people that might walk in with an open mind, but I think that's probably gonna be less than 10% of the people that walk in that room.

Mr. Silva: Most likely, but what I'm getting at is that, yes, the zoning issue is two years, but at Town Meeting, I'm not saying they're gonna vote, we could come back right away, even though we can't do it for the zoning, we could come back right away for an outright ban 'cause that's not zoning, we're just banning marijuana itself, the sales. See what I mean, so that you could come back and say, but even though the zoning is still there.

Mr. Coelho: The sales of marijuana was banned for fifty years, that didn't stop it.

Mr. Silva: We all know that. ---

Mr. Coelho: We might as well, you know, get what we can out of it at this point and control it.

Mr. Silva: I think we fought drugs for ever since they've come out, and nothing's stopped it, but.

Ms. Villano: If I might, Mr. Chairman...

Mr. Queiroga: Ellie.

Ms. Villano: The governor and the legislatures changed the law to allow those communities that...

Mr. Queiroga: ---

Ms. Villano: ...that voted no at a state level to take action if they so choose to, through their legislative body. Well, our legislative body is Town Meeting. If we were a --- form of government or a town counsel, they could have done it with a signature of a pen within days. So, I think that the fact that the State recognized that there were communities that are against it, they're giving them that option to take action against it. Now, and I could be wrong, but I think if you are a community that voted yes, you would have to take it a step farther and go to a ballot question and have the people vote all over again. But, because Ludlow did vote against it at a local level, we are given this opportunity to put a prohibition on marijuana establishments in the Town of Ludlow. And the Board voted to take that action, and the Board voted to take that action at the November meeting because we had to schedule a November meeting. --- was schedule originally in order to do some transferring of funds out of the stabilization. But, here was an opportunity to put the article on Town Meeting. Just like the Board of Public Works, because a meeting was scheduled, had the opportunity to put an article on to transfer some out of their retained earnings. Had this meeting not been scheduled, yes, it probably would be taken up in spring. But the meeting was scheduled now. I don't think that there was an intentional rush job on putting this. It was an opportunity that opened up. And I believe, and again, I don't want to speak for the Selectmen, but I believe that's the reason that they took those steps.

Mr. Phoenix: With the transfer of funds, with dealing with the issues that brought in this town meeting in the first place, had an expediency attached to them. Similar, you're talking about DPW needed to have some funds moved, that's another thing that takes place in the here and now that has an immediate effect. We've already got a moratorium in place, putting this on now, I think, was just a bad call all around. I think this would have been a lot better put on the regular town meeting in the spring, or, you know, if we were to find out as the timeline gets closer, that ok, look, the State is saying that you need to have this in place before April, and we needed to do something then, April is still half a year away.

Mr. DeBarge: Can I ask you what would change from now until April?

Mr. Phoenix: We'd have time to be able to go over this. We'd have time to see what else is going on with this whole situation. This is the single fastest bylaw change that I've seen go from proposal to Town Meeting in the twenty years that I've been involved in Town Government. And it is probably within the top, I'll say five, of importance. And if I were to graph importance, and the time that we take to contemplate it, and to come to an informed and educated and intelligent decision, those lines should both be going up at the same time. They shouldn't be crossing.

Mr. DeBarge: It's not fast to us, --- a while.

Mr. Phoenix: This came in at our last meeting. The publication had to be put in the paper before we even had this cross our desk at a meeting in order to be able to have it here tonight for a public hearing so that we could make the deadline to have a decision before Monday's Town Meeting. There is no way on earth you're gonna tell me that's not quick. That is not slow, that is the exact opposite of slow.

Mr. DeBarge: The decision is simply to vote for having marijuana sold in Town or not.

Mr. Phoenix: That's not the decision. The decision is whether or not this specific language or not. This language doesn't say I like pot, I don't like pot. This language is much more in depth than that. That's why it was written very clearly by lawyers who have a vested interest in writing this in a particular way. And to simplify it and just say that it's a thumbs up, thumbs down on marijuana, is a gross exaggeration of the fact.

Mr. Coelho: Mr. Chairman.

Mr. Queiroga: Chris.

Mr. Coelho: ---

Mr. Queiroga: Yes. Any comments from?

Mr. Lawler: Oh no. I'm here for another topic.

Mr. Coelho: I just wanted to make sure everybody was heard, that's all.

Mr. Queiroga: Ok. Before we put this to a vote, I'd just like to take issue of a couple things. Number one, as we know by what happened in the last general election in this United States, 52 to 48, or 70 to 30 doesn't matter. And I think the issue is very clear whether you're for or against it. And doing it four months from now won't change that. I think you folks just need to make a motion and speak your mind and you can vote for or against it and we'll let the chips fall where they may. So, do I hear a motion on this...

Mr. Phoenix: I **MOVE** find that this matter deserves and requires more care and consideration than the timeline that we've been given has provided us, and therefore to recommend against the adoption of this bylaw change at Town Meeting.

SECOND Mr. Coelho.

2-2-0 in Favor. (*against: Ms. Houle, Mr. Queiroga*)

Mr. Coelho: Falls on the floor.

Mr. Queiroga: What?

Mr. Coelho: Falls on the floor.

Mr. Queiroga: Yes, we'll be at the, I'll be at the Town Meeting to give that vote to the...

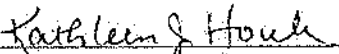
Mr. Phoenix: I **MOVE** to close the public hearing

SECOND Ms. Houle.

4-0 in Favor.

The public hearing closed at 8:38 p.m.

APPROVED:


Kathleen Houle - Secretary

su

Documents; Draft Zoning Bylaw Changes 2017 November Town Meeting

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

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