

**TOWN OF LUDLOW PLANNING BOARD
MINUTES OF THE MEETING OF
October 11, 2018**

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2018 NOV -9 P 12:05
TOWN OF LUDLOW

PLANNING BOARD MEMBERS

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

Mr. Phoenix acted as the Chairman in Mr. Queiroga's absence.

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

CONTINUED PUBLIC HEARING – SITE PLAN – 14 Chestnut Place (Assessors' Map 13C, Parcel 54) & 58 Sewall Street (Assessors' Map 14B, Parcel 9-1) – Mid America Properties, LLC (updating site plan to include existing conditions and minor proposed additions to improve traffic flow around building and improvements to the accessible parking spaces)

SEE ATTACHED MINUTES

CONTINUED PUBLIC HEARING – SPECIAL PERMIT / HOME OCCUPATION & SITE PLAN – 38 Lyon Street (Assessors' Map 24, Parcel 42) – Kenneth Butts (Home Office – processing firewood, and Site Plan – firewood processor)

SEE ATTACHED MINUTES

ANR – 637 Miller Street (Assessors' Map 25, Parcel 48) – Paul Adzima (Miller GAP, LLC) (subdivide property)

Paul Adzima was present for the appointment.

Mr. Adzima explained that he would like to separate the house and the one lot from the property.

Ms. Houle read the ANR checklist:

1. *Property owner's name, date of plan, and scale of plan.*
2. *A space for endorsement by the Planning Board.*
3. *The names of all abutters.*
4. *The lines of existing streets, ways, property lines, and easements. Indicate*

whether streets and ways are public or private.

5. The approximate distance from the property to the nearest street intersection, town line, or other definable physical feature.
6. Sufficient data to determine the location and length of every property boundary line in the new parcel and to establish these lines on the ground. Indicate the area of the new parcel.
7. The location of all property corner monuments and whether they were found or set.
8. The location, frontage, and area of the land remaining in the original parcel after establishing the new parcel.
9. The north arrow for bearing system used on the plan and whether it is true, magnetic, or assumed north.
10. The location of all existing buildings and the distance from the existing buildings to the new property lines.
11. If a building lot is intended, the frontage requirement at the setback line must be shown.

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

Mr. Coelho: I MOVE to endorse the ANR for Mr. Paul Adzima at 637 Miller Street.
SECOND Ms. Houle.
3-0 in Favor.

Documents included: Master application; Subdivision Approval Not Required Plan – Center Street, Miller Street Ludlow, MA – owned by Miller GAP, LLC (September 25, 2018)

Consent Agenda:

Mr. Phoenix pulled the Change of Occupancy for 8 White Street out of the consent agenda.

The Board approved the remainder of the Consent Agenda under unanimous consent.

- ◆ FILE Mail Item 59. - Legal Notices from surrounding communities
 - ◆ APPROVE/SIGN Minutes of September 13, 2018 & September 24, 2018
 - ◆ APPROVE/SIGN Bills – D. Stefancik (reimbursement for SNEAPA conference)
-

SITE SKETCH – 62 Nash Hill Road (Assessors' Map 9, Parcel 36A) – Lupa Game Farm Inc. (add 30' x 34' feed storage shed)

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TOWN OF LUDLOW

Wally Lupa was present for the appointment.

Mr. Lupa noted that he would like to put up a 30' x 30' donated metal building for feed storage. He said that the shed will be on a concrete slab so that it will be rodent proof.

Mr. Phoenix commented that it is a small enough change that it would qualify for a site sketch. Mr. Lupa said that this is the first amendment to the existing site plan. Mr. Phoenix said that the requirements for the site sketch are the table, which has been photocopied with the numbers written on it.

Mr. Coelho **MOVED** to waive the full site plan in favor of a sketch since there is an existing approved site plan on file, not less than 25 years old, not been modified less than, more than twice, and doing so is consistent with the purpose and intent of the zoning bylaw.

Motion failed due to lack of quorum.

The site sketch approval has been tabled until the meeting of October 25, 2018 due to a lack of quorum.

Mr. Phoenix: As far as we're concerned, I mean, we could even make a MOTION to send a letter to the Building Inspector saying that we have the majority of the Board was present and couldn't act on it but felt inclined to act favorably if we had a fourth member to grant the waiver, or something along those lines.

Mr. Coelho: **SO MOVED.**

Mr. Phoenix: Oh, you're killing me.

SECOND Ms. Houle.

Mr. Coelho: No, Doug, yeah, just send a letter to Justin saying that, I mean, we could have, we could have approved the site sketch with us three.

Mr. Phoenix: We could approve a full site plan with us three.

Mr. Coelho: But, we can't waive it down to a site sketch.

Mr. Stefancik: Correct.

Mr. Coelho: So, if you could send Justin a letter communicating that due to technicalities and member quorum today...

Mr. Phoenix: But, that we have a majority of the Board that was in favor of it and just couldn't act on it without the fourth member for the waiver. So, it's kind of like a finding without a waiver thing, so that hopefully he can get the work going.

Mr. Lupa: Perfect. And Doug also informed me that I'm gonna need a new site plan. I have one more amendment out of the two.

Mr. Phoenix: Just before you do, did I actually call for the vote or did we just get the second?

Ms. Houle: I just gave a second ---.

Mr. Phoenix: All those in favor?
3-0 in Favor.

The site sketch approval has been tabled until the meeting of October 25, 2018 due to a lack of quorum.

Mr. Lupa told the board about the recent happenings at the zoo.

Documents included: Master application; Proposed Site Plan for storage shed, 62 Nash Hill Road Ludlow, MA for Lupa Zoo (9/27/2018)

Request for release of security – Abel Goncalves – Maria's Way

Mr. Stefancik noted the Maria's Way was just accepted at October Town Meeting, and that they have a \$100,000 bank book with the Treasurers Office which they asked to have released.

Mr. Coelho: Mr. Chairman, I **MOVE** that we...

Mr. Phoenix: Approve the release.

Mr. Coelho: ...approve the release of the bank book for the Maria Way Street.
SECOND Ms. Houle.
3-0 in Favor.

Housing Production Plan

Mr. Stefancik explained that Karen Sunnarborg scheduled for the October 25, 2018 Planning Board Meeting, at 7:00 p.m. to review the draft Housing Production Plan with the Board. Mr. Phoenix praised the job that Ms. Sunnarborg has done on the Housing Plan.

Documents included: Town of Ludlow, Massachusetts Housing Production Plan (September 2018)

File Mail Item #57 – Board Reorganization from Ludlow Board of Health

File Mail Item #58 – Legal Notice – Ludlow Conservation Commission – 504 Fuller Street

APPROVE Change of Occupancies: Murat Citlak – smoke shop (Puff City) – 8 White Street
(taken out of consent agenda)

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Mr. Phoenix mentioned that he is concerned with a retail store going into a location where an insurance company was, which isn't a one-for-one switch. He noted that the two businesses have different traffic patterns and parking requirements, which may trigger a traffic study.

Mr. Stefancik said that the site plan on file is for an addition on the property which never occurred.

Mr. Phoenix asked the Board if they want to have a motion to approve the Change of Occupancy or a motion to deny the Change of Occupancy and require that a site plan be submitted, or a sketch that amends the existing site plan if that's appropriate.

Mr. Coelho: I make a **MOTION** that we deny the Change of Occupancy and request that a site plan be further evaluated for its...

Mr. Pedro: Totally different pattern of business.

Mr. Coelho: Right.

SECOND Ms. Houle.

Mr. Pedro: Gonna have a lot of traffic in that ---.

Ms. Houle: Yeah.

3-0 in Favor.

Mr. Phoenix: I don't see anything else on my agenda, unless anybody has anything else, I will entertain a **MOTION** to adjourn.

Mr. Coelho: **SO MOVED.**

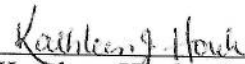
SECOND Ms. Houle.

Mr. Phoenix: Always in order, and not debatable. All those is favor?

3-0 in Favor.

Meeting adjourned at 8:11 p.m.

APPROVED:



Kathleen Houle, Secretary

su

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

Minutes of October 11, 2018

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TOWN OF LUDLOW

**TOWN OF LUDLOW PLANNING BOARD
CONTINUED PUBLIC HEARING – SITE PLAN
14 Chestnut Place (Assessors' Map 13C, Parcel 54) &
58 Sewall Street (Assessors' Map 14B, Parcel 9-1)
Mid America Properties, LLC**

**(updating site plan to include existing conditions and minor proposed additions to improve traffic flow around building and improvements to the accessible parking spaces)
October 11, 2018**

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TOWN OF LUDLOW

PLANNING BOARD MEMBERS

Joseph Queiroga - Chairman (Absent)
Raymond Phoenix - Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)
Rafael Quiterio (Absent)
John Pedro - Associate Member (Present)

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

The public hearing was continued from August 23, 2018.

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

In attendance: Peter Wells, attendees

Mr. Phoenix: This is continued from, I believe this one was also September 13th?

Mr. Stefancik: I think August.

Mr. Phoenix: No, this was the August one. And this was continued, kind of, right out the gate by request of the applicant.

Mr. Stefancik: That's correct.

Mr. Phoenix: So, I believe all we've done on it is read the legal notice the first time and that was it.

Mr. Stefancik: That's correct.

Mr. Phoenix: As far as correspondence on here, we've got a letter going out, just saying that we did approve that request. We have from Department of Public Works; Mid America Properties, signs and ADA space and access shall comply with the current ADA rules, and we use parallel bars for crosswalks versus the ladder bars. From our own office we have a whole lot of nice black check marks, and at the end regarding o. Additional Requirements, applicant is asking for waivers on o. 1-3 and 5, which will be the lighting plan with luminaire schedule prepared by an engineer, the elevations showing the front, rear, and sides of the building design, signage design

with dimensions and locations, and traffic study. So, the only one out of o. not being asked for a waiver is the area where snow will be stored. And we do have the signed waiver request on that. And in the application, we're showing; update site plan, includes existing conditions and minor proposed additions to improve traffic flow around building, and improvements to the accessible parking spaces. And I believe that's all we really have in here. We do have some plans. Are you here for this one?

Mr. Wells: Yes, I am.

Mr. Phoenix: Do you want to come up and talk about what you're doing?

Mr. Wells: Sure. My name's Peter Wells, I'm with the Berkshire Design Group --- civil engineers and surveyors. This is somewhat of an unusual project. It was requested back in 2008 for a site plan to be submitted. So, it's been ten years, and basically, after meeting with Doug with regard to the requirements, we were informed that they, you basically wanted an existing condition drawing, and then improving the handicapped parking and circulation for the site. So, we did an extensive survey that is submitted with the plans, not only a survey, but a full photographic inventory on what's existing out there now. So, it's not really your typical site plan submission because everything's built already. So, it's showing what's there now. It's showing everything from all the utilities, where they're located, all the plantings, the size of the lot, the number of parking spaces. It goes through the requirements needed for your site plan review, but everything's been built already, and everything is working well in terms of the drainage, site lighting, parking. We did go through the entire sight numerous times, and we did see some improvements that could be made, and I'd like to go over those specifically. We saw that the existing conditions for the parking, accessible parking spaces weren't signed properly, and also weren't, there was no aisle way from getting out of your car or van, and a proper aisle way going from the parking areas on up to, through here on up to the accessible entrance. So, we've indicated that to add two parking signs to the light post in this area, restriped this aisle way that comes to a sidewalk, that comes up and into the parking area to provide both signage and visible, it being an accessible parking space. So, that was one improvement we saw and made note of it as part of the site plan. Another would be to add signage to add a crosswalk along here. And we have changed the crosswalk as per the Town of Ludlow's requirement as far as the striping on these plans that we have submitted. So, we've added a crosswalk that does exist there now, and we've also added arrows, so, because this is a one-way right of way and we're gonna add a do not enter sign so cars that look down this way know that it is a one-way and not to enter. It's just an entryway off of Chestnut Street, but it's not an exit. So, those are the main issues. This is zoned in Business A. It is an ongoing business there now; dialysis lab, and Valley Opportunity Office. It employs roughly 17. We --- 147 cars located throughout the site itself, 30 are located across the street, and then there's some additional 65 in one of the lots, and 52 in another lot. So, it's more than enough parking for the facility. We've also shown snow storage that we indicated last winter, located here, here and on up in the corner, and located throughout, and that was one of the requirements. And then we noted on how many monuments there were out there, and it is lacking some monuments, so we are proposing to install more monuments at the corners of the property lines as one of your site plan review requirements. So, we did request those waivers. We didn't see the need for a lighting plan because there's lighting out there now. Elevations of the building, we have photographs 'cause the building is built already. Signage, we've addressed signage with adding more signs for directional purposes. And we didn't see the need for a traffic study because everything is existing there now and flowing. So, it's after the thing was built, we're submitting a site plan for your review. And I know it's been ten years since it's been built. We just got on the project late last year and it's taken this long with regard to finding where all

Public Hearing – Mid America Properties, LLC
October 11, 2018

the utilities were and documenting that and creating a, what I'm calling a site plan review/existing condition survey. I've submitted copies. All these have been designed by our surveyor. We have not submitted the mylar yet in case there might be a few changes, and we'll be happy to submit the mylar once those changes are made, if they're gonna be any.

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Mr. Phoenix: Just to make sure everyone is aware, we do have cameras up, and we have somebody manning the cameras, and that's usually a good indication that we're using cameras, and you'll be on cable access, and congratulations. But, legally I'm supposed to tell people that, so I'm making sure I do that. Also, on my handy dandy checklist, the, noted the Turley invoice. That's already been taken care of?

Mr. Stefancik: Yes. We have the check.

Mr. Wells: I brought a check tonight.

Mr. Stefancik: ---

Mr. Wells: --- oh copy, thank you.

Mr. Phoenix: Does anyone from the Board have any questions at this time?

Mr. Coelho: No, I'm just happy to see we finally got a site plan.

Mr. Phoenix: I know this isn't a special permit, so you can't act on it, but did you have anything you wanted to ask?

Mr. Pedro: No, it's very well managed. I go by there every day and I don't see any problems.

Mr. Phoenix: And I'll say, I didn't even realize is that that little lot over to the side was part of this unit, and I've lived in town and driven past there my whole life, and I've been going there since it was the Ludlow Hospital, so I had no clue. The one thing that I did notice with this plan is in the chart. It's not anything that's gonna stop approval tonight necessarily, but I wanted to make sure I brought it up. But, in our little chart that we require, it breaks out what the usage is. And you list, I think, two line items for dialysis; one for a lab, one for the office, and then there's VOC listed on there also. That accounts for, I want to say it was something around 6,000 square feet out of the whole thing which is north of 20,000 together. So, you're not indicating any usage for the remaining section of the building.

Mr. Wells: As of now, there's not a tenant there now, so.

Mr. Phoenix: Ok, well, the reason I bring it up is, if you do expect that a tenant's gonna go in there, and we don't have anything listed on the site plan for what that is, that could hold you up at that point, where we might need to have you come in, at a minimum to do a site sketch to amend the plan. But, depending on what's happening with that, that might necessitate a whole other site plan approval process.

Mr. Wells: Sure.

Mr. Phoenix: So, if you've, I mean, who knows what's gonna happen there, but if you can project out the general business type that's gonna be in there, it might be to your advantage to

call that out in the chart as the usage type, even if you don't already have the tenant lined up. That way there, it doesn't, you know, delay things for you down the road, but that's an option that you have if you want to take it back and make that change and bring it back. We can certainly look at that for you.

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Mr. Wells: What would you recommend a good general usage, and I'm kind of looking at Doug for this, or you guys to list it as 'cause I'm not sure what's gonna go in there.

Mr. Phoenix: Well, that's the thing, I mean, if you wanted to be absolutely safe, you can go with something that's got the tightest parking restrictions we have, but, I mean, my gut tells me it's probably gonna be offices or a medical facility that's gonna go in there.

Mr. Wells: Yeah.

Mr. Phoenix: That seems to be the leaning for that building, but...

Mr. Coelho: That's an old hospital, so medical would...

Mr. Phoenix: ...but, you know, I just want to make sure that it's as easy of a transition for you as possible. And if you have to change from one use to another, as long as they're comparable or you're switching to a less intense use, you're not gonna really get held up by us. But, if you're going from, yeah we're only occupying, you know, 20-25% of the building with use, and then we're gonna bump that up, sure you've got adequate parking, all that, but we're gonna want to take another look at it just to review it again.

Mr. Wells: Sure.

Mr. Phoenix: So...

Mr. Wells: That's fine ---.

Mr. Phoenix: But, I think as far as the plan itself, I personally didn't see any deficiencies on it.

Mr. Wells: Ok.

Mr. Phoenix: This is a public hearing, so I'm gonna ask if there's anything from the audience. If there is, please state your name and address for the record and address all comments and questions through myself as Chairman. And I'm pretty sure I'm not gonna hear a whole lot 'cause I think you guys are here for the next one. That said, we do have a request for a waiver on 7.1.5.o 1, 2, 3 & 5, which again, are the lighting plan, the elevations, the traffic study, and which one am I missing? The signage design, which, from what I'm hearing, everything's staying the same as far as the signage, the lighting ---.

Mr. Wells: And the new signage will comply with all ADA regulations.

Mr. Phoenix: but it's gonna still be in the same footprint of where all the existing signage is, none of that's changing?

Mr. Wells: Right, correct.

Mr. Coelho: Mr. Chairman?

Mr. Phoenix: Mr. Coelho.

Mr. Coelho: I'll **MOVE** to waive Section 7.1.5.o 1, 2, 3 & 5.
SECOND Ms. Houle.

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Mr. Phoenix: Motion's been made and seconded, actually we can't do the waiver 'cause we only have the three of us plus John. So, we can't get past that point tonight. Are you sure you can't be a full member for one night John?

Mr. Coelho: Oh, so I have to withdraw.

Mr. Phoenix: Well, you don't have to withdraw, it just, it's gonna fail for not getting four. So, the motion fails, so we can take this up at a separate session. Since there's nothing else from the public, unless there's anything else from the Board, I think that our clearest path forward is to find out if the applicant would like to amend the table, and most likely, depending on that answer, either continue the public hearing or close it, and then just take action outside of the public hearing. And I don't think either one of those is particularly rough. So, what do you think you'd like to do with that?

Mr. Wells: I don't know.

Mr. Phoenix: Well, ultimately, we're not gonna be able to get you to an approval tonight either way.

Mr. Wells: Yeah. ---

Mr. Phoenix: So, for now, do you just want to continue the public hearing...

Mr. Wells: Sure.

Mr. Phoenix: ...to our next meeting and then if it comes in with the changes, we can look at them at that time.

Mr. Wells: Sure.

Mr. Coelho: Mr. Chairman?

Mr. Phoenix: Mr. Coelho.

Mr. Coelho: I'll make a **MOTION** to continue this public hearing until?

Mr. Stefancik: October 25th.

Mr. Coelho: October 25th.

Mr. Phoenix: At?

Ms. Urban: We have the Housing Production Plan, so what time?

Mr. Stefancik: ---

Ms. Houle: Want to come in early?

Mr. Stefancik: 6:45 if the Board members ---?

Mr. Coelho: October 25th at 6:45.

Ms. Houle: Can you make it Ray?

Mr. Phoenix: I should be able to. If something comes up, I'll know in advance. But, that's only two weeks out, so I don't see a problem.

Mr. Weeks: And I will probably send one of my associates, 'cause I think I have a conflict on that night.

Mr. Phoenix: I don't think it's gonna be too difficult anyway, but we've got a motion, I believe there was a second?

SECOND Ms. Houle.

Mr. Phoenix: All those in favor of continuing until October 25th at 6:45?
3-0 in Favor.

The Public Hearing was continued until October 25, 2018 at 6:45 p.m.

APPROVED:



Kathleen Houle, Secretary

su

Documents: Master application; abutters list; request for waivers; comments from Town Departments/Boards; Site Plan – Mid America Properties, LLC, 14 Chestnut Place Ludlow, MA – Photo Site Plan L001 & Updated Site Plan L002 (08.03.2018)

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

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**TOWN OF LUDLOW PLANNING BOARD
CONTINUED PUBLIC HEARING – SPECIAL PERMIT / HOME OCCUPATION &
SITE PLAN**

38 Lyon Street (Assessors' Map 24, Parcel 42)

Kenneth Butts

(Home Office – processing firewood, and Site Plan – firewood processor)

October 11, 2018

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TOWN OF LUDLOW

PLANNING BOARD MEMBERS

Joseph Queiroga - Chairman (Absent)

Raymond Phoenix - Vice Chairman (Present)

Christopher Coelho (Present)

Kathleen Houle (Present)

Raphael Quiterio (Absent)

John Pedro - Associate Member (Present)

Hearing began at 7:17 p.m. in the Selectmen's Conference Room.

The public hearing was continued from September 13, 2018.

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

In attendance: Kenneth Butts, attendees

Mr. Phoenix: So, I'm gonna call the public hearing back to order. This is continued from September 13th. We have quite the cast change on our side of the table. So, to keep things clear here, number one, we do have cameras rolling, so everybody's on cable access, yay. John is here as our alternate member, is able to act on the special permit portion of this, but not the site plan portion. The rest of us are able to act on everything. Since we did have a session of this already, I just want to make sure that everyone's had a chance to review the minutes and or video of it prior to tonight's session. Is that correct?

Ms. Houle: That's correct, and Doug has the signed copies.

Mr. Phoenix: So, that's where we're at. I actually just reviewed it myself, even though I was here, right before coming in. So, I'm relatively fresh on the whole goings on from that meeting. I think when we left off there were a number of questions still. One of the things that we were talking about was hours of operation. And what was discussed was that you don't ever really start before 7:00 a.m. You're saying that you're in general ok with regular business hours, but I know how earlier in the meeting you had talked about how it tends to be like after 4:00-ish because it's still a sideline.

Mr. Butts: Correct.

Mr. Phoenix: So, you're talking about not going past 8:00 p.m. and that that's traditionally kind of been where your line is, unless there's like equipment breakage or something like that.

Mr. Butts: Nothing operating.

Mr. Phoenix: And then you had said you don't operate on Sunday, but you would want to have hours on Saturday.

Mr. Butts: So, I would ideally like to be able to do just deliveries on Saturdays and Sunday, because that's typically when my customer base is available. With that, there's, in my opinion, not an excessive amount of noise, but there could be a concern with that I'm sure. You know, this isn't a business that's run seven days a week by no means, you know?

Mr. Phoenix: Now, the existing business that's there is a special permit home occ. for the construction business.

Mr. Butts: Yes, sir.

Mr. Phoenix: At what point, what triggered you actually coming in for this process, 'cause you've been doing...

Mr. Butts: A cease and desist on operating my wood processor.

Mr. Phoenix: That's what did it, ok.

Mr. Butts: Yes, sir.

Mr. Phoenix: I was searching through and I didn't see it coming up when I was searching in my records, 'cause I found things going back to your original special permit just as the item, like in the annual report with the address and that it was a special permit, but we didn't get a whole lot of digital records going back to some of that stuff. As far as signage on the property, you said you would want to have a small sign?

Mr. Butts: Correct.

Mr. Phoenix: And I don't believe that I saw that called out on the site plan. Is that on there and I missed it or ---?

Mr. Butts: It's actually not a permanently affixed sign because this is kind of seasonal, so this is something that, for the lack of a better explanation, was kind of like a real estate sign, free standing, two sided, just A-frame, red and white, it's got my address on it, it says firewood on it. That's kind of the extent I went to at the time. There's no actual name on it or anything like that, so. I have yet to ever advertise for my construction company. I don't feel it's necessary. Most of my business is word of mouth and I do ok, so. I've never advertised on my home for...

Mr. Phoenix: It's not like a sign that's, you know, cemented into the ground or anything like that?

Mr. Butts: No sir, no.

Mr. Phoenix: Ok, there was also some questions as far as number of employees.

Mr. Butts: I have no employees.

Mr. Phoenix: Ok. And the other thing that I wanted to talk about, you did request a waiver of all five of the items under 7.1.5.o, which would be the lighting plan, the elevations of the building, the signage, where snow would be stored, and a traffic study. I just wanted to ask, on those, is the reasoning that you're looking for the waiver because you're not changing anything from what's currently there?

Mr. Butts: Correct.

Mr. Phoenix: Those are my initial things that I just wanted to make sure I touched on. Is there anything from the Board at this time?

Mr. Butts: Can I, you had touched base on employees, I have no employees for that company whatsoever. I have no employees for my construction company. I'm a general contractor that subs everything out. Unfortunately, it's very difficult to have numerous employees in the state of Massachusetts. It's very expensive. Anybody that works, you know, for me or with me, is a subcontractor. Typically, if there's somebody back there working with me, it's a subcontractor that is looking to help me out. It's not, I hired so and so to solely do this production.

Mr. Phoenix: Well, I don't think we're interested in those technicalities.

Mr. Butts: Ok.

Mr. Phoenix: Under the terms of the special permit, what you'd be allowed would be up to two nonresident employees. So, anyone that would be helping you in connection with the business that doesn't actively live with you at the site would be what we'd be counting in that. So, you'd be capped at two. Is that something you ---?

Mr. Butts: More than adequate.

Mr. Phoenix: So again, anything from the Board at this time?

Mr. Coelho: Delivering? What kind of vehicle?

Mr. Butts: So, I have a Chevy Silverado 2500 pickup, and it's what they call a CAM Superline Dump Trailer. It's basically a dumpster on wheels, 16,000 lbs.

Mr. Coelho: I think wood truck, I imagine an old International diesel.

Mr. Butts: --- the property.

Mr. Coelho: Yeah.

Mr. Pedro: I have a question. What about the deliveries being made? You truck the materials yourself?

Mr. Butts: So, material the gets trucked in by log companies, and log length, what they're considered processor grade firewood which is something similar to a telephone pole, very straight, kind of on the smaller diameter, and that gets trucked in, and by the time it leaves, it's

actually in processed firewood. So, that gets brought in by a third party, and then it gets brought out by myself.

Mr. Coelho: How many deliveries weekly do you estimate?

Mr. Butts: Well...

Mr. Coelho: I know it's seasonal.

Mr. Butts: Correct. I could do eight deliveries in one day, I could do eight deliveries in one week. It's...

Ms. Houle: ----

Mr. Coelho: Yeah.

Ms. Houle: He means not you delivering to people, delivering wood to you.

Mr. Butts: Oh, oh, coming in to me?

Ms. Houle: That's what I thought he meant.

Mr. Butts: Oh.

Mr. Coelho: I assume that's a cherry picker ---?

Mr. Butts: Correct. One, I'm lucky to get one every other week.

Mr. Coelho: And those typically happen during the week?

Mr. Butts: During the week, yeah.

Mr. Phoenix: And as far as overall capacity, you're saying that you're at about 150 cords?

Mr. Butts: Yeah, right around there, yeah.

Mr. Pedro: --- delivery --- delivered into the back of the property?

Mr. Butts: Correct, yeah. Yeah, it's in the vicinity of where the processor is set up, is where the logs come in through the back of the property because there's an easement there. Then it either goes out, when it's processed, through my side lot or it goes out through the easement as well.

Mr. Phoenix: Hearing nothing else at this time from the Board, I'm gonna open it up to comments and questions from the public. If anyone has anything they would like to add or ask at this time, I would ask that you stand and state your name for the record, and address everything through myself as the chairman, and I'll do my best to get you the answers that you need. I would also mention that we've had some fairly extensive discussion about this at the prior session. That's already in the record, so all that I'd be looking for at this time would be any new comments or questions that we need to have addressed. Does anyone have anything that they'd like to bring up at this time?

Mr. Butts: Myself.

Mr. Phoenix: Before we get back to you, 'cause you did have a chance to speak a little bit already, I think I saw a hand go up behind you.

Mr. Butts: Yup.

Mr. Peters: Dustin Peters. I live at 68 Lyon Street, and his work facility's directly behind my house. So, I know you guys keep bringing up deliveries and stuff, and I can tell you from experience living right next to where the easement is, you don't even know when they're going in and out. It's extremely quiet there. My wife works third shift, she's never been woken up by him working back there. So, as far as like noise and stuff, I mean, if I'm outside with the dog I might hear him loading the trailer because it echoes a little, but I also hear Cheniers when they're dumping trucks, so.

Mr. Phoenix: Thank you. Another hand?

Mr. Gaouette: Corey Gaouette, 22 Lyon Street. I abut the right side ---. Once again, with the noise, we have no issues. You already have gravel yards that go through there with larger trucks, so ---.

Mr. Phoenix: Ok, thank you.

Mr. Gaouette: Four wheelers are a lot worse. A lot of people that think Lyon Street's a racetrack.

Mr. Phoenix: I don't doubt that in the least. I can tell you, I used to go to the scout property up on Turkey Hill, and the four wheelers are pretty ridiculous up in that property too, so I can only imagine. And you said you had something else you wanted to?

Mr. Butts: That was really it. These are three of my direct abutters, and there's only one of them here that's been here longer than myself, and all three of these individuals, or all three of these couples here know exactly what takes place at my property. You know, I go out of my way to make sure that I'm not disruptive to the surroundings. I've been doing this now, this is gonna be my 14th year doing this. You know, I try to respect the people in my community, but at the same time I have to make a living, and I've gone to great lengths to make sure that this is kept at a manageable operation so that's it's not disruptive to the people around me.

Ms. Jacobs: One more thing. My name is Jamie Jacobs. I live at 951 Center Street, and what I'd like to just point out is that we do live on a busy street, obviously Center Street is busy ---. When my husband and I looked at the property about --- years ago, it was neglected, and the only reason the property was an option is because the front yard is pretty large and we're pretty far off the street. We enjoy the view of the property because it was abutted to the state forest and there was a lot of quiet, private backyard. I can tell you honestly, that the property would not have been an option for us if that was not the case and now we feel we're surrounded by noise. We don't have a place now to go to get away from that noise in the backyard as previous to this. And I know he's been saying he's been doing this for 13 or 14 years, but we had not experienced noise like this --- last year and a half, and that's why we're here.

Mr. Phoenix: One of the things that I would mention too, and this ties in with the cease and desist, and part of why I wanted to ask you about that was the special permit that you had was to run a home office for the construction business.

Mr. Butts: Correct.

Mr. Phoenix: So, as far as anything that you're doing with a commercial operation for cutting and selling wood, anything up until you theoretically get approval through this process, I'm not super concerned about because that was done without the benefit of having the proper permits in place when you did it. So, I think it does establish as far as, you know, what noise level people might expect, things like that, but as far as saying, you know, I've been doing it for this long, so people should expect it. If it wasn't something that was permitted, then that's a separate issue all together. Just to make sure that that's ---.

Mr. Butts: Absolutely.

Mr. Phoenix: If there's nothing else, I think what we're looking at to start with is the waiver request, which that's tied in with the site plan, so John can't act on it. So, we're again, death by lack of quorum here. Do we know, is Ralph possibly just running late or is he not going to be making it at all at this point?

Mr. Stefancik: At this point I wouldn't count on him being here.

Mr. Pedro: Can we act on the home office by itself as a separate issue?

Mr. Phoenix: Well, that's what I was just thinking about because in this, in special permit, one of the last lines in there is that it meets any and all additional, I was trying to think of the wording without actually looking it up. Doug, can you get to it faster on the paper copy than I can get it here?

Mr. Coelho: Mr. Chairman?

Mr. Phoenix: Yup.

Mr. Coelho: Can I just ask them what their address was again?

Mr. Jacobs: Ours?

Mr. Coelho: Yes.

Mr. Jacobs: 951 Center. Doug has pictures of the property if you want to see them.

Mr. Phoenix: I think there were eight of them?

Mr. Jacobs: Yeah.

Mr. Phoenix: That's the part I couldn't quite catch in my brain; proposed use complies with any and all additional special permit criteria. And then I wasn't sure about if this was in here or not; or special use regulations imposed on individual uses in Section 6 of this Bylaw. So, is site plan a special use regulation? I think historically we've treated that as a yes. So, I mean, we can

review this up until we get to 'm' and then we can't do it without the site plan being taken care of I think. But, we're also in a situation where the special permit is realistically for a home office or the business, the wood cutting itself doesn't require a special permit. So, the only way I can wrap my brain around it is if we were to think about it as the special permit for home office is for an operation for cutting wood, but it doesn't necessarily approve anything on this property. That would still be under the site plan. But, I don't even know if I'm...

Ms. Houle: Sorry.

Mr. Phoenix: You ok?

Ms. Houle: Yeah. I went to get Doug's papers and I fell. Need a shorter chair. Not gonna help you anymore.

Mr. Coelho: ---

Mr. Phoenix: What does everybody think?

Mr. Pedro: Definitely qualifies for the home office.

Ms. Houle: Yeah.

Mr. Pedro: But, as far as the site plan, I have no saying on it.

Mr. Butts: Excuse me, there's already a home-based office in this home.

Mr. Phoenix: Right.

Mr. Butts: I thought that was discussed at --- meeting that we didn't need special permit for my office considering there already was a home office already there which is gonna be the same home office used for said business.

Mr. Phoenix: You have a home office for a construction business?

Mr. Butts: Correct.

Mr. Phoenix: You don't have, I don't believe, the way it was in this, was why I had asked originally. Let me see if it's, is that in one of these files Doug, or is that still in the office?

Mr. Stefancik: I have it right here. That was only for the construction business.

Mr. Phoenix: Because I think that's the way it's worded back in the annual report, too, 'cause that was what, '03?

Mr. Stefancik: Yeah actually, it just says home office. It didn't go into specifics.

Mr. Phoenix: If it just says home office, then I don't even know if he needs a special permit at all, but then we can't get into some of this.

Mr. Stefancik: But the meeting would have been specific to construction business.

Mr. Phoenix: I get that.

Mr. Coelho: Well, you know I hate punishing people who are trying to do the right thing.

Mr. Phoenix: Sorry. So, the special permit itself is cut for a home office. What was the legal notice at that point?

Mr. Coelho: If we look at home office, it's a home office whether it's for construction or building papier-mache' volcanos.

Mr. Phoenix: Theoretically yes, but if we have people that, let's say they that add an additional business in, we've traditionally had them come in to make sure that it's not adding any additional requirements onto the property. Like we had, I think, at one point, there was somebody that was doing like a wedding photography business and then they wanted to add something else on top of it, that was similar, but different. I can't think of the exact scenario, but it was something like that.

Mr. Stefancik: The legal notice is for home office for interior remodeling business.

Mr. Coelho: Yeah, that's a conundrum, I guess, huh?

Mr. Phoenix: I think in this scenario our best bet is to stick with better safe than sorry. If we try and avoid the mass, I think it can just set us up for problems.

Mr. Butts: Does that mean I need to get a special permit for making these phone calls in my truck in my driveway 'cause that's 99% of my business is operated out of my truck?

Mr. Phoenix: A business needs to have an official mailing address attached to it. So, your choice would be to either have a special permit for a home office for that business, or you can find office space, and you can pay to rent the office space and come in for a Change of Occupancy or a site plan for that location for that office, which still wouldn't negate the fact that you need the site plan for the --- location you're operating out of. So, you need, one way or another, to have a special permit that covers you for this particular business, which, I think, there's a solid argument that can be made in either direction. I know my comfort level, being on the Board, would be to make sure that we've dotted the eyes and crossed the t's. I would anticipate that as the property and business owner, that would probably be your inclination as well?

Mr. Butts: Considering both those pieces of paper are inaccurate, one just says home office, one says interior carpenter, which one is a home office it doesn't state anything else. One says I'm an interior finish carpenter. That's not true, I'm a general carpenter.

Mr. Coelho: Well, that would mean that somebody misrepresented --- last time --- and that would probably make that no good anymore, right?

Mr. Phoenix: I'm trying to make this as easy as I can for everybody, while making sure everyone's still protected.

Mr. Butts: --- I'm incorporated.

Mr. Coelho: I don't know what your corporate level has anything to do with us.

Mr. Pedro: As far as the home office...

Mr. Phoenix: Do you have the application for that?

Mr. Stefancik: Yeah.

Mr. Pedro: ...there's no problem with the home office. You're all set. You're established. The question is the type of business that you want to operate that's in question. Personally, I don't see a problem, but again, I'm not allowed to vote on a site plan, but as far as the office, a home office is a home office. We get them out all the time. Like Chris says, you know, I don't care what you run out of the office, it's a home office, as long as ----.

Mr. Phoenix: So, the original application says home office, computer, faxing, email, phone.

Mr. Butts: No more fax.

Mr. Phoenix: So, I guess we have two paths forward here in my opinion. One is, we can say that you need a special permit because the legal notice said that it was for a specific purpose, and we can get you covered and we can make sure everything's taken care of, or we can say that since the legal notice doesn't match what was in the original application and that was the public hearing that we had, that the legal notice didn't necessarily reflect what you feel you're doing at the property and we can invalidate this special permit and you can come in for a brand new one. So, do we want to go forward with the one that you've got on the table now?

Mr. Butts: Hasn't affected me for the last 14 years of living there. I operate the same thing out of that office.

Mr. Phoenix: But also, the fact that you are operating an illegal lumber mill, that the property -- - for the past 14 years either, but that's caught up to you, and that's what we're dealing with now.

Mr. Butts: Ok.

Mr. Phoenix: Ok, and you probably wouldn't be here at all if you didn't start running a business that you weren't authorized to run there.

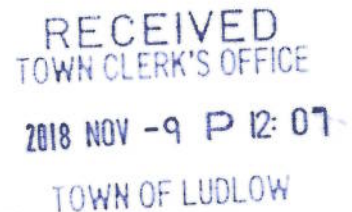
Mr. Butts: Isn't the construction company a separate matter from this sir?

Mr. Phoenix: For that matter, if we're gonna be on that subject. I was really hoping we could do this the easy way.

Mr. Butts: Me too, sir.

Mr. Phoenix: Well, I was trying. If this business was being operated at the property prior to the application coming in, then the fee for all applications is double. So, that means your application is actually missing \$150 out of the fee.

Mr. Butts: If memory serves me correct sir, Doug and I did go over this.



Mr. Phoenix: Well, I'm telling you, unless this Board waived the fact that you're required to pay double for work that was done prior to the application process, then you owe us an extra \$150.

Mr. Butts: Not a problem.

Mr. Phoenix: Again, the business that you have there now is illegal.

Mr. Butts: Ok.

Mr. Phoenix: What we're trying to do now is find a path forward where you're able to run the business, generate income for yourself and your family, and your neighbors are protected from having an operation there that although most of your neighbors have not had a problem with, they still have a right to use their property, and to not be affected negatively by a business that wasn't legally authorized to be there for over a decade. And the fact that you got away with it as long as you did, yay for you. But, that's not where we are anymore. Ok, so we don't have a quorum to work on the site plan, to work on the site plan waiver. So, without that, I'm gonna say that we need to probably continue the whole thing. We can't do --- without having the site plan done. So, what's our next available opportunity?

Mr. Butts: Excuse me.

Mr. Stefancik: October 25th at 7:30.

Mr. Coelho: That's Housing Production Plan night?

Mr. Stefancik: Yes.

Mr. Coelho: What time, how much time are we giving for that?

Mr. Stefancik: A half hour, 7:30, unless you want 7:45.

Mr. Coelho: Is that a public meeting, is that a public hearing kind of thing ---?

Ms. Houle: No.

Mr. Stefancik: ---

Mr. Coelho: A half hour is plenty of time ---.

Mr. Phoenix: So, I'd entertain a motion at this time to continue till the 25th at 7:30.

Mr. Coelho: **SO MOVED.**

SECOND Ms. Houle.

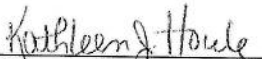
3-0 in Favor. (Site Plan)

4-0 in Favor. (Special Permit)

The Public Hearing is continued until October 25, 2018 at 7:30 p.m.

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TOWN OF LUDLOW

APPROVED:



Kathleen Houle, Secretary

su

Documents: Master application; abutters list; comments from Town Departments/Boards; Site Plan: 38 Lyon Street Ludlow, MA owned by Kenneth A. Butts (August 7, 2018); Letter from Gregory Asadoorian re: 38 Lyon Street (9/5/2018); photos of 38 Lyon Street submitted by Jamie & Rick Jacobs; Special Permit #347 and associated paperwork

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

