

**TOWN OF LUDLOW PLANNING BOARD  
MINUTES OF THE MEETING OF  
February 8, 2024**

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**PLANNING BOARD MEMBERS**

Raymond Phoenix – Chairman (Present)  
Christopher Coelho – Vice Chairman (Absent)  
Joseph Queiroga (Present)  
Joshua Carpenter (Present)  
Joel Silva (Present)  
Kathleen Houle, Associate Member (Absent)

The meeting began at 7:01 p.m. in the Selectmen’s Conference Room.

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**Jennie Moonan, Weston & Sampson – East Street Revitalization Overlay District Designs & Bylaw Discussion**

The appointment was cancelled by Jennie Moonan.

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**ANR – Paul Adzima (Miller Gap LLC) 0 Center Street (Assessors’ Map 25, Parcel 48C)  
(create building lot)**

*Paul Adzima was present for the appointment.*

Mr. Adzima explained that he wants to create a building lot for a single-family home.

Mr. Stefancik commented that everything looked good on the plan.

Mr. Carpenter: I make a **MOTION** to endorse the ANR in the standard form.

**SECOND** Mr. Queiroga.

**4-0 in Favor.**

*Documents included: Master application; Subdivision Approval Not Required Plan – Center Street – Miller Street Ludlow, MA owned by Miller Gap, LLC (September 18, 2023)*

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**CONSENT AGENDA:**

*The Board approved the Consent Agenda under unanimous consent.*

- ◆ FILE Mail Item 07. - Legal Notices from surrounding communities
- ◆ APPROVE Change of Occupancy:
  - Mohammad Hawari (Pulse Homecare LLC) – 733 Chapin Street, Suite 102  
(home health care to same)
- ◆ SIGN Extension of Development Agreement & Stormwater Management Operation, Maintenance and Inspection Agreement – Sodi Inc. (Santina Drive)

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**File Mail Item 08 – Notice of Decision – Zoning Board of Appeals – 696 Center Street**

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**File Mail Item 09 – Town of Ludlow Health Department – Correction Order – 259 Chapin Street**

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**Electric Vehicle Charging Stations at Big Y – Site Sketch?**

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Mr. Phoenix mentioned that the last full site plan was in 2009 with two amendments to it. He said that it looks like they want to put in some electric vehicle charging stations, with two of them having changeable advertisements on them. Mr. Phoenix also noted that there are some things that are not at the site anymore that need to be taken off of the site plan (Red Box, My Picks). The Board had concerns about the electronic signs changing every eight seconds as it seems like a distraction, and the location of the charging stations close proximity to the entrance of the store.

Mr. Carpenter **MOVED** to accept an updated site sketch, an up-to-date site sketch with everything that is current, whether it be My Pics being there or not, anything that is there, that has been changed or removed, added in, or removed, and that it's up to date.

Mr. Phoenix: And informing them that their next one does need to be...

Mr. Carpenter: And informing them that their next one will need to be a full site plan.

Mr. Queiroga: Excuse me, are we putting anything in in terms of severity of the signs going off and on?

Mr. Phoenix: Ultimately, if they give us a plan, a sketch, a whatever, and we feel that it's not meeting the regulations we can tell them, look you're in violation of the site plan control, we're not gonna approve this, it's not gonna go forward. We can refer it out for enforcement if they try and do something after the fact, if they tell us they're gonna do it every eight minutes and switch it back to every eight seconds, we can certainly have Leslie go out there.

Mr. Stefancik: Do you want this with a public hearing or?

Mr. Phoenix: Oh yeah.

Mr. Carpenter: Oh yeah.

Mr. Phoenix: So, I heard a motion. I did not quite hear a second.

**SECOND** Mr. Queiroga.

**4-0 in Favor.**

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**Article 11 – Visibility at Intersections**

Mr. Phoenix explained that this got kicked back from the Attorney General’s Office because there was some supporting documentation that did not make it to town meeting. Mr. Stefancik said that it can be submitted to the Selectmen with the figure/graphic attached to the bylaw, have a new public hearing and move forward again for May town meeting.

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Mr. Phoenix read part of the email from the previous Big Y discussion which read “the signs do not have changing, blinking, or flashing lights, just an ambient lit static image that subtly rotates every eight to ten seconds. In short, the signs do not involve changes in light designed to attract attention”.

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**CONTINUED PUBLIC HEARING – Special Permit/Estate Lot – Craig Authier  
0 Kendall Street (Assessors’ Map 11B, Parcel 100) (estate lot)**

**SEE SEPARATE MINUTES**

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**Center Street Overlay District**

The Board reviewed the newly defined map of parcels within 150 feet of Center Street. Mr. Phoenix commented that the Town Administrator, Building Commissioner, DPW, Police, Fire, and Safety should be involved in the conversation going forward to figure out the next steps which should include public outreach and public hearings.

*Documents included: Map: Town of Ludlow Center Street Overlay Abutters Within 150 feet*

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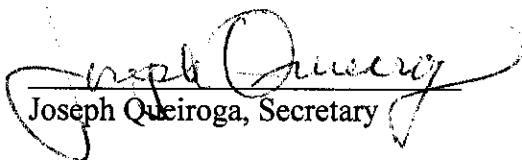
Mr. Carpenter: I don’t think we have anything else on the agenda, so I’m gonna make a **MOTION** to adjourn at whatever the time that clock says.

**SECOND** Mr. Queiroga.

**4-0 in Favor.**

Meeting adjourned at 8:39 p.m.

APPROVED:

  
Joseph Queiroga, Secretary

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

**TOWN OF LUDLOW PLANNING BOARD  
CONTINUED PUBLIC HEARING – SPECIAL PERMIT/ESTATE LOT  
0 Kendall Street (Assessors' Map 11B, Parcel 100)**

**Craig Authier  
(estate lot)  
February 8, 2024**

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Joseph Queiroga (Present)  
Joshua Carpenter (Present)  
Joel Silva (Present)  
Kathleen Houle, Associate Member (Absent)

The public hearing began at 7:31 p.m. in the Selectmen's Conference Room.

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*In attendance: Paul Smith – Paul S. Smith Land Surveying, attendees*

Mr. Phoenix advised the public that the hearing is being recorded.

Mr. Phoenix: For new things in the file, it looks like from Jim Goodreau, Doug, I am fine with it. This is in response to a queue from Doug, do you see any problems with the driveway for the estate lot on Kendall Street, Paul Smith updated the plans. So again, Jim Goodreau said I am fine with it. Same prompt to Seth Falconer, on paper it meets any of our requirements. ConsCom says no wetlands. I believe the main thing that I saw in the revisions was about the way the driveway was set, so that it's ten feet off of the lower property line and nine feet now off on the upper side. So, it's a little bit more...

Mr. Smith: Much more conforming.

Mr. Phoenix: Yeah, it's not quite there, but it's pretty close. I think, wasn't there also something I saw in the email about this or am I? Wasn't there also conversation about the zoning on this one Doug?

Mr. Stefancik: Yes, --- whether it was agricultural zoning. If it was, it was prior to 1954. It looks like this development and the neighboring property was all zoned Residence A1, and that was back in 1954. And this was the 1954 zoning map.

Mr. Phoenix: Yeah, I remember seeing that when I was looking at it on the computer. So, I don't know why that's just not queued up right here, but that's ok. I do have copies of things here for --.

Mr. Queiroga: Here, give him one of these.

Mr. Phoenix: Plans, plans everywhere.

Mr. Smith: I brought new ones.

Mr. Phoenix: Oh, this is even newer than those?

Mr. Smith: This is the revised ones I brought some copies for you guys.

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Mr. Phoenix: Here, have this party favor.

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Mr. Smith: I clarified, if I may, I clarified on the plan, the width. I hadn't labeled that opening width on that version of the plan --- discussed it. I had scaled it last time at approximately 30. I have the exact measurement on there at 31.8 feet wide at that opening. ---

Mr. Phoenix: Sure, if you want to describe what we're looking at that's different from last time. For anybody that didn't hear also, while he's getting up, what Doug was saying about the zoning is that as far back as we have in the records back to 1954, it was residentially zoned, not agriculturally. So, it's zoned with residential lot sizes and residential boundaries and all that stuff, not the agricultural ones. Just hang on. We'll get to you.

Mr. Smith: --- the last meeting, there was most of the discussion centered around the driveway in the width and location to this area. So, I went back, spoke with the client. We took the driveway width down to ten feet from twelve to gain us some more separation from the abutters. We brought in a newer radius over here, a different radius, and a different angle to increase the separation from the properties abutting, that is the concern. So, we conformed with the zoning on the lower side with ten feet minimum setback to the driveway. And on the top side, we're left with nine feet, just under the required ten feet. I showed some proposed grading on here. There was some discussion of the grading and the ability to build this driveway. So, I showed some proposed grading. I have a flat spot in excess of twenty feet long here with one foot of rise to enter and exit the property to settle down the cars from the slope. We come up a small distance at about 8% through here, then as we come through the property, we're much flatter, we only have a four-foot pitch all through here. I've kept, we've put two very short retaining walls along the abutting two properties to allow us to fill and cut and level out that area of the driveway, the very four-foot maximum height retaining walls through that area and grade it properly. Then we just graded the house up, the driveway up to the house. I have a more specific house location. The picture flashed up for a moment of the intended house. We'll put that up. Doug's gonna put that up now. There was some discussion of what style house. He's 90% sure at this point that's what he's building, it's a house like that. I have a drive under garage coming in on this end to facilitate building into that hill. So, the back will be set into the hill, retaining wall in the front here will hold this front yard flat, and the driveway swinging around into the end there.

Mr. Queiroga: How many square feet, Paul?

Mr. Smith: Oh, you got to ask me that. I got the measurement on here, 44 x 64. That's including the, that's the whole foundation size. That's the box of it. You can clearly see there's some jogs in it. It's not a mansion by any means. So, if there's any other questions, we'll go through the board but those are the changes I made to attempt to answer everybody's questions that were brought up and the concerns.

Mr. Phoenix: So, I will open it up to the public but first I just want to ask if anybody on the board has anything new that they'd like to add or ask.

Mr. Silva: You answered my questions with the retaining walls. Solved my issues. That's the only one I have at this point.

Mr. Carpenter: Are we gonna have drainage issues for any of those properties down on the bottom of the hill?

Mr. Smith: I did look at some, I show a minor swale in there but prior to getting approval for a building permit, a stormwater management plan will have to be submitted to the town. This is in excess of one acre which triggers your stormwater bylaw management. So, while it wasn't required for this hearing, it will be supplied to DPW prior to any issuance of a building permit which is part of the town bylaw, so there'll be no getting around that.

Mr. Carpenter: I drive by that property every day and as odd as it looks on paper, it's really odd to look at in person. And for that entranceway, it doesn't look like it's, what did it say, fifty feet? Fifty feet where the driveway's gonna end?

Mr. Smith: More than that. I got to sum up both of those measurements. I can't read that from here.

Mr. Phoenix: It looks like 53 to me.

Mr. Smith: And then another 13 to the right.

Mr. Phoenix: Yeah, --- 53 and then 13 there. So about 66 feet.

Mr. Carpenter: Sixty-six?

Mr. Smith: We also have that other strip along the other side of the lot there, probably potentially for utilities I'm guessing are would come up through that strip.

Mr. Carpenter: ---

Mr. Smith: Well, there'll be a --- so it doesn't interfere with the driveway and whatnot. Obviously, no vehicle access there but it does allow the --- to get the utilities out in a straight fashion without having to jimmy them around the driveway curve also.

Mr. Phoenix: Anything else from this side of the table?

Mr. Carpenter: I'm all set, thank you.

Mr. Phoenix: Hearing nothing, I will open it back up to the public. Any comments, questions, or concerns that you have...

Ms. Picard: Can you repeat, I couldn't hear what he said. Can you repeat what he said?

Mr. Phoenix: Hang on. If anybody that wants to speak from the public, I do need you to state your name and address for the record so we can keep it all straight in the minutes.

Ms. Picard: My name is Sandra Martel, 20 Michael Street, Sandra Picard. That says Martel, that's my maiden name. Can you repeat what you said, I could not hear you.

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Mr. Carpenter: I was worried about the drainage for the properties for Helder Ganhao, looks like Mr. & Mrs., is it Wnuk? Helen Jakus, and even Gail O'Connor being the four properties that the hill kind of runs into.

Mr. Phoenix: So, if anybody does have anything, I'll take public comments and questions. I think you were trying to speak before, so we'll start with you sir.

Mr. Rodrigues: --- 38 Michael Street. So, he said it was 24 x 64, I mean 44 x 64, right?

Mr. Smith: 44 x 61.

Mr. Rodrigues: 44 x 61, so that's over 2,600 square feet of a house right? One story or two stories?

Mr. Smith: If you look at the picture it's a one story.

Mr. Rodrigues: But 2,600 square feet is way above the average for Overlook and Michael Street. If you look at each square footage of each house which I have, your average is probably 1,200, 1,500 feet on the average, you know what I'm saying? So that is like a huge eyesore for everybody in that area. We've got 13 abutters around that whole area, ok? The other thing is this, the zoning laws on the bylaws specifically says on Section 6.12 for estate lots. If you go to the map, I'll show you. Could I have the map?

Mr. Phoenix: You want to bring that up Doug?

Mr. Rodrigues: It says in the bylaws, right. That you have to have, the front lot has to be fifty feet. Ok, we've got that right? But the other thing is it's supposed to be a strip. It's supposed to be fifty feet wide to the estate lot. We don't have that here. According to the bylaw in that section 6.12. You can read it yourself, item number two. I can read it to you. So, what he's doing in effect, is getting through here, it's like thirty feet. He's making the driveway smaller, but it's against the zoning bylaws that's written in your zoning bylaws. He doesn't have the, we don't have the fifty-foot strip going back to the area. That is not a strip, that is turn-y. So, it violates the fifty-foot requirement. It's thirty feet. That's my issue.

Ms. Picard: I agree.

Mr. Phoenix: Well, let me pull that up.

Mr. Rodrigues: Yup, it's 6.12 of the zoning bylaws. Where it specifically says estate lots is the title. I'll try to bring it up.

Mr. Phoenix: That's 7, 6.12. We used to actually run through these checklists as part of hearings. We've kind of streamlined that away a little bit but just to kind of run through specifically 6.12. Mr. Phoenix read the Estate Lot Bylaw:

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

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

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

Mr. Phoenix: So that's that verbiage. So, I think what you're talking about specifically is number two, the estate lot or lot(s) shall have a minimum street frontage of not less than fifty feet and access width of not less than fifty feet from the front lot line to the principal structure. The front lot shall meet all the zoning dimensional requirements normally required in the district.

Mr. Rodrigues: Could I just, it was the access strip of fifty feet according to this. Access strip fifty feet wide which is what I said. It's not a strip, it closes in at thirty feet as you know, so. I mean it's a technicality but still, you know, it is part of the zoning bylaws.

(multiple people talking)

Mr. Phoenix: One person at a time and it needs to all. So going back to the stuff that we had  
Public Hearing – Authier  
February 8, 2024



talked about in the original hearing, there were a couple of waiver requests, specifically, and this doesn't appear to be signed either on the waiver request here in front of me, it's for number two, which is the one that we're talking about and number nine which is the no closer than ten feet. So, I don't have a signature on that sheet, but my guess would be that they're still looking for both of those waivers.

Mr. Smith: Yes, I've updated my plan to reflect the second waiver which I didn't have on the first version of the plan and then on the other one we were asking for the five foot waiver. So, I just rewritten the waivers to conform with the letter and how I revised the plan.

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Mr. Phoenix: Right, so we've got notes on here. Waiver requests, and these are numbered in order, not necessarily in order of the bylaw. 1. Waiver is requested to locate proposed driveway nine feet from property line, ten feet required, 2. Waiver is requested for lot width. Lot width narrows to 31.81, 50 required. So that is on the plan. It is part of what they've asked for on the waiver. I'm not sure why that isn't signed but we do have that paperwork here for that. So that is what we kind of were talking about. I think we got lost a little bit last time in the ten feet situation and not so much on the fifty feet, but that is part of their original submittal. Is there anything else sir?

Mr. Ganhao: Helder Ganhao at 71 Kendall Street. I have the actual worst problem than anybody else because my problem is what you are planning to propose is going to create a drainage problem for the whole entire land because I am actually on the lower side of the property where all the water runoff, mud, silt, leaves, you name it, during storms, during everything else, ok, everything ends up in my yard. The other one, ok, of concern is actually my neighbor Gail O'Connor at 51, she's actually in the worst situation because her land was almost excavated right into the hill in order to be able to build that current 51 Kendall Street. Over the years, and the neighbors that I've had, they've had nothing but problems with water runoff, debris of all kinds, overgrowth, problems maintaining the lot, you get all the water runoff from storms and stuff like that and that's I why I brought up the business about the retaining wall in the corners because her property is gonna become a dumping ground, all the water, all the stuff. You're gonna have ice, you're gonna have storm runoff, you're gonna get soil erosion sooner or later somewhere along there. It ends up on the lower properties. That was one of the biggest concerns I had about that property because it's always been there, and I've had nothing but problems because of water runoff on my land. So, even if this does get approved something is gonna have to be done to protect that land from eroding into everybody else's property. It's basically lower two residents, me and my neighbor.

Mr. Phoenix: Yes, and that's, one of the things that was mentioned is that because of the size of the lot it does trigger the need for a stormwater plan. That's not required for this process typically. However, it is required before they'd be able to build and do anything on there but that's a separate application that would need to be reviewed to make sure that they're taking care of the stormwater appropriately. If we felt the need, we could certainly add conditions about things like that into the granting of a special permit. But again, it's a process that would need to be gone through regardless of whether we make that a condition or not. It just simply needs to happen.

Mr. Ganhao: And on that drawing that the gentleman shows, those L shaped grade retention walls are not gonna be big enough. They're gonna have to be much longer, much wider, probably double blocked because of the severity of grade retention that you have along those properties.

Mr. Phoenix: Have you looked at the size of those would need to be to.

Mr. Smith: They're both under four feet. You can see my proposed grading lines fitting quite nicely in there actually. As it comes across there, it's kind of parallel with the grade. There's not that much, I did a two to one slope there, and honestly, I was within about a foot of making it work without the wall, so I put the wall in just to be safe.

Mr. Phoenix: And I would say, as far as that goes, I know the comments weren't much with Jimmy, was there any discussion outside of those emails?

Mr. Stefancik: No.

Mr. Phoenix: So, we don't know for sure if he looked at that as well or if he was just looking in general, correct?

Mr. Stefancik: Correct.

Mr. Smith: The stormwater design plan will address that more because it's gonna design the exact grading of this driveway and stormwater and if there are, right now by admission it's all running right over to Mr. Ganhao's property, so now when you build a house you're not allowed to run it over to other properties, we're gonna have to maintain this in some form or fashion, we're gonna have to maintain our water on our property, so I imagine there's gonna be some sort of filtration system set up at some point. I'm certainly not a civil engineer, but they'll be, the drainage will be addressed before a building permit is issued. There's no ifs and or buts about that.

Mr. Queiroga: This property is about 2.37 acres?

Mr. Smith: Yes.

Mr. Queiroga: When were most of these houses put in, the smaller ones?

Mr. Smith: Overlook Drive is fairly modern.

(multiple people talking)

Mr. Phoenix: One person talking at a time please. So, Overlook is newer. The neighborhood in general has been there for a while. Is there a reason you were asking about that Joe or?

Mr. Queiroga: No, it obviously, you know. In one aspect this one lot that takes up 2.3 acres gives some permit ability to this but...

Ms. Picard: I'm sorry I can't hear.

Mr. Queiroga: As I said, this 2.37 acres is gonna be kind of a stabilization for this area. I bow to you and to you folks, you've had trouble with water in the past and obviously if we do, you know that we're gonna make them do everything possible to make sure that all the water is maintained inside there each one's property. But again, I'm just pointing that out as one issue.

Mr. Phoenix: I think it's weird because as time evolves, we find continuously that the easy to develop properties are already developed. Generally speaking, one of the benefits of having a flag lot or an estate lot is that we get the larger dimensions on it which helps to preserve more open space. I don't know, given the size and shape of this land, that there's much else that would really be able to go in there anyway, so I don't know that we get the preservation that we always would with other instances like this.

Mr. Rodrigues: Can I say something on that? Can I make a comment?

Mr. Phoenix: Sure.

Mr. Rodrigues: You said you don't think it can be used for some other uses. Is that what you meant?

Mr. Phoenix: Well, I'm thinking a lot of the time if you've got a larger lot, then people start looking at putting in a street instead of putting in one house you end up with two houses or four houses or six houses. But given the size and shape of this particular piece property, I don't know that would be a particularly viable option anyway.

Mr. Queiroga: You can't do it because of the limitations access and everything.

Mr. Rodrigues: I was gonna suggest wouldn't it be proper to have that bought by Eversource and they make a solar field, you know, have solar panels. They have solar panels in a lot of fields all over like Granby and all different towns and that could provide basically free electricity for everybody in that area. And it would be really easy access because all around about that whole oval is thirteen abutters.

Mr. Phoenix: That's not entirely how that kind of thing works.

Mr. Rodrigues: Just a suggestion. Ma'am.

Ms. Marceau: I'm Diane Marceau. I live at the top of Skyridge Street, and I am in agreement with Mr. Helder. The erosion at the top of Skyridge Street is unbelievable. I've lost so much property just from what Mr. Helder was explaining. Within the last three, four, five years I've lost so much property in the back of my house, my house is starting to. And I noticed my neighbors are starting to lose some of their property too. It's just gonna have a trickle effect going down the hill. And if --- been up there, you can see the roads. I mean we've had so much runoff it's unbelievable. Thank you.

Mr. Phoenix: Anybody else? Yes.

Ms. Picard: I grew up in that house on 20 Michael Street since I was a kid and I bought it from my dad when I was thirty. And my dad, that was zoned as agriculture ok. And I'm 51 now and it means a lot to me to just, there's not enough room for a driveway or anything. And I bought the house --- for the field, but they already took away one where Overlook was. I remember walking back there. We used to go in the field hunting, my dad had a beagle. There used to be a beautiful stream back there and I bet you it's still there behind these people's yards on Overlook. 'Cause I remember where the stream is. I grew up there since I was one years old, fifty years ago. There's a stream back there and I miss that. I would still love to still have that there. Ludlow is a town with beautiful, beautiful farmland. Let's not take that away. Somebody wants

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to build a house, guess what? There's other places that there's more land appropriate. Not here, not here. And my brother who lives in Florida who I am gonna will the house to my nephews, my brother just a month ago was interested, I got this letter, and I told my brother and he wanted, he's interested in buying that property, 2.3 acres so that my brother can own it. And then I live on 20 Michael Street, so it would be my brother's property but I'm gonna will my house to my nephews and there you go and it's gonna be a part of that to keep it in the family. I have some say in this because I bought this house when I was thirty, you can look it up, I bought it from my dad.

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Mr. Silva: Is the lot for sale?

Mr. Smith: There's a for sale sign on it, yes. It's been there for a while.

Ms. Picard: I mean, I tried to call the for sale sign, I tried to call that phone number and it's disconnected, not disconnected but voice mail, and I tried to call and I can't get a hold of anybody 'cause when Jimmy gave me the paperwork for the first January 25<sup>th</sup> I showed it to my brother. And he says well I don't think I can buy it now because it seems like it's not for sale but the for sale sign's still there and I tried to call the number and it's very unprofessional if you're trying to sell a property, it's very unprofessional.

Mr. Phoenix: Excuse me, one person at a time.

Ms. Picard: There's no answer. You can't even leave a voice mail, like the mailbox is full. But, here's the thing, if my brother bought that property it would still be agriculture land. It would still be the way it is, and we can still enjoy what we all purchased houses around us for agriculture land. I have a piece of agriculture land that's what it's supposed to be. It was never zoned for anything else. They're trying to shimmy under to make it somehow someway. There's not enough driveway space between Gail's house and his house to have a proper driveway. It's so busy on that road. I see because I can see Kendall Street. People are walking, jogging all the time and there's only a sidewalk on one part of the street. You come out of that street somebody can get hurt very easily.

Mr. Phoenix: So, I would say a couple things. First of all, as far as the zoning, there's a difference between what something's being used as or what's it's perceived as and what the actual zoning is. The zoning for that parcel, as far as the town planner's been able to find has always been residential. I would also say that doing an estate lot is an option in Residence A and Agriculture zones, so even if this were in Agricultural zone, it would still be available to try and get an estate lot on it. The main difference that that would make is that that would have the setbacks and the dimensional requirements based off an agricultural lot instead of off of a residential one but the square footage that exists on this lot, I believe, would meet that without a problem. I think they'd be able to meet all the other setbacks as well. So, I don't think it would really change anything even if this were determined an agricultural lot. Anybody has something that shows different than what the town planner was able to find, we can certainly look at it but as best as all of our records have, it's been zoned as Residential A as far back as we've had the zoning bylaw in the Town of Ludlow. So, I can tell you that part. As far as anything having to do with the current owner and how they're handling people trying to buy it, that sounds incredibly frustrating. I can't speak for them. I don't even know who's selling the property without looking up stuff in the file. As far as I know, we don't have anybody here that's a representative of the seller unless.

Mr. Rodrigues: Can I say something on the note of the ownership? On the card it's not the person that has the application. Authier's not the current owner, so I don't know how that works. If he's not the owner, if it's the Mirkin Trust that is the current owner, so I don't know.

Mr. Phoenix: On our application we have contact information for the applicant, which is Craig Authier who's the named applicant. We then have information for a contact person if different property owner if different, building owner if different and then a description of what they're looking to do and all that. So, we've got the owner is listed here, so it says Brenda K. Mirkin. A 9 32

Mr. Rodrigues: Ok, that's the owner, owner of the trust yeah.

Mr. Phoenix: But very often the owner and the applicant are different individuals.

Mr. Rodrigues: Oh, ok.

Mr. Phoenix: So, we make provision in our process to be able to get all that and we also have, should be attached in here, we also have certification of ownership/authority and we have that signed here by the property owner.

Mr. Rodrigues: Which is Brenda Mirkin.

Mr. Phoenix: Yes. So, we have that signed and dated from 12/20/23.

Mr. Rodrigues: One other question I have, the proposed building, is that a single family or is it a two family, is it a three family, cause it's very huge.

Mr. Queiroga: Single family.

Mr. Phoenix: Single family.

Mr. Rodrigues: It's a single family. So, it's 2,600 something feet single family. So how does that work with the rest of the area that surrounds that? That doesn't come up as an issue? I guess not.

Mr. Phoenix: I think that's a personal liberty issue. It's not necessarily on the government to tell you, you can't build the big house if you have a big piece of property. That's I mean, if that were your property you wouldn't want us to tell you, you can't build a larger house either. Quite frankly, a lot of the houses that are built now are being built at a larger scale than they used to be and at a higher expense than they used to be because of the property prices have gone up and everything else so people shift all of those lines around. It's incredible what some of these are doing. But as far as our bylaws, we don't have anything saying that you can't build a house that's larger than the neighborhood it's in. We have things saying you can't build it too close to your neighbors. We have provisions that if we feel it's necessary, we could ask them or tell them as part of this process, that they need to put in a buffer between this property and the neighbors to try and screen it from view. I don't know how much benefit there's gonna be on that given the changes in elevation in that neighborhood. We have things to try and protect neighbors from things that other people are doing but we don't, it's a delicate balance between trying to protect the neighbors and protect the interest of the property owner.

Mr. Rodrigues: I'm sorry, go, go, go.

Mr. Formeister: Artur Formeister, 69 Overlook Drive. So, you have the bylaws for the regulations, right?

Mr. Phoenix: Yes.

Mr. Formeister: It seems like you guys are leaning to give waivers so this guy can build.

Mr. Phoenix: We haven't even discussed if we want to grant the waivers.

Mr. Formeister: --- what's going on, right. So, once the house is built, let's say everything is approved, it's gonna affect the value of other properties surrounding that house, right. So, you guys want to give this person two waivers, not thinking about the residents that already there and are gonna lose the value of their properties. So that's what you guys want to do? I don't want to have a house in my backyard. Looking at the house in my backyard ---?

Mr. Phoenix: I can't speak for anybody else on the board, but I haven't spoken anything as far as what my intentions are on the waivers.

Mr. Formeister: ----

Mr. Phoenix: Well, that's what we're gonna be talking about, but right now we're listening to what the neighbors and the townspeople have to say on it and then we can go back to having a discussion and see how things move forward, but we haven't been able to get to that point yet. Right now, we're just asking questions of Mr. Smith as the representative of the applicant and trying to make sure that we get everybody information, ourselves included, the best that we can.

Mr. Ganhao: That house, ok, will never fit up there because I design them myself. And I can tell you it's gonna be almost a ten-foot difference between the left and the right. Where he's planning on putting the garage on that proposed plan, what's gonna happen is he's gonna have to be a split-level type of house. A different kind of a house, ok, because, again, the topography of the land pitches to the right if you're looking uphill. And when you look at it like that, believe it or not, that slope, that land is such a drastic, I fear that you guys are gonna approve a disaster of a construction because you're gonna have to take a lot into account as to the land contour. I suppose like everything else if you have deep pockets anybody can build anything, but I foresee problems with drainage. Everybody on the east boundary of the property are gonna have problems because the ground keeps on sloping so much into the, into everybody's backyards over here on that bottom boundary where you show on the map there. And if you don't put storm drains in key at locations, ok to collect water coming off the hill and protect everybody else, you're gonna have very irate neighbors.

Mr. Phoenix: That's why they would need to do the stormwater plan before they'd be able to do much of anything there. If this were to be approved tonight, that would be one of the next things that I would assume they'd be working on would be generating that and moving forward on that plan.

Mr. Ganhao: It would have to be very serious because I already have problems with water runoff. Ok, and that's the worst thing. And once as before, I feel bad for my neighbor because she, you can see the contour of ground lines, actually what you show on the map is not correct. You see these boundaries, these type lines, where this is contouring this way, actually it's more this way.

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Ms. Picard: Yes.

Mr. Ganhao: This way from here. Ok, I had to put a retaining wall on my property as an L shape retaining wall six foot high to hold up this field.

Mr. Silva: So, you are saying that these plans are wrong?

Mr. Ganhao: The contours as is right now as shown is incorrect.

Mr. Smith: Those are field measured myself. I'm a licensed land surveyor, I measured those myself.

Mr. Ganhao: You measured those?

Mr. Smith: I was there. You saw me. We spoke. I'm a licensed land surveyor. We spoke, you and I. I did that myself.

Mr. Ganhao: You did this?

Mr. Smith: Yes, those are accurate contours. I'd be glad to show you. You want me to send you an AutoCAD version, I'd be glad to.

Mr. Phoenix: Excuse me, we need to keep everything directed through myself as Chair.

Mr. Smith: --- my work insulted.

Mr. Phoenix: I understand. I understand the impulse, but we do need to keep everything controlled. But bottom line is, the plans are sealed by a land surveyor. They've been reviewed by our own engineering department.

Mr. Ganhao: I still say it's gonna be very complicated.

Mr. Phoenix: Does anybody have anything new that they would like to add?

Mr. Formeister: I would like to ask a question about, are they gonna have ---, are they gonna have the water public water or and the public sewer? How is that gonna work? Is this gonna be a septic tank or private water?

Mr. Phoenix: Do you know what the intention is for the utilities?

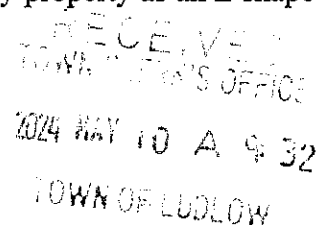
Mr. Formeister: ---

Mr. Smith: I have sewer on Kendall Street.

Mr. Formeister: --- not gonna be enough room for that ---?

Mr. Phoenix: Well, I'm trying to get you the answer to your question sir.

Mr. Smith: I believe there's sewer on Kendall Street and sewer and water on Kendall Street. I



believe they're available.

Mr. Phoenix: So, you would be expecting that they'd be utilizing those uphill on the property?

Mr. Smith: Yes. I would imagine they'd go through the strip over here, just the simple straightest shot.

Mr. Phoenix: Ok. With that, I'm gonna switch over to our side of the table. I know I kind of read through the estate lot section of the bylaw and the only two things that really jumped out at me are the two that are being requested to be waived which I think we're gonna need to talk about. But just to kind of look at special permit because we haven't really talked about that terribly much. The criteria which end up becoming conditions on special permits that we grant. Just to run through these. If anybody on the board hears anything that they think we need to have further discussion on, please stop me, I'll make a note and we can circle back with the list.  
*Mr. Phoenix read the Special Permit Criteria Checklist:*

### ***SPECIAL PERMIT CRITERIA***

a. *The proposal is suitably located in the neighborhood in which it is proposed and/or the total town, as deemed appropriate by the Special Permit Granting Authority;*

Mr. Phoenix: I think that's something we should probably at least talk about.

b. *The proposal is compatible with existing uses and other uses permitted by right in the same district;*

Mr. Phoenix: The use being a single-family home, I think, is the same as pretty much everything in the district there.

c. *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, dust, vibrations, lights, or visually offensive structures and accessories;*

Mr. Carpenter: Mr. Chairman, that should be discussed more.

d. *The proposal would not be a substantial inconvenience or hazard to abutters, vehicles, or pedestrians;*

Mr. Carpenter: Mr. Chairman, that should be discussed more.

e. *Adequate and appropriate facilities would be provided for the proper operation of the proposed use;*

f. *The proposal reasonably protects the adjoining premises against any possible detrimental or offensive uses on the site, including unsightly or obnoxious appearance;*

Mr. Carpenter: Mr. Chairman, that should be discussed.

g. *The proposal ensures that it is in conformance with the sign regulations of the bylaw. (See Section 6.5)*



*h. The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements;*

Mr. Carpenter: Mr. Chairman, that should be discussed.

*i. The proposal ensures adequate space for the off-street loading and unloading of vehicles, goods, products, materials, and equipment incidental to the normal operation of the establishment or use;*

*j. The proposal provides adequate methods of disposal and/or storage for sewage, refuse, and other wastes resulting from the uses permitted or permissible on the site, and methods of drainage for surface water;*

Mr. Carpenter: Mr. Chairman, I'd like to have that discussed more.

*k. The proposal ensures protection from flood hazards, considering such factors as the following: elevation of buildings; drainage, adequacy of sewage disposal; erosion and sedimentation control; equipment location; refuse disposal; storage of buoyant materials; extent of paving; effect of fill, roadways or other encroachments on flood runoff and flow;*

Mr. Carpenter: Why not?

*l. The proposal is in general harmony with the general purpose and intent of this bylaw;*

*m. The proposed use complies with any and all additional Special Permit Criteria or special use regulations imposed on individual uses in Section VI of this bylaw.*

Mr. Carpenter: Mr. Chairman, due to the fact we have things we have to discuss more, I think that should be included.

Mr. Phoenix: Yup, ok. I believe that was numbers two and ten on that one.

Mr. Carpenter: Mr. Chairman, I do have a couple things.

Mr. Phoenix: Two and nine. I'm sorry, what was that?

Mr. Carpenter: I have one thing I'd like to ask.

Mr. Phoenix: Sure.

Mr. Carpenter: Is there any way we can get a stormwater plan before we think about this?

Mr. Phoenix: We can.

Mr. Carpenter: I think that would alleviate some or all of my concerns on water issues which would be a big step towards our discussion.

Mr. Phoenix: We can certainly, if that's what it would take to dissuade concerns that we have under items here, then I think it would come into either crafting a motion subject to receiving a

stormwater plan that is acceptable or just saying that we can't make a determination adequately on those particular items until we see the additional documentation of holding things open for discussion until after that's been provided.

Mr. Carpenter: The other thing is, I don't want to speak for the whole board, we, in fairness to the applicant, we only have four members, I would suggest that we continue the public hearing until a fifth member can be here in case concerns are not met or anything.

Mr. Phoenix: I mean, that's always desirable, however I don't think that the fifth member expected to not be here. We just had a meeting where we had three members that unexpectedly weren't able to be here, so there's no guarantee even if we continue that it's going to be all five of us. So, I'd rather not operate too heavily on that assumption.

Mr. Carpenter: The good news is that it's a special permit so we could bring in our alternate if necessary. I will say this right now, without seeing a stormwater plan I am not in favor of this project.

Mr. Silva: Can we have a utility plan as well? --- if they do a septic --- that's concerning as well --- issues. --- combination of what they're gonna do for sewer utility and the combination of the sewer plan for the lot.

Mr. Carpenter: To piggyback that, I think that might alleviate some of the concerns of the abutters as well.

Mr. Silva: --- probably eliminate if we can explain that. I still have an issue with the fifty foot.

Mr. Phoenix: I think if we were to be talking about any kind of utility plan, I think that might come in under e. adequate and appropriate facilities would be provided with the proper operation of proposed use. Other than that, I'm not sure where that would fit under the criteria.

Mr. Carpenter: I agree with you --- the correct location for that.

Mr. Silva: Because to run a service all the way to Kendall, that's a long --- service.

Mr. Smith: It'd be cheaper than a septic and last forever.

Mr. ---: Can I add something ---?

Mr. Phoenix: Not at the moment. And also, as far as bringing in the alternate, my concern with that would be that this has been two sessions that we've had that the alternate has not been present for and I believe you can only miss one session of a public hearing and make note that you've caught up on it. I don't believe you can miss two.

Mr. Carpenter: Could we run that by counsel just to be sure?

Mr. Phoenix: I mean we can always double check but that's my recollection off the top of my head.

Mr. Carpenter: And I believe right now if we were to vote on this.

Mr. Phoenix: Well, I'm trying to figure, I'm looking at the issues that got called out for discussion, and I think I agree with you that the vast majority of those would be covered by having a better sense of what's going on with the stormwater on the site, that might not cover 100% of them, but that's gonna knock out most of them.

Mr. Carpenter: It's gonna knock out a lot of them, correct.

Mr. Phoenix: On the two items that we're being asked to waive, do we maybe want to have discussion on those because if we aren't willing to waive both of those, then we're kind of DOA or do we want to keep that open as well? I mean, I'd like to try and have some forward movement come out of our meeting tonight even if we are gonna be having one or more additional sessions. Does anybody have a strong feeling on the waivers in either direction or feeling that we should hold off until we see the other stuff and then make those decisions toward the end? What's the pleasure of the board?

Mr. Silva: I agree with the second option. Have everything, make a decision on everything.

Mr. Queiroga: Paul, can we ask you, what do you think the owner's attitude is gonna be if we ask him to?

Mr. Smith: I explained to him that he needs to do a stormwater management plan. I don't think that will be an issue. I think more what you were getting at with, are we gonna waste thousands of dollars doing this and then the waivers. I don't know if there's a conditional procedurally, if there's a conditional approval, we can get that in the open before we spent all the money or not and take that gamble or. You know, from our point of view, if clearly that's unacceptable then why hire an engineer and thousands of dollars at the drop of the ball. I don't know procedurally you probably can't do that, but I don't know if we continue the meeting and then look into that if you can conditionally approve or deny it based upon the stormwater, so we can move forward without...

Mr. Queiroga: Taking a chance?

Mr. Smith: You know, it's a significant amount of money to have that stormwater done which we're gonna do if we build the house and gonna do if you tell us to do it, but obviously I'd hate to come in here with all that and then four guys go, oh the width is too narrow, we deny the waiver. You know, you get it, you said it.

Mr. Phoenix: Well, let me put it this way, even if we grant the waivers, even if we were to do that, we would still be fully within our rights to deny it if we feel that it doesn't meet the criteria as far as the stormwater.

Mr. Smith: Perfectly, yeah.

Mr. Phoenix: Even if we granted those tonight and we said before we're willing to entertain approving this, we need to have a better handle on the stormwater, it still puts you and the applicant in that same position where you still need to put together the plan in order to get the actual approval. So that part doesn't change that really. I'm curious, what would the timeline look like on getting that prepared?

Mr. Smith: I would imagine a month or two. I would imagine with the state of hiring engineers

these days and finding somebody, it would be a significant amount of time. Perhaps we could continue till the next meeting and see if there is a way to, I'll get some information about an engineer with timing and maybe discuss if there is a way --- to step two and one's a no. I get what you're saying.

Mr. Phoenix: I get that but also, we have a number of people from the neighborhood that have come in. I don't know that. I would want to bring them back in unless we have a reasonable amount of progress on things. So, if we can have a plan in hand that goes over what the stormwater's gonna look like, we can show them this is what's going on, this is how your properties are being protected, this is where the water's gonna go and how we're doing it, I think that gives us a reason to drag them back in here for another night. But I don't know that. I want to have them either not come in because they think we're not gonna discuss a lot of stuff and then they miss something or then they come in and then there's nothing really to discuss and it was a waste of their time to come in. That just doesn't seem fair or appropriate to me.

Mr. Smith: But you --- the subject of discussing the waivers.

Mr. Phoenix: I just wanted to make sure that I brought it up, so it wasn't like it was glossed over. I think I am fully in that camp as well, so I think we're better off looking at that more holistically afterwards.

Mr. Silva: It's a big undertaking here as far as the drainage.

Mr. Queiroga: Does he already own the property?

Mr. Smith: No, no. ---

Mr. Silva: --- is interested in doing this, I'm sure he's interested in moving forward ---.

Mr. Smith: --- when we discuss it --- stormwater --- said I get that.

Mr. Phoenix: So, I mean, if you're talking a couple months to get that put together.

Mr. Smith: --- how things go.

Mr. Phoenix: I don't like to be in the business of continuing a hearing just to open it up and continue it again.

Mr. Smith: No, I hear you.

Mr. Phoenix: So, I'd like to make sure that whatever date we choose there's a reasonable certainty that we're gonna have something to look at. I don't want to pick too soon. I also don't want to delay unnecessarily.

Mr. Smith: That's the process --- day today.

Mr. Phoenix: We have to have a time and date certain. Time, date, place has to be in concrete when we close tonight so anybody that is interested in coming back is able to, otherwise, our only alternative would be we close which starts putting in restrictions on when we have to act and then we'd have to reopen another public hearing session which would mean we have to a

whole re-notice of the neighborhood with all the delays that come in with the legal notice and everything as well. So, the best bet is just pick a date and time. If we're looking from now forward, we're February 8<sup>th</sup> now, two months forward is April 11<sup>th</sup> would be the first meeting.

Mr. Smith: How about we go six weeks? Why don't we go split the difference, a month and a half?

Mr. Silva: Mr. Chairman, can the date when they're ready to come, can they schedule it, no?

Mr. Phoenix: We have to have a day and time before we make a motion to continue.

Mr. Carpenter: Mr. Chairman --- Mr. Smith, is six weeks gonna be enough time?

Mr. Smith: I can't answer that question. I know two weeks is obviously not gonna be enough. I don't want to waste everybody's time either. I don't know.

Mr. Silva: ---

Mr. Smith: I don't know if I want to withdraw, if that's the smart thing to repay application fees and notice again. I don't know what to do. I don't if we want to withdraw it and resubmit, I'll be starting from scratch right?

Mr. Stefancik: Or go to the Zoning Board of Appeals.

Mr. Phoenix: I think, why don't we play it safe, why don't we say April 25<sup>th</sup>. I'm guessing that far out there's nothing on the agenda Sue? And as far as I know I don't have holidays and things on the tiny little corner of the screen calendar, there's nothing, there's not like spring thanksgiving or something?

Mr. Carpenter: I'm seeing nothing on my phone so.

Mr. Phoenix: Ok. So why don't we, I'll entertain a motion to continue until April 25<sup>th</sup> at 7:00 p.m. with the understanding that we'll have more to talk about at that time, in particular related to the stormwater and how it's gonna be managed on the site.

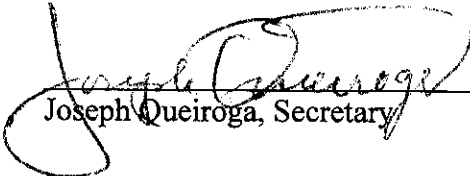
Mr. Carpenter: 7:00 p.m. you said?

Mr. Phoenix: 7:00 p.m.

Mr. Carpenter: **SO MOVED.**  
**SECOND** Mr. Queiroga.  
**4-0 in Favor.**

*The public hearing was continued until April 25, 2024, at 7:00 p.m.*

APPROVED:

  
Joseph Queiroga, Secretary  
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Documents: Master application; Comments from town boards/departments; Estate Lot Plan – Kendall Street Ludlow, MA owned by Brenda K. Mirkin, Trustee (December 27, 2023 – Driveway & House Location Revised: 2/1/2024)

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