TOWN OF LUDLOW PLANNING BOARD
MINUTES OF THE MEETING OF
January 9, 2020

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PLANNING BOARD MEMBERS

Raymond Phoenix – Chairman (Present)
Christopher Coelho – Vice Chairman (Present)(7:03 p.m.)
Joseph Queiroga (Present)
Kathleen Houle (Present)
Rafael Quiterio (Absent)

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

Consent Agenda:

The Board approved the Consent Agenda under unanimous consent.

- FILE Mail Item 04. - Legal Notices from surrounding communities
- SIGN Special Permits:
  - Colvest/Wilbraham, LLC– 450-456 Center Street (bank with drive-thru)
  - Crystal & David Williams – 121 Arnold Street (SSD Tactical Training)
  - Miguel A. Cordero – 43 Russell Street (welding business)

File Mail Item #01 – Notice of Public Hearing & Legal Notice from Board of Selectmen for transfer of Class II Motor Vehicle License for Discount Motor Sales Inc., 135 Carmelinas Circle

PUBLIC HEARING – SPECIAL PERMIT / ACCESSORY APARTMENT – Deborah A. Boyer – 459 Moore Street (addition of a 796 sq ft accessory apartment)

SEE ATTACHED MINUTES

ANR – 903 West Street, 0 Tilley Street (Map 7, Parcels 4, 4A, 5C) – Carol E. Aurnhammer (combine 3 parcels into a single parcel)

Dan O'Brien – Smith Associates was present for the appointment.

Mr. Stefancik noted that he ran the checklist and explained that the property had been divided into three parcels in 2013, and that they just want to combine the properties back into one.

Mr. Queiroga: Mr. Chairman, I'll make a **MOTION** to approve the ANR and the, I **MOVE** to endorse the ANR for, you're definitely not Carol, right?

Mr. O'Brien: I am not.

Mr. Queiroga: …for Carol…

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Ms. Houle: Aurnhammer.

Mr. O'Brien: Aurnhammer.

Mr. Queiroga: …Aurnhammer?

Mr. O'Brien: Yes.

Mr. Queiroga: Ok, close, ok, and to find that the plans…

Mr. Phoenix: No, I think you've got it pretty much…

Mr. Queiroga: ---

Mr. Phoenix: In the standard form Joe?

Mr. Queiroga: Yes.

Mr. Phoenix: Ok. Is there a second?
SECOND Ms. Houle.
4-0 in Favor.

Documents included: Master application; Plan of Lot Consolidation #903 West Street Ludlow, Mass., owned by Carol E. Aurnhammer (December 31, 2019)

File Mail Item #02 – Second Notice – Parking of Equipment at 305 Miller Street from Justin Larivee, Department of Inspectional Services

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File Mail Item #03 – Notification of Public Hearings from Board of Selectmen to take action against Class II Licenses for Center Auto Sales; Caracas Construction Corp.; Lupa's Leasing, Inc.; Avid Auto Sales; A.J. Auto Sales

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APPOINTMENT – Lisa Dowers – 119 Barre Drive (discuss Nunes Co. at 201 West Avenue)

Lisa Dowers, Attorney Neil Phillips were present for the appointment.

Ms. Dowers explained that she has no problem with the Nunes Corporation but has problems with what has happened to her road. She presented the Board with photos of her basement, trees and surrounding wildlife. She said that the way that when the gate to the fence on the Nunes Property is opened it is right on her driveway making access difficult to her property.

Mr. Phoenix remarked that what the Planning Board looked at primarily was the fact that the piece of property is industrially zoned, it was an industrial business that was going on there, as well as the fact that it met the criteria for site plan approval.. He said that they have a curb cut and a right to access the street at that point, and at the time that the site plan was approved the option of shifting the traffic to the West Avenue entrance was looked at but was not an available option at that time. Mr. Phoenix added that the owner also has the right to use their access, and that the Planning Board can't demand that they do something different if they're within their rights, and under site plan control, the Board is obligated under state law to approve if they meet the criteria for a site plan.

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Ms. Dowers showed the Board a picture of the gate on the Nunes Property and said that the gate also swings inward in addition to swinging outward.

Mr. Queiroga mentioned that he is planning on speaking to Mr. Baltazar about the possibility of him letting Mr. Nunes use the main entrance on West Street.

The Board agreed that there are some things that they can do, and some things that they legally cannot do. Mr. Phoenix said that the property is zoned industrial and that it's being used for an industrial purpose, but if there are issues with the business overstepping it's bounds, such as the gate being in the way of the neighbor, the Board could do something with that.

Mr. Coelho: I'd like to **MOVE** that the Planning Board send a letter to the property owner indicating that his fence is encroaching on other people's properties and that he needs to repair it in such a way that it doesn't open outwards and it only opens inwards.
SECOND Ms. Houle.
4-0 in Favor.

Mr. Coelho: I'd like to make another **MOTION** to amend the letter giving the property owner six months to comply in having the Building Inspector follow up.
SECOND Ms. Houle.
4-0 in Favor.

Mr. Derek DeBarge remarked that he has been in contact with Mr. Nunes for the past several weeks, and that he is supposed to meet with him and Mr. Baltazar on Saturday to discuss the issues with the neighborhood and the gate.

Mr. Phoenix said that since the Planning Board has been asking for this (change of entrance) since the site plan has been submitted, that he would be willing to put out there that if he (Mr. Baltazar) were willing to change that access, that he would be interested in the possibility of granting a waiver request on the fee for having that site plan amended, and that he thinks that it would be appropriate since the town's been pushing to have this happen.

File Mail Item #05 – Articles for the May 11, 2020 Annual Town Meeting Warrant and the Annual Town Report from Ellie Villano, Town Administrator

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Mail Item #06 – Notice of Non-Exercise of Right of Refusal Option by the Town of Ludlow for Assessors Map 9, Parcel 36A (Joan Lupa)

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Mr. Phoenix: I would just ask for a MOTION to notify the Board of Selectmen that we don't have any interest in that property at this time.
SO MOVED Mr. Queiroga.
SECOND Mr. Coelho.
4-0 in Favor.

Mail Item #07 – Letters from Theresa Carrington re: Approved Site Plan & Special Permit for 450-456 Center Street, and Responses from Frank Colaccino, The Colvest Group, Ltd.

Mr. Phoenix remarked that all of the safety concerns have been talked about, and that the bottom line is that there were traffic studies done by two separate experts that were in the room (at the public hearing) and that those numbers were in front of the Board, along with the opinion of the Safety Committee, and that the decision was made based on what the Planning Board had to act on. He also mentioned that the driveways that are existing have been existing with crappy traffic for years and years, and that all of these issues have already been discussed. Mr. Phoenix also said that if when the box is striped in front of the Colvest lot, if they want to paint a do-not-block-box in front of the abutting neighbor's property, that he doesn't have an issue with it, but he is not inclined to make that compulsory.

Town Report *(Discussion was tabled until the meeting of January 23, 2020)*

Mr. Coelho: I'd like to make a **MOTION** to adjourn.
SECOND Mr. Queiroga.
Mr. Phoenix: Always in order, not debatable.
Mr. Stefancik: Are you good with the Town Report ---?
Mr. Phoenix: Well it's always in order and not debatable, so I guess we're gonna have to take that up next time. We have time on the next meeting before it has to go in. So, all those in favor?
4-0 in Favor.

Meeting adjourned at 7:58 p.m.

APPROVED:

Kathleen J Houle
Kathleen Houle, Secretary

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

TOWN OF LUDLOW PLANNING BOARD
PUBLIC HEARING – SPECIAL PERMIT / ACCESSORY APARTMENT
Deborah A. Boyer – 459 Moore Street
(addition of a 796 sq ft accessory apartment)
January 9, 2020

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PLANNING BOARD MEMBERS

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

Hearing began at 7:05 p.m. in the Selectmen's Conference Room.

In attendance: Deborah Boyer, George Trikas, and two other unidentified gentlemen

Mr. Phoenix read the legal notice, gave Mr. Trikas a copy of the invoice from Turley Publications and reviewed the application. The legal notice included the description of: addition of a 796 square foot accessory apartment.

Mr. Phoenix: By way of feedback, we have from the Building Department: *This property had a total loss fire and are rebuilding house. I would recommend that Board treats this as an existing house, for*, I'm guessing that word is in-law, I'm not positive…

Mr. Trikas: Yes, correct.

Mr. Phoenix: …*Based on cause of rebuilding the house*. From the Planning Department, Doug went through and the highlighted notes in here: *The accessory apartment will be 796 square feet and will be occupied by the owner's mother. Original house built in 1987, burned down as being rebuilt, Certificate of Occupancy will not be issued until the septic system is addressed.* And he does also have the word mother highlighted. That septic system issue does kind of come into i. on the checklist, and I believe there's also further in here a comment from Board of Health. But higher up in the stack we have Fire: *The Fire Department has reviewed the special permit, the project must comply with current Mass Fire Safety Code and Mass Electrical Code for the placement of smoke and carbon monoxide detection. A final walkthrough acceptance test must be performed prior to occupancy. At this time, the Ludlow Fire Department has no additional comments. We do, however, expect all applicable federal, state and local codes to be followed during the course of construction on this project. Sincerely, Seth Falconer.* We have Board of Health: *A Title V system inspection is required,* which is underlined and circled, *per Title V Code for the current system. New house, the Board of Health cannot sign off on if we do not know status pass/fail on existing septic system or if it can accommodate flow from new house. Existing system is two separate systems on site.* So, that's what I have from the Town. I will just mention for everyone who is here, we do have cameras running. Those would be the things that look like cameras. You are being recorded for posterity and the internet, and minutes, and all that other good stuff. If we do have any comments or questions, I'll be asking for those once we get to that part of the meeting. Beyond that, I do have a copy of the bill for legal notice.

This is the applicants copy, and that's payable directly to Turley. With that, would you care to explain what's going on?

Mr. Trikas: Yes, Mrs. Boyer had a fire last January, so her house is literally collapsed into the foundation. So, we had to empty all the debris out and then come to find out we had to have the foundation tested, the foundation failed. So, from there on, we had to do a complete rebuild from the ground up. It was a two-family dwelling, and she does have a mother that is ill or handicapped, and so what we designed was an in-law apartment accessible from the driveway, so she's able to access everything through there. Everything's handicapped accessible, the bathroom. So, I understand there's certain regulations where you need a three-year residency in order for an in-law apartment to be legal or however that works. I'm not quite sure. But, I think under the circumstances she should be able to apply for in-law apartment in there.

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Mr. Phoenix: Ok.

Mr. Trikas: As far as the Title V, we're still kind of working on that. We need to get running water and tie everything in order to have it tested properly, and that's something I'm gonna have to supply them. Mrs. Boyer has lived in Ludlow since '96, since the house was built originally, so I mean, it's not like she just, you know, she was unfortunate enough to have that fire happen and, I mean, she's just trying to take care of her mother, and there's really no other way around it as far as getting an in-law apartment and give her, her own space.

Mr. Coelho: So, was it two-family?

Mr. Trikas: It was a two-family.

Mr. Coelho: And now we're going to a one-family with an in-law apartment?

Mr. Trikas: Yes.

Mr. Phoenix: Ok. Now I know Justin had suggested treating it as an existing structure and I think that's certainly, at least in my opinion, does feel appropriate under the circumstances. But, just as far as dotting our i's and crossing our t's, do we need to have a request to waive that requirement and formally waive the three-year requirement or are we able to simply treat it as an existing structure because it was burned down?

Mr. Stefancik: I did talk to Rose Crowley, who's our Town Counsel at Doherty Wallace. She said we can consider it an existing structure. It was built in 1987 and it wasn't their fault that the house burnt down, it was just an incident that occurred.

Mr. Phoenix: That's what I was hoping I'd hear, but I just wanted to make sure. Do we have any comments or questions from the Board, at this time? The only thing that I would add, and I kind of touched on it already, and you mentioned it as well, is the septic issue with the Title V, that is one of the requirements as well. I'm sure we can do something to handle that, but since that is in the requirements, normally we would be looking for that and the Board of Health has said they can't just do that at this point. So, we will have to find some way to address that and make sure that that's gonna not be an issue going forward for you.

Mr. Trikas: ---

Mr. Stefancik: As a check and balance with the Title V, Justin said that in order to give the Certificate of Occupancy, the Title V needs to be done and the septic needs to be functioning or they won't be able to live in the property. So, they're not gonna sign off on anything until it meets the requirements.

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Mr. Phoenix: Well, I was thinking maybe just something about, you know, making the motion that that needs to be completed within x amount of time to give them a chance to get that done. I don't know if there's, if you have any idea when that might be reasonable at this point, six months?

Mr. Stefancik: I think it's up to them and when they will get water to the site.

Mr. Queiroga: How much time do you think to get all these things?

Mr. Trikas: Well, I'm really trying to get it done within the next two months, completely done, so I've already got the wheels turning as far as, you know, getting the water tied in, the septic inspected. If there's repairs that need to be done, I'm unaware of that right now, so I'm not really sure if that's gonna extend it at all, but I would say about a month.

Mr. Phoenix: Well, just, at least, specifically on the Title V issue. When you think that's gonna be?

Mr. Trikas: I would say I need at least six weeks from now.

Mr. Phoenix: So, to give us a number to kind of keep in the back of our heads. Unless there's anything else from the Board?

Mr. Queiroga: Maybe we ought to think about 90 days and subject to.

Mr. Phoenix: Yeah. I think, you know, I'm not thinking this is something where we need to be super aggressive with the time line. I think it's, I'd rather make sure we find something that's actually workable on both sides and has a little bit of wiggle room so they're up against a hard deadline. But, let's hear what the audience has to say ---. So, I will open this up to the public. If you have anything that you would like to add or ask, I would ask that you state your name and address for the record and address everything through myself as Chairman and I'll do my best to get you answers that you need. Do you have anything at this time? Hearing nothing, I would ask, do we have a motion in the standard form anyone would care to make with the additional condition that the Title V has to be all set within a certain amount of time?

Mr. Coelho: Mr. Chairman?

Mr. Phoenix: Mr. Coelho.

Mr. Coelho: I **MOVE** to approve the Special Permit under 7.0.4 a-m and the Accessory Apartment under 6.6.1-6.6.3 a-l, under the condition that it passes the Title V inspection within six months, for Miss Deborah Boyer at 459 Moore Street, with the conditions that the Special Permit will run with the applicant and not with the property, that the relationship of the accessory apartment tenant will remain consistent with the terms of the Bylaw and that follow up documentation will be provided by the application proving that this continued relationship.

SECOND Ms. Houle.
4-0 in Favor.
Roll call vote: Mr. Queiroga – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Phoenix – yes.

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Mr. Phoenix: So, I will entertain a MOTION to close the public hearing.
Mr. Queiroga: **SO MOVED.**
SECOND Mr. Coelho.
4-0 in Favor.

Hearing ended 7:15 p.m.

APPROVED:

Kathleen J Houle
Kathleen Houle, Secretary

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Documents: Master application; abutters list; comments from Town Boards/Depts; Plot Plan – 459 Moore Street Ludlow Mass. For Baystate Restoration Group, LLC (07/26/19); Plans: Elevations (P-1)(6/25/2019), Floor Plan (P-2)(6/25/2019), Foundation (P-3)(12/16/2019), Cross Section (P-4)(6/25/2019)

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