TOWN OF LUDLOW PLANNING BOARD
MINUTES OF THE MEETING OF
May 25, 2023

PLANNING BOARD MEMBERS

Raymond Phoenix – Chairman (Present)
Christopher Coelho – Vice Chairman (Present)
Joseph Queiroga (Absent)
Joshua Carpenter (Present)
Joel Silva (Present)
Kathleen Houle, Associate Member (Present) (7:10 p.m.)

The meeting began at 6:35 p.m. in the Selectmen's Conference Room.

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Mr. Phoenix: And then the second order of business is to ask for a MOTION to go into executive session to discuss litigation related matters…
Mr. Carpenter: **SO MOVED.**
SECOND Mr. Coelho.
Mr. Phoenix: …wait, and then to come back into regular session thereafter.
Mr. Carpenter: **SO MOVED.**
SECOND Mr. Coelho.
4-0 in Favor.

The Board went into executive session at 6:36 p.m. and returned to the regular meeting at 7:10 p.m.

EXECUTIVE SESSION – Attorney Matt Provencher – Discuss 590-596 (0) Center Street

SEE SEPARATE MINUTES

PUBLIC HEARING – Special Permit / Home Occupation – Charlene L. Cavanaugh – 55 Stevens Street (Assessors' Map 15D, Parcel 74) (conversion of single garage to hair/nail salon)
(Continued below)

SEE ATTACHED MINUTES

CONSENT AGENDA:

Mr. Carpenter questioned the Change of Occupancy on 346 West Street, and it was pulled from the consent agenda for further discussion. The Board approved the rest of the Consent Agenda under unanimous consent.

- FILE Mail Item 29. - Legal Notices from surrounding communities
- APPROVE/SIGN Minutes of Executive Session October 13, 2022, May 11, 2023
- APPROVE Change of Occupancies:
  - Asbel Rivera (Import Wholesale LLC) – 37 Letourneau Street #3 (from body shop to body shop)

- Dave Barrow, Director of US Operations (Unitech Services Group) – 100 State Street, Building 110 (from medical supplies distributer to warehousing)
- Naveed Zafar (dba UPS Store / Xpress Services Inc.) – 192 East Street (from Basics Mini Mart to UPS Store)
- Truong Nguyen – 346 West Avenue (from smoke shop to nail salon)

(Continued from above) **PUBLIC HEARING – Special Permit / Home Occupation – Charlene L. Cavanaugh – 55 Stevens Street (Assessors' Map 15D, Parcel 74) (conversion of single garage to hair/nail salon)**

SEE ATTACHED MINUTES

Attorney Provencher informed the Planning Board that all of the public hearings scheduled for tonight's meeting need to be continued due to the fact that the Uber conference call in line was not available as advertised in the legal notices.

Mr. Coelho remarked that the COVID situation is now over and that he would like to suspend all remote participation for all public hearings. Atty. Provencher noted that he is under guidance that the town is under an obligation to provide at least some minimal level access even if it's just calling in, in order to meet the current guidance of what the open meeting law requires under the COVID regulations that were extended by statute to March 2025.

Mr. Phoenix: I'll entertain a MOTION to ask town counsel to provide that both to us and to the Board of Selectmen since they're the ones that would be in charge of making sure that infrastructure's in place.
Mr. Carpenter: SO MOVED.
SECOND Mr. Coelho.
4-0 in Favor.

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PUBLIC HEARING – Special Permit / Home Occupation – Lenna Andre – 137 Vienna Avenue (Assessors' Map 11A, Parcel 168) (office for cleaning service business)

SEE ATTACHED MINUTES

ANR – JLL Real Estate, LLC – 590-596 (0) Center Street (Assessors' Map 16B, Parcels 116 & 116A) (perimeter plan of land)

Attorney Tom Reidy was present for the appointment.

Atty. Reidy provided a copy of the updated perimeter plan to the Board. Mr. Phoenix said that he is looking for a single setback line that shows the frontage requirement at the setback line, which he does not see on the plan. Atty. Reidy said that he would be agreeable to providing a new plan showing that setback line. He also agreed that this plan is not changing anything and just doing a freeze on the use in the zoning.

Mr. Phoenix and Mr. Stefancik commented that they didn't see anything missing on the plan.

Mr. Coelho: I **MOVE** to endorse the ANR subject to that setback line being added for JLL Real Estate. 590-596 (0) Center Street, Assessors' Map 16B, Parcels 116 & 116A Perimeter Plan of Land.

Mr. Phoenix: And I haven't heard a second, but just for as a point of discussion on that, at its heart, an ANR generally shows adequate frontage on an adequate way and it's still the same way and it's still the same access that it had prior to this, because again it's not being cut up.
Atty. Reidy: Correct.
SECOND Mr. Silva.
3-0-1 in Favor. (Mr. Carpenter)

Documents included: Master application; Approval Not Required Plan of Land in Ludlow, Massachusetts prepared for JLL Real Estate, Inc (Revised 5/25/2023)

PUBLIC HEARING in accordance with the Remand Order issued by the Hampden County Superior Court – Special Permit / Site Plan – 590-596 (0) Center Street (Assessors' Map 16B, Parcels 116 & 116A) JLL Real Estate, LLC (redevelopment of site into a self-storage facility in an Agricultural Moderate Density Overlay District)
***(Mail item # 30 included* - Letter from Abutters and Community Residents re: Public Hearing for 590-596 Center Street)**

SEE ATTACHED MINUTES

ANR – Randy Pascale – 96 Prospect Gardens (Assessors' Map 1A, Parcel 6) (subdivide property into 3 lots)

Randy Pascale was present for the appointment.

Mr. Pascale explained that he is subdividing the property into three parcels so that he can sell the existing house on the property and build two homes on the remaining lots.

Mr. Phoenix and Mr. Stefancik commented that they didn't see anything missing on the plan.

Mr. Carpenter: I **MOVE** to endorse the ANR for Mr. Pascale at 96 Prospect Gardens.
Mr. Phoenix: In the standard form?
Mr. Carpenter: In the standard form, of course.
SECOND Mr. Coelho.
4-0 in Favor.

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Documents included: Master application; Plan of Lots in Ludlow, MA - prepared for Kim K. & Randy P. Pascale, 96 Prospect Gardens Ludlow, MA (April 25, 2023)

Mail Item #30 – Letter from Abutters and Community Residents re: Public Hearing for 590-596 Center Street)

Mr. Phoenix: I'll entertain a MOTION to file this Mail Item #30 until we are back in open session for 590-596 Center Street based on the issues with legal notice.
Mr. Carpenter: **SO MOVED.**

SECOND Mr. Coelho.
4-0 in Favor.

File Mail Item #31 – Legal Notice – Zoning Board of Appeals – Thomas Engwer – 1211 Lyon Street

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Change of Occupancy - Truong Nguyen – 346 West Avenue (from smoke shop to nail salon)

Mr. Phoenix remarked that the last site plan on file is from 1999 and hasn't had any amendments, and that the use is different than what is characterized on the original site plan. Mr. Carpenter said that the building commissioner's notes on the application say that the applicant has to do a code review. The Board questioned why there is a spot for building commissioner approval on the application. Mr. Stefancik said that the building commissioner asked to have the signature line on there for her review.

Mr. Phoenix: I would entertain a motion to adjust our official application on the master application which covers all potential uses that people are submitting for, to include in the for office use only, a space for building commissioner approval.

Mr. Carpenter: **SO MOVED.**

Mr. Coelho: What am I seconding here again?

Mr. Phoenix: Adding this onto the form…

Mr. Carpenter: So, the building commissioner can make notes.

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Mr. Phoenix: …so that will then be on every application people are submitting, 'cause that's on page two of the master application. So, you come in for a home occ and you got a section for building commissioner approval. You come in for an accessory apartment, it's got a space on there for building commissioner.

Mr. Coelho: So, we just made a motion to add three more lines to that, is that what it is?

Mr. Phoenix: To add this little section right there. That's what that was. Because it's apparently already been done by the office.

Mr. Carpenter: And I think that would be good just because the building commissioner's.

Mr. Phoenix: Actually, let me say this, I think I'd be better with it if instead of building commissioner approval, it was building commissioner review. 'Cause I mean, that's, this isn't saying that the building commissioner approves it anyway, this says that the building commissioner's got some notes.

Mr. Carpenter: Chris, you didn't second it, correct?

Mr. Coelho: Not yet, no, because I don't know what's going on. So, we want to include that verbiage on all of our change of occupancies?

Mr. Phoenix: All of our everything.

Mr. Carpenter: Mr. Chairman, I'm gonna rescind my motion for now.

Mr. Coelho: I'm gonna make a **MOTION** that…

Mr. Phoenix: That's fine.

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Mr. Coelho: I'm gonna make a **MOTION** that we remove the building commissioner approval altogether from our application. I hear lots of laughs. I don't hear a second.

Mr. Carpenter: So, we went from adding it in to removing it completely?

Mr. Coelho: What bearing does it have whether or not we approve it? That's her ball game and she's gonna require that before she issues a permit, no?

Mr. Phoenix: Well, I would say I think it's not a bad idea to get feedback from the building commissioner once we get the stuff in since they are the zoning enforcement officer. If there's feedback to be had it's useful to give to the applicant before they get too far into a process. So, I think that's good. I don't know that it belongs there, but that seems to be where it is.

Mr. Carpenter: Mr. Chairman, my concern would be, and I'm just looking specifically at this application, I had no issue with the building at first, it's more the like for like. That ADA compliance thing would change the site plan, correct?

Mr. Phoenix: If they're not changing the physical location, maybe not. Generally speaking, if we've got something that's going in that doesn't happen, but if she's saying that's triggered by the change of use, then that's different, but that's a building inspector thing.

Mr. Stefancik: I think also, I don't think there's any handicap parking space over there, just unless they it wore off.

Mr. Phoenix: How about for the time being, I'll entertain a motion to return the form to the way that it was until further discussion can be had with the zoning enforcement officer/building commissioner about how to properly implement this, if at all, as part our application process?

Mr. Coelho: I'll gladly amend my **MOTION** then to indicate exactly what you just said.
SECOND Mr. Carpenter.
4-0 in Favor.

Mr. Carpenter **MOVED** to bring the applicant in for site plan review.

Mr. Phoenix: Just to clarify the motion, is the intent of that motion to deny the request for the, deny the approval of the Change of Occupancy that was requested, and to inform the applicant that it needs to come in for full site plan review under the site plan review section of the bylaw based on the change in use and further that it's not appropriate to do it as a sketch as an addendum because of the age of the existing site plan that we currently have on file?

Mr. Carpenter: I amend my **MOTION** to say exactly what you said.
SECOND Mr. Coelho.
4-0 in Favor.

Mr. Carpenter: Mr. Chairman I make a **MOTION** to adjourn at 8:15 p.m.
SECOND Mr. Coelho.
Mr. Phoenix: Motion to adjourn is always in order and not debatable.
4-0 in Favor.

Meeting adjourned at 8:15 p.m.

APPROVED:

Joseph Queiroga, 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 / HOME OCCUPATION
55 Stevens Street – Charlene L. Cavanaugh
(conversion of single garage to hair/nail salon)
May 25, 2023

PLANNING BOARD MEMBERS

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

The hearing began at 7:12 p.m. in the Selectmen's Conference Room.

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In attendance: Charlene Cavanaugh, attendees

Mr. Phoenix read the legal notice, advised the public that the cameras are recording, and gave the applicant a copy of the Turley Publications invoice. The legal notice included the description of: conversion of single garage to hair/nail salon.

Mr. Phoenix asked if the call-in and Uber Conference options were available for the public hearing since it was advertised that way.

Mr. Stefancik said that those options are now defunct due to the fact that he was just notified that the town did not pay the bill to continue the services.

Mr. Phoenix asked Attorney Provencher, Town Counsel, to advise the Board if the public hearing can still be conducted without that option that was advertised in the legal notice as being available. Atty. Provencher and the Board agreed that it would be an open meeting law violation to continue the public hearing if access as advertised is not available.

Mr. Phoenix: So, I think first of all, I'd like to entertain a MOTION to notify the Board of Selectmen that this situation was created because legal notices were already in flight and decisions were made to not pay a bill, and that it is having a negative impact on a number of things that are in front our board this evening.
Mr. Carpenter: **SO MOVED.**
SECOND Mr. Coelho.
4-0 in Favor.

Mr. Phoenix asked Atty. Provencher if the way the legal notice is written, can it be continued to the next Planning Board meeting on June 8, 2023, or if it needs to be readvertised. Atty. Provencher responded that the hearings should be continued with proper notice of advertising that the meeting will only be in person and not remotely and that he will do some research to confirm that.

Mr. Carpenter: Mr. Chairman, I make a **MOTION** to continue this after we hear back from Town Counsel in five minutes and move onto consent agenda mail items.
SECOND Mr. Coelho.
5-0 in Favor.
Roll call vote: Mr. Silva – yes; Mr. Carpenter – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Phoenix – yes.

The Board took a brief recess from 7:24 p.m. until 7:29 p.m.

Atty. Provencher confirmed that the safest possible option is to continue the hearings that are listed due to the issue with the notice and lack of remote participation, with two weeks of advertising the legal notice for the continued public hearings.

Mr. Phoenix: So I would entertain a MOTION that due to the issue with legal notice being inconsistent with what we are actually able to provide for access to the meeting, that we continue this matter until June 22nd at 7:00 and that we re-notice the hearing in the same way that we originally did and that we do so at the town's expense not the expense of the applicant.
Mr. Carpenter: **SO MOVED**.
SECOND Mr. Coelho.
Roll call vote: Mr. Silva – yes; Mr. Carpenter – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Phoenix – yes.

The public hearing was continued until June 22, 2023 at 7:10 p.m.

APPROVED:

Joseph Queiroga, Secretary

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

TOWN OF LUDLOW PLANNING BOARD
PUBLIC HEARING – SPECIAL PERMIT / HOME OCCUPATION
137 Vienna Avenue – Lenna Andre
(office for cleaning service business)
May 25, 2023

PLANNING BOARD MEMBERS

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

The hearing began at 7:33 p.m. in the Selectmen's Conference Room.

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In attendance: Lenna Andre, attendees

Mr. Phoenix read the legal notice, advised the public that the cameras are recording, and gave the applicant a copy of the Turley Publications invoice. The legal notice included the description of: office for cleaning service business.

Mr. Phoenix: We did have a discussion in our prior public hearing for a different matter, but to have that be part of this public hearing, there was an issue with the legal notice stating that it would be available for people to join via Uber Conference or do call in. Those options do not actually exist because the town did not continue paying for that technology to be available, which puts us in a situation where we need to have this matter go to a different time and date so that people can be aware of all the options, and no one is possibly being shortchanged the opportunity to hear and contribute on this particular matter. With that said, Sue, are we still looking at the 22nd?

Ms. Urban: Yes, 7:10.

Mr. Phoenix: Let me ask this, is the intention then to just kind of mirror the times that we have tonight to that meeting?

Ms. Urban: Yes.

Mr. Phoenix: Ok. So, I would entertain a MOTION that based on the issue with legal notice that we continue this public hearing until 7:10 on June 22nd, and that we republish in the paper as we normally would for a brand-new public hearing and that we do so at the town's expense, not that of the applicant.

Mr. Coelho: **SO MOVED.**
SECOND Mr. Carpenter.
5-0 in Favor.

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

The public hearing was continued until June 22, 2023 at 7:10 p.m.

APPROVED:

Joseph Queiroga, Secretary

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

TOWN OF LUDLOW PLANNING BOARD
PUBLIC HEARING in accordance with the Remand Order issued by the Hampden County Superior Court– SPECIAL PERMIT / SITE PLAN
590-596 (0) Center Street (Assessors' Map 16B, Parcels 116 & 116A)
JLL Real Estate, LLC
(redevelopment of site into a self-storage facility in an Agricultural Moderate Density Overlay District)
May 25, 2023

PLANNING BOARD MEMBERS

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

The hearing began at 7:43 p.m. in the Selectmen's Conference Room.

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In attendance: Attorney Thomas Reidy – Bacon Wilson, Richard Kowalski, attendees

Mr. Phoenix read the legal notice. The legal notice included the description of redevelopment of site into a self-storage facility in an Agricultural Moderate Density Overlay District.

Mr. Phoenix: I just want to ask a slightly different question than what we've covered so far of town counsel if I may. This one being as part of a remand order, since it's just a continuance, we're still fine with what we're doing on this, we're not gonna be in at risk of violating the remand order? Is that correct or is there a different situation with this one than with the other others?

Atty. Provencher: I think you validly commenced the public meeting --- if he has any issues with ---.

Mr. Phoenix: I saw a head shake.

Atty. Reidy: No, it's no problem. We know the position that you're in, so we don't want to open ourselves up to a further appeal because of a procedural issue.

Mr. Phoenix: Ok. So, with that said just for having it in the minutes of this particular public hearing as well, essentially what we find ourselves in is a very unfortunate and incredibly frustrating situation of having a public hearing that was put out as legal notice saying that people would be able to attend in a number of different ways including online and via calling in for a teleconference. Due to circumstances, apparently those technologies are not currently available for people to call in and participate through. So, what we have done in the other two sessions of public hearings that we've had this evening, is continue those so that we can republish the legal notice and make sure that people do have the opportunity to find out what's going on and speak on those issues. And based on that, it sounds like the time and date that we'd be looking to

continue this to is June 22nd at 7:20 p.m. So, to that end, I will entertain a MOTION to continue this public hearing until June 22nd at 7:20 p.m. due to the circumstances of the legal notice and to republish at the town's expense to make sure that everyone's aware of how they can participate.

Mr. Carpenter: Mr. Chairman, before I make, do we have to repost that one because it's, was this posted in Turley already?

Mr. Phoenix: Yes.

Mr. Carpenter: Ok, **SO MOVED.**
SECOND Mr. Coelho.
5-0 in Favor.
Roll call vote: Mr. Silva – yes; Mr. Carpenter – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Phoenix – yes.

The public hearing was continued until June 22, 2023 at 7:20 p.m.

APPROVED:

Joseph Queiroga, Secretary

su

Documents included: Master application

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

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