

## BOARD OF APPEALS 3, 2012 Meeting Minutes

Board Members Present: Howard Aspinwall, Curtis Ruckey, Robert Rosenberg, Peter Lambert, Douglas Glazier and Alternate Michael Russo

Town Staff Present: Jennifer Rodriguez,  
Planning Coordinator and Assistant Zoning and Wetlands Officer

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Curtis Ruckey called the meeting to order at 7:00 pm.

Board roll call was taken.

### MINUTES:

Mr. Ruckey referred to the October 3, 2011 meeting minutes and asked for any corrections or changes. There were none. He then asked for a motion. Mr. Lambert moved to accept the October 3, 2011 meeting minutes, as published. Mr. Rosenberg seconded the motion. All were in favor. The vote was 4 – 0 (Mr. Glazier abstained), the motion was approved.

### BILLS & CORRESPONDENCE:

None

### OLD BUSINESS:

None

### NEW BUSINESS:

Mr. Ruckey moved to move Item 6.b, Election of Chairman, ahead of Item 6a, Public Hearing, on the evening's agenda. Mr. Lambert seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

#### b. Election of Chairman

Mr. Ruckey asked for chairman nominations. Mr. Lambert nominated Mr. Ruckey for chairman. Mr. Ruckey accepted the nomination. Mr. Glazier seconded the nomination. All were in favor. The vote was 4 – 0 (Mr. Ruckey abstained), Mr. Ruckey was elected as chairman.

- a. Public hearing on Application #FY11-12-03, Owner: 466 Spring Street, LLC, Applicant: Fox Hill Auto Service, Inc. for a Used Car Dealers' License for the property located at 466 Spring Street.

Attorney Paul Smith addressed the Board on behalf of the applicant and stated that Doug Fournier, Principal of both Fox Hill Auto Service and 466 Spring Street, LLC, was also present that evening. He went on to say that the property located at 466 Spring Street was a 2.5 acre parcel on the corner of Spring Street and Smalley Road. Attorney Smith explained that the existing building on the property had been built in 1953 and had operated since that time as: Fournier's Express, a freight facility, a repair garage and a car dealership. He then noted that it had most recently operated at Ziggy's. He went on to say that the property had recently gone through a foreclosure and subsequently purchased by his client with the intent to continue to operate a car dealer/repair operation. Attorney Smith stated that his client intended on operating a full service repair facility as well as selling used cars from the location, which was a continuation of a use that had existed on the property for many years.

Attorney Smith commented that it was not a Zoning License that his client was applying for, but rather a requirement under what the State mandated for car dealerships. He then referred to Connecticut General Statute Section 14-54 which stated that anyone applying to the State Motor Vehicle Department (MVD) for a car dealership license at any location, even if there had been an existing license at that location, must get permission from the Zoning Board of Appeals and also the Planning and Zoning Commission. Attorney Smith pointed out that the Board was acting as an agent for the State MVD and that under State Statute was required to look at the following two criteria:

1. the suitability of the location for a dealership; and
2. did the location imperil public safety.

Attorney Smith addressed the two criteria as follows:

1. He pointed out that the location in question had been used for many years as the same type of facility; therefore they felt that it was a suitable location. He also noted that the property was Business zoned.
2. He stated that it was a fairly large corner site with multiple means of egress and ingress and had good sight lines.

Attorney Smith stated that it was an opportunity to bring an already successful business into Windsor Locks. He went on to say that it was a reputable and successful business, currently operating two other locations. He then noted that their next step, if the Board were to approve the application that evening, would be to go before the Planning and Zoning Commission where they could look at any possible site plan changes or usage.

Chairman Ruckey asked the Board members for any questions. Mr. Glazier stated that he had asked Ms. Rodriguez for some background information which she had provided to him. He went on to say that the previous dealership had been limited to having only fifteen cars on the lot available for sale. He then asked Mr. Fournier if he was aware of that limitation. Mr.



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Fournier replied that he was not. Attorney Smith commented that he was not sure if that had been a Town limitation or a Motor Vehicle Department limitation. He then reiterated that the Board's purview was to determine suitability and public safety; Planning and Zoning would deal with those other issues. Mr. Glazier asked what the criteria for the fifteen car limitation had been. Ms. Rodriguez stated that the limitation had been part of the previous location approval and was a condition of the Board's approval. Mr. Russo noted, from the minutes of that previous approval, that the applicant had said "fifteen or so cars" because he had been asked. He then commented that that was a big difference between that and a regulation.

Mr. Ruckey asked where on the property the applicant intended on selling the vehicles from and where they intended on putting the vehicles for repairs, as well as how long those vehicles would be on the site. Attorney Smith stated that the plans showed the proposed vehicle storage with a privacy fence around it. He explained that that was where the long-term storage would be or where they would store anything unsightly. Mr. Ruckey then asked where the vehicles being offered for sale were going to be located and where the vehicles awaiting repair were going to be located. He went on to say that he did see on the plans the area marked "future vehicle storage" surrounded by a privacy fence. He then asked if that area was paved. Attorney Smith replied that that area was not paved. Mr. Rosenberg stated that the grassy area was a buffer for the neighbors. He went on to say that in the past there had been some issues with the property in question where people were storing vehicles and equipment in that area. He then stated that the Board did not want that to happen again. Mr. Rosenberg reiterated that that grassy area was a buffer between the property and the neighbors and, if that was where they were proposing their storage, they would have to move it elsewhere. Attorney Smith stated that they could move the storage area to the west onto the pavement along with the privacy fence.

Ms. Rodriguez commented that she had previously pointed out that the application was for a location approval and not necessarily for site plan changes. She then asked if it was fair to say that the Board was not going to approve any site plan changes, therefore it would be an enforcement matter until the changes went through the Planning and Zoning Commission.

Attorney Smith commented that the Board's purview was not to do the site work; that was why they had to go to Planning and Zoning. He then reiterated that the Board's purview was to deal with location suitability and public safety. He then explained that with every Car Dealers' License the applicant had to have the ability to do repairs. Attorney Smith stated that the greater function of the operation being proposed would be as a repairer not a used car dealer. He then commented that in the past when he had gone to the Motor Vehicle Department (MVD) with any conditions imposed by the Board, they really had had no problem with those conditions; i.e. MVD did not care where the vehicles were parked on the property.



Attorney Smith commented that the question was how they could balance the Board's function with Planning and Zoning's function. He noted that it was not a new site; it was an existing site. He stated that they had no problem being flexible. He went on to say that Planning and Zoning might change some things on the site plan, but they would probably not undo anything that the Board did. Attorney Smith then stated that the site was what is was and that the applicant was willing to work with the Town.

Mr. Ruckey suggested that, pursuant to any further action, the applicant consider putting up some natural barrier for the benefit of the neighbors. He then noted that 11 Smalley, 18 Smalley and 20 Leslie were all in direct sight of the property in question. Attorney Smith pointed out that they would probably have that discussion with the Planning and Zoning Commission. He went on to say that it would make sense to have some sort of privacy fence installed. He then commented that it would be a little more difficult with regard to the Smalley Road addresses because they were across the street and because of the access points to the site. Mr. Ruckey stated that he was not a big fan of fencing, because it did not last over time. He went on to say that a natural barrier (some sort of Arbor vitae) would be better. Attorney Smith acknowledged that they were appropriate considerations, but that it was difficult to juggle with an existing site. He went on to say that he did not see any problem in presenting some sort of landscaping plan, especially along the Smalley Road side of the property.

Attorney Smith referred to the limitation of the number of cars for sale and asked if that was a condition of the last approval. Ms. Rodriguez stated that the fifteen car limitation had been offered by the applicant and then made a condition of the approval by the Board.

Mr. Ruckey commented that he had seen the care that Mr. Fournier's group had already taken with the property and that he had been impressed by that.

Mr. Ruckey asked the Board members for any further questions or comments. Mr. Glazier stated that he had received some background information on the site from Ms. Rodriguez which had included a 2007 enforcement order on the property for four zoning violations. He then suggested that a copy of that information be provided to Mr. Fournier in order to help him in the future.

Mr. Ruckey asked for any public comments in favor of the application. There were none.

Mr. Ruckey asked for any public comments in opposition to the application.

Tom Genety of 20 Leslie Street addressed the Board and stated that he wasn't really against the application; he wanted to make a general statement. He then commended Chairman Ruckey for the questions he had asked and the answers he had gotten; they were the same

questions that he himself had had. Mr. Genety commented that he felt strongly that there had been major problems on the property in question in the past, but did acknowledge that Mr. Fournier's group had done a nice job with the property to date. He also agreed that there was room to put a row of Arbor vitae in. Mr. Genety then noted that he had lived there for 26 years and had seen a lot of the messes; therefore he was being vocal about not wanting to see another mess. He then stated that he had no problem with the proposed business, if they kept it a clean, eye-appealing business.

Attorney Smith stated that the applicant had no problem with Mr. Genety's comments. He went on to say that his client knew what it took to run a successful operation. He then reiterated that the applicant currently ran two other successful facilities in two other towns. Attorney Smith commented that his client felt that the proposed business could be run so that it did not negatively impact the neighbors.

Attorney Smith stated that they had no problem doing the following should their application be approved:

1. move the storage area onto the pavement;
2. instead of designating the number of cars available for sale, simply designate an area for the used cars for sale on the lot (possibly on the Spring Street side or the corner side); and
3. willing to consider putting in additional landscaping in the island areas (they would present that plan to the Planning and Zoning Commission).

Mr. Ruckey clarified that should the Board grant approval of the application that evening the applicant would agree to the following:

1. move the storage area to the bituminous area;
2. work with the Planning and Zoning Commission with regard to the location of the used cars being housed along Spring Street or the corner of Smalley Road and Spring Street; and
3. work with the Planning and Zoning Commission regarding the appropriate natural buffer in the island area on the west side (Smalley Road side).

Attorney Smith stated that that was correct; those three items were acceptable conditions.

**Mr. Ruckey asked for a motion regarding Application #FY11-12-03. Mr. Lambert moved to grant approval of Application #FY11-12-03, Owner: 466 Spring Street, LLC, Applicant: Fox Hill Auto Service, Inc. for a Used Car Dealers' License for the property located at 466 Spring Street with the following conditions:**

- 1. move the storage area to bituminous area;**
- 2. work with the Planning and Zoning Commission with regard to the location of the used cars being housed along Spring Street or the corner of Smalley Road and Spring Street; and**



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**3. work with the Planning and Zoning Commission regarding the appropriate natural buffer in the island area on the west side (Smalley Road side).**

**Mr. Rosenberg seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.**

**Mr. Glazier moved to adjourn the meeting. Mr. Lambert seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 8:00 pm.**

Respectfully submitted,

Diane Ferrari  
Recording Secretary

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**THIS IS A DRAFT**

**Please check the following month's meeting minutes for official approval of these minutes and any amendments or corrections that were made.**