

ZONING BOARD OF APPEALS
September 3, 2013 Meeting Minutes

Board Members Present: Curtis Ruckey, Howard Aspinwall, Robert Rosenberg and
Alternates Mike Russo and Daniel Merrigan

Town Staff Present: Patrice Carson, Town Planning Consultant

Chairman Ruckey called the meeting to order at 7:10 pm

Board roll call was taken.

MINUTES:

Chairman Ruckey referred to the July 1, 2013 meeting minutes and asked for any corrections or changes. There were none. He then asked for a motion. Mr. Aspinwall moved to accept the July 1, 2013 meeting minutes, as published. Mr. Rosenberg seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

BILLS & CORRESPONDENCE:

Chairman Ruckey stated that he had received a letter dated July 10, 2013 from Attorney J. Christopher Kervick regarding the M&L Development Corporation, ZBA Application #FY13-14-01.

Chairman Ruckey stated that he also received a copy of a formal Appeal that was filed by Malcolm K. Hamilton against the Windsor Locks Zoning Board of Appeals regarding the M&L Development Corporation application for Rachel Road.

OLD BUSINESS:

None

NEW BUSINESS:

Chairman Ruckey noted that there was an error in the Legal Notice that had been published for one of the applications being heard that evening, FY13-14-04 regarding the property located at 51 Lawnacre Road. The legal notice had the application number incorrectly listed at FY13-14-03, but all of the application information had been listed correctly. Ms. Carson noted that the application numbers were really for internal purposes only, therefore the legal notice was valid.

- a. Public hearing on Application #FY13-14-02, Owner/Applicant: John Monacchio for a variance for the property located at 24 Hughes Lane to remove/replace the existing driveway and expand it to within 2 feet of the property line, where 5 feet was approved.**

The applicant, John Monacchio, was present.

Mr. Monacchio addressed the Board and stated that his original garage variance had allowed him to come within five feet of the property line. He went on to say that at that time he was not aware that his property line was on an angle, therefore in order for him to come straight out from the garage with his driveway it would end up being within 2 feet of the property line.

Mr. Monacchio explained that he was going to be removing the existing driveway and replacing it as well as adding an additional 440 square feet of driveway.

Chairman Ruckey asked the Board members for questions. They had none.

Chairman Ruckey asked how far it was from the edge of the foundation to the garage entrance. Mr. Monacchio replied that it was two feet. Mr. Ruckey then asked if there was anything preventing Mr. Monacchio from putting the driveway back to the garage entrance rather than the edge of the foundation. Mr. Monacchio replied that there was nothing preventing him from doing so and that he was willing to do so. Mr. Ruckey then noted that that would then put the driveway 4.2 feet from the property line, which would just be 10 inches shy of meeting the original 5 foot variance. He then asked Mr. Monacchio why he couldn't just round that part of the driveway in in order to meet the original 5 foot variance. He pointed out that placing the driveway within two feet of the property could cause an issue with runoff from that driveway running onto the neighbor's property. Mr. Monacchio stated that in order to stay within the original variance, he would not have enough room to maneuver into the garage. Mr. Ruckey asked what the suggested minimum standard was to allow access into the garage. Mr. Monacchio replied that it was 24 to 26 feet. He then noted that his would come out 26 feet before rounding off.

Chairman Ruckey clarified that Mr. Monacchio could move the driveway 26 inches in on his property. Mr. Monacchio stated that that was correct. A brief discussion amongst the Board members then followed.

Chairman Ruckey asked Ms. Carson if the Board could change the variance distance. Ms. Carson replied that the Board could change the requested 2 foot variance by decreasing the variance (for example to three or four feet), but they could not increase the variance (for example they could not change it to a one foot variance).

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

Chairman Ruckey asked for any public comments in opposition to the application. There were none.

Chairman Ruckey noted that prior to voting on the application he wanted the Board to discuss two things: 1 – if they were to approve the requested 2 foot variance, should they require that something be put in place to prevent the runoff from going onto the neighboring property; and 2 – should they approve the variance at 4.2 feet. He also noted that the Board would have to state the hardship for any approval. A discussion amongst the Board members then took place.

Chairman Ruckey asked for a motion regarding Application #FY13-14-02. Mr. Aspinwall moved to approve Application #FY13-14-02, Owner/Applicant: John Monacchio for a variance for the property located at 24 Hughes Lane to remove/replace the existing driveway and expand it to within 2 feet of the property line, where 5 feet was approved. Mr. Rosenberg noted that the hardship was that the property line was not straight, it was diagonal. He then seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

b. Public hearing on Application #FY13-14-03, Owner: John S. Barberino, Applicant: Carite of Connecticut, LLC for a Used Motor Vehicle Dealers' License for the properties at 584 North Street and 345 & 355 Ella Grasso Turnpike.

Present that evening were:

- Attorney Thomas Fahey of Spring Street in Windsor Locks, representing the applicant;
- and
- John Barberino, the applicant.

Attorney Fahey addressed the Board and stated that the application was not for a variance; it was for a location approval under the General Statutes Section 14-54. He then explained that 584 Spring Street was the former location of the Passport Restaurant. He went on to say that Mr. Barberino had made some substantial improvements to that property. Attorney Fahey stated that they had received site plan approval and a special permit for the 584 Spring Street property. He went on to say that Mr. Barberino had had some interest from Enterprise Rent A Car, who also owns National and Alaimo. They were looking to store a large amount of vehicles in order to feed their other facilities throughout Connecticut and possibly Massachusetts. Attorney Fahey then explained that Mr. Barberino, in the interim, had started a new business, Carite, which was an internet-based used car business.

Mr. Barberino explained that Carite of Connecticut was a totally internet-based, price-driven approach to selling used cars. He went on to say that they had beta tested it and the approach

worked. He stated that customers were given a sheet of paper listing the vehicles available for sale along with their price (there was no salesman nor price negotiation). Mr. Barberino reiterated that it was solely internet-based.

Attorney Fahey noted that in order to operate this type of business the State of Connecticut required Used Car Dealers' License and that in order to obtain such a license certain things were required, such as a building on the property. He referred to the plans that had been submitted and pointed out that the parking spaces indicated were all of the existing parking spaces from the Passport Restaurant.

Attorney Fahey stated that there would be tenants on the property; Carite and Enterprise, if they came onboard. He then noted that they had received a letter of interest from Enterprise, but that they would not commit until the applicant received his required approvals.

Attorney Fahey noted that once they received location approval from the Board they would then have to go the Planning and Zoning Commission for site plan and special use permit approvals after which they would submit their formal application for the actual Dealers' License to the Department of Motor Vehicles (DMV).

Attorney Fahey stated that Mr. Barberino had installed a fence along the property (behind where the Barnyard was located on Route 75) so that the vehicle storage would not be visible from Route 75. He went on to say that all three of the properties in question would be accessible from Route 75.

Chairman Ruckey asked Ms. Carson for any comments. Ms. Carson stated that her only issue had been with the Licensure Line because Mr. Barberino was asking for one Dealers' License for all three properties, 584 North, 345 Ella Grasso Turnpike and 355 Ella Grasso Turnpike. She then suggested that if the Board were to grant the requested license that they clarify that the rear portions of 345 and 355 Ella Grasso Turnpike would eventually become part of 585 North Street, the front portions of 345 and 355 Ella Grasso Turnpike would not fall under the Dealers' License. Attorney Fahey referred to the dark line shown on the plans and stated that that was the Licensure line and that the DMV required that that line be shown prior to issuance of the license. He went on to say that Mr. Barberino would only be able to operate within that area.

Chairman Ruckey asked the Board for any questions. They had none.

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

Arlene Taylor of 588 North Street (next to 584 North Street) addressed the Board and stated that she had a question. She then asked if the proposal would in any way affect a close neighbor.

Chairman Ruckey commented that he could not image how it could affect Ms. Taylor's property. Ms. Taylor then asked if there would be people parking out in front of the business. Mr. Ruckey replied, that per the plan that had been submitted, there were parking spaces where there had always been parking spaces in the back, behind Ms. Taylor's property. He went on to say that he saw no plans for parking in the front or side. Ms. Carson pointed out that there were two parking spaces indicated in front, but that there had been six spaces in that same area when the property housed the restaurant; the applicant was actually reducing the number of parking spaces in the front. Mr. Ruckey then asked Ms. Taylor if that presented an issue to her. Ms. Taylor replied that it did not. Mr. Ruckey then clarified that Ms. Taylor would not be opposed to the proposal. Ms. Taylor stated that she would not be opposed to the proposal as long as it did not negatively affect her property.

Attorney Fahey pointed out that compared to the old restaurant use where vehicles were constantly pulling in and out, the vehicles now would be on the property for a longer term. He then noted that most of the traffic would enter the property from Route 75. Ms. Carson then pointed out that the hours of operation would be different than that of a restaurant as well. Mr. Barberino stated that they were currently operating from 10:00 am to 6:00 pm.

Chairman Ruckey asked for any public comments in favor of the application.

Doug Fournier, owner of Fox Hill Services addressed the Board and stated that he had no problem with the application. He went on to say that whatever Mr. Barberino did was always a great improvement over what he had started with.

Chairman Ruckey asked for a motion regarding Application #FY13-14-03. Mr. Rosenberg moved to approve Application #FY13-14-03, Owner: John S. Barberino, Applicant: Carite of Connecticut, LLC for a Used Motor Vehicle Dealers' License for the properties located at 584 North Street and 345 & 355 Ella Grasso Turnpike as per the plan dated August 16, 2013. Mr. Russo seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

- c. Public hearing on Application #FY13-14-04, Owner: B&G Realty Investments, LLC, Applicant: Paganelli Construction II, LLC for a Used Motor Vehicle Dealers' License for the property located at 51 Lawnacre Road.**

Present that evening were:

- Attorney Thomas Fahey, representing the applicant; and
- Gary Paganelli, owner of Paganelli Construction II, LLC.

Attorney Fahey stated that the application was for a Used Car Dealer's License not a variance. He explained that Paganelli Construction did a lot of road, infrastructure and deep sewer construction jobs. He went on to say that the company did a lot of state and municipal work. Attorney Fahey noted that in order to obtain a State contract to complete a state job the company was often required to own very specific types of equipment. He went on to say that upon completion of such a job, the company was then left with equipment that they may not have any further use for.

Attorney Fahey explained that the State of Connecticut allowed an individual or business to sell three vehicles per year without having to obtain a Vehicle Dealers' License. Mr. Paganelli stated that his company currently had 52 heavy equipment vehicles registered in Connecticut in Windsor Locks. He went on to say that he might need to sell six to eight vehicles that were no longer necessary to his business. Attorney Fahey stated that Mr. Paganelli would only be selling his on vehicles, the ones that he no longer needed.

Attorney Fahey stated that, if the applicant were to receive approval from the Board, he would then have to go before the Planning and Zoning Commission for site plan approval and special use permit approval prior to applying to the Department of Motor Vehicles for the actual Used Vehicle Dealers' License.

Mr. Paganelli stated that he would not be holding auctions or trying to sell the equipment by parking them on the front lawn. He would typically run an advertisement listing the equipment for sale. Attorney Fahey noted that any vehicles available for sale would be parked behind the gates within the confines of the fenced in area. The discussion continued and Mr. Paganelli assured the Board that he had no intention of turning the property into a used car lot. Ms. Carson pointed out that, if the applicant ever wanted to turn the property into a used car lot, he could not do so without going back before the Planning and Zoning Commission for approval.

Chairman Ruckey asked for any public input in favor of the application. There were none.

Chairman Ruckey asked for any public input in opposition to the application. There were none.

Chairman Ruckey asked for a motion regarding Application #FY13-14-04. Mr. Rosenberg moved to approve Application #FY13-14-04, Owner: B&G Realty Investments, LLC, Applicant: Paganelli Construction II, LLC for a Used Motor Vehicle Dealers' License for the property located at 51 Lawnacre Road as per the plan dated August 2, 2013. Mr. Russo seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Mr. Rosenberg moved to adjourn the meeting. Mr. Russo seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 8:06 pm

Respectfully submitted,

Diane Ferrari
Recording Secretary

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.