

**TOWN OF HARWINTON
ZONING BOARD OF APPEALS**

2012

Wednesday, April 11, 2011, Town Hall, 7:00 p.m.

Present: Tom Rotondo, John Bigos, Mark Gelormino, Theodore Root, John Christian

Absent: Janet Duchaine, Jesse Smith, Nancy Shanley-Schnyer

PUBLIC HEARING

1. Open hearing – establish quorum.

Chairman Rotondo opens the public hearing at 7:00 p.m. All regular members present are seated. Alternate John Christian is seated for Mrs. Duchaine, with a quorum established. Proceedings are recorded on audio tape.

2. Shawn Savickas – application to locate used car dealership at 128 Clearview Avenue, property owned by Brent Lafferty, zoned Light Industrial A.

ZBA Clerk Mrs. Neal reads the public notice into the record as published in the Waterbury Republican American 3/31/12 and 4/4/12. Mr. Savickas presents his application for location approval, providing copies of an A-2 survey entitled "Zoning Location Survey prepared for Shawn Savickas showing Proposed D.M.V. Licensed Area, Clearview Avenue, Harwinton, Connecticut" prepared by Berkshire Engineering, Bantam, dated 3/29/12. The plans show a proposed licensed area of 24.5' x 29.6' which includes a service area, office, bathroom, and 275 gallon waste oil tank within a bay of the existing 1 ½ story steel commercial building. Two parking spaces are shown in front of this bay, north of the building, as well as 3 repair parking spaces west of the building and 6 display parking spaces northwest of the building. The building is located in the southern portion of the 11 acre parcel, with access to Clearview Avenue through a 30' right of way through the front lot, Assessors Map No. B7-02-0401, between 122 and 136 Clearview Avenue.

Members have been provided copies of file contents including application for location approval for a used car dealership (accepted 3/27/12), legal notice of hearing, Assessors map of property B7-02-0404 and abutters, list of abutters noticed, Assessors street card of the property owned by 128 Clearview Avenue, LLC, Brent Lafferty, copy of deed (vol. 203, p. 663), copy of Harwinton Zoning Commission meeting minutes from 3/12/12 and 3/26/12 wherein the applicant obtained approval for Zoning Special Permit for use of property for automotive repair and sales, copy of CT General Statute Section 14-54 indicating that local approval of the location is the responsibility of the Zoning Board of Appeals and excerpts from instructions and forms required by D.M.V. from the applicant: (1) D.M.V. form K-36 "Procedures for Obtaining a CT Auto Dealer's or Repairer's License", (2) instructions for form K-36, (3) D.M.V. form K-7 "Application for Automobile Dealer's or Repairer's License", (4) D.M.V. form K-93 "License Application Drawings – Site Drawing – Class A-2 Survey Map" and (5) D.M.V. form K-8 "License Inspection Application".

Members ask questions of the applicant, with Mr. Savickas answering. Mr. Savickas indicates he has approval for a locational sign at the road. He explains that he had a similar business in Torrington from 1999 to 2006. He plans to run his business as an LLC.

Chairman Rotondo opens the floor for public comment. Abutting neighbor Richard Kelley, 90 Clearview Avenue, questions why the wording for the legal notice for this hearing is not identical to

that for the Zoning public hearing, expressing that he does not understand why both the Zoning Commission and Zoning Board of Appeals (ZBA) hold public hearings on the same application. Members explain that it is required by state statute that ZBA approve the location before D.M.V. can issue the state license and that the Zoning Commission approves the use according to their regulations. Mr. Savickas states that the wording for the ZBA public hearing was incorrect. Abutting neighbor Janice Matthews, 136 Clearview Avenue, wonders why she was not notified of the Zoning public hearing. She expresses her concerns about a possible increase in noise, especially on week-ends, and a possible increase in traffic. She wonders whether large car trailers will be delivering and/or picking up several cars at a time. Ms. Matthews requests that working hours be limited to regular business hours on week-days and Saturday mornings 7:00 a.m. to 12:00 p.m., with no Sundays. Mr. Savickas indicates his belief that traffic will not increase as he will obtain cars, most likely one at a time, from auctions he will attend a couple of times a week. He explains that currently the businesses using the property are two landscapers and Harwinton Paving.

Chairman Rotondo closes the hearing at 7:16 p.m.

REGULAR MEETING

1. Open meeting – establish quorum.

Chairman Rotondo opens the meeting at 7:16 p.m. All regular members present are seated, with Mr. Christian seated for Mrs. Duchaine. A quorum is established. Proceedings are recorded on audio tape.

2. Approve minutes of previous meeting: 3/14/12.

Motion Mr. Gelormino, second Mr. Root to approve the 3/14/12 meeting minutes as submitted, passing unanimously.

3. Discussion/possible decision – Daniel Manyak – application for 4' side yard variance for a barn, Section 5 (Country Residential Zone) Zoning Regulations, 167 Burlington Road.

Each member present indicates his having visited the site. Chairman Rotondo asks each member in turn to provide his thoughts on the application. Mr. Root indicates that although there is a lot of ledge on the property, there is also a lot of land without it that is used for pasture. Mr. Bigos states that there is ledge at ground level right in front of the barn. Mr. Bigos indicates that the applicant placed the barn in the area of the property that correlates with best use of the land, with Mr. Christian in agreement. Mr. Gelormino indicates that he walked the property, agreeing that the general placement of the barn on the property is in the most convenient area, but it could have been placed right on top of the ledge instead of just beyond it and into the setback. He recalls that the request for variance is for a small distance, 4 feet, and that the neighbor does not have a problem with it. He also agrees that placement of the barn in this area of the property constitutes best use of the land. Mr. Gelormino expresses that although the lot is large, it is relatively narrow. Commission members discuss options. Chairman Rotondo reminds the board that in order to grant a variance, the applicant must prove there is a hardship inherent in the land/property itself and that the hardship cannot be self-imposed, personal or financial. He further explains that whether or not the barn is already built does not enter into the decision making process.

Motion Mr. Bigos, second Mr. Gelormino to deny the application for variance due to lack of hardship. The motion passes unanimously.

4. Discussion/possible decision - Shawn Savickas – application to locate used car dealership at 128 Clearview Avenue property owned by Brent Lafferty, zoned Light Industrial A.
Motion Mr. Gelormino, second Mr. Bigos to approve the application, passing unanimously.

5. Any other business.

Motion Mr. Gelormino, second Mr. Root to add the following to the agenda:

6. Mountain Meadows Corp., et al., agent Richard Miller – Appeal to ZBA from vote of Zoning Commission on March 12, 2012, that a heliport is a legal non conforming use of property at 529 Burlington Road, property owned by Johnnycake Airport Property, LLC, its agent Frederick Pesce.

Clerk Mrs. Neal states that this appeal was received at Town Hall on April 10, 2012, with cover letter indicating that Attorney Perley Grimes, representing the appellants, would be on vacation and unavailable to attend a public hearing if held on May 9, 2012, requesting a hearing on this application be held on an alternate date that is convenient to the ZBA and when all notice requirements can be met either before or after his vacation of May 8 through May 18.

Motion Mr. Gelormino, second Mr. Root to accept the application for appeal and set the public hearing to June 13, 2012, 7:00 p.m., Town Hall. The motion passes unanimously.

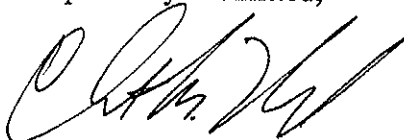
7. Correspondence. None.

8. Invoices. None.

9. Adjourn.

Motion Mr. Gelormino, second Mr. Root at 7:46 p.m. to adjourn, passing unanimously.

Respectfully submitted,



Christine Neal
ZBA Clerk

RECEIVED FOR RECORD AT HARWINTON CT
ON 4-18-12 AT 2:59pm
ATTEST NANCY E. ELDRIDGE TOWN CLERK