

1. Call to Order

The Chester Zoning Board of Appeals held its regular meeting on Monday, September 18, 2017, at the Chester Town Hall, 203 Middlesex Avenue, Chester, Connecticut. Chairman Borton opened the meeting at 7:39 PM.

2. Seating of Members

Members in attendance and seated were Mark Borton, John DeLaura, Alex Stein and Bob Blair.

3. Approval of Minutes – July 17, 2017

Minutes were tabled until the next meeting.

4. Old Business –

(1) Dealer's and Repairer's Location Application

Application submitted by Ted Tine Motorsports LLC for
Automobile Dealer's or Repairer's License located at 244

Middlesex Avenue, Chester, CT (Tax Map 4, Lot 43, Zone R2).

Chairman Borton read the legal Notice of Public Hearing into the record, said notice have been published in the Hartford Courant on September 5 and 12, 2017.

Ted Tine introduced himself and explained he is trying to turn a New Car Dealer into a Used Car Dealer. He had been a New Car Dealer at this location for almost 25 years. He didn't have to go through any of this process when he got the initial license.

Mr. Tine reviewed a New Car Dealer License vs. a Used Car Dealer License. He stated essentially he is not changing anything. Just doing the same thing he has been doing. They restored the train at Gillette Castle, refurbished vintage motorcycles, classic cars, go carts, etc.

Chairman Borton asked what it was he was requesting from the ZBA. Tine replied he just wants to go from a New Car Dealer to a Used Car Dealer.

Board member John DeLaura noted there are 3 distinct licenses. New Car, Used Car and Repairer's. There is a difference between all 3 licenses and each must have its own criteria. The problem here is that this is residential district, not

commercial. The New Car license expired 2 years ago. Why wasn't it renewed?

Mr. Tine replied he was looking for a New Car venue and didn't want to go through the change of plates. He noted he could have gone in within 45 days and asked for a Used Car Dealer License and they would have given it to him, but he didn't want to do that.

Mr. DeLaura noted the ZBA is here to protect the businesses and also the residents' property values. The onus is upon the applicant to prove this is a pre-existing legal use. That has not been done yet. Additional information needs to be provided to the Town.

Mr. Tine noted DMV will come and do an inspection of the property. DeLaura noted Mr. Tine must have gone through a process to get the initial approval. Mr. Tine indicated he just came down to Town Hall and someone signed off on it. It was an established business.

Chairman Borton read into the record a letter to Mr. Tine from the Zoning Compliance Officer dated September 5th requesting additional information.

Chairman Borton asked Mr. Tine if he had the additional information. Tine replied no. John DeLaura asked Mr. Tine if he received the ZCO letter. Tine replied yes. Mr. Tine noted he didn't see why a site plan was necessary. He was not going to be selling used cars. There's room to put 50 cars in the yard.

Mr. DeLaura asked if the property were sold, would the license go with the property. Tine replied no. The new owner would have to apply for a new license.

Chairman Borton noted there currently is no formal request or documentation and therefore the Board can take no action. John DeLaura noted the Board needs to know what is going to happen here. Mr. Tine replied nothing is going to change. The parking lot has been there for 25 years.

Chairman Borton explained the ZCO has said this is a case of an existing nonconforming use. Is this an alteration of that use or a continuation of the use? In order for the ZCO and the ZBA to make any approval, a variety of

documentation is required.

Chairman Borton briefly reviewed the typical variance request and what is submitted as an application. Tine noted he is not doing any of that. Borton noted the Board is really only supposed to make its decision on information in front of it and not on what we believe or see elsewhere. Borton further noted the request could be completely reasonable, but the Board can't grant it until it has the required documentation to demonstrate that use.

Mr. Tine explained there was no intent to abandon the use. When the New Car representative closes his doors, the New Car Dealer license goes away with it. In the interim he then has to look for another franchise or manufacturer to represent as a New Car Dealer.

Alex Stein stated then Mr. Tine has explained when a manufacturer has gone out of business, the purpose for holding his New Car Dealer License is now invalid because he no longer represents a New Manufacturer. He wants to continue the activities performed on site, but that requires him to change from a New Car Dealer License to a Used Car Dealer License. Mr. Tine agreed with this as stated. Mr. Stein advised Mr. Tine to put this in written form so any Zoning person in the future reviewing the documentation will understand it.

Mr. DeLaura noted this is a residential zone. The requested use cannot become an expansion of what it was in the past because of the residential use.

Mr. Stein further noted Mr. Tine needs to explain the gap of 2 years and why this would not be considered abandonment. One of the major functions of this Board is to limit the nonconformities with regard to Zoning. DeLaura reiterated this Board must protect neighborhood property values.

Mr. Stein also noted there needs to be an explanation of the continuing operations. Is the applicant's intention to do nothing more than what has been done in the past or is it to expand the business? A written document needs to be submitted to the ZCO and ZBA so the Board has a written record on the intention of that use. The Board can't determine that "nothing has changed other than the license" from the current documentation.

Chairman Borton noted basically the Board needs chronological documentation in written form to be made part of the record, starting from when the property was purchased. In 2015 when something changed, there should be detailed information as to what happened (i.e. what license was held at that time, what did it allow you to do, why do you need to change licenses now, etc.).

Chairman Borton noted if the Board just granted a Used Car Dealer license, its possible the whole lot could be filled with cars which would be an intensification of use and not well received. If the intent is a repair facility with maybe 1 to 5 cars out front that probably is not meaningful or a change of use. Mr. Tine was advised if that was his intent, he should put that in writing. That would be something the Board could act on. The Board can't act on a lack of documentation where the scope of the request is not fully understood.

Chairman Borton noted the decision must be sound and based on the evidence. Mr. DeLaura noted the evidence has to survive a Court Appeal. The documentation protects the Board and the applicant. He further noted the documentation provided needs to be very explicit about the level of sales and repair, both historical and present.

Chairman Borton asked if anyone wished to speak in favor of the application. No one offered to speak at this time.

Chairman Borton asked if anyone wished to voice any concerns to the application.

Ed Castelli, 251 Middlesex Avenue, noted he owns the property on the other side of the street from this establishment and has been there for 79 years. His father lived there before him. He has seen the property go from wagon wheel shop to garage to pumping gasoline to selling Studebakers and have seen it all. When Elwood Myers discontinued pumping gas, the new owner had to pull out the pumps and tanks because there was no activity. It ceased to be a gas station at that time. John DeLaura asked if that was a residential district at that time. Mr. Castelli replied yes. Mr. Castelli noted when Orville Burr built the veterinary clinci, he went around to the neighborhood and told everyone what he was doing and that he needed a variance. That was the only variance given on Route 154

except for Eagle Landing. Mr. Castelli asked how long does a place sit unoccupied before it reverts back to residential. Sometime it has to go back to residential. He has seen for the last 2 years 2 junk Jeeps sitting out front and they haven't moved, have flat tires. He noted that was an eyesore. If a Used Car License is granted, how many used cars will be sitting out front. Does the 2 year gap in usage make this revert back to residential.

Scot Baker, 192 Middlesex Avenue, asked if Mr. Tine continued to do business in that facility for the 2 years he lost that license. Mr. Tine replied yes. Mr. Baker noted then nothing really changed except the license. Tine replied yes.

Christopher Noblet, 246 Middlesex Avenue, asked if this is residential, when does it become commercial, industrial, etc. Mr. DeLaura noted that is what the Board is asking.

Chairman Borton noted that concludes the citizens comments and presumably the applicant will address them in his future documentation. John DeLaura recommended staff put together a comprehensive list or narrative of what is required of Mr. Tine. Chairman Borton encouraged Mr. Tine to contact the ZCO.

Motion by Borton, second by DeLaura, to table this application until the next meeting in order to allow the applicant to provide the requested additional documentation and the Board to obtain advise from counsel. Unanimously Approved.

Mr. Tine noted he would be out of town for a couple of weeks, back for a time being, and then out of town again for a couple of weeks. The Board advised Mr. Tine the next meeting is October 16th, but if needed, he can request in writing an extension of time until the next meeting in November.

5. New Business – none.

6. Receipt of New Applications – none.

7. Any Other Business – none.

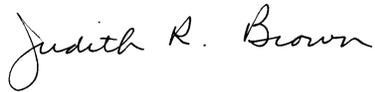
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8. Audience of Citizens – the Audience of Citizens was taken during the public hearing above.

9. Adjournment

Motion by Stein, second by DeLaura, to adjourn at 8:30 PM. Unanimously Approved.

Respectfully submitted,

A handwritten signature in cursive script that reads "Judith R. Brown".

Judith R. Brown, Recording Secretary