

**Town of Montville Zoning Board of Appeals
Public Hearing and Regular Meeting Minutes
March 6, 2019
Town Hall – Town Council Chambers**

1. Call to Order.

Chairman MacNeil opened the regular meeting of the Zoning Board of Appeals at 7:01p.m.

2. Roll Call.

Present were Board members Joseph Berardy, alternate Carl Freeman, Robert Yuchniuk and Chairman John MacNeil. Also present was Zoning and Wetlands Officer (“ZWO”) Nancy Woodlock. Board members Doug Adams and Richard Gladue were absent. Chairman MacNeil stated Alternate Board member Freeman would be seated for Board member Adams.

3. Minutes: Approve the Minutes of the December 5, 2019, Meeting.

Motion by Chairman McNeil; seconded by Alternate Board member Freeman to approve the Minutes of December 5, 2019, as written. Discussion, none. Voice vote, 4-0, all in favor. Motion carried.

4. Executive Session. *None*

5. New Business: *None other than Public Hearing*

6. Public Hearings/Applications.

- A. Public Hearing – Application #219ZBA1 – 1499 and 1505 Hartford-New London Turnpike (Rte. 85) (Map 5, Lots 23-A, 24-A)** Applicant Deer Run Stable, LLC – Property Owners, Asif Choudhry (1499 Rte. 85), Deer Run Stable, LLC (1505 Rte.), for location approval per C.G.S. 14-321, for facility and associated convenience store on combined lots (*PH must close by 04/08/2019.*)

Present was representative for the applicant Attorney Harry Heller.

For the record, **Application #219ZBA1 – 1499 and 1505 Hartford-New London Turnpike (Rte. 85) (Map 5, Lots 23-A, 24-A)** is as follows: The application is for a Location Approval, for a motor vehicle fueling facility and associated convenience store per C.G.S. Section 14-321.

Applicant proposes to construct a motor fueling facility with associated convenience store as shown on a plan entitled “Compilation Plan Showing Abutters & Uses Within 1000 ft. of Subject Properties, Prepared For Deer Run Stable, LLC For Properties Located At 1499 & 1505 Hartford-New London Turnpike, Oakdale/Montville, Connecticut,” signed by Angus L. McDonald, Conn. L.S.#70173, dated January 10, 2019.

The properties at 1499 and 1505 (Map 5, Lots 24_A & 23-A) are located in the C-1 Zone. It is the intent of the applicant to combine the properties to create a +/-2.38 acre or (+/-103,672SF) parcel, with +/-411 feet of frontage on CT Route 85.

Both properties are developed with a (non-conforming) single-family residence and are served by a private well & septic. They are located on a State Highway, Rte. 85 in an industrial/commercial corridor with surrounding residential properties.

The public hearing was advertised in *The Day* on February 22nd and March 1st, 2019, and the applicant's representative sent notices to abutting property owners.

ZWO Nancy Woodlock reported for the record that notice of the public hearing was advertised in *The Day* on February 22nd and March 1st, 2019, as required by C.G.S. In addition, the Public Watershed Services by the City of New London received a letter of notification on February 5, 2019, as did the State of CT Department of Public Health. She also reported proof of notice to abutting property owners on February 27, 2019, as provided by applicant's representative Attorney Harry Heller. ZWO Woodlock stated the intent to combine the two properties as described in the application would be spoken to by Attorney Heller.

For the record, Attorney Heller identified himself as representative for applicant, Deer Run Stable, LLC, and his office located at 736 Rte. 32 in Uncasville, CT. He described the application as atypical as the Board generally acts under Chapter 8 of C.G.S considering appeals of ZWO or variance requests. Instead, this application is under Title 14 of the C.G.S. whereby the Board would act as an agent for the CT DMV governed under Uniform Administrative Procedures Act rather than Chapter 124 of the statutes. Attorney Heller referenced evaluation criteria to C.G.S. Section 14-321 ten (10) years prior and said the statutory guidance provided to the Board was eliminated. He said the Board must determine the suitability for a motor vehicle fueling facility and associated convenience store for location approval. Attorney Heller stated the Board would determine a two-prong test without statutory guidance as to whether the location is suitable, confirms with zoning regulations, and is in compliance with the site plan and whether the location is safe.

Referencing property maps, Attorney Heller identified to the Board the proposed combined property location on Rte. 85 and its proximity to existing properties and described each lot as having a single-family residence that would be removed and combined for the fueling facility and associated convenience store. He commented on site line demos initially done by an engineer 15-feet back to determine acceptable sight lines and stopping distance of 500 feet given speeds of 55mph on the westerly and easterly sides, respectively. Attorney Heller described the proposed build of 5000s.f. with fueling for gasoline and diesel and sourced with an outside well stating there are no municipal facilities at the site. He also proposed the following considerations: an appropriate location for a gas station; location is in a C-1 commercial district that would

provide services to the local community; Rte.85 is an arterial road in Montville; its accordance with the comprehensive plan with use allowed by special permit according to zoning regulations; its safety according to site line demo plans and sight lines for access in both directions with curb cuts with more than adequate turning capabilities.

Chairman MacNeil asked Attorney Heller whether the properties had already been combined; they have not per Attorney Heller. He also commented that the application before the Board was a “step along the way” for the developer that would include approval by Planning and Zoning, and safety aspects by the DOT. Chairman MacNeil emphasized that the Board would not be approving the proposed site plan. Attorney Heller added that the application is not like a variance to allow something to be done. Instead, the Board will determine the suitability of the location submitted as a singular site stating the lots if not joined would not comply.

Chairman MacNeil asked if anyone wanted to speak in favor of the application. Peter Daigel of 421 Salem Turnpike, Salem, CT, said he was aware of the plan and thinks it would be a good thing. He explained he was initially confused by the Town roads having lived here for only 2 ½ years but said Rte. 85 needs a convenience store/gas station in the area. Chairman MacNeil then asked if anyone wanted to speak in opposition of the application. Michelle Giroux said she has lived behind the proposed site for 22 years and is concerned about the road traffic and access into and out of the location. She also commented her concern on large trucks from Deer Run, curb cut distinction between the location and Deer Run, and the run-off on her 10-acre property from diesel and watershed. She also expressed concern with lighting particularly when NasKart moved in. Ms. Giroux said the area is extremely bright and hopes the concern will be addressed appropriately. Chairman MacNeil commented that the charge of the Board is the safety and suitability of the location stating that all of the items mentioned by Ms. Giroux should be answered by her attendance at State meetings for the project.

Chairman MacNeil asked if there were questions or comments as to the application. Attorney Heller commented that the property is in the New London watershed and notification was sent concerning the application. He also said their engineer had contacted New London Department of Public Utilities regarding the same to protect the watershed and since they are not present at the hearing they are satisfied with the proposed plan. Attorney Heller added that facilities are highly regulated with tanks being monitored for breaches and are shut down accordingly stating these items are being considered with safeguards in place. Chairman MacNeil then asked if Board members had questions concerning the application for the ZWO.

Motion by Chairman MacNeil; seconded by Board alternate Freeman to close the application, **#219ZBA1 – 1499 and 1505 Hartford-New London Turnpike (Rte. 85) (Map 5, Lots 23-A, 24-A)** under consideration. Discussion: none. Voice vote, 4-0, all in favor. Motion carried.

- B. Discussion & Decision - #219ZBA1 – 1499 and 1505 Hartford-New London Turnpike (Rte. 85) (Map 5, Lots 23-A, 24-A)** Applicant Deer Run Stable, LLC – Property Owners, Asif Choudhry (1499 Rte. 85), Deer Run Stable, LLC (1505 Rte.), for location approval per C.G.S. 14-321, for facility and associated convenience store on combined lots (PH must close by 04/08/2019). (*DRD 65 days from close of PH.*)

Chairman MacNeil commented on the safeguards mentioned by Attorney Heller that he said are a requirement and not enforced by the ZBA and in that zone it is approved. He also mentioned there are measures that persons concerned can have addressed. Alternate member Freeman commented on his familiarity with the area and relied on the experts regarding safety of which he is satisfied.

Motion to by Chairman MacNeil; seconded by Board member Yuchniuk as follows: I move to approve Application #219ZBA1 of Applicant, Deer Run Stable, LLC, for a Certificate of Location Approval pursuant to Section §14-321 of the Connecticut General Statutes to allow the operation of a motor vehicle refueling facility with associated convenience store on combined properties 1499 & 1505 Rte. 85 (Map 5, Lots 24-A & 23-A, Oakdale, CT, owned by Asif Choudhry and Deer Run Stable, LLC, in accordance with plan entitled “Compilation Plan Showing Abutters & Uses Within 1000 ft. of Subject Properties, Prepared For Deer Run Stable, LLC, For Properties Located At 1499 & 1505 Hartford New London Turnpike, Oakdale/Montville, Connecticut,” signed by Angus L. McDonald, Conn. L.S.#70173, dated January 10, 2019.” Discussion: none. Roll Call vote: In favor, Board members Berardy, Yuchniuk, alternate Freeman, and Chairman MacNeil. Opposed: none. Motion carried, 4-0.

7. **Old Business.** *None*

8. **Other Business.** *None*

9. **Adjournment**

Motion made by Chairman MacNeil; seconded by Board member Yuchniuk, to adjourn the meeting at 7:32 p.m. Discussion, none. Voice vote, 4-0; all in favor. Motion carried.

Respectfully submitted by:

Gloria J. Gathers
Recording Secretary, Town of Montville

AN AUDIO RECORDING IS AVAILABLE ON THE TOWN WEBSITE.