

ZONING BOARD OF APPEALS

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TOWN OF AVON

2022 JAN -5 A 8:06

TOWN CLERK

October 5, 2021

Mr. Kevin Foster, member announced that pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, Subchapter 20 and the Governor's March 23, 2020 Order imposing limitations on the number of people that may gather in one place, this hearing of the Zoning Board of Appeals will be conducted via remote participation. No in-person attendance of members of the public was permitted, but every effort was made to ensure that the public can adequately access the proceedings as provided for in the Order. Mr. Foster reminded the viewing audience that persons who would like to view this meeting while in progress may do so by joining the Zoom link for the videoconference in session.

Mr. Kevin Foster, member called the meeting to order at 7:00 p.m. with all members present. Each Board member acknowledged their presence at the meeting by responding in the affirmative during the roll call.

The following were present:

Appeals Board Members: Kevin Foster, Chair; Bob Ogilvie, Member; Gerald Picardi, Member; and Edward Mekjian, Alternate Member.

Members not present: Chuck Comeau, Member; Peter Crone, Member; Carl Walker, Alternate Member

Visitors: Robert Borden, Building Inspector; Lynne McKenney, Recording Secretary

Public Hearing for 491 West Main Street

Kevin Foster called the Public Hearing to order at 7:15 p.m. on October 5, 2021.

The Public Hearing is the result of the Petition of : Roger Gordon Adj. LLC d/b/a B & C Motors, 491 West Main Street, Avon, MA

The following were present: Appeal Board Members- Kevin Foster, Chair; Gerald Picardi, member; Robert Ogilvie, member; Edward Mekjian, alternate member

Visitor's-Ben Pinkowitz, 491 West Main Street; Roger Gordon, Adj. LLC d/b/a B & C Motors

The members of the board and visitors introduced themselves and the board noted that the Public Hearing Notice(s) had appeared in The Enterprise on September 20, 2021 and September 27, 2021 in the Legal Notice section.

Kevin Foster, Chair read in the Public Hearing notice.

Notice is hereby given that a Public Hearing will be held in the Town Offices, Town of Avon, Massachusetts on Tuesday, October 5, 2021, at 7:15 PM to hear the following petition(s) requesting a Special Permit from the Avon Zoning By-Laws. The hearing will be conducted via hybrid participation. The meeting link can be found at <https://www.avon-ma.gov/node/63/agenda/2021>. Case # 21-4: Petitioner, Roger Gordon Adj. LLC d/b/a B & C Motors of 491 West Main Street, request relief in the form of a Special Permit under Section 255-5.3 F-3, for wholesale-to-wholesale car sales with no additional parking spots as required on an open lot in the Avon Industrial zoning district at the property located and known as 491 West Main Street, Avon, Massachusetts. Plans may be viewed by appointment prior to the hearing at Town Offices or found on the Town Website. <https://www.avon-ma.gov>. AVON ZONING BOARD OF APPEALS Kevin Foster, Chairman. The Board of Appeals further advised the attendants that all abutters, as certified by the Town Board of Assessors, to the property located at 491 West Main Street, Lot # D4 / 3 / 2, Avon, Massachusetts and concerned parties had been notified of the intent of this hearing. All the requirements had been met with reference to notifications, publications, and postings, as mandated by Laws Governing the action of Public Hearings and the Board of Appeals (*Massachusetts General Laws, Ch. 40A § 11*); and, Town of Avon Board of Appeals Procedures for Applicant(s)/Petitioner(s), effective January 1, 2001.

The Chair recognized the Petitioner, Ben Pinkowitz, d/b/a B & C Motors who requests a Special Permit under Section 255-5.3 F-3. He presented his plan for wholesale-to-wholesale car sales with no additional parking spots as required on an open lot in the Avon Industrial Zoning District located at 491 West Main Street, Avon, MA. The Petitioner states that they were granted a Special Permit under Section 255-5.3 F-3 allowing the sale or rental on an open lot at the property when they met with the Zoning Board of Appeals on or about June 2, 2020. Mr. Pinkowitz explained that the purpose of the Special Permit is an opportunity for him to car shop for an out of state car dealership at car auctions. The out of state dealership has partnerships with other wholesale dealerships in other New England states as well. Mr. Pinkowitz stated that nothing in the Town of Avon will change at his location. The location will not become a dealership; it will still be a lumber company that rents U-Haul vehicles. There will be no vehicles sold on the property at 491 West Main Street; there will be no additional parking. This permit will only allow Mr. Pinkowitz to get a dealer license. This will allow him to get listed as a Dealer with the Registry of Motor Vehicles. This will allow him to attend wholesale auctions to wholesale vehicles out of state to the dealership.

The Board of Appeals discussed the Special Permit request and asked for clarification. The ZBA members clarified with Mr. Pinkowitz that there would be absolutely no additional vehicles on the property on 491 West Main Street. The Zoning Board of

Appeals members clarified that the previous Special Permit was only for rental of U-Haul vehicles not for sales of the vehicles. Mr. Borden, Building Inspector discussed that there should be a time frame for the Special Permit depending on the decision the Zoning Board of Appeals. It will state that there will be absolutely no storage, display, pick up or drop off of vehicles at 491 West Main Street. Mr. Pinkowitz will commit to zero vehicles on the property at 491 West Main Street. He also agrees to the limited time frame. The ZBA inquired about who Roger Gordon, Adj. LLC d/b/a B & C Motors is. Mr. Pinkowitz's stated that it was his partner who retired years ago. This makes Mr. Pinkowitz the petitioner. This is why he has a d/b/a B & C Motors. Mr. Picardi stated that the permit cannot be sold with the business. Mr. Mekjian is concerned with using the last license and will only agree to the Special Permit if there is a trial period of one year with conditions. Some of the conditions of the Special Permit will be: zero vehicles brought to the facility on 491 West Main Street at any time; no loading or unloading of vehicle in the street or in the parking lot; the permit can be revoked at any time, the Special Permit will have an expiration date of one year.

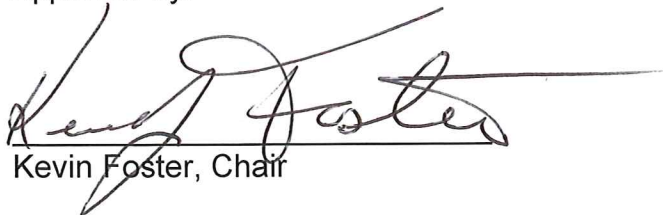
A motion was made by Robert Ogilvie where as the petitioner is requesting a special permit for wholesale- to-wholesale car sales business at 491 West Main Street, the Board hereby grants the Special Permit with the following conditions: no outdoor storage or display of any vehicles, no indoor storage or display of any vehicles, no pick up or delivery of any motor vehicles to whom or from the property, this Special Permit is to allow only office space for the conduct of wholesale motor vehicle sales, in addition to the previous conditions, the permit will be issued for 13 months and any violation will institute suspension of the current Special Permit, after 13 months the Board will continue to review for a five year term, seconded by Gerald Picardi. No Discussion on the motion. A roll call vote was taken, Gerald Picardi voted aye, Edward Mekjian voted aye, Robert Ogilvie voted aye and Kevin Foster voted aye. Voted Unanimous. The motion carries.

Minutes:

Kevin Foster, Chair read in the meeting minutes of September 7, 2021. The minutes will be approved at the next meeting. They are accepted as read.

A motion was made by Gerald Picardi to adjourn the meeting at 7:40 p.m., seconded by Ed Mekjian.

Approved by:



Kevin Foster, Chair

List of Documents

1. October 5, 2021, Meeting Agenda
2. September 7, 2021, Meeting minutes
3. Public Hearing Notice for Case # 21-4, 491 West Main Street
4. Special Permit application
5. Letter from The Law Office of Joseph S. Lalli dated 6/9/21
6. Letter from The Board of Health