

**Town of Montville Zoning Board of Appeals  
Regular Meeting Minutes  
May 1, 2019  
Town Hall – Town Council Chambers**

**1. Call to Order.**

Chairman MacNeil opened the regular meeting of the Zoning Board of Appeals at 7:00p.m.

**2. Roll Call.**

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

**3. Minutes: Approve the Minutes of the March 6, 2019 Meeting.**

Motion by Board member Yuchniuk; seconded by Board member Adams to approve the Minutes of March 6, 2019, as written. Discussion, none. Voice vote, 5-0, all in favor. Motion carried.

**4. Executive Session. *None***

**5. New Business:**

- a. **#219ZBA2** – 306 (aka 302) Route 163 (Map 82, Lot 60), Montville, CT – Property Owner, William Shallcross, Sr. – Applicant, Concept Auto Sales, LLC – Elier Concepcion, Location Approval for State of CT Department of Motor Vehicles, Dealer & Repair License per C.G.C Section 14-54, for new operator of existing facility.

For the record, this application is for Location Approval for an auto dealer & repair facility per C.G.S. Section 14.54 (copy attached). Location approval for facility at this location was granted to William Shallcross, Jr. by Montville ZBA on 04/01/1998. Current location approval is requested in order for the Applicant, Concept Auto Sales, LLC – Mr. Elier Concepcion, to obtain an Automobile Dealer’s Repairer License as the new operator of the existing facility. No changes are proposed to the existing business or site (See photos attached for reference).

Regarding the requirement for public hearing, a 2011 State Superior Court case (*East Coast Towing vs. Zoning Board of the City of Stamford*) held that despite the legislature’s 2005 *repeal* of C.G.S. Section 14-55, which section had required a public hearing process, that the ZBA (or the PZC in some towns), *should* hold a public hearing, *except* that it stated, in relevant part, “In any case in which such approval has been previously granted for any location, the local authority may waive the requirement for a hearing on a subsequent application. In addition, the local authority may waive the requirement for a hearing on an application wherein the previously approved location of a place of business is to be enlarged to include adjoining or adjacent property.”

It is the staff's opinion that it is not necessary to hold a public hearing based on the properties previous use for auto & motorcycle repair, however, it is ultimately up to the Board as to whether or not a public hearing is necessitated. If the Board determines a public hearing is required, such hearing would be scheduled for a later meeting date.

For this application, Chairman MacNeil asked whether notices had been sent out. ZWO Woodlock responded notices did not need to be sent out for this application as the facility was existing and has had three (3) previous location approvals and two (2) prior site approvals.

ZWO Woodlock gave the staff report for 306 (aka 302) Route 163 (Map 82, Lot 60); the existing facility is located in an industrial zone. She said the last site approval for the existing facility was on April 2, 1998, for a business. The last location approval was in March 2017 for the business, Myers Motor Sports. ZWO Woodlock reported that the applicant will be using the existing facility as it is and a dealer repair license. She also said the applicant was present if questions needed to be asked of him.

Chairman MacNeil asked if anyone wanted to speak in favor of the application. He then asked if anyone wanted to speak in opposition of the application. Chairman MacNeil asked the Board if there was any discussion, comments or questions for staff. Board member Adams commented that the location is pre-existing and unless the State had implemented changes approval of the application by the Board was a formality. ZWO Woodlock said the location satisfies the DMV requirement.

Motion by Chairman MacNeil; seconded by Board member Adams as follows: *I move to approve Application #219ZBA2 of Applicant, Concept Auto Sales, LLC – Mr. Elier Concepcion, for Location Approval pursuant to Section §14-54 of the Connecticut General Statutes to allow the operation of automotive dealer & repair facility at 306 (aka 302) Route 163 (Map 82, Lot 60) Montville, CT, owned by William Shallcross, Sr., in accordance with a plan entitled “B & S Cycle, Site Development Plan, 302 Route 163, Montville, CT, Prepared for William Shallcross, Prepared by Reynolds Engineering Services, LLC, Dated 6/14/07, Revised to 12/12/07”, with a finding that the subject property is suitable for the business intended and, with due consideration given to its pre-existing use since 4/1/89, the requirement for a public hearing is waived.* Discussion: none. Roll Call vote: In favor, Board members MacNeil, Berardy, Yuchniuk, Gladue, and Adams. Opposed: none. Motion carried, 5-0.

6. **Public Hearings/Applications.** -- None

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

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

9. **Adjournment**

Motion made by Chairman MacNeil; seconded by Board member Adams, to adjourn the meeting at 7:08 p.m. Discussion, none. Voice vote, 5-0; all in favor. Motion carried.

Respectfully submitted by:

Gloria J. Gathers  
Recording Secretary, Town of Montville

**AN AUDIO RECORD IS AVAILABLE AT THE TOWN WEBSITE.**