

Memo

From: Attorney Dorian L. Reiser

Date: May 21, 2026

Re: Application for Location Approval – 1080 Route 32, Montville, CT

I have been asked to provide guidance on behalf of my client, Sammy P Inc., in connection with the processing of its application for a Motor Vehicle Recycler's License Location Approval at property owned by Drive-In, LLC at 1080 Route 32, Montville, CT (the "Property").

Connecticut General Statute § 14-67i provides that in order to establish, operate or maintain a motor vehicle recycler's yard or business, a certificate of approval of the location must first be obtained from the board or authority designated by local charter, regulation or ordinance. However, in towns having a zoning commission, combined planning and zoning commission and a board of appeals, the certificate of approval shall come from the zoning board of appeals (ZBA).

When acting on location approvals, the local ZBA is acting pursuant to authority in Title 14 of the Connecticut General Statutes, rather than pursuant to the zoning statutes in Title 8. As such, the ZBA is acting as "a special agent of the state" and "does not act pursuant to either municipal zoning ordinance or the zoning statutes." Vicino v. Zoning Board of Appeals of Town of Westbrook, 28 Conn. App. 500, 504 (1992); Mason v. Zoning Board of Appeals of City of Bridgeport, 143 Conn. 634, 637 (1956). "Obtaining a certificate of [location] approval . . . is not a zoning matter." Sun Oil Co. v. Zoning Board of Appeals of Town of Hamden, 154 Conn. 32, 35 (1966); and when acting on a location approval application "the board is not dealing primarily with zoning but is performing a separate function delegated to it as an agency of the state" Dubiel v. Zoning Board of Appeals of Town of East Hartford, 147 Conn. 517, 520 (1960).

Actions on a location approval require only a simple majority of the board to pass, rather than a vote of 4 members of the board as typically required when the board is acting pursuant to Title 8. Sun Oil Co., supra, 154 Conn. at 34. In addition, there is no requirement that a public hearing be held on a location approval request, such requirement having been repealed in 2003.

Also repealed in 2003 were any statutory standards or criteria for determining whether a location is suitable for the proposed use. “In the absence of statutory criteria ... it is left to municipal zoning boards to determine, in their discretion, the factors relevant to their decision on whether to grant a location approval.” One Elmcroft Stamford, LLC v. Zoning Board of Appeals of City of Stamford, 213 Conn. App. 200, 222-223 (2022) (on remand from the Supreme Court). Ultimately, the ZBA must determine whether the site is suitable based upon the relevant circumstances in existence at the time the approval is sought. The intent of the statute is to permit the local board, that has knowledge and familiarity with the location, to analyze whether the operation is suitable for the location.

“[T]he fact that a proposed use is permitted in a particular zone does not *obligate* a zoning board to grant a location approval application. Indeed, *all* applications filed pursuant to [Title 14] necessarily involve uses that are permitted to some degree, as ‘[a] certificate of approval for a particular use cannot be issued if that use would violate zoning regulations.’” Id., at 232, emphasis added, citing Raymond v. Zoning Board of Appeals, 164 Conn. 85, 89 (1972). The ZBA “is obligated to make a determination, irrespective of the permitted nature of the proposed use, on whether a certificate of approval should issue.” Id. at 233.

In analyzing this request, the ZBA should first consider whether the use is permitted in the zone. The subject Property is located in the Commercial-2 (C-2) Zoning District. Permitted uses broadly include “activities involving the sale of goods or services carried out for profit” (Section 11.2.1). Query, does a motor vehicle recycler’s yard fall within this category? “When definitions are not provided in the zoning regulations, courts ‘look to the common understanding expressed in the law and in dictionaries.’” Kobyluck Brothers, LLC v. Planning and Zoning Commission of, 167 Conn. App. 383, 391 (2016). Furthermore, “[b]ecause zoning regulations are ‘in derogation of common law property rights ... the regulations cannot be construed beyond the fair import of its language to include or exclude *by implication* that which is not clearly within its express terms’ ... ‘when a statute is in derogation of common law ... it should receive a *strict construction* and is not to be extended, modified, repealed or enlarged in its scope’ ... ‘doubtful language will be construed *against rather than in favor of* a restriction.’” Id. at 392, emphasis added and internal citations omitted.

Motor vehicle recycler’s yard and business is defined by statute to include “any *business* and any place of storage or deposit ... which has stored or deposited two or more unregistered motor vehicles which are no longer intended or in condition for legal use on the public highways, or used parts of motor vehicles ... which has been a part, or intended to be a part, of any motor vehicle, the sum of which parts shall be equal in bulk to two or more motor

vehicles.” CGS 14-67g. The sale of goods or services for profit is implicit in the definition of a “business”. “Black’s Law Dictionary provides a definition of ‘business’: ‘a commercial enterprise carried on for profit...’” Tesla, Inc. v. Conn. DMW, 2018 Conn. Super. LEXIS 5747. “[C]ases have given the word ‘business’ ... widely variant meanings ... Common to those decisions, however, is a distinction between an activity that is performed for the primary purpose of generating profit, to which the work ‘business’ is attached, and activity that is not animated by such a purpose.” Id. Based upon the foregoing, a motor vehicle recycler’s business falls squarely within the permitted use of “activities involving the sale of goods or services carried out for profit”.

Furthermore, the only way for a town to restrict motor vehicle recycler’s businesses or yards within their town is pursuant to Connecticut General Statute § 14-67s which provides, in part, as follows:

“[T]he legislative body of any town, city or borough, in addition to powers conferred by the statutes or special acts upon such towns, cities or boroughs or the respective officials thereof, may enact ordinances creating restricted districts within which any motor vehicle recycler’s yard or motor vehicle recycler’s business shall not be permitted to be established; provided, in any town, city or borough having a zoning commission or town or city planning commission or board, such zoning commission, planning commission or board shall have the authority to create such restricted districts by the adoption of appropriate rules, orders or regulations, and provided any ordinances, bylaws or regulations adopted prior to October 1, 1957, under the provisions of section 4654 of the general statutes, revision of 1949, otherwise valid except that they were not adopted pursuant to the procedure provided in this section, shall remain valid until altered or repealed under the provisions of this section.

If the Town of Montville wishes to limit the location of motor vehicle recycler’s businesses or yards, it would need to adopt an ordinance or a zoning regulation creating specifically restricted districts in which the yards would not be permitted. The Town has not undertaken such affirmative action. Merely omitting a specific reference to motor vehicle recycler’s yards does not constitute compliance with the steps required by statute. Connecticut law requires strict adherence to statutory provisions when limiting property rights.

Upon concluding that a motor vehicle recycler’s business is a permitted use within the zone, the ZBA should then consider whether it is an appropriate use for the subject Property. In this regard, it should be noted that “the designation of a particular use of property as a permitted use establishes a conclusive presumption that such use does not adversely affect the district and precludes further inquiry into its effect on traffic, municipal services, property values, or the

general harmony of the district.” Friedman v Planning and Zoning Commission of the Town of Rocky Hill, 222 Conn. 262,265-266 (1992). As noted above, the zoning regulations widely permit “activities involving the sale of goods or services carried out for profit,” which includes motor vehicle recycling yards, within the C-2 Zone. A conclusive presumption, therefore, arises that such a use would not negatively affect the surrounding area.