

SUMMARY DATE: August 31, 2021

TOWN PLANNING STAFF REPORT from : Michael J. Murphy, AICP, 860-885-8697/mmurphy@seccog.org

APPLICATION / PROJECT NAME

APPLICANT / PROPERTY OWNER

Ciccarelli Collision Services LLC

Ceccarelli Properties LLC

PUBLIC HEARING / DECISION TIMEFRAMES

PROPERTY ADDRESS / LOCATION INFORMATION

65 days from close of hearing

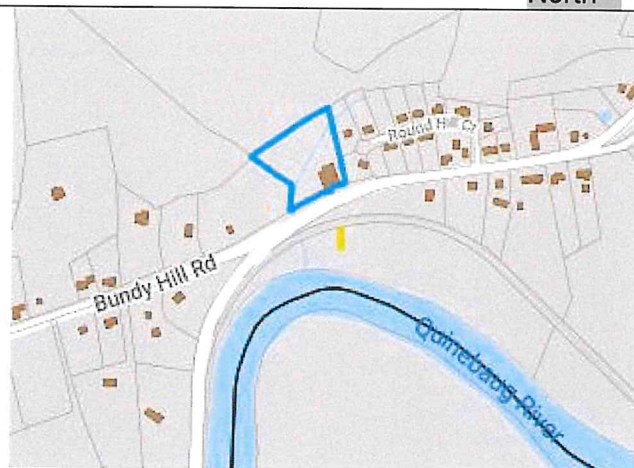
363 River Road

BRIEF SUMMARY OF REQUEST

This is a request for approval of a special permit, required by the commission, to make modifications to an existing non-conforming commercial site under provisions within section 2.8 of the regulations. Section 9 regarding non-conforming uses also comes into play with this application.

See the applicant's **supporting materials** which have been upgraded and have been uploaded on the Commission's website. It will also be included in Commission packets to provide you with more detail.

WAIVER REQUESTS: Request for waiver of the requirement for a full A-2 survey and site plan has been provided. Staff partially supports this request since no new building expansion or construction is proposed at the site at this time; however, additional professional / technical information may be required regarding site development.



MAP SOURCE: Regional GIS

EXISTING LAND USE & ZONING	SURROUNDING ZONING & LAND USE	SITE IMPROVEMENTS	SIZE OF PROPERTY
Apparent vacant commercial warehouse/R-40/80	North: R-80/res South: R-80/res/railroad row East: street/R-40/res West: R-80/res	Full extent of outside improvements and building usage is still not clear at the time of this writing	4.1 +/-acre

PLANNING STAFF ANALYSIS AND RECOMMENDATIONS

COMPATIBILITY / COMPLIANCE with the POCD-2016 and other appropriate plans, policies or studies:

This is a non-conforming use in these residential zones which has been determined to require Planning and Zoning Commission approval in light of proposed site modifications. The use must be determined to be consistent with requirements of section 9 and required findings needed to be made in section 11.

So, the project should establish that the proposed use is a 1) a continuation of appropriate and valid non-conforming activity at the site, and 2) that it meets the special permit test regarding traffic and compatibility of land use in this zone.

PROJECT HISTORY AND BACKGROUND:

The site is an apparent **non-conforming commercial use**, historically having been the home of the Geer and Monarch companies, for example, but it is vacant now. It is listed as a commercial warehouse in our assessment records of the Town.

There was a variance issued in 1984 that permitted expansion of the building at the time of the Monarch occupancy to within 8' of the state highway (front lot line), which should make the building conforming. There were no apparent major issues relating to the use of the property at the time, and the town enforcement personnel and the ZBA apparently acquiesced to recognize the Monarch use at the time of the variance.

This applicant proposes to use the property for **auto body work and related auto repairs, as well as proposing a used car dealership**. This would imply storage of vehicles pending repair and insurance requirements along with repairs thereto, related body work, and vehicle painting. **The commission should consider whether the full extent of the use proposed is consistent with the historic use of the site or is it an intensification of the non-conforming use.**

LAND USE/ DEVELOPMENT COMPATIBILITY with APPLICABLE REGULATIONS AND/OR DESIGN STANDARDS:

Administrative: Staff provided preliminary comments regarding the original site plan, including the request for the special permit application and submission of the detailed checklist to have the applicant address all plan issues. While revised information was provided, the checklist still needs to be provided to assure that the applicant addresses all necessary information required.

The application must be found consistent with the provisions of section 9 regarding non-conforming uses and section 11 regarding special permit *Findings*. So, intensification of use, traffic safety, and appropriateness of use are all key considerations in this review.

The hearing has been advertised as required by the town and proof of individual mailings via certified mail to abutters have been provided by the applicant. The applicant has also posted the two required (2) public hearing signs as required within the time (10-30 days) period required and complied with procedures.

Non-Conforming Use Intensity Considerations: This site has been problematic based on the lack of consistent commercial use activity at this property. In addition, the regulations do not have a solid provision to regulate proposed changes in non-conforming use activity at valid sites. While there are provisions for continuation and expansion of these types of uses, they may only be changed to conforming uses (those actually permitted in the zone). See *supplemental staff comments* (attached) raised in my correspondence to the applicant and his attorney regarding the non-conforming use legal tests that apply under the regulations. These issues have been addressed to some degree by Attorney McCoy. My comments, as well as his response, are attached to this staff report.

It appears from the site's history that the transition from the Geer Corporation activities to the Monarch occupation of the site did not generate any documented enforcement action under section 9 in the 1980s, at which time a variance for expanding and extending the building into the front yard was also processed and approved. It appears that the use of the site for repairs, servicing of smaller motorized vehicles, and possibly some product sales had been recognized by the Town at the time when Monarch occupied the site with another motorized vehicle service business. This planner is unaware of any record of Town authorization of any other uses at the site, which would likely have violated section 9. Staff will research agency minutes to see what, if any, actions may have been taken by the Planning and Zoning Commission around the time of the variance.

This applicant's proposed use calls for auto body and related repair, which presumably requires a **General Repairers** license under the statutes. But it also requests approval for outdoor display for used car sales, which requires the **Dealer and Repairers** license. The commission should first determine if the vehicle repair activity is consistent with the historic use of the site, and if so, then determine if it feels the proposed application to include outdoor display and sale of used cars is also consistent with the historic non-conforming use at the site (or does the used car sales use represent an unacceptable intensification of the historic activities on site in violation of section 9.1).

Health and Safety Code Considerations: Uncas Health District has provided commentary requesting some information on the existing septic system, which are attached. The applicant has provided an inspection report of the system, which is very basic and may need to be clarified. It appears to relate to review of a system associated with an individual home.

Staff has found some additional information from assessor's records that implies the possible existence of an apartment within the building; this and the question of the existence of bathroom facilities should be clarified by the applicant during the hearing.

Staff has provided the application to the Building Official and Fire Marshal to address issues that relate to the auto repair and potential auto body work issue. Any comments of the above agencies received will be included with this report or presented at the hearing. Additional information should be provided regarding installation of any paint booth(s), fluid (hazardous materials) storage facilities, or plans for propane usage. A **floor plan** should be provided to clarify all interior building use issues for the Building Official and Fire Marshal.

Site Design and Appropriateness of Use: A review of the revised plan provided to become the plan of record proposes some changes to show an impound area and a used car sales area to the rear of the building; however, the plan also raises some new concerns based on the applicant's response to my earlier comments, including these more significant issues:

- a. If the well is located as shown, section 12.6.5 needs to be reconciled with the impoundment area proposed to be surfaced with pervious millings. The well shown on the plan could not be readily found on site but a possible well head or other appurtenance was observed to the south of the building in relative proximity to the leach fields for the septic system. These items should be clarified for review by the health district.
- b. The proposed surface treatment of millings may be permitted by the commission for driveways and customer parking if it deems the intensity of the use is acceptable, but the area would need to be expanded to create a 24' wide access drive to the rear of the site; however, staff believes the millings treatment should not be permitted as a surface for the impoundment area, regardless of its location.
- c. The impoundment area should be paved with asphalt and should be re-evaluated with respect to the location of the current well location claimed. See items #1 and #2 above. This will likely require more detailed grading and provisions for capturing leaking fluids with some oil and water separation and leakage collection ability.
- d. The access scheme would need to be modified and improved to a one-way entrance and exit system, since staff 's original suggestions re access were not addressed. Customer or employee parking should not be parking up against the building in the current format proposed, permitting cars to enter or back out and exit anywhere along this portion of Route 12. A solution would involve extending the existing island northerly to define and narrow an entrance point. A few properly designed *diagonal parking* stalls could be used along the front of the building including handicapped parking. Signage to promote this pattern will also be needed. Staff can provide guidance at the hearing regarding this design.
- e. A single cost estimate for improvements needs to be put together on a single sheet of paper to address site improvements, without company quotes.
- f. A parking calculation needs to be included on the plan based on section 13.9.4 for an auto sales/repair use. It needs to address employees per shift, spaces for display area and service bays, and handicapped/accessible parking. Some additional parking is likely needed along the widened access drive recommended in item #2.
- g. Evergreen screening should be proposed along the inside of the southern section of the relocated chain link fence.
- h. The applicant should clarify plans for signage. Posts are located on the State right of way and may be subject to a lease as well as an encroachment permit from CONNDOT.
- i. A floor plan of the proposed building use areas such as **office, repair bays, paint booths, sanitary facilities, access doors, etc.** is needed to address health and safety requirements. This floor plan should also clarify the planned use of the second floor mezzanine that appears on assessor's records as a possible apartment.

RECOMMENDED ACTIONS, INCLUDING ANY MODIFICATIONS, CONDITIONS, REASONS FOR APPROVAL OR DENIAL, ETC.:

Staff believes the issues raised in this report should be addressed by the applicant as part of the hearing. The hearing can be continued to October 5, 2021 without grant of an extension from the applicant.

ATTACHMENTS (CIRCLE): <i>(staff supplemental comments regarding the non-conforming use issue)</i>	SUBMITTED PLANS	APPLICATION FORM(S)	LEGAL NOTICE	LEGAL DESCRIPTION
OTHER (DESCRIBE):	PUBLIC COMMENT(S)	AGENCY COMMENTS Uncas Health email and septic inspection report of contractor)	APPLICANT RESPONSE	STUDY EXCERPTS

SPECIAL PERMIT, Ceccarelli Properties, LLC, 363 River Road, Lisbon- Used Car Dealer/Auto Repair Facility

Supplemental Staff Comments Regarding the Non-Conforming Use Test and Other Applicable Regulations: *Michael J. Murphy, AICP, SCCOG Consulting Planner/Lisbon Town Planner, Date: August 4, 2021*

Given the non-conforming use issues surrounding this property, the following comments will supplement the plan development comments provided to you earlier this week to help expedite consideration of your application. These provisions cited from the statutes and zoning sections 8 and 9 are standards the Commission must determine are met by an applicant.

- 1) Excerpt from operative clause of Public Act No. 17-39/AN ACT CLARIFYING THE CONTINUATION OF NONCONFORMING USES, BUILDINGS OR STRUCTURES.

“Such regulations shall not prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations. Such regulations shall not provide for the termination of any nonconforming use solely as a result of nonuse for a specified period of time without regard to the intent of the property owner to maintain that use. Such regulations shall not terminate or deem abandoned a nonconforming use, building or structure unless the property owner of such use, building or structure voluntarily discontinues such use, building or structure and such discontinuance is accompanied by an intent to not reestablish such use, building or structure. The demolition or deconstruction of a nonconforming use, building or structure shall not by itself be evidence of such property owner's intent to not reestablish such use, building or structure.”

The above underlined provision modified existing statutes in July, 2017 to clarify non-conforming use restrictions and rights of same. The legitimate reuse of this site has been a concern of the Commission since this planner started staffing the Commission in 2015. Evidence of the property owner’s intent to market and/or use the site for the valid non-conforming use of the site should be provided to the Commission at, or before, the hearing.

- 2) The provisions of section 9 in the Lisbon Zoning Regulations, particularly sections 9.1, 9.4, 9.4.1, 9.6.1, and 9.6.2 are also operative provisions that must be met by applicants requesting modifications to any site of a non-conforming use. These are in some ways more restrictive than other similar types of local regulations but also provide some flexibility. Information should be presented by your attorney to establish that this proposal complies with these provisions.

- 3) The Commission is likely to require you to confirm the history of the non-conforming use of the property and how this use is consistent with the historic use of the site. This should consider

Re: Lisbon Applications for review

Elaine Joseph

Thu 7/29/2021 8:26 AM

Sent Items

To: Christopher Madden <cmadden@uncashd.org>;

Cc: Patrick McCormack <doh@uncashd.org>;

Thank you, Chris. I have forwarded your comments to Mr. Murphy, and will let you know if there is anything else he needs from you. - Elaine

Elaine Joseph
Administrative Assistant / Clerk to the Boards
Town of Lisbon
1 Newent Road
Lisbon, CT 06351
860-376-3400
www.lisbonct.com

From: Christopher Madden <cmadden@uncashd.org>
Sent: Wednesday, July 28, 2021 3:24:33 PM
To: Elaine Joseph
Cc: Patrick McCormack
Subject: RE: Lisbon Applications for review

Elaine,

This office has no comment for the application for Better Val-U as the changes do not change or impact the use of the current business. **In regards to the application for 363 River Road, the basic use for this property is not changing from my understanding. It was previously a garage that has remained vacant and will be (potentially) used as an auto dealership and shop. As such there is no issue with the application as long as the current septic system is inspected and verified to be functioning.** If you need a letter or for me to stop by the town for any sign off, please let me know.

Christopher Madden
Sanitarian
401 West Thames Street, Suite 106
Norwich, CT 06360
(860) 823-1189 x117



From: Patrick McCormack <doh@uncashd.org>
Sent: Wednesday, July 28, 2021 12:20 PM
To: Albert Gosselin <agosselin@uncashd.org>; Christopher Madden <cmadden@uncashd.org>
Cc: Michael Kirby <chfsanit@uncashd.org>
Subject: Fwd: Lisbon Applications for review

Patrick McCormack, MPH

Abrahamson Septic LLC

661 ROUTE 165
PRESTON, CONNECTICUT 06365
(860) 889-7939

SEWAGE DISPOSAL SYSTEM FIELD REPORT

NAME: CECCARELLI PROPERTIES

ADDRESS: 363 RIVER RD - LISBON

DISTANCE FROM HOUSE TO TANK; 33 FT

WAS INSIDE OF TANK VISIBLE? IF YES, DESCRIBE CONSTRUCTION & CONDITION.
YES CONCRETE GOOD

ESTIMATED CAPACITY OF TANK. 1000 GALLONS

WAS TANK PUMPED RECENTLY? IF SO, LIST DATE.
YES 8/26/21

IS THERE A WELL LOCATED ON THE PROPERTY? YES IF VISIBLE, DOES IT HAVE THE
REQUIRED 75 FT SEPARATION? YES

WAS THE HOUSE OCCUPIED AT THE TIME OF INSPECTION? NO
IF NOT, HOW LONG HAS THE PROPERTY BEEN VACANT? 1 YEAR

WAS THERE EVIDENCE OF OVERFLOW OF LEACHING SYSTEM? NO IF SO, CIRCLE
APPLICABLE DESCRIPTIONS: WATER RUNNING BACK TO TANK FROM LEACH
EFFLUENT SURFACING WET AREAS DEPRESSION SIGN OF RECENT SERVICE

WAS THERE EVIDENCE OF PRIOR SEWER BACKUP? NO IF YES, PLEASE EXPLAIN.

ADDITIONAL COMMENTS;

NAME: John E. Abrahamson LIC. NO. 003259 DATE 8/26/21

Septic systems are underground making it impossible to state, with certainty, their overall condition. All systems require maintenance (cleaning). No one can predict when a system will fail. This report comments only on the functionality on the day of inspection. It is not a warranty.

RECEIVED
AUG 27 2021

Ceccarelli Properties LLC
363 River Road

BY:

The loading dock on the left side of the building will be filled in the processed gravel and the asphalt on the sides of the loading dock will be removed. The area that currently has gravel will be top coated with millings, this includes the impound area. (Ref: Suchocki & Son, Inc work order)

Any vehicles that have the potential of leaking fluid will be parked on top of a "Pig Mat" with is designed to capture any type of fluid that could potentially be hazardous to the environment. The Mats come in 10 X 10 and 12 X 12 sizes to cover the entire underside of a vehicle. See Site Plan for location of cars in impound area.

All cars will be stored on the inside of the proposed fence with the exception of customers that are there for an estimate. All cars for sale will not be seen from the road.

Hazardous waste that is generated through the business will be picked up by Safety Kleen every three weeks and recycled in their treatment plant. Waste on the premises will be stored in drums provided by Safety Kleen.

The asphalt in the front of the building should remain for access to the front garage doors. The turn-around area currently there should remain for safe entrance and exit from the Norwich direction.

The concrete dumpster pad will be fully enclosed with a fence. There will be 2 dumpsters which will be used for recyclable metal and for garbage. (Ref: Suchocki & Son, Inc work order for concrete dumpster pad cost and Home Depot customer quote for timber and stockade fence panel)

New fence along the front side of the building (Ref: Conderino Contracting LLC estimate)

Building will be painting white with tan trim and doors. Paint sample provided. (Ref: Home Depot customer quote)

All existing lighting will remain the same. Locations are indicated on the Site Plan.

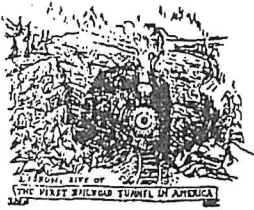
The sewer was pumped on 8/26/20 by Abrahamson Septic, LLC. The tank is a 1000 gallon and in good working order. A copy of the certificate will be sent to Uncas Health District and forwarded to Michael Murphy on 8/30/21.

All construction material at the site will be removed prior to the meeting on 9/7/21.

Joseph Theroux will be at the property at 8:00 am on 8/30/21 to confirm if there is any wetland soil within 100' of proposed work.



Nicholas Ceccarelli
8/27/21



PLANNING & ZONING COMMISSION
TOWN OF LISBON
1 Newent Road
Lisbon, Connecticut 06351

TOWN OF LISBON
PLANNING AND ZONING COMMISSION
NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing at which parties in interest and citizens will have an opportunity to be heard will be held on September 7, 2021 at Lisbon Town Hall, 1 Newent Road, in said Town as noted herein to consider the following:

6:30 - Application by Ceccarelli Properties, LLC for special permit approval in accordance with Sections 2.8 and 11 of the zoning regulations to allow for modifications at a non-conforming use/vacant building as per section 9 of the regulations to operate a used car dealership and auto body repair facility, 363 River Road, a 4.1+/- acres parcel (Assessor's Office Map ID 13/005/0000) in the R-40 and R-80 zones.

The application and accompanying materials are on file and available for public inspection by appointment during normal business hours at the Town Clerk's Office, 1 Newent Road, Lisbon, CT 06351, and on the Town website at <https://www.lisbonct.com/planning-zoning-commission>.

By Robert Adams, Chairman
Lisbon Planning and Zoning Commission

Dated at Lisbon this 23rd day of August, 2021

RECEIVED FOR FILING

08/23 20 21 at 10:35 M.

TOWN CLERK'S OFFICE
LISBON, CT

Maureen Waboly, A.S.T.
TOWN CLERK