

## **Norfolk Board of Selectmen's Open Session Meeting Minutes February 15, 2019**

Present: Jim Lehan; Kevin Kalkut; Bob Bullock, Building Commissioner; Rich McCarthy, Town Planner; and Dave DeLuca

The meeting was held in Room G07, Town Hall. Jim Lehan called the meeting to order at 10:03 a.m. Jim announced this meeting is being both video and audio taped. There was no flag available to recite the Pledge of Allegiance.

Jim stated that there are two Agenda's items being addressed at this meeting:

### Public Hearing on Mitch's Garage

Dave DeLuca stated that this Class II License was approved in mid-December. It had existed at 269 Dedham Street by special permit (by exception) for some time. They have been licensed to sell used cars - Class II License. Until more recently, the premises has been taken over by Carvana, which is commonly known as an internet automobile sales option. At a recent Town Meeting, the property was rezoned to permit only storage of automobiles. In order for Mitch's Garage to be able to display and sell and continue to qualify for a Class II License at that location, there needed to be an agreement between Carvana and Mitch's Garage. The overall zoning was to permit storage but does not generally permit display and sales. Mitch's Garage has been able to continue there by exception in the nature of pre-existing non-conforming use. There has been dispute on the facts on whether or not Mitch's Garage has continued to display and sell automobiles. They have represented that they have operated there continually. Our inspection department has investigated and found there are facts contrary to that. It was Legal Counsel's recommendation to determine whether or not Mitch's qualifies for a Class II License. Dave cited Chapter 140 Sections 58 and 59 defining Class II License requirements. The principle business is the real issue and it is what put this hearing into motion. Just today, a letter on Carvana letterhead has arrived to the Town indicating that Mitch's Garage does maintain a premise at that location. A photo was also provided.

Kurt Maloof, and his attorney, Lisa Whelan were present and gave some background information. Mr. Maloof is co-owner of the property with Tim O'Toole. Ms. Whelan informed the Board that the business is important to the applicant's income. She explained the current logistics of sharing space with Carvana.

The property consists of 4 parcels. They are in the process of seeking site plan approval from the Planning Board to build a 10,000 sf. commercial building on two of

the parcels (273 Dedham St.) The intent is that Mitch's will utilize that building. Sharing space with Carvana is a temporary situation. Kurt has a couple of other businesses in Town and there may have been some confusion as to customers being directed off-site from 269 Dedham to speak to him. The business has been in good standing. Their goal is to have ongoing business in the Town and he wants to assure the Town that he plans on doing whatever is necessary to maintain the license.

Rich McCarthy, Town Planner, gave a background on the request of the zoning change last March to lease the building to Carvana. He stated that in conversations with Mr. Maloof and Mr. O'Toole, it was explained that a physical presence and a building to operate the business is needed.

He stated that he stopped into Carvana on January 28<sup>th</sup> to confirm that Mitch's was maintaining a presence at the building.

Upon Rich's arrival, the door was locked. After he got someone's attention they told him that Mitch's did not have an office at that location. He directed Rich to a sign in the front of the building which informed customers to go to another location.

Bob Bullock, Building Commissioner, stated that he and the Town Planner spent a lot of time meeting with the applicant to be sure all would be done properly. He stated that they have been requesting a letter of proof that Mitch's maintains a physical presence for at least 5 months.

All agreed that had the letter been received sooner the hearing would not be required.

Dave asked if the special permit would need to be modified at the new location (273 Dedham). Bob Bullock stated he believes it would need modification due to the lot descriptions on the special permit. Rich McCarthy stated that if the lots were merged to one or if the building was all on one lot, it may not need modification.

Dave suggested that the Board take the matter under advisement; allowing a final check of information presented. And subject to the approval of the inspection department, the Board could go forward to issue license.

Mr. Maloof explained that there were 3 separate businesses at the location and the sign that Rich saw referred to the auto repair and the land and garden businesses.

At 10:35 a.m. a motion was made by Kevin Kalkut to open the public hearing on the Issuance of a Class II License to Mitch's Garage. It was seconded by Jim Lehan, and so voted.

The Board agreed to waive the reading of the Public Hearing Notice.

The Applicant was given the Class II License conditional on final review by the Town Planner and Town Building Commissioner in March 2019.

At 10:36 a.m. a motion was made by Kevin Kalkut to close the public hearing. It was seconded by Jim Lehan, and so voted.

Please Consider Potential Fire Chief Appointment

This item has been postponed until next meeting.

Please Consider Contract Adjustment for Interim Town Administrator

A motion was made by Kevin Kalkut to approve the proposed contract for the Interim Town Administrator for a period of 3 months with the option of a 4<sup>th</sup> month in the amount of \$3,750 per month. It was seconded by Jim Lehan, and so voted.

The next meeting of the Board of Selectmen will be held in Room 124 of Town Hall on February 21, 2019 at 7:00 p.m.

This is a true and accurate report of the Board of Selectmen's Meeting of February 15, 2019.

  
Kevin Kalkut, Clerk