

# Bond Case Briefs

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## **ZONING & PLANNING - CONNECTICUT**

### **One Elmcroft Stamford, LLC v. Zoning Board of Appeals of City of Stamford**

**Appellate Court of Connecticut September 3, 2019 - A.3d - 192 Conn.App. 275 - 2019 WL 4122599**

Adjacent landowner sought review of approval by city zoning board of appeals of application of property owner to locate used car business on property.

The Superior Court affirmed, and adjacent property owner appealed.

The Appellate Court held that:

- Technical mistake did not render vice-president's zoning application void for lack of standing;
- Statute governing procedures for consideration of used car dealerships by towns, cities, or boroughs had not been repealed at time zoning board considered application for use of property as used car dealership;
- Zoning board erred by treating application for zoning of property as used car dealership as request for variance and failing to apply standards or make statutorily required findings; and
- Trial court employed incorrect standard of review of board's decision.

Vice-president of company who applied to zoning board for use of property as used car dealership was sufficiently linked to company that had applied Department of Motor Vehicles for used car dealer license such that no one was misled or misunderstood nature of application, and thus, technical mistake did not render vice-president's zoning application void for lack of standing; application for used car dealer license listed vice president's name as officer of company, proposed improvement location survey for zoning purposes identified company's name, and vice-president was introduced as one of company's owners at public hearing.

Statute governing procedures for consideration of used car dealerships by towns, cities, or boroughs had not been repealed at time zoning board considered application for use of property as used car dealership, and thus, city zoning board was required to review application for zoning approval of property as used car lot under standard set forth therein, although compilations of General Statutes listed statute as having been repealed, where legislature, after having repealed and replaced statute with effective date later that year, repealed and replaced statute with new statute making minor, technical correction to it prior to effective date of statutes that repealed and replaced it, and new statute did not mention either statutes that repealed and replaced original version.

City zoning board erred by treating application for zoning of property as used car dealership as request for variance and failing to apply standards or make findings, including consideration of whether application is made for location that has been found suitable for intended business with due consideration to schools, churches, theaters, traffic conditions, width of highway and effect on public travel, as set forth in statute governing such applications, and thus, remand for consideration of such suitability factors was required, in action by adjacent landowner seeking review of grant of

company's application.

Trial court erred by providing its own inferences as to how zoning board of appeals could have classified and weighed testimony at public hearing, and thus, trial court employed incorrect standard of review of board's decision, in review of approval by zoning board of use of property as used car dealership, although board had heard testimony that could pertain to required findings of suitability of location for car dealership, where board stated its reason for approving application.

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