



Present: John Dax, Chairman
Charles Gerald, Zoning Board Member
Jeff Hattat, Zoning Board Member
Tony Murad, Zoning Board Member
Jeannine Tonetti, Zoning Board Member

Others Present: Howard Commander, Louise Clouser,

I. Call to Order:

Chairman Dax called the regular meeting of the Zoning Board to order at 7:30 pm. Roll call indicated all members were present.

II. Minutes Approval

Upon review of the June 2, 2009 minutes, a motion was made by Tony Murad, seconded by Jeff Hattat to approve the minutes as submitted. The motion carried on the following vote:

John Dax	Aye
Charles Gerald	Aye
Jeff Hattat	Aye
Tony Murad	Aye
Jeannine Tonetti	Aye

III. Case No: ZBA-2008-057: Valley Materials, Inc. – TM #: 8.-2-69

Property Owner: Dolomite
Agent: Young Sommer... LLC // Property Zone and location: RA 2 & RA5 - Route 9

Chairman Dax explained to the Board that Valley Materials has requested an adjournment this evening. The applicants are seeking an amendment to their DEC permit to allow mining on the full 30+ acres during the current permit term to expire in 2013. The applicants believe that the DEC approval will occur before the next scheduled ZBA meeting on August 4, 2009. Chairman Dax commented that since all the facts have been gathered thus far, he did not think the application would require another public hearing when they return.

Jeanine Tonetti stated that the record should reflect that she, Jeff Hattat and Chairman Dax conducted a site visit at the gravel mine location on 06.16.09. Chairman Dax noted that aside from an abandoned camper that Mr. Kroboth has agreed to remove from the property, it seemed to be a tidy operation with stock piles prepared for reclamation.

Case No.: ZBA-2009-006 – Lebanon Valley Auto Racing

Request for Campground Permit

Parcel Nos: 7.-2-4 and 7.-2-36

Representative: Mr. Howard Commander

Property Owners: 7.-2-04 – Lebanon Valley Auto Racing

7.-2-36 – Louis Spanier

Chairman Dax commented that a letter from Lebanon Valley Speedway was received today but was dated March 25, 2009. It was agreed that this was an error and should have been dated 06.29.09. The letter seems to argue that the campground should be grandfathered. Chairman Dax asked for clarification as to whether the applicant is here to appeal or to apply for a Special Use Permit. Mr. Commander stated that he is here applying for a Special Permit, but that he can get affidavits from people that have camped at Lebanon Valley Speedway since 1958. "We've been doing this since we opened". Chairman Dax stated that this information would not lead to an exemption to any current ordinance. Campgrounds can not be grandfathered.

Chairman Dax referred to the applicant's Columbia County Health Department Permit item no. 3 which states:

(3) This permit also allows for the operation of a campground to be in general compliance with part 7-3 of the New [York] State Sanitary Code

Chairman Dax stated that he will contact the DOH for clarification as this statement is unclear as to whether the applicant IS in compliance or MUST BE in compliance with NYS Sanitary Code.

Mr. Commander stated that the DOH had certain requirements that must be followed: 18 ft. area for each camper, toilets and showers must be open, signage regarding where to get sewer pumps and had to get a telephone. However, they did allow us to use our existing restrooms and showers on the north side of Route 20. Chairman Dax asked if Mr. Commander had written documents stating such. Mr. Commander stated that if he did, he does not have them anymore.

Chairman Dax stated that Chapter 1; State Sanitary Code; Subpart 7-3 [Campgrounds], requires far more bathrooms than the current facility has. Mr. Commander stated that NYS allowed them to utilize the bathrooms on the north side. Chairman Dax asked if Mr. Commander had a written waiver attesting this fact. Mr. Commander said no.

Chairman Dax also commented that the water supply seems to be inadequate as well. Mr. Commander stated that while he has nothing in writing, NYS has always allowed us to operate as we are. Ms. Clouser, Lebanon Valley Speedway, commented that they renew their County DOH permit every year; this should indicate that they are in compliance.

Chairman Dax moved on to space requirements and stated that the Town's requirements are more stringent than NYS. The current spacing depicted on the map is not in compliance with Town Code and that much of it is in the floodplain. The plot plan does not delineate metes and bounds or property lines. There should at least be notes on the map. Mr. Murad concurred that lot lines and setbacks are important to depict on a plot plan.

Chairman Dax explained that the application and plot plan are required to meet the Chapter 88 of Town of New Lebanon Town Code. The Zoning Board of Appeals has no jurisdiction to offer variances or waivers.

Ms. Tonetti asked the applicant how long the campers stay. Mr. Commander replied 24 hours.

Chairman Dax asked Mr. Commander if he had rules for the camping activity set forth in writing. Mr. Commander stated that there are no rules in writing but we do not encourage people to stay more than over night. It's an accessory use to the Lebanon Valley Speedway.

Chairman Dax asked the applicant if he wishes to revise his plan in order to comply with Town Code. Mr. Commander stated that he can not comply and would need a variance. Chairman Dax reiterated that this Board has no jurisdiction to grant variances from Town Code. It's questionable whether or not the Town Board has the authority to grant variances from Town Code. The Town Board may need to refer the matter to the Town Attorney.

Mr. Commander stated that out of the 200+ on the other side of the road, only 20 stay over night. The rest is parking. Mr. Dax asked if Mr. Commander has ever thought about restrictions. Mr. Commander stated that the layout is for parking not camping. Different classes of cars park in different spots.

Mr. Commander commented that he has toilets for 12,000. Chairman Dax stated that the distance to the campground matters. Mr. Commander stated that NYS says otherwise. NYS has always "let us slide on that issue".

Ms. Tonetti commented that crossing the highway is a huge safety issue. Mr. Commander stated that NYS says that the existing facility is ok.

Chairman Dax stated that if Mr. Commander had a written rule that the campers must be self contained it would be an important fact for everyone to know.

Mr. Murad stated that this is a unique situation. The applicant is not charging for the spaces for camping. However, clearly you can not meet the space requirements. You will need a variance from the Town Board.

Chairman Dax stated that the plan does not comply with Town Code. If Mr. Commander chooses not to revise it, he may contact the Town Board to inquire about a variance. If and when they act, the applicant may return to this Board so that we may set a public hearing date in relation to the Special Use Permit. Then the applicant will need to present again to the Town Board for the actual license.

Ms. Tonetti stated that the applicant is required to at least try to comply with the law before a variance is considered. If the applicant would consider reducing the amount of spaces and increasing them a bit to meet Town Code, a variance would not be required at all. Ms. Tonetti stated that there are 151 spaces depicted on the south side alone. Is that many needed? Mr. Commander said no, we have about 40-50 on an average weekend staying on the south side, and about the same amount that stay on the north side. Ms. Tonetti stated that 375 is a very large impact. Mr. Commander stated that they never have 375. Ms. Tonetti stated that she feels that a variance is not required and that the applicant simply needs to re-submit a plan that complies.

Chairman Dax explained that if Mr. Commander gave those figures to the engineer, a compliant plan would most likely be met. Mr. Commander stated that he would contact the surveyor to find out if compliance can be met.

Chairman Dax also explained that the greater the variance the more difficult they are to obtain.

Case No.: ZBA-2009-024 – Lebanon Valley Speedway

Preliminary Review: Request for SUP for Go Cart Track

Parcel No: 7.-2-4

Representative: Mr. Howard Commander

Property Owners: Lebanon Valley Auto Racing

Mr. Commander summarized the application by stating that in 1960 they built a go cart track inside the stock car oval. They ran it from time to time up until a few years ago. Whether it's called a go cart track or a small engine track the intent now is to etch out a small track for the kids outside of the oval for safety reasons. While doing so he received a Stop Work Order because the ZEO states that this activity requires a special permit. Mr. Commander is confused by this because what they are actually doing is simply moving the existing track. There are no buildings or walls. There are only port-a-johns, lights and a portable concession stand.

Ms. Tonetti asked if they are currently running go carts. Mr. Commander replied that they have run go carts since 1960 until a few years ago. They ran them on the front straight way but it was not an official small engine track. The new track will be 30,000 sq. ft. which is less than an acre which does not require a SPEDES permit. The new track is almost done.

Chairman Dax stated that the plot plan does not indicate how far the Kinderhook Creek is away from this track. Mr. Commander stated that it is beyond 50 ft. and that DEC inspected it.

Chairman Dax stated that the issue of whether a go cart falls under auto racing is a gray area.

Mr. Geraldini stated that he feels Mr. Commander does not require a special permit because he already has one. Chairman Dax stated that the operation is a prior non conforming use there is no existing special permit and if go carts are in fact a permitted use it would require a special permit as it does not fall into the prior non conforming use.

Mr. Commander stated that we've had a go cart track since the 60's. Doesn't that pre date zoning law? Chairman Dax stated that you can't pick it up and move it.

Chairman Dax asked Mr. Commander to explain what types of engines are used for the go carts. Mr. Commander stated that they use motor cycle engines or big lawn mower engines.

Chairman Dax pointed out that the Zoning Ordinance excludes the racing of motorcycles in its Auto Racing Facility definition as well as dirt bikes, snowmobiles, jet cars, trucks and fire trucks. Chairman Dax asked Mr. Commander, in his professional opinion, what the similarities are in these types of engines and what would be the possible reason for the exclusion. Mr. Commander stated that the reason most likely for the Fire truck exclusion is that many years ago he held a Fire-Matics convention that was unruly. Mr. Commander stated that they do run motorcycles, however.

Ms. Tonetti asked if the go cart track would increase the amount of noise. Mr. Commander replied no, because they would be running simultaneously with the race track except when there are national events. On Sunday's they would run with the drag strip. Light towers will be needed but they will be facing the creek. National events would occur when the stock car season is over on Saturday nights in September. They may have between 400 and 600 go carts including such types as Sling Shots and Mini Sprints all on the same track.

Chairman Dax asked the nature of the proposed fence. Mr. Commander stated that it would be a 4-6 ft high chain link fence that would keep the kids from going in and out – safety reasons.

A motion was made by Jeanine Tonetti seconded by Tony Murad to schedule the public hearing on this application for August 4, 2009 at 7:30 pm. The motion carried on the following vote:

John Dax	Aye
Charles Gerald	Aye
Jeff Hattat	Aye
Tony Murad	Aye
Jeanine Tonetti	Aye

A motion was made by John Dax seconded by Jeanine Tonetti to refer the application for local and County Planning Board review for recommendations. The motion carried on the following vote:

John Dax	Aye
Charles Gerald	Aye
Jeff Hattat	Aye
Tony Murad	Aye
Jeanine Tonetti	Aye

Case No.: ZBA-2009-001- Charles Gerald

Preliminary Review: Appeal of ZEO determination of 01.19.09 & 04.23.09 stating that a campground permit is required

Parcel Nos: 19.2 -1- 88.2

Representative: Mr. Charles Gerald

Property Owner: Mr. Ralph Chittenden

Mr. Gerald recused himself from Board discussions as a Board member and explained that the reason for his appeal is that the campers on the property in question are for family gatherings only. In his opinion the current campground ordinance refers to commercial camp grounds. If this wasn't the intent then the boy scouts would not be allowed to go camping with their troops.

Ms. Tonetti said that the intent of the law was so that campers would not amass on a given property.

Chairman Dax stated that this Board only has authority over the Zoning Ordinance not the Campground Ordinance, but that his recommendation would be that while the new zoning ordinance is under revision it would be a proper time to make changes to the definition. Chairman Dax asked Mr. Gerald what changes he recommended. Mr. Gerald stated that first of all he would recommend that the definition of a camp ground be changes from 2 or more to 5 or more.

A motion was made by Tony Murad seconded by Jeff Hattat to recommend that the camp ground definition be revised. The motion carried on the following vote:

John Dax	Aye
Charles Gerald	Abstained
Jeff Hattat	Aye
Tony Murad	Aye
Jeannine Tonetti	Aye

Chairman Dax stated that this application is postponed and will be stayed.

IV: New Business:

General discussion ensued regarding Board procedures for communicating with applicants.

V: Adjournment:

A motion was made by Tony Murad seconded by Jeanine Tonetti to adjourn the meeting at 9:30 pm. The motion carried unanimously.

Respectfully submitted,

Cissy Hernandez
Planning/Zoning Clerk