



Town of New Lebanon
Zoning Board of Appeals – **Approved Minutes**
August 4, 2009

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

Absent: Tony Murad, Zoning Board Member

Others Present: Howard Commander, Louise Clouser, Steve Felter, Dan Lynch, Gary Millet, Kathleen Millet, Trina Porte

I. Call to Order:

Chairman Dax called the regular meeting to order at 7:35 pm. Member Tony Murad was absent.

II. Minutes Approval:

Upon review of the July 7, 2009 minutes a motion was made by Jeff Hattat seconded by Jeannine Tonetti to approve the minutes as submitted.

III. Public Hearing

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

Request for SUP for Go Cart Track

Parcel No: 7.-2-4

Representative: Mr. Howard Commander

Property Owners: Lebanon Valley Auto Racing

Chairman Dax opened the public hearing at 7:40 pm and explained that the Public Hearing will not be closed tonight. It will be continued because the Local and County Planning Boards both found the application to be deficient.

The applicants submitted a letter dated August 4, 2009 as well information comparing sound pressure level for various sound environments.

Chairman Dax noted that the comparison submitted was of no value as it does not reflect the sound environment of the various go cart engines that will be used. Referencing the August 4, 2009 letter, Chairman Dax asked Mr. Commander if he would object to a condition that would offer a maximum horse power of 20 for the go cart track. Ms. Clouser replied: “no” because some engines are more than 20 horse power”.

Chairman Dax requested that the applicant submit a standard list of guidelines that are required to be followed. Mr. Commander stated that the proposed go cart track will be operating a few times a week with 100 – 150 cars per event. He further stated that he is not familiar with the rules of a go cart operation and that he can not be specific on the types of engines or cars that would be running until the track is sanctioned. The sanctioning will determine what types of cars will be run. There are many go cart track across the Country that run under a structured sets of rules

including the amount of cc's in the heads "and we are talking about small engines that are 5 – 20 horse power. It's all standard racing stuff for basically for kids".

Chairman Dax if adults would be racing on the go cart track as well. Mr. Commander replied: "probably, I don't want to, but probably".

Chairman Dax asked if Mr. Commander could get a copy of the rule book. Mr. Commander replied: 'yes, we will probably go with WKA type of rules'.

Jeannine Tonetti reminded Mr. Commander that he previously reported that he used to run a go cart track up until a few years ago. She asked what rules were being followed to operate it. Mr. Commander stated that he was following standard rules. Ms. Tonetti asked: "whose rules"? Mr. Commander stated that he was not sanctioned back then but they had their own rules. Chairman Dax asked if they had those rules in writing. Mr. Commander replied: "no, but they had to with 86 lbs with a stock motor and a certain amount of cc's in the heads".

Chairman Dax asked: When the last time the former go cart track was run was. Mr. Commander replied: "4-5 years ago".

Ms. Tonetti asked: "now you are seeking to be sanctioned because you want to be bigger and better? Mr. Commander replied: "Yes. We want to be a nationally accepted go cart track that is unique so that the racing public will want to race on this track".

Steve Felter: Mr. Commander is doing a good job. This is what the Town needs and I back him 100%. I think he should get a permit.

Gary Millet: I am speaking for residents of West Lebanon and think I will start by saying how lucky we are that the speedway is owned by Mr. Commander. He responds to the community. We are lucky to have a local guy own it as this will not always be the case. Mr. Commander will not be around forever. The racetrack is valuable and someone else will buy it one day. The Town was miserable when the Drag strip was leased to an outsider years ago. The noise was terrible. The operation is basically being run on Mr. Commander's word with no other ways to regulate the speedway. He makes an effort to close at reasonable hours. The Town of New Lebanon needs to institute restrictions now, before someone else runs/owns it. People are complaining about the new zoning laws. Business is important to our community. A lot of local kids work at the Speedway, it's a great source of income. However, business owners do not carry the tax burden, the home owners do. Four nice homes in New Lebanon pay more taxes than the Lebanon Valley Speedway. The school system and the Town are supported by the residents, not the businesses. Any decisions made by local Boards should put the homeowners first because they are paying the tax bill.

Dan Lynch: I have lived in the Town of New Lebanon for 25 years. I endorse everything that Gary Millet just said. I want to discuss the issue of noise. I commend Mr. Commander for ensuring that mufflers are used currently at the track, however, what is the duration, intensity and frequency of spikes for the new go cart track. The current loud speakers used at the main track increase in volume from time to time. Will there be loud speakers at the go cart track? What is the loudness of the proposed engines and will there be mufflers?

Kathleen Millet: I've lived in the Town of New Lebanon for 35 years. I am upset that the Town would consider a permit for a go cart track. We have a hard time entertaining because of the existing noise at the Track. It starts sometimes as early as 8:15 am and runs into late hours. I am tired of it. The Town needs a noise ordinance, other Towns have them. I am fed up and do not want any more.

Dawn Felter: I have an 11 year old son with one kidney who can not engage in contact sports. This is the one sport he can do. The go cart track is something for the kids.

Steve Felter: The kids are our future. Howard Commander is doing an awesome job. The go cart track will bring business and people into the town. It's the best thing for the kids and for the Town.

Dan Lynch: What about the safety of the children. Is there any data regarding safety? Injuries? Fatalities? I admit I do not know anything about go carts.

Trina Porte: Mr. Commander you stated the speed of the go carts will be 60-70 MPH. At the last meeting you said 35 MPH.

Chairman Dax explained that it is obvious that we do not all the information needed to issue a special permit. We are missing details that would address the issues brought up tonight, and could further be addressed via conditions incorporated into the SUP. If the applicants do not supply the information required, they may not be happy with the conditions.

Mr. Commander asked to address the public concerns. He maintained that the P.A. system at the Speedway/Drag- way are huge – 40, 50, 80 PA horns. The proposed PA system at the go cart track is the size of a little league field and are predominantly for kids. To address Ms. Porte's concerns, "I did say 35 MPH and 70 MPH". "We are going to run in conjunction with 'test and tune' and along with drag races". There are at least 15 – 20 go cart racing facility in the Northeast including Argyle.

Chairman Dax asked if Mr. Commander had a list of established go cart racing facilities operating in the Northeast. Mr. Commander replied "no", although I do know of one in Cobleskill that runs 3-4 times per week. I've never been there but I've met the owners".

Chairman Dax urged the applicant to submit more information about the business plans for the go cart operation so that the Board can review a more concrete proposal. Chairman Dax suggested that the applicant contact Briggs and Stratton as they should be able to assist.

Mr. Commander stated that the go cart track is intended for kids ranging in age from 8 – 18. For almost ten years he's seen go carts run at 80 MPH with no accidents. He continued that insurance companies have claimed that while playing football 32 kids have died. "Yes, it's possible for a child to die but I don't know when it's ever happened. We don't hurt people. While running 7,000 cars per year I've not seen one accident since I took the drag strip back over. If this is going to be a fight, I don't want to do it."

Chairman Dax reiterated the need for a business plan and rule book be submitted in writing.

Gary Millet: If the go cart track is to bring a few hundred more people into town, the Valley will be more polluted and there will be more traffic and it will not reduce taxes. The more limits that can be placed on this operation, the better.

Steve Felter: Attracting more people is better for the Town, economy - they will be shopping and eating in town. Why is bringing more people into the town a bad thing?

Louis Clouser: I've spent a lot of time working on this with Mr. Commander. We have addressed the questions that came up regarding engine sizes. The letter we have submitted addresses engine size from 7 Horse Power to greater than 20 Horse Power. We have also included decibel comparisons.

Chairman Dax stated that there are discrepancies regarding the engine sizes. One letter states 5-7 Horse Power while the next says 7-20 Horse Power, verbal statements presented tonight indicate that they will be greater than 20 Horse Power. Additionally, the decibel comparison that was submitted is of no value because it does not relate to go carts. When a new decibel comparison is submitted, it should reflect the highest decibel that will be used.

[Chairman Dax announced that the public hearing will be continued at next month's regularly scheduled meeting].

IV. Regular Meeting:

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 reported that the application is at a stand still. The Department of Health has been contacted and we are waiting to hear from them. At the last meeting of the Town Board it was discussed that the Town Board has no power to offer waivers from the Campground Ordinance. This means that the applicant must comply with the laws as written.

Chairman Dax read aloud a letter dated July 28, 2009 from the Department of Health concerning this application.

Mr. Commander stated that in 1992-93 he started getting permits from the Department of Health. There were conditions such as: must provide 1250 sq. ft., provide a 24 hour night watchman. They stated that the water supply and toilets were acceptable.

Chairman Dax stated that the Board can not set the application for a public hearing date until Mr. Commander responds to the Department of Health's letter date 07.28.09. Additionally, the drawing needs to be re-configured to comply with the Town Law.

Case No.: ZBA-2009-030 – Phillip Haight – [27.-1-67.100]

Preliminary Review: Appeal of ZEO determination

Applicant applied for an expansion of an existing shed on property. ZEO denied per Article 15 "accessory use" with no primary use requires ZBA approval.

Mr. Haight stated that he has been a resident of Spencertown for 26 years and owns vacant land on Kelly Road in New Lebanon. He has a garden and a riding lawn mower at the New Lebanon property and would like to expand the shed a little to house the lawn mower and to create a potting shed. There is nothing on the property except for the garden and the existing shed. The application had been denied because there is claimed to be no principle use.

Chairman Dax stated that customary accessory use is a permitted use in the use table, but the definition does say it requires a principle use. Chairman Dax asked that the applicant submit a letter that ties his use of his Kelly Rd. property to the materials he grows for commercial purposes.

A motion was made by John Dax, seconded by Jeff Hattat to schedule the public hearing for next month's regularly scheduled meeting. The motion carried on the following vote:

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

V. Other Business:

Jeannine Tonetti reported that she will not be in attendance at the October and November 2009 meetings.

VI. Adjournment

By general consensus the meeting adjourned at 8:50 pm.

Respectfully submitted

Cissy Hernandez
Planning/Zoning Clerk