



Present: John Dax, Chairman
Charles Gerald, Zoning Board Member
Jeff Hattat, Zoning Board Member
Ted Krolikowski, Zoning Board Member
Tony Murad, Zoning Board Member

Absent: Jeannine Tonetti, Zoning Board Member

I. Call to Order:

Chairman Dax called the regular meeting to order at 7:35 pm.

II. Minutes Approval:

Upon review of the September 1, 2009 minutes Jeff Hattat noted a correction. Chuck Gerald was absent for the 09.01.09 meeting not Tony Murad. A motion was made by Jeff Hattat seconded by Tony Murad to approve the 09.01.09 minutes with the above noted correction. The motion passed on the following vote:

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

III. Regular Meeting

Case No.:-ZBA-2009-002 – Valley Materials, Inc. (TM# 8.-2-69 & 8.-2-41.2)

Request for Special Permit for Commercial Excavating pertaining to the expansion of the gravel mine located on County Route 9

Chairman Dax summarized the case and read aloud the draft decision [see attached]. Michael Moore questioned number 13a stating that not permitting the use of town roads was an outright prohibition. Chairman Dax stated that it says town highways will not be used for heavy equipment and that it was his understanding that the intention of the Company was to use Routes 9 and 20 to haul into Pittsfield which is not a concern.

Jeremy Smith, Attorney for Dolomite, stated that a condition like that would have to apply to all residents and that he objects to any limits on using route 9 as the Town has no jurisdiction.

Chairman Dax stated that we are not talking about residents we are talking about a Special Permit Holder and we are not talking about legislation we are talking about conditions.

Jeremy Smith requested that his objection be noted for the record.

Tony Murad stated that the nearest town road is about a half mile away. It would not be feasible to use. He further stated that he doesn't understand the objection unless the operation intends to deliver bank run to residents. We could make 'local deliveries' an exception. Town roads are narrower than State and County roads. Damage could be caused and who will pay for it? If the Company was using a town road for a local delivery and the road is damaged in the process the Company would have to pay for the repairs. The draft order does not define heavy, its vagueness is to your benefit.

Chairman Dax stated that people in the business know what it means.

Jeremy Smith asked to have the draft order re-read with the exception read into it. Chairman Dax complied.

Chuck Geraldi requested that the word "legally" over weight/size be added. Chairman Dax stated that we do not have those standards. Chuck Geraldi stated that our roads meet County requirements. Chuck Geraldi stated that without the word 'legally' written into the condition, it will wind up being anyone's judgment call as to what "heavy" is. Chairman Dax agreed to Chuck Geraldi's request.

A motion was made by Tony Murad seconded by Jeff Hattat to approve the draft order with the noted amendments. The motion passed on the following vote:

John Dax	Aye
Charles Geraldi	Aye
Jeff Hattat	Aye
Ted Krolikowski	Aye
Tony Murad	Aye
Jeannine Tonetti	Absent

IV. Public Hearing:

Phillip Gellert Appeal – [2.-1-4.111]

Appeal of ZEO determination

Applicant was issued a stop work order from the ZEO that indicates that the illegal activity includes the conduct of a Private Recreation Area involving firearms, contrary to Article 6 of the zoning ordinance".

Chairman Dax summarized the case and stated that the burden of proof is on the appellant to prove that the Zoning Enforcement Officer made an error of fact. The Board is building a record for which the appeal will be based. The Board will take sworn and unsworn statements. Sworn testimony will carry more weight.

Phil Gellert – [Sworn]: I have lived in Hillsdale for over 40 years and I've hunted since High School Age. Hunting is an excellent sport. My grandson enjoys skeet shooting with me. It is a wonderful opportunity to spend time outdoors. The group of people that lease the property in question here in New Lebanon have done so for 16 years and this is the first time there has been a problem. I've spoken to neighbors who say they have had no problem with the this group or how they spend their time. The question of whether this group is an "organization" still remains open. This group is not an organization. The Philmont Rod and Gun Club would be an example of an 'organization'. This group is merely a group of family and friends who do not pay dues or membership fees. People hunt throughout the entire County without being accused of being an organization. This group is not a formal club with a President, Vice President, and so forth. I have experience in leasing to formal clubs. Formal clubs require paid memberships. This is a family and should be allowed to continue to enjoy their property.

Chairman Dax: Is there a level of formality that you pass to become an 'organization'?

Phil Gellert: Yes, first of all the members would be required to pay dues. Also, organizations are usually incorporated or are a charter, or even a DBA. This is a group of family and friends for 16 years. I have the same thing on my property and I am not a club.

Chuck Geraldi: What do you do there?

Phil Gellert: I am the owner. I own several properties. Thirty or forty years ago I found it better to lease the property. They patrol the property. This is the first time there has ever been a complaint. I do lease to formal clubs on other properties that I own. This is not a formal organization or club.

Chuck Geraldi: What exactly are they doing there?

Phil Gellert: Hunt, target practice, skeet shooting. State Troopers have confirmed that they were respecting all laws. They are staying 500 feet away from the abutters.

Jeff Hattat: How big is the property?

Phil Gellert: 475 acres between New Lebanon and Stephentown.

Chuck Geraldi: The State Troopers said that you were Okay.

Chairman Dax: When you entered into the lease with this family, The Grey Lock Hunt Club, what did you understand the group to be?

Phil Gellert: Family and friends that lease my property. For sixteen years there has never been a problem.

Frank Corozzo – [Sworn]: The reason we have the name “Grey Rock” is only because I have to collect money from several members of the family and friends and to charge the account in the name of Grey Rock Club.

Chairman Dax: Did the bank ask what the club is for?

Frank Corozzo: I told them at that time it was not an official organization and my name is on the account.

Tony Murad: So you established the account because the land lord said stop sending multiple checks to use the land?

Chairman Dax: Did this Grey Rock Club ever solicit new members?

Frank Corozzo: No. The only new members are the children. We’ve lost and gained members by attrition.

Chairman Dax: Are you all related?

Frank Corozzo: Everyone is related in one way or another.

Tony Murad: There has been no soliciting?

Frank Corozzo: No, because we are not a public organization. The only reason the property is posted with signs that say “Grey Lock Hunt Club” is so that nobody gets hurt. People know it is more than one person. We have had vandalism, broken windows and graffiti so we pulled the shooting bench back to the milk shed.

Chuck Gerald: Encon is happy where the target are located?

Frank Corozzo: Yes, that is what we have been told.

Christopher Steadman [Sworn]: I am an abutter of the Gellert property. I speak in opposition to any intention of the Zoning Law that would allow this activity to continue regardless if they are an official organization or not. It is a non conforming use. Shooting & ATV's. There has been increased activity on this property over the past year. There may have been no complaints before now but that is because they have more people in their group now. In the past it was confined to hunting season. I am a hunter and a member of the NRA. The activity is much greater there now then in the past. I would like to enjoy my property in the summer months but I can't because there is gunfire all summer long including on Saturdays and Sundays. It's recreational shooting on a regular basis.

Robert Johnston [Sworn]: We have had direct knowledge of the situation. We've been coming up here since 2005. We knew that hunting was okay but at that time they were only doing it during the hunting season. Now there are more trucks and activity. Enormous gun shots and they are much closer. There has been an increase in activity within the last five years.

Robert McKeever [Sworn]: The activity there has increased. I moved here in 1996. Members of this club have asked permission to hunt and I said okay. But this spring the activity greatly increased. They are storing ATV's, shooting inside the barn and the barn and they are shooting less than 500 feet away. I have talked to them; they said they would not start until noon. Then at noon it would go on all day. I feel this is an official organization. They've even talked about shooting with pheasants for the older folks. My opinion is this is an official organization. We witnessed shooting right next to buildings.

Darryl Sawin [Sworn]: I grew up on West Street. When I was a young boy I hiked a lot. I know every square inch of it. There is nothing wrong with hunters. I am a hunter. My wife and kids hunt. The problem on that property is continual. I have thrown one off of my dad's property. Houses have been built over the past few years. These people trespass and the activity has increased. I have witnessed shooting from the milk house. It is too close to the road. Think of the projectory. Kids ride quads and people walk on the old rail road. They are baiting animals. DEC was emailed pictures of this activity. It is illegal to bait animals. We found 50 lbs bags of corn. This is not hunting it is pouching. These people need to respect other people's property. My daughter was hunting on our property alone one day; I had to go up to get her. She was in a tree when a couple of guys, strangers, walked right under her. She was scared.

David Zuliojan [Sworn]: In sixteen years I have never had contact with the police and no complaints. We have had the DEC on the property. We carry cards and the neighbors know us. Our property is posted as private property. The DEC manual says 500 feet off the road unless you own, lease or rent it. Our grandfather uses the property, my father-in-law and my fiancé's daughter. We lease for 365 days per year. We have pig roasts there, hiking, target shooting, skeet shooting, and hunting. It wasn't any of us trespassing on that man's property walking under his daughters tree stand. Some of our members are sixty years old. We are within the legal shooting limit. I don't know where these people live.

Chairman Dax: The issue at hand is not trespassing, nor is it whether or not you are faithful to the DEC. The issue at hand is whether this is a permitted use under our Zoning Law.

Chairman Dax asked if anyone who had not signed in wished to speak.

Phillip Iacobelli [Sworn]: We lease this property for 365 days per year. What is illegal about riding quads on our property? We are within the boundary of our property and the law. We do not shoot toward other property. We have accommodated the neighbor's requests. We have

never trespassed on other property – if ever we did it was by mistake. I am appalled by this. For sure if someone was trespassing on the neighbors it was not one of our members. Next time they should ask for Identification.

A motion was made by Tony Murad seconded by Jeff Hattat to close the public hearing at 8:35 pm. The motion carried on the following vote:

John Dax	Aye
Charles Geraldi	Aye
Jeff Hattat	Aye
Ted Krolikowski	Aye
Tony Murad	Aye
Jeannine Tonetti	Absent

Regular Meeting Con't:

Tony Murad stated that he does not see an issue here. The problem arises when neighbors try to tell others how they should use their property. "However, I do appreciate the abutters concerns. I have neighbors who have hunting parties and they flush deer up toward my house. It is part of living in the country. I hear shooting on Sunday's in the back of my house. The abutters and this group have to get together. I think the I.D. cards are a good Idea. I have caught strangers hunting on my property too. I think it is unreasonable to put onus on these guys just because they are a direct target. The abutters should identify the trespassers. If they all got together maybe everyone could come to some agreement like 'hours' for example."

Chairman Dax stated that we can not delegate our Land Use obligations to the public. Chairman Dax pointed out in the Zoning Ordinance the 8 uses permitted by right in that Zone. A Social, Recreational or Fraternal Club or Lodge is not one those uses. We need to think about this.

Chuck Geraldi asked "Walking, riding horses and hunting is a recreational area? We can't walk on our property without getting a permit?"

Chairman Dax said "You are missing my point. Can you fit this use into one of those 8 uses we have to work with?"

Tony Murad stated that property does contain a Single Family Residence.

Chairman Dax said "Really? Is it used as a Single Family Residence?"

Tony Murad stated that if this standard is applied in this case then it would have to be applied to everyone with guests in a Single Family Residence.

Chuck Geraldi said that a house on the property doesn't make a difference. People can walk and hunt on their property.

Chairman Dax stated that is not the issue. The issue we are dealing with is whether this group is an official organization or not.

Tony Murad stated that this group says they are not soliciting members nor are they bringing people in that are not part of the family. Ten people can live in a house. These people are related. They have established to my satisfaction that they are a family enjoying their property.

Chairman Dax stated that he is not convinced one way or the other. He expressed concern about setting precedent and that the final disposition will need some structure. "We need to define what level of formality is required to determine 'organization'.

[Anonymous attendee]: "The property is posted with signs that say "Grey Rock Hunt Club. They have a checking account and I.D. Cards.

Tony Murad stated that he does not think that this group rises to the level of a social club.

Chairman Dax stated that the decision is tabled and the ZEO' order continues to be stayed.

Continued Public Hearing for Lebanon Valley Speedway's Go Cart Application

(Con't):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

Joanna Johnson Smith stated that she feels the go cart operation will bring in new business. The speedway is pre-existing and it generates a lot of money into this town. It's not an eye sore. Mr. Commander keeps the grounds immaculate. He's an asset to the town.

Robert Mittnight said he feels the same way.

Chairman Dax read a memorandum that he authored summarizing what LVS is applying for based on the information the Board has received to date [see copy attached].

The Board reviewed the Full Environmental Assessment Form submitted by the applicant and concluded that two potential impacts would require studies be made by professional consultants: noise and traffic. The board discussed whether the board should retain the consultants or the applicant. The board agreed to direct the applicant to produce the studies so that the SEQRA review may be completed.

Regular Meeting Continued:

Case No.: ZBA-2000-006 – 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 asked Mr. Commander if he will be applying for the Permit from CCDOH for 2010. Mr. Commander replied "No".

Chairman Dax asked Mr. Commander what he would like the ZBA to do with the application. Mr. Commander replied that he is still waiting for the Town Board. He was told by the Town not to do anything until they get back to him.

Chairman Dax stated that the ZBA will just leave it in suspension for now.

V. General Discussion:

General discussion ensued regarding the letter received by the DEC informing the Town that the Amlaw Pit has applied for a mine expansion on Route 22. The Board felt that the DEC has not

given ample time to offer comment before their review. Also, the ZBA has not yet received an application for a special permit on this request.

VI. Adjournment

By general consensus the meeting adjourned at 9:15pm.

Respectfully submitted,

Cissy Hernandez
Planning/Zoning Clerk

DRAFT