



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

Others Present: Louise Clouser, Mark Condron, Matthew Murnane

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**I. Call to Order:**

Chairman Dax called the regular meeting of the Zoning Board of Appeals to order at 7:30 pm.

**II. Minutes Review:**

Upon review of the October 6, 2009 minutes, a motion was made by Tony Murad, seconded by Jeff Hattat to approve them as submitted.

Chairman Dax indicated that minutes of public hearings should not be included with regular meeting minutes. In the future he would like them submitted as two separate documents.

**III. Application Review:**

**Phillip Gellert Appeal – [ 2.-1-4.111 ]**

Deliberation: 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”.

A motion was made by Tony Murad, seconded by Chuck Gerald to grant the appeal based on the fact that the applicant has proven that it is not a Private Club, rather it is extended family members recreating.

Ch. Dax offered his opinion that, because the land is not being leased for one of the permitted uses in the RA 2 and RA 5 districts, but rather is used collectively by a group, however loosely organized it might be, for recreation, he would vote to deny the appeal.

Lengthy discussions then ensued as to whether the primary use of the land is for Private Recreational purposes vs. a group of extended family members recreating.

Mr. Murad stated that he does not think that it is fair to the applicants that there isn't a full board membership. A motion requires four votes to pass and this is obviously not going anywhere. He further stated that in the past the board would explain to the applicant that it did not have a full membership and that they had the right to postpone review until such time as a full membership is attained. Chairman Dax asked Mr. Murad why he didn't voice concerns regarding a full membership before now.

Mr. Murad withdrew his motion and the matter was tabled until the next regularly scheduled meeting.

**Case No: ZBA-2009-045 – Mark Condron Preliminary Review of Application**

Request for an Area Variance to place a 16x24 shed to house an outdoor woodstove 15 feet from the property line. The woodstove is to heat both houses on either side of the woodstove. The property owner owns both properties involved.

Mr. Condron explained that he owns two adjoining parcels with homes situated on each (tax map numbers 9.-1-13 and 9.-1-14). He wishes to build a 16x24 shed to house an outdoor wood boiler (on parcel 9.-1-13) that would heat both homes but the desired location is 10 ft. from the property line separating the two properties. Mr. Condron further explained that this proposal would reduce the number of wood stoves currently been utilized from four to one and the proposed chimney will be 18 feet.

A motion was made by Chairman Dax, seconded by Tony Murad to refer the application to the local Planning Board for their recommendations and to set the public hearing for the next regularly scheduled meeting. The motion carried on the following vote:

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

Non Scheduled Agenda Item:

**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

Louise Clouser stated that Mr. Commander could not be here this evening. He has requested that she attend in order to request that the board vote on his application this evening as he wants to get the go cart operation underway before the snow flies. Ms. Clouser submitted a letter from Patrick J. Prendergast, PE dated November 3, 2009.

Chairman Dax stated that the letter does not provide information that will satisfy the SEQR analysis. The letter does not include results of a noise study. Under the topic of traffic, the letter only offers a statement with no context. Chairman Dax explained that SEQR requires a hard look. The letter does not provide information on what the potential impacts may be. Chairman Dax then explained that another option the board could exercise is to hire a consultant at the applicant's expense.

Chuck Gerald stated that the board did not vote on whether this application needed a traffic and noise study. Mr. Gerald continued to say that the board did not get to our part of the short SEQR study yet. He wondered how the conclusion was made that a Long Form was required?

Chairman Dax stated that when the board attempted to review SEQR at last month's meeting, the Board could not get through the noise and traffic questions due to lack of information which was why they couldn't complete the review. Chairman Dax stated there were no objections to reviewing the

Full SEQR at that time nor were there any objections when the applicant was asked to obtain the noise and traffic study information in order to complete the SEQR review.

Chuck Geraldi stated "But we didn't even vote on whether we would review a Long SEQR". It was not a board decision to request that the applicant complete a Long Form SEQR." Chairman Dax stated that he stands by his decision to conduct a Full Environmental Assessment because it is the best way to go.

Chairman Dax offered a motion, at the suggestion of Chuck Geraldi, to formalize what had been decided at the last meeting that the noise and traffic study be conducted in order to complete the SEQR Review. The motion was seconded by Ted Krolikowski. The motion failed on the following vote:

John Dax	Aye
Charles Geraldi	No
Jeff Hattat	No
Ted Krolikowski	Aye
Tony Murad	Abstained
Jeannine Tonetti	Absent

Chuck Geraldi stated that he also feels that the applicant is not required to obtain another Special Permit since they obtained one in 1994.

Chairman Dax stated that the Special Permit that was issued in 1994 was for a different issue. The applicant, at that time, had applied for the expansion of the Dragway.

Lengthy discussions ensued regarding whether a Full Environmental review is required and whether the applicant is required to apply for a special permit since one was issued in 1994.

Chuck Geraldi offered a motion to conduct a Short Environmental Assessment. The motion was seconded by Jeff Hattat. The motion failed on the following vote:

John Dax	No
Charles Geraldi	Aye
Jeff Hattat	Aye
Ted Krolikowski	No
Tony Murad	Aye
Jeannine Tonetti	Absent

Ted Krolikowski offered a motion to conduct a Full Environmental Assessment. The motion was seconded by Chairman Dax. The motion failed on the following vote:

John Dax	Aye
Charles Geraldi	No
Jeff Hattat	No
Ted Krolikowski	Aye
Tony Murad	No
Jeannine Tonetti	Absent

Lengthy discussions ensued.

Chairman Dax then offered a motion to conduct a Short Environmental Assessment. The motion was seconded by Tony Murad. The motion passed on the following vote:

John Dax	Aye
Charles Geraldi	Aye



Tony Murad  
Jeannine Tonetti

No, but I think we need a traffic study in order to determine  
Absent

Chairman Dax suggested that Mr. Murad draft a written answer to this SEQR Question [question C1] to be circulated at the next meeting. Chairman Dax stated that any of the board members wishing to do the same to please feel free to do so. Chairman Dax also suggested that the board members research to see if emissions will have an adverse impact to the air quality.

**Question C2 [Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character?]:**

Answer: "No" [consensus]

**Question C3 [Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species?]**

Answer: At a prior meeting the applicant was asked to contact DEC in order to answer this question but has not yet done so.

**Question C4 [A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources?]:**

Answer: Other than noise and traffic nothing separate and apart that would be implicated per the Comprehensive Plan

**Question C5 [Growth, subsequent development, or related activities likely to be induced by the proposed action?]:**

Answer: "No" [consensus]

**Question C6 [Long term, short term, cumulative, or other effects not identified in C1-C5]:**

Answer: "No" [consensus]

**Question C7 [Other impacts (including changes in use of either quantity or type of energy?]:**

Answer: "No" [consensus]

**Question D [Will the project have an impact on the environmental characteristic that caused the establishment of a critical environmental area (CEA):**

Answer: "No" [consensus]

**Question E [Is there, or is there likely to be, controversy related to potential adverse environmental impacts]:**

Answer: There is likely to be some controversy related to potential adverse environmental impacts". [consensus]

**Review of Part III of the completed Short Environmental Assessment Form]:  
"Determination of Signification"**

Could not be answered until more information has been provided by the applicant.

**IV. Other Business:**

Chairman Dax circulated a document entitled "§ 7-3 Training required ". [See attached]

Respectfully submitted,

Cissy Hernandez  
Planning/Zoning Clerk

DRAFT