

Town of Harpersfield Planning Board

Minutes: **July 26, 2023**

Present: D. Darling, W. Keller, F. Ciulla, D. King and K. All

Also present: L. Page, N. Brower, A. Phillips (Young & Sommer) Robert Prash, Flora Zimmerman, C. W. Henshall, Susan Henshall, Jordan Hitch, Brenda Zimmerman Hunt, Tom Hunt, Steve Pushkar, Jim Eklund, Susan Fortier and John McManus

Chairman D. Darling called the meeting to order at 7 p.m..

Minutes of the June 28,2023 were approved as presented on a motion by D. King and second by F. Ciulla. Motion carried 5-0.

James Eklund was present for a boundary line adjustment application, with 51.85 acres conveyed from property owned by Andrea and Salvatore Bertolini, to Eklund Family Farm Machinery. The property is a triangular, wedge-shaped piece of property southwest of state Route 23, extending from O'Dell Lake Road to the Basile property. It will extend the Eklund property from existing property near the former Eklund saw mill to the bottom of the hill west from the Eklund Family Farm Machinery.

A motion was made by D. King, with a second by W. Keller to accept the application and approved the boundary line adjustment as presented. Motion carried 5-0.

A public hearing was opened at 7:15 p.m. as D. Darling read the legal notice published on July 18, 2023 in the Daily Star regarding a site plan amendment by Mountaintop Airfield LLC to add new improvements and expand the scope of activities at the site of an existing motorcycle training facility know as NYSafety Track located at 396 Zimmerman Road in the town of Harpersfield.

Jordan Hitch was present along with engineer John McManus to explain the site plan to the public. J. Hitch touched on some of the main points of the application. There is an existing 2.2 mile track that allows for motorcycle training sessions on the track. They are proposing to allow automobiles to use the track, plus both racing and training sessions for both motorcycles and autos on the track. It will also add an improvement to the track a .7 mile mini track as well as a 175 by 125 paved staging area. The mini track will only allow for go-karts and mini bikes and it will allow for both training and racing sessions for go-karts and mini bikes. Days and hours of operation would not change. It would remain 6:30 a.m. to 10 p.m. two to four days per week and would require no additional parking or utilities. There are mitigation measures in place for visual and audio as well as additional requirements based on the sound study and the Stormwater Pollution Prevention Plan. She read a prepared statement asking that the comment period be extended 10 days beyond the public hearing to allow for additional comments and said she submitted a request for a waiver.

A. Phillips explained it is the same waiver they had previously requested from the lighting, as there is no additional lighting planned.

A. Phillips explained there is a list of items included in the site plan law. The applicant is asking that items not relative to the project be waived. There are no new buildings proposed. The staging area allows the vehicles to be readied in an area away from the track, with no additional parking needed.

J. McManus refers to comments from the SLR engineer regarding a couple of things to be adjusted, such as the oversizing of the stormwater facilities. It is all in the report, which the public would likely not want to read through.

A. Phillips then provided some more background on NYSafety Track. When they first submitted the revised application they were told it would require a consultant engineer for the stormwater plan and the acoustics. The consultants were needed in order to review the various reports and respond to the applicant. The planning board received two reports in March, one on the SWPPP and one that looked at the noise study that was submitted by the applicant, an acoustical engineer, to review and gauge the potential noise impacts from the changes being proposed. Two reports were produced in March by the consultants, one on the SWPPP and one on the noise,

A number of comments were made on the SWPPP a couple of weeks ago and a revised plan and SWPPP were submitted explaining the changes made in regard to those comments.

F. Zimmerman asked how the noise study turned out. A. Phillips said that is more complicated. The information received on the noise study said it did not provide sufficient information. It was deemed inefficient because it did not provide enough information to make a determination of whether there would be any significant adverse impact. At the time the mini track was going to be added and all kinds of vehicles were going to be allowed to use the mini track in addition to the existing track, which included cars and motorcycle. At that time, the applicant proposed using all kinds of vehicles and the days of operation had been increased to seven days. The consultant said the noise study provided did not analyze what that impact would be. The study did not analyze all the vehicles and conditions. The consultant sought a more robust noise study under certain conditions, such as ambient conditions and when the track is operating with its current permitting. Since that report, the applicant has revised the application. It will now operate just two to four days per week, with only mini bikes and go-karts on the new track.

The acoustic engineer will go back and analyze their comments. The planning board is waiting for that review and update, based on the revised information.

Resident Flora Zimmerman asked if they were hearing "what we are hearing". She contends it is really bad now. She can't carry on a conversation on her porch. They are already operating all kinds of vehicles. A. Phillips explained they compared the decibels of a car using the track and to those of a go-kart or mini bike using the new track and indicating the noise from the new track would be "drowned out anyway" or the existing noise would be louder than any noise from the new track and would not add anything to the current conditions. Since that report, they have scaled back the plan to go back to two to four days, with only mini bikes and go-karts on the new mini track. With the scale back, the applicant is contending the original noise study is sufficient.

F. Zimmerman said that is not a fair assessment of what she is hearing, living next door to the track "especially when the airplane flies over at 8 a.m".

Now is the time to comment and A. Phillips asked those speaking to give their name and their comments for the record for the planning board to consider.

F. Zimmerman said she is the only one on Zimmerman Road that borders the property. She said she is also putting up with a lot of vehicles traveling fast by her house and grounds. She has grandchild and a

pet. "They go fast past my driveway. I put up with their garbage that gets thrown on my property. "I would like speed bumps. It is a very dangerous road now. They are still racing when they come out of that track. She said there are black tire marks up and down the road.

C.W. Henshall lives on Teedle Brook Road. He said he has gone as far as asking the town to erect a speed limit sign. "They fly up and down Teedle Brook Hill Road. The noise up there is ridiculous. "If I am out turkey hunting, I have to go in, because of the noise." He asked if they were going to put up sound barriers up and down that whole track.

J. McManus said there is a 4 to 8-foot berm proposed, a lot has to do with materials on the site that drain out. He would leave a copy of the plans tonight. There is also landscaping, along the property line. He said he did the SWPPP engineering, but could not answer for the sound study. Although it is his understanding the study was done without the berm. Something doing in addition. A couple of things were changed since the last time they were before the planning board. The operational conditions are made a part of the site plan. If the site plan is approved, it would be a part of the approval. They are, as follows:

There are seven operational conditions appearing on the site plan map for NYSafety Track as applied for by Mountaintop Airfield LLC known as NYSMINI Track at 394 Zimmerman Road, Harpersfield.

1. 2.2-mile track occupancy limited to twenty (20) guests and an additional five (5) instructors at one time;
- 2) 0.7-mile track occupancy limited to twenty (20) guests and an additional five (5) instructors at one time;
- 3.Track hours of operation are from 9 a.m to 6 p.m., Guests cannot access any track after 8 p.m. and must begin leaving facility for gates to close at 10 p.m.. New York Safety Track Operates 2-4 days a week; Track hours of operation are from 9 a.m. to 6 p.m..
4. NYST is not open to the public and is by reservation only;
5. Permitted vehicles on the race tracks include: a. Motorcycles - all types, models and years b. Cars - all types, models and years c. Go Karts - all types, models and years; Mini bikes all types, models and years - no cars
6. All vehicles utilizing the 2.2-mile and/or the 0.7-mile track must be inspected by NYST staff to confirm that all vehicles meeting safety and noise specifications;
7. Racing sessions are only available to those who have a racing license and have passed the necessary safety courses, which will be confirmed by a NYST employee.

F. Ciulla questioned what those safety and noise specifications are based on under the sixth condition that all vehicles must be inspected by NYSafety Track staff to ensure they meet noise and safety specifications. J. McManus could not answer. A written copy of those conditions will be provided to the planning board.

W. Keller said the big complaint is noise. The specifications should include 20 of the loudest vehicles on those tracks operating at the same time. It needs to include the maximum amount of noise possible. And under the conditions that are set for the season.

He is going to ask the sound engineer to base his findings on health and safety because there is a point when it is no good.

A. Phillips asked if the applicant can provide the make and model that is representative of the loudest

go-karts and mini bikes on the track. One of the makes to be tested on the day they did the study, so they used a comparable vehicle. The planning board could ask the engineer if the vehicle tested was a worse case scenario of the mini bikes and go-karts that will be allowed on the track.

F. Ciulla asked if the noise study was conducted prior to the removal of the trees removed last September in violation of the SWPPP. A. Phillips provides the background to the public that an area that was proposed for the project that was originally a treed area was removed by the applicant prior to receiving the necessary approval. That was brought to the planning board's attention last November. The applicant was ordered to cease all activity at the site. It was reported to the state Department of Environmental Conservation and applicant advised to cease all activity until approval of an application. (4-6 acres). In the latest comments they said they believed the trees were still there. Not sure. A question as to whether the original study.

S. Henshall said the track operates every day, contrary to the proposed. It's not operating 2 to 4 days.

CW Henshall said they are racing cars - you can hear it.

Why aren't they fined or closed down.

S. Henshall said she has been coming here for 30 years, due to the peaceful nature. "We moved here full time last July and gotten to listen to all the noise. They are operating more than two to four days per week.

C.W. Henshall said there are airplanes flying almost every morning over the house.

R. Prash said he has seen drivers doing 360s and wheelies on the public roadway. The cops come by and give people tickets for not using their blinkers to turn into may driveway, but not those speeders or 360-ers. He explained he gets very emotional when he is speaking. In the beginning he thought it was for safety, to test drive on the track - now its a race track.

F. Zimmerman asked when do they do the inspections as she sees them trucking in cars that have no license plates.

R. Prash said they take their mufflers off.

C.W. Henshall said it is a NASCAR inspection for safety.

The applicant has been asked to provide those safety specs.

C.W. and S. Henshall asked how the track was allowed to locate directly over the natural gas pipeline. If something should happen up there, or a major fire up there. What would happen. Who is to say there couldn't be a fire that could melt down into the pipeline.

A. Phillips provided some more of the history of the track and the applicants representation of what would take place there. Approval was limited to motorcycle training, two to four days per week - not for autos. There have been years of subsequent litigation involving the track. It is a code enforcement issue and the town has taken action in the past. Is aware of the issues with track. They are now proposing to change those operating restrictions and build something new. That is what the planning board must review.

Who votes on this? Should have a public vote.

F. Zimmerman asked how it went from a safety track to racing - that never happened. I attended many, many meetings for a safety track, not a race track. They are already doing the racing and they have big sign advertising it as a race track. If they got the okay for a safety track, why are they a race track. It is a penalty to all the landowners. They have lied, lied and lied. I don't even believe anything they are going to do going forward either. On my road they still think they are racing. They are throwing out garbage, etc.

S. Fortier related a story of a friend on Harper Hill and was told where an airplane spooked a horse and it cost the horse owner a lot of money in vet bills because the animal was injured when it spooked.

F. Zimmerman asks who the town code enforcement officer is? Tom Little

A. Phillips said there is a long enforcement history with the track (since 2011). The town has been made aware and it has been documented. Code enforcement office has repeat complaints about violations. It is at his discretion. Just because they have violated in the past doesn't mean it can't be enforced in the future. They are doing them in violation of their existing conditions, which this board can't address.

F. Zimmerman - Racing is what they are doing then.

A. Phillips said the town has the enforcement ability as well as the code enforcement officer. Any other representatives as well. It is a difficult situation and has been for a long time.

F. Zimmerman - It's too much of a challenge for us small people. We're staying alive but it is not a good life.

S. Fortier I know a lot of townspeople upset by a lot of the people heading into the track. It was reported, but nothing ever came of it.

CW Henshall noted that when they have been coming to the area from Grand Gorge, people who are obviously destined for the track pass them at 55-60. They come past us and are gone.

D. Darling said it is a local traffic enforcement issue. Not within the realm of the planning board's jurisdiction.

A. Phillips said although the planning board can't do anything about them, they are obviously serious concerns that residents need to continue to bring to the attention of officials.

CW Henshall asked if the noise study included areas that are as far as five miles away. He said the sound from the track can be heard on Gun house Hill Road.

D. Darling said the planning board wants pretty thorough study of the noise. Which includes away from the site.

CW Henshall said they should give hunters a chance and get the noise down to nothing.

F. Zimmerman asked if there are certain months of the year designated for the track's operation.

A. Phillips said the months of operation are April to October, since the 2011 information.

D. King points out there are many discrepancies and the paperwork must be upgraded to exactly what is being proposed.

A motion was made by W. Keller, with a second by F. Ciulla to continue the public hearing on the Mountaintop Airfield LLC site plan amendment for NYSafety Track to the August 30, 2023 meeting. Motion carried 5-0.

A. Phillips explains the extension to the public and that documents will be available at the town clerk's office.

W. Keller referred to the shooting range and wants to make sure there is a backstop. There needs to be an additional drawing of what that shooting range is going to look like and where they are going to be shooting, so that I know those bullets are stopping.

It was part to be a part of the follow up from the March meeting. J. Hitch indicates there is an affidavit from Greg Lubininsky explaining what the shooting range is and that it is actually not used, that in July they shut it down. She will give it to Greg again.

W. Keller - As a condition it's either never going to be used or that it's to our satisfaction the backstop is going to stop whatever is shot at it. The shooting range was never identified or permitted as a part of the original site plan. A backstop would be a structure they would want shown on the site.

J. Hitch said the shooting range has been there since 1974 so it wasn't a part of the site plan, which is why it wasn't originally included.

A. Phillips - It is a site plan for a commercial facility, therefore it never was known, otherwise it would have been a requirement on the original plan.

D. King - On the NYSafety Track web page it advertises there is a shooting range at the track. Also that there is ammunition and sale of guns. On the Facebook page with an airplane flying overhead.

W. Keller has looked up the FAA regulations and approval is required to hold an air show. He also said he does not believe they have FAA approval to fly over people standing along the runway upside down. He believes that constitutes a stunt show. I want to see the application that you are going to apply for a stunt show and when those applications go in a copy must be submitted to the town hall. What we saw on the internet was ridiculous that guy was real low. Whoever was flying that plane, that wasn't real smart. My goal is health and safety.

J. Hitch said she hasn't seen what he is referring to.

W. Keller, there was another recent one shown. About 20 feet off the runway, making smoke.

These need to be shown in the site plan and should be included in the plan.

Someone asked if the track has a federal permit for the range.

D. Darling said site plans for the proposed project are on display. Mountaintop Airfield has auto and motorcycle racing events and training sessions that were never approved by the planning board. It implies they already were approved. If approved as proposed approving racing for cars and motorcycles. Question of operating hours.

A. Phillips said a calendar has been posted online that shows there are events taking place more than four days per week. They have now submitted sworn affidavits as part of the site plan that there will be events two to four days per week that includes both tracks. They are not having as many events as they are currently listing. They have scaled back the days of operation and there are signed affidavits that the town can enforce. Is that what you are committing to?

J. Hitch answered yes. What we asked for the affidavits for is to confirm exactly what you are asking for and what he plans to do and just what you need the permits for so that we are all on the same page with what is happening. If something happens that is not permitted then the town has every right to enforce them.

The audience again questions why he is allowed to have racing.

F. Zimmerman asked who she should see regarding speed bumps on Zimmerman Road. The town board.

R. Prash said they have asked for a speed limit sign on Teedle Brook Road and an animal sign, but it has not yet been erected by the highway superintendent. It is not the planning board's jurisdiction, but the town board.

CW Henshall said the track is creating problems in the neighborhood, not just at the track.

A. Phillips said that what the applicant has represented is that the number of people using the track won't change with 100 coming and going per day, with children of participants already there using the new track.

S. Fortier said she doesn't understand why the planning board would believe anything he (the track owner?) says.

CW Henshall said the board has to look at what the people want.

F. Zimmerman - I don't follow why the planning board has to stick to the plan. He doesn't stick to the plan, so why do we have to continue to let him do it. He is now asking for something he is already doing. Why would you do that now creating such a hardship for the people in the area.

D. Darling said the planning board understand they are trying to take it all into consideration with this new application.

A. Phillips said that due to the proximity of the track to the town of Davenport, the town clerk was given notice of the public hearing. Notice was also given to the property owners through the ag data statement. The public hearing notice will be republished in the Daily Star at least 10 days before the hearing and it will be posted at the town clerk's office.

D. Darling said they are still not proposing any lighting for the track and J. McManus said they are asking for a waiver because they will not be using the track after dark. However, he does have a plan for solar lighting if the planning board denies the waiver. He will leave that with the planning board.

This created some discussion that it should be included on the plan. If proposing lighting it has to be on the plan.

Copies of all the submissions are to be sent to A. Phillips so that she can disseminate them to the town clerk and planning board.

W. Keller made a motion, with a second by D. King, to adjourn the public hearing until the Aug. 30 2023 meeting. Motion carried 5-0.

F. Ciulla provided a report after meeting with Supervisor Lisa Driscoll and Highway Superintendent Russ Hatch regarding an independent tower company that is proposing construction of a cell tower on town property. They met on July 12 with a representative of Pyramid Member Services and two engineers by Verizon. It will be exclusively owned by Verizon. They would seek other vendors. It is proposed the company take a 25-year lease, with renewal every four or five years, for a mono pole. There would be a 500-foot setback from neighboring property with a 100-foot by 100-foot footprint, which would serve as the fall zone. It is expected they will submit an application for the August meeting.

N. Brower reported on the recent Innovative Readiness Training (IRT) sponsored by Delaware County Planning Department to train military personnel. He said it provided no-cost medical services and veterinary spaying and neutering and was very successful. It provided \$500,000 worth of services.

Delaware County Emergency Services needed a 911 address for Blue Wave Solar. The address is 857 Bruce Hill Road for emergency dispatch. Dean approved it and signed the sheet and returned it.

On a motion by D. King with a second by W. Keller, the meeting was adjourned at p.m..

Respectfully submitted,

Liz Page
Recording secretary