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## Town of Harpersfield Planning Board

Minutes: **August 30, 2023**

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

Also present: L. Page, E. Brower, A. Phillips, Dev Kernan, Wenda Habenicht, David Cox, Linda Zenobia, Michael Zenobia, Elmer Carson, Jordan Hitch, Bill Prush, Robert Prush, David Lubinitsky, Steve Pushkar, Liz Searles, Richard Friedberg, Jill Tanner, Edna Kernan, Bruce Kernan, Flora Zimmerman, Patricia Rockefeller, Gabby Leach, Kitty Ballard, Geoff Ralsten, Kathryn Demby, Leslie Eaton, Mark Vamos, Ed and Sharon Pick, Adriaen M. Jackson, Karen Butler, Paul Rosenberg, Patricia Kernan, E.W. Henshall, Susan Henshall, Nanci Sanfilippo, Michael Sanfilippo, Jennice Chrisman, Lisa Markevid-Rollin, Kevin E. Rollin

Chairman D. Darling called the meeting to order at 7:04 p.m.

On a motion by W. Keller, with a second by F. Ciulla, the minutes of the July 26, 2023 meeting were approved as presented. Motion carried 5-0.

D. Darling read out loud the public hearing notice published Aug. 9, 2023 in the Daily Star regarding continuation of the public hearing on the site plan application from Mountaintop Airfield LLC to expand the scope of land use activities at its NY Safety Track at 394 Zimmerman Road.

The hearing was opened to comments related to the application.

Bruce Kernan lives on South Worcester Hill and his family has owned 800 acres of land there for 70 years. He said NY Safety Track should be renamed the town of Harpersfield Abomination Track for its destruction of the tranquility of Harpersfield. He said the track has already destroyed the quiet and peace of Harpersfield, Worcester and Davenport with its unbearable, hysterical noise seven days per week from 6 a.m. to 10 p.m.. Now they want to add more to the motorcycles and cars at the "safety" track, the abominable town of Harpersfield race track. Just come and visit the roads where people live or come and visit my house, where the gorge channels the noise right to our house. Or go to Clapper Lake which is a half mile from the track. It used to be a peaceful place, but now you can enjoy yourself and listen to people race around in their racing cars on their racing track, plus the fact that they arrive at 8 a.m. or 7:30 a.m... Does anybody need a sound expert to measure how we feel - that this is unacceptable noise. The noise has already drummed some people out of his house, who no longer come here to visit due to the noise. It will drive even more people out if they operate from 9 a.m. to 5 p.m. in town every day of the week. It is difficult to image they would allow even more. Is it because these people haven't heard enough evidence that this is a public nuisance. Does anyone need an overpaid Albany lawyer to know this is a public nuisance. Does anybody need an economist to tell us this is devastating the economy of the area to have to live with this noise. It is seven days per week and now they propose to make it even more. Does anybody believe that the Harpersfield Abomination Track, so-called safety track, will keep any of its promises?

Does the town of Harpersfield planning board has a serious, solemn duty to protect the happiness and the pursuit of happiness of the people who live here and to protect the economic prosperity, not only of the town of Harpersfield, but neighboring towns of Davenport and Worcester.

This proposal, if approved by the planning board, will destroy the economic base and the pursuit of



happiness of the people who live here.

Patricia Rockefeller Ralston moved here in 2018. When I moved here the race track training facility was just starting to operate on Friday, Saturday and Sunday. I work nights, so I am home during the day. Motorcycles and cars are going 50mph on our road, farm vehicles travel on those roads. I have pictures. This what they are doing to our road. (She submitted black and white photos.)

She said they represented it as a training facility. It now operates seven days per week. They started counting, missing the first 30 cars that go 50 mph past their home. They are going to rear end a farmer. They are peeling out and burning rubber and leaving tire tracks. We are not benefitting from these people and they are damaging our roads. They are going to kill one of our farmers. We are not safe from them.

Have they filed for a license to have an airfield? They are now selling food from food trucks and have motocross racing. They have violated and broken every promise they made since they have been here. It is not fair to the generations of residents already here.

Gabby Leach She owns land and was part of the Harpersfield Friends of Rural Life. Saying the group spent more than \$100,000 and they appeared in court three times. Winning every case. "We got zip. We worked our butts off. I have heard the mini bikes. They sound like mad bees. No motorcycle will ever overpower that sound of the mini motorcycle. The airplane buzzes our property because Greg Lubininsky doesn't like me, He's always flying around and doing ticks close the ground. Some day something is going to happen.

Does he have a federal firearms license for the shooting range on his property. I have heard them shooting high-powered rifles. And there is camping at the track. They drive up there every day to take their mobiles homes back home. That's bull. We've seen them there. You see all the campers and the vans there.

As many as 400 people have been up there in years past that made lots of noise. One day when we were protesting along the roadway to the track. A young man with a red DuCati when we said he would have to remove a spark plug, He left a short time later. It's for illegal cars running ever since the beginning. She asked if the planning board members have been there. W. Keller said they wouldn't let them in. Adrienne Jackson lives on HarperHill Road. She asked how many accidents have there been at the track and is it known if there have been any deaths. She believes the planning board should be concerned about that as a safety issue. (It was difficult to hear)

Lisa Roland lives on Parker Schoolhouse Road. Because they live in the town of Davenport they do not receive notices of the hearings. We don't get the notification because the noise doesn't travel across the stone walls into our town.

Noise from the plane begins at around 7:30 a.m..over her house. They are doing tricks and knows there are restrictions. She asked if there is ingress and egress for a plane over her house. She said they are doing aerial stunts and tricks over their fields and homes. There is no way to miss them from her home. She can read the numbers on the plane. It's against the rules to do that. There is another way for them to approach and takeoff and "he " could avoid them but he doesn't. It is beyond irritating. We hear the track all the time. Davenport isn't part of this meeting. Their fields do run off into our fields. It's like a huge amphitheater. Now we are hearing them when we are inside the house. Now we are wondering if we really want to build a house.

She said visitors to the track also trespass onto their property, with children going into their back woods. Logs and other barricades are moved and there are tracks through the woods where they trespass.

People drive up the extension. It's a private 2 mile driveway. It's also their attitude. They are rude. We

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hear their noises. The impact on us as owners and it lowers the value of our land we've owned for 30 years. There should be an environmental impact study done on us.

Davenport isn't allowed in this meeting. Their fields drain off into our fields. It is an amphitheater. So we are hearing the echo as well as the.

It's a place to go get your driver's license is what it was sold to us and that's not what it is.

It's like a bowl. It's louder in some places that are located away from the track

A singer left the hill because she can't rehearse due to the noise.

Michael Senovia lives on Parker Schoolhouse Road. I don't know where to begin. I have ridden motorcycles for more than 50 years I have hundreds of hours under my belt. This is the only track I am aware of where there are no noise requirements. You are usually required to pass a noise test to protect the quality of life. As a resident of Parker Schoolhouse Road, he has witnessed people coming and going from the track. I would think that would be a major thing the track would want to address. To have respect for the neighbors living on the roads. You don't do wheelies. You observe the speed limit. I'm sure there are FAA issues with the aerobatics going on over residential areas. I did a little more research. He said he called the track and asked about the new track. He was told it was all but a done deal, a mere formality. If this track is allowed to go through - the addition - then the assessment for capital improvement should go up. The value of their property should go up while the value of my property should decrease, but we all know that's not how it works.

He asked if it was within the boards

Michael Kernan lives on Parker Schoolhouse Road. He has ridden motorcycles for more than 50 years and this is the only track he is aware of that there is no noise requirement. Inlyu one he knows with no noise restrictions. Things he has witnessed coming from the track he would caution them to have respect. He believes the Federal Aviation Administration would have an issue with the pilot doing aerobatics over people's houses.

He said he did a little research and said the owner of the track views the application with the planning board as merely a formality and has states there will be a dirt bike track there soon. If the addition is allowed, the assessment of the track should go up.

He believes the value of his property will decrease, but then I guess it won't happen that way. It is within the planning board's purview to reject this application.

Based on the statements of the people at this hearing, they shouldn't. They should make them adhere to something, Will there be any noise limits or restrictions placed on the applicant. He said he was not against business, but he doesn't believe the focus is to get the locals off their back. If the track was not there, his home would be worth more.

He asked if there would be an age limit on the participants.

Gabby Leach said the reason all this is happening is because the town is afraid of being sued.

A. Phillips said it is part of the town's site plan review process. There are certain requirements. All that has been done and is being done by the planning board.

Residents asked if a sound study could be done from each of their homes.



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The applicant has submitted a sound study and the planning board's consultant has made comments.

One lady asked if the applicant will have to answer to those comments before the application is approved.

A. Phillips explained they are here not because the town is afraid of being sued, but because there is a process.

Patricia asks if the Sheriff's Office can monitor the roads.

Paul Rosenburg, of Albany, said he had been coming to the town to visit friends for years and years for the relaxation. He said he is thinking of the tourism. And said it's absolutely horrible being at their home. I think about all the people who live here and visit here.

Edward "Rusty" Pick lives on Harper Road, five miles away in a straight line from the track. He said they are here seven days and the noise travels over hill and dale. He didn't understand the legal notice and I don't want to hear 8 o'clock. It is annoying to have this constant noise in our lives. I live five miles from the village and I can't hear the noon whistle. The legal notice does not state clearly when they are going to operate.

A plane has buzzed his fields and his house. When he was doing some work in Davenport they were doing the same thing there. It does not state what time they will start in the year. We all need a break. There should be no additional noise if they can't contain it to their property, it should not be allowed.

Kitty Ballard said the track patrons don't care what people think. They position themselves side by side like racing cars along the little town road. They already tried to build the extension. They have lied to you and us from day one. He's already started construction. We see the trucks go by our house. He has ruined our life. My husband is 79 years old.

Jennice Chrisman asked what type of lights are being put in. Where are the studies being done, on the track or outside the perimeter. She played a cell-phone recording of the noise she hears inside her house. They operate more than four days and now they are asking permission to add even more days. How do we know and how can we trust them to do what they are saying they are going to do. 8 a.m. to 5 p.m. isn't tolerable, but we deal with it. We know they stay later than 10 p.m. We hear the parties and the fireworks at midnight. We are buzzed by the airplane. It shook my house. He never does stunts over the track. I don't know anyone living peacefully in their house with this going on. It is not just Saturday and Sunday, it is all the time. I have to turn the TV up. This is not what anybody signed up for. They are told they can't do something and it still happens. They call it a "safety" track. If they are having motorcross, how is that safety. They can't go on a regular road. Go-carts can't go on a regular road. How is that safety, Why is that a safety track. I do behoove people to come and listen. Saturday and come every single day and you would understand why we are so upset. I also heard the rumors they will be having snowmobiles. There is not supposed to be camping but they are. They have never stayed to what they say.

Elmer Carson lives at 208-210 Zimmerman Road and has a cabin with a 200-foot straight away at the end of Zimmerman Road. He said he is torn. His dad was a military pilot and his mother got him a motorcycle when he was a kid and he races a motorcycle to this day. I know things are loud and I know aviation. There are compromises to be had with my race bike. Using a baffle or reducer makes it a lot more quiet. He admitted he does not know what the plan is for the future of NY Safety Track. I don't know what that's all about. He did not review the plans. He said dirt bikes can be quieted down.

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It is not going to shut down the track, but he said we all have to live together. I am asking for track to ask for DV killers. I understand the grievance. There is something that can be done. I am concerned about the public road. They line up on my road and go 50 to 60 mph. I just installed fencing and gates so people will have to slow down. It cost me \$10,000. I think they can talk to the riders during the rider's meetings to lay down the ground rules. There are ways to be better neighbors. I want to ride.

Dev Kernan said the entire family is concerned and he agrees with all the objectives. It's the worst kind of noise because they are always changing gears. I have a shop 2 miles away and I am making noise, but it is nothing like this. I have been coming to the property on South Worcester Hill since I was a child. The Planning commission has background and responsibility to serve the well-being of the citizenry of the town they are serving. 90 to 95 percent of the participants are coming from out of town. We are being egregiously abused by this track. The operators from the first have lied to the planning board and made promises they can't fulfill. They are bold as can be with the sign to the race track, He objects to the expansion and said the track owner is trying to resurface and alludes to the bad faith and that the planning board not even consider it until they are able to enforce the original conditions by showing some kind of ethical consideration for town residents.

One Lady said those speaking have all referred to the requirements placed on the track and they know they have been besieged with complaints from all of us. What can you do to enforce it.

A. Phillips said she wanted everyone to understand the planning board has no enforcement authority. Under local law it is a code enforcement officer and town board authority. She said there is a history with the track and it has been the subject of litigation. This planning board cannot do anything about that.

Someone asked about the signed affidavit. A. Phillips said the planning board has engaged an acoustic engineer based on the application. In response to that, the applicant is amending the application. Reducing operation to two to four days, et . That's what has been submitted.

Mike (?) of Parkers Schoolhouse Road said the planning board made a mistake once by approving this, Don't make a second mistake

Flora Zimmerman asked which days the two to four days of operation will be, so the residents will know.

David Lubininsky said he is a co-owner of NY Safety Track and understands the concerns. He said he was here to discuss the extension. He said he rode a bike here to let those present hear the sound. If anyone from the public has questions he welcomes them to come and listen to the bike. He said he completely shares their concerns.

After the public was quieted over their reaction to that comment. He went on to say he believes they track can meet all the conditions and that is why they reduced the application.

Someone asked which two to four days of the week the track would operate and what hours.

A. Phillips said this is part of this application. The lady said if they are operating until 8 p.m. it should be a no-go. If they are restricting noise

Linda Dinovia lives on Parker Schoolhouse Road. She said they are avid riders of dirt bikes and street



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bikes, but this is turning into a Carnival show. She has a lot of empathy.

Nancy SanFilippo asked if they don't live in the town of Harpersfield, how do they find out the outcome of the decision by the planning board.

Susan Henshall asked if there were going to be any environmental studies. She said water from the track facility runs onto her property. She said she did not find an environmental notice bulletin on the state Department of Environmental Conservation (DEC) website regarding any studies. A. Phillips explained it is part of the Stormwater Prevention Protection Program (SWPPP) which is submitted and the planning board did retain a civil engineer to review the plan and they have responded with comments regarding the SWPPP.

Patricia Kernan lives on South Worcester Hill Road. She said it is unbearable. The noise is so loud it gives her a headache. As a musician, she is unable to play there. She is a birder and can't hear the birds. The noise affects the wildlife. I would appreciate it if you do not approve the application.

Ed Pick said that when a decision is made it should be posted and the applicant held to it this time. We need to see there is a guarantee in good faith that they will comply to what is agreed to. We need a little assurance about what is going on here.

Gabby Leach asked how 20 bikes on a little track buzzing like mad bees will not add to the noise.

D. Darling asked if anyone else wished to comment on something other than the noise

Elmer said if the extension goes through, he wants to make a vineyard on his property

Dev Kernan said that from his experience, part of the function of the planning board is to negotiate conditions under which a plan would be approved. It is not enough to have monitoring of the noise. This track started off with a few riders a few days per week and it grew and grew. It needs to be monitored, controlled and paid attention to and not stamp a plan and walk away from it. There needs to be conditions and requirements to make it more tolerable than it is now.

There was again a statement regarding more and more cars and motorcycles racing on the town roads and how will it be monitored and enforced.

A. Phillips said the planning board was going to deliberate and determine if there can be conditions made that can be enforced.

Bruce Kernan asked if there were new conditions if it would require a public hearing

A. Phillips said this process isn't going to result in an agreement. It will follow the local law and State Environmental Quality Review Act process.

D. Darling said when and if the planning board gets to that point, the conditions will be presented.

Bruce Kernan asked if there would be a public hearing for the public to comment on those conditions

Someone else commented they should require them to put a sound barrier up.

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Jordan Hitch, attorney for NY Safety Track, said the reason to have the hearing is for the track and the planning board to come together on the conditions. The public hearing was to hear concerns and receive concerns that weren't addressed. She said they were there to listen to the public and to discuss those concerns.

A. Phillips said the purpose of the public hearing is for the public to get those concerns on the record, so there is a record to look at when they have to make a deliberation. This is not a debate, this is a step in the process.

It was brought to the town's attention last fall and the applicant admitted to removing trees from the property prior to approval of the application. He was ordered to cease and desist by DEC. It is unfortunate they violated the law.

The question was asked if there is anyone who goes and monitors the track from the town and DEC.

D. King left the meeting for an emergency call, with A. Gallagher becoming a voting member of the planning board in his absence.

A motion was made by F. Ciulla, with a second by W. Keller to adjourn the public hearing on the application until the September meeting of the Planning Board. Motion carried 5-0.

A. Phillips assured those present that every comment received tonight is going in the record.

Dave Lubininsky asked if anyone wanted to see the motorcycle he had brought.

The meeting then became disorganized with several private conversations.

The cell tower application was not presented to the planning board, pending a lease agreement with the town.

A. Phillips said her firm does represent Verizon wireless. However, a different firm will take the representation in this case, so that her firm may remain.

Planning board members discussed the sound study reviewed by the acoustic engineer they retained, and some of the concerns raised by the public and how to get more answers that will allow the planning board to make a rational decision on the application. It was agreed they will attempt to get some of their questions answered by the September meeting.

Noise will be a part of the SEQRA process and it is a health and safety concern.

D. King returned to the meeting at 9:15 p.m..

A. Phillips passed out some sheets outlining the site plan standards. She said it provides an outline of what must be considered and what may be some useful solutions to deliberate next month. She said they can point to the record to support their positions under SEQRA if they are going to approve Part I of the application.

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On a motion by .W. Keller, with a second by D. King, the meeting was adjourned at 10 p.m..

Respectfully submitted,

Liz Page,  
Recording secretary.