

# Town of Harpersfield Planning Board

## Minutes: September 27, 2023

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

Also present: L. Page, E. Brower, A Phillips, Brandon Bodine Vicki Bodine, Joanne Koseiusko, Patricia Kernan, Robert Prush, Paul Rosenberg, Linda Zenobia, Michael Zenobia, David Lubinitsky, Steve Pushkar, Carlos Garcia, David Cox, Wendi Habenicht, Richard Friedenborg, Bruce Kernan, Sean Murphy, Rob Queirolo, Sherry Demby, Jill Tanner, John Baker, Susan Henshall, C.W. Henshall, Mary Lee Bauer, Michael Bauer, Glenn T. Bertrand, Laura Bertrand, Chris Ferla, Susan Fortier, Catherine Kernan, Sara Thigodeau, Kenneth Ayers, Kathryn Demby, Rosann and Ralph Kaiser, Zoe and Rudy Menge, Nanci Sanfelippo, Michael Sanfelippo, Jennice Chrisman, Len Marigliano, Aurthur and Helen Kinsley, Gabby Leach, Kitty L. Ballard, Anne Marie Garti, Alice Blu, Flora Zimmerman, Hank Browning, Lawrence and Joanne Kosoiusko, Michael Vessia, George Thompson, Amezlie Thompson, Robert Prush, Matt Vaitekunan, Lesley Vaitekunez. Ken Ayers did not sign in.

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

On a motion by F. Ciulla, with a second by D. King, minutes of the August 30, 2023 meeting were approved as presented. Motion carried 5-0.

D. Darling announced that there was a sketch plan presentation from Blue Wave Solar regarding a third solar project off Bruce Hill Road.

Robert Queirolo, manager of Solar Development for Blue Wave and Sean Murphy of Flycatcher, senior project manager, were present with the proposal and to establish an escrow account for legal and technical review of the application, which was submitted. It is a community project. (See attached application).

W. Keller said his main concern is groundwater as it penetrates the footprint covered by the solar panels and to use consideration for contour plowing.

Once again, A. Phillips said she must excuse herself due to a conflict as her firm represents Blue Wave Solar on unrelated projects.

A motion was made by W. Keller with a second by D. King to accept the sketch plan and approve the town to establish an escrow account. Motion carried 5-0.

D. Darling then read out loud the legal notice published in the Daily Star on September 1 regarding the continued hearing on the site plan application from Mountaintop Airfield LLC and NYSafety Track to expand the scope of operations. He asked, due to the number of people present, that everyone try to limit their comments to two minutes and that the planning board has already received a lot of comments and a lot of issues have been raised regarding the proposed project.

Anne Marie Garti said she was representing the people of Harpersfield, Davenport, Worcester and some in the town of Kortright. She is submitting 60 pages worth of comments and asked if she could have a few more than two minutes to highlight those submitted comments. She said she wanted to help

the planning board make the right decision this time. She said she had reviewed all of the previous information regarding NYSafety track in addition to the legal action. She said the planning board has the legal authority to deny the application and issue a positive declaration for a full environmental impact statement.

She said the affidavits submitted by the applicant in July and August should be rejected. They have been received too late and are in complete contradiction.

She asked about the sound study and said she has a problem with it. She said they have been thinking of it in terms of a track, but they should be considering it as a 24-lane highway. She provided an example of being along the side of roadway when one motorcycle passes and then a couple of dozen. She said it must consider more than the sound of one vehicle at a time and referred to Page 3 of the document. She said there is illegal segmentation. It must study the impact of all 25 motorcycles at one time. That is the first issue and it is a big problem. It is also a legal issue. The second is that it is described as a 2.2 mile long 40-foot wide track. It is wide enough for three cars. The mini track is wide enough for three lanes of mini bikes. They are not laid out in a straight line, but are more akin to four parallel lanes on the east side of the racing mini track. Four lanes times 3 equals 12 lanes of traffic to combine 12 lanes on 1000 by 1000 feet. That is why the neighbors can hear so much. You approved a 24-lane highway on a small piece of land. That is enough to request a full environmental review.

She asked the planning board to do the right thing and not repeat the mistakes of the past. Gabby Leach lives on Rose Land and said she has been there since the beginning of the track. She asked the owner if he had sold the track to a corporation. David Lubinitsky said he would prefer to collect all the questions and will answer at the end.

She said there were four things she wished to be proposed. To hold to the original site plan, which was for a safety training facility for bikes that are driven on the road; build a wall completely around the track; require all vehicles to have sound-muffling devices and have a runway for planes and not for acrobatics and buzzing our homes. We've been abused by the acrobatics over our houses.

Susan Fortier asked the planning board how it could even consider anything else when they are already racing cars illegally and why isn't the code enforcement officer up there?

Lawrence Kosoiussko, owner of the Charlotte Valley Inn in south Worcester, said something about the CEO going up to the track which tells me he disrespects the tax base that this woman pays. (I'm not sure on this one..)

Mary Bauer, I totally agree with all these concerns. Right now he is saying wants racing from 9 a.m to 6 p.m. right now its to 5 p.m. and that's way longer than we really want. I would really like that changed. It's the only thing they said that they are doing. They do stop at 5 o'clock, but 6 is too much. They really are racing. It's on the website. There are racing clubs that go up there to race.

Flora Zimmeran said they are saying 2 to 4 days when they are now doing six to 7 days. I don't know understand how they will agree and follow through on the 2 to 4 days. I don't think they were supposed to be doing 6 to 7 days which they are doing right now.

Zoe Menge lives in East Meredith I hear the noise clear across the mountain. It is not like the peace and quiet they always had. This noise is industrial. They're bending the law and I don't live nearby. Going to expand it and it's going to double the time to have it all week.

D. Darling reminded everyone the planning board is well aware of the noise issue and the distance it travels. The planning board has received good comments and understand that noise is a concern. He said there is no zoning in the town of Harpersfield.

A. Phillips reminded everyone the hearing to to hear the public and due to the number of people present, she wanted to assure everyone if they have spoken previously, those comments have been recorded and are a part of the record. She said it is not a question and answer session.

Kitty Ballard said they own a farm said they are allowing camping at the track. She said they found people camping in one of their pastures, sitting there with pizza boxes in a barrel. They said they did not want to pay Mr. Lubinintsky the price he was charging for them camp at the track. "That's what we have to live with". She will forward the photos she took to the town clerk.

Roseann Kayser said she is concerned for the safety of her grandchildren. She said people come of the race track and they are still racing and go off the road. I would like to see that stopped as well. She was told it is a law enforcement issue.

Sherry Demby said she was curious to know that this must have had some sort of a master plan. What will be coming after this. She asked the board to enlighten her as to what else is in the plan.

Len Marigliano said he wanted to appeal to the track owner's human decency and for him to consider the heartache he has caused his neighbors. He was told he was not dressing the site plan.

Joanne Koseiusko (?) asked what is needed to be done to get zoning laws established in the town of Harpersfield.

Allyson Phillip answered that is not the planning board's decision.

Bruce Kernan said he takes exception to the comment that the traffic is not a planning board responsibility as it is a problem and will become worse.

An unaided person asked if the two to four days the track is running includes special events. She said the track ran for 11 days straight in August and the special events should not be in addition to the 2 to 4 days.

Robert Prush said he knew there are crews working on construction at the track currently and shouldn't it be stopped. He said he called the CEO and has reported it to the town. He has also brought it before the town board.

He said he was assured by town officials they would take action.

Gabby Leach said they see equipment going up and down from the track daily. She said they called the town CEO and were told he was not working on that day, that he was off. He had attempted to go up the next day and was not allowed in.

Flora Zimmerman asked how he could check things out if he is not allowed to enter.

Linda Denovia said she has spoken to someone from DCEC who has seen the track and said there are two new hangers being built and the mini track. I know it is not the planning board's issue, but if he

is not complying, it is an issue for all of us here and in the future.

She asked if there were going to be any additional wastewater or ? if there were going to be 20 more vehicles and 20 more families without more wastewater facilities. There is nothing in the application about any other buildings. So how many discrepancies are there?. She encouraged everyone to keep calling their representative and keep reaching out to them. Blow up their phones and let's get this taken care of.

Kenneth Ayers (attorney not signed in) said the track had submitted a \$5,000 check to pay into the existing escrow account.

He said the application has been filed since Aug. 23, of 2023 and information about the scope of the project has been submitted. He said there are no additional changes to that site plan and he sent a letter to the town board. There is nothing new being added by the applicant. There are many issues the community has brought to the board and he is requesting they close the hearing tonight and move to the deliberation stage. He said he also requested a waiver to the site plan and to look at it as part of their deliberative process.

He said they were going to be addressed in parts 2 and 3 on the EAF. Allyson Phillips explains that part 2 of the EAF requires a positive or negative declaration regarding any impacts and the planning board will look at all of them to determine impacts, which is required before there can be any approval.

It is the next step in the process, although it is unknown if the p.b. will take that step tonight.

W. Keller said they were just told there were no changes and he said the planning board is hearing otherwise from the audience. We submitted with referrals and that there was a cut back on the original proposal and the types of vehicles to reduce the scale and scope of activities that will take place there.

WK asked if the attorney if he had visited the site. Mr. Ayers answered that he had no personal knowledge of the site.

A lady who spoke previously contends the application says all vehicles, but nothing has been mentioned about the cars drifting on the track, which creates a squealing noise when they are going around corners or sideways. No one has mentioned anything about the drifting noise.

Chris Ferla said the noise is an impact and submitted a portion of a document available on the state Department of Environmental Conservation website, that is 28 pages long, regarding assessing and mitigating noise. The article is entitled Assessing and Mitigating Noise Impacts. DEC Law articles 3, 8, 23, and 27. and falls under the Division of Environmental Permits. She said wind and topography can play a major role in noise, which is what the planning board should be considering.

Robert Prush said he thinks more people don't want the track than do want it. If the board decides it can go through it will not be fair to the people.

Anne Marie Garti, said there is information about air impact in her packet. It is like a major highway expansion in a rural community. She said the planning board has to switch how you are thinking about it.

Mike Sinovia said while the board is in the deliberating process, how many of the planning board members are willing to live under the rules the residents are living under. We are all living under one

person's addenda.

Flora Zimmerman appealed to the board to consider what it has done to the residents' lives for others to come and have a good time. She has a pond but doesn't dare let her grandchildren visit it.

Michael Vessia said he hears shooting from the track after 5 p.m. Which way are they shooting and what are they shooting at. Will we get a re-assessment of our taxes.

A. Phillips said the rifle range was mentioned at the meeting last November and the website showed commercial shooting ads with guns and ammo. The planning board confronted the applicant because they never disclosed the shooting range and that it would need to be added to the application. They have said they are not going to use the shooting range.

Someone asked when it would be decommissioned. The track attorney said it is not part of the site plan application and that the owner has agreed to decommission it.

He was asked to show proof to the planning board that it has been decommissioned.

Robert Prush added that the visitors to the track are 'nasty and rude'.

Another person asked if "we are still pretending this is a safety track"?

At this point, A. Phillips said he was being disrespectful to the planning board, which has been dealing with the track for 11 years. "No one at this table is under that misconception"

CW Handshall asked if they are going to decommission the shooting ranges.

"We've heard. We understand it. D. Darling reminded the audience the comments should be related to the site plan application."

At this point, David Lubininsky said he is the owner of the track. He introduced his general manager Carl (Carlos Garcia) who is around year around to answer any questions. We are discussing the new application, not what is going on now, and if its safe. He said if they need a few numbers and a few facts. If need any justification of these numbers see me after the meeting and he would offer them. He then read from his notes regarding the economic impact of the track for the region, information from the Real Estate Board of NY. The track has also produced income to many homeowners who have converted their properties to airbnbs. Price over 10 years gone up 2.1 percent. The track has brought more than \$700,000 to neighbors who operated airbnbs. "These are all of your neighbors who are not here. They are collecting rent every weekend."

There is not any significant impact on Parker Schoolhouse Road. It was not built properly. If it's a mess, it is not my fault. It's somebody elses fault, I don't know. He points to Zimmerman Road, which they paid to improve 10 years ago and doesn't have a crack.

He said the track has been recruiting local people to full time positions. Our real estate taxes have gone up 6 times over 10 years.

The noise study is a touchy question. We have done five studies since the beginning. They did not find any significant noise impact - the entire audience laughs - He indicated it is not "crazy, crazy noise". We can mitigate it. I'm talking about what we know. There is no adverse community noise, so we don't follow all of the conditions.

He said the flights last 15 to 20 minutes and is regulated by the amount of fuel . He said there have

been 32 flights logged since Jan.4, one in eight days since beginning of the year. It's not much. This also draws laughter. Audience responds that he flies every morning.

I read very careful the complaints.

He said he counted the number of complaints. He counted 12 noise complaints, which is minor, when you compare the number of people who live in Harpersfield, Davenport and Jefferson.

The total populations is 6,317 people.

A. Phillips clarified for the record that she had submitted information to his attorney and to his son's attorney regarding the complaints and reminded him there have been 10 years worth of noise complaints which will be part of the record of these proceedings.

He said it represents only 22 percent of the people.

He said the application was submitted 13 months ago. The project can be approved with conditions or disapproved. He said that disapproval would result in a lawsuit..The applicant would spend \$150,000 in legal fees. 99 percent of the time it results in some sort of a deal. That is the second \$150,000 and by the time they get to the third \$150,000 they are generally ready to make a settlement.

At this point A. Phillips said he was threatening the board and that he should put his threats in writing and submit them for the record.

Ken Ayers advised Lubinitsky to sit down.

Gabby Leach said her home value has gone down 30 percent due to the track. Explain that to me.

D. Darling said that is enough. We have had enough for tonight. There is nothing more we are going to solve here tonight. We've had enough new comments to work on. D. Darling thanked everyone for coming.

He asked the planning board members what they wanted to do and F. Ciulla said he believed the hearing should be continued, W. Keller agreed and the motion was carried 5-0 to keep the hearing open. D. Darling announced that to the audience.

The majority of the audience left at that point.

Planning board members discussed the next steps. It was agreed that since so much time has passed since the original site plan submission and with changes being made to that application, that it should be presented to the county planning board again. They also pointed to numerous comments from the public regarding inconsistencies with what is taking place at the track.

A motion was made by K. All, with a second by F. Ciulla to have K. Bower send and updated referral to the Delaware County Planning Board so that they may review the changes to the application since the last referral. Motion carried. 5-0

On a motion by K. All, with a second by D. KIng, the meeting was adjourned at 9:06 p.m.. Motion carried 5-0.

Respectfully submitted,

Liz Page  
Recording secretary