

Planning Board Regular Meeting

Town of Fort Ann, NY

January 22, 2018

A regular meeting was held by the Planning Board of the town of Fort Ann, County of Washington, and the state of New York at the Fort Ann Town Hall, 80 George Street, Fort Ann, NY on the 22nd day of January, 2018 at 7:00 pm.

PRESENT:

Don Bedeaux	Chairman
William Hohmann	Vice-Chairman
Richard Winchell	
Ruth Petteys	
Brian Mattison	
Chad Wilson	
Jeff Meyer, Esq.	Attorney
Deborah Fifield	Secretary

ABSENT: Matthew Jones

OTHERS PRESENT: Claudia Braymer, Jonathan Lapper, Jeremy Treadway, Joseph & Shelley Gregorio, Lindsay Carte, Michael Dornan,

OPEN REGULAR MEETING:

Chairman Don Bedeaux called the meeting to order at 7:00 pm with the pledge of allegiance.

Organizational Meeting: Election of Vice-Chairman. Brian Mattison nominated William Hohmann. Seconded by Richard Winchell. Motion to accept made by Brian Mattison, seconded by Richard Winchell.

Vote: Ayes-6 Nays-0 Abstain-0

APPROVAL OF MINUTES:

-The board reviewed the 11/27/2017 Meeting Minutes. A motion to accept the Meeting Minutes was made William Hohmann and seconded by Brian Mattison.

Vote: Ayes-5 Nays-0 Abstain-1

CORRESPONDENCE: None

OLD BUSINESS:

Andrew for Monolith Solar/Site Plan: Install solar panels at Boats By George, 10018 State Route 149, #109.-1-32.7. Project is in Adirondack Park. Panels will be placed on 3 buildings to power the facility. Applicant was not present. Application tabled.

NEW BUSINESS:

Joseph & Shelley Gregorio, West Road, #103.-1-30.2/Exempt Natural Sub-Division: Applicant has 105 acre parcel that is divided by West Road, which is a natural sub-division. Would like to sell one parcel. Do they have to wait the three years? No. Motion to deem exempt and is a natural sub-division made by William Hohmann. Seconded by Brian Mattison.

Vote: Ayes-5 Nays-0 Abstain-1

OLD BUSINESS:

Donald Pierce, 241 Goodman Road, #111.-1-2/Site Plan/Public Hearing: Acquired Yole Family Irrevocable Trust, wants to divide old farm house. Tenant wants to buy farm house. Applicant was not present. Chairman Bedeaux opened the Public Hearing for Donald Pierce. No comments from the public. Motion to table Public Hearing made by Richard Winchell, seconded by William Hohmann.

Vote: Ayes-6 Nays-0 Abstain-0

At 7:06, the Board adjourned meeting to confer with Counsel for legal advice. The Board entered into the Courts chambers to conference.

At 7:25, the Board re-opened Public Session. Board member Ruth Petteys left the meeting.

Attorney Jonathan Lapper and Jeremy Treadway/Public Hearing: ADK MX Motorcross Track. Applicant wishes to make changes to track and amend the conditions placed on the original approval. Attorney Jonathan Lapper explained they are asking for a series of small modifications. Minor changes to what had previously been approved. 1. Length & width of track. Because it is a dirt track, when regraded it moves a little. Provided a site plan to this prior. 2. Noise testing. Applicant feels it is better to use the updated AMA testing than the one previously approved. 3. Hours & days of operation. Asking for a maximum of 5 days per week, including 2 race days. Operate from 9am to 6pm, except race days then until dusk or 7:30pm. Also operate from April 1st until October 31st. 4. Use of ATV'S & UTV'S with understanding they will be in compliance with noise as dirt bikes. Chairman Bedeaux opened the Public Hearing to the Public for comment.

Mike Dornan: Has any other business been put on restrictions. Truck stop is open 24 7. Motorcross brings business to town.

Attorney Claudia Braymer: Representing a group of neighbors opposed to the motorcross. Board has already been provided affidavit by Lindsay Carte, Tracy Monahan and Claire Greene. Lindsay Carte goes over violation such as noise limits over the limit, not all bikes being tested, use of a sound system being used. Tracy Monahan explains reason for selling her house due to motorcross track. Claire Greene talks about quality of life impacts she has experienced. Site plan review criteria states cannot approve a project if adjoining properties are not protected from noise, glare, unsightliness and other impacts. It would be unreasonable to approve changes to existing project that are going to exacerbate the problems. Changing noise test without reducing the limit will increase noise. Adding additional days, hours and ATV'S will exacerbate the problem. Asking the Board keep him at his current level of the site plan review from last year until he can demonstrate complete compliance. Without placing additional impacts upon her clients.

Attorney Jonathan Lapper: Applicant is not asking to exacerbate anything. ATV'S will be held at same decibel levels already imposed. It would still be only 2 race days, just be flexible because of weather and holidays. We are not trying to impact anybody. As to affidavit's, they talk about impact on property value, for the record of the closest houses to the track, the Monahan's sold within three weeks at full price. People that bought the

house, are happy being there. Feels those opposed are being overly sensitive. Compared to 149 noise feels this is not a problem.

Lindsay Carte: Talked about decibels, logarithms, etc. By switching to other test, all bikes will meet the requirement. The 2 meter is the only test that measures the bikes at a maximum amount of sound. The other one doesn't do it.

Jeremy Treadway: When 2 meter max test was originally approved, condition said to follow AMA standard. Due to confusion, we stuck with 2 meter max. But what we are really asking for is to follow AMA standards, and the ANSI test is being used across the country. Mr. Treadway stated the AMA was his governing body.

Richard Winchell/Board member: Told the applicant that the Board is his governing body, not the AMA. Not a single letter has been received from the AMA, nor has he seen a representative at any meeting to represent the track. Mr. Treadway claims a letter was sent from the AMA in the beginning. Mr. Winchell states that in the original application, the board would not allow a big enough track to get AMA sanctioned and now applicant seems to want to be sanctioned.

Motion to close Public Hearing made by William Hohmann, seconded by Brian Mattison.

Vote: Ayes-5 Nays-0 Abstain-0

Attorney Jeff Myer went over the SEQRA Environmental Assessment Form with the board. Motion made by William Hohmann to make a negative declaration, seconded by Brian Mattison.

Vote: Ayes-4 Nays-1 Abstain-0

**PLANNING BOARD OF THE TOWN OF FORT ANN
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Introduced by WILLIAM HOHMANN

who moved its adoption

Seconded by BRIAN MATTISON

RESOLUTION APPROVING THE SITE PLAN APPLICATION

OF

JEREMY TREADWAY AND

10786 RTE 149 LLC

MOTION FAILED

WHEREAS, pursuant to Local Law 4 of the year 1990, also known as the Town of Fort Ann Site Plan Review Law (hereafter the “Site Plan Review Law”) and Article 16 of the Town Law of the State of New York, the Town of Fort Ann Planning Board (hereafter the “Planning Board”) is authorized and empowered to review, approve, approve with modification, and disapprove all site plans in the Town of Fort Ann as require under said Site Plan Review Law; and

WHEREAS, Jeremy Treadway on behalf of 10786 Rte 149 LLC (hereafter the “Applicant”), has applied amend certain conditions that were placed on the site plan approval for the 4300 foot motocross track locat on 10786 NYS Route 149, Town of Fort Ann, the improvements related to which are found in the Application (hereafter the “Proposal”), which requires Site Plan approval under the Site Plan Review Law; and

WHEREAS, the Applicant has submitted documentation in support of his application, including but not limited to the cover letter encompassing the application materials; Environmental Assessment Forms; Site Plan; Detailed Site Plan, plus additional correspondence, and materials from the Applicant and their representatives, which are expressly referenced herein as if fully set forth herein and all of which shall constitute the “Application”; and

WHEREAS, by resolution dated September 13, 2016, the Applicant obtained site plan approval for a 4300 foot motocross track, a copy of which is attached hereto and made a part hereof, and with all applicable appeals having been exhausted, is seeking to amend the following conditions:

1. The length and width of the track
2. The applicable noise testing method for each motocross bike being permitted to race
3. The dates and hours of operation
4. The use of the motocross track for ATV and UTV’s.

WHEREAS, the Planning Board is also in receipt of the recommendation of the Washington County Planning Board, which Planning Board found it to be a matter of essentially Local Concern; and

WHEREAS, a duly noticed public hearing has been held on the Proposal as presented in the Application and the comments of the public are included in the record hereof; and

WHEREAS, the Planning Board is prepared to review the application and make a final determination thereon in accordance with Section 8 of the Town of Fort Ann Site Plan Review Law.

NOW THEREFORE BE IT RESOLVED:

Section 1. Various public comments were raised concerning the application including concerns over lighting, noise, water runoff and pollution, traffic, and impacts to neighbors. The Planning Board has considered these concerns and finds that:

The Proposal is a permitted use in the Town of Fort Ann. In reviewing the proposed amendments and having provided the public with the ability to freely comment on the application and proposed amendments included therein, the Planning Board hereby finds the proposed amendments acceptable subject to the conditions contained herein.

Section 2. Having reviewed the Application and the comments of the public, and having reviewed the criteria for the review of site plan applications in Section 8 of the Town of Fort Ann Site Plan Review Law, the Planning Board hereby makes the following findings:

- a. Is there adequate, and is the arrangement of, vehicular traffic access and circulation, including intersections, road widths, channelization structures, and traffic controls. Consideration will also be given to the project's impact on the overall circulation system as it relates to adjacent uses. (§7(B))

Vehicular traffic on-site will not be impacted by the amendments proposed.

- b. Is there adequate, and is the arrangement of, pedestrian traffic access and circulation, including, but not limited to separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience? (§7(C))

Pedestrian traffic on site will not be impacted by the amendments proposed.

- c. Does the Planning Board approve of the location, arrangement and setting of off-street parking and loading areas? (§7(D))

The off-street parking and loading areas will not be impacted by the proposal, especially due to the continue prohibition of camping, RV's, and overnight parking on the premises.

- d. Does the Planning Board approve of the location, arrangement, size and design of building, lighting and signs? (§7(E))

The motocross track will not be lit. There are no amendments to this provision.

- e. Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting visual and/or a notice deterring buffer between these and adjoining properties. (§7(F))

The Planning Board approves the existing landscaping and is not requiring any additional landscaping.

- f. In the case of multiple family complexes, is there adequate usable open space for controlled and informal recreation? (§7(G))

The Planning Board finds that this consideration does not apply.

- g. Are there adequate provisions for the disposal of storm water, sanitary wastes, water supply for both fire protection and general consumption, solid waste disposal, and snc removal storage areas? (§7(H))

The Planning Board finds that the proposed amendments will not impact the waste and water consideration

- h. In areas with moderate to high susceptibility to flooding and ponding and/or erosion, is there adequate structures, roadways and landscaping? (§7(I))

There are no areas susceptible to flooding and ponding. This provision does not apply.

- i. Is there protection of adjacent properties against noise, glare, unsightliness or other objectionable features? (§7(J))

Yes, the adjacent properties are protected against noise, glare, unsightliness and other objectionable features. As it relates to glare, unsightliness and other objectionable features the proposed amendments have no impact.

The issue of noise pollution and the possible impacts associated subject of extensive debate and public comment dating back to the original approval. The Applicant has submitted numerous additional documents from the AMA, noise test readings from those certain dates requested by the Town of Fort Ann.

The Planning Board finds that outside of the periodic spike in sound levels, there is no harmful impact to the adjacent properties above the ambient levels and the proximity and noise levels associated with NYS Route 149. In response to the potential spike of noise levels, the Planning Board is revising the condition that imposed noise limitations contained in the September 13, 2016 resolution. The Planning Board finds this will better protect adjacent properties.

- j. Is there retention of existing trees for protection and control of soil erosion, drainage and natural beauty? (§7(K))

The proposed amendment will have no impact on the existing trees nor impact soil erosion and drainage, excepting the original approval.

- k. For industrial site development plans, will there be impacts on air and water quality standards? (§7(L))

Since the project is not for industrial site development, the Planning Board finds that this consideration does not apply.

Section 3. Approval and Conditions.

Based on all of the foregoing, and all of the evidence and materials submitted by the Applicant, the Application is hereby approved with the following conditions in accordance with the authority granted by section 8(D) of the Site Plan Review Law:

a. The findings and conditions contained in the September 13, 2016 where they are not inconsistent with the conditions contained herein, shall remain in full force and effect.

b. The Hours of Operation: Beginning in 2018, the track operation shall be permitted to operate between the first of April (4/1) through the end of October (10/31); during the open period motorcycles, atv and utvs, shall only be permitted to operate on-site Thursday – Saturday from 8:00 AM – 6:00 PM and Sunday 10:00 AM – 6:00 PM. In the event one of the days in a given Thursday to Sunday period the Applicant is forced to close for more than six (6) hours due to adverse weather conditions, the Applicant may operate on the following Monday from 8:00 AM – 6:00 PM. The Applicant shall be allowed to operate on federal holidays during the open period of April 1 – October 31. The Applicant shall be permitted eight race days annually, which must be designated by January 1 for the upcoming year, and on designated race days, the Applicant shall be allowed to operate until the earlier of dusk or 7:30 P.M..

c. The Applicant may vary the track size and dimensions, however, there shall be no motorcycle, atvs, utvs operating or racing; or other ground disturbance outside of the “Track Area Limit Line” as depicted on the Detailed Site Plan prepared by Hutchins Engineering, Last revised 10/4/17.

d. The Applicant shall perform a sound test on every motorcycle, atv and utv prior to it operating on site to ensure that all motorcycles, atvs, or utvs shall comply with the noise requirements of the current American Motorcyclist Association’s Motocross Rules for Amateur Racing. The Applicant shall keep detailed records, including tachometer readings, of every test and supply the same to the town’s enforcement officer upon request. No motorcycle, atv or utv shall be permitted to operate on site that exceeds the sound limit established herein.

e. No camping, RV’s, or overnight parking of vehicles shall be permitted on site.

f. The Applicant may sell canned fuel on the premises. The Applicant shall not have a fuel dispensing station on site.

g. Noise levels arising from the site shall not result in a five (5) minute Leq measurement in excess of a 6 dBA increase above the ambient sound level or a regular or periodic Lmax measurement taken at a residential property above 65 dBA.

Section 4. This resolution shall take effect immediately.

DISCUSSION-

Brian Mattison would like to eliminate #f as you can buy sealed fuel in a store. Would like to know what original resolution said in regards to fuel. Original resolution said no fueling station. New condition to say on canned fuel. Chairman Bedeaux wanted on record he is against the fuel altogether. Should be no fuel what s ever. Chairman Bedeaux also stated he disliked the additional hours.

Attorney Lapper and applicant wanted clarification of decibels. If AMA changes in the future, does applicant go by AMA standards or come back to the Board. Will change wording to say applicant must comply with current AMA standards for amateur racing. And give detailed reports every week and have available upon request to Code Enforcement.

Hours of operation were also discussed and the ability to have additional hours on "race days".

ROLL CALL VOTE-

Chairman Don Bedeaux- No

William Hohmann- Yes

Brian Mattison- Yes

Chad Wilson- Yes

Richard Winchell- No

Vote: Ayes-3 Nays-2 Abstain-0

MOTION FAILED

In order for a resolution to be adopted, it requires a majority of the full board, i.e. 4 votes, ar not just a majority of the present. Mr. Lapper asked if the conditions could be modified that would enable Chairman Bedeaux or Mr. Winchell to be in favor of the proposal. When questioned, Chairman Bedeaux stated he did not agree with fuel sales on site and did not agree with being able to operate until dusk on "race days". He did not have a problem with anything else besides those two issues. Chairman Bedeaux stated he wants absolutely no fue sold on site. At this point Richard Winchell made a motion to table the application until a full board was present. There was no second. Per Chairman Bedeaux request of absolutely no fue sold on site and hours stay at 6:00 pm. Attorney Lapper asked Mr. Treadway if he would be agreeable to the conditions as described by Chairman Bedeaux. Mr. Treadway confirmed he could live with those conditions.

**PLANNING BOARD OF THE TOWN OF FORT ANN
COUNTY OF WASHINGTON, STATE OF NEW YORK**

Adopted JANUARY 22, 2018

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who moved its adoption

Seconded by BRIAN MATTISON

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upon request. No motorcycle, atv or utv shall be permitted to operate on site that exceeds the sound limit established herein.

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Section 4. This resolution shall take effect immediately.

Voting:

Ayes: Nays:

Donald Bedeaux, Chairman	X	
Chad Wilson	X	
Richard Winchell		X
Brian Mattison	X	
William Hohmann	X	

MOTION APPROVED

Jarrett Engineers, PLLC for Boats by George, Inc./Site Plan: Applicant wishes to expand boat storage on existing developed site at 10018 State Route 149, Fort Ann. Unable to make meeting. Motion to table by Brian Mattison, seconded by Richard Winchell.

Motion to adjourn meeting at 8:15pm by Richard Winchell, seconded by Brian Mattison.

Deborah A. Fifield
Planning Board Secretary, Town of Fort Ann

