

Organization River Area Council of Governments

Board Cooperative ZBA

Date and Time Wednesday, November 2 2011 at 7:30 PM

Place Town of Champion Offices Board Room (rear of building) 10 N Broad St, West Carthage NY

Contact [Chris Vargulick](#) Town Clerk Phone (315) 493-3240 Fax(315) 493-2900

Minutes

RACOG
Cooperative Zoning Board of Appeals

TO: Members of the Co-op ZBA, T/Champion Board, T/Wilna Board, V/Carthage Board, Town/Village Clerks, Zoning Enforcement Officers, Timothy Farley, T/Champion Attorney, Mark Gebo, T/Wilna & V/Carthage Attorney and Planning Board Chairmen

FROM: Christina Vargulick, Cooperative ZBA Secretary

DATE: November 4, 2011

RE: Minutes from November 2, 2011

PRESENT: D. Austin (7:36), R. Blank, L. Haverstock, and T. Kight

EXCUSED: B. Shampine

Chairperson Kight called the meeting to order at 7:30pm. The roll was called.

Motion by L. Haverstock, seconded by R. Blank to dispense with the reading of the October 5, 2011 minutes and to approve the minutes as presented. Ayes-3, Nays-0. Motion carried.

T. Kight asked Attorney Mark Gebo, representing the T/Wilna, to cite those sections of the T/Wilna Zoning Law pertinent to the violation issued by the Zoning Enforcement Officer to Scott Cannan, 42740 Avery Road, Natural Bridge for parcel no. 78.00-0-6.6 located on the Selos Road. Mr. Cannan has received a notice of violation from the T/Wilna Zoning Enforcement Officer for "failure to apply for a zoning permit".

Attorney Gebo cited the following:

- Article 3: Definitions - Recreation Facility, Public or Private
- Article 4; Section 410 - Zoning Permits; Subsection C
- Article 5: District Regulations; Schedule I - Use Controls

Attorney Gebo discussed the intent of zoning law in regards to the orderly use of property without undue impact on neighboring properties. He further stated that the permit and site plan review process would allow for a coordinated review of the environmental impacts of the proposed action.

Proof of notice having been furnished, the public hearing on application (Log #2011-2) for an interpretation of the T/Wilna Zoning Law in regards to a zoning permit for actions undertaken on parcel no. 78.00-1-6.6 owned by Scott Cannan and located on the Selos Road was called to order at 7:39pm by Chairperson Kight. Chairperson Kight advised the public that the matter before the Board concerns whether, under the T/Wilna Zoning Law, Mr. Cannan needs to apply for a zoning permit to construct of a motocross track on his Selos Road property as stated by the T/Wilna Zoning Enforcement Officer. Issues regarding the approval or denial of such construction shall not be considered by the Zoning Board of Appeals.

The following persons spoke in favor of the applicant:

- Justin Brotherton
- Wayne Woodruff
- Jenna Fiaschetti
- Don Farney
- Jeff Foy
- Paul Queary
- Rob Rucker
- Dorothy Peck
- Karen Taylor
- Ray Simmons
- Tammy Queary

Those speaking in favor of the applicant cited the following rationale including, but not limited to: public access limited to family and invited friends; no advertising; no events; no structures, bleachers, start/finish gates; no admission charge; no profit; no lighting; and the implications of the ZBA's decision on future projects.

Mr. Canaan summarized his actions and those of the Zoning Enforcement Officer and a NYS DEC officer. He reported that he has received notices of violation from both the T/Wilna and NYS Department of Environmental Conservation. He stated that he had discussed the proposed action with Rick Soluri, former T/Wilna Zoning Enforcement Officer, and was told that a permit was not necessary.

The following persons spoke in opposition to the application:

- Larry Hasseler, Attorney - representing Dale/Toni Lindgren, Scott/Molly Stacy, Charles/Melanie Florence, and Paula/Sheila Prospero
- Charles Florence
- Dale Lindgren

Those speaking in opposition to the application cited the following rationale including, but not limited to: impact on the quiet and peaceful use of neighboring properties; permit required due to the change in the use of the land; the lack of sanitary facilities (restrooms); increase in noise, traffic and intensity of use; and undesirable changes to the character of the neighborhood.

T. Kight questioned the prior use of the property. J. Brotherton, representing Mr. Canaan, stated that the applicant had owned the property for one year and had used the property for no other use. In response to the question, Robert Ball, T/Wilna Zoning Enforcement Officer, stated that the property is classified as vacant land.

All persons desiring to be heard, having been heard, a motion was made by R. Blank, seconded by L. Haverstock to close the public hearing. Ayes-4, Nays-0. The public hearing was closed at 8:05pm.

The Board discussed those sections of the zoning law that they considered pertinent to the interpretation. T. Kight stated that if the Board determines that there has been a change in use of the land that a zoning permit would be required. The Board concluded that the proposed activity is not exempted from the provisions of the zoning law in regards to zoning permit exceptions. T. Kight noted that the applicant has admitted that he used heavy equipment to construct and configure the trails/tracks. She also noted that the increase in the noise level from the use may also constitute a change. R. Blank stated that the use does appear to have changed since Mr. Cannan acquired the property. He further stated that the increased intensity of use within a specific area was clearly shown in the photographs provided by Attorney Hasseler. L. Haverstock requested that a decision on the application be postponed until the December Board meeting to give all of the members an opportunity to review and study submittals made by Attorney Gebo and Attorney Hasseler. The Board agreed, by consensus, to postpone the decision until the December meeting.

Motion by D. Austin, seconded by R. Blank to adjourn. The meeting adjourned at 8:23pm.

Christina Vargulick
RACOG Cooperative ZBA, Secretary