

**XENIA TOWNSHIP BOARD OF ZONING APPEALS**

December 10, 2012

**THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE MEETING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.**

Board of Appeals members present: Don Harner, Ken Penewit, Charles Bingamon and Ed Jacobson, Chair. As well as Stephanie Hayden of the Prosecutors Office; Trustee Jim Reed; see list

Ed Jacobson called the meeting to order at 7:11p.m. He presided at the Hearing and welcomed the people in attendance. He went over the rules of the meeting. All cell phones to be turned off. Everyone must sign in. The application will be read by the Zoning Administrator. Because BZA decisions are quasi-judicial, all testimony has to be sworn. Everyone must come to the podium, state your name and address and that you are under oath. Only facts, not opinions or emotions. Minutes are being taken manually and electronically. Direct questions to the Board only. We will follow Roberts Rules of Order for procedure. Chair reserves the right to limit public input. The BZA may deliberate in private, and announce decision at a later date. BZA may approve in whole or in part, reject in whole or in part, or reschedule to another date. Applicant may also withdraw. The decision will become effective five days after date of decision. Under ORC 2506.04, aggrieved individuals may appeal the decision to Common Pleas Court. The audience joined the Board in the Pledge of Allegiance. Jacobson swore in the audience. He asked that everyone in the audience who wishes to participate, to raise their hand and swear to tell the whole truth and nothing but the truth so help you God. Jacobson asked Alan Stock, Zoning Inspector, if the applications are lawful to be heard by the Board and if all advertisements and notices had been made, and he replied affirmative to both.

Jacobson asked the Board members if they had read and considered the application and if the intended to participate in the hearing. All Board members indicated they intended to participate.

**Kil-Kare Inc.-Request for Use Variance in Flood Plain District**

Alan Stock read an application received by the Xenia Township Board of Zoning Appeals from Kil-Kare Inc., 1166 Dayton Xenia Rd., Xenia, OH 45385 requesting a Use Variance within the Flood Plain District. Property which is located along the North side of Dayton Xenia Road, approximately 497.37 feet South of the intersection of Dayton Xenia Road and Hawkins Road, containing 36.2 acres, Parcel I.D. #M36000100160000200, Xenia Township, Greene County, OH.

Alan Stock states they are requesting a Use Variance "Fill" within the Flood Plain District. Kil-Kare would like to improve the track by resurfacing the drag strip and replace the metal guard rails with cement protective barriers and widen one (1) interior access lane at grade level. A new Parcel number has been given. This information was sent out to property owners. There is a minor discrepancy which is administrative only. The correct term should be a Use Variance not Conditional Use. The request to resurface will raise the level of the tracks five (5) or six (6) inches and widen an interior lane at grade

level. A Variance is needed because this will raise the flood plain level. The Flood Plain Administrator has already given his approval and states that the plan meets or exceeds the requirements set forth in the resolution. All property owners within 500 feet have been notified and notice was also published in the Xenia Gazette.

The following Exhibits were presented and marked:

Exhibit A: Letter to home owners that was also placed in the Xenia Gazette

Exhibit B: Letter from Robert Nutter

Exhibit C: Anonymous letter from Concerned Citizens of Xenia Township

Exhibit D: Letter from Al Kuzma, Flood Plain Administrator

Exhibit E: Letter from John Arien Jr.

Exhibit F: Information presented by Alan King, Zoning Board Member

Exhibit G: Photos presented by Alan Stock of track improvements

Marshall Foiles representing Kil-Kare Inc.: States that Kil-Kare would like to resurface approximately 1300 feet of the track with a concrete overlay. This will consist of a concrete overlay that raises the track level five (5) to six (6) inches. There will be a gradual transition back to asphalt. Kil-Kare also intends to replace the existing guard rails with concrete barrier walls which is a safety issue. They would like to partially resurface and add fill to a new entrance which consists of approximately 200 feet within the Flood Plain. This change will not affect this existing surface level. Foiles stated they are improving the traffic flow throughout Kil-Kare to improve pedestrian safety and all other safety issues. They would like to make Kil-Kare a class "A" facility. He presented blue prints of the existing area with the improvements. Foiles brought with him Michael Campbell, Legal Counsel and Lou Green, Civil Engineer to explain the changes if needed.

Stephanie Hayden: Asked if the concrete overlay would alleviate the need for most patch work in the future.

Foiles: Yes, this will greatly improve the maintenance issues. Concrete lasts much longer.

Jacobson: Questions permits needed from County.

Foiles: States Al Kuzma has approved the permit if the Township approves the plans. He also explained the changes and safety benefits of replacing the guard rails with concrete barriers. He explained his desire to alleviate traffic problems on Dayton Xenia Rd. and to improve the safety of the track in general.

Jacobson: Question for this Board tonight is the elevation level. Blueprints have been presented and are on file for review. They will be reviewed in more detail by permits issuers.

Foiles: States he is still under oath. Explained the nature of the improvements and the new barriers. Barriers are approved by NHRA.

Lou Green, Civil Engineer: Has had extensive Flood Plain experience and has been involved with Kil-Kare for several years. He questions the need for a permit since the land use has not changed. Proposed improvements are not structures and should not be viewed as such. "Fill" is allowed within the Flood Plain. He has met with Al Kuzma several times and state that all requirements have been met or exceeded. He respectfully asks for approval.

Hayden: Questions the mitigation of the area.

Green: States the volume of the area has been computed and more fill has been taken out than added.

Jacobson: Asked if there were others present who wished to speak to the Board.

Alan King, Member of the Zoning Board: Informed the Board that his Zoning Board is currently working on Flood Plain. Kil-Kare has taken care to assure that no neighbors would be negatively affected by the changes. Mr. King agrees that any potential problems with the Flood Plain have been addressed. He is in agreement with Al Kuzma.

Randy Arner, Representing Martin Marietta: They are located across from Kil-Kare. States he sees no negative impact resulting from the Kil-Kare plan. They are in support of the plan.

Jacobson: This matter is coming to this Board because of the addition of five (5) to six (6) inches of concrete and the addition of "Fill" to the area. He also states that after reviewing the letter from Mr. Robert Nutter, he believes that the letter mostly is addressing noise issues and not necessarily the Flood Plain which is the reason for tonight's meeting. Mr. Nutter states that the change of surface at the race track may increase the noise level.

Foiles: States he is unsure if this is correct or is the addition of new guard rails will decrease sound levels.

Jacobson: Asked what is the State of the Art surface for drag strips.

Foiles: New racing facilities are mostly concrete.

Jacobson: States that an anonymous letter was received signed by Concerned Citizens of Xenia Township. He paused giving everyone present an opportunity to read the letter that was submitted anonymously.

Hayden: Asked that the Board take into consideration that the letter was submitted anonymously when weighing its worth.

Jacobson: Stated that after reading this letter it mostly addressing noise and not Flood Plain Issues, which is the focus of this meeting . He stated that the letters will be forwarded to the Zoning Board so that they may review them.

Jacobson: Asked if there was a need for executive session. Since there was not a need, a motion was made to approve the Use Variance by Don Harner and 2<sup>nd</sup> by Charles Bingamon.

Jacobson: Asked if there was a need for further discussion. He stated that this was a very good discussion. He acknowledged that this Use Variance will not affect the Flood Plain and has been approved by the Flood Plain Administrator.

The Board voted unanimously to approve.

A motion was made by Charles Bingamon to close the session and 2<sup>nd</sup> by Ken Penewit.

There being no further business, the board adjourned.

Meeting adjourned at 8:07 P.M.

ATTEST:

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Alan Stock  
Zoning Inspector

