

Town of Oneonta  
**Zoning Board of Appeals**  
Meeting Minutes  
October 25, 2021

*Approved*  
*[Signature]*  
*11/22/21*

**Present:** D. Allison, D. Prouty, M. Stolzer, Chairman Cannistra, L. Sause (Clerk)

**Absent:** Ken Pym

**Others:** Eileen McClafferty, William Starna, Kyle Oliver, Dawn Oliver, Will Clemons, Ellen Blaisdell, Peter Exton, Kelly-Jo Hunink (Mirabito/ Robbins Signs), Vicky Klukkert, Ken Mann, Janet Ballute, Stacy Platt, Margaret Clemons, Ashley Camerata, Stacy Platt, John Platt, Patricia Jacob, Dorothy S?, Cynthia Lister, Margaret Clemons, Erik Silvernail, Ed Thyn, Margaret DeThomas, Kate Waltz, Jay Waltz, Douglas Zamelis

**A. Roll Cal**

- Chairman Cannistra called the meeting to order at 7:00pm and called for the roll.
- Next meeting is scheduled for November 22, 2021

**B. Minutes – September 27, 2021**

**MOTION:** A motion was made by D. Prouty and seconded by Chairman Cannistra to approve the minutes as amended.

**DISCUSSION:** None **VOTING:** Unanimous. **Motion Carries.**

**C. New Applications:**

- **Richard Mann, Area Variance**

**Tax Parcel No:** 287.09-1-19.00

3965 St. Hwy 23

**Zoning:** RA-40 (Residential-Agricultural District)

The applicant is requesting a side yard area variance to place a garage structure on his property.

Code Review- Building location and setbacks:

<u>Setback</u>	<u>Required</u>	<u>Proposed</u>
Front yard	50 ft	complies
Side yard	10 ft	<5ft
Rear yard	10 ft	complies
Frontage	200 ft	No change
Building Height	35 ft	<35 ft

Richard Mann spoke for the application. He would like to place a carport on his property for more coverage. He only has 5 feet from the side he would like to build on.

**MOTION:** A motion was made by D. Allison and seconded by M. Stolzer to set a public hearing for the area variance on November 22, 2021 at 7:15pm or as soon as possible thereafter.

**DISCUSSION:** None **VOTING:** Unanimous. **Motion Carries**

**D. Public Hearings:**

- **Robbins Sign Co., Special Sign Permit**

**Tax Parcel No:** 300.11-1-17.00

4968 St. Hwy 23

**Zoning:** HDD (Highway Development District)

The applicant is requesting a special sign permit to add an additional façade sign to the Mirabito Convenience Store for Dunkin Donuts

Allowable # of signs: 2 signs allowed.

Allowable area of signs: 100SF max per sign allowed.

Existing Signage: Existing signage to replace the existing Tom Horton signs.

The proposed sign needs special sign permit approval because:

1. The requested sign exceeds the allowable number of signs permitted for the business.

The public hearing opened at 7:20pm and Chairman Cannistra read aloud the notice in "The Daily Star". Kelly-Jo Hunink from Robbins Signs represented the application. They have replaced the signage on the front and would like to put up a new third sign. They have a hardship due to the placement of the property. There is nothing on that side to show that Dunkin is there and they would like more visibility for customers to find them. Ms. Hunink stated that the new sign will follow regulations, will not be over 100 SF, and will not be lighted. It will be the standard Dunkin sign with the same colors. No one else addressed the matter and the public hearing closed at 7:28p.

The board discussed that the property is in a business district and will be in general harmony with the neighborhood as there are many other signs nearby and this one will be smaller than some of the others and will comply with regulations.

**MOTION:** A motion was made by Chairman Cannistra and seconded by D. Allison to approve the Special Sign Permit.  
**DISCUSSION:** None **VOTING:** Unanimous **Motion Carries.**

- **Interpretation of Municipal Officials Decision**

**Tax Parcel No:** 275.00-1-54.02

617 East St., Oneonta, NY

**Zoning:** R-80

The applicants desire an appeal to the decision and interpretation made by the Code Enforcement Officer relative to the use of dirt bikes on the Thompson parcel between East Street and Wilber Lake Road. The appeal for interpretation is outlined in the Notice of appeal to the Zoning Board of Appeals dated August 13, 2021.

**MOTION:** A motion was made by D. Prouty and seconded by M. Stolzer to open the public at 7:32pm.  
**DISCUSSION:** None **VOTING:** Unanimous **Motion Carries.**

The public hearing opened at 7:32pm and Chairman Cannistra read aloud the notice in "The Daily Star". Attorney Doug Zamelis represented the Applicants. He is representing the neighbors of Ed Thompson in appealing the decision by the code office for what they believe is the use of an unpermitted motocross track. He presented an outline to the board of some of the neighbors that would be speaking.

Bill Starna, (Resident of 667 East Street) – He described that 19 surrounding neighbors have signed onto the appeal due to the noise and disturbance from the motocross track. He believes that a noise ordinance applies and that the town constable used equipment to monitor the noise that does not meet standards, is not calibrated and should not apply to the town code. He also cited Town Code 61-1 and 61-5 which states that residents are entitled to a peaceful, quiet neighborhood and that any loud or unusual noise that disturbs the peace is unlawful. Mr. Starna does not agree with the Code Enforcement Officers July 19 interpretation and would like it to be reversed and that the cease-and-desist order from June 25 be enforced. Mr. Starna presented a poster to the board with a map of the track and other photos from the internet.

Ellen Blaisdell, (neighbor across the street from Mr. Thompson) – She noted that the noise from the bikes on the track are extremely loud and disruptive and continues for hours. When she tried to enjoy the outdoors after work, she was forced inside to escape the noise. Ms. Blaisdell is concerned about her property value and the ability to exercise her rights as a property owner. She is also concerned that because Mr. Thompson refused to apply to the Planning Board for a special use permit, the track was constructed with no permit and no supervision and his family will still be able to use it.



Brenda Seery, (722 Wilber Lake Rd.)- She stated that she has lived in her home with her husband for 9 years and has always enjoyed her neighborhood. Due to the noise from the track, she can no longer enjoy the outdoors and she never knows when the noise will start or when it will end. She is also worried about the property value of their home as it is their major financial asset and would like the zoning ordinances to be upheld.

Peter Exton, (neighbor across the street from Mr. Thompson) – Mr. Exton also would like to enjoy the outdoors in the warm weather, but the noise from the track drives him inside. He believes that the track is an intrusion onto their property and wants to have the same quiet neighborhood that he has had.

Margaret Clemons, (874 Wilber Lake Rd.) – Ms. Clemons stated that she and her husband have invested a significant amount of money to upgrade her house and can no longer enjoy her property. She notes that the sound from the track is so disturbing and disruptive that they have been driven inside when the track is in use and she fears that she can no longer invite friends over for a barbeque because of the noise. She believes that the track was built illegally and would like the board to enforce the code and not allow anyone to use the track.

Janet Ballute, (672 East Street) – She has personal concerns regarding her home as an investment and what it will be worth with a race track across the road. She is also concerned professionally as a Clinical Social Worker. Since 2020 Ms. Ballute has worked at home due to the pandemic and she needs to carefully listen to her clients without being distracted from the high-pitched motocross bikes. She stated that the noise pollution negatively interferes with her personal and professional life.

Eileen McClafferty, (667 East Street) – Ms. McClafferty describes that the construction and the noise of the use of the track have driven her inside when she wanted to work in her gardens. She notes that July 5 was the worst when there were vehicles on the track and riders yelling and howling. The effect has made her and her family anxious whenever they hear the motorized vehicles starting. She would like the Town Code and the cease-and-desist order to be restored.

Doug Zamelis, (Attorney for the Applicants) – Stated that racetracks are noisy and that the Zoning Code and Town Noise Law should be regarded. He believes that the Code Enforcement Officer has no authority to interpret the law. This track does not qualify as low impact use. Mr. Zaimelis does not take it lightly, but he would like the board to overturn the July 19 decision. According to the Zoning Code, if a use is not specifically permitted, it is not allowed in the applicable district.

John Platt, (Son-in-Law, Ed Thompson) – Mr. Platt stated that he did not want to upset the neighbors and he apologized for the spring when he had a barbeque for the sponsors and they were more aggressive. Mr. Platt said that they are gone from Fri. to Sun. and only ride 3 evenings a week for an hour or two. He believes that the complaints are unfounded and that no facts were presented. He wishes he could get together with the neighbors and present the facts. He states that this track is not a Unadilla track. Soil for the construction was retrieved from ditches and he believes in conservation. Prior to the July 19<sup>th</sup> decision, he had friends using the track, but after the July 19, the track is used only by family.

Ed Thompson, (Owner) – Mr. Thompson stated that only one person came to him and complained.

Stacy Platt, (Ed Thompson's Daughter) – Ms. Platt described the time frames and days the riders have used the track. They rode on Tues, Wed, Thurs nights in the spring before the season and it is after 6:00pm. She states that this is not the Unadilla track and the noise issue is exaggerated. She does not believe she is in violation as the Code Enforcement Officer and DEC (unofficially) came out and did not find anything. Ms. Platt also does not believe that anyone's property value will go down as a house just sold nearby above market value. The DEC official was not at the property on an official visit and did not provide an opinion on behalf of the DEC.



Pat Jacob, (Peebles Hill Rd.) – Ms. Jacob is concerned about her property values as her home is her investment. She feels that if this decision stands, that it will set a precedent on the use. She would like the cease-and-desist order to stand.

Jon Hansen, (659 East St.) – Mr. Hansen stated that he was sad that neighbors are against neighbors. He is not concerned with the track or the property values and noted an example of a home sale nearby above assessed value. He also feels that the track use has declined this year and that the track is fine.

Noah Finch, (Friend of John Platt) – He stated that the track was made for the kids and he is not allowed to ride now. All families are sharing the water and the valley and they should be able to do what they want to.

George Odbert, (neighbor) – He discussed the decibel readings of the track. He says it's only 4 or 5 pts higher than no noise. Quite a few people own property and everyone uses track and goes home.

Will Clemens (888 Wilber Lake Rd.) – He stated that in the summer when people get home from work, the noise is deafening. Ed and children ride and when he was told there was an issue, he said "I don't care", so no one else wanted to go there. Mr. Clemens compared the property to a bowl and the noise filters out like a funnel. He finds the noise obnoxious. He would like to grill outside in the summer, especially in June and July and the noise 3 times a week is too much.

Dennis Dawson, (neighbor) – Mr. Dawson believes that the noise is not loud on the bikes unless the "250's" are out, then they can be heard. He also said that John had asked for money to ride, but it is not true. He said that the kids rode for only 1 ½ hours.

Steve Stanley, (Gifford Hill Rd) – Mr. Stanley lives adjacent to the property. He believes that the calculation of riding about 1% is not correct. In the spring he found it to be brutal. He also could not go out in the prime time of the summer. He said it was 3 hours per night 3 nights.

No one else addressed the matter and the public hearing closed at 8:50pm.

The board determined that they would like to view all the information given and render a decision at next month's meeting, November 22, 2021.

**MOTION:** A motion was made by Chairman Cannistra and seconded by D. Prouty to close the public hearing at 8:50pm.  
**DISCUSSION:** None **VOTING:** Unanimous **Motion Carries.**

**MOTION:** A motion was made by Chairman Cannistra and seconded by M. Stolzer to postpone rendering a decision until next month's meeting on November 22, 2021.  
**DISCUSSION:** None **VOTING:** Unanimous **Motion Carries.**

There being no further business before the Board, the meeting was adjourned at 8:51pm.

Laura Sause,  
Clerk of the Zoning Board of Appeals