

Eureka Township
Dakota County
State of Minnesota

Eureka Town board Special Meeting February 6, 2003

Chair Bev Topp called the Special meeting for LaFavres Non Conforming Commercial Permit at 7:30 pm. All Town board members present. Clerk Leine and Treasurer Nanett Leine to record the minutes.

The Township attorney presented conditions that could be applied if the LaFavre's permit is accepted.

The Attorney explained that changes were made to No.4. He talked to the applicant's consultant on the noise issue. After talking to this consultant, No. 4 was rewritten, after new information was received. The rewrite made it clearer, easier to understand.

Chair Bev Topp entertained for a motion to approve the LaFavre permit pending subject to the conditions that have been written for us.

A motion by Supervisor Kenny Miller: That we permit the item before us after we review the conditions line by line and make sure they are as we want them and they are acceptable to both parties. Motion seconded by Supervisor Clark Smith.

The Town board received a letter from the LaFavre's Attorney responding to the proposed conditions this afternoon. The board and our attorney have had only a few hours to review the letter. (*See attached letter*)

1. *Recording of documents.* Do we ask all applicants to record their permits at the Dakota County Recorder's Office? The Township attorney advises that all permits should be recorded. Conditional Use Permits are required to be recorded. Non Conforming Use Permits are not required to be filed. The permits that have already been issued can still be recorded.

Tim Kuntz said there is a statute that says all Conditional Use Permits must be recorded. The Ordinance refers to it is a conditional Use Permit. The Township can go back and record the permits at a later date.

A motion by Supervisor Clark Smith: That at this time we drop Condition No. 1, with the stipulation it may be taken up at a later date. Motion seconded by Supervisor Kenny Miller. Motion carried.

2. *Use restrictions.*

LaFavres are mixing land use with noise regulations.

Bob Bauer, Township attorney would change writing to: three racing teams.

(Removing the word "current") Bob suggests we stay with the land use when dealing with this application.

LaFavre's attorney asked to be able to respond to the proposed conditions, either verbally or in writing.

Gerald Duffy, LaFavre's Attorney responded to No 2. If the reason why you want to restrict land use is because of noise, then the only standard you can use is the MPCA noise standard. They will agree to meet the residential standards.

Tim Kuntz does not agree. You taking an industrial commercial use and putting into the middle of a residential area. The noise standards say you cannot put an industrial use business in a residential are. This is not an industrial use in an industrial area.

Bob Bauer It is not a use permitted under the current Ordinance. We have the opportunity to impose conditions that will allow this business to exist peacefully with the surrounding neighbors.

A motion by Supervisor Connie Anderson: To leave No.2 as recommended, removing the word "current". Motion seconded by Supervisor Clark Smith. Motion carried.

The Township lawyer suggested that motions not be made, to question the Town board members if they are in favor of the question.

3. *Operation Restrictions*

Testing and revving is not covered in No.2.

Tim Kuntz it is critical condition. You need to get control over noise. If all activities are inside the building, then you know they are complying with the conditions of the Ordinance.

Gerald Duffy- The proposed conditions states that testing and revving engines can only occur for 30 minutes in a 24 hour day. Testing is not revving. Why not say the dyno machine can be used for a certain amount of time or certain part of the day.

Don feels enforcement would really be a problem. How do you enforce this?

Bev commented that if everything is done inside then there would be no reason for enforcement.

A possible solution might be: All testing, revving and dyno testing must be done indoors.

Leave No. 3 as it is written: Clark Smith, Connie Anderson and Bev Topp.
Opposed- Kenny Miller and Don Pflaum wanted some outside work permitted. This can be revisited.

4. *Noise Emissions/ Sound Proofing Requirements*

Bob Bauer- Asking the business to soundproof their building.

Gerald Duffy will not accept # 4. You cannot set standards stricter than MPCA standards. The standard is not being used the way it is intended. It conflicts with the State Standards.

Tim Kuntz- Put it inside, close the doors and impose some standards, so when you get to the property boundaries the noise levels are at residential levels.

Gerald Duffy- They want to be treated like everyone else. They are willing to meet the strictest residential standards. You need some kind of standards.

Bob Bauer- You are trying to apply this to a land use that is not currently permitted. You can place any restrictions you want. You cannot sound proof all the houses around this business. The standard that is in No.4 will work.

Ollie Leine- We do not need to follow the MPCA guidelines as long as we don't refer to the MPCA rules. Have soundproofing in the building that drops the attenuation from the inside to the outside of the building.

The Lawyers will respond to No. 4 in writing.

5. *Exterior Race Track*

When it was built it was for family it was not intended for having a bunch of people get together and race on it. Soil and Water district has concerns about hazardous waste runoff. In the Application the race track was not included. Mr. LaFavre said the race track is not used for commercial. He then said it has been used to test brakes. The race track is put into the conditions, because it has been used for commercial activity in the past. We want to make sure it is not used for commercial activity in the future.

Gerald Duffy- They would accept: No commercial racing vehicles shall be operated on the exterior race track.

Town boards suggested writing of this condition: No commercial activity of any kind whatsoever shall be permitted on the racetrack.

All board members are in favor of this condition as stated above.

6. *Hours of Operation*

We are talking about the land use for operating hours.

All board members are in favor of this condition as stated above.

The hours of operation are as stated in the application.

7. *Pneumatic Tools/ Air Wrenches*

If the doors are shut and the MPCA levels are not exceeded, then tools should be able to operate all day.

The town board will revisit it after no, 4 is reviewed.

8. *Periodic Review*

Bob Bauer you have the right to inspect the operation, if there are violation of the conditions.

Gerald Duffy- Is this condition placed in every permit? If you put this as a condition in our NCCUP it should be placed as a condition in all the other permits. Every one should be treated equal.

Don Pflaum and Kenny Miller feel if you apply it to one permit all permits need to be treated the same.

Bev Topp, Clark Smith and Connie Anderson feel that this permit should have periodic review condition, because of the complaints against the business; it will need to be monitored.

Bev Topp- Given the noise testimony on how it affected people's lives, even when we are done with this. Is it really going to work? If there are neighbor complaints, we need to be able to something about it.

9. *Outdoor Lighting*

Condition rewritten as: The applicant will utilize the best current lighting available to shield the lighting and to the maximum extent possible reduce its visibility to adjacent properties.

10. *Outdoor Audio/ Public Address System*

No objections

11. *Parking*

No objections

12. *Expansion of the use*

Gerald Duffy- Are you talking about the foot print of the building or the number of employees?

The two lawyers will rewrite this condition.

13. *Discontinuation of the use.*

No Objections

14. *Miscellaneous*

Gerald Duffy feels the first line is adequate.

Bev Topp said the second line is to enforce the first sentence.

Condition to be written as: All state, federal, county, local and wetland laws apply to the Applicant. Further, all conditions of the Non-Conforming Use Permit Ordinance shall apply to the extent they are not in conflict with any of the above conditions.

No 4, 3 and 7 need to be revisited.

LaFavres agree to extend the statutory 1599 to March 17th.

Special meeting set for Thursday, March 6, 2003. at 7:00pm.

The lawyers will respond by February 17, 2003.

The Meeting was left open. Meeting adjourned at 10:35pm.