

Newbury Township Board of Zoning Appeals
Minutes 1/15/2019
Conditional Use 19-002

Koala Motorsport Inc. (Brett Anderson, owner) Conditional use 19-002

The Newbury Township Board of Zoning Appeals public hearing was called order by Mr. Lou Tomsic, Chairman, at 7:30 p.m. on January 15th, 2019 with board members, Karen Endres, Chris Yaecker and Scott Koller. All in attendance who wished to speak at this hearing were duly sworn and asked when testifying to the state their name and confirm being sworn in. Mr. Tomsic said the BZA procedures would be followed and that the hearing was being recorded He verified that notices were advertised and mailed. He read the applicants Conditional Use request.

Mr. Tomsic stated this is a Hearing for Brett Anderson who is the owner of Koala Motorsports, Inc., who requests a review of his current Conditional Use permit of a Vehicle Repair business at 9988 Kinsman Road.

Mr. Tomsic advised Mr. Anderson that there are normally 5 board members present, however with only 4 board members present, he only needs 3 out of 5 votes.

Mr. Anderson stated that he understood and was fine with only 4 members present and to go ahead with the hearing.

Mr. Tomsic stated that he had not seen any changes in the business.

Mr. Anderson stated that his has been in business for 15 years and expanded within the building 4 years ago acquiring an addition 1,600 sq. feet.

Mr. Joyce stated that this conditional use was issued as is in accordance with the Zoning Resolution. However, it was issued through a Judgment Entry. Paragraph 11 of the Judgment Entry states the specific terms and conditions set forth in the Resolution. It is in the Resolution that vehicle repair are conditional uses and one of the previous boards did issue that conditional use. And he thinks that paragraph 11 tells us the Judgment Entry is supposed to take precedence over the Resolution, and as such, the Court, whether they meant to or not issued a use variance. And Mr. Anderson does not need to be under the control of conditional use. And he would like the board to consider that.

Mr. Tomsic stated that there was another paragraph that said it also needed to be reviewed.

Mr. Joyce stated Paragraph 3 stated that Defendant, its heirs, successors, assigns and existing future tenants, shall obtain the required business and operation permits, if any, from the Newbury Township Zoning Inspector and/or the Newbury Township Board of Zoning Appeals, and such permits, if any, must be maintained pursuant to the Resolution. So those 2 are in conflict. (Paragraph 3 and 11)

Mr. Tomsic stated that this Judgment Entry was not specific to Koala Motorsport, Inc., it was the whole building/parcels.

Mr. Joyce said that he thought it had to do with there are several parcels under 1 owner and multiple districts, but Koala Motorsport Inc. is located in just 1 district.

Mr. Yaecker stated it covered Newbury Kinsman, LLC, which is the owner of the 4 parcels.

Mr. Joyce stated that he is bringing it up to the board to see if it needs to be changed.

Mr. Tomsic stated that we can all agree that there is conflicting paragraphs in the Judgment Entry. He looks at this as rubber stamp issue. You came in, you get your renewal, nobody has seen anything in violation, it is just a procedural thing that we need to do every 5 years.

Mrs. Endres reviewed to the applicant why conditional uses are conditional uses and reviewed, and about the impact it can have with the neighbors.

Discussion with Mr. Anderson regarding junk vehicles. When he came before the board approximately 12 years ago and was given a variance for 25 junk cars. Now he approximately 8 and they are out of view from the road or any neighbors. He is not aware of any complaints before or after the zoning inspector had seen the cars as they were visible from the street asked to have them moved.

Ms. Endres stated that she was the zoning inspector at that time.

Mr. Yaecker asked where the junk cars were stored now.

Mr. Anderson showed on GIS that they are in the very back of the property. They are not visible, do to trees, woods and building.

Mr. Yaecker stated that by looking at the map and Judgment Entry, Mr. Anderson is doing exactly what was originally asked of him.

Mr. Tomsic stated that they will confer with the prosecutor and get a better understanding on this Judgment, so maybe he will not have to do this again in the future.

Mrs. Endres moved to renew the conditional use permit for Koala Motorsport Inc., for a period of 5 years. All conditions that are in place for governing conditional uses are to be observed as are the conditions in the Judgment Entry. She is moving to approve the renewal of this conditional use, since there have been no complaints and Mr. Anderson is in compliance with this Judgment Entry, and there is nobody in the audience opposing this application.

Mr. Yaecker seconded the motion.

Roll Call:

Karen Endres	Yes
Chris Yaecker	Yes
Scott Koller	Yes
Lewis Tomsic	Yes

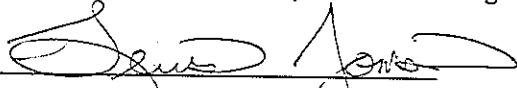
Mr. Tomsic read to the Appellant and Audience, "Within 30 days after service for the minutes granting your request, if someone wishes to challenge this decision through the court, he or she may. The

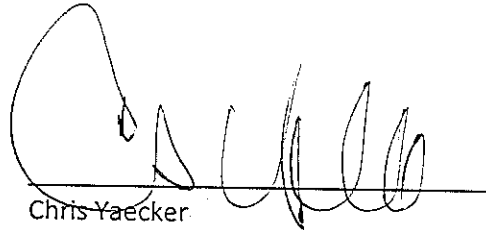
required permit can be issued once all requirements regarding this application are satisfied, although if you plan construction it is recommended you wait 30 days before proceeding. The challenge could reverse or negate our decision. At the time you receive your permit you must also comply with all other requirements of Newbury Township zoning"

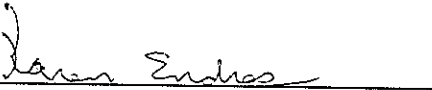
Mr. Tomsic told the applicant the board will meet in February 5th at 7:30 to approve minutes.

Lou Tomsic adjourned the BZA hearing at 8:15 p.m.

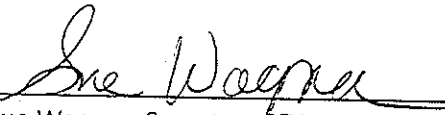
Signatures of the Newbury Board of Zoning Appeals:


Lewis Tomsic, Jr. Chairman


Chris Yaecker


Karen Endres

Scott Koller


Sue Wagner, Secretary BZA

FORM NO. 20

NOTICE OF ACTION

BY NEWBURY TOWNSHIP BOARD OF ZONING APPEALS

Date: February 5, 2019

Koala Motorsport Inc.

Brett Anderson

9988 Kinsman Rd.

Novelty, OH 44072

RE: Application for Appeal No. CU 19-002; Auto Repair

Dear Mr. Anderson:

Please be advised that the Newbury Township Board of Zoning Appeals voted to (approve) ~~(deny)~~ the appeal, number CU 19-002, for a conditional use decided on January 22, 2019

The following specific conditions were included with the grant of the Conditional Use:

A conditional Zoning Certificate shall not be transferred or assigned and is valid for a period of five (5) years for the date of issuance as set forth in Newbury Zoning, Article X Section 10.06.

The decision of the board may be appealed to the Geauga County Court of Common Pleas within thirty (30) days for the date of the approval of the minutes by the board by a party in interest. Therefore, if you proceed within the next thirty (30) day be advised that you are doing so at your own risk,

Sincerely,



Chairman or Secretary of Newbury Township Board of Zoning Appeals

Print Name Sue Wagner