



Kasson Township Clerk <kassontwpclerk@gmail.com>

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**FW: Public Comment for Kasson Twp ZBA - Enduro Motorcycle**

1 message

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Tim <tim@allpermits.com>

Mon, Oct 9, 2023 at 11:28 PM

To: Roger Noonan <beth\_noonan@hotmail.com>, Jerry Gretzinger <biggouda@aol.com>, Scott Mills <scott@cscottmills.com>, Don Drabik <dwdrabik@gmail.com>, Dave Noonan <noonski001@hotmail.com>  
Cc: Dana Boomer <kassontwpclerk@gmail.com>

fyi

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**From:** Chris Grobbel <grobbelenvironmental@gmail.com>  
**Date:** Monday, October 9, 2023 at 2:25 PM  
**To:** Tim <tim@allpermits.com>  
**Subject:** Public Comment for Kasson Twp ZBA - Enduro Motorcycle

Hi Tim,

Attached please find and disseminate to the Kasson Twp ZBA et al. my comments regarding the upcoming Kasson Township ZBA meeting on Thursday, 10/11/23.

Thank you Tim.

Christopher P Grobbel, PhD  
GROBBEL ENVIRONMENTAL & PLANNING ASSOCIATES  
PO BOX 58  
Lake Leelanau, MI 49653  
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 **Spring Creek Trails ZBA Final Report (10-9-23).pdf**  
182K



# Grobbel Environmental & Planning Associates

8288 E North Wind Tr PO Box 58 Lake Leelanau, MI 49653

October 9, 2023

Zoning Board of Appeals - Kasson Township  
10988 S. Newman Rd.  
Maple City, MI 49664

**RE: Planner's Report - Appeal of Final Planning Commission Decision - Proposed Spring Creek Trails Enduro Motorcycle Race Event, W. Kasben Properties, E. Kasson Rd., Parcel Nos. 007-024-001-00, 007-024-005-00, 007-024-004-20, 007-024-004-30 & 007024-004-00, Kasson Township, Leelanau County, Michigan.**

Dear Kasson Township Zoning Board of Appeals,

Please find this planner's report regarding two (2) zoning appeals submitted by proponents of the Spring Creek Trails Enduro Motorcycle Race Event, i.e., Appellants James Scheffek and William Kasben. The subject parcels are owned by William Kasben, and zoned Forested District (FR) pursuant to the Kasson Township Zoning Ordinance.<sup>1</sup> Applicants applied for a special land use permit under Section 7.15 of the Zoning Ordinance for a proposed three (3) day commercial event with an 8.5 hour enduro motorcycle race event with two (2) on-site camping areas with 50-100 campsites with campfires allowed, overnight parking (with no utilities), a trash bin and Porto-John area, dumpster area, and a food truck area.<sup>2</sup> Applicants anticipated up to 200 event riders/participants and up to an additional 100 attendees. The Kasson Township Planning Commission passed a motion to discontinue consideration of the special use permit (SUP) due to the legal invalidity of section 7.15 on July 17, 2023. This is the first appeal before the ZBA. I defer to the legal arguments made regarding the decision to discontinue the SUP processing. However, *even if* Section 7.15 was valid under the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended), the SUP must still be denied for the reasons outlined in my letter to the Planning Commission dated May 3, 2023 (see as Exhibit 1, attached to Kristyn Houle's letter of May 5, 2023).

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<sup>1</sup> Kasson Township, Leelanau County Zoning Ordinance, adopted April 7, 1997 with amendments through January 26, 2019.

<sup>2</sup> Kasson Township Planning/Zoning Application, dated February 18, 2023.

The second appeal by the Applicants involves the denial by the Zoning Administrator to process and submit to the Planning Commission (PC) a SUP application to hold the enduro motorcycle events under Sections 4.4, 4.7.2 and 5.13 of the Zoning Ordinance.

**Section 4.4: Classification of Uses Not Listed of the Zoning Ordinance** states “(t)he Zoning Board of Appeals shall have the power to classify a use which is not specifically mentioned by this Ordinance, as described in Section 11.5. Said use shall be treated in a like manner with comparable uses, as determined by the Zoning Board of Appeals, and permitted or prohibited by the District Regulations for each Zoning District.” Lastly, Section 11.5 allows other land uses not specified in the Kasson Township Zoning Ordinance within a zoning district if they are consistent and similar to specified permitted and/or special land uses within a district.

**Section 4.7. Forested District (FR)** of the Zoning Ordinance states that “(t)he purpose and intent of this district is to preserve the forest and wood lots, the dominant land cover of the Township, while allowing a wide range of uses in such ways that will not detract from this end. To the greatest degree practicable, the integrity and contiguity of forest lands shall be maintained.”

SECTION 4.7.1 lists the Permitted Uses within the FR District as:

- Single family dwellings.
- Duplex dwellings.
- Residential Planned Developments in accordance with Section 4.11 when more than one structure is included for a specific parcel of property.
- Home Occupations.
- Agricultural Uses (refer to Section 4.5.1).
- Adult Foster Care Family Home.
- Family Child Care Home.
- Foster Family Home.

*Clearly, none of the above permitted land uses within the FR District are “consistent and similar to,” “comparable uses,” or “meet all the conditions and requirements of this Chapter and the spirit and intent of the Ordinance,” as required by Sections 4.4 and 11.5 of the Zoning Ordinance. Thereby the ZBA cannot classify the proposed motorcycle race event under the FR district.*

#### **SECTION 4.7.2 SPECIAL LAND USES (within the FR District)**

All uses listed below require a Special Use Permit in accordance with Chapter 7:

- Housekeeping cabin parks.
- Boarding or Lodging Houses.
- Bed and Breakfast establishments.
- Elderly Day Care Centers.
- Churches.
- **Public or private outdoor recreation or park facilities.**
- Fruit packing and grading plants.
- Wineries.
- Cooling and packing plants.
- Agricultural research and development facilities; public and private. Other similar agricultural businesses or uses.
- Riding stables.
- Kennels.
- Cemeteries.
- Schools.
- Adult Foster Care Group Home.
- Group Child Care Home.

*Without question, none of the above listed FR District special land uses are “consistent and similar to,” “comparable uses” or “meet all the conditions and requirements of this Chapter and the spirit and intent of the Ordinance,” as required by Sections 4.4 and 11.5 of the Zoning Ordinance. Thereby the ZBA cannot classify the proposed motorcycle race event under the uses allowed by SUP.*



*It is argued that the proposed three-day motorcycle race event and associated structures, uses and activities may be “consistent and similar to” or “comparable” to the FR special land use (SLU) “private outdoor recreation facility,” and thereby potentially granted by the ZBA for subsequent PC SUP review. As a professional planner, I strongly disagree that the proposed multi-day motorcycle event and associated uses are “consistent and similar to” or “comparable” to outdoor recreation as they inherently generate nuisance noise. Specially, the site and surrounding area are typified by actively managed forest and farmland, and low density rural residential development. The subject site is bounded by approximately eight (8) residences and within one-quarter mile of nearly forty (40) residences. The Kasson Township Zoning Ordinance definition of “noise” includes that “(n)o use except a temporary construction operation shall be permitted which creates a noise level of which exceeds five decibels (as defined in the Occupational Safety and Health Act of 1970) above the ambient level of the area measured at the property line. For the purposes of land use planning and zoning, noise can also be defined as an unwanted sound that someone considers unreasonably disturbing, objectionable, obnoxious, etc.<sup>3</sup> As noted in footnote 3 below, typical sound measurements for motorcycles are 100 dBA, and such motorcycle sound is known to easily travel for distances up to 1/2 mile - depending on topography, weather and other ambient conditions. The Kasson Township Master Plan Future Land Use*

<sup>3</sup> “Sound” is a vibration that propagates as a typically audible mechanical wave of pressure and displacement, through a medium such as air or water. The properties of sound include: frequency; wavelength, wave number; amplitude; sound pressure; sound intensity; speed of sound; and direction. The decibel scale used to measure sound for the human ear is the dB A-scale (DbA). Importantly, dBA is a logarithmic scale that may be typified by the following:

Whisper Quiet Library at 6 feet	30dBA
Normal conversation at 3 ft	60-65dBA
City Traffic (inside car)	85dBA
Train whistle at 500 ft/Truck Traffic	90dBA
Jackhammer at 50 ft	95dBA
Level at which sustained exposure may result in hearing loss	90 - 95dBA
Hand Drill	98dBA
Power mower at 3 ft	107dBA
Snowmobile/Motorcycle	100dBA
Power saw at 3 ft	110dBA
Sandblasting/Loud Rock Concert	115dBA
Pain begins	125dBA
Loudest recommended exposure WITH hearing protection (even short term exposure can cause permanent damage)	140dBA
Jet engine at 100 ft	140dBA
12 Gauge Shotgun Blast	165dBA
Death of hearing tissue	180dBA
Loudest sound possible	194dBA

*Map depicts the subject site as “forested,”<sup>4</sup> and emphasizes the “vital role the forests play in the Township’s ecological health and in the maintenance of its rural character, Kasson Township shall strive to preserve its woodlands by promoting wise forest management....and by including trees and other vegetation in the site plan review process.”<sup>5</sup>*

*The noise generated from the proposed motorcycle race event will result in the unreasonable interference with the comfortable use and enjoyment of these existing nearby residential uses, are not “consistent and similar to,” or “comparable” to typical outdoor recreational uses, nor “meet all the conditions and requirements of this Chapter and the spirit and intent of the Ordinance,” as required by Sections 4.4 and 11.5 of the Zoning Ordinance. Moreover, the proposed special land use would not be harmonious in this setting due to the intended character of the general vicinity, will exceed the Township’s prohibition of a 5 dB increase in ambient sound at nearest property lines, and will violate the intent and expressed goals, policies and actions of the Kasson Township Master Plan. Consequently, the ZBA should find that the proposed use is not comparable or similar to uses listed in the FR district as either a permitted use or a special land use and cannot otherwise be classified as an outdoor recreational facility.*

**Section 5.13 - General Provisions: Temporary Outdoor Uses.** The Kasson Township Zoning Ordinance Section 5.13 allows for temporary outdoor uses (or temporary outdoor events) “in any zoning district provided that the temporary use is similar in nature to those uses that are allowed by right in the district...and that the Zoning Administrator shall determine off street parking requirements for the event.” Within Sections 4.7.1 and 4.7.2 of the Kasson Township Zoning Ordinance, the FR District does not list permitted or special land uses remotely similar in nature to a three-day motorcycle race event with associated proposed overnight camping or food service (i.e. the proposed food truck area).<sup>6</sup> The second section of 5.13 runs into the legal problem of being invalid under the MZEA for lack of specificity, similar to Section 7.15. It states, “any other temporary outdoor uses require a review by the Planning Commission and may require an approved site plan at the Commission’s discretion in

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<sup>4</sup> Kasson Township Future Land Use Map, V. 4, Figure 3: Kasson Township Master Plan, January 2022, p. 13.

<sup>5</sup> Kasson Township Master Plan, January 2022, p. 23.

<sup>6</sup> It is noted that Section 4.7.2 Special Land Uses within the FR District lists “public or private outdoor recreation or park facilities,” but does not list such events. Neither is the proposed land use listed within Township Zoning Ordinance Section 4.10: Special Purpose Districts.

accordance with Chapter 8.” I defer to the legal arguments made by attorney Kristyn Houle regarding the legality of this section under the MZEA.

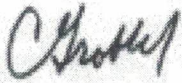
*Consequently, the appeal application as provided to the ZBA does not comply with Section 5.13, and cannot be reasonably interpreted as a temporary outdoor use by the ZBA.*

***For the above stated reasons, the Kasson Township Zoning Board of Appeals should deny these appeals.***

If you have any questions regarding these public comments or this planner’s report, please feel free to contact me at 231-499-7165 or grobbelenvironmental@gmail.com. Thank you.

Sincerely,

**Grobbel Environmental & Planning Associates**



Christopher P. Grobbel, Ph.D.  
Sr. Planner/Project Manager





Kasson Township Clerk &lt;kassontwpclerk@gmail.com&gt;

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**FW: Zoning Board of Appeals hearing for enduro issue**

1 message

**Tim** <tim@allpermits.com>

Tue, Oct 10, 2023 at 4:00 PM

To: Roger Noonan <beth\_noonan@hotmail.com>, Jerry Gretzinger <biggouda@aol.com>, Scott Mills <scott@cscottmills.com>, Don Drabik <dwdrabik@gmail.com>, Dave Noonan <noonski001@hotmail.com>  
Cc: Dana Boomer <kassontwpclerk@gmail.com>

FYI

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**From:** <doujun@protonmail.com>**Date:** Tuesday, October 10, 2023 at 3:46 PM**To:** "tim@allpermits.com" <tim@allpermits.com>**Subject:** Zoning Board of Appeals hearing for enduro issue

Dear Kasson Township Zoning Administrator

My name is Doug Jung and I have owned property on South Tower Road for close to a decade.

I am writing in opposition to the 2 Appeals being heard on October 11, 2023 for Enduro Motorcycle Special Use Application and urge you to reject those appeals, because the use of land in Kasson Township for Enduro Motorcycle racing is contrary to a range of Kasson Township Zoning Ordinances, is not alligned with our Kasson Township Zoning Master Plan, and is geneareally not aligned with the beautiful rural farm and forest quality that I love about Kasson Township.

Regarding the first appeal, there are a number of ordinances that would not allow for Enduro Motorcycle use:

**SECTION 4.10.5 PERFORMANCE STANDARDS**

Noise. No use except a temporary construction operation shall be permitted which creates a noise level of which exceeds five decibels (as defined in the Occupational Safety and Health Act of 1970) above the ambient level of the area measured at the property line.

**SECTION 7.7 BASIS FOR DETERMINATION**

A. Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity as indicated in the Township Master Plan or other policies of the Township.

B. Not be hazardous or disturbing to existing uses in the same general vicinity, and will not have adverse effects on the market value of surrounding property and to the community as a whole.



E. Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property or the general welfare by fumes, glare, noise odors or dust

## SECTION 7.8 CONDITIONS AND SAFEGUARDS

C. To insure compatibility with adjacent uses of land;

There are so many individuals with farms and homes in the vicinity, in no way similar to a motorcycle race track. These laws alone indicate this Enduro Motorcycle Race belongs in a different area of the state more suitable. They also align with the Kasson Township Master Plan, which supports maintaining the rural character of the township, for example in Chapter 8 – Residential Land Use & Housing Policy (page 25) it lists these Long Term Objectives:

A. To control the manner and placement of new housing development in order to preserve the rural character of the township. (4)

B. To mandate and enforce adequate buffers and proper regulations of nonresidential uses to ensure the quiet enjoyment of their homes by the residents of the township. (4)

C. To manage growth, especially in prime natural resource areas; to prevent over burdening public services; and to prevent destruction of the native terrain and pollution of the township's resources. (3)

Indeed, the Kasson Township Website Homepage states is clearly: "Kasson Township residents value the rural, undeveloped nature of the area that is predominantly covered with forests, farm land and some orchards."

The second appeal asks whether a motorcycle "dirt bike" race event with over 100 bikes racing in "heats" on 304 acres of property is similar enough, or comparable enough, to the other identified uses to show the intention of the zoning in the Forested District to include it as an available special use: "tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children's amusement parks".

The ZO Section 2.2 definition of Public Park or Park includes: "playground, recreation center . . . . created for the purposes of rest, play, recreation, enjoyment or assembly for the public and all buildings, facilities and structures located thereon . . ."

Common experience shows that none of the identified uses - tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children's amusement parks, playgrounds, or recreation centers would produce the sound levels associated with the motorcycle race events. And the word: "children's" in front of "amusement parks" shows an intention that large-scale, noisier "adult" amusement parks like Six Flags Over Texas were not included in the available special uses.

I understand that an EPA Report, calls for 55 decibel ("dB") as "the outdoor level in residential areas compatible with the protection of public health and welfare", and cites "severe annoyance" level at 75 – 80 dB. The report also cites that an increase of 10 dB doubles the sound level. This means 95 dB is eight times louder than the 55 dB level recommended by the US EPA. And that is for one motorbike, many bikes racing at one time would presumably increase the 95 dB level substantially. In summary, motorbike use would create a sound level would be at least twice the level of "severe annoyance" and could be many times louder.

Here, because of the noise associated with the motorcycle event, it would likely harm neighboring properties in a material way that the other uses – i.e. tennis courts, golf courses, even children's amusement parks, would not.

For that reason, the motorcycle event is not comparable to the other uses identified in the definitions applicable to "Public or private outdoor recreation or park facilities" and should not be a basis to process the Enduro motorcycle event as a special land use in the Forested zoning district.

Above and beyond these points, I have simple personal reasons that are common with the other 100 or more neighbors that attended the April 17th meeting sharing my opposition, as well as aligned with the ordinances and master plan:

I value Kasson Township for its natural beauty, tranquility and pastoral landscapes, as well as it's farms, people and the sense of simplicity. The forests, rolling hills and high ratio of nature to people are to me a unique and significant source of value for the area. I am here to be on the land and work with nature, and it brings me peace to be surrounded by farms and homesteads with others doing the same. Motorbike racing is a fine sport but should be reserved to other areas without neighbors and farms.

I attended the meeting on Monday April 17 and spoke then in opposition of this land use, and continue to urge you to not allow it to happen, both to stay within the laws of the Kasson Township ordinances as well as for the natural benefit of beautiful Kasson Township.

Thank you for your service and your consideration.

Kind regards,

Doug





Kasson Township Clerk &lt;kassontwpclerk@gmail.com&gt;

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**Proposed Enduro**

1 message

**Patti Travioli** <pattitravioli@gmail.com>

Wed, Oct 11, 2023 at 12:43 PM

To: "kassontwpclerk@gmail.com" &lt;kassontwpclerk@gmail.com&gt;

Hi Dana.

I am writing in opposition of the proposed enduro. Please add this comment with photo to my previous comments.

This is at the north property line between us and Mr. Kasben. Earlier this summer he talked with my husband Jim about erecting a fence one foot from the line for his cows. He can clear as much of the trees that he wants (it's about width of a two lane road). The land has washed out spilling onto ours. We will continue to communicate with Mt. Kasben about this issue. My concern is more about the possibility of any environmental damage to





our property from the proposed track. This is the space they have proposed for part of the track.

See attached.

Sincerely,

Patti Travioli