**Kasson Township Zoning Board of Appeals**

**Findings of Fact Regarding Appeals of Planning Commission’s Decision and Zoning Administrator’s Decision on James Schettek (Applicant) and Bill Kasben’s (Owner) Application for Special Use Permit to hold Enduro Motorcycle Events on their property**

**in the Forested District**

The Applicants appeal the Planning Commission’s decision to discontinue consideration of the Special Use Permit under Section 7.15 of the Kasson Township Zoning Ordinance.

1. The ZBA finds that the Planning Commission began processing the Special Use Permit under Section 7.15 “Other Special Land Uses” because that is what the applicant, James Schettek, requested in the original SUP Application. (**ROA Ex1(a)** February 18, 2023 Special Use Application).
2. The ZBA finds that there was a March 20, 2023 Planning Commission meeting wherein the SUP Application was discussed. (**ROA Ex2** Planning Commission Minutes).
3. The ZBA finds that there was a public hearing conducted on the SUP application on April 17, 2023, wherein 105 members of the public were present, the majority of whom spoke in opposition to the SUP. (**ROA Ex21** April 17, 2023 Planning Commission Minutes).
4. The ZBA finds that on or about June 23, 2023, the Applicant requested an amendment of the SUP to request “four events per year” to replace the original plan to hold an event that past Memorial Day. [**ROA Ex10** June 23, 2023 Email from Fran Seymour to Tim Cypher (w/ attachments)].
5. The ZBA finds that the Planning Commission’s July 17, 2023 decision to discontinue consideration of the Special Use Permit (“SUP”) under Section 7.15 of the Kasson Township Zoning Ordinance was based in part on the advice of Kasson Township attorney, Tom Grier, in consultation with the Michigan Township Association’s legal counsel and others. (**ROA Ex14** July 17, 2023 Planning Commission Motion; **ROA** **Ex6** May 5, 2023 letter from Tom Grier to Zoning Administrator Tim Cypher).
6. The ZBA finds that the Michigan Zoning Enabling Act, MCL 125.3502(1)(a) and the published Court of Appeals case *Whitman v Galien Township*, 288 Mich App 672 (2010) were cited in support of Mr. Grier’s legal opinion that the Planning Commission should discontinue consideration of the SUP because Section 7.15 of the Zoning Ordinance is unlawful. The ZB finds that this is an accurate legal analysis. (**ROA Ex14** July 17, 2023 Planning Commission Motion; **ROA** **Ex6** May 5, 2023 letter from Tom Grier to Zoning Administrator Tim Cypher).
7. Specifically, the ZBA finds that Tom Grier consulted with Michigan Township Association attorney, Catherine Mulhaupt, about the Enduro Event. Mr. Grier states in his May 5, 2023 letter to T. Cypher, “Ms. Mulhaupt independently raised concerns about the Whitman COA case in the context of ZO Section 7.15. We then discussed the permitted and the special land uses within the Forested District. Ms. Mulhaupt raised further concerns about the Enduro Event because it was not consistent or comparable with any of the permitted or special land uses in the Forested District.” (**ROA** **Ex6** May 5, 2023 letter from Tom Grier to Zoning Administrator Tim Cypher).
8. The ZBA also finds that Mr. Grier reviewed and incorporated in part the legal opinion letter from attorney Kristyn Houle, who argued that Section 7.15 violated the specificity requirement under MCL 125.3502(1)(a). Ms. Houle also argued that Section 7.15 unlawfully delegates legislative power to the Planning Commission, citing MCL 125.3502(1) and *Sun Communities v Leroy Township*, 241 Mich App 665 (2000). (**ROA** **Ex6** May 5, 2023 letter from Tom Grier to Zoning Administrator Tim Cypher**; ROA Ex3** May 2, 2023 Letter from Kristyn Houle to Planning Commission).
9. The ZBA finds that in the *Whitman v Galien Township* case, the zoning board granted a special use permit for a snowmobile, dirt bike and ATV racetrack in the township’s agricultural district. The Galien Township Zoning Ordinance stated that a special use permit could be granted by the zoning board for, “establishments for the conducting of ***commercial or industrial activities***, subject to approval of the zoning board.” The Court found that the terms “commercial or industrial activities” were not specific enough, and therefore a violation of Section 502 of the MZEA. (**ROA Ex3** May 2, 2023 Letter from Kristyn Houle to Planning Commission**; ROA Ex16** Anne Wendling email with *Whitman*, etc., cases from Peter Wendling).
10. The ZBA finds that in interpreting the specificity requirement in the MZEA, the *Whitman* Court found: “[w]hen these definitions are considered together, the statute can be read to mandate that a zoning ordinance must set forth in explicit, precise, definite and detailed language both the customary uses and the specific actions and functions that are eligible for special use permits. The legal definition of “special use permit” supports this reading of the statute. Black’s Law Dictionary (9th Ed) defines a special use permit as, “a zoning board’s authorization to use property in a way that is identified as a special exception in a zoning ordinance. Accordingly, the MZEA’s specificity requirement ensures that property uses and activities eligible for special-use status are identified in the language of the ordinance.” *Whitman,* at 682-83. (**ROA Ex16** Anne Wendling email with *Whitman*, etc, cases from Peter Wendling).
11. The ZBA finds that per the *Whitman* case, the MZEA’s specificity requirement operates to prevent an administrative body (such as the Planning Commission) from engaging in rezoning, since rezoning is exclusively a legislative function. (**ROA Ex16** Anne Wendling email with cases from Peter Wendling).

1. The ZBA finds that Section 7.15 of the Kasson Township Zoning Ordinance is similar to the Galien Township zoning ordinance at issue. Section 7.15 states:

***Land and structural uses*** that are not specified in any other section of this Ordinance, but, upon being applied for under the provisions of Chapter 7, may be considered by the Planning Commission as long as they meet all of the conditions and requirements of this Chapter and the spirit and intent of the Ordinance. (**ROA Ex28** Kasson Township Zoning Ordinance).

1. The ZBA finds that the Kasson Township ordinance section 7.15 “land and structural uses” is even more broad than “commercial and industrial activities” section of the Galien Township Zoning Ordinance, and therefore, does not meet the specificity requirement of the MZEA, MCL 125.3502(1). (**ROA Ex28** Kasson Township Zoning Ordinance).
2. The ZBA finds that the arguments made by attorney for Applicants, Peter Wendling, that the *Whitman* case does not apply to Section 7.15 are not convincing. The ZBA finds that the two cases cited by Mr. Wendling in his July 17, 2023 letter to the Planning Commission are *unpublished* cases, and therefore, not precedential. (**ROA Ex15** July 17, 2023 Peter Wendling letter to Planning Commission; **ROA Ex16** Anne Wendling email with cases from Peter Wendling).
3. The ZBA finds that the two cases cited by Mr. Wendling arguably meet the MZEA requirements by conditioning the catchall sections with the term of art “and other uses similar to” the listed uses, and are therefore, distinguishable from the appeal before the ZBA. (**ROA Ex15** July 17, 2023 Peter Wendling letter to Planning Commission; **ROA Ex16** Anne Wendling email with cases from Peter Wendling).
4. The ZBA finds that neither the Galien Township Ordinance at issue nor Section 7.15 of the Kasson Township Ordinance include the guideline that the proposed use must be “similar to” the uses listed in the districts. The ZBA further finds that neither the ATV track in the Galien Township Agricultural District nor the proposed motorcycle race event in the Kasson Township Forested District would be “similar to” the listed uses in those districts. (**ROA Ex15** July 17, 2023 letter to Planning Commission; **ROA Ex16** Anne Wendling email with cases from Peter Wendling; **ROA Ex23** October 10, 2023 Letter from Kristyn Houle to ZBA).
5. The ZBA finds that the Planning Commission’s July 17, 2023 decision to immediately terminate any further action, including but not limited to, consideration of findings of fact, on the Motorcycle Event application, as a special land use within the Forested zoning district, was in compliance with current state law.

The Applicants appeal the Kasson Township Zoning Administrator’s decision on July 7, 2023 to deny the processing of a request for a Special Use Permit by the Applicants within the Forested District of a Motorcycle Race Event as an Outdoor Recreational Facility. The application was made under Zoning Ordinance Sections 4.7.2, 5.13 and 4.4.

**4.7.2 Outdoor Recreational Facility.**

1. The ZBA finds that the Applicant’s attorney, Peter Wendling, requested that the Township allow for the processing of a Special Use Permit for the motorcycle race event within the FR district as an Outdoor Recreation Facility pursuant to Sections 4.7.2 Special Land Uses and per the definition of “Outdoor Recreation Establishment.” (**ROA Ex7** May 25, 2023 Letter from Peter Wendling to Tom Grier and Tim Cypher).
2. The ZBA finds that the Zoning Administrator responded that the Township will not allow for the processing of a Special Use Permit application on behalf of the applicant James Schettek within the Forested zoning district pursuant to 4.7.2 Special Land Use and the ZA’s determination of the definition of the “Outdoor Recreation Establishment.” (**ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher).
3. The ZBA finds that the Zoning Administrator stated that the definition of Outdoor Recreation Establishment used in the Kasson Township Zoning Ordinance is constrained by the examples given. Other activities are permitted but they must be of like character to the examples provided. (**ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher).
4. The ZBA finds that under the Forested District, Section 4.7.2 allows “Public or private outdoor recreation or park facilities” as a special land use. (**ROA Ex 28** Kasson Township Zoning Ordinance).
5. The ZBA finds that “**Outdoor Recreation Establishment**” is defined in the ordinance under section 2.2 as: a facility designed and equipped for the conduct of sports, amusement or leisure time activities and other customary recreational activities outdoors (outside of enclosed buildings) and operated as a business and open for use by the public for a fee such as tennis courts, archery ranges, golf courses, miniature golf courses, golf driving ranges, and children’s amusement parks.” (**ROA Ex28** Kasson Township Zoning Ordinance).
6. The ZBA finds that “**Public Park or Park**” is defined in the ordinance under section 2.2 as: a playground, recreation center or other public areas, created, established, designated, maintained, provided or set aside by a governmental body, for the purposes of rest, play, recreation, enjoyment or assembly for the public and all buildings, facilities and structures thereon or therein. (**ROA Ex28** Kasson Township Zoning Ordinance).
7. The ZBA finds that read as a whole, and to effectuate the intent of the zoning ordinance and applying the plain meaning of the ordinance language, the common characteristic of the examples given in these definitions is that the activities are very low-intensity and low-impact. Facilities such as a golf course, tennis court, children’s amusement park, playground or other public areas “for the purposes of rest, play, recreation.…” are meant for leisure and gathering. (**ROA Ex28** Kasson Township Zoning Ordinance).
8. The ZBA finds that the unpublished case cited by Mr. Wendling in his October 25, 2023 letter, can easily be distinguished by the facts of this matter. In *Tullio v Attica Township*, the proposed use was a mulching operation that the Courts and ZBA determined fit the definition of agribusiness – which included engaging in the storage and processing of an agricultural commodity (mulch). In that case, agribusiness ***was not defined in the zoning ordinance*** (only examples were given) so the dictionary was consulted. It was clear that the proposed use fit the dictionary definition. In the matter at hand, Outdoor Recreation Establishment and Park ***are defined by the ordinance in Section 2.2*** (as well as examples given for context). (**ROA Ex26** October 25, 2023 Peter Wendling Memorandum to ZBA; **ROA Ex27** October 26, 2023 Kristyn Houle Letter to ZBA).
9. The ZBA finds that the proposed motorcycle race event is a potentially dangerous and extremely loud *event* that would last at least a couple of days and provide for “primitive” overnight camping, and the track would be located along the outer edges of the property further increasing the negative impact on neighboring properties. (**ROA Ex1 and Ex1(a)** Special Use Permit Application; **ROA Ex 4** May 4, 2023 letter from Kristyn Houle to Planning Commission No.1; **ROA Ex30** Enduro Site Plan submitted with Application; **ROA Ex 31** Public Correspondence).
10. The ZBA finds that the definitions of Outdoor Recreation Establishment or Park do not include any high-intensity, high-volume or high-impact overnight events such as the proposed Enduro Motorcycle Race Event. (**ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher; **ROA Ex9** June 11, 2023 letter from Kristyn Houle to Tim Cypher; **ROA Ex22**, October 9, 2023 Letter from C. Grobbel to ZBA).

1. The ZBA finds that the proposed use is a “dangerous event” as stated in the description of the proposed use in Mr. Schettek’s SUP application. The ZBA finds that the applicant stated in the application, “all people through the front gate will be required to sign a waiver form. Basically stating they are at a potentially dangerous event and the property owners, event promoters or workers are not held liable.” (**ROA Ex1** Special Use Application).
2. The ZBA specifically finds that a “dangerous event” is materially different from an outdoor recreation establishment or park such as a tennis court, a golf course, miniature golf course or a children’s amusement park. (**ROA Ex1** Special Use Application; **ROA Ex9** June 11, 2023 letter from Kristyn Houle to Tim Cypher; **ROA Ex23**, October 9, 2023 Letter from C. Grobbel to ZBA).
3. The ZBA finds that the proposed use described in the SUP application is a motorcycle race along with “primitive camping.” The ZBA finds that the applicant states in his original application, “people will start to arrive on Friday afternoon to camp for the weekend.” The amended SUP application states that “each event involves a one-day race on a Sunday, with some participants arriving on Saturday….some may have campers for primitive camping on our site.” The ZBA finds that the definition of an outdoor recreational facility *does not* include a campground or temporary camping or any other overnight accommodations. (**ROA Ex1 and Ex1(a)** Special Use Application; **ROA Ex9** June 11, 2023 letter from Kristyn Houle to Tim Cypher; **ROA Ex**23, October 9, 2023 Letter from C. Grobbel to ZBA).
4. The ZBA finds that the noise that will be generated from the event alone is enough to distinguish it from the uses listed under the Outdoor Recreation Establishment definition. Patrons of a tennis court, golf course or children’s amusement park do not need to bring their own ear protection equipment because “a person’s hearing will likely be damaged after eight hours of exposure.” (**ROA Ex2**, March 20, 2023 Planning Commission meeting minutes, p.6; **ROA Ex23**, October 9, 2023 Letter from C. Grobbel to ZBA; **ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher; see, C.Grobbel Report and EPA study exhibits attached to T. Grier letter).
5. The ZBA finds that the impact of the noise produced by the event on the neighboring properties is one of the most distinguishing features of the proposed land use from the definition of outdoor recreational facility or park. (**ROA Ex1** Special Use Permit Application; **ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher; **ROA Ex31** Public Correspondence).
6. The ZBA finds that the applicant has indicated that each motor bike will produce a sound level of 94 dB to 96 dB and that possibly more than 200 motor bikes may participate. (**ROA Ex1**, Special Use Application amendment; **ROA Ex2**, March 20, 2023 Planning Commission meeting minutes, p.6; **ROA Ex23**, October 9, 2023 Letter from C. Grobbel to ZBA; **ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher).
7. The ZBA finds that in his letter dated May 25, 2023, Mr. Wendling implies that a children’s amusement park may produce noise akin to the proposed motocross racing. The ZBA finds that the sounds of a children’s amusement park will not rise to the level of the noise produced by the proposed motorcycle race event and the proposed motorcycle race event is not a similar use as a children’s amusement park. (**ROA Ex2**, March 20, 2023 Planning Commission meeting minutes, p.6; **ROA Ex7** May 25, 2023 letter from Peter Wendling to Tom Grier and Tim Cypher.)
8. The ZBA finds that the Zoning Administrator stated at the March 20, 2023 meeting, that the noise from the motor bikes can be compared to the noise of “a Boeing 737 or DC-9 aircraft at one nautical mile before landing (97 dB), a power mower (96 dB), a motorcycle at 25 feet (90 dB) or a newspaper press at 97 dB” and a person’s hearing will likely be “damaged after eight hours of exposure.” (**ROA Ex2**, March 20, 2023 Planning Commission meeting minutes, p.6).
9. The ZBA finds that the proposed land use as a motorcycle race event is a dangerous high-intensity use that would include motorcycle racers starting at 15 second increments, running the course multiple times at noise ranges up to 96 dB, where there would be overnight camping, and an additional 1-2 people per rider on site. This use does not fit the zoning ordinance definition of Outdoor Recreation Facility or Park, nor is it similar to any of the examples given in the definitions. (**ROA Ex2**, March 20, 2023 Planning Commission meeting minutes, p.6; **ROA Ex23**, October 9, 2023 Letter from C. Grobbel to ZBA; **ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher).

**Section 5.13 Temporary Outdoor Use**

The Applicant appeals the Zoning Administrator’s decision that the proposed Motorcycle Race Event is not a Temporary Outdoor Use under Section 5.13 of the Kasson Township Zoning Ordinance.

1. The ZBA finds that the Applicant has requested that the proposed motorcycle race event fit the definition of Section 5.13 of the Zoning Ordinance as a temporary use. [**ROA Ex24** October 10 2023 letter from Tim Cypher to Peter Wendling (re: Section 5.13 of Zoning Ordinance)].
2. The ZBA finds that the Zoning Administrator stated in a written letter that the proposed motorcycle race event does not fit the definition of Section 5.13 of the Zoning Ordinance because it is not similar in nature to those uses that are allowed by right in the district, and that otherwise, the second section of 5.13 is unlawful under the *Whitman v Galien Township* case analysis. [**ROA Ex24** October 10 2023 letter from Tim Cypher to Peter Wendling (re: Section 5.13 of Zoning Ordinance)].
3. The ZBA finds that Section 5.13 has two sections, the first is: “temporary outdoor uses may be permitted in any zoning district provided that the temporary use is similar in nature to those uses that are allowed by right in the district.” (**ROA Ex28** Kasson Township Zoning Ordinance).
4. The ZBA finds that the proposed Motorcycle Race Event is not similar in nature to those uses that are allowed by right in the district. (**ROA Ex28** Kasson Township Zoning Ordinance; **ROA Ex5** May 4, 2023 Letter from Kristyn Houle to Planning Commission No 2 and Grobbel Report attached to letter; **ROA Ex6** May 5, 2023 Letter from Tom Grier to Zoning Administrator Tim Cypher).
5. The ZBA finds that Applicants’ attorney, Peter Wendling, concedes in his October 5, 2023 letter that the first section of 5.13 does not apply, he states, “therefore, the first sentence of Section 5.13 temporary outdoor uses would not apply to my client’s proposed use.” (**ROA Ex20** October 5, 2023 Peter Wendling Letter to ZBA on the Appeal).
6. The ZBA further finds that the proposed use is not temporary in nature, as the Applicants’ amended SUP application requests at least 4 events per year, making the use a *recurring event/multiple-event use* as opposed to a one-time or “temporary” use. (**ROA Ex1** Special Use Permit Application; **ROA Ex31** Public Correspondence).
7. The ZBA finds that the second section of 5.13 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….” The ZBA finds that this section is unlawful for the same reasons that section 7.15 is unlawful, because the term “**other temporary outdoor uses**” violates the specificity requirement of the MZEA pursuant to the *Whitman v Galien Township* case analysis. (**ROA Ex28** Kasson Township Zoning Ordinance; **ROA Ex5** May 4, 2023 Letter from Kristyn Houle to Planning Commission No 2 and Grobbel Report attached to letter; **ROA Ex6** May 5, 2023 Letter from Tom Grier to Zoning Administrator Tim Cypher**; ROA Ex 16** July 17, 2023 Anne Wendling email with cases from Peter Wendling).
8. The ZBA finds that the *Whitman* Court found that the terms in the Galien Township Zoning Ordinance that allowed “**commercial or industrial activities**” were not specific enough, and therefore, a violation of Section 502 of the MZEA. (**ROA Ex28** Kasson Township Zoning Ordinance; **ROA Ex5** May 4, 2023 Letter from Kristyn Houle to Planning Commission No 2 and Grobbel Report attached to letter; **ROA Ex6** May 5, 2023 Letter from Tom Grier to Zoning Administrator Tim Cypher**; ROA Ex 16** July 17, 2023 Anne Wendling email with cases from Peter Wendling).
9. The ZBA finds that “***any other* temporary outdoor uses**” is even more broad than “**commercial and industrial activities**” and therefore, lacks the specificity the MZEA requires per the interpretation by the *Whtiman* Court. (**ROA Ex28** Kasson Township Zoning Ordinance; **ROA Ex5** May 4, 2023 Letter from Kristyn Houle to Planning Commission No 2 and Grobbel Report attached to letter; **ROA Ex6** May 5, 2023 Letter from Tom Grier to Zoning Administrator Tim Cypher).
10. The ZBA finds that the Zoning Administrator’s decision that Section 5.13 does not apply to the Applicant’s proposed use and is otherwise unlawful under the *Whitman v Galien Township* case is consistent with current state law.

**Section 4.4 Classification of Uses Not Listed.**

1. The ZBA finds that the Applicant’s Appeal included the statement “the Township has yet to consider applicant’s alternative desire to allow for these races per Section 4.4 … of the Kasson Township Zoning Ordinance.” (**ROA Ex18** July 28 Appeals).
2. The ZBA finds that section 4.4 of the Zoning Ordinance allows the ZBA to classify a use which is not specifically mentioned by this Ordinance, as described in 11.5. “Said use shall be treated in a like manner with comparable uses, as determined by the ZBA, and permitted or prohibited by the District Regulations for each Zoning District.” (**ROA Ex28** Kasson Township Zoning Ordinance).
3. The ZBA finds that the pertinent section of 11.5 is 11.5C which states, “the Board may classify any activity which is not specifically mentioned in the district regulations as Use Allowed by Right or allowed by Special use Permit. The basis for such classification shall be that the activity is consistent and similar to the uses already listed in the district.” (**ROA Ex28** Kasson Township Zoning Ordinance).
4. The ZBA finds that the proposed Motorcycle Race Event is not consistent and similar to any permitted use in the FR district. The ZBA finds that the permitted uses in the FR district under 4.7.1 include: single family dwellings, duplex dwellings, residential PUDs, Home occupations, Agricultural uses, adult foster care family home, family child care home and foster family home. (**ROA Ex28** Kasson Township Zoning Ordinance).
5. The ZBA finds that the proposed motorcycle race event is not consistent and similar to any of the permitted uses because it is not a home or an agricultural use, rather it is an inherently dangerous multiple-day, overnight camping and loud race event that would likely draw hundreds of people to the site. (**ROA Ex1** **and Ex1(a)** Special Use Permit Application).
6. The ZBA finds that the impact of the noise produced by the proposed event on the neighboring properties is one of the most inconsistent and distinguishing features of the proposed land use from the permitted uses in the FR district. (**ROA Ex1** Special Use Permit Application; **ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher; **ROA Ex 22** C. Grobbel letter to ZBA; **ROA Ex31** Public Correspondence).
7. The ZBA finds that the uses allowed with a Special Use Permit under 4.7.2 include: 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. (**ROA Ex28** Kasson Township Zoning Ordinance).
8. The ZBA finds that the proposed Motorcycle Race Event is not consistent and similar to any use allowed by Special Use Permit. (**ROA Ex28** Kasson Township Zoning Ordinance).
9. The ZBA finds that the proposed motorcycle race event is not consistent and similar to any of the uses allowed with a special use permit because it is an inherently dangerous, multiple-day, overnight camping and loud race event that would likely draw hundreds of people to the site, unlike cabin parks, lodging houses, bed and breakfast establishments, kennels, cemeteries or schools. (**ROA Ex1** Special Use Permit Application).
10. The ZBA finds that the impact of the noise produced by the proposed event on the neighboring properties is one of the most inconsistent and distinguishing features of the proposed land use from the uses allowed with a special use permit in the FR district. (**ROA Ex1** Special Use Permit Application; **ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher; **ROA Ex 22** C. Grobbel letter to ZBA; **ROA Ex31** Public Correspondence).
11. The ZBA finds that the proposed use is not consistent and similar to public or private outdoor recreation or park facilities and adopts the above findings of facts under the appeal of the denial of the use as an outdoor recreation establishment under 4.7.2 Outdoor Recreation Facility. (see above findings of facts).
12. The ZBA finds that a 3-day dangerous, noisy and overnight camping and motorcycle race event is not consistent or similar to any of the uses listed in the FR district under either those permitted by right or by special use permit, therefore, the ZBA denies the request to classify the proposed use as a use allowed under the FR District. (**ROA Ex28** Kasson Township Zoning Ordinance; **ROA Ex11** Tim Cypher July 7, 2023 email to Peter Wendling and Fran Seymour including July 7, 2023 Tom Grier letter to Tim Cypher; **ROA Ex 22** C. Grobbel letter to ZBA**; ROA Ex 23** October 10, 2023 letter from Kristyn Houle to ZBA; **ROA Ex 27** October 26, 2023 letter from Kristyn Houle to ZBA**; ROA Ex31** Public Correspondence).