

MINUTES
LIVINGSTON COUNTY ZONING BOARD OF APPEALS
Livingston County Historic Courthouse
112 W. Madison St., Pontiac, Illinois

Regular Meeting
7:00 p.m.

March 11, 2020

The meeting came to order and roll call was taken.

Members Present: Richard Kiefer, Richard Runyon, William Flott, Joe Stock, Neil Turner and Joan Huisman.

Members Absent: None

Agenda:

Chair Huisman noted the agenda for this meeting. Richard Kiefer moved, seconded by Joe Stock, that the agenda for this March 11, 2020 meeting be approved as presented. This motion was approved by a unanimous vote.

Business:

Case SU-3-19- Pontiac Flying Service LLC

This a continuation of the December 5, 2019 Livingston County Zoning Board of Appeals meeting at which the review of this zoning case was initiated with this zoning case pertaining to a request for a special use for private use airport and for commercial liquefied fertilizer storage and distribution, proposed to be located in the West Half of Section 16 of Saunemin Township, in an AG, District. This continued meeting began with the testimony from interested parties.

Chair Joan Huisman related that at the conclusion of the last meeting in which this zoning case was reviewed, the test wells vs. the daily usage from the evidence presented, with no conclusions. Also discussed was the location of the property and how it would be difficult to find a mile of land like this for the necessary length of runway. Also discussed was the exhibits and as to how to except them. A legal opinion was also sought for the legal cases that were part of the exhibits. Livingston County State's attorney Randy Yedinak had reviewed and wrote a memorandum in regards to these legal cases, giving a summary of the legal cases and what could be considered out of them, without any direct guidance. The chair mentioned copies of standards of special uses and pertinent zoning regulation pages, which will be reviewed during the discussion by the zoning board. Copies were provided to the public. The Chair then noted that the goal for this meeting is to get through the closing statements at this meeting, with a plan to follow up with another meeting for the zoning board of appeals to discuss and make a decision on the zoning case.

Closing statements then began in reverse of those that presented testimony.

Aaron Galloway, an attorney representing Edwin and Jane Wiebers began the closing comments by providing copies of a printed handout supplement titled, Argument-Edwin and Jane Wiebers. Mr. Galloway then commented about this supplement handout starting with that the applicant does not meet the standards established for the special use requirements of an airport. Mr. Galloway then related as to how a dense screening abutting an existing residential uses has not be addressed by the applicant, with this zoning section being highlighted in the handout supplement. He interprets that a screen planted is required with the dimensions and how it is maintained being at the discretion of the board. The screening would help maintain the rural nature of his client's home. They do not want an airport in their back yard. Mr. Galloway then noted the zoning regulation section highlighted in his handout that referred to fences and walls. Mr. Galloway noted that the fence could address blocking wildlife and preventing children for going towards the runway.

Mr. Galloway then commented about their second point that the applicant's proposed use is not in harmony with the Livingston County Comprehensive Plan. Mr. Galloway then referenced and commented on how they address this point in the handout. Mr. Galloway noted the comments the Livingston County Regional Planning Commission made on the comprehensive plan checklist for making decisions, and as to how the airport would fit in with the comprehensive plan. Mr. Galloway mentioned that the burden is on the applicant to prove that they have met the requirements and it meets the plan. Mr. Galloway noted that the propose use may be detriment to the area, and that more noise will be created by the proposed use. Mr. Galloway noted that the point of this testimony was to point out that there is a lot of information out there about how those factors would affect the landowners. Mr. Galloway believes that the applicant did not properly address those factors. He does not feel that the applicant met the burden that the potential noise to be generated will not be detrimental to the public health. Mr. Galloway then mentioned an increase in traffic. The use of water was noted, and how the applicant did not meet the burden of removing the doubt that their water use would have an adverse effect on the area wells. Mr. Galloway noted the potential detriment to the public welfare. Mr. Galloway then addressed the water concerns again. Mr. Galloway then noted that the zoning regulations procedure section point 3 on the special use being consistent with the spirit, purpose and intent of the regulations., would not be detrimental to the public convenience and welfare. Mr. Galloway believes that the applicant has not provided this evidence. What the neighbors have expressed are their concerns about noise pollution, water wells that may go dry in the area. Would that create another risk? Mr. Galloway believes the legitimate request is this applicant is the applicant's desire to own their own property and development, but the neighboring property owners should pay for this desire. Mr. Galloway then commented about the primary goal of the comprehensive plan is to protect prime farmland, to protect the rural character. Mr. Galloway further commented that about how the rural character in this area needs to be protected. Mr. Galloway then commented about how this is located at the Pontiac Airport, and no one has commented about why they cannot continue their operations at the Pontiac Airport. Mr. Galloway commented about how being located at the Pontiac Airport it is located closer to support needs such as public water.

Mr. Galloway noted that the burden on noise from airplanes has not been met. Mr. Galloway then noted in his handout diagrams are provided referencing obstruction burden setbacks, with Mr. Galloway expressing that he believes that this could affect future development near the runway, such as preventing the construction of structures like grain bins. Why should the neighbors have the burden of building within obstruction clearance areas? Mr. Galloway then related about property values, as being an unknown risk, and that the applicant should remove this burden. No specific data was provided to address the property value issue. So would the area residents have burdens on property values? Mr. Galloway then mentioned some of the planning commission comments on limiting potential uses of the proposed airport. Mr. Galloway noted the state guidance on uses at airports. Such as parachute operations and flight instruction being allowed at private use airports. Mr. Galloway believes that the county conditions would be unenforceable, in looking at the Priester case he presented. The county can only regulate land use. He believes that the planning commission was wanting to limit the use to limit the burdens. Mr. Galloway then noted that the burden is on the applicant to prove that the propose use would not be a substantial detriment to the public. Mr. Galloway noted that the applicant has not provided all of the facts, to prove their burden to prove that this will not be detrimental to the public. The applicant has not provided verifiable data to prove their case. May this data could be provided in the future, but is not present at this time. Mr. Galloway then concluded that the special use should be denied since the applicant has failed to prove how this proposal will not be detrimental to the public.

James Green passed on making a closing statement.

Roger Gerdes, in his closing statement, thanked the board for giving due diligence on this matter, and he commented about how it is important to the people in the area of the subject property. Mr. Gerdes believes that the people in the Saunemin area would be better served in continued negotiations to keep Pontiac Flying services at the Pontiac Airport, that has water and infrastructure in place. Mr. Gerdes noted that the Peterson's have changed proposed uses of the proposed airport regarding landing lights, and to providing limited lessons to family and friends. And, how proposed flight paths have changed. It is Mr. Gerdes's opinion that the proposed airport will take away the rights of the citizens in the area, with noise pollution, stress, the depletion of wells in the area, and it would be a detriment to the way of life of the people that live in the area. Mr. Gerdes thanked the board for their time.

Michelle Herout had no closing statement.

Donald Immke passed on making a closing statement.

Tim Lannon was not present to make a closing statement.

In her closing statement Cary Schmidt, reiterated her past comments, starting with the noise. The issue is with the potential of a consistent noise which would be a nuisance. She noted that the applicants have other options. She has pollution concerns with her family spending time outside during the summer with concerns about pollution in her pool. Her dog panics when planes fly over. It will interrupt their enjoyment of their yard during the summer. She will not be able to fly her drone, that she spent \$3000 on. It is her right to have a peaceful neighborhood and this would be an infringement on their rights. They also shoot guns directed towards the proposed runway. Cary Schmidt is concerned about how they change the operations once it is approved. They have rights of land owners to live in peace and they may be harmed with the proposed use. She also thanked the board.

Keith Parrish was not present to make a closing statement.

Jerry Stout passed on making a closing statement.

Rich Vitzthum passed on making a closing statement.

Phil Corban passed on making a closing statement.

Craig Cramer was not present to make a closing statement.

Joseph Masching commented in his closing statement about how the family's property is about a mile from the proposed airport, and they are concerned about the noise, and well levels. He thinks that this proposal needs to be reviewed about potential alternate sites or the continued use of the Pontiac site.

Bob Fox in his closing statement noted how close the runway would be Wiebers back door, and then in regard to the standards about how the propose use could be detrimental to the general welfare, he questioned as to if the property values would be affected, and as to if the orderly growth of the area would be affected. His opinion is that airport should not go where it is proposed.

Bryan Frantz in his closing statement he mentioned water table data from a past meeting, needs to be considered with the applicant planning to add a well, and that needs to be added to the water table data and the refresh rate, to make the data correct. Mr. Frantz noted that the Pontiac and Dwight airports are already within 16 miles of Saunemin, and he questioned three airports without control towers being located with close vicinity may create flying hazards. Mr. Frantz then noted that we do not see economic benefit from the three airports. He questioned the use of Pontiac Airport, and he does not see the economic advantage. So put another in if you are not going to see an economic advantage.

James Schultz passed on giving a closing statement.

Barbara Frantz in her closing statement noted her agreement with Mr. Galloway's presentation. Barbara Frantz commented about the concerns about the water use and how use of the surrounding property may be affected. Barbara Frantz believes that the proposal is insufficient in part because it does not detail drainage issues. It may affect the orderly growth of the area. She believes it would be a detriment to property values and wells in the area. The noise pollution would be a detriment to the area property owners. She believes that the applicant has time to better address the concerns since their lease at the Pontiac Airport still has years left on it. But, she questions if they can address the Wiebers concerns. She noted the change in flight plans. She noted with work to the south and east of Saunemin, they may want to pursue an airport business in those areas if not at the Pontiac Airport. The screening and fencing was not in the plans, and this fails to meet the proof needed. She noted that they already use area places of businesses so that will not change economic development in Livingston County. The tax situation will not greatly approve this proposed development. She does not believe that a specific number of people or properties to have the proposal to be detrimental. Barbara Frantz agrees with Mr. Galloway and that the applicant's fail to prove that they would not be a detriment to the residents and to the public in the area, and she asks for the board to deny this request.

John Vitzthum passed on making a closing statement.

Duane Kiesewetter in his closing statement commented on the property tax issue, and how pollution control development will have a lower assessment, with \$1500 in taxes vs. a regular full value assessment that may generate \$10,000 in taxes. Mr. Kiesewetter expressed his concerns on health issues and noise. He noted that wind turbines need to be about 6 miles from the Pontiac Airport and this would be about 2 miles from a wind turbine.

Donald Schmidt in his closing statements he commented about concerns about expansions once they get approved. He believes that Pontiac Flying Services is basically Pontiac Airport, which they would be moving to Saunemin. His profession is being a musician and he related as to how the intermittent noise lasting for hours, even if it equals just minutes would bother him.

In his closing statement Scott Peterson related his appreciation to the zoning board members for their time and patience. Scott Peterson then commented that some of the discussion heard had skewed the data. In regards to noise he commented on their previous comments on noise generated by a grain bin dryer, in relation to the noise they may generate. Scott Peterson clarified they used a 21 day peak business season time frame, which would translate into 12.6 hours of noise from the airplanes during those 21 days. 21 days of a grain dryer running would be 504 continuous hours. The noise signature on grain dryers is greater than what the airplanes would generate. In regards to the water hauling Scott Peterson related that there is an average of 2450 vehicle on Route 47 and an average of 1800 vehicles on route 116. So the 10 extra trucks hauling the water would not insignificant.

In regards to the Schmidt's, Scott Peterson commented that are concerned about noise and spray drift, even though they built their home within a mile of Saunemin CPS, and ag chemical facility that did not deter them from building a home there. In regards to the potential new noise being burdensome, they also chose to build their house next to Rt. 47, with 2450 vehicles a day, so they are picking and choosing which noise would bother them. In regard to the Schmidt's drone he does not believe a drone restriction on the proposed airport. In regards to Barbara Frantz's comments about their business being south and east, Scott Peterson related that their business growth is south and east, but they work in all directions from the Pontiac Airport. They fly for only one customer out of the Edgar County airport. In regard to Mr. Schmidt's comment about moving from the Pontiac Airport, they are only moving their business all of the other planes would stay at the Pontiac Airport. Scott Peterson then commented they have no intentions to have sky diving, they are an aerial application business, and agricultural business in the middle of an agriculture area, and he wants to take care of their customer's needs.

Kris Peterson then began his closing comments, by relating that he noted that the fencing and screening language in the zoning regulations is at the discretion of the board, and this is not a residential area. He commented about concerns mentioned about people shooting firearms in the area, and that the airport would not stop them from doing their shooting, as long as they are not shooting at aircraft. In regard to the drone since this proposed airport is to be private instead of public he does not believe there are restrictions on flying a drone. In regard to the water table Kris Peterson commented about bringing into perspective their water use being 5% in comparison to the Village of Saunemin. In regards to drainage issues, they do not have a drainage study, but they plan on having a drainage study done if this application is approved. They plan on maintaining proper drainage. In regard to them having 3 years left on their lease at Pontiac Airport, Kris Peterson noted that if approved this project will take time to develop, probably several years. In regards to changes in the application, they dealt with comments made during the hearings, and they want to be as clear as they can be. He believes that there will be a significant tax value in the buildings they plan on building and the runway. In regards to parachuting operations from the proposed airport, they would comply with any zoning board conditions relating to this use. Kris Peterson then commented on the attributes that this land has for an airport, starting with the lay of the land and no major obstacles in the area, and they do not have a setback from the wind turbines. Kris Peterson noted that the site is located on a main highway and is close to a second main highway giving good access to this location. Kris Peterson then commented about how private use airstrips for aerial applications are a common use in rural areas. Kris Peterson noted that they provide a unique business to their rural customers, with products to improve the growth of crops and with their business farmers are investing in their crops, with an efficient aerial application service. Kris Peterson then spoke about the economic impact their business has on a farm operations, increasing yields, and generating a return on investment of \$37 an acre. With the acres they apply their product on, this would translate into an extra 9 million dollars going into the economy. In regards to the water source in the area, Kris Peterson referred to the water well document that they had presented from Prairie State water systems, with well driller logs from the area and their own experience in the area capacity was 30 to 60 gallons a minute on several area wells, with them needing 27.7 gallons a

minute to keep up with their well demand. They would be using 5% of what the Village of Saunemin uses annually. They would also be able to supplement their water supply. Kris Peterson noted that they may account for 2 to 2.5 % of the traffic on the roads during their peak season, while commenting that the area roads are also busy during planting and harvesting seasons. Outside of their peak season they are quiet for the rest of the year. Kris Peterson noted that this planned and designed site will be inspected on an annual basis, meeting IEPA and Illinois Department of AG regulations. Mr. Peterson said that they had followed the process for this special use permit and they have provided information about the facility being proposed to the best of their ability, answering questions asked about this proposed development. Kris Peterson then thanked the board for their time and patience in the review of this zoning case.

The chair then mentioned the continuation of this zoning meeting considering the amount of information they have to review.

After a discussion it was concluded that the zoning board could meet to continue the review of this case on April 13, 2020.

Richard Kiefer moved, seconded by Richard Runyon, that this public hearing for Livingston County Zoning Case SU-3-19, Pontiac Flying LLC be continued to April 13, 2020 at 7:00 pm.

This motion was approved by a voice vote of all ayes.

This part of the hearing on this day ended at 8:30 p.m.

Material regarding these proceedings is on file in the Livingston County Regional Planning Commission Office, in the Livingston County Historic Courthouse, 112 W. Madison St., Pontiac, Illinois.

Respectfully submitted,

Charles T. Schopp, Secretary
Livingston County Regional
Planning Commission