

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

Regular Meeting
7:00 p.m.

May 7, 2020

The meeting came to order and roll call was taken.

Members Present: Richard Kiefer, Richard Runyon, William Flott, Joe Stock, Dave Randolph, 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 May 7, 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 a the chair stating that the closing comments for this zoning case have concluded and that it is time to close this case and proceed with the zoning board of appeals members discussing this zoning case. The chair then related that she planned to go through the factors noted in the State's Attorney's 3/2/20 memorandum regarding this zoning case, and any other issues that would help them come to a decision.

Richard Kiefer moved, seconded by Dave Randolph, that Livingston County Zoning Case SU-3-19 be approved.

The zoning board of appeals members' discussion then began on this zoning case. The chair started the discussion in referencing the eight factors to take into consideration as noted in the State's Attorney's 3/2/20 memorandum regarding this zoning case. These factors are listed in the top paragraph of page 2 of this memorandum from Randy A. Yedinak. The first factor listed of the eight factors that would aid in determination is by comparing the proposed use to that of the uses and zoning of the neighboring property.

Bill Flott commented that there is no other airport in neighboring property so this is different from what is in the neighboring property. Neil Turner had no input on this factor. Dave Randolph had no input on this factor.

Richard Runyon, concurred with Bill Flott, and that there is no existing airport, but existing farmland on the neighboring property. Rich Kiefer questioned as to if this is going to be different than Ag. The zoning administrator related that this is a proposed special use for an airport in an AG, Agriculture, District. The zoning classification on the property will not be changed. It was clarified that the zoning is still AG. Mr. Kiefer then related that he considers the proposal as an ag use in his view, as the proposed airstrip will be used for the application of ag chemicals, therefore it is still ag. Though other opinions may differ from his, this is the way he is looking at it. Joe Stock concurred with Rich Kiefer in that the proposed use is Ag related. Joan Huisman, has a multiple point view in that it is still Ag, but Nutrien down the road does not have an airstrip, so she is looking at it as an airport that supports Ag. She sees the surrounding property within the area mile as residential and agricultural for farm ground and not airport use. Bill Flott then noted that this factor has two parts one being uses and the second part being zoning, so the zoning is the same but the uses are different. Richard Kiefer repeated what Mr. Flott said.

In regard to factor number 2, the extent to which property values will be diminished if the permit is granted. Bill Flott commented agreed with the planning commission in that this cannot be determined. Richard Kiefer then questioned if they can refer to the Livingston County Regional Planning Commission comments since they did not vote on zoning case. The chair noted that this is unusual that they did not make a recommendation, but she would like to go through the factors and discuss the planning commission at the end of that discussion on the factors. Mr. Kiefer commented that he is unsure as to how many planning commission members would have agreed to their review comments, one, two or more. The chair said it may be a consensus. Mr. Kiefer questioned referring to their document. The zoning administrator pointed out that they can weigh the planning commission comments as he feels, and he based his judgement on the basis of the testimony presented to the zoning board of appeals. The chair is okay to refer to the planning commission document, but she does not give it a lot of weight without a final recommendation. Bill Flott then stated that is it unknown if property values would be diminished. Neil Turner, said there is no information as to if the property values would be diminished or improved. Dave Randolph, he doesn't see it either way. Richard Runyon, said that he did not see any facts that property values would be diminished but it is predominantly farmland, he does not see farmland values going down, and it is unknown of residential values will go down. Rich Kiefer commented that it is unknown and no evidence was presented to prove so. Joe Stock agreed there is no way to really tell. Joan Huisman agreed that they are left with an unknown on the property value issue, with no testimony that would have pushed them one way or the other on this issue.

Factor number 3 was then discussed, weighing the loss in property values versus promoting the health, safety, morals or general welfare of the public. Richard Runyon and Rich Kiefer questioned the wording of the question.

The chair noted assumption of the loss of property values is questioned, while she defined the general public as those within a mile radius of the subject property. She noted residential neighbors within the mile, and farm ground, while repeating the unknown if property values would be diminished.

The chair noted that a number of people did express their concerns over the noise and water issue. She has a concern for neighbors with a special use being proposed for their back yard when noise and water can be issues. The water issue may not be a concern if water would be hauled in from off site, leaving the noise issue, with no mitigating factors being offered to reduce the noise. She then noted the health, safety, moral and general welfare of the neighbors weighs more for her in reviewing this factor. Bill Flott agreed with the chair's comments. Neil Turner, then commented that the water issue is inclusive, in that what water wells or pumps were producing in contrast to the well logs that reflected what the wells could produce. A noise issue will exist for a short hit until people get used to it, similar to getting use to a train track. The noise issue is a difference of opinion in his eyes, but with the water thing no definitive information was provided about wells going dry. Bill Flott noted that the applicant should provide this information about water. Neil Turner noted that the applicant did provide well logs. Joan Huisman noted that no one from the direct business of well drilling came and provided testimony to relieve concerns about the well issue. Bill Flott noted that he believes that the well driller logs did not provide all of the well information. Neil Turner noted that the applicant did provide the well logs. Rich Kiefer mentioned that the well logs are all they received and the rest was hearsay. The chair said that the board is analyzing it with the limited knowledge they have. Dave Randolph had no comments. Richard Runyon, commented that the applicant the Peterson's may haul water in wanting the airport bad enough. Mr. Runyon commented that he thought that the Village of Saunemin would have been more concerned about the water usage. As far as the noise Mr. Runyon does not think you can get used to the noise going over your head. So noise is an issue for him. Richard Kiefer had nothing to add, other than there is no firm reading on what noise will be produced. Joan Huisman does not feel any specific noise level information was provided. Mr. Kiefer commented on the lack of specific engine manufacture noise levels. The chair indicated that a factor is what you may know about airplane noise. Mr. Kiefer agreed that noise is an issue, at least for six weeks. Mr. Runyon noted that the airport would be used more than the main six weeks of the proposed business. Mr. Kiefer noted that it is subjective to answer the health, safety and general welfare. The chair asked if other issues mentioned need to be discussed. Richard Runyon mentioned drainage, of the applicant indicated they would address. Joe Stock mentioned that pollution was mentioned also, but Ag chemical pollution exists in the area since they are used in the area. Mr. Kiefer noted that the farm chemical use is regulated.

Factor 4 the gain to the public versus the hardship on the neighboring properties was discussed. Joe Stock noted it is difficult to determine in that the noise may be an issue, but would you get use it like you get use to a rail road track.

The chair then noted that that the regional planning commission answered no to a review question posed to them of Will the land use change be beneficial to the general welfare, safety, and health of the residents of the immediate area and general population of Livingston County? Bill Flott does not see any gain to the public, and in the eyes of the public they will have a hardship. So it does not meet that factor. Neil Turner had no comments. Dave Randolph had no comments. Richard Runyon does not see the Village of Saunemin gaining anything the proposed airport. If farmers need an aerial application service it will come from somewhere.

So Mr. Runyon believes there is a hardship to the people that live there, with no gain to the public. Rich Kiefer struggles with this one as it is hard to place a level on the issues. Gain to the public and hardships are difficult to determine. Joan Huisman noted that Duane Kiesewetter commented on the tax issues and what the county may gain from the proposed development, and that the county may not see a substantial gain in tax revenues from the proposed airport. She recalled how the neighbors expressed what they will feel will be hardships, so the potential hardships to the neighbors out way the gains to the public. Richard Runyon related that he does not feel a gain to the public justifies an airport to be placed on the subject property, 750 yards from someone's back door.

Factor number 5 was then discussed. The suitability of the subject property to the current zoned purpose(not the proposed use or purpose). Bill Flott noted that the land is farm ground with farm ground meeting the current zoned purpose. Neil Turner agreed that it is agriculture ground and it would be suitable to continue to be used, without the proposed use being considered. Dave Randolph agreed that the land is agriculture. Richard Runyon corrected his last statement in that the proposed airport would be 750 feet not yards from someone's back door. Regarding the current zoned suitability question he agreed that it is suitable for farm land. Rich Kiefer agreed. Joe Stock agreed. Joan Huisman agreed that it is suitable to continue to be used as farm ground.

Factor 6 was then discussed. The length of time the property has been vacant as currently zoned in contest to land development in the area in the vicinity of the subject property. The chair remarked that we do not have this issue pertaining to this case. The property has not been sitting vacant it has been used, the land is productive for Ag use, with this question being better suitable for a municipal area. All of the zoning board of appeals members agreed with the chair's statement.

Factor 7 was then discussed. The community's need for the proposed use. Bill Flott remarked that if this proposed airport is not built here it will not change much in that aerial operators can serve from somewhere else. Neil Turner commented that at this point in time we do not know. We do not know if they would continue to work out of Pontiac. From a logistics point of view more aerial application could be done from the propose facility as opposed to needing to use an aerial applicator from further away. Dave Randolph had nothing to say. Richard Runyon remarked about the term community, in that Pontiac Flying Services also works in neighboring counties so he does not see a community need. Aerial application will be available from somewhere to serve the area without the proposed airport. Rich Kiefer related that he looks at as there is a community need for their services, not dependent on where the service comes from. There is a community need for the proposed use.

The chair questioned if this special use is not approved will they leave the community. Mr. Kiefer related to address the precise question there is a community need for this use. Even though the proposed location differs from their current location the need still exists. Joe Stock mentioned the proposal would bring in taxes. Richard Kiefer went back to the fact that the community needs the service. Joan Huisman in looking at the basic question yes the area does need an aerial application service.

Factor 8 was then discussed. The proposed use as it fits in with the comprehensive plan of the County. Bill Flott noted that the planning commission did not make a final recommendation. Chair Huisman then referred to the Livingston County Regional Planning Commission Report pertaining to this zoning case. The chair read the questions and answers in this planning commission report. A copy of this report with these questions and answers is attached to these minutes. The chair noted that the planning commission did not provide an overarching opinion to go with their report. So the chair to look at factor 8 in relation as to how the questions that the planning commission answered would fit into the zoning board's review. The chair then read the four questions reference towards the bottom of page 2 of the planning commission report. These can be found in the planning commission's report attached to these minutes. So what is the zoning board of appeals take away of a summary of the planning commission's report for an answer. Bill Flott noted that the planning commission was undecided, he noted some answers from the planning commission were no's some were yes's and some no answers, so Mr. Flott did not know how to interpret the planning commission report. Neil Turner had no comments. Dave Randolph had no comments. Richard Runyon noted he had no opinion. Richard Kiefer inquired as to if Livingston County Regional Planning Commission is using the comprehensive plan. The zoning administrator confirmed that the questions answered by the planning commission are in the comprehensive plan. Rich Kiefer cannot draw an answer to the factor from the information he knows about the comprehensive plan. The zoning administrator noted that the protection of farmland is part of the references made in the comprehensive plan. Mr. Kiefer believes that the farmland that would be taken out of production for the runway is minimal. Mr. Kiefer concluded that it is unknown as to how this would fit into the comprehensive plan. Joe Stock and Joan Huisman agreed with this statement.

The chair then asked if the zoning board of appeals members if they had any other comments on these eight factors just discussed. Bill Flott added a comment about how the runway is just too close to the closest residence. Richard Kiefer then questioned about how it fit into the zoning regulations, about the setbacks. It was agreed to discuss this point later in the discussion. No other zoning board of appeals members had any further comments. The chair in her tally of the answers to the 8 factors no clear answer was arrived at.

The setbacks for runways in relation to the zoning regulations were discussed next. Richard Kiefer noted that in Section 56.688 Minimum Distances from Residential District or use. It states that an airport is 100 feet from a residential district or use.

Mr. Kiefer questioned if this use fell within these guidelines. It was clarified by that this statement is correct by the zoning administrator and he also referenced number 3 on the bottom of the first page of the standards of special uses being presented. Residential use area was then discussed, as to what part of the living building area is a residential use. An aerial photo was used to note the runway being over 100 feet from the property. Mr. Kiefer noted it is very close, but meets the standard. Mr. Runyon noted that the regulation notes that a confinement building should be 1320 feet from a residential use, but the airport is at 100 feet, and he believes that this setback distance regulation should be looked at.

The closest house to the Pontiac Airport was mentioned. The zoning administrator mentioned that the 100 feet came from when the county zoning regulations were developed in the 1970's. The chair noted that map in regard to the Pontiac Airport showed the closest houses. The chair noted that the minimum setback does fit the ordinance, coming down to the subjective reasoning for this proposal.

The chair then read through the standards of special use. Is the proposed use consistent in all respects with the Livingston County Comprehensive Plan and the Livingston County Zoning Ordinance. (It is unknown about consistency with the comprehensive plan., it does fit into the zoning regulations) Will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare(needs to be considered) Is located in a zoning district where such a use is permitted. (Yes, as a special use.) Complies with the requirements set forth in the zoning district; (Will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted or substantially reduce the value of neighboring property(A question on what can be built at the end of runway was discussed; Will not impede orderly growth, development and improvement of surrounding properties for those uses permitted in the zoning district(impediment of growth is not seen); Is provide or will be provided with adequate utilities, access roads, drainage and necessary facilities(The water question comes into play in this area, and as to how the water situation can be mitigated; is Provide with ingress and egress so designed as to minimize traffic congestion in the public streets.(Increased traffic would not impact the area.) The chair asked for further comments regarding these standard questions. Richard Runyon's other thought on this is that projected flight patterns had been discussed, but in the testimony a specific flight pattern was not outlined. The Zoning administrator commented that a flight pattern diagram had been provided to the planning commission, but since a change in the use of this flight pattern was discussed a specific flight pattern was not presented to the zoning board of appeals. Mr. Runyon expressed that he would have liked to have seen a flight pattern presented to the zoning board of appeals.

Potential conditions were then discussed. This discussion began by looking at a page of draft conditions, provided by the zoning administrator, as basic conditions discussed in the past to use as a starting point. The suggested conditions from the regional planning commission may also be considered.

The conditions discussed were read by Rich Kiefer 1. That the applicant's special use be limited to the request as outlined in the applicant's application and the explanation the applicant gave at the hearing for this request for a special use approval.

Bill Flott wanted it confirmed that the Ag chemicals were part of the application and the zoning administrator confirmed that Ag chemicals are part of the special use application. The zoning board agreed to this condition as it has been a standard condition in the past.

2. That the ownership of this special use be limited to the applicant unless otherwise approved by the Livingston County Zoning Board of Appeals. . The zoning board agreed to this condition as it has been a standard condition in the past.

3. That this proposed property development be limited to ? employees. Since with proposed seasonal employees this condition is not applicable.

4. That the hours for this proposed business be ____?_____. This was discussed as being seasonal, plans for seasonal sunrise to sunset , questioned a need for specific hours to help make the applicant a good neighbor. Such as 6 am to start is that reasonable. A comment was made that when a farmer is in need of the application, they may want it the application when available, in that weather and windy days may limit when aerial applications can be applied. It was discussed as to if applications took place 7 days a week, which may happen during their peak. So it is difficult to limit hours of operation, from a farmers point of view. Daylight was discussed as a time frame, along with considering hours of operation during the off season. Testimony was not presented in regard to off season use hours. Neil Turner went back and discussed on the previous condition contractor's would be used, being hard regulate. Regarding hours Mr. Turner noted you do not want them flying in and out during night time. The zoning board decided to leave this condition off.

5. That this proposed property development shall also comply with the Livingston County Public Health Department requirements. The zoning administrator noted that this would be for septic permits and well permits that would need to go as part of improving the property. The zoning board agreed to this condition as it has been a standard condition in the past.

6. That a status review of this zoning case be conducted by the Livingston County Zoning Board of Appeal in one year, unless otherwise determined by the Livingston County Zoning Administrator. . The zoning board agreed to this condition as it has been a standard condition in the past, with one year to start, review times could be extended in the future.

7. That any signage for this proposed development is approved by the Livingston County Zoning Administrator. The zoning board agreed to this condition as it has been a standard condition in the past.

8. That the applicant complies with all other state and federal regulations pertaining to their property development and use. This would include the IEPA the Illinois Department of AG and any other pertinent agencies regulating the proposed use. The zoning board agreed to this condition as it has been a standard condition in the past.

Other potential conditions of lighting, flying lessons to none friends and family and parachuting were discussed and considered. Rich Kiefer inquired about runway light discussions. The chair suggested that lighting be installed to meet safety issues with no lighting at night except in emergencies.

Flying lessons as discussed, as a condition to limiting it to friends and family, no flying lessons for hire, and it was not part of their application.

No parachute jumping be part of the operations at this airport was agreed with as a new condition.

Neil Turner returned to the flying lessons discussion in which he believes that there should be no flying lessons at all, with several touch and goes as part of the lessons, increasing the plan traffic and noise. He would like the application limited to agriculture uses. Dave Randolph, and the other zoning board members agreed with no need for flying lessons. Mr. Flott questioned if they can do whatever they want. Mr. Turner noted that the review of compliance would take place in one year, as previously discussed. Mr. Runyon questioned as to how one would even know, with them being a flying family, as the applicant have stated. The chair noted agreement with Mr. Galloway's comment that once they are in the air the conditions do not matter, but she would like to not allow flying lessons at this airport.

The chair asked if they were ready to vote. Neil Tuner called for the vote.

Richard Kiefer - Yes

Richard Runyon – No

William Flott - No

Joe Stock – Yes

Dave Randolph - Yes

Neil Turner – Yes

Joan Huisman - No

Mr. Kiefer's motion to approve Livingston County Zoning Case SU-3-19 was approved by roll call vote, with the conditions as discussed.

The Chair then noted that the Findings of Fact and Decision for this zoning case would be discussed at the next regular meeting on June 4, 2020.

The chair thanked all for participating.

Public Comment:

Bob Fox said that the proposed runway is still way to close to the closest house, as he questioned were a 100 foot setback came from, and that a baseball could be thrown further than that. It is ridiculous in his opinion.

The chair expressed her thanks for his opinion, noting that the zoning board did take care to take a hard look at this proposal and she hopes all will be good neighbors and hopefully there will be minimal issues.

Aaron Ricketts, commented as the son in law of the Wiebers, and he believes that a runway 750 feet from the back door of a house is too close. In comparison to moving next to a railroad you can expect noise, but in this case it is an airport coming into the back yard of someone's home, is nothing but grief. This airport does not need to be there, as they currently have a functional facility in Pontiac. This is 100% ridiculous. If you would live 750 feet from the runway of this airport you would not vote yes. He appreciated those voting no, but for those voting yes they have no idea what agriculture is. This has nothing to do with Ag and it should have been voted no, as it does not need to be there. Mr. Ricketts indicated they could go back and vote on it again considering some of the things people have said, because this is ridiculous.

Aaron Galloway asked as to if this is final tonight. The chair indicated that it is final in that it will not go to the county board as it is the zoning board of appeals decision in this case. And as far as administrative review, it know would probably need to go through the courts.

The chair then said the approval of the Findings of Fact and Decision will formally approve what the zoning board has done.

Report of officers; confirmed that the next meeting will be on June 4th with just the review of the minutes and findings of fact for this zoning case.

Joe Stock moved, seconded by Neil Turner, that this meeting be adjourned.

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

This meeting was adjourned at 8:55 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