

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall
September 27, 2012

MEMBERS

PRESENT: Bill Kaufman, Chairman
John Klodzinski
Adam Burg
Corky Keppler
Cheryl Esposito, Alternate
ABSENT: Harold Finger, Recused by Court
OTHER: Christine Falkowski, Recording Clerk

Approved 12/27/12

Cheryl led the Pledge of Allegiance to the flag of the United States of America.

Bill called the public hearing to order at 6:30PM for continuation of the hearing that was held on July 19, 2012 regarding the Christian Airmen request for a use variance to expand and pave Akron Airport runway 11-29 & partial parallel taxiway.

Christine read the legal notice published in the Akron Bugle.

Bill read the rules for a use variance.

Jeff Palumbo, Counsel for Christian Airmen, stated the Court remanded the runway back to the Zoning Board. A use variance would allow paving of the turf runway and extension of it to improve safety. It has nothing to do with increasing airport traffic and stated he hoped they wouldn't have to go back to the Judge. \$7Milliion+ in grant funds which must be paid back if the airport ceases voids any reasonable rate of return.

- The P&L statements from 2011 have been submitted, and they are now ready to submit those for 2007, 2008, 2009 & 2010, along with the tax returns. The average gain per year for those last five years is \$2,836. (Financials were handed to the Clerk).
- The hardship is unique as Akron Airport is the only airport in town.
- Paving the runway as it now exists will not alter the essential character of the neighborhood. It is not vacant land. Extending it somewhat does not alter it.
- Development of the airport has always been a joint effort with the Town; therefore, it is not self-created. Variances were granted in 2004, 2005 and 2008.

Alan Kidder, Pilot, 27 Bloomingdale

He moved here because of the Airport. He explained why 11-29 would be safer if paved. This would allow year round use of 11-29 vs. the potentially dangerous conditions encountered currently in the winter. He gave the Clerk a copy of his speech and a copy of the Noise Abatement Procedures that are posted at the Airport.

Phil Kenline, Akron Central School Board Member

The ACS Board is opposed to the variance due to dangerous crosswinds and proximity of the airport to the school.

Charles Carter, Retired Architect, 6 Marshall

He asked if drawings that have been submitted have been approved by the FAA. What is the clearance at the height of the school vs. the lowest flight elevation? What about fire protection?

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Bill Matusek

In 1960 there was a cow pasture where the airport is now. Planes fly very low over his house, and he submitted photos to the Zoning Board members.

Dale Cheavacci, 113 John Street

The airport wasn't there when he bought his home. What prevents other airplanes from flying there? Over the last three days, there have been jets, helicopters and skydivers. What about quality of life? Why should we supplement them through Federal grant money funded with our tax dollars?

Carol Ann Hill, Airport employee, 12926 Carney Road

The helicopter activity was the Border Patrol seeking a marijuana harvest. She told people who complained to call the Town or State Troopers or Akron Police.

Doug Ceisner, 100 East Avenue

A Lear jet 60 flew over his house on August 6th, as confirmed by the Akron Airport. Security has been breached as a fence post is out. Terrorist activity is drawing a lot of Muslims to this country.

Jim Mayrose, Town Board Member, 7204 Scotland Road

Pilots cannot be controlled at Akron Airport. The FAA has closed runway 11-29 for years, yet it is still being used now.

Greg Brown, 80 Eckerson

The Akron Airport needed a lead agency, which Supervisor Summe took away from the Village some years ago. The Code of Conduct is in the SEQR. What gives them the right to conduct aerobatics now? There is no control. The reason the airport does not charge more for their fees is competition. Batavia is a government run airport. The FAA has never been here to talk to us. The little grass strip just evolved.

David Gray, President, Christian Airmen, Batavia, NY

Akron Airport is an emergency airport for secondary aircraft from Buffalo and Rochester. 100' elevation is at airport elevation; not the school elevation. Some pilots choose Akron Airport to re-fuel. Bill Kaufman asked if there is an annual membership fee. David Gray responded that there is not, but there is an initiation fee and that those funds are used for airport maintenance. They do require a membership application. Complaints that are logged are addressed by pilot instructors who tell their students about an error, and they discuss it.

Carol Hill

Many users are not members. Abusers are never hangar pilots.

Greg Brown

Aerobatic planes are vintage and very loud.

Bob Scheib, 51 Brooklyn Street

The ZBA needs to make a moral and a legal decision. Petitions against airport expansion have been submitted. "If you build it, they will come". Safety, day care center, school, 1,700 people. We are all hoping you say no.

Bill Matusek

Told the ZBA, if you approve this, you must have a noise abatement policy.

Jim Mayrose

Asked Bill to clarify ZBA vs. Town Board role in the approval process, which Bill did.
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Alan Kidder

Using the visual aid provided by Mr. Palumbo, he talked about the difference in the runways.

Cheryl Esposito

Asked when the runway became a safety issue. If paving the runway would make it safe, doesn't that mean it is and has been unsafe? Would that not invite more planes? Alan Kidder replied that there might be a few more planes.

Jeff Palumbo

Runway 11-29 would only be used if the other runway is considered unsafe. They have never been notified that runway 11-29 is closed by the FAA; it is only closed per the owner due to repairs. The Town Board SEQR review said there is not a significant impact on the environment and issued a Negative Declaration with conditions.

Nathan Neill, Town Attorney

Replied that the Neg Dec was a Conditioned Negative Declaration that requires compliance.

Justin Rooney, Town Board Member, 32 Bloomingdale

He showed the ZBA the FAA website on his i-phone that shows runway 11-29 being closed indefinitely.

Mike McCain, Pilot, Clarence, NY

Stated 11-29 is closed by the owner only due to ditch construction, and that it can be opened at any time. Six attempts to land could be one attempt if 11-29 was paved. Six attempts to land required a young pilot to not come back until they had more training. Pilots may take risks using it unpaved.

Phil Kenline

Within 16 miles, there are eight other airports on the FAA website as alternatives to Akron.

Greg Brown

\$7Million+ may not be able to be paid back but should be in value/collateral.

Charles Carter

He had to file drawings with the FAA when he did architectural drawings for Rattles to Reading and Northeast Caissons.

Dick Forrestel, Pilot, 11 Madison

Has been flying 62 years; has never flown over the school. If you do, you are lost.

Adam made a motion to close the public hearing at 7:55PM, seconded by John:

Bill - Aye

John - Aye

Adam - Aye

Corky - Aye

Cheryl - Aye

1) Cannot realize a reasonable return – substantial as shown by competent financial evidence:

Adam Burg – Has not shown reasonable return.

John Klodzinski – Has not shown reasonable return.

Bill Kaufman – Insufficient financial evidence on 2 new parcels and cannot realize reasonable return.

Corky Keppler – Insufficient financial evidence on 2 new parcels and cannot realize reasonable return.

Cheryl Esposito – Insufficient financial evidence on 2 new parcels and cannot realize reasonable return.

Adam made a motion to deny, seconded by Cheryl:

Adam - Aye
John - Aye
Bill - Aye
Corky - Aye
Cheryl - Aye

2) Alleged hardship is unique and does not apply to substantial portion of district or neighborhood:

Adam Burg – Existing is OK
John Klodzinski – Is unique
Bill Kaufman – Is unique
Corky Keppler – Is unique
Cheryl Esposito – Is unique

Adam made a motion that hardship is unique to applicant, seconded by John:

Adam Burg – Aye
John Klodzinski – Aye
Bill Kaufman – Aye
Corky Keppler – Aye
Cheryl Esposito – Aye

3) Requested variance will not alter essential character of the neighborhood:

Adam Burg – It will alter
John Klodzinski – It will adversely affect potential development
Bill Kaufman – It will adversely affect potential development
Corky Keppler – It will adversely affect potential development
Cheryl Esposito – It will adversely affect potential development and air traffic will increase.

Adam made a motion that variance would alter neighborhood, seconded by Corky:

Adam Burg – Aye
John Klodzinski – Aye
Bill Kaufman – Aye
Corky Keppler – Aye
Cheryl Esposito – Aye

4) Alleged hardship has not been self created:

Adam Burg – Is self-created; parcels purchased are outside original footprint and they are only asking now because they should have in the first place.
John Klodzinski – Is self-created; parcels purchased are outside original footprint and they are only asking now because they should have in the first place
Bill Kaufman – Is self-created; parcels purchased are outside original footprint and they are only asking now because they should have in the first place.
Corky Keppler – Is self-created; parcels purchased are outside original footprint and they are only asking now because they should have in the first place.
Cheryl Esposito – Disappoints her; situation of unsafe landings has always been there.

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John made a motion that hardship is self-created, seconded by Adam:

Adam Burg – Aye
John Klodzinski – Aye
Bill Kaufman – Aye
Corky Keppler – Aye
Cheryl Esposito – Aye

Adam made a motion to deny the variance, seconded by Cheryl:

Adam Burg – Aye
John Klodzinski – Aye
Bill Kaufman – Aye
Corky Keppler – Aye
Cheryl Esposito – Aye

Minutes of July 19, 2012

Corky made a motion to approve the minutes of July 19, 2012, seconded by Adam:

Adam Burg – Aye
John Klodzinski – Aye
Bill Kaufman – Aye
Corky Keppler – Aye
Cheryl Esposito – Aye

Adam made a motion to adjourn the meeting at 8:25PM, seconded by Bill.