

# BOARD OF ZONING APPEALS MINUTES

Tuesday, May 10, 2011

7:00 P.M.

## A. ROLL CALL

Members Present:

Mike Hall– Chairman  
Rick Pope  
Jane Ohlmansiek  
Nicole Daily

Arnold McGill – Attorney  
Mark McCormack – Planning Director

Members Absent:

Ken Nelson

## B. ACTION ON MINUTES

Mrs. Ohlmansiek makes a motion to approve the minutes for March 8, 2011 as written.  
Mr. Pope seconds. All in favor. None opposed. Motion carries.

## C. OLD BUSINESS SCHEDULED TO BE RE-OPENED

There was no old business.

## D. OLD BUSINESS TO REMAIN TABLED

There was no old business.

## E. NEW BUSINESS

- Request:** Dimensional variance for the addition of a porch.  
**Applicant:** Jason Hunley / **Owner:** Michael Roll  
**Site Location:** Van Wedding Road  
**Legal:** Sec. 36, T8, R3, Map #03-36, Parcel #002  
**Township:** Jackson      **Size:** 1.003 Acres  
**Zoning:** Agricultural (A)  
**Note:** *Withdrawn per the Planning Director.*

## **F. ADMINISTRATIVE**

- **Mr. Jim Hough wishes to address the Board concerning the Joseph's Field Subdivision.**

Mr. Jim Hough begins by reviewing the conditions of approval that were placed on the private airstrip by the Board of Zoning Appeals at its February 4<sup>th</sup>, 1997 meeting:

1. The airstrip is limited to one aircraft.
2. The airstrip is limited to private use only.
3. Operation restrictions: 2 hours after sunrise to 1 hour before sunset.
4. Airstrip to be shut down if the owner of adjoining property to the south builds a house.
5. The use is subject to future review by the Board of Zoning Appeals, depending on whether the neighbors complain of noise or nuisances over or above that presented by the Applicant.

Mr. Hough explains that in October of 2010 he was informed by Mr. McCormack that Mr. Teuchert was planning to sell interest in his airplane to purchasers of lots within the proposed subdivision. Mr. Hough feels that this potential transfer of interest is in clear violation of conditions 1 and 2 of the Board of Zoning Appeals 1997 motion. Mr. Hough asks (with regards to condition 4) how houses can be constructed within a 125ft. restricted airstrip. He notes that it is logical to accept, in accordance with condition 5, that noise and nuisance over and above that which was presented by Mr. Teuchert February 4, 1997 will result from the additional planned usage associated with the subdivision occupants.

Mr. Hough cites Indiana Codes 36-7-4-916, IC 36-7-4-918.3, and IC 36-7-4-918.2. He feels that under these codes, the proposed Joseph's Field Subdivision plat should have been reviewed by the Board of Zoning Appeals prior to any Plan Commission hearing. Mr. Hough asks that appropriate action be taken by the Board of Zoning Appeals to remedy his questions and concerns.

Mrs. Daily requests a brief background of the case from the Planning Director.

Mr. McCormack states that the proposed subdivision went through the Technical Review process as a minor division of land. An appeal was filed by the neighbors, sending the proposal before the Plan Commission in a public hearing. He states that the Plan Commission approved the subdivision based on whether the subdivision plat met the standards set forth in the Subdivision Control Ordinance. He further states that prior to the neighbors' appeals, he was never aware that an airstrip existed on Chesterville Road. To his knowledge, the Planning & Zoning staff has never received any complaints until the development application was received in 2010.

Mr. Joseph Teuchert, developer of the Joseph's Field Subdivision, states that he owns a single aircraft (Skymaster, twin-engine) for his private use on his property. He explains that he does not use this aircraft for hire—therefore, he does not consider it being affiliated with a commercial use. He states that he has an FAA-approved restricted airstrip; he has never received anything from the FAA to indicate that there is an issue regarding non-compliance with his airstrip. He notes that he may take on partners with his plane. The Board's motion from 1997 never specified that multiple owners were not allowed (even though he had discussed this item with the board members).

Mr. Pope clarifies that only one airplane is intended to be used on the property.

Mr. Teuchert agrees and states that one airplane is all he is allowed to operate on site by the FAA. He states that he would like to acquire multiple (interest) owners if possible, in order to lower the operating costs of the plane.

Mr. Hall asks Mr. McGill, the Board's legal counsel, if the ownership of the plane was put into a LLC, would the plane still be considered private.

Mr. McGill states yes, an LLC could still be a private ownership.

Mrs. Daily states that noise could become a factor; however, this one plane could currently be operating all day and still meet the Board's approved conditions. She feels that this one plane does not have an adverse impact, so long that the timeframe and other conditions are being respected.

Mr. Pope feels that the takeoffs and landings associated with the single aircraft likely have less of an impact on noise than a lawn mower that is running continuously.

Mr. Hough states that if there are more pilots using the plane, more noise will be generated. He also asks how homes are allowed to be built along side the airstrip.

Mr. McGill objects to the discussion and states that the Plan Commission has made its decision regarding the subdivision plat. He advises that the Board of Zoning Appeals address issues related to: 1) present noise / aircraft nuisances; or 2) the introduction of a proposed home on the southern adjoining property. Otherwise, Mr. McGill does not feel that the Board has the standing to address other issues or concerns being presented at this time.

Mrs. Ohlmansiek notes that the main issue tonight is whether or not the criteria established by the Board of Zoning Appeals in 1997 have been violated. She states that Mr. McGill believes that the conditions have not been violated, and she agrees.

Mrs. Daily states that the criteria appear to have been addressed in a satisfactory manner and she has no further concerns.

Mr. Pope agrees.

Mr. Hall declares the discussion now closed.

## STAFF / ADMINISTRATIVE ITEMS

Mr. McCormack gives a brief update on:

- There is a Zoning Committee meeting next Wednesday.
- The Indiana Governor signed Bill 1311 (effective July 2011).
- The staff continues to draft ordinance text regarding landscaping & buffering.
- The OKI Water Quality Management Plan.
- The Town of St. Leon approved its economic development plan and zoning map. Both issues are before the Town Board for final action.
- The new Dearborn County GIS website should be up and complete by June.

Mrs. Daily makes a motion to adjourn the meeting. Mr. Pope seconds. All in favor. None opposed. Motion carries.

Meeting adjourned at 7:50 P.M.

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Mike Hall, Chairman

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Mark McCormack, Director of Planning & Zoning