

## **SEPTEMBER 26, 2017**

A regular meeting of the Wantage Township Land Use Board was held on Tuesday, September 26, 2017 at the Wantage Township Municipal Building. The meeting was held in compliance with the provisions of the Open Public meetings act, P.L. 1975, Chapter 231. It was properly noticed and posted to the public.

### **SALUTE TO THE FLAG**

Mr. Cecchini invited all persons present to participate in the Pledge of Allegiance to the United States Flag.

### **ROLL CALL**

PRESENT: Larry Bono, Victoria Gill, Paul Grau, Joanne Kanapinski, Jon Morris, Patrick Stefanelli, Michael Cecchini. Alternate, William DeBoer, Michael Walther.  
Absent: William Gaechter, Ronald Slate. Also, present, Angela Paternostro-Pfister Esq. and Engineer Harold Pellow

### **MINUTES**

Mr. Grau made the motion seconded by Mrs. Kanapinski to approve the July 18, 2017 minutes. A voice vote was unanimously in favor.

### **RESOLUTIONS**

A pre-construction meeting was held with Mr. Pellow, Mr. Cecchini, and the administrator Ms. Millikin, changes to the plans were made adding additional open space by changing the buildings to two 20 unit and one 24 unit, the walkway was increased and there will be seven less parking spaces.

Ms. Paternostro-Pfister made changes to the Resolution including changing the number of units to reflect two 20 and one 24 unit. On page ten, condition #2 clarified the prior deed restrictions, they remain in place for block 4.01, lot 5. The applicant will post a bond for the top two inches of pavement before a certificate of occupancy is issued. Condition #9 states the buildings must be similar or match the building at 20 Boulder Hills Blvd.

Mr. Grau made a motion to approve the resolution with the changes discussed, Mr. Morris seconded the motion. Ayes: Grau, Kanapinski, Morris, Stefanelli, Cecchini, Nays: None.

## APPLICATION

### **L-2017-07**

When Pigs Fly, LLC  
Block 18, Lot 12.08

The Applicant is applying to make changes to conditions in his Resolution. Notice has been made.

Mr. Cecchini stated he is not within the 200-foot radius, and he did not receive notice, although his name is on the list. He asked the applicant if they mind if he sits for the application, Mr. Daggett did not have an issue with Mr. Cecchini participating.

Mr. Daggett discussed the storage of incidentals currently being warehoused in the hangars. He stated the hangars are not subject to FAA regulations. There has been an increase in hangars, so the FAA wants to keep the hangars viable, consequently the FAA approved the use of hangars for non-aeronautical use.

Mr. Cecchini discussed the Resolutions from the past twenty years, as a history, to familiarize the board members. Mr. Genaro stated business would not be conducted within the hangars, Mr. Cecchini questioned Mr. Gennaro's use of hangars as an auto repair and furniture refurbishing facility. Mr. Cecchini continued to read excerpts from prior resolutions, including a statement from Robert Hadow saying he wanted to see airport hangars used for planes including maintenance on the planes. He also stated between 2001 and 2003 the hangars were storing things such as furniture.

Mr. Daggett said the FAA would like the hangars viable until the need for the hangars increases.

Mr. Cecchini continued discussing prior resolutions including a statement from former Chairman Smith indicating he had serious concerns about the requested ordinance interpretation allowing the storage of antique and recreational vehicles. Chairman Smith stated Morristown Airport did not allow for the storage of vehicles. Mr. Cecchini confirmed, in the same resolution, that it was unfair to allow the applicant to provide a storage use, when other applicants had applied for approvals for storage units. Mr. Cecchini also state the request was denied in 2005 to store anything other than things related to planes.

Mr. Daggett feels Mr. Cecchini prejudged the application.

Mr. DeBoer agrees with Mr. Cecchini's statement.

Mr. Daggett specified as long as a plane is in a hangar, storage of incidentals is approved, according the 2008 resolution.

Ms. Paternostro-Pfister said in the resolution dated 2009, on pages two and five, the principle use must be the airplane, any other uses are accessory uses. The resolution states what is allowed

and what is not allowed. Mr. Daggett maintained the applicant is seeking permission to store the same items permitted with a plane, without the plane in the hangar.

Ms. Paternostro-Pfister swore in Mr. Gennaro of Pine Island, NY.

Mr. Cecchini asked Mr. Gennaro if anyone was running a business, such as furniture refinishing, out of a hangar. Mr. Genaro stated not to his knowledge.

Mr. Cecchini requested Mr. Stefanelli explain what he saw during his inspections. Mr. Stefanelli stepped down from the dais. Ms. Paternostro-Pfister swore in Mr. Stefanelli, of Wantage. Mr. Stefanelli indicated he inspected fifty-four hangars, twenty to twenty-five had planes warehoused, nineteen had non-aeronautic use and four were empty. Inspections were conducted after receiving numerous complaints including Craig's list adds advertising them as storage units, and after issuing a municipal summons the judge mandated he must come before the Board.

Ms. Paternostro-Pfister and Mr. Daggett discussed what type of items are plane related and what are not related. Mr. Daggett said he is still talking about the same items, just without the provision of a plane.

Mr. Daggett asked Mr. Gennaro if he was FAA regulated, Mr. Gennaro stated he was not. A1 is a FAA document, containing six pages of Frequently Asked Questions. Mr. Gennaro stated he has four buildings containing fifty-six units. Forty of the units contain planes, newer hangars have more than one plane. Cars, boats, and snowmobiles occupy other units. The FAA policy does not apply to privately owned facilities off the airport. The FAA does agree to non-aeronautic uses of the hangars. Mr. Gennaro stated he is seeking permission to store permitted items without the occupancy of a plane in the hangar. Mr. Gennaro stated some people have a plane in one hangar and a hot rod in the hangar next to the one with the plane. Questions regarding the number of planes in the hangars continued, Mr. Gennaro stated the number of planes change often. Currently, there are two empty hangars. The rents vary from \$200.00 - \$2200.00 a month, and leases are month to month.

Mr. Cecchini opened the application to the public for any comments or questions.

Attorney William Fiore representing Sussex Aviation asked Mr. Gennaro if he acknowledges he is in violation. Mr. Gennaro stated he was. Mr. Gennaro agreed with Mr. Fiore, the board has jurisdiction over the hangars. He acknowledged he advertised the hangars for storage, Exhibit O-1 was a copy of a craigslist add. 8/8/16

O-2 for the second craigslist add dated 8/8/16

Neither add mentions it is an airport hangar. After a lengthy discussion with the FAA, the FAA agreed they do not have jurisdiction over the hangars. Mr. Gennaro said problems with the airport have prevented him from filling the hangars with planes. Mr. Gennaro acknowledged he has not asked any tenants to move out because he was coming before the Land Use Board with an application. Mr. Fiore said there are no sanitary facilities at the hangars. Mr. Gennaro indicated there is a portable toilet and a machine shop with bathroom facilities. Mr. Gennaro testified he advertised in trade magazines, trying to attract pilots, and maintains, as the airport and taxiway improvements are made he will not have any problems renting to pilots.

Rick Asper, expert in FAA, of Fort Lauderdale, FL, was sworn in by Ms. Paternostro Pfister of was sworn in by Ms. Paternostro-Pfister. He is self-employed, Aviation Professional Group Fort Lauderdale FL in aviation regulatory practice, has appeared before the FAA many times. There are no regulatory affairs license's.

Mr. Asper became familiar with the Sussex Airport, when the current owners of the airport were interested in the purchase. The airport was very complex due to prior controversy, the airport failed to comply with many things. They met with the FAA council to find a way to take the airport out of noncompliance. They did get an unusual approval from the FAA for acquisition. It was a first sale of an airport, that put the compliance on the buyers instead of the owners. He then went on to discuss airport improvement program, a program to help the airport to improve and increase safety, while making sure taxpayer funds are properly used.

He went on to say part of the problem with the airport is a non-airport abutter using all the facilities of the airport while not paying anything to the airport. Negotiations were made with the FAA to bring the airport to full compliance, which would require concessions from When Pigs Fly. The airport and anybody who enjoys the benefit of the airport must comply with the FAA to receive FAA funds. He continued by stating the pamphlet (exhibit A1) Mr. Daggett is referring to, is not approved by the FAA. He does not agree with Mr. Daggett's interpretation of exhibit A1. Mr. Asper read exhibit O3, published in the Federal Register, the actual policy, of the FAA. Reading from the pamphlet, he detailed the hangars may store incidental non-aeronautical items related to planes, and occupy an insignificant area of hangar space. The date on the article was July 2014. He went on discuss residential hangars, and what is permissible in those hangars. The staff of Sussex Aviation contacted four local airports, Somerset, Princeton, Andover, and Warwick Airport each have a waiting list for their hangars. Exhibit O4 consists of five pages from the above-mentioned airports. Mr. Daggett asked if Princeton Airport and all the airports mentioned were good condition. Mr. Asper avowed Sussex Airport is unable to use federal funds to bring it into compliance unless Mr. Gennaro stops storing non-aeronautical items in the airport. Mr. Daggett asked for a document showing Mr. Gennaro is preventing Sussex airport from receiving funds from the FAA. Mr. Asper does not have one. Mr. Daggett and Mr. Asper continued to discuss the hangars, and privately-owned hangars. They then discussed the pamphlet frequently asked questions and whether it is FAA policy.

The Policy on the Non-Aeronautical Use on Airport Hangars, written by the manager of the office of compliance, in June 2017. Exhibit O5,  
*The FAA agrees from time to time for legitimate reasons, an airport owner may need to use a hangar for non-aeronautical purposes. Prior FAA approval of leasing hangars for nonaeronautical purposes for short term use is approved.* Mr. Aspers does not believe Mr. Gennaro would have received such approval.

Ms. Paternostro Pfister swore in Peter Steck of Maplewood. Self employed as a Community Planning Consultant.

Mr. Steck reviewed the prior Resolutions, the Ordinances, and examined the site. The Board treated the last application memorialized in 2009 as a "C" variance. The application before the board is for general storage, with no connection to the airport. He believes the applicant should

be applying for a “D” Variance, and needs to show positive and negative criteria. He stated it is in the Limited Industrial Zone with an overlay of the Airport Hazard Zone. He then discussed the positive and negative criteria. He detailed the positive criteria as:

- The applicant wants the ability to fill hangars with nonaeronautical use.
- The applicant is doing so for financial purpose.
- The hangars are specialized with large doors suited for planes.

The applicant must meet the negative criteria, there is a safety issue by having unrelated people having access to airport grounds without any relation to the airport.

Mr. Daggett crossed the witness regarding exhibit A1, explaining the hangars are privately owned off the airport property. Mr. Steck said the hangars have not been marketed as hangars in the last three years. Mr. Daggett argued the airport is falling apart. He asked if it is a public purpose to keep the airports viable. Mr. Steck replied public safety, the promotion of the airport, and the ability to receive a grant are also ways to keep the airport viable.

Mr. Cecchini closed the application to the public, and opened it to the Board.

Mr. Cecchini reminded the board that financial reasons should not be considered when deciding.

Mr. DeBoer said he was on the governing body when there was a study related to purchasing the airport, he was a member of the board that studied the airport. One of the primary reasons for not purchasing the airport, was the privately-owned hangars.

Mr. Grau asked if the FAA controls the hangars or not, he has heard conflicting testimony.

Mr. Bono asked if there are any other airports with a similar problem.

Mr. Cecchini stated the FAA information was great, but the question before the Board is the decision to allow the hangars to be used for storage. Should we consider the FAA information into the decision? It stills goes back to a storage issue and it is not a storage facility. He has been denied numerous times over the past twenty years.

Ms. Gill, feels if When Pigs Fly wants a storage facility it should be presented as such. She was disappointed the craigslist did not mention it was an airport. By allowing storage of additional items, it will become a storage facility. She went on to say she does not know what the rules are for storage facilities; safety and security from runway access, and fire suppression related to the fuel and chemicals stored within the hangars.

Mr. Cecchini asked the board for a motion to allow or deny the expansion of the accessory use.

Mr. Grau made a motion to deny the request, seconded by Ms. Gill. Ayes: Bono, Gill, Grau, Kanapinski, Morris, DeBoer, Walther. Nays: None. Abstain: Cecchini.

Ms. Gill requested the applicant and owner of the airport try to act as cooperative neighbors.

Mr. Antaki owner of the airport, stated the runway is in fine condition, recently received \$30,000 to spend \$60,000 to take down a safety obstruction at the end of the airport.

Mr. Cecchini discussed the upcoming scheduled meeting dates.

Mr. Morris updated the Board on the subcommittee meetings regarding soil and dog ordinances.

**ADJOURNMENT**

On a motion duly made by Mr. Morris, seconded by Mr. Grau and carried, the meeting adjourned at 10:23 p.m.

Respectfully submitted,

Jeanne M. McBride  
Secretary