



Attorney Megli's opening statement addressed the two issues that Smith raised, the legal description and the notice to neighboring property. She stated the County Code states that objections to applications can be made to the Judicial Body ninety days after the special use permit is approved by the County Board. In addition, Megli noted, requests can be made to the Zoning Board of Appeals twenty days after an objection is made by any interested party concerning anything within the realm of the Zoning Board. Smith has stated that she was aware of the RLA in June 2008, and that is when Smith should have made her objections, instead of five years later. The statute of limitations is now past.

Norfleet stated that he is a private pilot and had hired Mike Schwabauer of Mike's Flying Service to spray his crops. Schwabauer asked for permission to use the landing strip to spray other farmers' crops. Norfleet granted the permission, stating that, with "Freedom to Farm", he felt he had the right to do so.

Others that took the floor to speak were the following: Jim Williams, Ron Weishaar, Lee Robinson, Larry Leischner, Dan Maggart, Wayne Nelson, Emily Bakken, Sue Boyd, Jim Leischner, Rick Reed, John Schultz, Jim Payne, Larry Coon and Brandon Boyd.

In closing statements, Smith just asked the Board to look into the legality of the legal description and notification of neighbors.

In her closing statement, Megli noted "this isn't about Mike's Flying Service, this is about whether the Special Use Permit RLA was properly handled; whether or not it is being operated as it was intended by the Board, and whether the Board has the opportunity to go back and consider how the RLA was initially granted. The answer to this is pretty easy, the answer is no. The legislature has determined there has to be a statute of limitations. Legal descriptions are known to be wrong. In this case, there was a scrivener's error. Objections were not made within the ninety day time limit. As a result, the objection can no longer be raised. The option left for this Board is to revoke based on the options available in the Zoning Ordinance. There has been no evidence provided that Mr. Norfleet is not following regulations on this Special Use Permit. He is using it for agricultural purposes. Third parties are using the RLA, which is not prohibited. The thing to do, based in the Right to Farm Act and the Farm Nuisance Act, is to leave this RLA in place and to deny the request of Mrs. Smith to revoke."

State's Attorney Rhoades stated that the County Board, according to the Zoning Ordinance, has no regulatory authority over any property used for agricultural purposes. In regard to the error in the legal description, Appellate Court opinions state that the purpose of the legal notice is to fairly apprise interested parties and to let them know where it is located and what is up for consideration. The legal description does not have to have the same specificity as a legal description that conveys property.

MOTION was made by Wilkin, seconded by Piatt, to make the decision on the hearing tonight. On voice vote, motion carried.

MOTION was made by Wilkin, seconded by Dobson, to leave the Norfleet Special Use Permit RLA in place and to change and correct the legal description error. Discussion by the Board

on the motion was held. On roll call the vote was as follows: Ayes, Wilkin, Dobson, Keith, Lyons, Piatt and Wileaver (by tele-conference) 6 ayes, 0 nays, motion carried.

Hearing ended at 8:52 p.m.

Respectfully submitted:

Colleen Kidd

Piatt County Clerk