

Piatt County Zoning Board of Appeals

January 22, 2015

Minutes

The Piatt County Zoning Board of Appeals met at 1:00 p.m. on Thursday, January 22, 2015, in Room 104 of the Courthouse. Chairman Loyd Wax called the meeting to order. Attending were: Alice Boylan, Jerry Edwards, Dan Larson, John McRae, Loyd Wax, and Trish Gale. States Attorney Dana Rhoades was absent. Trish announced there is a quorum. County Board members in attendance were: Randy Keith, Al Manint, Randy Shumard, Ray Spencer and Mike Wileaver.

Loyd asked if there were any additions or corrections to the November 20, 2014, minutes and there were none.

MOTION: Jerry Edwards moved, seconded by John McRae to approve the minutes. All in favor, motion carried.

New Business: Andy Blacker Variation:

Trish read the request dated December 26, 2014, from T. Andrew Blacker for a variation to allow construction of a new single family dwelling on 5 acres of A-1 Agriculture ground split from 86.9 acres. Andy Blacker was sworn in by Loyd Wax and proceeded to explain to the Board he grew up in Monticello, and it has been a dream of his since he was very young to build a house on his father's parcel. Andy is married with three small children and currently lives in Champaign and works at the U of I.

Loyd explained the LESA/NRI report has a high rating for protection because of the location from the city and fire protection. The farmland is not prime land, but it is semi-productive timber. The report suggests contacting the health department for a suggestion of septic system and well to have. Andy said less than one-half of the parcel will be on farm land, and there is an access road with an easement up to the building site. Jerry asked about the slope, and Andy said the property slopes down about 30 feet to Camp Creek. Loyd asked if there were any objectors, and there were none.

1. Will the proposed use compete with the current use of the land? The ZBA unanimously agreed the proposed use would not compete with current use.
2. Will the proposed use diminish property values in surrounding areas? The ZBA unanimously agreed the proposed use would not diminish property values.
3. Would a denial of the variance promote the health, safety and general welfare of the public? The ZBA unanimously agreed denying the variance would not promote the health, safety and general welfare of the public.
4. Would denying the variance create a hardship for the landowner? The ZBA unanimously agreed denying the variance would create a hardship for the landowner.
5. Would granting the variance create a hardship for the surrounding property owners? The ZBA unanimously agreed that granting the variance would not create a hardship for surrounding property owners.
6. Is the property suitable for its current use? The ZBA unanimously agreed the property is suitable for its current use.
7. Is the property suitable for the proposed use? The ZBA unanimously agreed the property is suitable for a new single family dwelling.

8. Is there a community need to deny the variance? The ZBA unanimously agreed there is no community need to deny the variance.
9. Is the subject property non-productive with its current use? The ZBA unanimously agreed the property is semi-productive, depending on the year and weather.
10. Would a granting of this variance compete with the Piatt County Comprehensive Plan? The ZBA unanimously agreed granting of the variance would not compete with the Comprehensive Plan.

MOTION: Jerry Edwards moved to recommend to the County Board the request for a variation from T. Andrew Blacker and Dan Larson seconded. Trish read the roll call, and all were in favor, motion carried.

Trish announced this will go to the County Board on Wednesday, February 11, 2015, at 9:00am.

New Business: Scott and Brenda Gaitros Special Use Permit:

Trish read the SUP request dated December 29, 2014, from Scott and Brenda Gaitros requesting a special use permit for an ultralight/STOL RLA on 40 acres of AC Agriculture Conservation land. Elizabeth Megli who represents the Gaitros' proceeded to speak. The Illinois Division of Aeronautics (IDA) rules say an RLA includes an ultralight/STOL RLA. This request is for a 40 acre parcel owned by the Gaitros' with adequate utilities and ingress and egress. The Illinois Division of Aeronautics has done an inspection and made recommendations and will finalize the approval. The FAA looks to the IDA to do any initial review, and Illinois Law will comply with Federal law with respect to airstrips. This particular piece has not been tillable ground, so nothing will be taken out of production. Mr. Gaitros has been contacted by the Fire Department and spoken with the Sheriff's Department to help or assist these departments, so there would be a community benefit. There is no impact on surrounding properties according to the appraiser, only properties owned by Gaitros. The strip will run east to west along the south side of the 40 acres and will be 1,000' long with 1,500' clear approach. The comprehensive plan mentions airports.

Scott Gaitros was sworn in by Loyd Wax and proceeded to explain the parcel is grass and weeds, and there is erosion so the dry dam will help the Sangamon Valley Water project. Scott said 100' of the clear approach will be over the Peck's property, so that is why they were notified. The grass seed will come from Van Horn, and the gas is purchased from Casey's or Cisco FS. Scott has talked with the Sheriff's office and Fire Department to use the gyroplane for search and rescue.

Elizabeth asked Scott if the IDA asked him to move anything, and he said they did not.

Glen Stanko asked Scott how long he had owned the parcel, and Scott said around 30 years. Glen asked what is on the parcel, and Scott said hedge trees. He asked if there was public access to the parcel. Scott said there is a lane running along the field and through his personal residence parcel, but no public access. Glen asked if he would install a threshold and wind sock and if there were any buildings on the 40 acre tract. Scott said there will be a threshold and wind sock but no buildings. Would Scott be allowing others to fly in, and yes Scott might have three or four fly in with gyroplanes. Will they be using facilities? Scott said they are on their own. How many trees did you have to cut down? Scott said he had no idea, and when Glenn insisted on an answer he replied 47,603 were pushed down. Who did you talk to, to the west? Mary Lawyer. What property does she own? Property to the west. Is a gyroplane an experimental aircraft? Yes it is. Does this mean it does not have a certificate of air worthiness? Yes, it does have one. That is a classification it falls under. Scott is inspected by the FAA. What do you typically fly at? On the way back from California, I flew at 10,000 feet, but in the immediate vicinity I fly at 1,012 feet. Where do you store your aircraft? One is stored in the barn and one is in Decatur. How would you get the aircraft back to the strip? Along the grass pathway back to the strip. Where do you maintain the aircraft? Right there in the barn. Where do you fuel the aircraft? Right there in the barn, or I might carry the fuel out to the runway. Will you cross the 80 acres to the south for

any reason? I might not own the ground. Do you fly the gyroplanes for recreational use? Yes, or possibly for agricultural use. Will you be allowing crop dusting to use the RLA? A crop duster cannot take off on 1,000 feet. Where are you flying out of right now? From Decatur since I could not fly from home. You have Monticello airport about 12-13 miles driving distance. Have you flown out of Champaign-Urbana? Do you have a son who is a fixed based operator at the Decatur airport? Yes, and he is a very good one. Do you store your aircraft there? Right now I have a hanger rented there. Are you familiar with the Norfleet RLA? That is used for crop dusting services? I have no idea. Do you know of other RLA's in Piatt County? I know there are more, but I do not know where they are. Have you formally applied for your certificate of approval from IDOT? I have begun the process. What is the status? I do not know what the status is? Have any of the published notices been made to your knowledge? I do not think so. Were you responsible for giving mailed notice to landowners? It went through the proper channels through the county. Did you mail notice to anybody? The county did that. Do you know why notice was given to the Peck Farm Trust and not the Pattengill Trust? The clear approach 100' goes over the Peck Farm Trust. The Peck farm does not actually touch your property? The person you spoke to at the Sheriff's office, when was that? Last year. One conversation? I had several conversations, and they asked me if I would be available if they needed me. I do not recall who I talked to. Have you ever assisted with a search and rescue operation, or the fire department? I have not, nothing has ever come up. Do you fly at night? I have a license, but I prefer not to. What hours of the day will you be using your RLA? When the sun comes up to sunrise. Could you land on it with your gyroplanes after dark? It would have to be lit. Have you used this for any particular thing in the past? No, just grass. Is that an area you kept mowed? No. Glenn submits Robrock exhibit #1.

Elizabeth asked Scott if a gyroplane is considered a type of ultralight. Scott said his is not an ultralight. It would have to weigh less than 254 pounds to be considered an ultralight. Do you have proper training to fly at night? Yes, I do. If the proper lighting existed on the RLA, you could assist the Sheriff's department or fire protection district at night? The only reason you have not assisted them? The need has not arisen. The building is not required to be on the same parcel as the air strip? The air strip does not require any buildings.

Linda Schumm is sworn in by Loyd Wax. Linda is the Bureau Chief with the Illinois Division of Aeronautics. Linda said for an ultralight STOL/RLA clarified the minimum length requirement is 1,000 feet, and the minimum width is 100 feet. At the end of the runway we go out 1,500 feet either way looking for obstructions. For every 15 feet the obstruction can be 1 foot tall or a 15:1, and we have side requirements from the edge of the runway and beyond 85 feet with a 4:1, every 4 feet out 1 foot high. This addresses the overlap onto the other (Peck) property. The STOL/RLA must have a wind indicator and thresholds must be clearly marked. In the final inspection, if these are not there, we will not issue the certificate. The certification process or inquiry initiates an initial inspection, look at the general area, and is it even feasible. We submit a form 7480 to the FAA which is an air space notification of a proposed landing area. The state is responsible for the ground and the FAA is responsible for the air. The FAA looks at the air space above that area to make sure this facility does not conflict with the flight paths of other facilities. Once we receive the response from the FAA as a block grant state, we issue that air space determination to the proponent, then we will publish the notice. There is a final inspection, then we will issue the certificate.

Elizabeth asked Linda if they require approval from local zoning. Linda said they ask if they have approval from local zoning, but we do not require that we have approval from local zoning, but we do not typically move forward until local zoning is approved. A public/private use RLA, ultralight/STOL falls within an RLA. An RLA requires a longer runway length with more obstruction clearance. Ultralight/STOL does not take up as much space. Illinois is a block grant state, and it has to do with publically owned airports with part of their funding coming from the FAA. They petition to the State of Illinois for airport improvements, and the IDOT IDA approves those improvements by administering those funds. The air space determination is monitored by the FAA, but we (IDA) determine the air space determination. If two airports are close, there is an agreement between the two facilities sharing the same air space. A publically owned, public use

airport is given a closer look by the FAA. Elizabeth asked if IDA has done an initial inspection of Gaitros' property. Yes, and recommended leveling and some small trees need to be removed.

Glenn asked Linda if siting this RLA is like a three legged stool. The FAA determines air space, IDOT determines design details whether they comply with statues and rules, and the local governmental entity determines the appropriateness of the land use. Linda says this is close, but we do not require local zoning, they prefer it and can supersede local zoning. It is kind of like a three legged stool, but we have the heavy hammer. The local zoning has to decide if it is an appropriate land use. Linda said, we look at the state rules. Glenn asked Linda the meaning of a threshold. It is defining the end of the runway. A physical marker is placed at the end of the runway. Have you received a formal application for this strip? Yes, we have. The legal notice will be published after they receive the air space determination and local zoning approval. The notice has a comment period of 15 days, then the order is published and has a comment period of 20 days. Formal hearings can be requested based on a violation of our safety rules.

Elizabeth asked if the FAA did not approve, the IDA would work with the proponent to correct any unfavorable issues raised by the FAA. The IDA is in the driver's seat. Yes. Does the FAA have standards for designs for this type of runway? Are you familiar with advisory circular 103-6? No, this was published in 1983. An ultralight is any aircraft intended to be used by a single occupant for recreational or sport purposes only, does not have an air worthiness certificate, weighs less than 155 pounds if non-powered, or if powered weighs less than 254 pounds empty weight excluding floats and safety devices which are intended for deployment in a potentially catastrophic situation, has fuel capacity not exceeding 5 US gallons, is not capable of more than 55 knots calibrated air speed at full power in level flight and has a power off stall speed that does not exceed 24 knots calibrated air speed.

Glenn asked what STOL stands for, and Linda said Short Take Off and Landing. This means the aircraft is coming up and going down quick.

Jeff Walker was sworn in by Loyd Wax. Jeff said he lives in Macon County west of the Gaitros runway, and he was against this at first, but he was misled. He came to Macon County then to Piatt County and went through the files for 2.5 hours. He sent letters stating he rescinded his objection and he fully supports this request, as it will create no hardship for my house and family. I see nothing that will bring down the value of my property. Elizabeth asked Jeff if he would purchase a piece of real estate in this vicinity with an RLA there. Yes, and Jeff sold property to his kids who built a house worth \$500,000, and it is between his own house and the RLA. Jeff investigated Mr. Gaitros and has flown in the gyrocopter and he sees no problem with safety. Glenn asked Jeff what he objected to. Jeff had objected to the previous runway after he was contacted by mail from the Robrock's and attended a 2 hour meeting at their house. Glenn asked if he did work for Dr. Gaitros. Yes, he takes care of Gaitros' lawn. It does not matter if Jeff is taking care of Gaitros' lawn or not, because Jeff is still for the RLA approval.

Elizabeth asked Linda if the IDA requires any buildings on the ultralight/STOL RLA. No. If you store your aircraft on another property, does the IDA consider that an extension of the RLA. It has absolutely no impact.

Objectors:

Glenn Stanko asked Elizabeth about the appraisal which was done for the private use airport. Glenn handed out exhibits #1-14 to the zoning board and Trish. Elizabeth rejected to the relevancy of these exhibits since they refer to the other requests from year's past. Exhibit #8 lists a number of aircraft that can use the STOL RLA with the 1,000 runway. Glenn said Exhibit #9 lists the impact zones which should be kept free of wildlife, which is a hazard to wildlife. The flight traffic pattern will go over his property in Exhibit #10. Exhibit #13 Piatt Co. 2010 Comprehensive Plan talks about airspace, airports, land use, preserving agriculture and conservation areas.

Glenn asked Trish who the notices were mailed to and when they were mailed. Trish replied they are listed on the application, and the notice was mailed on Monday. Glenn complained we only

give the minimum notice and publication which is 15 days. Trish stated it takes one day to get mail to Oakley which is located by Decatur. Notice was given to the Peck Family Farm trust because the clear approach lies over that, but no notice was given to Dr. Robrock, Pattengill Trust, or Carroll Phillips, even though these properties are impacted by the flight pattern area. Glenn asserts the notice is defective. The use regulations in Article VI apply to a building or premise, and a lot requires one main building, and the definition of lot requires the parcel of land have its principal frontage on a road or street, and this parcel does not have a road or street. This tract is land-locked and it does not fall within the definition of a building or premise. The Gaitros homestead should be included in this application, which would include more people who should receive mailed notice; therefore, the application is defective. Ms. Megli argued the prior case does not matter, but it matters greatly. The case started in 2009 and ended in 2013, involving a trial before Judge Freese for four days and two appeals to the appellate court. The 40 acre tract being requested for an RLA is just north of the 79.5 acre tract subject to the prior case. In the judgment order, the Gaitros property was defined as the entire 435.05 acres. That declaratory judgment has never been modified or overturned by a court. There was an injunction entered by Judge Freese, that was narrowed on appeal to the 79.5 acres, but no change was made to the declaratory judgment. None of the Gaitros farm is suitable for an RLA. There are currently seven RLA's in Piatt County. Glenn proceeded to talk about the LaSalle factors and Sinclair factors. We are now on the fifth Gaitros application within the space of less than six years. There is little difference in circumstances presented here and the earlier case. The LaSalle factors and zoning ordinance factors are not satisfied, so it makes it literally impossible to grant this request. Granting this SUP would open it to all kinds of airport traffic with the list of different aircraft that could fly in. We recommend denial of the special use application.

Elizabeth asked Linda Schumm about exhibit #9 FAA airport impact zones. Did this come from the FAA? Linda is not sure where this came from, and it does not look like anything IDOT would use for an RLA. Exhibit A lists aircrafts who could land. Linda said no commercial operation, unless it is EMS could use the RLA. Elizabeth asked about the list of aircrafts which could possibly use the RLA, and Linda said we do not have most of them in the state of Illinois. Elizabeth asked Linda about the established traffic pattern, and Linda said it is 85' from the edge of the runway. The FAA does not establish traffic patterns. Airports and RLA's are two different items. Glenn asked Linda if exhibit #9 is not from an FAA brochure. She has no idea where it came from. He also asked if the FAA considers these impact zones in connection with RLA's. Linda said they do not look at that determination. Do they treat RLA's the same as airports in terms of impact zones. Have you ever worked for the FAA? Linda said she has not. Is there a customary flight pattern? Linda said it is from 800' to 1,000' above the ground and within gliding distance of the runway. The maps published (FAA Sectional chart) would show Gaitros as an airport if he requested it be published.

Elizabeth requested permission to ask Dr. Robrock a few questions. Richard Robrock was sworn in by Loyd Wax. Elizabeth asked Dr. Robrock where exhibit #9 came from. The FAA commissioned the development of a land use planning document over 100 pages long to be used by zoning boards. Elizabeth asked if he has the document with him, and he said it is on his computer. Elizabeth asked if he is aware there is a difference between airports and RLA's. He stated any place where aircraft take off is an airport.

Elizabeth said the Robrock exhibits are not relevant. Is it the intention for the listed aircraft to land on the RLA? No, it is the intention to use the strip for gyroplanes. The impact zone is not relevant to an RLA, and the FAA has said there is a distinguishing characteristic between an airport and an RLA. A traffic pattern is not established with an RLA. Dr. Gaitros has no desire to fly over Robrock's property, and he has directed anyone else to not fly over Robrock's property. The definition of an airport is not the same as an RLA. The Robrock's property was appraised to be developed for additional properties which was the highest appraisal, not for the protection of wildlife. The legal notice was given pursuant to law. Access to the parcel was addressed, and there is an access road to this parcel. References to the prior court case are irrelevant. The packet from the Appellate court's last opinion was not included in Mr. Stanko's packet, but page 10 states it restricts only the 79.5 acres from a future RLA. We have an appraisal that states a

private use airport does not depreciate the value of the land. In fact a neighbor's child just built a very expensive house on a piece of property near the parcel. The neighbor (Jeff Walker) has no concern now that he has all the correct information. Elizabeth passed out a letter from the Cerro Gordo fire protection district for the board's use. Elizabeth recommended this request for an RLA be recommended to the Piatt County Board.

Glenn spoke that we have veered off the path. This is not about the FAA or IDOT, but it is a land use situation. The determination you have to make is whether it is appropriate to have an RLA on this isolated 40 acre tract. We know aircraft are going to take off and land regardless of what flight pattern they follow. We know the gyrocopters are noisy and they bother the Robrocks. You have to make a land use determination. Glenn referred to pictures of Dr. Gaitros flying over Robrock's bean field. Is it appropriate from a land use stand point? The appellate court did not overturn the declaratory judgment.

Elizabeth said in respect to the photographs, there is no scale.

Lloyd said we must consider the evidence presented here and answer a number of factors.

1. The existing uses and zoning of nearby property. The properties are agriculture and timber with a few houses scattered around. The 40 acres is considered "scrub ground". Currently this property has no uses. All were in agreement.
 2. The extent to which property values are diminished by the zoning restrictions imposed. Based on what we see, we do not see any diminished property values. All in agreement.
 3. The extent to which the reduction of property values of Applicant or other landowners promotes the health, safety, morals or general welfare of the public. The board agreed the RLA would not reduce property values.
 4. The relative gain to the public as compared to the hardship imposed upon the Applicant and/or adjoining landowners. The board agreed any hardships imposed on neighboring properties are outweighed by a relative gain to the general public, specifically the RLA's potential use by emergency services for search and rescue.
 5. The suitability of the Applicant's property for the zoned purpose. The board agreed the property is suitable for the proposed RLA use, considering its current non-productive state.
 6. The length of time the Applicant's property has been vacant as presently zoned. The board agreed the property is not suitable as it is currently zoned due to its current non-productive state.
-
1. Will granting the SUP be detrimental to the safety, comfort, or general welfare of the community? The board agreed the proposed RLA would not be detrimental to the safety, comfort or general welfare of the community, considering the community as a whole and not based upon one individual, and the RLA's potential use by emergency services.
 2. Will granting the SUP not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood? The board agreed the proposed RLA will not be injurious to neighboring properties, considering the nature of the RLA being a small grass landing area in the middle of the applicant's other property, and no evidence presented the RLA will diminish the values of neighboring properties as a whole.
 3. Will granting the SUP not impede the normal and orderly development and improvement of surrounding property for uses permitted in the zoned district? The board agreed the

proposed RLA does not impede the current uses and development of surrounding properties, considering the current agricultural uses of nearby properties.

4. Are there adequate utilities, access roads, drainage, and other facilities if the SUP is granted? The board agreed there are adequate utilities, access roads, and water drainage is not applicable to the proposed RLA use.
5. Are there adequate measures to provide ingress and egress to minimize traffic congestion in the public streets if the SUP is granted? The board agreed that adequate ingress and egress is not applicable to the proposed RLA use.
6. Does the SUP conform to the regulations of the zoned district? The board agreed the proposed RLA use generally conforms to the current agriculture zoning.
7. Does the SUP in all other respects conform to the regulations of the zoned district and the Zoning Board must find that there is a public necessity for the special use. The board agreed it is difficult to state whether there is an absolute public necessity for the proposed RLA but discussed it is arguable there is no public necessity for any special use, and there is no zoning that specifically prohibits the proposed RLA use, and there would be a public necessity in the event of a search and rescue operation.
8. Does the SUP not compete with the Piatt County Comprehensive Plan, and is it in harmony with the goals of the Piatt County Comprehensive Plan? The board agreed the RLA does not compete with the Piatt County Comprehensive Plan, specifically the RLA does not disrupt the overall nature of the surrounding area.

Jerry said people do have the right to do certain things on their property as long as it is legal. Loyd asked for a motion.

MOTION: Jerry Edwards moved to recommend to approve Scott and Brenda Gaitros' request for a Special Use Permit for an RLA on 40 acres of Agriculture Conservation land to the County Board, seconded by Alice Boylan. Trish read the voice vote, and all were in favor, motion carried.

Trish stated this will go before the County Board on Wednesday, February 11th at 9:00am.

Comments:

There were no additional comments.

Loyd asked for a motion to adjourn. Jerry Edwards moved to adjourn, and Dan Larson seconded. All in favor, motion carried. The meeting was adjourned at 4:12pm.

Respectfully submitted,

Trish Gale
Piatt County Zoning Officer