

WOODFORD COUNTY ZONING BOARD OF APPEALS

Woodford County Board Room
6:00 P. M. Tuesday, May 28, 2019

Minutes

- Call to Order:

Mr. Smith called the meeting to order at 6:00 pm

- Roll Call: Jerry Smith, Teresa Gauger, Jerry Lay, and Kim Holmes were present. Chairman Smith declared a quorum present.

Others present: Blake Parsons, Russ Cotton, Erik Gibson

- Approval of minutes for April 23, 2019.

Motion to approve April minutes with corrections made by Gauger, seconded by Lay. *Motion Carried*

- Swearing in and/or affirmation- completed for each petition.
- Petitions Submitted for Review:

2019-15-V Partridge Township, filed by Bryce Gillespie for a Variance for a second structure on a lot with no dwelling, in the Conservation District, located on 18.90 acres, Pt. S1/2 SE1/4 Section 32, T28N-R3W of the 3rd P.M. Woodford County, Illinois, and more commonly described as 387 Kapraun Road, Metamora, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2019-15-V**

Mr. Gillespie presented his petition that he wished to erect a car port on his property. He would like to utilize it for both agriculture use storage and personal storage to keep equipment out of the weather and keep the dirty storage out of the shed. He noted that 2 sides will be open and two sides will have walls. He noted it is a carport so not a building with a foundation.

The Board asked how he accesses the property. Mr. Gillespie noted he enters via Kapraun Rd. and he has ownership of part of the road.

Mr. Ansel Burditt was sworn in. Mr. Burditt asked about the height of the building. Mr. Gillespie stated it will be 12 ft. walls. Mr. Burditt discussed the property lines and noted that the hand draw map was not exact. Mr. Gillespie noted that he had drawn those lines and they are not the legal lines.

Mr. Burditt presented a Court order stating that *"Plaintiffs are granted an easement by necessity over that portion of the property owned by the Burditts necessary to enter from Kapraun Lane to plaintiffs' property, currently used as a hayfield. Plaintiffs, their assigns and successors in interest have said easement, for agricultural purposes only. The easement claimed by plaintiffs' is found to be reasonable and is legally described."*

Mr. Burditt discussed that there is limited access and the easement is for Agricultural purposes so granting a variance would not be compliant with the court order. Mr. Burditt also presented his review of the Findings of Fact.

Ms. Holmes asked Mr. Gillespie if he understood the setback requirements. Mr. Gillespie noted that while he is not familiar with the exact distances he noted the new structure will be next to the existing building and not near the property lines. Ms. Holmes noted it is 15 ft. Mr. Gillespie noted the building will be 40 ft. at least. Ms. Holmes asked about ownership in the lane. Mr. Gillespie noted that Kapraun Ln. consists of 3 parcels, he owns two of them. Mr. Gillespie discussed that Mr. Burditt owns a portion of the turnaround that was no constructed. Mr. Gillespie noted that he is not changing how the land is being used, and he is not constructing a home, nothing is changing. Mr. Burditt discussed that the easement is for Agriculture use and if it was for general ingress/egress it would not have specified for Agriculture Use only. Mr. Gillespie questioned if the easement is relevant to discuss as it was determined by court and the variance is only for a second structure. Mr. Gillespie noted that the easement helps keep vehicles away from hi-rise transmission poles, driving that close to them is a safety issue.

Motion to approve petition 2019-15-V made by Lay, seconded by Holmes:

Findings by the Zoning Board of Appeals for Petition 2019-15-V:

- A. Non-conforming uses in the same district and permitted uses in other districts shall not be considered grounds for issuance of a variance. (Affirmative)**
- B. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same district. (Affirmative)**
- C. The ZBA has found that the reasons set forth in the application justify the granting of the variance. (Affirmative)**
- D. The ZBA finds that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. (Affirmative)**
- E. The variance requested is the least amount of variance required to allow the proposed structure on the existing lot, without regard to aesthetics or personal inconvenience to the property owner. (Affirmative)**

Roll call vote: Jerry Smith – *No*, Teresa Gauger – *Yes*, Jerry Lay – *Yes*, Kim Holmes – *Yes*. *Motion carried.*

2019-16-S Clayton Township, filed by Paul Quiram for a Special Use for a private heliport, located in the (AG) Agriculture District, on a 6.62 acres \pm , part of Tract Q-1 in the N $\frac{1}{2}$, NE $\frac{1}{4}$ of Section 35 and T28N-R1E of the 3rd P.M. Woodford County, Illinois, and more commonly described as the ground surrounding 2475 State Route 116, Benson, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2019-16-S**

Mr. Jason Jording, Attorney for Mr. Quiram and Mr. Paul Quiram were sworn in. Mr. Jording presented the petition for Mr. Quiram. Mr. Jording discussed the desire of the applicant to have a heliport to allow aerial application of chemical/fertilizer for his farm field. Mr. Jording discussed the benefits to Mr. Quiram's operation as well as the fact that approval of the heliport will not be detrimental to the uses already permitted in the area, nor would the heliport be contrary to any of the findings of fact. It was established that there is no plans to store fuel or chemical on site. It was noted that there is potential for more stringent regulations on aerial application in the future. Having heliports in the agriculture district will allow for safe operating locations.

Mr. Andrew Keyt, Attorney for Tri-Global Energy was sworn in. Mr. Keyt questioned Mr. Quiram extensively on the site, the current use and operations on the land. He also questioned him on his familiarity with the operations of the rotary application. Mr. Quiram and Mr. Jording objected to several of the questions throughout the discussion. Mr. Keyt questioned Mr. Quiram's knowledge of other petition applications and who he worked with to write his application. Mr. Quiram discussed that he only spoke with his wife, Attorney, IDOT and the ZBA. He may have mentioned it at the restaurant.

Mr. Keyt questions Mr. Quiram's qualifications as a pilot and heliport operator. Mr. Keyt also questioned Mr. Quiram extensively on his knowledge of aerial applications operations and the safety needs and requirements for heliport operations as required by the Illinois Counties Code, Illinois Aeronautics Act, Illinois Aviation Safety Code, and the Federal Aviation Administration Advisory Circular. Mr. Jording noted they were willing to stipulate that Mr. Quiram was not able to know all of these regulations verbatim and there were experts that would ensure his compliance with these regulations.

Mr. Smith asked Mr. Lay to address some of the regulatory requirements as he is an expert in the field. Mr. Lay noted that there are three heliports in the County at this time and none of them were interrogated on their knowledge of the ordinances and regulations to this degree at the ZBA. He noted the State of Illinois will come in and inspect the site and ensure it meets the requirements. Mr. Lay noted that the State will perform a Pre inspection, post inspections and an annual inspection.

Mr. Keyt discussed that the Special use requires to balance the public health safety and welfare with the use. Mr. Keyt read an excerpt from the aviation safety code section H-14.870...*that states a person operating a heliport must be familiar with and to enforce applicable federal, state, and local aeronautic laws...* he noted this is directly applicable to the safety of the Heliport.

Mr. Lay discussed that the State is the approval authority and is more stringent than the FAA on Heliport requirements, he noted that the State will not come in and quiz the operator on all the regulations. He noted they will inform the operator as to the requirements to operate.

Mr. Smith asked Mr. Lay if he felt the questions being asked were apropos. Mr. Lay noted that he does not know of another Heliport operator in the county besides himself that would be able to answer these questions.

Mr. Keyt noted that several of the items Mr. Lay indicated the Heliport operator must know Mr. Quiram did not know. Mr. Jording stated that there are requirements a certificate holder must know, Mr. Quiram is not yet a certificate holder. He conceded that once he becomes a certificate holder he would become familiar with the regulations.

Mr. Keyt discussed the tall structures ordinance. He asked if the intent of his request was to increase the setback for tall structures. Mr. Quiram indicated he thought they were far enough away already. Mr. Keyt asked about the applicant's familiarity with the Comprehensive Plan.

Mr. James Campen was sworn in. Mr. Campen asked how often this would be used. Mr. Quiram stated he did not know. He asked if a tractor or airplane was used to spray now. Mr. Quiram stated whatever was available. Mr. Campen asked if he had used a helicopter to spray in the past. Mr. Quiram did not believe so.

Mr. Campen presented that he was an adjoining neighbor. He presented photos of the area and noted it is currently underwater and that is not very good. Mr. Campen also presented the life flight landing zone information noting they prefer to land on hard surfaces and as an alternate would land on grass. He discussed that he drives the ambulance and he would not back the ambulance up to the helicopter in grass. He also noted it is difficult to push a cot on grass. Mr. Campen also noted that there were helicopter sprayers in his area today and he spoke to the operator and was told they prefer to land on the truck because it is the safest location.

Mr. Campen discussed that he spoke with Earlybird Fertilizer and they are the only helicopter operation he knows of and they stated they prefer to land on the truck.

Mr. Lay asked if Mr. Campen had seen other helicopters spraying in the area. Mr. Lay referenced 4 – 5 helicopter operators that operate in the area, he noted Earlybird is the primary. Mr. Lay asked if Mr. Campen was aware of a time when life flight refused to land in the grass. Mr. Campen noted he had not attended a life flight landing event. Mr. Lay asked if the cot was ever carried to the helicopter instead of wheeled. Mr. Campen noted he was not sure.

Mr. Jording cross examined Mr. Campen. He asked how much money Mr. Campen had received from Tri-Global Energy. Mr. Campen noted he has gotten money and he hopes to sign up and get more money. Mr. Jording asked if he would make more money if a wind farm is built. Mr. Keyt attempted to object, it was noted Mr. Keyt was not Mr. Campen's attorney. Mr. Campen stated he was there to make sure the Zoning Board was informed of why all these heliports are suddenly being built. Mr. Jording asked if Mr. Campen had personal knowledge of an ulterior motive to the heliports being built, personal knowledge. Mr. Campen noted he is all about the windmills and the game being played is corrupt. Mr. Jording asked if he has

personal knowledge of this nefarious scheme. Mr. Campen stated that Mr. Quiram is very vocal and it is known throughout the area. Mr. Jording noted no specific knowledge. Mr. Jording discussed with Mr. Campen the effect of wind farms on the ability to aerial spray. Mr. Jording questioned Mr. Campen on his conference with Mr. Keyt and Tri-Global.

Mr. Keyt objected to the line of questioning. Mr. Gibson reminded Mr. Jording to keep his questions within the scope of his testimony. Mr. Jording asked about Mr. Campen's knowledge of wind farm regulations, since he could have a turbine on his property he should be familiar with the rules.

Mr. Jording discussed the effects of wind turbines on aerial spraying. Mr. Campen discussed the information he had gathered from the operators at Earlybird. Mr. Jording and Mr. Campen discussed the operation and costs of Helicopter aerial applications and effects a wind farm could have on that.

Mr. Jording asked if Mr. Campen had property in the heliport setback area. Mr. Campen said he did have land in the area. Mr. Jording asked if a wind farm was permitted on his property at this time. Mr. Campen noted there is not.

Mr. Keyt noted he has a written objection included in the materials. He discussed the case law in LaSalle and Sinclair that is instructive to how the ZBA makes their decision. He also presented the case Robrock v. County of Piatt which he felt was instructive. He also referenced the Zoning Ordinance section 24-1000. Mr. Keyt discussed how the case law is applicable to this petition. He noted that the Robrock decision is similar in that this is also Agriculture zoned and there are other airports and landing areas in the vicinity. Mr. Keyt also noted that the Robrock case cited diminished property values in the surrounding area.

Mr. Jording objected as Mr. Keyt did not have an expert witness to lay foundation. Mr. Smith asked Mr. Keyt to make his last statement and move on. Mr. Keyt discussed his reasoning for asking the applicant of his knowledge of the safety requirements was to demonstrate that lack of knowledge was detrimental to the health, safety, and welfare of the County. He discussed that in the Robrock case the plaintiff bore the burden of the restricted landing area (RLA) clear zone. He noted the court looked at the burden the RLA placed on the neighbors, so while no wind turbine is on the property at this time the heliport would create a hardship on the neighbors. Mr. Keyt further reviewed the Robrock case and the La Salle factors. Mr. Keyt noted that all of those cases assume that the request for heliport is actual reason for the request and not an attempt to increase the setbacks for wind turbines. Mr. Keyt discussed that Woodford County has received three applications for heliports since Tri-Global started leasing ground in the County. Mr. Keyt presented several maps showing the applications sent to IDOT requesting heliport approval. Mr. Keyt noted that if the stated reason for the applicant is not the true intent of the request then the petition cannot meet many of the factors for approval.

Mr. Lay asked about his reference to reduced property values. Mr. Keyt noted he was referencing the Robrock decision and does not have any information relating to property taxes this evening. Mr. Lay discussed who could determine what RLA to use in the area. He also asked if the RLA in the Robrock case was a runway. Mr. Keyt stated it was for a gyrocopter. Mr. Lay noted it would be more than a 100 x 100 area. Mr. Keyt agreed.

Mr. Jording asked Mr. Keyt if he understood the difference between a helicopter and a gyrocopter. Mr. Jording clarified with Mr. Keyt that the RLA in the Robrock decision was not a heliport. Mr. Jording was clarifying that the Robrock case is for an airport, we are looking at a heliport. Mr. Jording asked if Mr. Keyt had any evidence to show a heliport would decrease property values. Mr. Keyt noted nothing besides what was presented in the Robrock case. Mr. Jording reviewed Mr. Keyt's testimony and discussed that he was trying to illustrate that the wind farms affect the ability of fixed wing aircraft to operate as aerial applicators. He noted that he is trying to demonstrate that fixed wing application becomes more difficult when wind farms come into an area and that is why rotary application has come into play. Mr. Jording asked if promotion of agricultural practices in the comprehensive plan. He discussed that zoning is a balance between competing interests. Mr. Keyt noted it was a balancing test between the LaSalle and Sinclair factors. Mr. Jording noted this is the issue with the fact that he did not get to cross examine the objector, only the objector's attorney.

Mr. Jording noted in his rebuttal that no evidence was presented to the diminishment of property values or the impact on the ability to build structures around. He noted his petitioner wanted to be able to spray crops when the wind towers come in. He noted that there is nothing nefarious in these applications, they are trying to protect their ability to operate when things change in the future. Mr. Jording went through how the petition met the findings of fact. He noted they are fine having a stipulation to comply with all state and federal regulations. He feels they have met the requirements and the findings and should be approved.

Mr. Keyt discussed that the Robrock case is very instructive on the issue. Mr. Keyt noted that precedence is not applicable. He presented substantial evidence of the economic impact if the petition is approved. He noted that Robrock discussed the economic burden the RLA places on the neighbor. Mr. Keyt discussed that the Zoning Board is not compelled by the strict rules of evidence and there is case law on this issue and no case law to the contrary has been cited.

Mr. Campen stated he felt there is something shady going on and Mr. Koehler farms Mr. Quiram's ground for him. He discussed that the economic impact will not be nearly as devastating for him as it will be for the community. Mr. Jording objected to the new evidence being presented in rebuttal. Mr. Keyt asked if Mr. Green could speak. Mr. Jording noted he did not testify and did not sit cross. Mr. Smith noted that he was not aware Mr. Green was going to speak. Mr. Keyt lodged an objection that Mr. Green was not allowed to speak. Mr. Smith queried the board if anyone remembered Mr. Keyt noting that Mr. Green would speak. None of the board members could recall.

Ms. Holmes noted for finding B. that future development would be prohibited due to the set-backs for helicopters. She noted that Mr. Quiram does not fly helicopters or use them to spray. She noted she would find this in the negative.

Findings by the Zoning Board of Appeals for Petition 2019-16-S:

A. Will not be detrimental to the public health, safety, and welfare; (Affirmative)

The applicant followed the proper procedures contacting IDOT to inspect the area as a restricted landing area heliport and it met the requirements. This finding is in the affirmative and does not exhibit any public health, safety, or welfare problems.

B. Will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted. The applicant need not demonstrate complete compatibility, but the applicant shall demonstrate reasonable efforts to minimize incompatibility; (Affirmative)

The restricted landing area at Oltman-Shuck airport continues to operate and Mr. Oltman is no longer a pilot nor does he own a plane. The airport is still utilized for agriculture purposes. It was noted that just because the applicant does not own a helicopter and is not a pilot doesn't mean this should not be approved if it is going to be utilized by other aerial applicators. It was noted that this finding is "for the purposes already permitted", permitted being the key word and that the applicant need to demonstrate complete compatibility but shall demonstrate reasonable efforts to minimize incompatibility, the applicant owns farm ground and owns property in the area.

A. Will not be injurious to the district in which it shall be located; (Affirmative)

This provides a safe alternative for helicopter landing for aerial spraying, it is an agricultural district.

B. Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts; (Affirmative)

The uses already permitted in the district will not be impeded.

C. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided; (Affirmative)

The heliport will be of sod, no utilities, drainage or access road are necessary.

D. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public roads; (Affirmative)

There will be no new traffic on the public roads, this is a private landing area.

E. Is consistent with the Woodford County Comprehensive Land Use Plan.(Affirmative)

The area is agriculture, and the heliports primary intent is for agriculture.

Motion to approve petition 2019-16-S by Holmes and to adopt the affirmative findings due to the finding being for uses already permitted, seconded by Gauger:

Roll call vote: Teresa Gauger – *Yes*, Kim Holmes – *Yes*, Jerry Lay – *Yes*, Jerry Smith – *No. Motion carried.*

2019-17-V Partridge Township, filed by Brian Hines for a Variance for a front yard setback, a shed 100 ft. from St Rt 26, a reduction of 50 ft. in required set back, in the Conservation District, located on 18.64 acre , S ½, SW ¼, NW ¼ Section 11, T28N-R3W & 1.86 acre PT Tract B, SW ¼, NW ¼ Section 11, T28-R3W of the 3rd P.M. Woodford County, Illinois, and more commonly described as 2150 State Route 26, Washburn, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2019-17-V**

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Mr. Hines was sworn in. Mr. Hines explained that he has a 20 acre farm that he would like to have a shed erected on site. He noted that due to the terrain and the sandy soil conditions they cannot move the building any further back on the lot. Mr. Smith asked if any living quarters would be included. Mr. Hines noted that it will be a storage building only, 40 x 45 – 1800 Sq. Ft. they do intend to build a house later further back on the property. He noted this will be an Ag use only building. Ms. Holmes asked about the height. Mr. Hines noted side walls are 14 ft. Ms. Jording noted that IDOT was notified of the request and nothing was received in response.

Motion to approve petition 2019-17-V for a variance in front yard setback, 100 ft. from State Route 26 made by Gauger, seconded by Holmes.

Findings by the Zoning Board of Appeals for Petition 2019-17-V:

A. Non-conforming uses in the same district and permitted uses in other districts shall not be considered grounds for issuance of a variance. (Affirmative)

B. The granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands or structures in the same district. (Affirmative)

C. The ZBA has found that the reasons set forth in the application justify the granting of the variance. (Affirmative)

D. The ZBA finds that the granting of the variance will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. (Affirmative)

E. The variance requested is the least amount of variance required to allow the proposed structure on the existing lot, without regard to aesthetics or personal inconvenience to the property owner. (Affirmative)

Roll call vote: Jerry Lay – *Yes*, Jerry Smith – *Yes*, Teresa Gauger – *Yes* Kim Holmes – *Yes, Motion Carried.*

2019-19-Z Montgomery Township, filed by Phil Zobrist for a for a map amendment from General Commercial District to Residential Multi Family (R-2), on a 3.04 acres , part of Tract 7, E ½, sec 12, T25N –R2W of the 3rd P.M. Woodford County, Illinois and more commonly described as 360 State Route 117, Goodfield, IL.

- Swearing in and/or Affirmation: was completed for petition **2019-19-Z**

Mr. Phil Zobrist was sworn in. Mr. Zobrist presented that the property was zoned commercial when State Route 117 moved from the East side of the house to the West side. He would like to re-zone it to R-2 because they are going to remodel the house to allow for three separate living areas, it is currently all family but to plan for the future they would like it to be R-2 so they do not need a Special Use in the future. Mr. Zobrist noted the property is a little over 3 acres. Ms. Gauger asked if they would be expanding. Mr. Zobrist noted they would. Ms. Jording clarified that the home already has two distinct living areas and has for a very long time so the multi-family zoning makes the most sense. Mr. Zobrist noted it has been two living areas since 1952. Ms. Gauger asked if they would all be connected. Mr. Zobrist noted they would be through the mud room. Ms. Holmes asked if they had commercial in the barn. Mr. Zobrist noted they have over the years but do not have any commercial on the property at this time and do not have any plans for commercial. Ms. Holmes discussed that there is very little multi-family zoning in the county. Most of the properties zoned R-2 are like this one, long standing multi-family properties in single lots various places in the county. Ms. Holmes noted that while this could be considered spot zoning, since there is so little multi-family and there is a need it makes sense to go with multi-family zoning.

Mr. Lay found all findings in the affirmative.

Motion to approve petition 2019-19-Z for a Map Amendment made by Lay, seconded by Gauger:

Findings by the Zoning Board of Appeals for Petition 2019-19-Z:

- A. Whether the proposed zoning district classification is consistent with the Woodford County Comprehensive Land Use Plan;** (Affirmative)
- B. Whether there are any changed or changing conditions in the area affected that make the proposed rezoning necessary;** (Affirmative)
- C. Whether the range of uses in the proposed zoning district classification are compatible with the uses permitted on the other properties in the immediate vicinity;** (Affirmative)
- D. Whether adequate infrastructure exists or can be provided to serve the uses that would be permitted on the property if it were rezoned;** (Affirmative)
- E. The impact the uses, which would be permitted if the property were rezoned, will have upon the volume of vehicular traffic in the vicinity;** (Affirmative)
- F. Whether a reasonably viable economic use of the subject property will be denied if the proposed rezoning is not approved;** (Affirmative)
- G. Information submitted at the public hearing.** (Affirmative)

Roll call vote: Jerry Smith – *Yes*, Teresa Gauger – *Yes*, Kim Holmes – *Yes* Jerry Lay – *Yes*. *Motion carried.*

2019-18-S Clayton Township, filed by Randy Koehler for a Special Use for a private heliport, located in the (AG) Agriculture District, on a 26.58 acres ± , in the N 1/3 of N ½ SW ¼ BLK 16 of Section 16 and T28N-R1E of the 3rd P.M. Woodford County, Illinois, and more commonly described as 2040 County Road 2200 E., Benson, Illinois.

- Swearing in and/or Affirmation: was completed for petition **2019-18-S**

Mr. Randy Koehler was sworn in. Mr. Jason Jording is still sworn. Mr. Jording explained that Mr. Koehler would like to establish a heliport for aerial applications on his farming operation and noted that his son works in the aerial application industry. He discussed the benefits to the public welfare, benefit for the Agriculture district, it will provide an alternate location for life flight and will not be detrimental to any uses already permitted in the area. This fits with the characteristics of the district. He further expanded on the findings of fact. Mr. Koehler noted that his son manages an aerial spraying operation out of Minonk, the use both Helicopters and airplanes.

Mr. Lay asked if the site had been evaluated by IDOT. It was noted that it had, Mr. Koehler provided the initial inspection letter from IDOT. Mr. Jording noted that Mr. Koehler would abide by all the applicable regulations if approved. He concedes that while he does not necessarily know all those regulations this evening he is committed to learning those requirements if approved.

Mr. Lay asked if there would be any fuel or chemical stored on site or if any hangers would be constructed. Mr. Jording noted no fuel or chemical and no hanger.

Mr. Keyt is still sworn. Mr. Keyt noted others would like to speak, Mr. Chris Green of Tri-Global. Mr. Keyt noted that he disagrees with the 7 calendar day requirement to testify. Mr. Keyt noted that Mr. Jording stipulated that his client doesn't necessarily know all the relevant safety standards under the aviation code.

Mr. Keyt asked about the size of the farm. Mr. Koehler noted he farms the 70 acres around his property. Mr. Keyt questioned Mr. Koehler on the spraying methods utilized. He questioned him on some of his farming practices and his application. Mr. Keyt asked who Mr. Koehler spoke to about his application, Mr. Koehler noted he spoke with his wife and son and had discussed it at the restaurants in town. Mr. Keyt asked about Mr. Koehler's familiarity with multiple regulations. Mr. Koehler noted he did not know specifics but would learn what was necessary if he was approved.

Mr. Chris Green was sworn in: Mr. Green asked how many times he plans to use the heliport. Mr. Koehler noted that he did not know, it would depend on the weather and conditions.

Mr. Green noted he is the project manager for Tri-Global Energy, he noted they have 28,000 acres leased at this time. He noted that the county already has a wind ordinance to protect homeowners. The setback based on that ordinance will be between 2,000 ft. - 2,700 ft. based on the planned turbine height. He noted there is also shadow flicker and noise requirements which could push them further back than the heliport setback of 5,000 ft. Mr. Green noted that he is an expert in wind farm development and the future lost revenue if every land owner in the 5,000 ft. setback was signed up that would be anywhere from \$150,000-\$250,000 per year through lost revenue to the land owners. Assuming all the land was signed up and there were turbines on the property there would be around \$250,000 per year in lost property tax values to the county. Mr. Green discussed the projects he has developed and managed, he never had issues with aerial application. He also noted that in their lease if there were ever an increase in price of aerial applications they compensate the land owner for that. Mr. Green noted that the county tall structures ordinance is more stringent than the state and federal restrictions. The county restriction is a 5,000 ft. circle around the heliport, the state code is 4,000 ft., and he noted the FAA does not protect private heliports unless they have instrument approaches. The FAA will protect if they have an instrument approach or are public only if they demonstrate 365 maneuvers in and out for the FAA to issue a determination of hazard. Mr. Green also noted that the tall structures ordinance also restricts cell towers and telecommunications towers.

Mr. Keyt noted the board could accept the same statements and evidence he put in for petition 2019-16-S if they would like to do that. Ms. Holmes made the motion to accept the evidence presented for petition 2019-16-S for petitions 2019-18-S, seconded by Lay. *Motion Carried.*

Mr. Keyt noted that in Robrock they discussed future development and the burden it placed on the neighboring properties. He discussed permitted uses and that Robrock is instructive in this case. Mr. Keyt also discussed the comprehensive long range plan and its intent to guide future planning.

Mr. Lay asked for Mr. Green to clarify the statement about the additional charge for aerial application for landowners in the vicinity of wind mills. Mr. Green clarified that it is for participating land owners only.

Mr. Lay asked if the counties requirements make them more dangerous. Mr. Keyt objected to the question. Mr. Green stated they did not make it more dangerous.

Mr. Lay asked about insurance requirements. Mr. Keyt noted that he does not believe a typical homeowners insurance does not cover aviation activities. Mr. Lay asked if the state or FAA requires insurance, he noted he couldn't tell him for certain but he did not believe they did. Mr. Keyt noted it goes to the public health and safety.

Mr. Jording noted that his cross examination of Mr. Keyt's testimony accepted from petition 2019-16-S also stands. Mr. Smith agreed that it did.

Mr. Jording asked Mr. Green how much acreage is there in the 5,000 ft. buffer he also asked how much land Tri-Global has signed up in the 5,000 ft buffer around Mr. Koehler's proposed heliport. Mr. Green noted it is not all 5,000 ft. at the moment. Mr. Jording asked if Mr. Koehler is a participating member. Mr. Green noted he is not. Mr. Jording noted it would be safe to assume Mr. Koehler would not participate in the future. Mr. Green agreed. Mr. Jording further discussed the acreage inside the 5,000 ft. area and how much of that property is signed up for this windfarm. Mr. Jording noted that the monetary figures didn't really mean anything since Mr. Green could not specify how much land was signed up in the 5,000 ft. area. Mr. Keyt objected. Mr. Jording asked Mr. Green how he calculated the monetary figures. Mr. Green explained the calculations and how he came to his conclusions. Mr. Jording noted that 6 turbines would need to be constructed to meet the figures presented. Mr. Green agreed. Mr. Jording asked Mr. Green to explain how got the tax amounts. Mr. Green explained that he used the state prescribed property tax, he noted that one of the financial analyst prepared those numbers. He provides how many megawatts can go there and the system calculates the amount of taxes. Mr. Jording asked Mr. Green if he verified those calculations. Mr. Green noted he did. Mr. Jording asked how many land owners were signed up in the 5,000 ft. bubble. Mr. Green noted there were at least 4-5, Mr. Meinhold, Mr. Harms, he noted again there are 4-5. Mr. Jording asked how many are covered by the Oltman-Shuck setback. Mr. Green noted he was unsure, several but not all. Mr. Jording noted there were no objections to the Oltman-Shuck airport. Mr. Green noted that it was existing and used. Mr. Jording noted they would plan around it. Mr. Keyt objected. Mr. Jording asked if the windfarm would prevent other uses. Mr. Green was unsure what couldn't be built if there is a wind farm. Mr. Keyt objected. Mr. Jording discussed the compensation for increased cost of aerial application and that it only covers landowners with contracts. Mr. Green agreed and stated he has never had a landowner use that clause. Mr. Jording noted that Mr. Green indicated this is an effort to create additional setbacks from property. He noted Mr. Green stated it is already possible for it to be more than the 5,000 ft. setback. Mr. Jording asked if Mr. Green was trying to change the ordinance. Mr. Keyt objected to the relevance. Mr. Jording noted that Mr. Green stated that there is a big buffer but Mr. Green is trying to change that buffer. Mr. Green noted that they are not trying to change the tall structures ordinance. He noted he has had discussions about the tall structures ordinance but he is not necessarily trying to change it. Mr. Jording asked what personal knowledge Mr. Green has that this is an effort to set back the windfarms from their properties. Mr. Green stated he has no personal knowledge but it is known thing in the industry, they are known as a "shamport" he noted there is a correlation that the gentlemen are known to fight wind and are all applying for heliports. Mr. Keyt objected to the opinion of the witness' relevance.

Mr. Jording provided rebuttal that Mr. Koehler testified that he has an intent to use this for its intended purpose. He noted there is no evidence to the contrary. There is an industry term of "shamport" and there is an industry belief that anyone putting up a heliport where windfarms are looking will be delegitimized. He noted Mr. Koehler presented his farming operation, his sons' involvement in the aerial spraying industry. He meets all the standards for an applicant for a Heliport in the county. The only thing to the contrary is fake

numbers based on nothing. There certainly isn't evidence to support their objections. He noted that the factors they presented follow very closely to the LaSalle and Sinclair factors. He noted the board is weighing property rights, weighting the competing interest of the two individuals.

Mr. Keyt made his sur-rebuttal. Mr. Keyt asked the board to consider the factors in the LaSalle and Sinclair factors. Mr. Keyt read the factors.

- 1) The existing uses and zoning of nearby property;
- 2) The extent to which property values are diminished by the zoning;
- 3) The extent to which the destruction of property values promotes the health, safety, morals or general welfare of the public;
- 4) The relative gain to the public as compared to the hardship imposed;
- 5) The suitability of the property for the zoned purpose;
- 6) The length of time the property has been vacant
- 7) The community need for the use; and
- 8) The Care with which the county has planned its land use

Mr. Keyt discussed that the Robrock case is very similar, it came to the conclusion that there was no rational basis to approve the special use and the factors you just heard weighted heavily based on the evidence that you heard, they weigh heavily for the denial of this petition.

Mr. Green discussed the revenue and mega wattage that could be realized from the land within the 5,000 ft. setback area.

Findings by the Zoning Board of Appeals for Petition 2019-18-S:

A. Will not be detrimental to the public health, safety, and welfare; (Affirmative)

By establishing a certified heliport for the aerial application of farm crops the heliport will eliminate the possibility of an aerial applicator having to land in a less suitable and possibly unsafe area or unauthorized area.

B. Will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted. The applicant need not demonstrate complete compatibility, but the applicant shall demonstrate reasonable efforts to minimize incompatibility; (Affirmative)

C. Will not be injurious to the district in which it shall be located; (Affirmative)

This will provide a safe alternative for helicopter landings in the area.

D. Will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the districts; (Affirmative)

This would be a private heliport, there is farming in the area and it is on private property, it will not impede the uses permitted in the district.

E. That adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided; (Affirmative)

The rules and regulations in place dictate if a heliport should be closed in the event it is flooded, no further drainage is needed.

F. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public roads; (Affirmative)

No new traffic will be created, it is strictly for private use.

G. Is consistent with the Woodford County Comprehensive Land Use Plan.(Affirmative)

The establishment of the heliport in agriculture for agriculture use is consistent with the comprehensive land use plan. It is noted that the Comprehensive long range plan addresses existing and additional wind farms however when looking at the permitted use and the consistency in terms of the current farm use and this would be used for aerial application this is affirmative.

Motion to approve petition 2019-18-S by Lay, seconded by Holmes:

Roll call vote: Teresa Gauger – *Yes*, Kim Holmes – *Yes*, Jerry Lay – *Yes*, Jerry Smith – *Yes*. *Motion carried.*

- Other Business to Come Before the Board:

Mr. Dave Meinhold 606 Bayside Circle Germantown Hills. Mr. Meinhold discussed his background and farming operation. He noted that he has signed up some of his property for the windfarms. Mr. Meinhold discussed that while this is not nefarious it is certainly well organized. He noted that there are a number of people in the community that are for the wind farm that are not here and did not know about this meeting. He noted the process is flawed, he was told when he went to the courthouse that he could speak, he did not wish to cross examine but he did wish to speak. Mr. Meinhold discussed that Mr. Smith noted that they were trying to decide the best use of the land. Mr. Meinhold noted that Mr. Koehler was at the head of the opposition. Mr. Meinhold discussed the monetary value of the best use of the land and the value the wind farm represents and it is significant. He discussed that some people are in significantly more need of the income that he is. He discussed the increased value of the farm ground if a wind farm is installed on the property. Mr. Meinhold discussed the boards' review of the findings of fact and the consideration of the surrounding property owners. Mr. Meinhold discussed that the Board should not let the process be weaponized. He discussed that they reviewed the uses already permitted, he felt they should consider the future uses of the ground. He discussed that he is disappointed in the process. He noted that petitioners discussed that they talked about their sons and ability to have jobs, he discussed he son worked with the wind turbines in past and what about the jobs for those individuals. He discussed that based on the criteria the board listed they would have allowed 6 or 9 heliports. They need to look at the criteria and the commitment for getting a heliport and compare it to the commitment and planning the requirements for the windfarm. He noted he respects the board and their commitment to the community and the time it takes.

Mr. John Koehler spoke that he was frustrated, he was told he just had to come in and speak. He represents 480 acres in the 5.000 ft. circle. He discussed that the 6 turbines they discussed would fit on his property. He stated he wanted what was best for the county, schools, communities and it is interesting how the board is not interested in listening to the community. They want what's best for the community. He uses helicopter spraying and when he asked if they needed a place to land, he noted they laughed and said they land on the truck. He asked that in the future they are clearer on the process and they give the community a voice.

Mr. Campen noted that Mr. Meinhold and Mr. John Koehler voiced his opinion and he agrees with them.

Permit Extensions

- 17287-17 Timothy Lowery for a hoop shed. Permit expired April 24, 2019

Mr. Lowery was sworn in. He requested a 6 month extension on his building permit for a hoop shed. Mr. Gauger asked for the reason for the delay. Mr. Lowery stated there were issues with the manufacturer in getting the building delivered.

Ms. Holmes made a motion for a 180 day extension starting May 29, 2019, seconded by Lay. *Motion Carried.*

- 17278-17 Dennis Slape Shop with public facilities, has not completed bathrooms

Ms. Slape was sworn in. Ms. Slape noted that the building has been completed, however the bathrooms have not been completed, and they will be for public use at the farm and require commercial inspection. Ms. Slape asked for 365 day extension.

Mr. Lay made the motion to grant a 365 day permit extension beginning May 29, 2019, seconded by Holmes. *Motion Carried.*

- Update on previous months petition/s

Ms. Jording noted that all petitions were approved/denied as recommended except for the Heliport petition which was postponed until the June County Board meeting.

- Update on next month petition/s – June 25

No June Hearing, no petitions were filed.

- IACZO Seminar discussion: None

- ZBA By-Law discussion - (if necessary) None

- Executive Session – None

- Adjournment

Ms. Holmes made the motion to adjourn at 11:00, 2nd by Ms. Gauger. *Motion Carried.*

Lisa Jording, Secretary

Jerry Smith, Chairman

Date