



# Minutes June 6, 2018 Tipton County Board of Zoning Appeals

The Tipton County Board of Zoning Appeals held its regular meeting on Wednesday, June 6, 2018, at 7:00 pm, in the 1<sup>st</sup> Floor meeting room, Tipton County Courthouse, 101 East Jefferson Street, Tipton, Indiana.

## **Call to Order**

Chairman Mark Baird called the meeting to order at 7:01 pm.

## **Roll Call**

Members in attendance: Mark Baird, Joe Mahaney, Gary Herrell, Jerry Acres and Bob Powell

Members absent: none

Staff in attendance: Steve Niblick, Lynlie Adair and David Langolf Smith

Staff absent: none

## **Modifications to Agenda / Agenda Summation**

### **Approval of Minutes**

a) March 7, 2018 minutes

Bob Powell made a motion to approve the minutes as submitted; seconded by Jerry Acres. Motion carried 5-0.

b) April 4, 2018 minutes

Joe Mahaney made a motion to approve the minutes as submitted; seconded by Gary Herrell. Motion carried 5-0.

### **Public Hearings**

a) CO-V-04-18 Hoosier Heritage Port Authority requests 1) a use variance for a train yard and 2) a 7ft tall fence with barbwire. Steve Niblick read the staff report to the board. Jerry Acres made a motion to open the public hearing; seconded by Robert Powell. Motion carried 5-0.

Liz Foley spoke as the petitioner for the HHPA variance request at 311 Walnut Street Atlanta Indiana. Mrs. Foley told the board that the Nickel Plate Heritage Railroad Inc. is a charitable non-profit organization in Arcadia. It has been awarded a 15-year contract by the Hoosier Heritage Port Authority (management company for Noblesville, Fishers, and Hamilton County) to operate a tourism excursion railroad on 12 miles of its track in northeastern Hamilton County beginning in the summer of 2018. Excursions will take place on Saturdays and Sundays and include from 2-5 excursions per day. All the excursions will head south from Atlanta to Noblesville, approximately 12 miles. Future years will bring a variety of new patterns, but all will be between Atlanta and Noblesville only.

The equipment will include 3 operating passenger cars; 1 dining/lounge car; 1 generator box car; 2 locomotives; 1 smaller engine and 1 caboose. All will be in prime condition and restored. Mrs. Foley went on to say the goal is to store the equipment just north of the Hamilton County line on

the track and siding and right-of-way owned by the HHPA which is located by other commercial businesses. The fence will be a quality chain-link fence with a barbed wire top. In the future, a barn structure would be erected to protect the equipment that would be stored there. Other than start-up and wind down times, the equipment will be operated south of the area on the tracks.

Jerry Acres asked if the proposed fenced area is in the railroad right of way. Liz Foley said that it would be.

Mark Baird asked if the HHPA would be utilizing the tracks north to Tipton. Liz Foley said not at this time.

Joe Mahaney asked if there will be gates on both sides of the fenced in area. Liz Foley said yes there would be.

Jerry Acres asked how much fuel would be on site. Wylie Brown, a representative for HHPA, answered approximately 2,000 gallons.

Mark Baird asked what type of security will be on-site. Liz Foley said they would have wireless cameras that would play back to their phones and computers at headquarters. Mark Baird also asked if the HHPA had been in contact with the local law enforcement. Liz Foley said they had not made it that far in the process.

Jerry Acres asked if there would be anything else stored inside the fenced in area. Wylie Brown said in the future they were proposing a storage building /shed which would be located inside the fenced in area.

Gary Herrell asked how the fuel would be stored in the fenced-in area. Wylie Brown said within a double-sided storage bin inside a box car.

With the board having no more questions at the time, Mark Baird opened the meeting to the public for questions and concerns.

Gary Langley asked to see the new site plans that were purposed to the board as he did not see the new changes.

Jane Meister, owner of the Co-Op to the east of the tracks came forward and handed out a drawing of her property and the proposed railroad storage area. Jane Meister went on to say that she was not contacted by certified mail and was told by County Council woman Helen Tragesser of the legal ad in the newspaper. Jane Meister also asked why Tipton County would want to store the trains and who would check on the leakage if there was a liquid spill.

Mark Baird asked Jane Meister if she was notified about this public hearing by certified mail. Jane Meister answered that she was not notified.

After discussion on the notifications, it was determined that certified mailings to affected parties were not mailed by the petitioner. Jerry Acres made a motion to continue the public hearing until the petitioner properly notifies the adjoining neighbors prior to the July meeting; seconded by Robert Powell. Motion carried 5-0.

b) CO-SE-05-18 Terrance McGaffney requests a special exception to allow a grass plane landing strip on his property. Planning Commission Executive Director Steve Niblick read the staff report into the record. This is the second time this special exception has been brought to the BZA. On November 1, 2017 the request was denied by a 3-1 vote.

Robert Powell made a motion to open the public hearing; seconded by Jerry Acres. Motion carried 5-0.

Attorney Doug Church (Church Church Hittle and Antrim) spoke for the petitioner. Mr. Church displayed a drawing of the proposed site for the grass landing strip along with and the Noblesville grass strip airport (Via Google Maps). Mr. Church said that Mr. McGaffney had not purchased the plane at this time, however the plane will have four seats and will be a single engine. The grass strip would be used about 40 times per year for only personal use. There would not be an airplane business at this location. Due to the prevailing winds, the take-offs predominantly will be from east toward the west and landings will also be predominantly from east to west, although with the differing weather, landing patterns will change. Mr. Church spoke about the Noblesville Airport and the close proximity of surrounding houses in line with the runway and schools also close to the landing strip. The Noblesville Airport also provided flight schooling and would have 20-30 take off and landings a day. Mr. Church gave a handout to the board. (file) Mr. Church told the board they did research to find single engine plane crashes locally and none were found.

Mark Baird asked if the board had any questions. Robert Powell asked how high the plane would be when flying into the landing strip. Terrace McGaffney said when he will be landing he will be at least 1,000 feet in the air. Mr. Powell asked what type of fuel would be used in the plane. Terrance McGaffney said it would be aviation fuel.

Gary Herrell asked how fast the plane will be flying when it takes off. Terrance McGaffney said about 60 mph give or take.

Robert Powell asked about the east and west winds.

Mark Baird asked about the distance of the Noblesville Airstrip to the closest house. Doug Church answered from the end of the runway to the adjoining home was about 100- 200 feet.

Jerry Acres asked if it was a fair statement to say the Noblesville Airstrip was built before the subdivisions and the school. Doug Church answered yes.

Gary Herrell asked what height the airplane would be by the end of the runway at takeoff. Terrance McGaffney said about 900 feet give or take. Robert Powell asked what distance the plane will need for stopping. Terrance McGaffney answered less than 500 feet.

President Mark Baird opened the floor to public input for or against the petitioner.

Brian Key spoke against the landing strip and stated that he and his wife owned a real estate business in Kokomo and that the special exception would drop property values in the neighborhood. Brian Key also spoke about the ultra-lite plane crash that happened about 2 years

ago in June that was just north of this location. Mark Baird asked Brian Key if he was a licensed real estate agent or a broker in the state of Indiana. Brian Key answered no.

Steve Niblick read into the record several written comments. The first was an email from Michael Ramseyer from June 6, 2018 opposed to the special exception. The second email was from Michael Terry (former BZA board member) opposed to the special exception. The third was from Jim and Reta McCalment stating a sign was not posted in the purposed site and were not provided a site plan on the runway location; their concerns of how close the run-way was to the property line without setback; and drainage in the driveway that puddles when it rains. The McCalment letter went on to say that most landing strips they had seen were north and south.

Katie Crebo stated she was not an owner but she would be a future owner of her parent's property. She spoke against the special exception and presented a poster board of the vicinity and handed out pictures. Katie Crebo said she had concerns with the criteria B and C. She pointed out that Terrance McGaffney stated in his application that the grass airstrip would not be dangerous, injurious, or noxious to any other property or persons. Katie Crebo stated that David and Theresa Garhart's property was about 675 feet away from the landing strip; her parents' home was about 1528 feet away from the landing strip; and James and Rena McCalment's home is about 562 feet away from the landing strip. On the application Terrance McGaffney stated that all homes are over 700 feet away from the site. Katie Crebo also presented pictures of the ultra-lite plane crash in 2015 to submit to the record. This crash was within two miles of the proposed runway/

John Adler came forward and spoke against the project. He had used a Cessna simulation program to determine if the proposed land strip would be adequate for the proposed plane and read his report of different scenarios.

David Garhart spoke against the purposed landing strip as well and shared Katie Crebo's concerns.

Alan Crebo spoke against the proposed site. Alan Crebo suggested Terrence McGaffney leave his airplane at the Glendale Airport in Howard County which is about 7-10 mins from the proposed site.

With no other comments, Doug Church came forward with rebuttal. He told the board that if the grass strip can be placed with a special exception and without setbacks, then the ordinance should be reviewed.

Robert Powell made a motion to close the public hearing; seconded by Joe Mahaney. Motion carried 5-0.

Jerry Acres expressed he had multiple concerns and he could not support the project. Robert Powell noted that during the last meeting in November that he was in favor last time but with the information he had received tonight he could not support the project. Joe Mahaney said due to criteria B for being too close to the neighboring properties and houses by landing or take off it would be too dangerous and with regard to criteria C he did not like the idea of the landing strip running over the driveway even more so when hearing about drainage issues. Gary Harrell asked where one of the remonstrators lived and why he was also not in support of the project with the grass strip being too close to the neighboring properties. Mark Baird thanked the public and presenters. He stated that he voted against it last time and was hoping for new information this

time. He is very concerned with the specific reasons being health and safety of the neighboring properties.

With no more discussion, Jerry Acres made the motion to deny CO-SE-05-18 due to safety concerns with criteria B and C; seconded by Joe Mahaney. Roll call vote: Jerry Acres – Yes, Robert Powell – Yes, Mark Baird – Yes, Joe Mahaney – Yes, and Gary Herrell – Yes. Motion carried 5-0.

**Old Business**

a) CO-V-02-18 Rodney Johnson findings of facts. Robert Powell made a motion to approve the findings of facts as presented by staff; seconded by Joe Mahaney. Motion carried

**New Business**

None.

**Staff Report**

Steve Niblick noted that this year’s Ohio, Kentucky & Indiana planning conference conflicts with the October county meetings dates.

Steve Niblick also informed the members of working with Purdue Extension Office for training on “Running Effective Meetings” tentatively scheduled for July 5, 2018.

**Adjournment**

There being no further business, Robert Powell made a motion to adjourn the meeting at 8:55 pm; seconded by Jerry Acres. Motion carried 5-0.

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**Chairman**

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**Executive Director**

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**Date**

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**Date**