

TOWNSHIP OF EAGLESWOOD
LAND USE BOARD MEETING
 Minutes
May 13, 2014

CALL TO ORDER

The Eaglewood Township Land Use Board was called to order by Chairman Paul Poklikuha at 07:00 p.m.

FLAG SALUTE

Mr. Poklikuha led the Flag Salute

ROLL CALL

Those members present upon roll call were Mr. Haines, Mr. Kinnevy, Mr. Nickel, Mr. Pasternak, Mrs. Rivas, Mrs. Sysol and Mr. Poklikuha Also present were Terry Brady, Esquire. & Frank Little, Engineer Absent: Mr. Bartlett, Mr. Holman, Mr. Pine

STATEMENT ~ PROVISIONS OF THE OPEN PUBLIC MEETINGS ACT

"Provisions of the Open Public Meetings Act have been met. Notice of this meeting Resolution 2014-04, has been transmitted to the Asbury Park Press and the Times Beacon given to those having requested and paying for same, and posted on the Bulletin Board in the Municipal Building on January 14, 2014."

APPROVAL OF MINUTES

April 8, 2014

Land Use Board	MOTION	2 ND	AYES	NAYS	ABSTAIN	ABSENT	RECUSE
Mr. Bartlett (Alternate)						x	
Mr. Haines					x		
Mr. Holman						x	
Mr. Kinnevy					x		
Mr. Nickel	x		x				
Mr. Pasternak		x	x				
Mr. Pine						x	
Mrs. Rivas					x		
Mrs. Sysol			x				
Mr. Poklikuha			x				
VOTE:			4		4	3	

Chairman Poklikuha stepped down at 07:03 PM due to residence being within 200 feet of the Applicant on for this evening. Mr. Don Haines took over as Board Chairman.

OLD BUSINESS

Mr. Pasternak asked Chairman Haines for the floor. Mr. Pasternak addressed the board. Mr. Pasternak advised the board that he is aware that we are here tonight to discuss the "What an Airport is" everyone knows that emotions run high on both sides. After each meeting Mr. Pasternak stated he returns home and replays the meeting over and over in his head. One meeting in particular was the February meeting with Mr. John Novak representing East Coast Skydive. After that meeting he felt we were missing something. After countless hours of research on Airports he has learned a lot and he has formed a list of questions. Mr. Pasternak advised the board that Title 16 Chapter 54 and Title 16 Chapter 62 and after reading these he has more questions regarding the Airport. Mr. Pasternak began to research forms, after reviewing these forms he realized that a license was required, on April 7th 2014 Board Attorney Terry Brady filed an OPRA request asking for this information. On April 11th NJDOT responded with this information, everything appeared to be in order and in fact East Coast Skydive does have a valid license thru January 31, 2015. Mr. Pasternak also began to look into Banner towing. Mr. Pasternak stated on numerous occasion Board Member Mr. Haines has asked Mr. Weidhorn what it the overall plan for the Airport, but we never really get the answer that we are looking for. A Draft copy dated 2002 of the Airport was recently located, Mr. Pasternak requested the Board Secretary to reach out to NJDOT to see if there was a final draft. There is an updated draft however we don't have a copy. Mr. Butensky the attorney for the Applicant stated that they do have an updated copy for the Board. Mr. Pasternak has questions for the Applicant. Board Attorney advised Mr. Pasternak we should move to new business and allow the Applicant to be heard and at that time any questions can be asked and addressed.

NEW BUSINESS

Application 2014-004- Eagles Nest Airport- Block 34 Lots 1,2,3 & 3.01 and Block 36 Lots 13,13.01,16-22 Interpretations. The Applicant seeks and interpretation of what is permitted under the use "Airport"

At this time acting chairman Mr. Haines requested to hear from Land use Board Engineer Mr. Little. Mr. Little stated that it's a basically a simple application we basically have to hear from the applicant about what they are proposing that the "Airport" use would permit.

Mr. Howard Butensky Attorney for the applicant is seeking an interpretation and recommending a definition of "Airport". Several reasons being one the pending application for Skydiving and second every time there is a change at the airport this would prevent having to make application.

Mr. Butensky stated that he had intended to find data which would give the board some guidance on how other airport municipalities deal with the term. Mr. Butensky went to the statutes and worked back from there. The word Airport has been defined thru the regulations. NJSA 6:1-20 thru 62 specific references to 1-33 .According to State Law NJSA 6:1-33, airport regulations adopted by any municipality are inoperative to the extent that they are inconsistent with the State's regulations, however, municipalities also have the duty to enforce the State's regulations regarding airports and aeronautics. Said statute provides, verbatim, as follows: It shall be the duty of all departmental and political subdivisions of this State, all peace officers, and every county and municipal officer charged with the enforcement of State and municipal laws to enforce and assist in the enforcement of the provisions of this act and the rules, regulations and orders issued and promulgated pursuant thereto and all laws of the State of New Jersey with reference to aeronautics. Airport regulations adopted by any local subdivisions operating an airport shall be inoperative in so far as such regulations are inconsistent with the provisions of this act or with the rules, regulations and orders issued and promulgated pursuant thereto.

The applicant's professional, Thatcher, PP, testified at the hearing regarding the federal and state statutory and regulatory scheme regarding airports and airport activities. He is the former Director of Aeronautics for the State of New Jersey. He testified regarding the areas of exclusive and concurrent jurisdiction of the federal, state and local governments regarding airport land use.

State regulation NJAC 16:54-3.2(b) provides that "aeronautical activities" may be conducted at aeronautical facilities, and that, for zoning & land use purposes, aeronautical activities are to be considered as permitted uses. These regulations provide, generally at NJAC 16:54-1.3, that any of the following aviation related commercial activities, therefore, are permitted uses as part of the definition of permitted aeronautical activities:

- a. Aircraft: sales, charter, rental, lease, storage, operation, hangaring, tiedown, and parking; and parachuting operations;
- b. Instruction: aircraft flight and ground instruction of all types, license examinations and proficiency checks, crew member training, parachute jumping training;
- c. Maintenance: all types of maintenance, repair, inspection, testing, modification, overhaul, corrosion control or painting of aircraft, engines, systems, avionics, parachutes, or ancillary air or ground support equipment; and
- d. Servicing: aircraft fueling using fixed, hydrant, mobile, or portable equipment; aircraft engine or systems servicing including hydraulics, pneumatics, oxygen, lavatory, aircraft catering, electronics, aircraft cleaning.

Specifically regarding parachute activities, the State regulations address this as well. NJAC 16:54-1.3 goes on to define "aeronautical activities" to include "parachuting operations" and that "aeronautical facilities" includes "parachute drop zones." Therefore, parachuting operations and parachute drop zones are also permitted activities within the aeronautical activities of the Eagles Nest Aerodrome Airport, as determined by state law.

Most of the testimony and discussion at the meeting centered around the issue as to when local site plan review would and would not be required for uses permitted at an airport, particularly when changes are made at the subject airport. an alteration of the aeronautic facilities that required "Planning Board approval of its site plan" In accordance with Somerset Air Services vs. Bedminster Township, 2006 WL 861498 (decided 4/4/2006), any alteration of the airport facilities will require local site plan approval; and NJAC 16:54-1.3 defines "alteration" regarding airport facilities to include "any modification to the surface, design, or operational areas of an aeronautical facility which affects, increases, or diminishes its operational capabilities." This would include the addition of a parachute drop zone at the subject site.

Board member Mr. Kinnevy stated that his understanding was that Zoning Officer didn't say that Skydiving wasn't a permitted use, what the Zoning Officer stated was that this was an expansion of use and it needed to be seen on the Site Plan, therefore an amended site plan is required.

Mr. Sillitoe Zoning Officer was sworn in. Mr. Sillitoe stated that he never said that a Parachute Operation was not a permitted use, what he does feel is that this is an expansion of use and would require an amended site plan. After a lengthy discussion Mr. Sillitoe stands by his discussion that he feels an amended site plan is needed for establishing a Parachute Drop zone.

At this time Land Use Board Attorney Terry Brady and Acting Chairman Don Haines opened this portion of the meeting for Public Comment.

Michelle Paccione- Laurel Hill Lane

Mrs. Paccione has concerns with the Airport. Mrs Paccione is concerned if a blanket approval is given to the Airport that this will limit expansion of the Airport to come before the board which would deny her the opportunity to come before the board and express her concerns.

George Voishnis-Owner of East Coast Skydive

Mr. Voishnis introduced himself and stated he was sorry for what had happened at the last meeting with regards to East Coast Skydive. He wants to be a good neighbor to the surrounding neighbors of the airport. He advised the board that they are giving instruction to the divers not to screen and holler when they are falling from the sky. Mr. Voishnis is hopeful that this issue can and will be resolved.

Seeing no one else from the public wishing to speak a motion to close Public participation was made by Mr. Pasternak, seconded by Ms. Sysol unanimously carried.

Mr. Butensky Attorney for the applicant finished up asking the board for a clarification to the definition of an "Airport"

Attorney Brady suggested to the board that a resolution be done to include NJSA 6:1-33 and N.J.A.C. 16:54-3.2(b), NJAC 16:54-1.3.

Acting Chairman Haines asked for a motion to have a Resolution prepared by Land Use Board Attorney. A motion was made by Mr. Kinnevy and seconded by Ms. Sysol all were in favor.

At 9:40 p.m. Chairman Poklikuha returned as Chair.

CORRESPONDENCE

None.

BOARD DISCUSSION

None

ADJOURNMENT

Mr. Pasternak made a motion to adjourn, Second by Ms. Sysol All Ayes. Motion carried.
The meeting was adjourned at 09:45 P.M.

Respectfully submitted,

Lisa H. Hand
Eagleswood Township Land Use Board