

TOWN OF NEWSTEAD - ZONING BOARD MINUTES
Newstead Town Hall, 5 Clarence Ctr. Rd, Akron, NY
September 22, 2011

MEMBERS

PRESENT: Bill Kaufmann, Chairman
 John Klodzinski
 Corky Keppler
 Adam Burg
 Harold Finger

Alternate: Fred Paske

OTHER: Julie Brady, Recording Clerk
 Ralph Migliaccio, Code Enforcement Officer

Area Variance – 6794 Cedar Street, Akron, NY 14001

Applicant: James & Doreen Park, 6794 Cedar St., Akron, NY 14001

The meeting was opened at 7:17pm to discuss the area variance request to subdivide their property at 6794 Cedar St., in so doing they would create a lot with 150' of frontage and leave only 137' of frontage with the house and barn. Minimum frontage in the Town of Newstead is 150', therefore they need a variance of 13 feet. Harold Finger led the pledge to the flag. Julie Brady read the legal notice and Bill K. read the use variance requirements and opened the public hearing.

- **Doreen Park, 6794 Cedar St.** –purchased property in 1986 as well as the side lot. At that time the minimum building lot in the Town was 100'. Due to making improvements to the house, we are refinancing and would like the lot to not be mortgaged with the house, but used as a financial security for future use.

Bill K – asked two times if there were any further public comment. Harold F. motioned to close the public hearing; Corky seconded it, All Ayes from the board.

Public Hearing closed at 7:25pm.

Zoning Board Discussion:

Bill K. asked Parks to clarify which lot would have 150' frontage. Doreen P. stated that it would be the lot with 150' of frontage with a depth of apx. 660'. Bill K. asked if any written comments were submitted, Julie B. stated "No."

Harold F. referred to the survey provided, asked how many feet away from the barn the lot line would be. Ralph M., CEO, stated that it would be more than 50' from the lot line and the minimum is 5'.

Bill K. asked if they planned to sell or build but the Park's were not sure. They've been approached to sell but they do not want to sell at this time. Bill K. explained that the ZBA is just the first step and if given the variance, the next step would be the subdivision process with the Newstead Planning Board.

Bill K. asked if there were any other questions, then read each criteria & commented as follows:

- #1 - No because they are landlocked and unable to purchase additional property from neighbors
- #2 – No because other neighboring homes are apx. 100' of frontage
- #3 - No it's not substantial (only 8%) because it does not create a fire safety or other issues
- #4 - No-drainage is good, always residential area, no physical or environmental issues

Harold F. stated that substantial can be looked at many different ways and has concerns for what the next person may request.

Corky K. stated that the hardship was created by the Town when they changed the frontage from 100' to 150' after they had already purchased the property.

Adam B. commented on Harold's remark that substantial should be case by case. Adam and Corky agreed that it is not changing the neighborhood.

Bill K. asked if anyone would like to make a motion. Adam B. made the first motion to approve the area variance, Harold F. seconded the motion. All ayes from the board. Bill K. explained that the variance expires in one year (9/22/12) if they do not subdivide the property by then.

Use Variances – At the Akron Airport, Akron, NY 14001

1. **To construct a Maintenance Hanger and five (5) T-Hanger Bays and asphalt apron.**
2. **To pave the existing turf crosswind Runway 11-29 and construct partial asphalt parallel taxiway to Runway 11-29.**
3. **To authorize the use as an airport, which has been a continuous use at this location.**

Applicant: Akron Airport/Christian Airmen, John St., Akron, NY 14001

Julie B. read legal notice

Bill K. (took care of housekeeping details) then asked Carol Hill if she had the complaint log and the SEQR lease agreement/rental of hangers that he had requested previously. Bill K. was enquiring to whether or not they had an agreement to terminate a tenant if they received excessive complaints. Carol Hill produces the requested documents.

Jeff Palumbo and Corey Auerbach of Damon & Morrey, Attorney representing the Christian Airmen

Jeff P. stated that they have made every attempt to put everything on the table, submitting a 5-10 year master plan. Copies of the maps were distributed.

Corey A. presented the history of the use variance requests and stated that the Code adopted in 1988 by the Town of Newstead created a hardship for the Akron Airport as a nonconforming use.

(Corey A. read each use variance and explained the airports reasoning as follows)

1. Cannot realize return for any use in the RA zone because the airport would need to pay back \$7.8 million dollars to the Federal Govt. before it could be used for anything else. It is a public use airport and must be used for an airport or all monies would need to be returned before other development. Before the airport began any new projects, they would still come before the Town.
2. Unique to applicant because it is the only airport and has been an airport for 80 years. There is nowhere in the Town that is zoned for airports so they could not move either.
3. The airport does not change the character of the neighborhood, it defines it. We are just asking to authorize the use as an airport.
4. Hardship – the airport was a permitted in 1930 until 1988 when the Town created a zoning law that created the hardship.

Let's authorize the use as an airport. All projects will still go through the site plan approval, relieving the ZBA and simulating a special use permit. The Akron Airport is here to stay.

Jeff P. stated that the Town Board did an exhaustive SEQR which results in a negative declaration with a series of conditions. This is applicable if the ZBA approves the use variance, protecting the neighbors.

Jim Mayrose, 7204 Scotland Rd., The following data are presented to the Zoning Board of the Town of Newstead in regards to the request by the Christian Airmen for a use variance. The four components of the use variance analysis prescribed by Town Law 267-b(2)(b) are discussed below.

1. **Cannot realize a reasonable return; substantial as shown by competent financial evidence**
Has this board received competent financial evidence that the Christian Airmen cannot realize a reasonable rate of return with the current configuration of the Akron Airport? The Airport appears to be in good financial shape because in order to apply for and receive Federal and State grants, the Christian Airmen Inc. are required to provide grant assurances to these agencies, one of which is that it must be in sound financial shape in order to remain open as a "public-use" airport. The assessed value of the current airport was recently reduced and will therefore reduce the tax burden on the Christian Airmen Corporation. Paying an attorney to attend each and every meeting related to the airport over the past few years is also an indication of sound financial shape. Barring credible financial evidence, I believe the Akron Airport is currently realizing a reasonable rate of return with its current configuration.
2. **The alleged hardship is unique and does not apply to a substantial portion of the district or neighborhood**
By definition of this criterion, it is not the uniqueness of the plight of the owner, but uniqueness of the land causing the plight, which is the criterion. Just because the Christian Airman may find it difficult to run a profitable airport on that land, doesn't mean that the land can't be used to generate a reasonable return. The Christian Airmen must demonstrate that the return from the property would not be reasonable from each and every permitted use under the ordinance. A portion of the property that the Christian Airmen want to expand into used to be farmed. It was their choice to no longer lease the property for farming which in turn has affected their bottom line profitability. The land can be used for permitted uses to generate a profit for the Christian Airmen so the criterion of uniqueness has not been met.

3. **The requested variance will not alter the essential character of the neighborhood**

Expansion of the Akron Airport will alter the essential character of the neighborhood. The property across from the Akron Airport is relatively undeveloped. With the recent addition of water lines in that area, it is reasonable to expect that additional residential building will occur. For example, plans are currently underway for residential development of property along Indian Falls Road. Expansion of the Akron Airport will have a significant impact on the ability of the developer to sell those properties. Any expansion of the Akron Airport will alter the essential character of the neighborhood.

4. **The alleged hardship has not been self-created**

By definition, purchase of property with knowledge of "land use restrictions" is self-creation; ignorance to this fact is not a valid argument. The Zoning Ordinance of the Town of Newstead, in regards to nonconforming uses, was in place on July 5, 1960. The FAA recognized the Akron Airstrip as an official "Public Use" airport on February 1st 1961. Akron Aviation was officially incorporated on January 4th, 1967. The alleged hardship is not a result of the adoption of the nonconforming use ordinance for the Town of Newstead as this ordinance was in place prior to the official "public use" designation of the Akron Airport by the FAA. The Christian Airmen chose to become a reliever airport for the Buffalo International Airport which according to FAA regulations, limits there avenues of revenue generation. For example they can't charge for take offs and landings. If a hardship does exist, it was self-created by the Christian Airmen.

As presented above, **NONE** of the four criteria have been met by the Christian Airmen and as a result the Zoning Board should deny the application for a use variance. The property that the Akron Airport occupies is zoned "Agricultural" and should remain that way. It would **NOT** be in the best interest of the residents of the Town of Newstead to re-zone the Akron Airport to another zoning district. The existing zoning should remain in effect and any application for future building permits from the Christian Airmen Inc. for the Akron Airport should be handled pursuant to the existing zoning law.

As far as the money (\$7.8 million) being paid back for the grants, the airport assurance states that if the airport was to close, they could sell the property for fair market value and repay the percentage funded by government (ex. if they were given 70% , they would repay 70% of the sale of the land) Not \$70.8 million.

Joe Matussek, 15 Colony Place, stated that the airport has not been in existence for 80 years. May 15, 1967, my brother was shooting rats and got shot in the head. At that time it was 1 airplane, Frosty Thayer owned it.

Suzie Kuzody, 110 East Ave., I've lived there 36 years. The noise it creates in the neighborhood is unbearable. They had a master plan with the same concerns a number of years ago. When the pilots failed to observe the rules, I would just call the airport to remind them of this. I'm always pleasant and polite when I call and I realize that their promises mean nothing and there is no one to enforce them even if they did. I usually call after several planes fly over causing me to stop my conversations, turn up my TV, close my windows; this is my home, what gives them the right to do this to my home. My calls are consistent to the airport (gave an example of a call). "We'll take care of it", is the airport response. But I don't think they do anything about it or even care. Most of the time it is young men who answers my calls so I give them the benefit of the doubt because they are so young that they don't know what to do. It happens again and again. My need to come here to tonight was to express and to clarify this. After reviewing the complaint log from the Akron Airport, I have to say that they are making a mockery of this complaint log. Especially on July 13, 2011 – "Heard and saw plane", trust me; I have never called to say "heard and saw plane". Very early on Sat. Aug. 27th, 2011 @ 7:30am a very noisy plane came directly over my house. I called and began to identify myself, the person from the airport said, "I know who you are Suzie, you need to get a life" – then he hung up on her. At 7:31am I called back, "I've tried to have a life! I've tried to enjoy my property and my yard." He then told me that he was a board member and the other night at the board meeting they discussed bringing me up on charges of harassment. He said I was the only one who ever calls and that all the other neighbors are okay with them. "Harassment, Suzie, charges of harassment are very serious, do you know what that means, and maybe you should look it up in the dictionary." Well I thought I knew what harassment meant I am pretty sharp but I decided to look it up anyways. Sure enough, I do know what it means, harass, to be troubled by repeated raids or attacks, torment. Thanks to Raymond's suggestion, I realized that the Christian Airmen have been harassing me for 35 years. Raymond continues, "Get a life Suzie!" I do have a life, maybe I don't have the resources to buy a noisy aircraft and harass the people of the Village of Akron.

Allen Kidder, 27 Bloomingdale, resident of Akron since 1973, I'm recently retired from the Genesee Community College; I'm also a pilot and part-time flight instructor. As a pilot with over 40 years of experience I'm in support of paving runway 29. Runway 29 has been an active runway for over 40 years, allowing pilots to land when we have strong winds out of the Northwest, instead of battling crosswinds on the main runway (7-25). I have made it a point to give all of my students training to land on runway 29 in the event of unforeseen strong northwest winds, which may exceed the demonstrated cross-wind capability of their airplane. I landed on Runway 29 on Tuesday. Runway 29 is a grass runway, making it unavailable when there is snow on the ground. Paving this existing runway will enable pilots to use this runway year-round. Moving the approach end of 29 closer to the Scotland Road will move the touchdown point farther from the center of the village, reducing noise and providing more room to safely stop the landing aircraft. Currently the grass runway only has 1,000 feet available (955 feet were lost when the Runway 7-25 and taxiway were moved and repaved). We want to add the lost runway length to the Scotland Road end. We would continue to use Runway 29 only for landings and would not permit landings on the Runway 11 end, nor takeoffs in either direction, as there is no need. Cross-wind take-offs are not a problem on 7-25 and it is safer to use the 3,250 feet available on that runway.

As a former aircraft owner, I support the construction of the additional hangars so that aircraft currently based at the airport can be stored indoors protecting them from potential damage from high winds, rain, snow, and ice. I have always believed that the airport is an important economic asset to the community. The airport currently employs seven part-time workers (which usually include tow local high school students) as well as providing part-time employment for more than seven flight instructors and full time work for an aircraft mechanic. These workers, as well as the pilots who fly here, the people who come here to experience tandem sky diving jumps, and the airport visitors, all help support the community by eating at local restaurants, buying groceries and gas, and shopping at local merchants. The Akron Airport has been used several times by Mercy Flight to evacuate critically ill or injured people to area hospitals. The Akron airport provides a safe unobstructed place for Mercy Flight helicopters to land at night and in the bad weather. Some of our pilots also volunteer their time and fly for Wings Flights of Hope which provides free flights for all medical patients and our troops. The Airport has also been used by out-of-state customers as well as employees of Cold Spring Construction, Perry's Ice Cream, Brawdy Construction, Strippit, Ford Gum, Niagara Specialty Metals and ADESA Auto Auctions. The flight instruction at Akron provides a career path for young people interested in flying as a profession. Some of our flying students have gone on to become flight instructors, corporate pilots, airline captains and career military pilots. Aaron Conley of Akron is one example of someone who would have not pursued a career in aviation if the airport wasn't here. Many others have come to the Akron Airport just to fulfill their dream of learning how to fly. The planned upgrades are about safety and facility upgrades are not about expansion. I would urge the Zoning Board to consider and support the planned safety enhancements and upgrades to the Akron Airport.

Gary Fogal, 29 Front St., I called 2 weeks ago regarding a white plane circling around on Front St. which there is no good reason for that. The man who answered was wonderful, he took my name/address and said he would notify the pilot and it stopped right away. The next day at 9:50am I called and got a real wise guy "What's your problem?" I told him the same thing and he said that he didn't know the air routes and he hung up on me. There is some truth to what she (Suzie) is telling you.

Charles Carter, 6 Marshall Ave., retired architect. Looking at this master plan it fails to show the adjacent properties, it only shows the airport, not the setbacks or distances from the surrounding area. My second concern is regarding the safety issue. Let me use an analogy, if you are out in a boat in bad weather and I was fortunate enough to make it back safely, would the next time it came up, you'd make a bigger boat or use my common sense to stay home?

Dan Kowalik, 1 Main St. Akron Fire Chief, as it was just mentioned, Mr. Kidder mentioned safety. That's why I'm here tonight to talk about safety. You want to make recommendations to make the facility of the airport. I'm doing that as well. I recommend that you do no further expansion until you put water up there. There is no fire protection water up there. There is water there for bathrooms and drinking fountains, but nothing for fighting fires. Several years ago, to be exact almost nine (9) years ago almost to the date I stood in front of the various boards and asked for water at that time. Nine years later, bigger expansion, still no water, still fire protection. Emergency access roads are blocked in the winter time and the gates from Scotland Road are on the inside of the gates can't get in, we have no keys. Winter time snow is piled as high as the fence and the lane is down to one lane in the winter time, we can't get in. The fire suppression at the tank farm is proposed, restaurants, pizza shops, gas stations are all required to put Ansell systems in. The tank farm is proposed, no major fire suppression there whatsoever in the plans up there, Why aren't they going to have it up there. Public safety, safety of my firefighters and their families, strenuous, long time delays, why do we have to haul water up there? Tanks not available like they used to be by our neighboring fire dept. towns are putting water in the

ground. Tankers are going away so we have to go to Leroy, Alexander – safety of firefighters coming long distance. Early detection systems in the maintenance hangers, we require businesses in the town and village to do it, I'm hoping they are going to do it up there. Comment in the paper about the pilots, what about my firefighters. Look at items 1-8, talking about the T-Hanger and Maintenance fire water protection is #8. I'm asking that the board put the need for water for firefighting at number one before any further expansion happens at the airport. I'm talking if you are going to build a 20 x 20 shed up there; water at the airport is priority number one. I'm asking that the fire fighter safety be number #1.

Bill K –is Mr. Gray from the airport here tonight?

Carol Hill – responded that he is out of town.

Bill K – suggested that the airport put Knox boxes on all locks to protect their investment and allow the firefighters to get in. Something you may want to get with Dan with tonight.

Carol Hill – They have an access key. To address the issue of how they plow Scotland Road, you can't hold us responsible for the way they plow Scotland Road

Bill K – My first variance request as chairman of the board was when the fence was installed, I received reassurances that the airport would maintain the area around the fence as needed and that would include plowing.

Carol Hill – Bookkeeper/manager at the Akron Airport. The fire inspector was up there and never mentioned it. It passed the inspection. If I was aware of it, I would have done something about it.

Bill K – that's why I was suggesting it.

Dale C. – 113 John St. There was a fire on Dick Forrestel's property –a dumpster on fire, I called the fire company and they had to run their foam lines under the gates to get at it. I've lived there about 45 years and the airport was there, I had no problem that the airport was there when I bought the property. The issue is now that I think the same planes that were flying 45 years ago are still flying up there today by the sounds of it. Second of all, my taxes have never gone down in 45 years, how did their assessment go down a quarter of a million dollars, maybe mine should go down. Now we have to pick up the slack, plus we put up all the noise and drainage all the problems, yet their taxes go down and mine go up. It's a strong issue – the airport is there and I'm not trying to close the airport but I don't think we need to let it go on – one of the gentlemen said there would be no expansion there, but going from 60 to 80 airplanes is an expansion.

Daniel Shonn – 13 Bloomingdale, Village attorney (not an elected village official)/resident I've heard the village residents (including Dale Cheavacci) express concerns in three major areas of concerns about the airport expansion. The first is noise. I have lived in the village for 40 years and we have coexisted with the airport for all of those years. We are not on the flight path which is a minor inconvenience for us but it is a major inconvenience for those in the flight path and I quite agree with Dale that when you go from 60 airplanes to 80 airplanes especially during the SEQR process no one has ever put in a base line noise amount. Nothing. I've talked with Carl Klingsmith about this months ago. I asked if anyone has ever done this and he said they may have but we don't really have it. The allegation is that the property can't be used economically, but there is no proof given to you to show that there is an economical problem. So we have no proof economically, no base line noise, we have complaints especially since the paving a few years ago, in the village a number of complaints on East Ave. and John St. with regards to run-off. Well there was a mitigation plan, but the water never gets to the mitigation pond and nobody knows why. The third thing is what about the fuel tanks. You should seriously consider all of the points that the Fire co. raised, they are major concerns. Especially for anyone on John St. Several years ago we had a fire, a large portion of the village had to be evacuated, certainly with a Tank farm with aviation fuel in it, not far from the village, we must be concerned. From what I hear here tonight the board needs to focus on it - is the response that the airport has tonight. We can't do anything about it. We can't do anything about the noise except keep a complaint log. We can't do anything about the run-off because we don't know where the water is going once it gets off our runway. I don't know anything about the fuel tank; one would think you'd have to have a lot of regulation for that. If there is a way to mitigate things at the level at which you can act, I'm sure the village would certainly be very appreciative.

Dan Caprio, 47 Bloomingdale, Representing the Akron School Board, We do have some concerns and have sent letters to the Town of Newstead in regards to our questions and have yet to receive any responses. Some of the questions were noise, how will interfere with the school, run-off, during our project, we found out that run-off was coming from the airport so that is one of our concerns. The other is the flight path of the planes. How is that going to go over the school property? Football practices down at the end near John St. Our job on the school board is the safety of the students. When the wind direction changes, does that put the school at risk. Until these questions are answered, we really can't support it.

Bill K. asked Julie if she had seen any correspondence. Julie stated no. Bill K asked Dan C. where they were addressed to and he stated, Christine Falkowski. Julie stated that they should be in with the other

letters if we had them. The letters were dated November 8th and April 28th. Bill stated that he went to speak with the Superintendent, Robin Zymroz regarding the airport. Bill would like to see the letters and the responses so he'd like to keep the public hearing open to retrieve this information.

Dan C. We have still not had any responses

Greg Brown, 80 Eckerson, when the Town Board gave the federal reserve status to the airport I believe they lost some ability to assess and some covenants that was brought on by that. Only until later did we realize that we could not assess them the way we want to. My question is that if we go to this new status called "airport" how will this be different from the existing federal airport and what you are trying to go to here. What does this actually mean? The other thing I want to address. #3 the variance will not alter the essential character of the neighborhood. I too had a complaint I'm not sure if I'm on there. I did witness two planes side by side about two feet away taking off from the airport on a fairly windy day, I go up to the airport to report a near miss, I was in my own neighborhood at the time I saw it. I received a call from an official of the airport and he told me that it was aerobatics going on and they have a right to do it. They also called it into the Buffalo tower; it is their right to do it. I would like to quote from the minutes of a board meeting, dated July 25th, David Gray stated that "he is not aware of any aerobatic training classes, they do have a certified pilot that does do aerobatics, but no classes. Anything like this is done at a couple thousand feet minimum." It was not a couple thousand feet; this is a hardship that they are bringing on themselves. The planes that do aerobatics I can only surmise have larger engines and do not conform to any of the new regulations. #4 Hardships inflicted, please consider the vintage aircraft that are up there. When we pave roads and improve infrastructures and we all enjoy the safety features, but I dare say that there are not 10% of those airplanes which you are entitled to see that are 10-20 years young. These aircrafts is the same kind of vintage, they can't make the noise ordinances. I bet you there isn't one new airplane up there and it just keeps going, it self perpetuates. These are the types of crafts that you are dealing with up there. The map does not correctly show that flying over the school is good for anybody.

Dave Cummings, Supervisor of the Town of Newstead, Clarence Ctr Rd – I know that you requested at the beginning of the meeting a complaint log from the airport I also wanted to let you know that we have a complaint log. #2 I wanted to address the school board questions in relation with the SEQR study. During that period from Nov. to April I was in verbal conversation with Robin Zymroz, Akron Superintendent. Maybe I didn't send a written reply but I was in verbal contact with her, I apologize. In that verbal communication all of her comments that pertain to the SEQR comments were taken into consideration.

Bill K – so therefore, the school sent a letter responding to the SEQR request

Dave C – they sent a letter stating their concerns and we took those into consideration in our conditional neg dec. It was all verbal and we had several meetings concerning this aspect.

Harold F. – So that this gets recorded correctly in the minutes, I think the school board sends a message tonight that they are not in support of this expansion.

Dan Caprio – I would tell you that I cannot speak on behalf of the board; I can only speak on behalf of our concerns. With the present information that we have been given, that would be a correct statement. We would need some more clarification on some of those concerns and if Dave could put that in a letter so that we would have that because Robyn is no longer with us.

Cheryl E. – I do have copies of the letters in the file and they were sent to Christine Falkowski and yes, Robyn is not here and I also know that she has been in discussion verbally with Dave to answer their questions and in both of the letters she indicates that she received a response.

Carl Patterson –Village of Akron, 7 Buell St., Mayor of the Village of Akron, I'm here obviously as a resident and also as a mayor representing the village residents of Akron – as an elected official unlike Don. I may repeat some of the things that Don said and many other residents. One thing that I will say with certainty is that no one would argue would argue the fact that if truly a project is in the name of safety and I mean measurable safety, there isn't one person that would argue that. As long as it doesn't propel the potential for growth as well. Some of the concerns that we've addressed at our Village meetings are some of the same concerns you've heard over and over again. But the over and over again is the thing that never changes. The drainage problem along East Ave. and John St. is not going away and it's not going to go away with future projects as well. Our village engineer requested documentation of the plan, we did receive a plan, but there is no certainty that that water will go where they say it's going to go, nobody know. The same with the noise, that doesn't change. We can complain, but it's always going to be there. There will continue to be touch and goes that are not related to this project but are ongoing problems that continue to exist. With that being said, now we are talking about fire safety, the fire chief was up here, that's a huge concern, there's a lack of water, there's a lack of fire suppression that is being proposed or not being proposed. I also believe that there is a proposal for underground storage, I question it in the rock situation, how do you have leak protection – we don't know where the water is going, 10,000 gal tank, I know there is leak detection on those tanks, but we

don't know where it is going to go. These are the concerns that we all have. Again, anything that has to do with truly enhancing safety we can all support but believe me the village residents are directly impacted, some more than others, many of directly impacted by the noise day in and day out and I know there are rules to adhere to but I don't think there is any accountability or enforcement on a consistent basis.

Steve Hill, 12926 Carney Rd., I've been a resident here since 1985 been flying here since 1985. I would like to share some of the facts with the board. The fuel farm – there was room for two tanks, there's an double wall, with an outside layer, the tanks are stuck everyday for water & leakage, it's the same safety as the 40,000 gas stations. They virtually can't leak; I'm not saying they don't. As for the gate, the gates are double locked. As for the fire company, I thought at some point unless there were a change of keys, we can get them keys. There are several different spots you can go in to, all the buildings are on the John St. side. We don't use the gate much at the Scotland side. As far as noise, we have a complaint log obviously, it's like in our town that there are transient people that come into town and they may not know the rules on noise abatement procedures. State police use it with helicopters as well as people from out of state and they land there because there is fuel. It's really no different than a stranger coming into town with a loud muffler or motorcycle – it makes a loud noise, it's like that same thing. As far as the expansion is really nothing more than – you don't expand onto your neighbor's property, you stay on your own property. If you want to put a garage up, you put a garage up and store stuff. The additional hangar space is in our property lines, we are basically doing there is so much open space up there we are just putting a row of hangars up there to store stuff. As for the planes, you aren't going to see 80 planes flying at the same time. Different people only fly once a month, they'll be in storage most of the time. If they fly two percent of the month it's a lot. As for vintage planes they all have to be FAA inspected. There's a yearly inspection, you can be sure the 1938 vega is just as reliable as the 2007 cessna. There's no fear there. Another thing, we used to have another grass runway 18 and 36 that was used as a landing runway, extreme north south that was for extreme north /south headwinds for landing, we don't even have that runway anymore. That was on the northwest side by the school. 11 and 29 which we are proposing for having expansion is used only for landings and we actually touch down before the main runway which is 7 25 as far as the school and the school board, there is no way that the plane will even be near the Akron school. I wanted to make it very clear, it is a landing runway only and it will be paved for pilot safety and will not come anywhere near the Akron school.

Mary Nanni, 55 East Ave., I sent the Town Board a letter and a copy of the letter to the Zoning Board. I'm wondering if the airport has any hours. I've had planes fly over my bedroom at 3:30 in the morning waking me up, 6 in the morning, midnight. Are these planes free to fly all night long and early in the morning.

Carol Hill, 12926 Carney Rd., I work at the airport. The airport does have hours. It is from 8am until 7:30pm that it is manned. We have no control whatsoever over who flies in from out of state when our office hours are done. Starting next month our hours will change due to the time change. I would also like to address the complaint log since we've heard an awful lot about that. I have to say as an employee there, as much as the people of the town call up there are pleasant and act very nicely, I've been on the receiving end of that not happening. We're not all the bad people that we are being made out to be here I just want to state that it seems that there has been a gross misrepresentation of what's taking place there. I have taken complaint calls and have been respectful and have answered questions. I will address some of those complaints, especially the helicopters. No airport has control over Mercy Flight or the Sheriff's helicopters – you can't stop them, they have eminent domain. I know they have flown at 9 or 9:45 at night. The Sheriff's tell us they are doing a search but we can't do anything about it. We are doing everything possible and when an explanation is received it must be accepted. I know I spoke to Mrs. Brady, there's nothing I can do, I can't stop them, it's like if a Sheriff's car pulls into your driveway and you tell them to leave, we can't do anything about it.

Bill K. asked Carol Hill, as for the complaint log, what is the review process, is it customary to present the log to the board of directors or people in control so that they are aware of these issues.

Carol, we address it – we address the pilot, when he comes down and lands, what everyone needs to understand is that not every pilot that everyone complains about flies out of Akron. It is not necessarily a hangared airplane there. We are a general use airport; there is no one who can stop them. We do our best to try and control it. What I don't understand is that I'm not a pilot, but some of the things people complain about I don't get - I'm standing there looking out the window at the office at the runway and I just watched that plane and it didn't happen. I work there and I see this. To what degree to we have to address it, we do address it.

Jeff Palumbo – This is a perfect example of what I was saying early. The relevant discussion is moving forward not really what the procedure was before because the town board has instituted conditions and one of the conditions that they have instituted is that CAI shall institute a formal complaint procedure

which procedure will be provided in filing triplicate either at the Town Hall, Akron airport to be filed at the Town clerk, this procedure shall be to publish a complaint telephone number which shall be constantly answered either in person or electronically. A log of all calls including name, address, nature of complaint, date, etc. shall be available to the town personnel at any time, which is exactly my point, I was trying to make earlier. Without these conditions in place you have the situation that you are currently talking about. Somebody calls and says that aerobatics is happening but we'll have a detailed report. It's never going to address the complaints completely because there is an airport there and flying and people don't like it. We will always have issues, but the Town board took the complaints from the school and fire department, including drainage and the conservation advisory council and did their job and incorporated it into the negative declaration. For people to say that their comments were ignored, just simply isn't the case. This is the most detailed conditional SEQR I've seen in years.

Corky K – is there a penalty involved in what you are talking about or are you just going to register the complaints and we can tape them on a wall?

Jeff P. – there are certain ...

Corky K -What is the penalty sir?

Jeff P. – I don't know what the penalty is. It's difficult in the long run to make a determination as to what is a complaint – what isn't a complaint. But the point is that the airport is there and it isn't going away. What can we do about it? What would you like us to do? What would like us to do about the complaints – you've heard all of the discussion here tonight– what would you like us to do?

Bill K. - Where was that actually written, was that actually part out of the SEQR?

Jeff P – Yes, condition #11. We should be discussing all of these conditions because they address everything we've heard here tonight. But there's been no discussion about it whatsoever. I'm not trying to pat the Town Board on the back but they've done their job. They listed conditions, they talked about the drainage, #1 my objection is that there is a drainage problem without any proof that there is a drainage problem. #2 make the conclusion that the airport has caused the drainage problem without there being any proof and #3 it was a continued problem that the airport is going to solve the drainage problem by doing certain things. I don't know why that's fair at all, but now we have conditions set on that as well even though there is no proof at all that it's related to the airport. (Jeff P. read the related condition regarding drainage from the SEQR neg dec)

Bill K – The Town Board has set these conditions and we may even add to these

Jeff P – A negative declaration means just the opposite that the Town Board has determined that this project is not likely to have a negative environmental impact. (he continues reading the conditions – see attached conditions) I don't think this is right but it's the town board that imposed it.

Bill K – Does the airport have the money to post that bond? Where will they come up with it.

Jeff P – it's something that needs to be worked out at the site plan stage which is what the Town board has decided. I'm not happy with it and I've expressed why we're not happy with it.

Bill K – If the town board comes back and states that you have to come up with \$2 million cash, what will you do?

Jeff P – then there will be a law suit because we can't afford it. We couldn't do it. We're trying to be reasonable, and we've been doing that since the first day that I walked in here. Whether the people of this town want to believe it or not, that's the case. We've been doing everything we can to address the issues. The airport is not going away that's the only thing that's going to make some people happy. It's not going to happen, whether these variances are granted or denied, the airport is going to be there. The noise is going to be there. We can talk about this number between 60 and 80, there's no limitation that there will be 60 planes there right now. But we're agreeing to it, this board can't even impose that limitation without our agreement because the Federal law has preempted the issue. This is an airport, there can be planes flying in and out of an airport. They make noise, so what do we do about the noise. We agreed to mitigation, we're getting rid of the noisiest plane there, the plane that has been identified as the noisiest plane, the Cherokee piper that's going away, it's being phased out. There are all kinds of things in here that the board has imposed, again, some of these things I'm not happy about and certainly the airport is not.

John K. Why are you not happy about it?

Jeff P. – Because it's going to be very difficult to do what you said. Like enforcing some of these things, I think we're inviting some additional problems in the end, that's really one of my concerns. #2 I think the federal government has preempted the issue. But I haven't been harping on that because we are trying to come to a resolution that makes everybody in the middle, maybe not happy but somewhere in the middle. These issues were addressed, the school issues with what they raised, we responded to those issues, our obligation is not to respond directly to the school, but to the lead agency, the town board. We did that. The town board took those consideration and their own investigations into consideration at arriving at the conditions that they imposed. It's the same thing with the fire dept. We are aware of the fire dept. comments, we've responded to those and we didn't make the fire chief happy, as you saw this evening but we're doing the best we can with those issues. Again, the town board had

those comments when they issued the conditions on the neg dec. And they have conditions in here that address the fire chief's comments. I don't want to go through the whole list. I want to make it clear that we haven't ignored anything. We've gone as far as everyone has asked us to go and farther quite frankly.

Bill K – I'm not an attorney, but the burden of proof is on you. That's why I haven't read this. The people in the audience, is this something you want to hear, do we want to spend the next half an hour reading through this. No – it is public record and I'm sure the town would give you a copy if you'd like.

Jeff P. – The comment that was made, "What gives them the right to disrupt my home?" I have to exception with that comment. The young lady said she moved there approximately 30 years ago. The airport has been there. The airport was there when she moved in. That's important. You can't move in next to an airport and then complain about noise. The decision was yours to move next to an airport. We're doing everything we can to mitigate that noise. We've submitted everything to the board and they've incorporated some of them, not all of them that we suggested into their resolution. I don't want to lose sight that many of these issues are related ultimately to the site plan and not the variances that are before the board today. I believe that we have presented an absolute solid case, relevant to the issues that were required for a use variance, particularly with the issue of lack of reasonable return. We aren't required to show that the airport is not making any money. We are required to show that we can't realize a reasonable rate of return for any other uses in the current zoning district. It's clear that we can't do that because we do have to pay back the grant. It's not 75% of the sales, we have to pay back the grant money and we can't do that.

Bill K. I've never seen a copy of that grant terms and conditions, is this something you've given to the town?

Jeff P – Yes

Corey A. – the grant assurance was submitted as a supplement to the variance request.

Adam B. – we were provided with this information

Bill K – this isn't the grant the airport actually signed

Corey A. – there's been dozens of grants, in fact, I've provided you with a list of grants since 1999 and the monetary value associated with the grants along with the analysis of the income and operating expenses of the runway and t-hanger application. You've heard a lot of input; this is a public hearing, the public's opportunity to air their concerns. However, when it comes to the statutory analysis that drives whether or not we're entitled to a use variance, your review is limited to the four factors in the New York State Law 267-b (2)(b) although community opposition is certainly something that happens at public hearings, community opposition is not one of the factors driving this analysis. We did have a gentleman come forward and address and give his opinion of the statutory factors but the facts are the facts. And the facts are that we have provided you with numerous pieces of financial evidence supporting that we cannot receive a reasonable return for any use permitted in the district. Anyone who has reviewed the file has seen the income balance sheet, the grant assurances and could have reviewed the analysis of the grant money which has been received since 1999. The hardship is unquestionably unique based upon the fact that this is the only airport in the town and it cannot be put to another use except for the present use to which it is committed to. Altering the essential character of the neighborhood: NYS courts are clear, if there is a similar use in proximity to the current use that is prima facie evidence that it will not change the essential character of the neighborhood. And the test for self-created hardship is plain. If the use was permitted at that time, and was rendered no longer permitted thereafter, it is de facto, and is not a self-created hardship. We've already given you plenty of analysis, three variance application, you have a neg declaration and while it is important to listen to the public's viewpoint, it can only be taken into consideration as it relates to these factors and the evidence that we've presented to you is overwhelming. If you do have any questions specific to the statutory analysis, I'd love to any answer them.

Corky asked if Corey if this is (holding the airport assurance document) what they are referring to in regards to paying back money to the feds for the airport.

Corey A. said correct.

Corky asked if Corey had read pg 14. Corey answered, "yes, I've read it". Corky said, "Well, what you are saying and what the assurance says seems to be two different things." Why don't you read A & B aloud?

Corey A. Why don't you bring it to my attention because I have a copy of it here as well but I'd have to dig it out, if you have a copy, I'd love to hear what it says.

Adam B. read the assurance #13 for the disposal of land

- A. For Land purchase under a grant for airport noise compatibility purposes it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will, at the discretion of

- the Secretary, (1) be paid to the Secretary for deposit in the Trust Fund, or (2) be reinvested in an approved noise compatibility project as prescribed by the property in the vicinity of residential buildings or property previously purchased by the airport as part of a noise compatibility program.
- B. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the of the proceeds of such disposition which is proportionate to the United State's share of the cost of acquisition of such land will, (1) upon application the Secretary, be reinvested in another eligible airport improvement project or projects approved by the Secretary at that airport or within the national airport system, or (2) be paid to the Secretary for deposit in the Trust Fund if no eligible project exists.

Corey A. the land purchase price is used through a land banking procedure where the initial investment of the airport is a value equivalent to the specific land value, the key phrase there that you are overlooking is when the land is no longer needed for airport purposes, and because they have dedicated this as a public use airport. It's going to be used for airport purposes in perpetuity – which means forever. In such a time as airplanes are taking off and landing there, it's needed as a public use airport.

John K. –what if it can't stay open?

Corey A -Then they call in all the grants that have been given and they have to be paid back

John K – they could sell the land and pay back the grants

Corey A - they would have to sell all assets.

John K -You would sell the land and pay back the portion not 7.8 million dollars

Corey A – You are liable for all the grant monies that have been put in, this is just regarding the land, but all the grant monies didn't go to purchasing the land

John K – So then they'd be liable to the 7.8 million back

Corey A – correct

John K – So if they don't have the money, how are they going to pay the money back?

Corey A – How does anyone pay money back they don't have?

John K -They go bankrupt

Corey A – Correct, so we are required to show you that we cannot yield a reasonable return on any other use permitted in the zoning district, we couldn't, we'd go bankrupt, you are making our point precisely, we absolutely couldn't put this to any other use no matter what we do, we'd go under

Adam B – You took the grants so couldn't you also make the argument that that was self-created

Corey A - Self created hardship is not was it self-created, self-created hardship is very limited.

If you were permitted to undertake a use...Let me give you an example, say I saw a nice piece of property and want to put a business there and I go buy it and I apply for a permit to put my business there – Town says Hold on, businesses aren't allowed there, I cannot go for a variance because I knew that businesses were not allowed there when I bought the land. That is a self-created hardship, It's not were there circumstances involved that indicate that you created a problem for yourself that make this less financially viable. It is a unique and distinct evaluation limited to what I explained. Were we allowed to have airplanes when we bought it, yes, it was allowed as an airport when it came into play. Subsequent to that in 1988 the zoning law changed and said, "Look, no airports allowed" the fact under New York State law that is a definition of a non-self-created hardship. That's probably the easiest of all the factors to show.

Bill K. – Yeah, but the grants were taken after

Corey A – that has nothing to do with the grants, the grants have to do with a financial analysis, not a self-created hardship. A self-created hardship is limited just as I stated. There is an incredible amount of case law as I'm sure this board is well aware. We have to show that we cannot make a reasonable return, Mr. Klodzinski helped make the point for us, which is that if we had to do this to put it to any other use, we'd go bankrupt.

Adam B – because of the grants that you've taken that would need to be paid back.

Corey A – correct, because of the grants that we'd have to pay back we cannot yield a reasonable return For any other permitted use. Is the hardship unique to this piece of property or is it shared by all the other properties around it. No it's not shared by all the other properties around it; it's the only airport in the whole town. The hardship is unique to this property. By granting this use variance it doesn't matter for the neighbors, it doesn't mean that the neighbors will have airports everywhere, no, it's the only airport. Will it alter the essential character of the neighborhood? New York courts are clear, if a use is pre-existing in the area it is prima facie evidence that it will not change the essential character of the neighborhood. This has been the character of the neighborhood – it was an airport yesterday and will be an airport tomorrow. I hear people snickering when I say it's been here for 80 years, according to the FAA and I'm going to quote directly, "This property comprises of an established public use privately owned general aviation airport since the 1930s." That's from the FAA. So anyone who says that it's

not, you can take it up with the FAA and that's in our papers that we presented to you and is in the records. (**See note at end regarding unsubstantiated statement and retraction by Corey A).

As the chairman stated, we have the burden of proof on these items, I want to remind you- the board, that if we meet these factors, you are entitled to grant a use variance. You are free to make conditions on these use variances that are directly related and incidental to the use variance and the Town Board has overwhelmingly instituted conditions as part of the SEQR Conditional Negative Declaration that will mitigate against so many of these issues that the public has, and I think Mr. Palumbo was very clear when he said, "Look, you guys have a lot of problems with the airports, look at all the conditions that will be put on the airport if the variance is granted. There will be so much more protection built in, there will be so much more accountability –there was none of that yesterday, but if we grant the use variance today they will be there tomorrow and they are only there to help. Everyone has testified that nothing has changed, the issues that were ongoing, the Mayor came up and he said, "These are problems that have been happening for a long time, we're asking you to simply authorize the use as an airport. This doesn't give us permission to put in a fuel farm or to do any of these things; we offered this map for everyone's convenience. It's not an architectural plans and design and engineering, it's a general guide. "hey guys, this is what we're thinking we'll do in the next five to ten years" these are the things we're going to be looking to do upfront. This is sort of the master plan for the airport. All we're saying is to please authorize the use which has been here forever -we still have to go through all the municipal's approval to put one shovel in the ground to do one thing. Granting this variance today doesn't allow us to put these things in. We still have to have a full set of review from the municipality and get a building permit. What we are doing here is that the use variance authorizes the use from there we still have to go there and do the site plan and I think we've met the task, if there are still questions, I'd love to answer them.

Harold F. Does this constitute an update to the existing master plan that we've talked about that needs updating months ago.

Corey A. There are some updates on it. For example, one of the hangers was moved. This is just a guideline – here's what we're thinking of doing.

Harold F. We've talked about it but our board has not seen an updated master plan

Jeff P. When we were asked by the Town board to provide a plan of the next 5 – 10 years, which is our vision which is why this whole discussion came up about asking for a use variance instead of coming back for every individual thing we address them all now.

Dan Maloney have an airplane at the airport. What I'm hearing is trying to bring the airport down rather than specifically what we are trying to do. It's not a big expansion. An extra runway that will be rarely used a handful of days a month. It would be improved safety to have that available. A lot of the comments heard here come from aviation ignorance, I fly 747s at work, I would think that if I brought my 747 (don't worry I won't do it) all the complaints of horrible hardship brought upon the citizens of Akron. However, these are all small airplanes generally, very often 150 hp or less these Harleys with their pipes make more noise going down the streets than these airplanes do. Harley's and dump trucks make more noise. It's common in areas near airports for people to come up with anything to close the airport and all of the airport is not going to close so all the dumping will not make a difference. You could be sitting in a restaurant and get hit by a SUV – life has its risk and this airport we want to make our airport safer and better for the people who use it –pay taxes here in this Town and spend their money in this Town, businesses come in and out and see it through this airport. So I'm presenting a passionate view pro airport, I believe airports are infrastructures of this country not just some little yacht club-it's infrastructures – class warfare – a lot of these planes are flown by policeman, firefighter, people who work at Strippit plant and so forth, not just rich man's toys like Obama is trying to go after right now. We're talking about real ordinary people with aircraft that they enjoy flying. The county has marina's have taxpayers pay for, we're not asking the town to pay for anything.

Dave C. interesting issues concerning the use variance, I would just request that the zoning board after tonight's meeting to leave a period open for a number of days because I would like our Town Attorney to give his interpretation. The way it's presented is that it's no big deal; the way it was presented to me is that it is a big deal. It eliminates the meeting tonight, there are comments here tonight that people don't like, but the point is I would feel better on behalf of the Town whatever your decision we have to make the next decision to have our Town attorney tell us what that means, it's not that easy as what has been presented and I do put my faith in the Town attorney to give us a valid opinion. Nathan will be back Monday Sept. 26th – that would be the only concern I have, I think it's a bigger deal than what was presented.

Charles Carter - No one is questioning the use of the airport. What we are questioning is the expansion of the use of the airport and the ramifications of the use of the airport increasing the tank farm, increasing the flights, the direction over the runway over residential areas, and I'm questioning the grant

money. Self-inflicted hardship analogy – if I can afford a Chevy but I go out and buy a Cadillac because I am anticipating a raise, well they got the grant money before they got permission, doesn't that create a self-inflicted hardship

Bill K. – my initial though is yes but the young attorney's description of what a hardship is it's a little...

Charles Carter – We are also asked to buy into an system by the majority of the people who don't live in Akron, without the best interest of the community, this is a money issue, please take this into consideration when making your decision

Greg Brown I believe there is a significant difference between a reliever airport and what they are asking you to act on tonight. I don't believe you have enough information at your hands to do a good evaluation. Please look into the two different classifications. I believe there are some covenants which say you can only charge so much which creates hardships.

Mary Nanni – I take offense to the gentleman that said that if we didn't like the airport that we shouldn't have bought there. I've lived in my airport 40 years and didn't even know there was an airport there. I knew there was a gentleman, Frosty Thayer's land and he may have had one plane but I never heard anything. About twenty years ago that it became unbearable, I love my house and I would hate to move. It's unbelievable; you can't even talk on the phone when the plane is going by because you can't hear anything, which I've stated in my letter. I hope you take it all into consideration. Thank you.

Harold F. when you addressed the town's work that they put in on this and they addressed the issues you made a statement that there is no evidence of a drainage problem and I guess maybe there isn't a whole lot of documented evidence, but I will say that I was on the Town board during some of these expansion projects – a drainage system was put in that was found and even admitted to by Passero that it wasn't working. So then they did paving for tie downs and the runway and came up with a drainage approach to put a ditch between the two runways in hopes that that took care of the failed first attempt of drainage. Then I'm not so sure that it has proved itself or it hasn't. Even though your comment was that there was not a lot of evidence of drainage on the town side, there has been some admission on the part of Passero that there are some drainage issues that have incorrectly been approached. Almost to the point or rather to the point, it was almost ridiculous that a fund was set up to address drainage issues that the Christian Airmen were going to establish. If it ever happened I don't know. A very silly figure of \$1000 was determined to put into that fund, that just about gets you your four or five hours this evening.

Jeff P – “not really” – Harold repeated that there was admission on Passero's part that there is a drainage issue there.

Jeff P. stated that Passero would deny it. I would ask you to ask your own Town engineer if they agree with Passero because the issue is that water goes into the rock and it goes wherever it wants to go. It doesn't go exactly where everyone thinks it should go. That's the problem. So what they are doing now is to come up with another system to better understand where the water is going and putting gauges in so it's not that they made a mistake and I think your Town engineer will tell you the same thing. Regardless of that, there is still no evidence that if there are issues or not, that it is related to the airport. No real engineering evidence, I'm not sure about that \$1000 I thought it was \$13000. The other point of the sudden adoption of the issue that this is an expansion. We've never claimed it to be an expansion and we won't claim today that it's an expansion. I think it's related to the issue of the number of 60 to 80 aircraft. Now what we are talking about is putting them inside instead of outside. Again there is no expansion, there is no indication that there will be an increase in flights but there's this assumption that there will be.

Bill K. let's back this up, by extending and paving this crosswind runway to the property that was purchased from Randall and Schrock in 2001 and 2002, you are expanding and going outside the existing footprint of the original airport of the adoption of the zoning law. You sir clarified the definition of expansion at a previous meeting and have met your own definition of an expansion.

Jeff P. The issue with the Randall's was that the property was leased and then it was purchased

Bill K - and I asked for a copy of the lease agreement and have not received it.

Jeff P we submitted the lease agreement months ago

Adam B – and the lease agreement was prior to 1988

Bill K – No

Jeff P – I don't have a date, it was submitted. No one has raised the issue since I handed it in, this is the first that I've heard of this issue right now.

Bill K – That's why we are here because we are viewing this as an expansion. If you wanted to build the terminal because it was part of the existing airport when the code was in place, you could do that.

Jeff P – there have been other times when this board has granted a use variance on an expansion of a non-conforming use on three separate occasions. So where was the issue then and why is it an issue now?

Bill K –Because as you've heard from our residents, our concern is for the airport is getting bigger and bigger. You've already acquired property across Scotland Road now what's the next step do we go and abandon the road.

Jeff P. -That's not the issue in front of the board.

Bill K - 15-20 years, what then?

Jeff P. –We'll be back in front of you again, if that's the case, but you can't deny it because you think that maybe 15 years from now you think we'll be back in front of you again.

Bill K – I know, we can only deny it based on the four criteria

Cheryl Esposito – in response to Harold's comments, there is no proof the airport has or has not caused drainage problems.

Justin Rooney – 32 Bloomingdale, I'm obviously not the smartest guy in the world, but I didn't think I was the dumbest until today. #3 the requested variance will not alter the essential character of the neighborhood. I'm pretty sure that when you go from X number of planes and increase it, that's an increase and when you go from this big and make it this big – that's called an expansion, if I'm here and move over there and buy or lease that property, that that is also an expansion. I've lived here for a number of years, I know we live in a special community and our neighborhood is a small rural community. Most of the people when they purchased their homes there was a handful of airplanes up there, and now to go to eighty is a negative effect on the character of our neighborhood. As a board member I got a letter from Mrs. Nanni, I don't want there to be another situation like hers.

Steve Hill – Carney Rd., As far as the expansion term, the turf runway has been there for many many years, it's no different than if you wanted to take your gravel driveway and pave it – same length, same width, just to make it safer.

Bill K – the paving would be much longer than what is currently there

Steve Hill –it's still within our perimeter.

Bill K – That property was purchased after the zoning code was in place

Steve Hill – as for the operation we close at dark 8:30 starting in June and we'll be going to 6:30/7pm real soon. As far as the expansion people are so afraid of the numbers. Like when you have storage units, not everyone comes to get their things at the same time. All we're doing is putting extra space up there. With the price of fuel, just like with boats, it's affecting everyone – no more joy riding. It's not like a huge amount of air traffic. It is a rural town and a rural airport.

Jeff P submitted the lease with Randall dated 1981 to Bill K.

Robert Scheib –51 Brooklyn St., I'm sure that over the years the file continues to grow on the airport. Most recently I've submitted information about the rock structure, caves that affect the drainage and water problems. There are actual pictures of the caves and so forth. Going back to when Jerry Summe was supervisor I handed in a petition against the airport with over 500 signatures. Just recently I handed in a petition of over 200 names in opposition of the airport expansion. This has been ongoing opposition for the expansion of the airport. The idea about the crosswind runway – having no control over who uses what – people come in - it's like the driveways at Pixley's, even though it says entrance only, people, esp. in the summertime, people from Leisurewood, out of towners go in or out, we have no control, but that's another issue of no control. There's a bi-plane that flies around here, people have complained to me verbally and I said, why don't you call up that plane is very noisy, one guy said he was going to shoot that plane out of the air one of these days. I've done research on Rose aviation. If I was to buy a building and say I was going to convert it over into apartments, I'd have to have a permit. In the definition of an airport it doesn't say that they can rent out space. I don't know how the structure of a definition of the airport is, it's something that should be looked at. Awhile ago the Town Board the legality of having Rose Aviation to have that business properly zoned on that property. Two questions here, tenting and expanding the number of hangars. Now within that complex there is a large fuel station and Rose Aviation, a business. Does the zoning allow that?

Bill K.- a mechanic to operate at the airport is an incidental operation to the airport, so therefore I think it's allowed. Rental of hangars is a key operation of an airport operation, look at the Buffalo Airport, all of the property is owned by the NFTA, all the airliners rent property. Again, rental is probably the key element of an airport operation.

Robert S. –When the Buffalo International Airport became the Buffalo Int. Airport, it was printed in the Buffalo News, unfortunately I could not find that article, the Lancaster airport was suppose to be closed and question if Akron would be closed because of the encompass – Draw a circle – ring one or ring two I remember being in discussion with people regarding the Buffalo airport – also in question airport on transit rd. Lancaster has put in all new runways and moved it away from the railroad. Lancaster people are against that expansion. That has become a large airport now Akron has received all kinds of grants. Then there's the point of the definition of a reliever airport within that is lease agreements.

Dale Cheavacci- We're all talking about expansion and not expansion, I know what I think it is but the lawyers obviously don't. Is there a law to how many flights come in and out of there-cause I'm going to tell you that it's an awful heck lot more than used to be and I live down below so don't tell me that there isn't growth there. Why are we Okaying something that we can't control – they can't even control it? I don't understand with so many flights coming and going and all the noise and everything else that there is no law. Anyone can just fly in and out of there and do whatever they want

Corey A. –it's like anyone can drive on the roads

Harold F -flights come in at 1am in the morning, I can't pick my son-in-law up at the gate at noon. So you can tell me how they jump that fence at 1am.

Carol H. – with regards to the fence, no one can get in or out after hours

Bill K- when a plane lands and there is no one there, there is transient airplane, there is pedestrian walkways for people to leave, is that correct?

Carol H. –they take off and leave, the doors are locked-they get in their planes and fly away.

There is not access for people to leave after hours. There is no way for anyone to get to that airport after hours unless they jump the fence.

Bill K – or land

Carol H – or land, there is a man gate that is totally and completely locked. They have to have personal access to it. We have wings of flights that go out of here, if you need a heart, that's what they transport, if someone needs a liver in Cleveland and it comes from here, many times it is transported here, I will not tell them that they can do that. We have as much control as we can and what the people of the Town want is to push for more control. I don't know how to tell you to do that.

Daniel Shonn – The Village police would be happy to patrol up there if you'd annex to the Village

Carol Hill – They have a card to access the gate

Bill K –they don't have jurisdiction. Would anyone else want to speak? Seeing as no one else wants to comment tonight, originally stated about the school correspondence and I believe I need more time and the Town's Supervisor's comment regarding the Town's attorney's input, not that we want his input to make a decision, I want the Town attorney present when we do make a decision to help us with the correct wording. We are lay people up here, not attorneys so if there are any challenges in court and if I close this public hearing and the school board comes back and says you didn't consider our concerns in your decision, they can come back as well as the airport to challenge our decision, a challenge can come from anywhere, Mrs. Nanni, if you want to challenge this, you can do so, that's what law is all about. I want to have an attorney's proper wording and additional time to review this. In light that we may not have all the information we need to make a proper decision, I would like to motion to keep the public hearing open, and we'll set a date for a continuation of the public hearing and close it then, and work on towards a decision then and then again, we may not come up with a decision that night, we may be working further on that, I may request a work session to get it all together in an organized fashion. Does anyone want to make a motion?

John K. – I think we've heard enough

Bill K – Again the school ...

Adam B. – With all due respect Mr. Chairman, I agree with Mr. Klodzinski, I believe we got what the school board intended and I would like to see us close this public hearing, frankly we have had a lot of time to review this information and we have mountains and mountains of information and at the very least we should close this public hearing.

Dan Caprio –What does the school board intend

Adam B – my impression is that they are not terribly happy with the expansion of the airport.

Dan C. – what I said was that without our questions being answered.

Corky K. –but your questions were answered

Dan C. – but not to the (school) board, they may have been answered by the Town Supervisor and verbally communicated to the school Superintendent but it was never relayed to the school board, we have nothing on record regarding the expansion of the airport. The interim superintendent said there was nothing in the file. So if we can get a written response to answer our questions, we can take it back

to the school board to discuss it. As of right now, without those answers, the school board would be against it.

Bill K. I made my thing but I have to go with the board, this is a democracy - I am asking for a motion to table a public hearing or not

John K. motioned to close the public hearing Bill K – Do I have a second?

Adam B – Seconded the motion

Bill K – Polled the board, motioned decision to close the public hearing

Adam B. – Aye

Corky K – Nay

Bill K – Nay

John K – Aye

Harold F. – Aye

Bill K – Okay, the public hearing is closed. The next phase is to go into discussion.

I motion to table this decision until further review of the current review that we have and possible legal advice from our counsel. All in favor – All Ayes.

Let's set up a meeting date. The decision process is opened to the public, but we will not be taking any new evidence. To clarify the night that we meet we would like someone from the airport to be present to answer any questions we may have. Anyone from the public is allowed to come but we will not be taking any new comments. Discussion of dates took place but nothing was set.

Bill K. we will forego the reading of the minutes until the next meeting and motioned to close the meeting at 10:05pm, seconded by Corky K. All Ayes.

Respectfully submitted,
Julie Brady, Recording Clerk

****NOTE:** Corey Auerbach's quote from the FAA regarding the airport's claim of 80 years as an airport ("According to the FAA and I'm going to quote directly, 'This property comprises of an established public use privately owned general aviation airport since the 1930s.' That's from the FAA. So anyone who says that it's not, you can take it up with the FAA and that's in our papers that we presented to you and is in the records.")

Corey has retracted this statement and was under the mistaken belief that this language came from the FAA as it was placed in quotes in Mary Kay Genthner from Passero's variance applications. When I asked her to provide me with the document from which this quotation came, she noted that it may not have been from the FAA but some other historical materials that she was not able to locate immediately.

Next ZBA Meeting is scheduled for Thursday, Oct. 6th, 2011 at 7:30pm at the Newstead Town Hall, 5 Clarence Ctr. Rd., Akron, NY. This meeting is not a public hearing but is open to the public.