

**Hiram Township Board of Zoning Appeals  
Moore Variance Request  
September 28, 2016**

Board Members: Chairman, Janet Pancost, Tom Franek, Wendell Schulda, Ron Thompson and Alternate, Gary Bott.

Applicant Present: LaVon Moore

Public Present: H. Jack West, Andrew Luckay, Norman Webb, Jim Doll, Leanne Doll, Ron Rohde, Kenneth Swarm, Timothy Miller, Ralph Eckart, Kim Vanderhill, Larry Huffman, Lowell Moore, Laurence Moore, Al Roberts, Zoning Inspector Rich Gano, Matt Merchant from the *Record Courier*, Tom Matota, David Perz, Jim Pinter, Leona Pinter, William Pinter, Tawnya Harrison, Bill Harrison, Dick Wilson, Stan Hervert, Mark Stanek, Frank Arona, Tom Harrison, Debra Olson, Ken Olson, Gary Stanek, Kathy Stanek, David Dade, Debbie Moore, Joshua Moore, Kathleen Harrison, Dan Slechta, Jillian Cofjohn, Chris Knippenberg, Tom Knippenberg, Laurence Lehmann, Dan Malec, Valerie Evitts, Elizabeth Hendricks, George Yukich, Rosemary Yukich, Torry Hronek, Lisa Prigg, Candie Moore, Robert Essell, Bonnie Bertel, Bill Begger, Laura Groselle, Trustee Jack Groselle, Jim Zella, Vesta Clarke, Jean McKenzie, David Quesenberry, Bob Andrew, Dan Lang, Richard Masters, Frank Halterman, Rod Crane, Leigh Mitchell, Luke Thompson, Ralph Knippenberg, Lee Chilcote, Edgar Boles, Brenda Reiner Fromberg, Eric Carpenter, Karen Dade, Michael Fromberg, Trustee Kathy Schulda, Steven Dade, Felibe Amunategui and Christopher Meduri.

Chairman, Janet Pancost called the meeting to order at 6:30 p.m. Mrs. Pancost asked that the Board of Zoning Appeals members introduce themselves. Each member introduced themselves and gave a brief history regarding their experience with Hiram Township and the Board of Zoning Appeals. Mrs. Pancost welcomed everyone and explained the format of the Hearing. Mrs. Pancost asked that the audience silence their telephones and thanked them in advance for their civil behavior.

Secretary, Kellie Durr confirmed that a legal notice regarding the Public Hearing had been published in the *Record Courier* on September 14, 2016 and the adjoining property owners were notified regarding this matter via certified mail on September 9, 2016. A sign in sheet was passed around for the audience to sign in. Mrs. Pancost swore in interested audience members.

LaVon Moore stated that he was representing his father's family farm. Mr. Moore provided the Board members with a State of Ohio Landing Field Certificate for Far View dated June 1948. Mr. Moore stated that he went to Hiram Township when he was told that he needed a certificate of non-conforming for his father's airport. Mr. Moore stated for the record that his father's health deteriorated due to the "stress of the court cases and someone trying to take away his family's farm". Mr. Moore stated that when they found out they needed a certificate for non-conforming to be "grandfathered in", he approached the Trustees who informed him that the Zoning Inspector would handle the same and in light of ongoing litigation, to wait until afterwards. The court case went on for three years, \$20,000 in legal fees and after one week of trial, the farm was dismissed. Mr. Moore stated that he went to the

Township and asked for a certificate and they were advised by their council that he would need to go through the Board of Zoning Appeals. Mr. Moore added that he isn't asking for the appeals process, he is asking for a Certificate of Non-Conforming which should have been issued originally. Mr. Moore read aloud his Letter of Intent:

*The purpose of this letter is our formal request for a Certificate of Non-Conforming, which will recognize Far View Airport located at the corner of Pioneer Trail and Asbury Road by the Hiram Township.*

*Far View Airport was established by Clarence Moore in 1948 (shortly after the end of WWII) and has been continuously active and on all FAA Sectional Maps ever since then.*

*It is our understanding that Zoning in Hiram Township began in 1951 and sometime in the 1980s the Township Trustees added a resolution stated that Non-Conforming Use Permits would be issued by the Hiram Township Zoning Inspector to all pre-existing entities such as Far View Airport.*

*Far View Airport has been continuously active since 1948 and recognized by nearly everyone who resides in the Hiram area.*

Mr. Moore stated that his father was granted money for an easement through the Land Preservation in 2004. In the easement, which Hiram (Township implied) is trustee for, there is a specific description that states the farm, the airstrip and the hangers there and specifies the airstrip on each parcel. The airstrip is 2,180 feet long. Mr. Moore stated that the airstrip is recognized in the easement. Mr. Moore gave a history of the farm and stated that the farm has been in the same family for two hundred years and is registered as a century farm with the Ohio Department of Agriculture.

Mr. Moore read Section 5.15 of the easement aloud:

*Section 5.15 Airplane Hanger: The grantor may improve, maintain, repair, replace, enlarge restore and demolish existing airplane hangar located on the existing homestead area. Although grantor need not obtain approval from the grantee in order to exercise any reserved rights.*

Mr. Moore added that the airport had been recognized by Hiram Township until 2004 when they got the grant. He added that for Hiram to say that they didn't know there was an airport there, it isn't very likely. Mr. Moore stated that it was suggested that he obtain more information on the airport from FAA and Ohio Department of Transportation of Aviation. Mr. Moore provided documentation from ODOT regarding Far View Airport, 1958 Ohio Airport and Landing Field Directory and 1962 Ohio Airport Directory. Mr. Moore added that there has always been a windsock, it has been kept mowed and there have been planes in and out of it. For the past twenty years there have been hang gliders that were towing until recently due to a lawsuit. Mr. Moore stated that they recently graded, rolled and reseeded the airstrip to keep it in better condition for planes to land.

Frank Holderman of Pioneer Trail stated that he did research on Airnab.com and provided documentation from the same showing that Far View Airport has an effective date of November 1948. The documentation was provided to the Board. Mr. Holderman thanked the Board.

Dr. Felibe Amunategui of Shaker Heights stated that the Board has an opportunity to bring relief to this family and referenced the aforementioned lawsuit. Dr. Amunategui stated that this runway has been there without interruption, airmen use this runway to get oriented and it has historical value. Dr. Amunategui spoke highly of the Moore family and thanked the Board.

Leann Doll of Asbury Road stated that she has a different perspective living by the preferred flight take off. Mrs. Doll expressed that the airport is very loud and a nuisance. Mrs. Doll further stated that living in a rural community, you expect certain things but the people flying over her house are not neighbors. Mrs. Doll spoke with someone in the audience. Mrs. Pancost reminded the audience that the person speaking should address the Board only. Mrs. Doll went on to state that these are people from out of town and are taking advantage of the Moores and upset the quite of the neighborhood. Mrs. Doll asked that if the Board has any discretion in stopping this they should. Mrs. Doll added that if this is granted you are opening the door for people to come back and take advantage of their neighborhood.

LaVon Moore stated for the record that Mrs. Doll is not adjacent to the runway, she is 1,000 feet away. Mr. Moore further stated that C130s fly Tuesdays, Thursdays and Saturdays at a much lower elevation. Mrs. Doll showed the Board members her house on the tax map. Mrs. Doll stated that she feels like it is an invasion of privacy. Mrs. Pancost thanked Mrs. Doll for her contribution.

Dave Quesenberry stated that he lives a mile up the road. Mr. Quesenberry stated that he has lived in the area for twenty years and has known the Moore family for many more. He further stated that he doesn't see where this is a concern. The airport has been recognized by The State of Ohio since 1948. Mr. Quesenberry apologized to Mrs. Doll and stated that the airport has been there for seventy years, she has not lived in her home for seventy years and that she moved into the area. He further stated that it appears that Hiram is negligent; Zoning was established after the airport. He added that the Moore family has been harmed tremendously. Lawsuits, death in the family and all they have done is obey the law and live here for two hundred years. Mr. Quesenberry stated that we need to protect these people and thanked the Board.

Rod Crane of Highland Heights stated that he has been visiting the Pinters since the 1980s. He added that while the airport may have been registered on paper, there are not airplanes going in or out. Mr. Crane expressed that he finds the ultra lights annoying as well. He added that the ultra lights were flying lower than 500 feet and he has pictures to prove the same. Mr. Crane added that the Pinters did not know that this was an airport for thirty years. LaVon Moore clarified approach, decent and landing altitudes.

Lowell Moore stated that he helped the Pinters put in their yard. Mr. Moore stated that the Pinters maybe did not know that there was an airstrip on the property when they purchased their land but knew it when they built their house.

Norman Webb, owner of Panorama Farm east of the airstrip, stated that as they take off they often fly over his farm. Mr. Webb stated that he got his pilot license in the early 1980s and "knew that there was an airstrip up here, it was on all the maps". He bought his farm in 1994 knowing full well that there was an airstrip there. The information was available to anyone who was buying land to move into the area. If someone did not research it, it is their mistake.

Karen Dade of Pioneer Trail stated that the planes have always flown over the back of their yard and they are never ever bothered by it. It is lovely to see and she enjoys it.

Jennifer Ray Tomisek of Pioneer Trail stated that she currently lives in the original Moore farm house. The house sits two hundred feet from the airstrip. She stated that she would argue that they bear the brunt of the loudest noise and she has really missed seeing the hang gliders and ultra lights take off. Mrs. Tomisek added that the noise is not annoying and her children enjoy the activity. She further stated that "it is a tragedy what the Moore family has gone through" and she "echoes her support".

Ann Doll stated that they moved into their house in 1986 and had no idea that there was an airport there. She stated that it was not well known and there was no activity. Mrs. Doll further stated that the other people that have spoken live the other way of the runway and that her end of Asbury Road bears the brunt of the nuisance. She added while other people enjoy the airport, she finds it very loud and distressing.

LaVon Moore stated that he use to play touch football with Mrs. Doll's husband in the 1980s and he use to talk about wanting to get a helicopter for his work commute. Mr. Moore stated that unless Mrs. Doll does not communicate with her husband, she is not telling the truth. Mr. Moore added that the airport has always been active.

Jim Zella of Pioneer Trail stated that he has been living there since 2004. He further stated that there have been planes taking off since they bought the property. He added that planes take off and land from his direction depending on the prevailing winds. Mr. Zella stated that they find the air traffic calming. Mr. Zella further added that the Moores are "fine standing citizens, good neighbors and an attribute to the community". Mr. Zella also expressed that "this is a travesty and shouldn't take place".

Jim Doll of Asbury Road stated that he has known LaVon Moore since they moved there and they are good neighbors. He added that personally he likes LaVon Moore, Lowell Moore and that he knew Clarence Moore. He also stated that he knows the Pinters well also. Mr. Doll stated that he works a lot and does not spend many days at home. He added that if Mr. Moore wants to fly planes, "it is all well and good". He also stated that the previous comment made regarding owning a helicopter was "casual silly talk". Mr. Doll further stated that if the Board is considering giving the Moore family a variance, he doesn't have a particularly huge problem with the Moore family using the airport for their purposes, but if it becomes very public again with many airplanes, he has the same feeling his wife described. He further stated that he knew the airport was there shortly after they moved in 1985. Mr. Doll again stated that the Moores have been very good neighbors. He further stated that the extra activity is his biggest complaint.

LaVon Moore stated that "we are not here to discuss whether the airport is a nuisance, we are here to discuss if the airport is active and has always been active". We are not here to discuss whether it bothers you. Mr. Moore further stated that the airport has been there since 1948, before zoning. "That is what we need to look at alone. Not whether it bothers somebody else more than someone enjoys it". Mr. Moore further stated that countless people come out and wave when they are taking off. Mr. Moore stated that he just wants the Zoning Certificate that they should've gotten initially, they were overlooked. Mr. Moore again reminded everyone that this is what we are here for, not does it bother you more than you like it.

Josh Moore, LaVon Moore's son stated that the claims of it "becoming a public thing" is not becoming, it has been a public thing. Mr. Moore encouraged the audience to "look it up".

Bonnie Burtell of Pioneer Trail reminded everyone that the Moore family was sued for nuisance and it was thrown out. Mrs. Burtell added that her husband owned another airport in Portage County and they used Far View Airport from 1980 to 1996.

Jean MacKenzie of Pioneer Trail offered to point out where she lived on the map and further stated that the bottom line is that the burden that is before the Board of Zoning Appeals has nothing to do with emotions but rather to make a decision about the law. Ms. MacKenzie further stated that it isn't about who likes it and who doesn't. She added that the law states clearly that this airport was "grandfathered

in” and there is no need for a certificate since it was “grandfathered in”. Ms. MacKenzie stated that she has consulted with an attorney regarding this matter. Ms. MacKenzie added that this is a classic case of “buyer beware” and reminded the Board members that it isn’t about who likes it and who doesn’t like it but the law.

Steve Dade of Pioneer Trail stated that he lives west of the airport. Mr. Dade stated that as a young child he was aware of the fact that there was an airport there due to the windsock. Mr. Dade added that if a young child could figure that out, so should an adult.

Bill Harrison of Garfield Road stated that he lives a mile northeast of the airport. He further added that the ultra lights are a nuisance. While they are beautiful, they have the most annoying noise.

Karen Dade recalled that her uncle was a pilot and would fly into Hiram from Oregon in the 1960s.

LaVon Moore added that the Cleveland Browns use to use the airport in the 1970s when they were practicing at Hiram College. Mr. Moore recalled family members using the airport to visit their children attending Hiram College. Mr. Moore further stated he is not causing a problem and that the reason they are here is not what altitude they are flying but rather to obtain the certificate that his father should have received.

Tom Matota of Nelson stated that he does not know the Moore family personally or socially and that he is not being compensated for being at the meeting. That being said, he is the Road Supervisor for Hiram Township. Mr. Matota recalled seeing the air strip lights at night. Mr. Matota added that part of his job is to be aware of things and that he has a good vantage point from a high truck. He further stated that to the best of his recollection from 1997 to today the airstrip has always been mowed. Mr. Matota added that he has seen the airstrip used quite a bit. Mr. Matota stated that he enjoys watching the biplanes and thanked the Board for their time.

Dave Quisenberry stated that he has been listening to everyone talk and that what is not disputed is: established in 1948, grandfathered in, recognized by Hiram in the 1980s, continuously in operation, seen by someone who works by the County by a family has been here for 200 years. Mr. Quisenberry stated that they are “grandfathered in” and it is a shame if the term doesn’t mean anything. Mr. Quisenberry gave examples of other nuisances that could be seen in the community. Mr. Quisenberry asked that the Board protect something that is grandfathered in. He added that “right is right and wrong is wrong and there shouldn’t be a question about this”.

Janet Pancost stated that the Board would be taking a couple of more comments and then close the floor to public comments.

Leona Pinter of Asbury Road shared that they bought their property when she was nineteen years old and that they love Hiram. Mrs. Pinter shared that the property was considered rural residential and that they built their home. Mrs. Pinter recalled collecting field stone and having gatherings on the property prior to building their house. Mrs. Pinter also shared that her husband built their house and worked there “sun up to sun down” with absolutely no flying seen. Mrs. Pinter went on to say that they were often outside working on projects and the only time they saw an airplane was in 1989. At that point, they still did not know that there was an airport nearby. Mrs. Pinter stated that this is the only time they saw an airplane until 1997. In 1997 the hang gliding club started. Mrs. Pinter stated that this is not consistent with the rural residential area. It is “loud, noisy and creepy”. The property has an agricultural easement which is for farming, which they love. However, this has all been lost in 1997.

Lee Chilcote, council for Mr. and Mrs. Pinter provided the Board members with a copy of a memo which reflects “accurately what has taken place historically”. Mr. Chilcote stated that the Pinters live on Asbury Road, east of the Moore farm. He further stated that there is no question that the Moore farm operated as an airport back in 1948. However, the facts are that between 1979 and 1997, use was not made of that area on the Moore farm. Mr. Chilcote stated that this information is taken from excerpts of sworn testimony in a court case. In 1997, the Moore Trust made an arrangement with the United States Hang Gliding and Paragliding Organization and their local chapter, Ohio Flyers Hang Gliding and Paragliding Association. The flight clubs were provided with unlimited use of the air field for hang gliding, paragliding and ultra light activities. In 2003 and 2004 expanded that activity to Bob Essell and Bonnie Bertell to use the airfield for demo flights, sales, inspecting, servicing aircraft, sales and personal use. Mr. Essell agreed to a 2012 judgment to cease his activities upon his residence, which is tied into the Moore farm. In 2004 a Moore Trust executed the Agricultural Easement and received \$229,000 for the same. Mr. Chilcote added that it is stated in the easement, the stated purpose and intent is to maintain the Moore Farm as agricultural land by perpetuity limited use of the land to agricultural thus preserving the rural residential character of the township. Mr. Chilcote added that the ultra light activity continued from 2004 to 2016 when it was stopped by the Pinter’s action in court.

Mr. Chilcote stated that the question is whether ultra light activity is permissible under the Zoning Code. Mr. Chilcote explained what constitutes ultra light activity. Mr. Chilcote referenced evidence from a trial regarding the Moores and ultra lights and shared sworn testimony regarding flight altitudes, hours and days that there was ultra light activity. Mr. Chilcote further stated that the ultra light activity caused discomfort and annoyance to the Pinters and their neighbors. He stated that the issue of the use of the Moore Farm for ultra light activity was adjudicated and resulted in a unanimous jury verdict in favor of the Pinters. He added that the nuisance verdict is law and relevant and applies to the Moore Farm. The use of the Moore Farm for ultra light and hang glider use was determined to be an invasion of privacy and a nuisance and is not authorized under the Hiram Zoning Code.

Mr. Chilcote stated that the intention of the Zoning Code is to promote a predominately rural residential character of Hiram Township. Mr. Chilcote reviewed the three districts in Hiram Township and added that rural residential states expressly that no premises should be used, arranged to be used, designed except for a single family dwelling. The Zoning Resolution does not permit in any respect ultra flight on the Moore Farm. Mr. Chilcote added that the Board of Zoning Appeals may not permit any use which is prohibited by the Zoning Resolution. Consistent with this, the Zoning Resolution expressly prohibits nuisances. Mr. Chilcote stated that nuisances are prohibited and the Board of Zoning Appeals has the responsibility to determine when there is a nuisance, that a permitted use will not continue. He added that no permitted use under the Zoning Resolution can continue if it has been determined to be a nuisance.

Mr. Chilcote further stated that ultra light activity is not a non-conforming use. Mr. Chilcote referenced Article VII of the Zoning Resolution stating that “the use must have been in existence prior to the enactment of the Zoning Resolution”. Mr. Chilcote stated that “it must have been lawful at the time it commenced. It must not be abandoned or discontinued and it must not be a nuisance”. Mr. Chilcote stated that use of the Moore Farm for ultra light activity commenced in 1997. It didn’t exist in 1948. The fact is that ultra light activity represents a new use and therefore is not a non-conforming use at all. He further stated that it is nowhere specified in the Zoning Resolution the word “air park or recreational air activity” and the BZA has a responsibility to stay within that Zoning Resolution. He added that if the

Board of Trustees wants to amend and allow an air park, it has to do a Zoning Amendment. Mr. Chilcote added that this Board has to follow the Zoning Resolution which is what he is asking they do.

Mr. Chilcote added that even if there was an airport in 1948 and it continued, it does not allow the ultra light activity to be brought forward. The Zoning Inspector is obligated to issue a certificate of non-confirming use within one year of the effective date. Mr. Chilcote added that this Board does not have the right to issue a certificate seventy years after and that no certificate has been issued or been requested. He further stated that the other problem is that there is a provision in Article VII stating that “whenever a non-confirming use of a structure has been discontinued for more than two years, any use of the land or the structure shall be in conformity with the Zoning Resolution”. The materials submitted show gaps far longer than two years and that reason alone it should be denied.

Mrs. Pancost stated that she would take two more comments and close the floor for deliberations.

Richard Masters of Norton Road stated that he has lived here since 1936 and that he understands the nuisance of farm animals but they are part of the rural scene. He stated that he sat on the Board of Zoning Appeals for over nine years and that his mother was instrumental in getting Zoning in Hiram. He recalled that they use to deny a variance because of this airport. Mr. Masters added that this brings up the legal issue of that variance if you do not offer the certificate. Mr. Masters stated that there is nothing he can do regarding planes traveling to the arsenal and he understands that. He thanked the Board.

George Ukich stated that he lives in the vicinity of Mr. and Mrs. Doll on Asbury Road. He added that he has lived there thirty some years and he never saw an airplane when they first moved it. However, he has noticed a great deal of hang gliders in the past years. He stated that the hang gliders are a nuisance.

Mrs. Pancost stated that the public comment portion of the meeting is closed and stated that the Board could ask their questions.

Wendell Schulda asked Mr. Moore what he plans to do with the airport if he is granted the certificate. Mr. Moore replied that he just wants it to be recognized as it should have been. He added that the Pinter’s council has been stating records from a lawsuit that they were dismissed from. Mr. Moore stated that there is a statute of limitations of two years. He further added that the airport has been recognized and it has always been active. Mr. Moore stated that the air strip has always been mowed and there is always a windsock. Mr. Moore added that he will hold the certificate up proudly.

Mr. Schulda asked if Mr. Moore would allow the hang glider association and other people that Mr. Essell was related to use the airport. Mr. Moore answered that the airport is an airport and should be used as an airport. Mr. Schulda asked if anyone can use the airport. Mr. Moore answered that he certainly doesn’t want to be denied the privilege to fly. Mr. Schulda stated that he has no issue if Mr. Moore wants to fly but what about outsiders? He added that we have testimony that outsiders came in and caused the nuisance and noise. Mr. Moore replied that they lost that court case and were pushed aside by bureaucracy. Mr. Schulda asked how Mr. Moore would categorize the airport if this is allowed. Is it going to be a private airport or a public airport? Mr. Moore answered that it is a private airport listed with private access. Mr. Moore further stated that private access per FAA means that you have to invite someone in. If it says private, you need to get permission. If it is public, you do not need to get permission. Mr. Moore stated that he is not trying to put limitations and conditions on something that they have always had.

Mr. Schulda stated that this Board can grant the certificate, deny the certificate or something in between. He asked Mr. Moore if he would be willing to accept that the Moore family are the only people able to use this airport. Mr. Moore replied that he would not be willing to accept that at all. He added that to put limitations on it is what happened with the hang gliders. He added that now "you are going to give me a certificate but put limitations on it? It doesn't seem right".

Mr. Schulda stated that everyone recognizes that this is an airport. The problem is how it is being used.

Mrs. Pancost stated that another issue regarding the Zoning Code is if it is not been used for two years and it is a non-conforming use, the non-conforming use is no longer allowed. Mrs. Pancost asked what records Mr. Moore would have showing each year what has taken place. Mr. Moore stated that the hang gliders were using it for twenty years. Mrs. Pancost asked for records showing continuous use. She added that just because an airport exists does not mean that it is being used. Mr. Moore stated that it is in the documents he provided. Mrs. Pancost added that "this is one of the critical aspects of what we are looking at today, continuity of use" and asked if Mr. Moore could show continuity of use. Mr. Moore answered that he thought that was why everyone was here. Mrs. Pancost stated that there is conflicting information regarding continuous use and asked if there something that can show us what has been going on there all these years.

Ron Thompson referenced Section 701-1 Section E of the Zoning Code regarding the Discontinuous and Abandonment Clause; he asked if there is anything that Mr. Moore can show regarding maintenance. Mr. Thompson stated that use can be defined in many ways. Rather than get caught up defining "use", he would like to bring in the other side of it. One of the aspects of ownership of property is maintenance. Is there any way that we can show proof of maintenance to show that the property was maintained in such a way that it was not abandoned. Mr. Thompson stated conversely to Mr. Chilcote, "can you support your claims on page one of the memorandum, that it was overgrown with grass and neighbors including the Pinters had not known that there was an air field". Mr. Thompson added that due to the fact that we have conflicting testimony, we have to throw that out. Mr. Chilcote replied that there are excerpts testifying to the fact that the airport was not used for a much longer period than two years. Mr. Thompson replied that he is looking towards maintenance. Mr. Chilcote stated that they testified that it was an overgrown grassy area and that if it was just a grassy area, it isn't being maintained. Tom Franek stated that maybe we could look at aerial photos and see if it was being maintained. Mr. Franek added that overgrown is a nebulous term. Perhaps, it is still landable. Mr. Franek asked how many flights a year do you have to have to be qualified as an airport? Mr. Moore answered one flight every two years. He added that it has always been mowed and had a windsock. Mr. Thompson added that he is hearing that we have testimony telling us it was in use. Then there is testimony that this is not the case. If the board cannot determine what testimony is true or not true, we cannot utilize the testimony that was given and cannot take that into consideration. Mr. Thompson added that it is obvious that the airport started in 1948. The issue regarding the statue of limitations brought forward by Mr. Chilcote does not apply to a case like this. He added that we are left with dealing with hard evidence and that testimony alone is conflicting. Mr. Thompson stated that he is asking for concrete proof, not testimony as proof.

Mrs. Pancost stated that there would be a ten minute recess. The Board will then spend time in private deliberations and reconvene.

Mr. Schulda added that there has been a lot of testimony regarding continuous use of the airport. Mr. Schulda submitted a document for the record, an airport inspection report from ODOT Office of Aviation

dated August 29, 1997. In this report there are five deficiencies regarding the surface of the runways. One of which states that it has obstructions with the primary surface including but not limited to equipment yard, hay wagons, cultivated areas, brush and trees. Mr. Schulda stated that "this shows me that this airport was idle at the time of inspection".

Mrs. Pancost stated again that there would be a ten minute recess and then private deliberations.

The Board members left for private deliberation.

The Board returned from private deliberation. Mrs. Pancost stated that this is a challenging and difficult thing to determine.

Mr. Schulda made a motion to grant the Non-Conforming Certificate with conditions. Mr. Thompson seconded the motion. Roll Call: Janet Pancost YES, Wendell Schulda YES, Gary Bott YES, Tom Franek YES, Ron Thompson YES.

Mrs. Pancost stated that we are going to grant the Non-Conforming Use Certificate to the Moores with conditions. She further stated that they discussed and tried to find a balance honoring the Moore family and their passion for flying. However, "whatever we come up with is not going to be universally embraced". The conditions are as follows:

1. Only Moore family members by blood, marriage or adoption shall operate aircraft on Far View Airport.
2. Only engine powered aircraft owned by the Moore family by blood, marriage or adoption can be used. No fractional ownership is permitted.

LaVon Moore made a derogatory gesture with the use of his middle finger.

3. Engineless aircraft may be operated by any person provided that they are towed or lifted into the air by a Moore family member in a Moore owned aircraft at Far View Airport.
4. There shall be no exchange of money, goods, services, barter or donations in any way to Far View Airport or the Moore family.
5. These conditions are consistent with and must abide by the terms of the Ohio Agricultural Easement Purchase Program deed of Agricultural Easement dated November 22, 2004.

Mr. Thompson made a motion to accept with conditions. Mr. Schulda seconded the motion. Roll Call: Janet Pancost YES, Wendell Schulda YES, Gary Bott YES, Tom Franek YES, Ron Thompson YES.

Mrs. Pancost explained the process of journalizing the meeting minutes. Further, there are thirty days to appeal after the minutes have been journalized. Any appeals should be made with the Portage County Common Pleas Court. Mr. Moore asked if the Board of Zoning Appeals can regulate the fact the Bob Essell has already gone to Court and was given the privilege to fly twice a day every day. Mrs. Pancost answered that the Board of Zoning Appeals has precedence.

Secretary, Kellie Durr scheduled a meeting to journalize the meeting minutes on Wednesday, October 19, 2016 at 6:30 p.m. at the Township Hall.

Mr. Schulda motioned to adjourn the meeting. Mr. Bott seconded the motion. Roll Call: Janet Pancost YES, Wendell Schulda YES, Gary Bott YES, Tom Franek YES, Ron Thompson YES. The meeting adjourned at 9:45 p.m.

