

Tax Map/Block/Parcel
No. 27-21-191

Building Permit/Zoning
Certificate No. 97-2831

Case 4272

OFFICIAL DECISION
BOARD OF ZONING APPEALS
CARROLL COUNTY, MARYLAND

APPELLANT: Dennis P. Young
1585 Francis Scott Key Highway
Keymar, Maryland 21757

REQUEST: An appeal of a Notice of Violation dated September 12, 1997, pertaining to use and operation of a private landing field

LOCATION: 1585 Francis Scott Key Highway (Maryland Route 194) on property zoned "A" Agricultural District in Election District 10

BASIS: Article 17, Section 17.4; Ordinance 1E (The Carroll County Zoning Ordinance)

On December 1, 1997, the Board of Zoning Appeals (the "Board"), convened to hear the appeal filed by Dennis P. Young of the Zoning Administrator's Notice of Violation. The Notice of Violation notes the violation as: "Violation of Board of Zoning Appeals Case No. 657, Use of Private Landing Field in violation of conditions"[imposed]. Board of Zoning Appeals Case No. 657 approved a permit for a private landing field on the subject property with the following conditions:

1. As set forth in the Zoning Ordinance, the minimum length of the runway shall be not less than two thousand (2000) feet.
2. Prior to the issuance of a Use and Occupancy Certificate, by the Department of Building Permits and Inspections, the applicant shall provide the Zoning Administrator with written evidence to the fact that the State Aviation Commission has approved the private landing field.

The following are the Board's findings and conclusions.

We are asked to determine whether the use of the property by the appellant and current owner violates these conditions. We find that there is insufficient evidence to conclude that a violation exists and hereby will dismiss the Zoning Administrator's Notice of Violation.

The Length of the Runway

The Zoning Administrator in issuing the Notice of Violation relied

upon published information that the runway was less than the prescribed 2,000 feet. The reports consisted of aviation sheets and information found on the Internet. (See Zoning Administrator's Exhibit 8). The source of the published reports was the appellant or his predecessor. However, the applicant testified under oath that the runway was in fact 2,000 feet and that the other information was inaccurate. Without a location survey, it is not possible to determine the true length of the runway. The Board finds that there is insufficient evidence to conclude that the runway is less than 2,000 feet.

Use of the Airport Other Than As A Private Airstrip

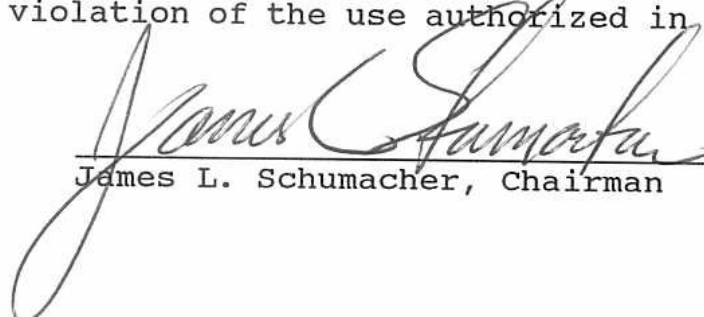
Before addressing this issue, the Board would like to address and reject an argument presented by the appellant. The appellant argues that the second condition in Case 657 deferred to the Maryland Aviation Commission to determine whether the airport was private or public. Once the determination by the Maryland Aviation Commission was made, then he could use the airport without any further compliance with local regulations. In support of this proposition, the appellant sought to introduce Title 11, Subtitle 3, Chapter 4 of the COMAR Regulations wherein the terms are defined. The Board notes that the regulations cited were not adopted until after the decision of Case 657 was rendered. Therefore, the use of the term "Private landing field" in the decision is to be defined as would other terms used in the ordinance and not by deference to the COMAR regulations.

The private landing field in this context means an airport owned by the owner of the property or used by a lessee of the property, and is restricted to the use of the owner or lessee and his occasional guests. Guests are persons invited to use the airport for infrequent, irregular flight operations. The private landing field is not intended to be made public nor is it intended to have any vestige of commercialism, e.g. no selling fuel, no renting tie down space, nor is it intended for the use of a club to which the owner belongs. Mr. Young testified that he does not rent tie down spaces. He has three planes of friends and neighbors on the property. While an increase in the number of planes on the property may constitute a violation of the aforementioned condition, the Board finds that this number and manner of use does not. Mr. Young testified that the recent large number of flights were due to a short term project of erecting a structure on the property.

The Board concludes that Mr. Young's current use of the property, i.e. no flight club operating from the site; no commercial activity on the site, no tie down rental and the limited number of planes on the property, does not constitute a violation of the use authorized in Case 657.

1/15/98

Date


James L. Schumacher, Chairman

IM/bmh/c4272dec.bmh