

ONEIDA COUNTY BOARD OF ADJUSTMENT – PUBLIC HEARING

Tuesday, September 10, 2013

2:00 P.M. – County Board Room, Second Floor

Oneida County Courthouse, Rhinelander WI 54501

Chairman Harland Lee called the meeting to order at 2:00 p.m. in accordance with the Wisconsin Open Meeting Law.

Roll call of Board members present: Bob Rossi, “here”, Harland Lee, “here”, Phil Albert, “here”, Alternate Norris Ross, “here”, John Bloom, “here,” Alternate Jack Young, “here,” Guy Hansen, “here.”

County staff members present: Karl Jennrich, Zoning Director; Kathy Ray, Land Use Specialist; Lila Dumar, Secretary III; Mike Fugle, Assistant Corporation Counsel.

Other individuals present: See attached sign in sheets

Chairman Harland Lee stated that the meeting will be held in accordance with Wisconsin open meeting law and will be tape-recorded and sworn testimony will be transcribed. The Board of Adjustment asks that only one person speak at a time because of the difficulty in transcribing when several people are talking at once. The Board of Adjustment is made up of five regular members and two alternates; John Bloom has recused himself today. Therefore, Alternate Jack Young will act as a full member in today’s proceedings. Anyone wishing to testify must identify themselves by name, address and interest in the appeal and shall be placed under oath. Chairman Lee swore-in those individuals wishing to testify today.

Secretary Phil Albert read the Notice of Public Hearing for Appeal No. 13-009 of the Town of Woodruff, Michael K. Timmons, Chairman, PO Box 560, Woodruff, Wisconsin appealing the issuance of Conditional Use Permit #13-288 of Howard Young Medical Center, PO Box 470, Woodruff, Wisconsin, to expand an existing air transportation service to a 24/7 availability, to construct a helicopter hangar/ambulance garage with a parking pad and a 12,000 gallon fuel tank at the Howard Young Medical Center, 240 Maple Street & 301 Elm Street, Woodruff Wisconsin, identified as PIN #'s WR 1720, 1130 and 685 and 686, Town of Woodruff.

Secretary Phil Albert reviewed the Inventory of Documentation Reviewed which shows 141 letters of support; 3008 petition signatures in support; and 2 letters of opposition were reviewed by the Board of Adjustment prior to today’s public hearing. This document is part of the record of today’s public hearing and is attached hereto.

The Notice of Public Hearing was published in the Northwoods River News on August 27 & September, 2013; and was posted on the Oneida County Courthouse bulletin board on August 20, 2013. Mr. Albert noted that the proof of publication is in the appeal file; and noted that the media was properly notified.

Secretary Phil Albert stated that an onsite inspection was conducted on this date at approximately 10:05 a.m. to 10:55 a.m. for appeal #13-009. The location for the inspection is 240 Maple Street and 301 Elm Street, Woodruff, Wisconsin. A Spirit Helicopter landing and take off was observed twice. The first time was from the area just in front of the ambulance garage and emergency entrance. The second time was from 4th Avenue and Spruce Street. Present at the onsite inspection were the members of the Board of Adjustment; Karl Jennrich, Zoning Director; Mike Fugle, Assistant Corporation Counsel; representatives from Howard Young Medical Center and numerous neighboring property owners.

Chairman Harland Lee stated that this is not a Denovo hearing. This is a hearing on the record. The Board has set perimeters for the public hearing. Each of the principle parties were advised of this in a letter dated August 22, 2013 from the Board of Adjustment. The content of the letter follows.

August 22, 2013

RE: Board of Adjustment Appeal #13-009

The Board will conduct a hearing on September 10, 2013, and exercise those rights and powers available to it pursuant to Sec. 59.694(7) stats. The record is very complete, and the submittals of the parties are quite comprehensive. Accordingly, the Board has determined there is no need for a *de novo* hearing, which would be conducted in such a fashion as if no prior hearing had been held. That is not necessary. The Board has reviewed and will continue to carefully review all submittals. An inventory of submittals will be provided to both parties. The Board would appreciate a "position paper" or a memorandum that sets forth the matters at issue, all supporting facts, the law believed to be applicable, and the relief requested by each party. Additional submittals will be accepted, provided they are not redundant or repetitive. Each party should select no more than two (2) individuals to speak on its behalf and engage in an open dialogue with members of the Board. The position paper or memorandum, together with any new relevant information, should be submitted to the Board by September 4, 2013. Copies must be provided to the other party. Sincerely, Harland Lee, BOA Chairman.

Chairman Lee stated that the Board will hear testimony from (1) Town of Woodruff, (2) Oneida County and then (3) Howard Young Medical Center. Following that, the audience will be given an opportunity to speak. The appellant and opposition will have an opportunity for rebuttal and then closing statements. The public hearing will then be closed from further testimony. Consideration and additional questions can be asked by the Board members of the appellant or the opposition during deliberations. The public may stay for the disposition of the appeal.

Upon conclusion of the deliberation of the Board, the Chair will call for a motion and a second, and a roll call vote will be taken for the decision of the Board.

Appellant Testimony.

Mr. Timmons: First and foremost the Town of Woodruff is not against the Spirit Helicopter. We are questioning the placement of the hangar and fueling facilities. We support the need for the medical tools. We are opposing the 73% increase in the flights—which is from their conditional use permit from what they presented. Since then, the new facts as stated in a letter dated August 6, 2013 from the Federal Aviation Administration that all approach/departure route operations are to be conducted on either the approach path centered on a 071 heading or the path centered on a 191 heading using the middle of the TLOF as the center of the compass rose. It says that and then goes into the VFR Rules and Regulations. That was part of the contention and we asked early on that a condition to be placed on it. The zoning committee would not do that. Now I believe the FAA is agreeing with what I said. I sent the berm pictures and drawings to the FAA when I got them and they came back marked from the DOT. I have copies for you. I had not seen this information. This was on September 5, 2013. I had not seen this information before. But it appears it will not conflict with the operations of the heliport to be conducted on 071 or 191. The berms are outside the approach/departure paths. They are saying that the flights have to stay on path. That was one of them. The standards in the minutes we have questioned in numerous locations. On some of the facts from the minutes from the actual meetings, I don't know if you want me to go through those specifically with you.

Mr. Lee: We have the minutes of that meeting. We have gone through that. If there is something specific you want to point out, you are welcome to do that.

Mr. Timmons: There are a lot of things that were passed. A lot of comments that were made back and forth that contend that all the standards have not been met. There is a quote by Mr. Holewinski in there that says the Albano property will still be affected; the berm will have no effect on him. They accepted the report of a real estate broker instead of an appraiser for an opinion. Those types of facts that swayed the thing over, we feel made a big difference in it. And the other, with the packet that I was handed this morning out on the site, with all the signatures on the petition, I believe that if this side of the story had gone to Crandon/Rhineland and said that time saves lives, the fact that we are moving the helipad from the Rhineland site where they have 34% of all flights originating from St. Mary's according to paperwork, we could have very easily gotten that kind of signatures in that area where we are taking away the service. And some of the comments that have come in recently and facts that I have received in the last few days from the Manitowish Waters Town Chair, etc., those same things would be Stella, Enterprise, Crandon....we feel that those people, and we don't hear St. Mary's screaming, that they are losing precious minutes now. So the "minute's argument" we really feel is truly emotional. They won the battle 2 years ago when they moved the helipad from east to west. We are still asking for relief on the placement of

that structure and the fueling facilities in the most residential part of the Howard Young Campus where we still feel has not truly been reviewed; the zoning districts are Business and Single family, and aviation does not show up in either one of those categories.

Mr. Lee: Any questions from the Board for Mr. Timmons?

Atty Koopman: So Mr. Timmons, you are questioning the placement of the hangar as well as the fueling facility which would be the storage tank?

Mr. Timmons: Yes. That's what we have always stood by, that is what the conditional use permit is for—for the expansion of the helipad. From a helipad to a heliport. The operational end of it.

Mr. Lee: Mike, are you referring to the Planning and Zoning Committee hearings held before this? The Planning and Zoning Committee voted on this. Was that a unanimous vote?

Mr. Timmons: Yes, it was.

Mr. Rossi: Mike, you referred to the letter from the FAA stating they had to stay within that flight pattern. I recall reading something from Minneapolis FAA stating that it is the pilot's responsibility for the health and welfare of everything, and that they can change depending on weather conditions and so forth, their flight plan.

Mr. Timmons: The letter in my hand, dated August 6th, 2013 to Charlie at Howard Young Medical Center, Item #A. "All approach/departure route operations are conducted on either the approach path centered on a 071 heading or the path centered on a 191 heading using the middle of the TLOF as the center of the compass rose. The same paragraph I read before. Webster's definition of "all"—entire, wholly, etc. I do have a Webster's with me if anybody doubts my answer to that. Mike picked on our definitions in our comprehensive plan, so I brought it along so if anybody wants to, you can. And then showing the pictures of the berm to Mark from the WDOT/FAA end of it, his reply back was that the berm would not affect it because it is not in the flight paths and all flights are going from 071 and 191.

Mr. Albert: In terms of the fire department and its staffing, I assume they have had training either in the past or recently to deal with helicopter flights in and out.

Mr. Timmons: No.

Mr. Albert: They've never had any?

Mr. Timmons: No. We have not been trained. We have been trained through landing of a helicopter. We have done very minor training in-house with FAA because we had an occasional helicopter flying in. We have not done any formal training through National Fire Protection

(NFP). Once we have a heliport in place we are going to have to go forth and do that. There are three different NFP standards that are in Circular 150-5390-2C that they refer to that we are starting to pursue doing.

Mr. Timmons: The other thing that we do have, are the complaints filed by the local neighbors of flying outside that flight path and that type of thing that we brought with us. And we only have a part of the complaints. When they first started they were calling the complaints back to Howard Young themselves, they weren't bringing them to the Town at first. So we do not have a complete list of them, but when we realized they were calling them instead of us to let us know, we changed that.

Mr. Lee: You made reference in your remarks to the petition which you received this morning. We did not receive that petition until this morning either. But I need to tell you that. And I don't want to be misunderstood on this. For those people who signed that petition, I understand the emotion. I understand the sincerity, but this is not a question of numbers. This is a question of the law. This is not a popularity contest. That petition certainly is impressive, but it is not the basis on which we make a decision. I want you to know that and again, those people who signed the petition, don't misunderstand me. It's an expression of your feelings and how you feel about this, but it is not the basis on which we make our decision. It is not a referendum.

Mr. Timmons: I couldn't agree with you more and that is why I questioned it and we feel the same way. This is not about popularity. But I think the numbers would have switched if we would have done the same.

Mr. Albert: You made a comment that as far as the real estate prices of adjacent properties, that Howard Young used real estate agent or broker rather than an appraiser. Have you or any of the parties involved used an appraiser to determine that the properties could be or would be affected?

Mr. Timmons: I've gotten some opinions, but as of right now there has not been any sale data or facts that an appraiser can work off of. There are no facts because the change has not happened and there has only been 1 or 2 truly neighborhood properties that have sold or have been for sale in the last short period of time.

Mr. Young: You mentioned emergencies that would possibly happen and your Department is not up to speed, you might say. Have you ever thought of using the Emergency Management Department of Oneida County to get you up to speed?

Mr. Timmons: We have not discussed any training with them. Up until I got these latest and greatest sheets of what standards that we have to go by, the opinion has always been whatever advisory circular or anything like that, we have not gotten deep into it. Because an occasional flight has not been an issue. Now it's the FAA Standards that have to be adhered to. And I

believe I did talk briefly with Ken Korten Hof. We are going to have to go outside to educate because in-house through Nicolet College is not there for it yet (heliports).

Mr. Hansen: As I read it, one of the conditions is that Howard Young and the Town of Woodruff reach an agreement regarding temporary controlled traffic on Pine Street and 4th Avenue. So that would be in progress I would assume.

Mr. Timmons: We have been working on it through Indemnification Agreement. That's the way it sits right now, but it has also been discussed to vacate the roads. As of just prior to the meeting this morning our insurance company agrees with the terminology of the agreement and we have a one month insurance policy sitting on the table that expires at the end of this month, so we have a month Indemnification Agreement and then it is open again.

Mr. Lee: I am going to move on to the County.

County Testimony.

Mr. Fugle: Mr. Chairman and members of the Board, certainly we appreciate you reviewing the volumes of materials submitted and as I understand it, you are making it part of the record. If not, I would so move that it become part of the record.

Mr. Lee: They are part of the record.

Mr. Fugle: Just briefly, in terms of the issues raised by the Town, certainly #1 is not relevant to the discussion regarding the prior change. I think that additional frequency of use is not a basis for denial or not allowing some use to continue. We did reference the Seitz case, Waukesha County v Seitz. If the Board would like a copy of that, I can certainly provide it.

Mr. Lee: We have your comments about it. For the benefit of the public who are here, can you in a couple of sentences summarize that case and what it says?

Mr. Fugle: Waukesha County v. Seitz. There was a marina on Lake Milwaukee. It began in 1969, I believe, where there were five boat slips and a dock which I believe was 70 or so feet long. Moving into the early 80's. The County sought to discontinue Seitz's use of that as a nonconforming use. The Court of Appeals determined that a mere increase in usage in no way vacated the prior use or in any way changed the character of the use. At the time the issue was the dock length extended to about 160 feet, the berthing slips had increased from 5 to approximately 70. So, this case, when you are talking about the sheer increase in volume, there is a much larger, more substantial increase that occurred in Seitz than would occur under the proposal here and CUP. So I think this case is dispositive. Just to note in the Town of Woodruff, under #3 11 a-d, I don't think those accurately reflect the text of 9.42 of the standards and I would refer the Board back to the transcribed minutes of the Committee making its determination. I will note that Howard Young made numerous references to the flight paths.

They did file a Fly Safe Plan. I don't know how many reports of variations from the flight paths the Town has received. One may be subjective, too and ultimately in terms of pilot safety, if there is a deviation there is likely a reason for that deviation. Finally, in looking at the conditions as requested by the Town of Woodruff, condition #1 that there be no height restrictions so long as the property is not owned by Howard Young Ministry, I'm not sure if there is any height restriction other than that which is naturally occurring within the ordinance. I think that in many cases, that property is subject to the size of the parcel in terms of how large it can be built in any extent. The condition #2 regarding the diminution in property values because of the heliport, the Committee did discuss that. The Committee determined that it was not an appropriate condition to put on the CUP. As I advised the Committee at that time I believe that could be a regulatory taking by the County and thus the County could be liable. But more importantly, I don't know how you determine what loss there is over what time frame and I think there may be an argument that if Howard Young has this heliport and they expand some type of and Acute Cardiac Care Unit, that the land may become more value to parties who would seek to build some type of assisted living facility promoting the fact that they are close to an Acute Cardiac Care Center. But also troubling with #2 is that in that instance if Howard Young is on the hook for diminution in value, are they also sharing in some profit if, in fact, it makes the properties more valuable. I think there is many problems with such a subjective determination in that matter in any event. #3—the flight path, I think that has been addressed. Condition #4 that is one of the conditions contained in the conditional use permit. Finally, in summary, I think as this Board will do, the Committee reviewed a great amount of testimony; a great amount of submissions; had a public hearing; took the time to reschedule a time for a decision that also occurred at Woodruff and I think the Board can see the decision making process and the adherence to the standards in Section 9.42 and thus I believe that this Board should uphold the issuance of the CUP as issued. I have no further comments at this time.

Mr. Lee: Does the Board have any questions for Mr. Fugle? [No one responded].

Mr. Lee: Mike, the Board does have a copy of the Town of Woodruff Comprehensive Plan and has referred to it in reference to all of this, just in case you have any questions in that regard.

Howard Young Testimony.

Ms. Oungst: My name is Laurie Oungst. I am the regional Vice President of Hospital Operations for Ministry's Northern Region Hospitals that includes Tomahawk, Rhinelander, Eagle River and Woodruff. Howard Young Medical Center's original request for a conditional use permit and continued persistence has and continues to be motivated by nothing other than the interest of improving access and responsiveness to those in most critical need. I want to emphasize that over the past 10 months sincere efforts have been made to address the many questions, suggestions and concerns related to the relocation of the Spirit II Air Ambulance to the Howard Young Medical Center Campus. A service that operating from a central location on

a hospital campus can benefit the region as a whole. With respect to the matter of issues outlined by the Town of Woodruff, I simply ask that you review the extensive record and the document that was prepared and delivered this past week as well as the documents that should be included in your record in preparation for today. There continue to be gaps and clearly the matters at issue in understanding and acceptance of the alternatives that were researched as it relates to location; or the questions related to “minutes” as we have had expert testimony from those who provide the direct patient care and at the bedside of the patient—the physician, nurses and others that are part of the record to demonstrate that there is a translation to the impact of minutes and essential outcome for that patient. I know a good bit of concern continues to reside around the issues related to safety. I would like to turn it over to Phil Becher of Becher Hoppe Engineers & Associates.

Mr. Becher: Mr. Chairman and members of the Board. I am Phil Becher representing Becher Hoppe Engineers and Associates. There are a couple of issues that I would like to speak to that Mr. Timmons raised. And I would like to do that at this point. I hope to be brief and informative, but there are some issues of FAA substance that unfortunately could be a little worrisome. Again, I will attempt to be brief and helpful. And please call me on it if I am not. Mr. Timmons did raise an issue on the hangar and fueling facility. I would like Mr. Dahl who is behind to kind of point to make sure everybody is clear. The Howard Young Medical Center has been working with us to ensure not only the aeronautical issues but also the response to several comments from the public; the orientation of the building has been changed to align more directly with the helipad; the angle of the north face has been shifted so retracted and reflected noise will come back into the parking lot area. In addition, the above grade fuel tank, a facility for fueling of aircraft has been moved to the east side of that structure. Previously it had been shown on the west side and that was a concern of the area residents. We prepared a revised site plan to take that into our accommodations for the development. A second point raised is the issue of the approach paths. This is the area where I don't want to get stuck in dogma, but I do need to clarify that the approach path that they are talking about centered on a 071 heading or the path centered on a 191 heading have been part of the presentations made to the FAA since early October of 2012. So these are the original headings that we designed into the approaches and those flight paths vary in width. They are an incline surface of 8:1 that starts out as 66 feet wide and 4,000 feet later it is 500 feet wide. So the helicopters flying into the path have some, although small, latitude to vary their approach based on weather conditions, winds, or whatever in order to approach the helipad safely from the northeast..... So again, it is not a single vector that a helicopter would fly into that facility. We are not talking X Box 3's or PDA's that have all sorts of software on it. A helicopter has to have a little bit of wiggle room to fly safely and make sure you've got operational constraints necessary to get patients, pilots safely on the ground. So the surface that we are talking about is not a single line vector of a specific true heading; it is a surface of defined width and that width has an angle up and is displayed with a broader dimension 4,000 feet away from the edge of the tail. One of the things I need to make sure is that everybody understands the difference between TLOF (take off and landing area), which is the concrete square that you saw with the markings on it at the facility and FATO (final approach and take off area) and that was the asphalt that was

around the pad. So those are two discrete things. Also from this morning, I did time the first approach that came into the helipad. From the time that we could hear it, to the time it touched down was four minutes. The prevailing winds at that time were out of the south-southeast. Based on the windsock when the aircraft lifted off, it departed to the south into the winds and basically within 60 seconds that aircraft was beyond audible range. The second occurrence that was flown into that facility was to the west of the helipad. I think all of us heard the slap of the rotors about 2 minutes out from the landing. And there again, the departure to the south was into the prevailing winds and that was less than one minute until it became pretty much background noise. One of the reasons for that site and one of the reasons for the new angles that we have on the approach/departure surfaces was the fact that prevailing winds are out of the south-southeast. Part of that discussion is what is referred to as the helipad protection zone. That is a strong recommendation by the FAA to control people, personnel and property under the approaches into the helipad. There has been some concern over a property to the north along Pine Street just north of the maintenance facility for Howard Young. We took a look at that. The closest corner of that parcel to the approach surface is roughly out of the approach radius 130 feet and out of the approach surface by 65 feet. What that means is the air space above that corner would be roughly 54 feet above existing grade. At this point the zoning on that particular property is not residential. It is commercial. There are provisions within the County requirements that a limitation of 35 feet on structure height or if there is going to be a variance over and above that dimension, a conditional use permit would have to be applied for, for anything developed on that property. So the vertical constraint on that property is County-based, not helipad or heliport based. So if there is an issue with a building that is going to be placed in there higher than 35 feet, all that would have to be done is for a construction light placed on the top of the highest point of that structure. It is not a limiting factor for the 14th or 15th time I've said that. So I wanted to clarify the map and what we are looking at relative to the Heliport Protection Zone in the area of that parcel. Coming back, Mike is correct obviously §53.90 (2) (C) is the FAA guidance relative to heliports and helipads. Becher Hoppe....was to get them an improved helipad with two approaches with a lighted.....with enough safety measures to protect both the pedestrian and vehicular traffic in the area of the helipad. We had always anticipated that there would need to be staffing put in the field to protect the roadway system circulating around the helipad and Howard Young very early on, accepted that as part of their challenge. There was also a discussion on the flight paths, and although I don't need to be redundant I do want to make a point that the flight paths that we are talking about, we are not flying a 747 that can travel in a straight line with all sorts of environmental concerns. We are talking helicopters. They are wind sensitive. They are obstruction sensitive. Again, it is the pilot's discretion for a safe operation to fly that aircraft. The surface then increases the width from 66 feet by the edge of the FATO to the width of 500 feet to 4,000 feet upwind and that surface is what the helicopter needs to be considered as their flight. The FAA correspondence of August 6, 2013 again makes reference to the true heading. And those headings are the same as magnetic headings that are shown on our drawings. There were no surprises in their comments. And the constraints that we had and we still have to correct a couple of issues in the field relative to the paving of the FATO and that will be accomplished as part of the follow up work simply to correct that or incorporate that with

the development of the hangar facility and earthen berm. If there are questions on any of the quantities or what not on the berm, I can also speak to those. That would be at the preference of the Board.

Mr. Lee: So the helipad as it currently exists and is used right now, meets all FAA requirements. Is that correct or not?

Mr. Becher: That is not correct. Remember, there was the concrete square in the middle that Mike made reference to? That does need some supplemental markings on it to give rotor diameter and gross weight of the heaviest aircraft that that facility can accommodate. There is also a yellow painted circle that in essence would be the rotor sweep so the pilot knows where to center in the concrete. In addition, the grading on the asphalt paving is too steep and that FATO asphalt is meant to accommodate the helicopter if things go a little bit wacky near the ground. That is so steep that if the pilot gets off on that area, there could be a challenge with stability. So that area has to be elevated on the outside to lower the grading on the asphalt paving. There are four in-pavement yellow corner lights that you may remember...they will be replaced with high intensity lamps that will be placed to the west of the helipad to broadcast light on to the surface so inbound pilots can visually pick out where the helipad is. Those lights are going to be switched from in-pavement up shooting lights. Those lights would not be very handy with infra red goggles. So those lights will come on just to help identify where the landing area is and then they would be turned off on the final approach. If, and this is a subtle point I must admit, if one stood in the middle of the compass rose, which is the center of the TLOF, and looked to the south, the way the obstruction lights are set up there is a goal post and three alignment of red obstruction lights to give the inbound pilots visual guidance on the path to be followed into the helipad. From northeast, you've got two sets of goal posts to travel through. And that sets the....approach surface coming into the helipad from the northeast. So there are just subtle things to be done to keep safety the prominent issue. Both for the pilots, more importantly for the patient and with the response plan that the hospital is putting in, also for pedestrian and motorists who are coming into the facility who may or may not be aware of the helicopter operation being imminent or in process.

Mr. Lee: So these are things you would have to do to meet the requirements whether this expansion of service and the hangar were done or not.

Ms. Oungst: Correct.

Mr. Lee: And you are going to do that?

Ms. Oungst: Yes.

Mr. Lee: They don't sound too difficult to do.

Ms. Oungst: No.

Mr. Lee: You are on it?

Ms. Oungst: Yes.

Mr. Koopman: There are remedial measures that you described that need to be taken, some of which are highly technical in nature. Have any or all of them been reduced to writing in some form of submittal that this Board can work off of? That's too much to take down in a short time. So that what you have indicated of going to do, is that memorialized in some form of writing that the Board can use and incorporate by reference?

Ms. Oungst: Yes. In the September 4, 2013 submittal, and attachment A, the two letters of approval with the conditions are outlined. There are notes that all the conditions have been met with the exception of painting on the surface of the helipad itself, the additional adjustments to lighting was news to me, so we will make sure that those corrections are made. The plan for the painting and the grading issue around the FATO was planned for this fall. Again, depending on outcome of the hearing, we will move forward with construction to combine all of that together because the helipad itself would have to shut down for that particular work. So, depending on today's outcome, the work will be done; timing of the work is the question.

Mr. Lee: I have a question that involves both the Town of Woodruff and Howard Young; and it refers to the discussion you were having concerning the closing of several of these streets. In your packet that you submitted on the 4th, there was a proposed agreement there. What is the status of that, Mike? Is this something that you are pursuing now?

Mr. Timmons: We have had a discussion at a Town Board meeting a couple of weeks ago on this and it was put back. At that moment, Laurie did not have support from her Board. And we and all the property owners agree to vacate these roads. As of last week there has only been a slight discussion with the other property owners and whether they are willing to shut that road off in front of their property or not. And that hasn't gone any farther unless something happened from Thursday of last week on. But it has just been general conversation; nothing in black and white except we have something proposed that didn't have full action on it from Howard Young.

Mr. Lee: Would it be fair to say that this is something that you think you can agree on; these sections of these roads can be shut down. That would improve the situation here as far as that landing area is concerned.

Mr. Timmons: The indemnification agreement clears it enough for the Town. It should have been done back in 2011; we didn't know any better until we delved into this. But that agreement will take the liability off the Town's people and put it back on Howard Young. So the operation can continue undisturbed as it is right now. The part on the streets, I can't

commit to because the other property owners that have say in this haven't given me their opinion yet because that conversation has just started.

Ms. Oungst: For the past couple of months we have been working together, exchanging the legal agreement to make sure that we were satisfying the Town's Insurance Company and the Town Board's need for language. So we have been going back and forth working on that document. From what I understand, we are at the point where that agreement can be signed off. I made reference earlier that the agreement will be good through the end of this month. That reference is due to the fact that we will be changing insurance companies but have every reason to assure the Town that the new carrier will carry the same similar insurance and coverage.

Mr. Lee: It sounds like you are working together in this regard to address this issue. And again, this is an issue that wasn't necessarily related to this particular appeal regardless of what would happen it would have to be done with the helicopter coming in there anyway.

Ms. Oungst: Correct.

Mr. Lee: We would encourage you to do those cooperative kinds of things.

Mr. Oungst: The other legal document for road exchange, those were newer agreements that were shared two weeks ago with the Town in draft status very early in the process. We certainly understand that there are neighboring property owners that need to be communicated to. We have a Howard Young Health Care Board that would need to review and approve the exchange of properties. So we are very early in that process, but I would say very satisfied with how we have been working together on those kinds of things.

Mr. Albert: Based on Chairman Timmons response to my earlier question on training for the fire department, the August 6, 2013 letter from the FAA, one of their recommendations is that fire protection be provided in accordance with local fire code or FAA advisory circular 150/5390-2C. My follow up question is what is being done in that area in terms of training by whoever's staff to address that recommendation.

Mr. Timmons: On our end, we are digging into three specific standards that fall—NFPA. Looking into understanding they are both documents, unfortunately, the timing of getting this letter and getting hold of the actual circular, that took time. We are working on it as the fire department end of it, but we haven't gotten to go or leap into it because we are just finding out what they are.

Mr. Albert: I am assuming that you are in agreement with them providing that type of protection. Or will Howard Young supplement or provide some similar protection.

Mr. Oungst: We are in agreement. We are working with the Town of Woodruff on this particular issue. We have extinguishing equipment out along the fence area. I don't think Charlie pointed that out when doing the tour earlier today, but certainly we have started drafting policies for training and practice; we fully realize that we need to be working in collaboration with the Town.

Mr. Hansen: Just a clarification. You said the path is 66 feet wide and stands to 500 feet wide at 4,000 feet out.

Mr. Becher: That's accurate.

Mr. Hansen: That's for both routes both to the northeast and to the south?

Mr. Becher: That is correct.

Mr. Hansen: And the helicopter is required to stay in that path?

Mr. Becher: It is highly recommended that helicopters stay within those two perimeters because that is the extent of the safe corridor for both approaches...again, it is the pilot's discretion how to get that piece of equipment down on the ground safely and expeditiously as possible. Those two corridors that we are talking about have been reviewed; changes made to height and the lighting of those two approach areas so those are the only two safe corridors where there are no penetrations, operational surfaces or minimum criteria relative to the FAA safety standards for airports for hospitals.

Mr. Hansen: So would you say then that 90% of the flights will follow that pattern or 99% or if they can't follow it, they have to land some place else. Or what would happen?

Mr. Becher: I am not a pilot. So I don't know how to really respond to that. I know that Charlie and his Fly Safe and Neighborly Program has indicated that their pilots are going to be counseled and trained to fly that heading if practical. That is if all conditions are neutral, that they do fly those headings. If we have somebody coming in with an emergency organ transplant or whatever, they're going to get on the ground as expeditiously as possible. We would hope that they would have the headings of those two approaches and they would fly those. However, based on weather, winds and we saw a little bit of that today when we were out there to get the craft safely down. So depending on a whole bunch of other perimeters, the helicopter should fly those headings all things being neutral.

Mr. Lee: If there are no other questions for the folks here, at this point then I will take testimony from anybody in the audience would like to provide. Remember my earlier remarks please that if you have made testimony in previous hearings or submitted letters or whatever, we have them, we have heard them, we understand them, we are sensitive to all of these issues. But if there is a burning desire on the part of someone to speak at this time, I will

certainly allow that, but I will limit it to two minutes. Give your name, address, whether you are for or against it, and why.

Mr. Becher: If I could just inquire, I am unaware of the process here. If a topic is raised, is there going to be an opportunity for either Mr. Timmons or ourselves to comment.

Mr. Lee: As I mentioned before, each one of you will have an opportunity for rebuttal.

Mr. Becher: Very good.

Jim Mulleady: My name is Jim Mulleady; I have been a resident in the Minocqua area for about 39 years. I also have been in real estate all that time. I did do a previous study as to pricing of homes; homes that have been sold; and homes that were sold close to the hospital; and homes that were sold away from the hospital. In the past year there has been 6 homes sold in Woodruff, three of those were directly within a block or two of the hospital and the other three were east of Highway 47. The study that I did showed that in comparison to the asking price and the sale price, there was very little difference regardless of the distance from the hospital one way or another. So it was just basically a toss up and there was no definite pattern shown there that properties close to the hospital were not bringing as much money. I just want to add something to this; I have also done a study as to some homes that are still for sale and have not sold and what they are asking for them and what the fair market value is based on by the Town's assessor. 405 3rd Avenue is for sale for \$42,900. The fair market value is \$40,163. 210 Birch Street is for sale at \$82,900 with a fair market value of \$94,000. There is one at 408 Oak Street for \$86,000 with a fair market value of \$72,000. So again, there is definitely no pattern saying that the homes close to the hospital are showing any sign of decrease at this point.

Trig Solberg: Thank you Mr. Chairman. My name is Trig Solberg, an area business owner and taxpayer in the Town of Woodruff. I am also the Chairman of the Howard Young Foundation. My role as Foundation Chair has given me the opportunity to work with a volunteer Board that is committed to advancing health care in the Woodruff Area. Our committee fully endorses the efforts to relocate the Spirit II Helicopter to Woodruff so it can better serve the patients. One thing that Ms. Oungst and Mr. Timmons mentioned, about the area—we also service Park Falls. It just so happens that if there is any perfect place to put this helicopter; it would seem to be in the center. In this case, Woodruff is in the center of Park Falls, Eagle River, Rhinelander, Tomahawk and it makes a lot of sense. I would say let's move forward with the knowledge that greater good can be served. Thank you.

Dr. Rick Brodhead: I am Medical Director of Emergency Services for Howard Young. I am responsible for all aspects of Emergency Services including the Spirit Helicopter. First of all, I would like to thank you all for your hard work in doing this extensive review. I would also like to thank the Planning and Development Committee who I thought did a very thorough thoughtful and great job during their review. Medically, as Trig said, this is the central location

for the helicopter. It is a very precious resource and we are attempting to provide the most benefit to the most people in the entire Northwoods area. I would ask you for your support today. Thank you.

Mr. Lee: Thank you. Before the next person speaks, is there anyone who would like to speak who opposes it?

Mr. Kaziak: I own property directly across from the current proposed hangar and maintenance facility. I believe you gentlemen were down there by the fire plug. I don't have a home, I hope to have one, but we'll see. Anyway I was acknowledged as a neighbor on July 18th, 2013 by Howard Young, as being a neighbor. I was happy for that. You can't really tell anything by the pictures and mock ups in the mail and I was hoping some of that might have been clarified today because I received a letter with the notice here from you fellows about this public hearing. And it said, meet at the hospital, 10 am...approximately 10:30 am a flight would come in. "Pertinent property boundaries and locations of existing and proposed structures shall be clearly identified." And I see that those by the maintenance building weren't turned 45 degrees yet because there is no way I could tell exactly how that berm was going to look and that maintenance building would sit, so I just wish maybe some of the members would have walked up there.

Mr. Lee: We specifically...they asked if we wanted the property boundaries marked and we indicated that they didn't need to be specifically, but we would ask certain questions when we were there, which we did ask. That language is usually a part of our notice and in this case it should have been excluded. I apologize for that. That is our standard procedure.

Mr. Albano: I am Todd Albano, 2nd Street in Woodruff. Right across the street from the hospital property. On several different occasions the helicopter did not take the flight path and went right over my house. I called the hospital. On the first two occasions, the representative got back to me and the first one was that their pilot didn't know any better and the second one was that the pilot didn't have the appropriate training yet. Several times after that they came flying directly over the house, do a half loop and then come in on the flight path to land. I don't know how that affects it, but it doesn't seem very responsible if we are talking about the flight path and the approach. The noise from the berm—it was acknowledged by the zoning board that it does not cover my property unfortunately. There are dozens of other properties right along my street and in my part of the neighborhood that were never addressed and won't be afforded any protection. So I don't understand how they consider that satisfying the conditions that they have. And in regard to property values, there was a report submitted by the FAA, our Federal Government, that says that all studies show that airport noise has a detrimental effect on property values. And there was a formula in there to show what they have determined is the effect in regards to the proximity of the noise. So there is a formula which shows how that can be worked out, if there is some kind of supplement to be given people whose property values will suffer and if somebody wants to argue that they won't suffer, then could they answer me why will it be required to fill out a real estate disclosure form identifying detriment

to the properties. To me, those things are inconsistent and haven't been addressed appropriately by this body of government. Lastly, I would like to say that I think it is irresponsible for anybody to allow this corporation to police itself when it comes to the flight path and putting out the cones for safety and what not, because only three times since that has been addressed have I seen cones put out. Dozens of other flights have come in and out including this week, and no cones were placed there, with the exception of today when you were there on your tour. So they have obviously shown that they are not willing to do things on their own accord and we should not be left without any kind of recourse when these things are not handled in the future appropriately. Thank you.

Dr. Holt: Good Afternoon. Dr. Ryan Holt, I am an anesthesiologist with Howard Young, also work in Eagle River. On top of that I am also a commercially rated pilot and flight instructor. I'd like to think I have some insight into the medical and aviation safety. I am not going to give a lecture today. What I will say, as a flight instructor, I am required to know Federal Aviation Regulations. And I have passed the test that says I know them. These letters from the FAA are recommendations. Let me be very clear. They are recommendations. They are not Federal Aviation Regulations, and not enforceable nor would the FAA ever be interested in enforcing them. They are done for noise abatement. The FAA says I am supposed to take the south departure out of Lakeland Airport. No one does that due to safety reasons. There is no engine out possibilities to the north. There is nothing but woods. To the south there are farm fields and woods. Just because the FAA makes a recommendation does not mean that you need to follow it. Your rights as a pilot in command as mentioned to usurp any of those recommendations even a Federal Aviation Regulation, if in the name of safety. Todd just mentioned, the pilot circling over. That is a safety measure. A pilot should spot his landing site. You won't believe where people have landed. There could be an obstruction you can't see; there could be other reasons why a pilot would circle a landing site. A typical traffic pattern involves coming opposite of your touchdown point and circling around and landing. It's a typical traffic pattern. In regard to the medical end of things, time does matter, it's not just emotion. The simplest thing I can explain is if my dad is up here and he has a heart attack, blood vessel gets clotted off. He's got dead tissue in his heart. There is also tissue that is at risk that you can save. And there is tissue that will survive. That tissue at risk, time matters. And if it is my dad, this is how emotion does come in. If it is my family, my kid, this is where I want the helicopter. The reason that I haven't come to one of these meetings before, I have expertise in both these areas. The reason is I thought about this and I don't care if you put the helicopter to the north, west, east or south, you are still going to have aviation safety issues and it's for the pilot in command to make that decision. If the weather is that bad, he needs to go into Lakeland Airport; if he can make it into the heliport here at the hospital then he should do that. The safety does not come from multiple engines; it doesn't come from whether it is the north, south, east or west. It comes from that pilot in command. And the safety culture within his organization. Thank you.

Bob Egan: My name is Bob Egan and I moved here in 1973 from Chicago. My family still owns and operates a business in Eagle River. I served on the Town Board for 12 years; the

Eagle River Airport Commission for 19 years and the County Board for 5 years. I have a working knowledge of what this Board of Adjustment is faced with in trying to serve the greater good of the residents of the County. Interesting enough, yesterday was the 10th anniversary of the dedication of the helipad at Eagle River. In 10 years we haven't had an incident at that helipad. The number of lives that have been saved because that is there is pretty incredible. The problem we have there is the helipad is ½ mile from the hospital and in-climate weather increases the amount of time necessary to prep the patient for transition to the helipad. The second problem is due to limited fuel capacity, trying to find airports staffed at 2 or 3 in the morning to fuel that helicopter is a problem. Having the helicopter at the hangar, the ambulance and the fueling capability in one spot will significantly reduce the amount of time necessary to move the patient to a critical care facility. In my current role, I serve as the Executive Director to the Economical Development Corporation of Vilas County. Three of the most asked questions I receive from prospective businesses, not always in this order are, how good are the schools? How is quality medical care and emergency services? How much money can you loan me for my business? Vilas County has the distinction of having the second oldest population in the state. Oneida County is not far behind. You've got a fair amount of grey hairs here too. This dictates the advancement of emergency medical services. They are critical in the stability of the community. In November, 2010, I got to take the helicopter to Weston. They tell me if I didn't get that ride, I probably wouldn't be here today asking for your support of this project. The area residents and visitors can be better served by assuring we make wise decisions that improve access and responsiveness in a time of critical need. Centrally locating the helicopter at the Howard Young Medical Center Campus will ensure the benefit of this valuable service.

Ms. Thompson: My name is Brenda Seramur Thompson. I was born and raised here and I was a baby at Howard Young. I think the overall wealth of our community is the health of our community. I sell real estate also. I feel our market would suffer greatly if we did not have this hospital here. I am speaking from my heart because a few weeks ago my father had a heart attack. Prior to that, we donated a large sum of money to create a cardiology unit here with a cath lab. Little did we know he would be here with a heart attack. That helicopter flies over my home and I live at 9359 Thoroughfare Road. And it is a routine flight and every time I hear it I always think of where are my kids, where is my family. And I am praying for those might on that flight. As far as property condition reports, I can answer that because I am in real estate. We all fill those out to talk about our properties and anything we would know about our property. I was the agent that sold two of those six homes right by the hospital. And on each one I did disclose that there was controversy about where that hangar would be placed and it did not affect either one of those individuals in how they were looking at purchasing those properties. I do support having that here in our community.

Mr. Inman: My name is Gerald Inman. I have been a resident of Oneida County since 1971. I am a consulting engineer as well. As such, it was curious to me when I heard that the Town of Woodruff alleged that this proposal conflicts with their comprehensive plan. So I researched that just a little bit. Their comprehensive plan states and acknowledges that Howard Young

Medical Center has a heliport for medical purposes located on their campus. It points out goals that the comprehensive plan would like to achieve. I will read three of those. *"To maintain and support existing emergency services and ensure that these services remain adequate to the needs of the town. To maintain and support existing facilities and infrastructure to keep pace with community needs. To plan growth in a way that ensures the town services and facilities will be adequate for the needs of the residents."* I believe this proposal furthers those three goals. The comprehensive plan continues to state, *"The residential development should be buffered either by natural vegetation or evergreen plantings."* It further states, *"Buffer areas should be used as shields to lessen the impacts of potential conflicts of land uses."* This is item 10 & 11 on page 52 of the comprehensive plan. The proposed nearly 2 story berm serves that buffering purpose. The area to the north of the helipad is shielded with trees that are 50-60 feet 80 year old trees that definitely buffer the noise to the north. It should also be noted that very often wind is prevailing from the west. That westerly wind tends to drive the noise to the east to Howard Young owned property. The comprehensive plan says that the purpose is to maintain orderly planned growth that promotes the health, safety and general welfare of the town residents. Oneida County's ordinance has similar language. I ask you to use your judgment and common sense to determine whether this proposal does in fact enhance the public health, safety, convenience and general welfare. Lastly, the town ordinance says, *"The town will balance individual property rights with community interests and goals."* It seems to me that this proposal does, in fact, promote community interests and goals. It furthers these community goals with 6-8 minute potential minimum affect to a very few adjoining properties.

Dr. P'Ng: I am a practicing ER Physician and Medical Director for Spirit Transportation Services for Ministry. I see the day-to-day impact of helicopters as I practice mostly at St. Clare's in Weston. This is a very good resource. In November of this year Spirit will celebrate being a 20 year Transport System that has been without any incident. Obviously safety is a primary concern to both our staff and to patients. The safety issues will be addressed in the future. We have analyzed the data and from what we have seen over the last few years with our Spirit II and the data supports a central location at Howard Young. The other issues that come to mind is more specialized services occurring within the nation, especially realization of specialty care. There will be more and more of these happening and this requires a better transportation system, weather it is air or ground. We have had this in the Northwoods over the last 5 years. The team that staffs the helicopters are special teams. They are comprised of pilot, nurse, and paramedic. They are specialized and they serve to see patients when they arrive, often in a critical manner. Also this will save more minutes and having a team based in the hospital will maintain their skills which is very difficult at this point where they are based in the airport and that is not the most practical. I've been doing this for 25 years. This is a valuable service and it is a precious resource and I would ask for your support for this endeavor.

Mr. Sorensen: Jack Sorensen, member of the Oneida County Board and on the zoning committee. I am also the past Chairman of the Oneida County Economic Development Corporation. Without a doubt, the heliport is an asset to the community at large. I am not opposed to that concept. I would ask that each and every one of you gentlemen review my

comments within the CUP Hearing. My primary concern was the effect that heliport would have on residential properties in that area. I am a certified residential appraiser. I have a broker's license. I am an expert witness before Courts in Oneida and Vilas County on residential matters. I would only ask you gentlemen the following question. Would you purchase a property adjacent to a heliport? Thank you.

3:30 pm. The Board recessed for 10 minutes.

3:40 pm. The Board reconvened.

Town of Woodruff Rebuttal.

Mr. Timmons: A few comments. And it goes back to the flight paths, with the FAA making determinations with the 500 feet to the 4000 feet. Roughly 300 feet outside the flight paths are where the people are complaining, in the beginning part of the flight path. So it is the tightest end where the 66 ft is. That is where some of these people have been complaining with the helicopters flying over their houses. And it is not being flying friendly. It's going outside the normal paths. Secondary comment, the largest housing facility in the Town of Woodruff is where their....area is, and if something does go astray it is going to be devastating. Yes, there has been discussion on time. Everyone agrees that time does save lives. I'll go back to this statement. 2.8 miles away, we have an airport that has all instrumentation, flight, etc. away from Howard Young. It's less than 6 minutes by doing the speed limit out the back. It has never been discussed with Howard Young. They have not gone to the Board that operates the airport. They may have talked to other people that are involved, but they have not talked to the people that actually operate the airport. And I feel like we are being limited by having flights into a single family residential neighborhood where it says all approach and departures to those two flight paths when there is an airport down the road that can fly in all weather conditions, all type of things and it is less than 6 minutes at speed limit. I don't know how busy the staff would be and what the pilot himself would be doing at the hospital. That's not my expertise and I am not questioning anything that way. But by the time they get organized to leave from whatever they are doing inside the hospital, I don't believe 6 minutes and then they have a completely instrument ready flight facility, fueling station and everything else. It would be cost efficient and everything else.

Oneida County Rebuttal.

No rebuttal unless there are questions. There were no questions.

Howard Young Medical Center Rebuttal.

Ms. Becher: Mike made a clarification relative to the Lakeland Airport. Are you making reference to instrument procedures into that facility? Is that what you are speaking to?

Mr. Timmons: Yes.

Mr. Becher: Okay. The situation at the airport is they have horizontal control for the runway centerline. They have a localizer in place where the runway...and they have a median intensity approach lighting system with runway alignment lights. They still have not gotten any credit for minimums coming into the airport because they are still lacking vertical control. They do have a modified GPS approach, but it is not a true instrument landing facility.

Mr. Timmons: It's more than you'll ever have at the hospital is what I am saying. Currently what is there is visual flight period. That is what you are restricting at the new approved heliport. It says visual flight weather conditions only.

Mr. Becher: Yes, it does. And that is what we are asking for.

Ms. Oungst: Point of clarification. References were made to the hospital not being able to successfully secure that helicopter protection zone that's been defined. There is a report that included documentation provided to you this past week that shows that 14 of 17 flights were successfully secured and in control. There were three occurrences. One was relative to communication issues. Another to technology. Another with communication issues with ambulance service. So we do want to note that while we are not perfect, we have policies in place. We have reviewed each occurrence where we have not been successful in controlling that protection zone area. And we will be administering and overseeing the practice and compliance rate with the expectation of 100% compliance with our hospital security committee on an on-going basis. Much has been said, much has been documented. I just want to emphasize that we are a health care organization. We have our community's health and well being in mind as we move forward. We very sincerely want to work collaboratively with the town, County officials, and the community and neighbors. The ultimate goal is making sure that we are having a positive impact on emergency care going into the future.

Mr. Lee: I just have one word for Howard Young. Based on the testimony of one of the individuals that we heard today, and I am assuming that this is true, there seems to have been some lack of follow through in terms of having your people out there controlling the traffic when the helicopter comes in. Let's assume that is true. I think you have some work to do in order to do that. Regardless of the outcome of what we do today, I think you need to make sure that the area is controlled for the take off and landings. If the roads are discontinued as you are discussing with the Town, perhaps that will alleviate that, but in the meantime I think you have some work to do.

Ms. Oungst: I agree.

Mr. Lee: Our hearing order of business provides one more thing before we close the hearing. That is that the appellant does have the right for a closing statement if you so choose.

Indicating that there is no desire for a closing statement, I am closing the public portion of the hearing at this point. (3:40 pm).

Mr. Becher: Mr. Chairman, for yourself and your Board, we do have graphics here that may be helpful to you.

Mr. Lee: If we want to step over to that or look at it more closely we will. Certainly our onsite today answered many questions for us. There were many pictures and illustrations and everything else included in all of this stuff so that we have a pretty good picture.

Mr. Lee: If anyone in the audience came today with a prepared written statement, you may submit that to Mr. Jennrich at this time.

The Board of Adjustment reviewed each of the General Standards for the approval of a CUP and found that all nine standards have been met by the Howard Young CUP along with the conditions established by the Planning and Development Committee.

Motion by Phil Albert, second by Guy Hansen that the Oneida County Board of Adjustment has determined that pursuant to Section 9.42 E of the Oneida County Zoning and Shoreland Protection Ordinance, the General Standards have been met; and concur that the CUP was appropriately issued with conditions specified by the Planning and Development Committee; and as modified by the Board today.

Motion by Harland Lee, second by Robert Rossi, to extend the date to file the decision to September 23, 2013. The motion carried unanimously.

4:25 pm – The meeting was adjourned.

Harland Lee, Chairman

Phil Albert, Secretary