

# Waypoint conditional use permit appeal decision delayed

*Marathon board of adjustments meeting will continue*

**By RICK OLIVO**  
**Staff Writer**

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Members of the Bayfield County Board of Adjustments recessed Friday without reaching a decision on an appeal filed by opponents of the Waypoint residential fly-in development proposed for the northern Bayfield County Town of Russell.

In a session lasting eight hours, supporters and opponents of the project offered in-depth testimony defending and attacking a conditional use permit to construct a 4,000 foot landing strip and 20 private hangers on the 380 acre parcel off Compton Road.

First to speak at the hearing was attorney Shari Eggleston, who represented a number of opponents of the project. Eggleston said the County Zoning Committee, which granted the conditional use permit to construct the airstrip, had failed to fully consider the dozen factors which should have guided them on their decision. Specifically, she said they failed to consider the safety of the operation of the facility or to consider the demand for public services that would arise out of the project. She said there was no evidence that the county had considered whether it was equipped to handle emergencies arising out of the project's operations.

Eggleston said noise from aircraft using the airstrip was a matter of "grave concern." She also cited inadequate attention to issues involving drainage, erosion, water pollution and observed that Pike's Creek was a Class I trout stream.

Eggleston also challenged potential impacts on other existing land uses like tourism and the area's fruit farms and orchards.

Eggleston said the airstrip and the rest of the project represented a threat to the well-being of other residents, adding the assertion that it would fit into surrounding uses was "unsupportable" and that the permit was not in the best interests of area residents.

Speaking on behalf of Bayfield County, attorney Jack Carlson said the decision was based on a recommendation by the Town of Russell Board approving the development and said the board had voted to indicate that the development was consistent with the town's land use plan.

He noted that the action taken to issue the conditional use permit had been made after due consideration of the facts over several meetings.

Attorney Steve Katkov, representing Waypoint, said he had little to add to Carlson's summation. Katkov said the record requires careful consideration of the facts, which he said showed a pattern of behavior on the part of Waypoint developers to dig deep in their efforts to work with the community to bring the project to fruition.

The Board of Adjustment's attorney Michael Fauerbach told the body they had the authority to substitute their judgment for that of the Zoning Committee, noting that the body needed to consider factors controlling the issuance of conditional use permits as well as examining the consistency of the permit with the county's comprehensive plan.

During the testimony portion of the hearing, Department of Natural Resources Water specialist John Spanberg said because the runway could impact wetlands, Waypoint had to submit runoff plans. He noted that the firm had been cited for stormwater permit violations for grading without permits in a wetlands area, which affected about three acres. Spanberg also noted that they were in the process of repairing damage to those areas.

Eggleson submitted written statements from a pair of aviation experts, Robert William Van Sant and Robert H. Owen, expressing concerns regarding aviation safety and noise. She also offered an affidavit by soil scientist Ulf Gafvert who conducted a soil survey on the land owned by Waypoint, citing wet conditions on the land posed construction and maintenance concerns and could also impact Pike's Creek.

Eric Carlson, owner of Blue Vista Farm, said he had concerns about the impacts on his and other farms in the area. He said that some 85 percent of his sales depended on direct marketing and that "airplanes are not going to help that experience."

Ann Bowker, who was an alternate member of the committee that helped draw up the comprehensive land use plan for the Town of Russell, said development of a private airport was not a good thing for the area. She maintained that deforestation and moving thousands of yards of soil to construct the landing strip did not fit the criteria of a "light footprint."

County Zoning Administrator Carl Kastroski told the board that construction of an airport was allowed on both the current zoning and on the previous zoning of the way. He asserted that the land use plan had been formulated with development in mind.

"I believe while the plan was being built, it was made with the landowner in mind," he said.

Town of Russell Clerk Dave Good outlined the history of the development and agreed that the plans for the development were "well known" prior to the comprehensive land use plan's creation.

Waypoint developer Annalisa Cariveau said the development had "complied with every county requirement" and had refined the concept of the project over the years, having changed the location of the proposed runway to reduce its environmental impact.

"We have never in the process stopped refining it," she said. "It is the most detailed conditional use permit application ever filed in the county."

Cariveau introduced several experts who testified about the various aspects of the development.

Professional engineer Randy Van Natta of Becher-Hoppe Engineers and Architects said the runway site was the fourth alternative his firm had examined. He said constructing it would require moving 210,000 yards of soil to construct, but all soil would remain on the site. He said the strip was designed for small private aircraft — not large corporate jets — although small jets could use the facility. He said the airport would have "only a fraction" of the use at either Madeline Island or at Ashland's John F. Kennedy Memorial Airport. He said there would be no fuel facilities or aircraft services.

Soil Scientist Ann Michalski of Chequamegon Bay Engineering said the site proposed for the landing strip held only four acres of wetlands that would be impacted and, with restoration of the illegally altered wetlands, the impact was just .799 of an acre. She said Waypoint planned to create three acres of wetland to replace that, and engineering plans would design the site so as not to degrade water quality.

Speakers from the public who commented after testimony continued to oppose the project, led by attorney Bill Bussey. He said he could not recall an issue with so much opposition or one where opponents were so ignored. He said the zoning change being challenged in court amounted to "spot zoning" and that adverse impacts would affect surrounding communities as well as the Town of Russell.

"If granted, the conditional use permit gives the green light for the entire development," he warned. "This is the camel's nose under the tent. This is the time to consider the development as a whole."

Area landowner Kevin Westlund said an immediate impact of such development would be the termination of his plans to build a new home in the area.

Kenneth Bro urged the committee to reverse the conditional use permit grant on the basis that the zoning committee had failed to consider erosion potential, the safety of the project or the demand on the community for services.

"Nothing in the zoning committee minutes indicates that they have addressed those issues," he said.

In her concluding statement, Eggleston said the project did not meet requirements of law "by any stretch" and that the conditional use permit "must be reversed."

Carlson said the expertise utilized by Waypoint in the project was "the best of the best" and urged that the Board of Adjustments sustain the conditional use permit.

Katkov also asked that the permit be retained, adding opposition was simply a matter of "not in my backyard." He also warned that if the permit was reversed, "We will be back at the next level."

The board voted 4-1 to delay a decision on the matter until next week at the earliest. Several members urged that the matter come up for a vote at the earliest possibility. Board attorney Fauerbach said he would work out an acceptable date and announce it, perhaps as early as Monday.