

Jackson Township Zoning Commission Meeting Minutes  
February 19, 2015

Members present: James Conley  
Larry Everhard  
David Thiel  
Scott Sandrock  
John Weston  
Zoning Inspector: Joni Poindexter

The first order of business is the nomination of Chairman and Vice Chairman.

Mr. Thiel made a motion to nominate Mr. Conley as Chairman for 2015 and Mr. Everhard seconded the motion.

The vote was: Mr. Thiel-yes, Mr. Sandrock-yes, Mr. Everhard-yes, Mr. Weston-yes, and Mr. Conley-yes.

Mr. Thiel made a motion to nominate Mr. Sandrock as Vice Chairman and Mr. Everhard seconded the motion.

The vote was: Mr. Thiel-yes, Mr. Sandrock-yes, Mr. Everhard-yes, Mr. Weston-yes, and Mr. Conley-yes.

Amendment 616-15 – Jamie Wittersoldner, Esq, 6370 Mt. Pleasant St. NW, North Canton, Ohio 44720 agent for Craig Snee, Co-Trustee, Nancy Snee, 5694 Shuffel St. NW, and Wesley & Marcia Snee, 5762 Shuffel St. NW, North Canton, Ohio 44720 propose to rezone approx. 98.25 acres, more or less, from R-R Rural Residential District to I-1 Industrial District located on the south side of Shuffel, north of Strausser & East of Lake O’Springs parcels 1627218, 1620999, 1627220, 1627215 & 1627213 also known as 5335 Strausser, 5694 and 5762 Shuffle NW, Sect. 2SW/SE Jackson Twp.

Mr. Conley read the file application and Stark County Regional Planning’s recommendation for approval of a modification to 63 acres as shown on the map provided by Stark County Regional Planning.

Mr. Craig Snee, 5335 Strausser NW, explained he is the president and CEO of Earth and Wood and the owner of the property along with his brother Wesley Snee.

Mr. Snee explained his family is an old township family and have been in the township since 1854. In 1959 his father began to dig peat moss and sell topsoil from the property before there was zoning. In 1981 they expanded the business. They have gone through 2 separate court issues regarding their non-conforming status. They have a legal non-conforming industrial business on part of the parcels. They have had this business going on 35 years. They have grown and employ about 70 people and have 4 locations but their process is at the north canton property. As a non-conforming business the status runs with the land so they could sell the property to someone else and they could continue the business or they could substitute the business with another business by going to the Board of Appeals. They tried to rezone the property, he thinks about 4 times over the last 35 years with the last time being in 2002. The

board approved the request but then it was obvious that the folks around them didn't want it and it was put the ballot so they withdrew it.

Mr. Snee stated what has changed is development. In 2006 the township adopted a long range plan that showed the property as business. A property on the corner was rezoned to high tech and the airport extended the runways. Their property went from 60 ft. of frontage to thousands feet of frontage due to the extension of Shuffel road, which is a major truck route east and west. There are no curb cuts and the speed limit is 55 miles per hour. The I-77 interchange was also built which increased traffic. This gave them an opportunity that they didn't have before, which was access to another road. The non-conforming status has limitations. They can't add on to their buildings or put up other signs because they have to operate under the R-R zoning rules and this makes it impossible to expand their buildings without going to the BZA every time they want to do something. With the opportunity to turn the business around it is going to require more than just a hodge podge approach. They are talking about a new sales office, maintenance building, etc., which are things that they can't do right now to put things under roof. They would like to put some of their processing under roof but they can't do it as zoned. They need to know that they can do it and play by the same rules as other businesses in the township in terms of setbacks, how big a sign can be and where it can go or how big a building they can have and where it can go. They would have to go through RPC but they need to know that if they embark on this what the rules will be. Because they are able to turn around this is their plan. Right now they face Strausser Rd. and they sit back off the road. There is just a 60 ft. driveway that comes back off of Strausser Rd. There is another entrance to the East but that has not been developed and no traffic comes in and out of there. The main entrance is on Strausser and it is dicey traveling Strausser. They do 70% of their business in April, May and June and are open 7 days a week and it is a busy place. They do not have a public entrance off of Shuffel but it is used for truck traffic. If they can face Shuffel they won't need the entrance on Strausser which is a benefit to everyone. There is site distance but it is not great.

Mr. Snee explained on the southern border between residential and industrial there needs to be a buffer so they are proposing a buffer along the southern edge. The area now is legally non-conforming and goes over the creek and goes north. They propose a 100 buffer but it would probably be thicker along the Portview allotment, maybe 200 ft. The neighbors' homes are at the southern edge of their property so there is about 300 ft. of property and then the 100 ft. setback. Wherever residential is against industrial there is an extended rear yard setback. There are two gas wells and the lines run along the southern edge of the property which present an impediment to other uses with a 60 ft. easement for gas lines. As we look at the RPC plan and the township plan one of the things that divides the area is, low ground for lack of a better term. It runs from Strausser and all through there so it is a natural barrier to buildings. RPC and the township use the natural barrier as to what they recommend for business use and residential. This runs at an angle up to the corner of Lake O'Springs and Shuffel, the general area of low ground. The 100 ft. setback is expected so they would put it in.

The open area is the buffer. The logic of shutting off Strausser Road and the buildings shown at the north end is to show they would be moved. The driveway off of Strausser is expensive to maintain. From a security standpoint it is important that people only enter the property from one place. It would be safer if there is no traffic on Strausser. They are non-conforming and if

it were zoned high tech the property would still be non-conforming. They have retail and run 32 trucks out of the location. They are also into recycling. These are all permitted in the industrial district. They also manufacture mulch and soils which is permitted in the industrial district.

If kept non-conforming it is difficult. They have a deck in front of their office but they can't extend the deck more than 10% unless they pay \$400 to ask permission. They can't have a sign because it is not zoned for it. They can't do much and play with the same rules. After 35 years they aren't going away and there is another generation that will take the business over. They don't want to be a 60 year old non-conforming business. They are operating now with one arm behind their back because they are hampered by a second class status and can't do the same as someone else across the street.

Mr. Snee explained he can't guarantee the accesses will be closed because it might take five or six years. They have to have a plan but as soon as they can put the entrance and sign on Shuffel they don't need the entrance on Strausser. If the property were sold the same thing could continue or it could be developed into something else but if you look at what is around it, is big buildings on big lots with activities inside the building. The airport has an overlay zone and the FAA has guidelines that have to be followed.

Mr. Snee explained that someone might ask why rezone his house. There are two homes and he lives in one and his brother in the other. The answer is when the house was built the road wasn't there. They were 1300 ft. off of Lake O'Springs Rd. As Shuffle road was developed it became a less desirable place to live. Zoning is about the future and it is industrial across the road and they aren't looking to be on an island. As we look at the long range plan it shows that plan is to extend the business use all the way to Lake O'Springs Rd. He doesn't have a problem with that but he also doesn't want to be in a situation where they have the houses in the middle of this. The yellow along the creek on the map shows the non-conforming use which would leave about 6 or 8 acres. If they have a buffer, that would insulate the residents. The RPC 2030 plan shows business use and the purple extends south of Shuffel and beyond Lake O'Springs Rd. so it is consistent. Both agencies anticipate business use beyond what is before the board. If the question is build houses or have a business use then he thinks land use planning experts have said business use. Rezoning leaves nothing to the imagination. This is not vacate land. The piles will still be there and the concrete crushing will go on but the buildings will be put along Shuffel and capture the benefits of having the street there and moving away from Strausser. It is in compliance with the comprehensive and Stark County 2030 plan. The rezoning will allow their business to play by the same rules as others in the township. He believes the time has come after 35 years. Years ago someone suggested it was premature but things have changed and it is no longer premature.

Mr. Thiel asked why not consider RPC's recommendation and eliminate the T-4, T-3 and T-2.

Mr. Snee explained he doesn't think they realize it is their houses being asked to be rezoned. It may be the houses go and the line drawn somewhere else but the other parcel is an "L" and half of it is already permitted as an industrial use. His application is what he feels is the best use of the land.

Mr. Everhard stated there shouldn't be any residential properties in an industrial zone.

Mr. Snee explained that there are some houses in industrial zoned properties.

Mr. Everhard asked what the narrow right of way from Strausser serves.

Mr. Snee stated it serves the property to the east.

Mr. Everhard asked if the existing road to his operation off of Strausser will be maintained for the property to the west.

Mr. Snee stated there would be no public access. It would be maintained for the house. There would be a utility easement.

Mr. Weston asked about the drinking protection area and if any processing would move south.

Mr. Snee stated no, it would mostly stay in the middle but buildings and product storage will move to the north.

Mr. Everhard asked if there is public water to the north.

Mr. Snee stated yes. Sewer is a ways away but they have septic.

Mr. Sandrock asked if the application included all the acreage and asked if they are asking to amend the application to make 100 ft. to open space district and the balance I-1.

Mr. Snee stated yes.

No one else spoke in favor of the amendment.

Mr. John Walter, 5625 Astrojet stated he lives at one of the five properties that borders the property in question. He appreciates Mr. Snee's attempts to help his business. He believes the concern is for him and local residents. The fact is the commercial rezoning would allow other businesses than Mr. Snee's and he can expand the business that would further continue the noise. He thinks they grow use to the noise but with the change in zoning he foresees more noise because there will be more business. The 100 ft. buffer zone would be a good consideration but it doesn't eliminate the noise. Expanding the buildings and putting processing under the roof seems like there is a plan to extend the business. It would be practical to have the entrance to his business coming off of Shuffel instead of Strausser but he believes the concern is the additional business and noise potential and what other businesses that might come in and create more problems.

Mr. Gordy Woolbert, Attorney, 200 Market Ave. North stated he is attending on behalf of Dick and Marilyn Kempthorn who own 10 acres south of the rezoning and also 100 acres south on Strausser. They are in opposition because it is inconsistent with the comprehensive plan. It doesn't say it would be industrial. The opportunity area from the comprehensive plan shows the high tech corridor. The goal was this would become a generator for a different type of business to the east. Map 11 of the comprehensive plan is the generalized future land use plan that shows it as R-T district. It is a good plan. Good land use planning principles includes the principal of traditional zoning. You don't go from industrial to residential. The property at the corner is zoned R-T and is in compliance with the comprehensive plan. You cannot rezone the areas that have homes on them to industrial. When a township adopts rezoning they can't create a non-conforming use. Everybody agrees Strausser is a problem and is not meant for industrial traffic. This would allow 2 access points to the property for industrial purposes. The RPC tried to recommend a change to deal with that. Not only to decreasing the size of the

proposed rezoning, not saying that they could rezone the particular access because it wasn't part of the rezoning at all. So it is questionable as to if that does anything. This would still be potentially usable as an access for the industrial property and still potentially route an industrial type of traffic on Strausser. Although that might not be the long term plan they don't know what is going to happen if the property is zoned industrial. This is not a master plan but is cart blanch authority to do whatever the zoning allows for this type of property and that is a lot and it is inappropriate right now next to rural residential. The township got is right when they did the comprehensive plan by putting in a transitional zoning and he request the board deny this rezoning request. RPC noted that the township should consider the effects of the rezoning. This request would change the strategy regarding a buffer zone. He ask the request be denied.

Ms. Claudia Maloy, stated she lives in Washington DC but shares 42 acres at 8120 Lake O'Springs which is west of Shuffle on Lake O'Springs with other members of her family She is concerned about her property being devalued. She is concerned about traffic on Shuffel because people don't obey the speed limit. Pollution is a concern and the water is a concern as well as wildlife, noise, smell and what is going to happen with additional waste. If the property were sold they may not have the respect as others in the community.

Ms. Dawn Ake, 7834 Satellite Circle stated in the past there have been several requests for a zoning change and then it is always withdrawn. He always continues his business as is or he stretches the limits. They hear trucks early in the morning and all hours of the night. In the summer she can't keep her windows clean because there is always dirt. If the mounds of mulch are moved the south side she can see them. There are trailers parked on Shuffel that are rundown and rusted sitting for years. If they are putting colorants into the mulch and it is sitting on the ground then it could be seeping into the ground water. If the business is increased so will the noise and pollution. Why rezone something and have the potential of another company moving in. She is against this being the whole property and if they have to have anything rezoned do the small portion but in that buffer zone plant trees that will cover up what they have to see and make it bigger and friendlier to the neighborhoods. She is against it and has been before. She was one of the people going around getting petitions so she recommends this not go through.

Debra Delcorso 7799 Satellite Circle stated she also represents her neighbor across the street, Vicky Mark, who strongly opposes this. She supports Earth and Wood for her supplies but she bought her house in 1986 and its was gorgeous and now they have to look at just what Dawn said and she thinks it is a shame that they have to smell what they smell, see what they see, and listen to what they listen to. It is not what it used to be and she is opposed to it.

Ms. Denise Scibetta, 7922 Portview stated her property abuts Snee's property of Earth and Wood. She is a real estate agent and knows it can devalue the property. She is opposed.

Mr. Earl Rodd, 6044 Pinecreek stated he is in favor of what the attorney presented with the long range plan. To him what is before the board is a dilemma of an existing thing that has been there for a long time. He is concerned about expanding industrial into the residential areas.

Mr. Guy Suffecool, 7518 Fawn Dr. NW stated he is opposed. In going back to comprehensive plan you can see this is designed to be high tech and the green area is suppose to be for

wildlife. His concern is if someone else moves into an industrial area they don't know what will be there.

Mr. Ron Ulm, 7782 Portview stated he has lived on Portview for almost 50 years. The earlier requests were mentioned and there were a lot of petitions circulated and it was presented that they are grandfathered in and can do what they want. When they decided not to go forward it was because they said they can do what they want under the non-conforming use. He appreciates the buffer zone for the zone change but they could have put that in at anytime but that was never done.

Mr. Jim Gittinger, 7764 Portview stated he thinks the greatest argument is the master plan. The most blighted area in Jackson Township has to be the frontage of his property. When he moves all of his buildings to the north along Shuffel where will he move all his raw material. It is all going to go to the south in the open area.

No one else spoke in opposition to the amendment.

Mr. Conley closed to public input.

Mr. Thiel stated he thinks the plan is inconsistent with the long term township plan. He is remiss a little bit that the property owner wouldn't consider the RPC recommendation but even after listening to that he is not sure that is the best use for the property. They can't do anything about the business that is there right now. He doesn't think it makes sense to isolate the two houses and he thinks the argument with the support of the long term townships zoning plan is pretty consistent.

Mr. Everhard stated he assumes this is a recycling facility. In looking at chapter 411.9 regarding landscaping and screening required. It is part of the zoning that they provide landscaping and screening of the area. The riparian streams and water ways have to be handled by the State and comply with the State requirements plus zoning requirements for setbacks. There are conditions and they will have to go into a conditional use permit for certain requirements and those are listed in Chapter 431 (a) through (f) and also section 431.5 items 5, 17, 18 and 26 and Section 431.6 for compliance to Q, R, and W. In reference to if this is approved to industrial they would have to comply with all conditions.

Ms. Poindexter stated for clarification purposes, if it says it is a conditional use permit, the only way he has to come in and apply for a conditional use permit is if he is adding buildings and stuff to the property.

Mr. Everhard stated that he would be adding buildings to the property.

Ms. Poindexter stated she wanted to clarify if he continues his business as is then he can continue as it is.

Mr. Everhard stated he disagrees with Mr. Thiel. Going back to the zoning issues it shows that block will be moved to an industrial use.

Mr. Weston stated that going from rural residential to industrial is like flipping from one side to the other and he thinks the RPC recommendation of zoning to 63 acres seems to make sense as stepping down the borders of where it is residential or from Shuffel to a business area of where there may be additional buildings in keeping the industrial to a secluded area. One of

the residents brought up in good faith there was never a boarder given and he thinks a boarder makes sense. He would like to see something like that.

Mr. Sandroock stated he has some empathy for Mr. Snee. Non-conforming uses are challenging. He has a lawfully operating business and he appreciates the concept of liking to get some stability to what the business plans are in the future. He has a concern relative to the houses because, at least in the current structure, residential housing aren't supposed to be in an industrial district. He appreciates the dialog about the open space but he is not sure the open space area would be enough of a buffer to convince him that the total zone change makes sense. People have referenced the long term plan but the property north of Shuffel is zoned industrial already and is not high tech, nor is the area on the east side of Frank high tech. When the applicant says he has an industrial use and industrial is across the street, he understands the concept. He has a concern that on the south side it's a big jump from the industrial to the rural residential and he is not comfortable as currently presented that they have taken enough steps with the gap in there so he doesn't think he would vote in favor of the zone change.

Mr. Conley stated he also has the concern of industrial to rural residential is inappropriate in a number of levels. He thinks should Earth and Wood want to make some changes to their business operation that the Board of Zoning Appeals is the appropriate place to make that request. He isn't sure he agrees even with the modification from RPC.

No one else had any comments and Mr. Conley asked for a motion.

Mr. Sandroock made a motion to approve amendment 616-15 and Mr. Everhard seconded the motion.

The vote was: Mr. Weston-no, Mr. Thiel-no, Mr. Everhard-yes, Mr. Sandroock-no and Mr. Conley-no.

Mr. Conley stated the rezone request has been recommended for denial. The recommendation will be forwarded to the Trustees.

Ms. Poindexter stated everyone who received a notice for the commission meeting will receive a notice for the Trustee meeting. The hearing will be in March and it will be posted on the website.

Mr. Thiel made a motion to approve the meeting minutes and Mr. Everhard seconded the motion.

The vote was: Mr. Everhard-yes, Mr. Thiel-yes, and Mr. Conley-yes.

Mr. Conley adjourned the meeting.

Respectfully submitted,

Joni Poindexter  
Zoning Inspector