

Jackson Township Zoning Commission Meeting Minutes

June 18, 2015

Members Present: James Conley
Larry Everhard
David Thiel
John Weston
Fredrick Monsell-Alternate
Zoning Inspector: Joni Poindexter
Absent Member: Scott Sandrock

5:00 PM Amendment 618-15 – Wayne Valentine, 5631 Comanche NW, North Canton, Ohio 44720 agent for Scott Valentine, property owner, 5806 Portage NW, North Canton, Ohio 44720 proposes to rezone R-1 Single Family Low Density Residential District to R-4 Multi-Family Residential District approx. 0.79 acres, known as 5806 Portage NW, located at the southeast corner of Portage and Oakcrest, Sect 14NW Jackson Twp.

Mr. Conley read the Stark County Regional Planning recommendation for denial and the facts considered in their recommendation.

Those in favor:

Mr. Scott Valentine, 5806 Portage NW explained he bought the house about 5 years ago as an investment. It has enough acreage and he would like to have it rezoned incase he wanted to upgrade in the future. He has a 10 unit complex next to him and there are two HUD homes down the street. There is a tree line so there would be privacy to the rear.

Mr. Wayne Valentine 5631 Comanche NW explained the price was right for an investment and it is big enough to build a 4 or 6 unit structure and there is a 10 unit building next door with a tree buffer to the south. They would exit onto Oakcrest so not to have more traffic exiting onto Portage. It wouldn't interfere with any residential homes if a multi-family unit were built. It would be a new building that will improve the property values.

No one else spoke in favor of the amendment.

Those opposed:

Wendy Hanzel, 5805 Portage explained that she lives across the street and has been there for 18 years. Her and her husband is against the rezoning. There are 3 duplexes to east, one across the street and other duplexes and rentals at Lake O'Springs and Portage. Portage is a mini freeway and it can take up to 5 minutes for them to get out of their property. If changed to multi-family it will affect a lot of people with increased noise and traffic. If rezoned there is nothing to stop others from asking to have their property rezoned.

No one else spoke in opposition to the amendment.

Mr. Conley closed the hearing to public input.

Mr. Monsell stated he sees both sides and thinks they should consider what is best for the community and RPC has a broader view and they should follow it.

Mr. Everhard stated he looked at the site and it is a residential neighborhood. He waited a long time to pull out onto Portage.

Mr. Conley stated he thinks it is a close call only because of the R-4 next door. Otherwise he thinks it would be clearly an inappropriate rezoned. He is inclined to vote against the request.

Mr. Conley asked for a motion in favor of the amendment to get it on the table, but that does not mean the person making the motion is in favor.

Mr. Thiel made a motion to approve amendment 618-15 as requested and Mr. Monsell seconded the motion.

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

Mr. Conley explained the rezone is recommended for denial.

5:15 PM Amendment 619-15 – Mike Kochovski, 5150 Foxchase NW, Canton, Ohio 44718 agent for James & Rexine Siemund, property owner proposes to rezone R-1 Single Family Low Density Residential District to R-2 Two Family Residential District, approx. 0.634 acres of 0.72 acres parcel 1629937 located on the west side of Lake O'Springs NW approx. 300 ft. north of Lakewood, Sect. 15SE Jackson Twp.

Mr. Conley read the Stark County Regional Planning recommendation for approval and the facts considered in their recommendation.

Those in favor:

Ms. Siemund explained she purchased the lot for her son but before he could do anything with it he was killed so she has been trying to sell it. She thinks Mr. Kochovski does great work and feels it would be a good place for a duplex.

Ms. Conley explained that there is a small portion of the lot that is already zoned R-2 so it is currently split zoned.

No one else spoke in favor of the amendment.

Those opposed:

Mark Gordon, 6120 Sailboat Circle stated the existing R-2 is a small strip but the lot is primarily R-1. He doesn't know how that small part got rezoned.

Ms. Poindexter explained how the property was split zoned.

Mr. Gordon explained he is opposed to the rezone because he is the most affected by the change. The owner does not reside on the property so they will not be affected. He shares no common boundary to any of the existing R-2 property and allowing the change would create 210 ft. of shared boundary between his property and the R-2. The property was R-1 when they purchased it. He purchased his property without having to abut an R-2 and if rezoned it would change his property value.

Nick Young, 6161 Lake O'Springs explained that he agreed with Mr. Gordon. In 2006 the property was split and a sewer line was put in. The owner at the time owned both parcels. When the lots were split an easement was not created for the sewer line and he tried to work it out with the Seimund's but they refuse to contact him and work it out. He was informed by an attorney that an applied easement was in effect because the lot was split but he is worried because he already lost buyers. A duplex would devalue his property.

No one else spoke in opposition.

Ms. Siemund stated the builder did not speak to the buyers. They are trying to work things out with the sewer line but in the mean time she needs to get it rezoned to proceed. The builder does good quality work and it would not be a junkie addition to the neighborhood. There is a lot of buffering between the properties.

Mr. Conley closed the hearing to public input.

Mr. Weston asked if there were any plans submitted because that would help.

Mr. Conley stated no, they are not required to submit a plan because they can't be held to it.

Mr. Thiel stated he understands a variance would be needed.

Mrs. Poindexter stated as long as they comply with the regulations no variance would be required.

Mr. Everhard asked what is zoned R-2 and what is zoned R-1.

Mr. Conley explained what portion of the property is zoned R-2 and what is zoned R-1.

Mr. Thiel stated he thinks it is a continuation and doesn't see a problem with it. If a variance is needed or there's an issue with the sewer lines they will have to deal with that when the time comes. He is in favor.

Mr. Everhard stated it would continue R-2 along Lake O'Springs but the property is narrow and they are limited to what can be done or built on the property. His concern is the transition. Maybe a neighbor would be interested in buying the land.

Mr. Monsell stated he looked at the back side of the property and there is all single family and he doesn't know how a duplex would fit.

Mr. Conley stated that is not their concern. The swing for him is that both affected property owners are in attendance for the hearing and they oppose it and he agrees with them.

Mr. Thiel made a motion to approve amendment 619-15 as requested and Mr. Everhard seconded the motion.

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

5:30 PM Amendment 620-15 – Don DeVille, DeVille Enterprises, 4811 Whipple NW, Ste, 101, Canton, Ohio 44718 agent for Willmary Investments LTD, 1004 Overdale NW, Canton, Ohio and Joseph & Patty Mahoney, 3500 Brunnderdale NW, Canton, Ohio property owners, propose to rezone from R-R Rural Residential District to R-3 Planned Unit Development District approx. 19.96 acres of parcel 1607196, and to R-4 Multi-Family Residential District approx. 17.25 acres of parcel 1607196, 0.60 acres of parcel 1601352 and 0.71 acres of parcel 1601354 and located at the southeast corner of Hills & Dales and Brunnerdale, Sect. 35 NW Jackson Twp.

Mr. Conley read the Stark County Regional Planning recommendation for approval of a modification.

Those in favor:

Mr. Don DeVille, 4811 Whipple NW, Ste. 101, Canton, Ohio 44718 explained that RPC approved a similar request from R-R to R-4 and so did the commission on October 15, 2014. RPC now approved a modified request. He was not part of the zone change request in 1998 that was referred to in the newspaper yesterday. On page 5 of the submittal there is an R-4 and R-3 district proposed. The R-4 is 18.56 acres and if approved this would allow between 6 units per acre and up to 10 units per acre, which would permit up to 185 units. This includes parcels "F" and "H" that are currently owned by the Mahoney's which he is under contract to purchase along with parcel "G". The prior request met all the site distance regulations and the addition of "F", "G", and "H" will enhance the drive access.

Exhibit #6 shows a driveway on parcel "H". That adjoins "F" and "G" but is not part of the rezoning. He is in negotiations to purchase parcel "I" also but "H" and "I" will remain R-R. What that does is create a main ingress and egress directly across from Groton St.

The other aspect of the R-4 is the means of ingress and egress for emergency use that will be a gated road for emergencies only so the traffic from R-4 cannot travel through the R-3. This was the recommendation of RPC and the Jackson Township Safety forces when a meeting was held. There are some shaded areas that are wetlands and are under the determination of the Army Core of Engineers and they are approved delineated wetlands. He has to abide by the Army Core regulations and he has to go through a permit process as to any encroachment on the wetlands which there will not be.

There are 24 or 85% of the R-4 districts that are abutted by R-R property on one, two or three sides. He is abutted on numerous sides of the property by wetlands, and Brookside County Club and to the north is multi-family as well as to the west, and Glenmoor to the northwest which has multi-family, commercial and single family. This property is surrounded by more multi-family than single family.

The R-3 portion is shown on exhibit #5. It is 19.96 acres and is contiguous to Springdale allotment to the south and single family on parcel marked "H", "I", "J" and "M". This will create a buffer. Exhibit 6 and 7 shows the concept drawing. There are certain requirements under the general development plan. They are proposing 26 single family homes shown in yellow and the pad layout is in the gray shaded area to show that the single family home has to be built within the boundaries of the pad. They meet the setback requirements and the streets would connect through Dellwood and Trillium. The emergency access is to the north abutting the proposed R-4. RPC recommended the streets Dellwood and Trillium connect as well as the emergency access. The R-3 is site plan specific. If it is approved it requires a final development plan and the final plan must coincide with the general development plan. They cannot change the plan if it is approved. What is shown is what has to be built.

On exhibit #8, section 805.10, Mr. Ashman presented the review criteria responses and he thinks it is important to understand the code and the RPC regulations have to be followed. Everything has been complied with under the general development plan regulations.

Exhibit 9 and 10 are his reasons as to how the request complies with Jackson Township's and RPC's long range plan. He thinks the request is more than just a zoning request. It is about the township demographics and where they are going. The highest and best use of the property is what is presented.

Mr. Thiel asked if Mr. DeVille could define what is different than the previous application.

Mr. DeVille stated it is the R-3 district that abuts the single family homes in the Springdale allotment and the R-3 is all single family detached.

Mr. Conley stated that the R-3 requested portion that is going out to Hills & Dales seems like it should be part of the R-4.

Mr. DeVille stated that legal frontage of 100 ft. is required.

Mr. Conley asked if parcel "I" is landlocked.

Mr. DeVille stated yes and explained that he is in negotiations with the owner to purchase it. "I" and "H" have a storm drain that runs into the requested R-3 property as well as the sanitary sewer so those parcels can't be built on.

Mr. Conley asked Mr. DeVille to comment on the recommendation of Regional Planning.

Mr. Ashman, 1359 Market Ave. N, Canton, Ohio stated RPC previously recommend a 200 ft. buffer at the southern portion of the property. Under the proposed application RPC reduced it to 100 ft. between the southern property line to the building setback after Mr. DeVille submitted the plan. The buildings have the same setback if developed as R-R. It is a 25 ft. setback to the pad but more like 40 to 45 ft. to the actual homes. With this being single family it should be evaluated the same as a single family R-R district for the setbacks.

Mr. DeVille stated any R-R property has a setback of 25 ft. so if all the homes were built under R-R there would be a 25 ft. setback.

Mr. Thiel asked why not ask for R-1.

Mr. DeVille stated because they will have private streets that are his responsibility and not the townships and there is open space requirements under the R-3. If zoned R-1 the streets would be not be private and the wetlands would be privately owned as part of a lot. The site is not an easy one. The proposal for the R-3 is 26 single family homes. The density is 2.2 units and they are well under the density.

Mr. Conley stated drainage is a concern but he understands it is the County Engineers issue.

Mr. Ashman stated there are drainage concerns based on previous meetings. The development will intercept the drainage and allow the water to discharge to the east which protects the property owners to the south.

Mr. Everhard stated there is storm water management shown on the site plan.

Mr. Ashman stated that they are considering intercepting the drainage to the north and east.

Mr. Everhard asked if the lots would be 32 ft. by 70 ft.

Mr. Ashman stated the R-3 has condos so there are no lots. The easements and flood zone cannot be included in open space but it is in fact open space that is usable.

Those opposed:

Todd Hunter Hall, 3330 Dellwood NW explained he believes the residents will save most of their comments for the trustee meeting but he sees the plan has changed. The same concerns as before still exist. He is not sure how it complies. The R-4, RPC indicated it would be 111 units and he is hearing 185. He would reserve most of his comments for the Trustee meeting. He knows where the water goes because he is at the bottom of hill. He will bring up traffic at the Trustee meeting. If you ever drive through Brunnderdale and Hills & Dales there is a lot of traffic. There are all kinds of uses in the area but the question is have they hit a density point. We don't know what the condos will look like or if they will be rentals. He isn't opposed to development because Jackson Township has put a lot of thought into it but we have to be careful that we don't go too far and then it takes us in another direction.

Mr. Thiel asked if Mr. Hall didn't see any potential development.

Mr. Hall stated he lives off of Dellwood and the water flows toward his property and that's where the creek is.

Mr. Kim Vincent, 3389 Waterford explained that he spoke to his neighbors and the area is dense enough with apartments. He doesn't want R-4. The Commission should represent the residents. He moved there 24 years ago and he likes Jackson Township.

Mr. Dave Miller, 5404 Hills & Dales explained that he lives at the southeast corner of the proposed R-3. His concern is flooding issues. He has never seen the creek go over its bank because it was widened years ago. He isn't opposed to everything but his concern is flooding for the R-4.

Mr. DeVille stated the density of 111 stated by RPC, they specify the number of units that are permitted under the code and don't account the 10 units under the conditional use permit.

Mr. DeVille asked Ms. Poindexter to explain the conditional use permit regulations.

Ms. Poindexter explained the regulations under the old R-4 in which the rezoning was filed and the difference between a permitted use and conditional use permit.

Mr. DeVille explained there will be changes in traffic and there is always going to be water fed to the stream in the area. There was mention of expanding of development. What he heard was the people aren't opposed to development but only if it is not in their back yard. Storm water has to be approved and they have to comply with the County regulations.

Mr. Thiel asked if there was a road along Hills & Dales into the R-3.

Mr. DeVille stated no. Also there will be no development in that area because there are wetlands that can't be touched. The details of the development come after the approval for the R-4 but they are submitted for the R-3. The addition of the R-3 is a good balance for the property.

Mr. Ashman stated it is his responsibility that they respond to the drainage considerations. Both R-3 and R-4 will not only meet the RPC and County regulations but they are going to try to do what they can to make things better for the residents.

Mr. Gordon stated the creek flows into Sippo creek after his property.

Ms. Lorin Lands, 3200 Dellwood explained that the last time they discussed this she looked at traffic counts but her recollection is that the traffic count is a little over or under that at 30th and Cleveland. These are their homes and their biggest asset so they are concerned about what is going to happen but the point is they want to know as much as they can that drainage is not going to be a problem.

Mr. Joe Damengent, 5866 Heather explained that they are not against development. R-R is a development zone so put in what you want. They are in favor of the R-R. On a personal observation the area proposed for apartments is their neighborhood, not DeVille's.

Mr. Conley closed the hearing to public input.

Mr. Thiel stated he thinks the zoning commission made an approval with a plan less efficient than this one. He thinks the single family is an excellent idea. He thinks the application is consistent with the rules and regulations. Sippo creek is the largest underwater aquifer in Ohio no matter what you build. He thinks the development has potential depending on the plans to make things better for the property to the south. To the property owner at the northeast corner, he doesn't see where it will affect his property. As submitted his is leaning toward approval.

Mr. Everhard stated one of the issues in the RPC comments is the 100 ft. setback with the proposed R-3. He thinks the green space will increase so the setback could be greater than 45 ft. He talked to a few property owners and feels their concerns. He feels Mr. DeVille has come forward with a good proposal. He doesn't see someone coming forward and developing single family homes in the area. He thinks the township is concerned with progress. Someday the land will be developed and he doesn't see it being a park. The needs of population are changing but if you read what is happening throughout the county more and more people are looking for smaller facilities where their yards and gardens are maintained and are more of in demand than a single family home. He is leaning toward approval.

Mr. Weston stated he appreciates the R-3 buffer and having the R-4 more to the north. He is in agreement with the other board members.

Mr. Monsell stated he has no comments and will abstain from the vote because he is affected.

Mr. Conley stated Mr. Hall and Ms. Landis had concerns about water but they have to trust the engineers with the drainage. There is a significant distance from the R-3 to the homes to the south. He thinks it makes sense for traffic to go through Dellwood and Trillium for the single family homes.

Mr. Thiel made a motion to approve amendment 620-15 as requested and Mr. Everhard seconded the motion.

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

5:45 PM Amendment 621-15 – The Jackson Township Board of Trustees, 5735 Wales Ave. NW, Massillon, Ohio 44646 proposes misc. text amendments to the zoning resolution book including, but not limited to, Sanitary Landfills and Slaughter House regulations.

Mr. Conley read the Stark County Regional Planning recommendation for approval of a modification and the facts considered in their recommendation.

Ms. Poindexter explained the proposed text amendments as well as the change for in ground swimming pools. Ms. Poindexter explained that the covers for an in ground pool would have to meet the American Society for Testing and Materials Standards (ASTM F1346-91).

No one in the audience spoke in favor of or in opposition to the amendments.

Mr. Everhard stated he had a concern about not having a fence around an in ground swimming pool and allowing an electronic pool cover in its place because someone could forget to close the cover. Mr. Everhard stated he thinks it should be left as is even though he knows that there are not a lot of people that have 5 acres with a pool.

Mr. Conley asked the purpose for the regulation.

Ms. Poindexter stated that there have been some variance requests to allow electronic pool covers in place of fencing. Upon doing some research it appears other communities are allowing the covers as opposed to fencing for large acreage because they are not in a populated residential neighborhood. Ms. Poindexter stated she checked with her insurance company and was told that most insurance companies require a fence but it is up to the home owner to make sure they comply with their insurance regulations.

Mr. Everhard stated he is only one person.

Mr. Conley closed the hearing to public input.

Mr. Thiel made a motion to approve amendment 621-15 as requested.

Mr. Monsell seconded the motion.

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

Mr. Thiel made a motion to approve the meeting minutes from the April 16, 2015 meeting and Mr. Weston seconded the motion.

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

Mr. Conley adjourned the meeting.

Respectfully submitted,

Joni Poindexter

Jackson Township Zoning Inspector