

**Zoning Commission Meeting
March 6, 2013
ZC-01-13**

Members/Attendance: X Ron Massullo
 X Bob Barnhart
 X Jack Shetler
 X Tim Marucci
 X Gene McCullough

Also in attendance: X Bob Monus, Zoning Inspector
 X Michele Richards, Recording Secretary

Ron Massullo called the meeting to order at 6:00 p.m.

1st Order of Business:

Ron Massullo stated that the first order of business is to approve the minutes from the meeting held on April 4, 2012. Jack Shetler made a motion to accept the minutes from the April 4, 2012 meeting. Bob Barnhart seconded the motion. All members were in favor. Minutes approved.

Motion carried.

2nd Order of Business:

Reorganization of the Board.

Jack Shetler made a motion to retain Ron Massullo as Chair of the Committee. Bob Barnhart seconded the motion.

Jack Shetler made a motion to retain Gene McCullough as Vice Chair of the Committee. Bob Barnhart seconded the motion. All members were in favor.

Motion carried.

3rd Order of Business:

Case #ZC-01-13 – A request by Richard J. Albright (RJA Land & Lumber Management Co) to rezone a parcel of land from a Residential-2 (R-2) District to a Residential-3 (R-3) District. Parcel is located approximately two thousand three hundred sixty-one (2,361) feet south of Clingan Road-Center Road (Route 224) intersection, Poland, Ohio, Poland Township, Mahoning County, and is known as parcel number 35-034-0-112.00-0, Great Lot Number 26.

The proposed zone change would be an amendment to the district map and upon conclusion of the hearing the matter will be submitted to the Board of Trustees for its action.

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Ron Massullo explained the zone change process. The first step is that the proposed zone change is brought before the Mahoning County Planning Commission. The Commission would either recommend or not recommend the zone change. The second step is the proposed zone change comes before the Township Zoning Commission Board. The Board would either approve or disapprove the proposed zone change. The decision (approval or disapproval) of the Zoning Commission Board becomes a recommendation to the Board of Trustees, which is the third step in the process. The Trustees then make the final determination.

Richard J. Albright
2480 Shepherds Ridge

Albright stated he is requesting a zone change from R-2 (Residential-2) to R-3 (Residential-3) to allow for building of side by side duplexes on Clingan Road. The reason for the zone request is to allow for multiple buildings on the property. He stated that the proposed duplexes will resemble the buildings in James Place. The zone change is required because R-2 zoning allows for one building for the frontage that he has. The frontage is approximately twenty-four (24) feet short on Clingan Road. He has the acreage but not the frontage. The area does support Residential-3 (R-3) zoning. Roberto Place, which is down the road on Clingan Road, is R-3 and not a Planned Unit Development (PUD). James Place is a PUD R-3. The access to the property will be a mutual driveway that James Place and his property share. All utilities are there.

Ron Massullo asked the Board members if there were any questions.

Jack Shetler asked to see the aerial view of the plan.

Tim Marucci asked Albright if he is requesting two or three units on the property. Albright stated if smaller units are requested, which will be one thousand six hundred (1600) to one thousand eight hundred (1800) square feet, he can fit three units on the property. If larger units are requested, he will place two units on the property.

Jack Shetler asked Albright that when he refers to the units, does he mean two duplexes or three duplexes, and if R-3 allows for more than that? Albright stated yes, R-3 is a transitional district for apartments. He is not building apartments or rentals. He stated he is going to live in one unit, his mother in another, and possibly another family member in the other. He is building condos to own, such as James Place. The reason for the R-3 is that it supports multiple buildings on that size of acreage and R-2 does not. He stated that under current zoning, he can build a duplex anywhere on the property.

Bob Barnhart asked Albright if the issue with the Army Corp of Engineers has been resolved? Albright replied yes. He was required by the Army Corp of Engineers to dig out a two (2) to three (3) foot area of encroachment. When the land was cleared, they claimed that he pushed dirt into the wetland element of the properties. At this time, the only thing that he has to provide to the Army Corp of Engineers are pictures of the

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growth that took place as it was seeded and put back to its natural state. He also needs to set up a conservation, which is an easement on the deed, which will state that a certain portion of the property will not be used for building and will be preserved for conservation.

Gene McCullough stated that when he visited the property site, water is still laying at the proposed site. The Army Corp of Engineers had required a 404 permit on wetlands or a 401 application. McCullough asked Albright if he had that information. Albright stated the 401 application does not apply because he did not do anything to the wetlands. He was not required to do that. McCullough asked about the conservation easement. Once the property has a conservation easement it can never be built on, and is no longer taxable. Albright stated that is correct. McCullough asked, who will maintain the conservation easement? Albright stated his unit will be the last unit in there and he will maintain it. His building will have that specific information written into the deed.

Jack Shetler asked Albright if the driveway to James Place is on his property. Albright stated yes, he does own the driveway to James Place. Shetler asked Albright if he would be using the same driveway to enter his property. Albright replied yes, unless James Place would contest. One lane of the driveway sits on James Place property, the other lane is on Albright's property.

Tim Marucci asked Albright if he intends to widen the north end of the approach on the other side of the guard shack. Albright stated, he may, in order to accommodate the residents of James Place. Marucci asked Albright what the units will be sold for? Albright stated approximately \$220,000 each.

Ron Massullo stated that all abutting property owners were notified by the township of the hearing tonight. Massullo asked those to speak.

Frank Mazzocca
7007 Clingan Road, Unit 67

Mazzocca asks if three units are built, would the entrance be the same driveway into James Place? Albright stated if there is an objection to using the James Place entrance, he would be forced to use his right-of-way down the driveway on James Place's exit (Albright's entrance and exit). Mazzocca is the President of the Association at James Place. He is concerned that with three units, there will be cars coming in the same way that the cars go out. If one unit were to be built, a private drive could be put in and they would go out the same way that the residents of James Place go out. He asked Albright if there would be private parking for the units? Albright stated there would be driveways, garages, and parking in front of the units, which would support three to four visitors.

Shetler asked Mazzocca to state his concern. Mazzocca stated he is not concerned with one unit, however, he feels more than one unit will cause traffic issues. He stated he

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liked the property the way it was when they first bought there, a secluded, wooded area, quiet, and had privacy.

Dave Kosec
7428 Indian Trail

Kosec represents the Robeson family and Ridgely Park development. The parcel in question was sold to Albright when there was a dispute over the road into James Place. That driveway was reserved for a public roadway and was to be the entrance into Ridgely Park. It can still be the second entrance into Ridgely Park. Robeson sold the ten acres in front of Ridgely Park to give frontage to James Place. There was no frontage. It had a ten (10) foot easement going across to the twenty-three (23) acres in the back. DiCioccio bought the ten acres of wetlands off of the Robeson family. After buying that, he did a wetland study and found he could not bring a driveway through there. At that point, a thirty-three (33) foot easement was requested. That land was reserved to be the entry to Ridgely Park. Then they chose to move down the road when a house became available, bought that house, and it became the new entry to Ridgely Park.

Jack Shetler asked how many units there are in Ridgely Park. Kosec replied there are currently 32 homes. Shetler asked how many there could be. Kosec replied there will be approximately 150 homes in the development.

Ron Massullo asked if anyone from the public would like to speak against this case.

Lee Cardwell
7007 Clingan Road, Unit 47

Cardwell stated he purchased his property in James Place for the seclusion. One day he came home to find 200 yards leveled, trees were cut down and it has not been restored to its original beauty. Cardwell stated he was under the assumption that the property is wetlands. He stated that DiCioccio owns the wooded land adjacent to Clingan Road and because it was wetlands he was not permitted to develop it. His question is, if DiCioccio was not permitted to build on it, why would anyone else be permitted to build on it?

Georgeanne Agresta
7007 Clingan Road, Unit 73

Agresta asked if you have an original agreement which states that you are permitted to put a road through to a development, then why was Albright stopped and could not clear the property because it was declared wetlands? She also asked if it is wetlands, then doesn't that void the original agreement, which means that Robeson's cannot put the road through because they will cover up the wetlands with asphalt?

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Shetler stated that the entire property is not wetlands. The first 300 or so feet are not wetlands. That is where Albright is building. The wetlands are located behind there, which he cannot touch.

Angela Bilkie
7007 Clingan Road, Unit 54

Bilkie stated she is one of the elected trustees and represents 113 units, 150 people, as well as at least 150 cars that come in and out the driveway every day. Bilkie is concerned who will maintain the right-of-way. Albright stated that James Place is responsible for the upkeep of the right-of-way. Bilkie stated there a lot of people present that are not in favor of the zone change. One of the reasons is that if the property is rezoned to R-3, they are afraid that Albright will put a high rise of six units or multi-units on the property.

Bob Monus stated that the purpose of tonight's meeting is to rezone the property from R-2 to R-3. He stated that the Commission does not have the authority to define specific limitations on the land use. Monus stated that if the property is rezoned to R-3, the property owner does have the right to develop it under R-3 provisions; which state that a six-plex unit is permitted.

Dave Kosec
7428 Indian Trail

Kosec stated that in an R-3 district, the maximum height that you can build is thirty-five (35) feet, which is two-story height. There is also a restriction of thirty-two thousand six hundred (32,600) square feet per six plex. Albright's property does not have the density to support those restrictions.

Paula Ekis
7007 Clingan Road, Unit 59

Ekis asked that if there an issue with density, why can't the maximum number of units be figured out and then the Board can vote?

Mike Niro
7007 Clingan Road, Unit 104

Niro is concerned about the water displacement after the proposed units are built.

Ron DiBacco
7007 Clingan Road, Unit 71

DiBacco asked if the property is rezoned to R-3, can it be turned into rental property. Massullo stated yes. DiBacco asked that the Board not allow the property be rezoned to R-3.

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The Board referred to and discussed Article 4, Page 17, R-3 Residence.

Albright reiterated that his intent is not to build rental properties. The intent is to build condominiums for his and his family's personal residence, as well as another duplex. Albright stated that as far as drainage is concerned, he is required by zoning and the Mahoning County Sanitary Engineer's to take care of the storm water. He stated there will not be any drainage problems. He stated again he is not building apartments, he is building condominiums.

Massullo asked if there were any additional comments or questions from the Board.

Gene McCullough asked if there will be a condo association. Albright stated the units will be duplexes and will be privately owned. Albright stated that Ohio law requires a condo association.

Tim Marucci asked Albright if he is planning to build a maximum of three units, (two 4,000 square foot units and one 3,000 square foot unit), and they will not be rental units, they will be condos? Albright replied yes.

Bob Barnhart asked Albright if he would be taking care of the maintenance issues (trash, grass cutting, snow removal). Albright replied yes.

Ron Massullo stated that this Board does not deal with as many zone changes as other areas, such as Boardman. Massullo stated to Albright that his packet was very brief, i.e. his letter of intent was very simple, there were no aerial photos, and there was no site plan included.

Bob Barnhart asked Albright when he plans to start construction. Albright replied this summer.

Massullo asked if there were any other comments from the public.

Bill Peters
7007 Clingan Road, Unit 35

Peters stated that Dominic Marchionda spoke to the residents of James Place about putting in a road that would connect to Ridgely Park and then go to Route 224. Massullo stated that issue is not relevant to this zone change.

Massullo asked if there were any other comments or questions from the Board.

Tim Marucci asked Albright if he gets the zone change, when he will start construction? Albright replied this summer. Marucci asked what his plans are if he does not get the zone change? Albright replied he will build one duplex and sell the remaining property back to the Robesons'.

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The following motion was then made:

Motion

Tim Marucci made a motion in Case ZC-01-13 to approve the zone change request from Residential-2 (R-2) to Residential-3 (R-3). Bob Barnhart seconded the motion.

Voting:

Yes	Tim Marucci
Yes	Bob Barnhart
Yes	Gene McCullough
Yes	Jack Shetler
No	Ron Massullo

Motion carried.

New Business:

None

Old Business:

None

Meeting adjourned at 8:01 p.m.

Submitted by:

Michele Richards/Recording Secretary

cc: Trustees (3)
Board of Zoning Appeals (5)
Zoning Commission (5)
J. Granitto (1)
File (1)