

The Rootstown Township Zoning Commission met in a public hearing on Tuesday, July 7, 2015, at 7:00 p.m. at Rootstown Town Hall.

Present:	Rob Swauger, Chair	Absent:	None
	George Tishma, Vice Chair		
	Steve Brown		
	Theresa Summers		
	Roger Carpenter		
	Stan Dannemiller, Alternate		

Also present:

Jordan Michael, Zoning Commission Secretary
Mark Tirpak, Zoning Inspector
Joe Paulus, Trustee

Audience: See attached list

Chair, Rob Swauger, called the meeting to order at 7:02 p.m. and asked everyone to stand for the Pledge of Allegiance.

Rob asked for a motion to accept the minutes from the previous meeting. George Tishma made a motion to accept the minutes. Roger Carpenter seconded the motion. All were in favor and the motion was passed 5-0.

The public hearing for tonight was opened. Rob announced that the public hearing was for issues concerning Wickes Lumber rezoning, NEOMED rezoning, and containers definition. He invited the audience to speak, with a time limit of three minutes per person. He added that information had come back from the prosecutor and Regional Planning in regards to the storage containers and asked for a motion to send that amendment to the trustees. George made a motion to send the amendment to Section 230.06 to the trustees. Secretary Jordan Michael corrected George to say that needs to have a separate public hearing first. George made a new motion to accept the amendments to Section 150.02 B (definition of shipping container), Section 370.03 D (schedule of permitted uses in industrial districts), and 640.07 A (variance application requirements), and send those to the trustees. Theresa Summers seconded the motion. All were in favor and the motion passed 5-0.

Next is the map amendment for the rezoning of NEOMED property, 4209 State Route 44. Rob asked for discussion. Jerry Biltz, representing the K of C Hall, asked about the three properties on Tallmadge Road (Route 18) purchased by NEOMED and if the zoning would change on those properties as well. Rob said that property is already zoned village commercial, whereas this property is residential being rezoned to commercial. The reason is in hopes of getting tax money from NEOMED from the township. Brenda Wise of 4061 Tallmadge Road asked if it is the property they already own. Rob said yes, it is the area where the campus already exists. Mrs. Wise asked what it is zoned now. Rob said it is zoned residential. George said we don't know why they were able to build on it. Mrs. Wise asked if it's because they're a state university so they don't pay local taxes. Rob said that is correct, they are a tax-exempt entity. There is hope that, if the JEDD goes through, income tax can be generated from the employees who work there. Mrs. Wise asked if the JEDD development area is on State Route 44. Rob said yes, from 18 north to the Ravenna

line. Mr. Biltz asked if anyone knows what will happen with the properties on 18. Mike Kerrigan, representative of NEOMED, said the houses are slated to be demolished. The land will be left as is. There is no long-term plan except that the university expects to grow in the next 50 years. Mr. Biltz asked if they intend to buy all of the properties from the corner down. Mr. Kerrigan said not from the corner, but between the Methodist Church driveway and Loretta Drive, and only as things arise. They have no interest in eminent domain. Most of the property owners know who NEOMED's real estate person is if they want to sell.

Mrs. Wise asked if the rezoning affects any properties on Tallmadge Road. Rob said no, those are already zoned either village commercial or commercial. Brad Marks if this affects anything on Marks Avenue. Rob said yes, but not up to the houses. Roger Carpenter said it would only be the land owned by the university. Mr. Kerrigan said the one parcel they own with frontage on Marks will remain residential. Judy Sturgill of Marks Avenue asked if the driveway on that parcel will become an access road. Mr. Kerrigan said they have plenty of access on Loretta Drive that there is no interest in using Marks Avenue for access.

Rob asked for a motion to send this amendment to the trustees. George made a motion to send the proposed amendment of Section 230.06 item 3 to the trustees. Roger seconded the motion. The vote went as follows: Steve-yes, Theresa-yes, Roger-yes, George-yes, Rob-yes. The motion was passed 5-0. All items for the public hearing were now complete.

Rob asked for a motion to accept the recommendation of the Portage County Prosecutor and Regional Planning on the temporary facilities for storage containers. Steve Brown made a motion to accept the recommendations for the amendment to Section 230.06. George seconded the motion. All were in favor and the motion was passed 5-0.

Rob asked for comments from the audience. Woody Goodnight of Angelo's Pizzeria had some questions about repairing the back porch of his pizza shop. Zoning Inspector Mark Tirpak said the shop is nonconforming and asked the commission if he could add on to the back of a nonconforming building. Rob asked if he should go to the Zoning Board of Appeals instead. Mark said not necessarily, because it's possible to add onto a nonconforming building. The front of the building does not meet setback, but the back does. Mr. Goodnight said he wants to repair what he already has, with the same footprint but maybe a different design. Rob asked Mark if he has a problem with it. Mark said the only problem is that it's on a corner lot and has to meet the front setback on two sides. Rob said he still doesn't understand why he doesn't need to go before the Zoning Board of Appeals. Mark said he would if he was adding on to the front. George said it's up to the zoning inspector to say whether it's conforming or non-conforming. Mr. Goodnight said it won't look the same but will have the same footprint. The roof that's on the building now will be twisted around and go toward the building. Rob asked if any of the change is structural. Mr. Goodnight said yes, it's held up now by concrete block and he was hoping to take that down and put posts in the ground. George read Section 450.02B and said, according to that, what he's doing should be allowed. The other members agreed. Mr. Goodnight thanked the commission.

Trustee Joe Paulus asked if the building is still going to conform with the setback requirements. He clarified by asking if the back porch will stick out further than it is now. Mr. Goodnight said no, it's going to fit within the same footprint. George said there is no need for him to go through the cost of a variance. Mark said that answers

the question that he had.

Rob asked if anyone had done any investigation on creating a park district for the township. George asked Rob what he is looking for on that. Rob said that would take the load off of the trustees as far as decision making on the park district. A committee would make suggestions for the park and bring it to the trustees. It would be put in the zoning book. Theresa asked if that would be helpful for grants. Rob said yes. Theresa asked if the committee members would be picked by the trustees. Rob said he thinks it would be advertised to all residents for a number of openings. George asked if that would be a paid position. Rob said he thinks it would be voluntary, but that would be up to the trustees.

Rob called for any new business. John Ostlund, general contractor, and John Toomey, architect, spoke on behalf of Mr. and Mrs. Zeman, 4007 Harden Road in East Muzzy Lake. They had contacted Mark and Jordan last year about building an addition. East Muzzy Lake is non-compliant with about 35 homes on one lot. They applied for a variance and had their plans reviewed and approved by East Muzzy Lake. At the ZBA meeting, Eugene Mills aggressively went after the board. Mr. Mills said he had a legal document stating that East Muzzy Lake was grandfathered in when zoning was established, but wouldn't produce the document. There was discussion of tabling the issue or withdrawing the motion to approve, but they went on with the vote and turned it down. Now the board cannot revisit the issue for a year, unless there is new evidence. There are roughly 80 residences in East Muzzy Lake, Sappwood Shores, and Sandy Lake, and based on that precedent that was set, they can't do anything. The Zemans have had this home for three generations. It can only be seen from a helicopter and will not affect the other 7,000 residents.

George said there is only one lot there and it is in fact owned by one person, by the corporation. Some of the homes you can touch with both hands, and that wouldn't be allowed anywhere else in the township. If there is damage, the insurance won't pay for it because the house is non-conforming. He doesn't want his committee to be held responsible for any health, safety, or deaths.

Mr. Toomey said he has looked through the residential code, Section 310 and has worked with other communities on their zoning for planned residential developments, so they can be held to the same standards as everyone else. He read the description for Residential Village (R-V) districts, which were established for older neighborhoods with higher densities. The schedule of permitted uses allows for planned unit residential developments and platted subdivisions in R-V districts, as well as in R-2 which Muzzy Lake is zoned currently. He presented a document of their platted lots. Mark said that platted document is not accepted by the county. Those property lines are not on the Portage County tax maps. The most recent addition on Sandy Lake was approved by the township but turned down by the county. Mr. Toomey asked how imaginary lots can be expected to meet setback requirements. The minimum lot size for R-2 is 13,500 square feet. To apply R-2 zoning to an existing condition like this is unfair to the people that live there. He added that planned unit residential developments are a permitted use, as are cluster homes, and he feels that East Muzzy Lake meets the requirements of an existing planned residential development. The lot sizes are the dilemma, and they shouldn't be held to the R-2 standard. These areas need to be re-zoned to fit their needs, and the current zoning code allows for that.

Rob said he contacted each community to work something out, and they still want to do that. He wants to suggest to the trustees to hire a consultant to get this right. Mr.

Ostlund said they spent a whole year researching this, and he hears this has been going on for some time with no resolution. Mark said no one has shown up. It's the homeowners' associations' responsibility to work with the board. George said it's not an eyesore, but what Mr. Toomey proposed isn't enough. Theresa said she has proposed having a lake district and has tried to figure out what they can do to accommodate, but they need more input. Rob said they can't just allow things in one area and not everybody else in the township. Stan Dannemiller asked about the curmudgeon at the meeting. Mr. Ostlund said he was ironically trying to help their case. He doesn't even live there but has been involved with one of the boards.

Pat Gintert spoke on behalf of Sandy Lake Inc. He said they came to a meeting and were told that the board would be tied up until fall. In the meantime they received non-conforming letters. Jack Wood spoke on behalf of East Muzzy Lake. He asked if a meeting can be scheduled now, and if the Zemans can be allowed to build in the meantime. Rob said that cannot be done by this board, only the Zoning Board of Appeals. Roger said it has already been turned down and would have to wait another year. Wayne Zeman said he wished he had been at the previous meetings. He felt very sad that he got shaded and can't do what he wants to do. He asked who let the homes be built across the lake in Sappwood Shores. George said none of us were on the board at that time. Roger said to look at the rest of Rootstown looking there and asking the same thing. Everyone else has to meet the requirements of the zoning book. George said just because the association said it's okay doesn't mean Portage County says it's okay. Mr. Zeman said he lives in Summit County and was allowed to build a big, beautiful home. Rob said maybe we'll take advice from them in creating a district. He will contact Mr. Wood tomorrow. Mr. Wood said in the meantime, if they want to visit Muzzy Lake, just call. George said he just drove in. Mr. Wood said it's a private drive. George said as a Zoning Commission member, looking for research, he can do that.

Andrea Zeman asked if this would be different if they were a real condominium association. Rob said he doesn't know. George said they have spent three years on this issue without knowing what the area looked like. Mr. Wood said after four generations of having things passed through, it is a little shocking when it stops. That is why they are passionate about it. His board has said no to things and yes to other things. They will do everything it takes but he feels bad for the Zemans. George said he saw new homes and they were beautiful, but some of them were allowed by Portage County. Mr. Gintert said all of them were allowed by Portage County. Mrs. Zeman said the homes on her street in Portage Lakes have sold for \$700,000 to \$800,000. The tax base has gone up. She pays \$16,000 a year in taxes there and \$900 a year in Muzzy Lake. This type of zoning stops that from happening and freezes the tax base. Rob asked which township she is in. Mrs. Zeman said she is in New Franklin. Parts of Portage Lakes are also in Coventry and Green. Rob said they will look into their zoning to see what they do. Mrs. Zeman said she begs to differ with the statement that she could stand between two houses and touch them both. Theresa asked people to come up with ideas and gather some information to bring to the next meeting.

Becky Brittain spoke on behalf of Sandy Lake Inc. She addressed the comment that, if their homes are non-conforming, their insurance will not cover them. She contacted four insurance companies who said otherwise. Mark said it's not that they won't be covered, but that they won't be allowed to rebuild. Mrs. Brittain also said that no one in their corporation asked for an addition that was turned down by the county. Mark said the last one was approved after they went through the county appeals board. Mr. Gintert said it was due to being in a floodplain. Mark said he was

told that all of their homes are now in a floodplain. Rob said they will have to advertise the meeting, so it won't happen this week or next week, but they will get it done. George made a motion to contact the trustees and ask them about having a consultant to help out with Muzzy Lake and a lake district. Theresa seconded the motion. Dan Frank, on behalf of Sandy Lake, asked if the prosecutor has someone who would be a consultant. Rob said he will ask. George said it will be the trustees' decision. Mr. Gintert asked if that will be taken up at the next trustee meeting. Jordan said yes. All were in favor and the motion was passed 5-0.

Todd Schumacher introduced himself as the owner of Carolina Carports. He said there are a lot of questions and misconceptions to be answered in Rootstown about carports and steel buildings. He followed up with trustee Dave McIntyre about an article in the Record-Courier about Rootstown and their issues with carports. He said it seemed to be directed somewhat at his business in Edinburg and wants to provide whatever information he can to the board because he has customers in Rootstown. George asked him what board he has contacted. Mr. Schumacher said he has contacted Mr. McIntyre, the zoning office, and Mr. Tirpak, and forwarded an email to Mr. Paulus. Rob told him he must have contacted the trustees. Joe Paulus said he talked to him on the phone for about half an hour. Mr. Schumacher said that was two months ago with no follow-up. Joe said in no way was his business mentioned. Mr. Schumacher said people called him for two weeks to say that Rootstown was coming after him. Rob said they will take his information and suggested that he go to a trustee meeting to express his concerns. We have no jurisdiction over your complaint.

George made a motion to adjourn the meeting. Steve seconded. All were in favor and the meeting was adjourned at 8:34 p.m.

Rob Swauger, Chair
Rootstown Township Zoning Commission