

April 6, 2006

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, April 6, 2006, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Frank Buczolich called the meeting to order at 7:00 p.m. leading the Pledge of Allegiance.

Roll Call: Frank Buczolich, President; William Evans, Terry Baker, Ed Bitner; Vice President, Don Calvert and Dennis Williamson. Frank Nierzwicki, Director of Planning Services was also present. Sandra Hash was absent.

Approval of the Minutes

Terry Baker made a motion to approve the minutes of the March 2, 2006 meeting. William Evans seconded. Motion carried.

Old Business

Town Code- Non Moving code violations (parking issues)

Frank Nierzwicki explained the Town has had to cope with the lack of neighborhood parking. As the Director of Planning Services he has been asked by the Plan Commission to come up with a revised parking proposal. The following are some of his latest thoughts concerning parking:

Parking Zones: There could be three separate parking zones within the Town. These different zones would have different parking regulations.

- New homes/subdivisions: all new homes must have hard surface driveways.
- Older subdivisions: Boundaries would be defined for these. These subdivisions were constructed during the 1960's to the 1980's. The Town Code has changed over the years and attempted to allow more parking spaces for these type homes. There have been allowances made to have gravel/pavers extension to existing driveways as well as separate parking areas. Town residents are required to have a driveway permit to extend or increase their parking areas. The Town could review areas within subdivisions to see if "safe" on street parking could be permitted. Approval for on street parking should come from the Town's Street, Fire and Police Departments.
- Old Ellettsville: This is the oldest part of Town. This area would need a definition and a boundary. There is limited space for driveway extensions and separate parking areas. The Town needs to be more flexible in these areas concerning parking restrictions.

Frank and Laura measured pavement. It varies; one part in the older part of Town was 33 feet wide. There are pockets within Town that could have on street parking. He would only recommend parking there if the Fire, Police and Street Departments could service those areas with safe parking on one side of the street. Frank will be working on doing a street inventory within the Town this spring and summer.

Enforcement: He would like some input from the Plan Commission on the enforcement. Whatever type of parking ordinance the Plan Commission recommends and supports there needs to be an enforcement mechanism to follow. Different types of enforcements are:

- Complaint Driven Enforcement: Complaints to be filed by neighbors.
- Active Enforcement: The Planning Department would patrol looking for violations. The amount of active enforcement should be decided by the Plan Commission. Should special attention be paid to repeat offenders?
- Hours of Enforcement: The Planning Department does not have personnel to patrol the Town on weekends, holidays and evenings. Should the hours of enforcement be from 8:00 a.m. until 6:00 p.m. on week days and not on weekends and holidays?
- Special Situations: Parking on one's lawn to do ordinary daily activities such as car washing or dropping off groceries could be excluded from enforcement. The place to draw the line for these types of activities would be if

the vehicle is left unattended.

- Staffing Level: When decision have been made by the Plan Commission concerning enforcement activities we must understand the staffing required to carry out these mandates. The Planning Department does have other Town responsibilities besides enforcement.
- Letters/Fines/Tickets: What are the enforcement tools used by the Planning Department? We have used letters with some result; should we continue this practice? The Town has not used fines or tickets up to this point; should we consider using fines and tickets? Should we use a combination of letters with fines and tickets? If we use fines and tickets what is the level of the fines and tickets?

The Planning Department is requesting action tonight on all the items listed above.

William Evans asked Frank to clarify exactly what he is asking this evening. Frank would like to save resources and man hours. He is asking “do we want to go zonal with parking”? A good starting point would be to create a map of these zones. William Evans asked how long it would take to meet with the Fire, Police and Street Departments to determine what would be legal and safe. Frank said there are minimum requires for the Fire Department on their equipment getting in and making turns. The Street Department plows snows and a snow emergency could be declared to have cars moved off the street. By next month Frank should have more information and tonight is just for discussion. He would like to know if this is the direction to follow. Don Calvert felt the zoning was a good idea because to have a “blanket” for the whole Town since there is such a difference between the old parts of Town and newer subdivisions. Zoning would make it more equitable. Ed Bitner applauded Frank Nierzwicki on the work he has done so far on the zoning idea and would say yes to go zonal. Ed asked Frank if he wanted a decision on the “Enforcements” also. Frank said he would like direction on the “Enforcements”. Ed commented he would like to see a Complaint Driven and Active Driven system in place at the same time and gave some examples of both scenarios. Don Calvert asked what period of time was parking an issue and will that time be patrolled? He went on to read a letter from the Town of Ellettsville Council President stating “be advised that any amendments to the Town Code concerning parking that contain any element, practice or policy advocating or requiring complaint based enforcement or some like activity shall not receive my signature regardless of any affirmative Council vote and thus will not be adopted”. Frank Nierzwicki said it is on the docket for discussion and they need public comment. A motion or vote can be made on each of the different Enforcements. The Town of Ellettsville citizens deserve a guidepost to what Frank will be doing and the action of the Plan Commission to help determine the direction. He presently takes complaints on noise, radios, high grass, geese and other things that come up; he presently has more enforcement on high grass than with vehicles. Terry Baker suggested going with an Active Enforcement with Frank’s available time and incorporate Complaint Driven Enforcement regardless of what the Town Council President says, you have to take complaints; the Police Department takes complaints and we should take complaints too. Frank can not be in every place in Ellettsville when something is going on. If the Council President does not want to sign it, that is his prerogative.

William Evans summarized there are three things to take care; the first four Enforcement issues to condense into one; the Staffing Levels and to determine what the action to take. The Complaint Driven Enforcement is needed but considers the fact of family feuds and personality conflicts. The key word is “would wait”; it does not mean nothing will be done until a complaint is called in. This will need to be rephrased. Active, Hours/Days and Special Conditions Enforcement needs to be condensed into one particular paragraph.

Frank Buczolic asked when studying other communities are regulated areas primarily monitored during the business week? Frank Nierzwicki said it depends on the jurisdiction, size and staffing is the driving force. He thinks the majority of Ellettsville citizens want to comply with code situations. A combination of letters, fines and tickets is the way to handle this.

Dennis Williamson asked if cars and trucks parked on the grass has been discussed. Frank Nierzwicki said yes; parking on the grass with any motorized vehicle including boats on a trailer. This is a current violation. Frank is willing to work with Plan Commission to fine tune the current code.

Jay Brinegar, local business owner, asked if cars are parked illegally will they physically be removed and is this within the law? Frank Nierzwicki said if it is an illegal vehicle on the street the Police can tag it and they will have 72 hours to remove it. For safety issues, it can be towed immediately. Mr. Brinegar asked “if it’s parked in the front yard that is really not the street the Police can go on someone’s property and remove that vehicle”. Frank Nierzwicki stated the

issues in Town that the Police deal with are vehicles that not plated or not movable. Mr. Brinegar clarified it is not enforceable by the Council or Frank Nierzwicki; it has to go to the Police Department to remove property from someone's property even if its violation. He also clarified there are boats and trailers that are not motorized.

Frank Nierzwicki suggests deciding on the zonal issue and then continue with the second part of this. Don Calvert announced this is something that can be discussed among their selves at the end of the meeting. He entertains a motion that we move our discussion to the end of the meeting and let the people here for other business be taken care of. Don feels the Commission needs to move off of this topic and move on to the next.

Tim Harris, business owner and resident of the Meadowlands, the subdivision has "no parking" signs along the street. When there is company and the driveway is full the only other space is the street. How will this be addressed? Frank Nierzwicki informed them of the current ordinance stating if there is a special occasion, you can contact the Police Department and let them know. They will take your name, address and length of party. This is a special type of permit presently in the code that will stay in the code.

Terry Baker made a motion to move on and come back to this other after the signs. Don Calvert seconded. Motion carried.

Signs: Legal/non-legal and lighted

Frank Nierzwicki stated during the February Plan Commission meeting, there was a discussion on lighted signs. Mr. Bob Double made a visual presentation concerning the size of signs permitted by the Town Code and used the Richland Plaza as an example that was very interesting. He is following on Mr. Double's request for a change in the Code by presenting a draft sign size ordinance. The other issue that came up was going back to the 2003 update of the Town Code, it appears lighted signs were not included. His opinion is it might have been an oversight. There are other areas within the Code that talks about bulbs and other things making you think there should be something about lighted signs. If this ordinance is passed by the Plan Commission tonight, the first reading would not be with the Town Council until April 24, 2006 to give some time on the wording. Frank read the proposed Code 152.261 (B) (3):

Each building housing an approved or legally non-conforming business, public organization or nonprofit organization, but not a dwelling, may have a fascia sign. The sign face area shall not exceed 1.6 square feet for every one linear feet of building width. Its must also not exceed 24 inches above the lowest part of a roof. They may carry only on-premises advertising and may also be lighted.

This Ordinance takes effect at 12:01 a.m. on the third day following its final publication according to the procedures specified by IC-5-3-1.

The other issue has been the use of advertising signs. The Planning Department requires clarification from the Plan Commission in the following types of signs:

- Yard Type Signs (on premises and off premises): the issue concerning the temporary yard type signs is if they advertise special occasion or if they are attempting to get around the limit on the size of permanent signs.
- Banners: These signs are to be temporary in nature and only to be used two weeks at a time and only for four weeks total during the year. Attached to a stake pole or rope.
- Mobile Signs: These signs are mounted on wheels and or legs that can be moved. According to Town Code these signs are illegal.
- Realtor Signs: According to Town Code, these signs could be placed in front of the home for sale but not off premises. Open house signs can only be up for three day prior to the event and then taken down following the event.
- Sandwich Boards: These permanent signs have size restrictions and can be used in addition to legal freestanding signs.

The Planning Department requests guidance on enforcement of each type of above mentioned signs. The other issue that needs to be addressed is when the Planning Department determines a sign is illegal and a sign is removed from the site that sign is brought back to the Planning Department Office. The Planning Department is requesting Plan Commission guidance on what to do with these signs. Should we allow the "owners" of the signs to pick them up? Should the Planning Department dispose of the illegal signs after a set period time? He has tried sign enforcements once. He did not go out by himself and had limited space in his vehicle to collect signs. He would like some guidance on how to proceed on this.

There are two basic items on the sign issue; (1) the size and lighted (2) enforcement.

It was asked the difference between a “mobile” and “sandwich board” sign. Frank clarified the “mobile” sign can be moved by a truck or hooked to a hitch and moved. A “sandwich board” is an unlighted, free standing sign in the shape of an inverted V having a maximum dimension of 24 inches in width and 48 inches in height. Ed clarified the “sandwich board” are in stores that say “Caution Wet Floor”. Frank agreed and added another example was in front of restaurants with the daily special written. Frank then went on to read the definitions of each sign listed in the Town Code 152.256. Dennis Williamson asked “what about a person walking around with a “sandwich” signs on or dressed up carrying signs”? Frank said those are not mentioned in the Code. He went on to say if there are strong feelings with some issues; the Code can be tweaked, changed or added to. Terry Baker asked if any safety issues were taken into consideration with the size of the signs. Frank said the signs need to be well maintained and can not be blocking the line of sight.

Frank Buczolic reviewed the past and present ordinances and it seems with the original formulation for lighting the primary concern was a sign placed on premise but off buildings; that was addressed by the original restriction of no lighting on that type of sign. That moved into allowing lighting but having a fairly strict control over what type, which is still part of the Code. Frank Nierzwicki said the issues needing to be discussed are “self contained” lights and the “3-D” type of lighting (example CVS Drugstore). The modern lights give off less light pollution than the old systems. Then there is “directional” lighting (flashing, strobe, blinking) that needs to be discussed at another time. The first issue needing to be addressed is the American Flag. At night needs to be lighted. Dennis asked about “temporary” lighting (Christmas tree). Frank Nierzwicki gave the example of night time lighting for security reasons and also issuing temporary lighting permits. Ed clarified all new signs coming in will be the 3-D signage but current businesses with the façade and fascia signs back lit should not have to replace their signage. He asked how the terminology will be written in the Code. Frank Nierzwicki said the 3-D type lighting will be the easiest way to go but the other types of lighting will also need to be addressed. Frank Buczolic clarified Richland Plaza was brought up more for the size of the signs not the type of lighting used.

Bob Double explained the changes to be made at Richland Plaza is what brought this issue to where it is tonight. In reviewing the Code, he found other areas needing to be revised. The on premises, free standing signs (Long John Silver pole sign) would be out of compliance by the way the Code currently is written. The big billboard signs would be classified off premise and would also be in violation of the current Code. The message board for the high school is out of compliance with the blinking lights. Frank Nierzwicki explained flashing light displaying the time and temperature is something that has not been addressed but it has also been preexisting. Bob Double stated when they spoke in February it was then determined this was likely an oversight when the Code was changed in 2003 but Sandra Hash mentioned she recalled some concern about light pollution. Ellettsville’s Comprehensive Plan suggested Limestone monument signs to promote our history in the Limestone Industry. He does not think this is very practical since the main street going through Ellettsville is a four lane highway with people driving 50 mph. Businesses need lighted signs to attract these drivers to their businesses. He also disagrees with making businesses put up limestone stone signage. Bob Double proposes the Plan Commission leave open the ability to have lighted signs without getting into particulars. He understands the concern for flashing or strobe lights since that could be a traffic hazard. The LED sign at the high school is just as distracting as flashing strobes. His recommendation would be to be as general as possible and allow lighting where ever possible. He does not know of any resident complaining of light pollution from signs.

Tim Harris asked what the clarifications on the 3-D signs were. Frank Buczolic explained rather than having a flat board or plate with lettering on it; the lettering has dimension and faced with lighting or lit from within.

Darlyne Sowder is a business owner on the highway. She asked who all were business owners and if they had signs. Ed Bitner answered yes he is a business owner and no he does not have signs. She explained in 1978 she started her business and went to the Town Council to find out what needed to be done to start (permits, signs). She was told there was a sign ordinance and they would give her the information after the meeting. After the meeting the Board went to the back and then returned to say “we really think we have a sign ordinance but we can not find it so what you should do is drive around town and find the sign you like and put one up like it”. Presently her sign is not where she put it. Her sign was knocked off the building by INDOT and they refuse to put it back where it had been on a free standing pole next to the building. It was supposed to be even with the right of way and it was not returned to that place. It was

lighted before but INDOT did not reconnect the electricity to it. She is assuming if she can get INDOT to move the sign back she will fall under the “grandfather clause”. The question she has about signs is “why the Town is now getting so strict on what’s happening on signs. Have there been a lot of complaints about the signs in Town”? Frank Nierzwicki has received complaints about signs throughout Town. Ms. Sowder clarified “they’ve complained about businesses’ signs”? Frank Nierzwicki explained there have been a variety of complaints with signage within the Town. Ms. Sowder said “as a business owner, in order to get people to come into your store they have to be able to find you”. She then gave an example of a customer trying to locate her business. He drove by three times and the last time she stood outside while talking to him on his cell phone and waved him down. That is how she got the man to stop at her store. This is why signs are put up. If no one can see the sign there is no purpose in having the sign. The sign has to be up advertising the business and entice the person to come in to the business. If the customers can not find them, the businesses will not longer be able to stay a float. If all the businesses in town are run out, you will lose a large part of your tax base and then services will have to be cut for residential people because you don’t have tax money to pay for these things. She is encouraging the Board to keep in mind the signs are a necessary part of running a business. She quoted “A business without a sign is a sign of no business”. They need signs that are seen.

Bob Sowder remembered when he moved to Ellettsville there were grocery stores, pharmacy and some other type stores. It seems the lack of cooperation from the Town with the business has driven everyone out of Town. The Town lost a lot of its tax base and decided to annex those business back in. Now the Town wants to make changes to the sign ordinance and should keep in mind signs need to attract people in the businesses to make the community grow. He advises the Board to back off on this and think a little more on it.

Beth Robinson-Pyclik stated a lighted sign would improve the safety of people looking for a certain business. She agrees the light from a business’s sign should not shine on someone else’s property. Everyone depends on business whether you work for a business, work for the government or whom ever you work for it all goes back to a community and everyone’s income is based on businesses because without the businesses people do not have jobs. Everything goes to back businesses and they need to be supported in the community. Do we want Ellettsville to be a suburb of Bloomington or do we want to have our own economy, own businesses to grow within this community. We need to keep the goals in sight and work towards those. Ms. Robinson-Pyclik asked Ed Bitner why he doesn’t have signs at his businesses. Ed answered his one business is an aircraft leasing company based at the Bloomington Airport and he doesn’t need signs out there. He is part owner in an electrical contracting company where they do electrical wiring for both residential and commercial. They hand out business cards for advertising. Ms. Robinson-Pyclik stated the business sign for the building is the number one form of advertising. She suggested to the Commission to be cautious about regulating the signs too much because the 3-D signs can get very expensive. Ed Bitner clarified he retracted the statement about having 3-D signs for new businesses. Ms. Robinson-Pyclik said if the town makes things too expensive; it would make it difficult for people to start a business. Ed Bitner remarked there is a lot of misunderstanding this evening. His understanding of change in the sign ordinance is to increase the size of the sign and allow them to be lighted. They want to agree on the type of lighting. He mentioned the backlit 3-D signs are pretty but after Bob brought up the fact that you will be cost prohibited on some businesses, he retracted his statement on making everything new 3-D. His interpretation on what this is about is to help the business by increasing the size of the signs and lighting them. Ms. Robinson-Pyclik asked the Board to comment on the portable arrow signs and what is the aversion to them. Frank Nierzwicki replied he has to enforce the Code and it is in the Code now. If he enforces anything, he has to enforce everything. He is trying to find out what he is supposed to do. The arrow sign issue there has been a feeling in the past of not having that type of sign due to it looking like clutter. There are two issues being discussed; (1) the size of the sign and the lights (2) what is Frank supposed to do. There are things on the books the Plan Commission doesn’t want him to do, changes can be made. If he is supposed to enforce it, he needs to know how.

Bob Double understands the Town not wanting a corridor of mobile, lighted, arrow signs but does the Code currently permit those to be place as a temporary placement if a business is having a grand Opening. Frank Nierzwicki said there are provisions for special occasion signage.

Tom Ponton of Cross Paint and Body asked about the portable signs. He uses one on his property to direct traffic into deliveries versus service. It is set back and not seen from the road. Is this allowed or not.

The next 45 minutes or so of this meeting was not recorded. Frank Nierzwicki did submit the following concerning the Erosion Control Public Right of Way Excavations Ordinance

Discussion:

Rick Coppock presented the draft ordinance. He stated the Town needs to address our erosion control requirements under Rule 13 and this draft ordinance does that. William Evans asked will the fee that is charged for the excavation (92.10 through 92.25) include utilities companies. Rick said no the ordinance would be for private contractors and citizens. Ed Bitner asked if he wanted to dig up his front yard to reseed his grass, does have to get a grading permit and pay a fee. Rick answered if you take out the ground cover over the minimum area amount and leave that area bare of ground cover, yes. If you replant the bare area, you would not need to get a permit and pay a fee. Frank Buczolich asked if there needs to be action taken on this issue tonight. Frank Nierzwicki stated no it is only informational for tonight’s meeting. Frank Buczolich requested to move on.

The next portion of the tape began with the Status Report. Frank Nierzwicki reported the first quarter of this year there were 17 new home building permits, two commercial buildings additions or expansions and two driveway permits. The amount of fees came to just over \$3,000 for the first quarter. Ed Bitner asked where the money goes. Frank Nierzwicki answered “The General Fund”.

Frank Buczolich asked for recommendations on how to proceed regarding the Town Code Parking Zones. Frank Nierzwicki suggested a few ways to go about this; have separate motions and votes or try to combine the Code Violations. There was discussion on the different ways to handle the Parking Zones Frank Nierzwicki brought up at the beginning of the meeting:

- Handicap/disability parking
- Temporary disability – exceptions

William Evans stated the Complaint Driven Enforcement should be “stricken”. He understands the Planning Department will only work on something if it is by a “complaint”. He does not want to get into neighborhood or family squabbles. The way it is written states “the Planning Department would do nothing to act on any complaint unless someone called it in”. Frank Nierzwicki suggests the wording be “Active Enforcement with input from neighbors”. Don Calvert reiterated the letter from the Town Council President not signing anything requiring “complaint based enforcement”. Frank Nierzwicki does respond to complaints overall. He went on to say three sentences could cover all the enforcements:

1. Active Enforcement of Code with input of concerned neighbors on a regular basis giving leeway periodically.
2. The hours of enforcement will be on weekdays 8 a.m. until 5 p.m.
3. The following conditions would not be in violation; washing vehicles, unloading groceries or car repair.

William Evans suggested Frank Nierzwicki take the Complaint Driven Enforcement and Special Situations; come up with an idea, research other Towns and e-mail all Board members a draft to review and comment on without having a public meeting. After everyone has put in their comments; then bring it to the Board for a vote.

Non Agenda Items

Report on Edgewood Village

Frank Nierzwicki announced the debris has been cleaned up and the trailer has been moved. He has not heard of any lots being sold during the auction. William Evans stated a couple were sold. Frank Nierzwicki spoke with Mike Spencer and was told the Town has a bond until September with Mr. Dunn. Next week a decision will be made on the location of the fence.

The next meeting will be held May 11, 2006 at 7 p.m. May 4, 2006 there will be training for Plan Commission and BZA members.

Adjournment

Ed Bitner made a motion for the meeting to be adjourned. Don Calvert seconded. Motion carried. Meeting adjourned.