

August 5, 2004

The Ellettsville, Indiana, Plan Commission met in regular session on Thursday, August 5th, 2004 at the Town Hall. Frank Buczolic called the meeting to order at 7:00 PM and led in the Pledge of Allegiance.

Roll Call: Frank Buczolic, Terry Baker, Don Calvert, Lisa Creech and Jeffrey York, Planning and Zoning Administrator were present. Ed Bitner and Sandra Hash were absent.

Approval of the minutes for June 3rd, 2004

Terry Baker made a motion to approve the minutes of June 2004. Lisa Creech seconded. Motion carried.

Old Business

Don Kinser's Mini-Warehouse Facility, 110 Ridge Springs Lane

Glenn Benninger reminded the Board of his complaints and asked what was being done about the issues. He wanted to give fair warning that he has already begun the process to file a lawsuit against Mr. Kinser and the Town. If nothing is going to be resolved then he plans to proceed with the lawsuits.

Jeff York reminded the Board the Benningers have attended several Town meetings concerning the Mr. Kinser's facility and he has looked into the issues and researched the Town Code. The only action the Town can take in accordance with Town Code is making sure the lighting is pointed away from the residential areas. He has sent a violation letter to Mr. Kinser concerning his motion lighting. The other complaints concerning hours of operation and public indecency the Plan Commission can not enforce. Public indecency is a Police enforcement issue. The Town can not limit the hours of operation. He asked Mr. Kinser if he would limit the hours of operation and he said no but added if there were problems he would consider limiting the hours. Jeff York said Mr. Kinser doesn't like being forced to do things that aren't in the Town Code. Jeff and Rick Coppock looked at Mr. Kinser's retention pond. It is under development but they have asked Mr. Kinser to make some improvements to the site. Landscape buffering has been discussed thoroughly and it was determined that street trees were the requirement along Ridge Springs Lane at forty feet on center and those trees are in place. The Town Council President has requested Jeff to get estimates for the Town to put in additional trees for buffering and he is in the process of getting estimates. The Town is not under any obligation to do this and depending on the cost the Town may or may not add additional landscaping to the site. Concerning noise violations he has asked Mr. Kinser to post rules and regulations customers need to follow while using his facility, such as Keep Quiet, residential area and they can be subject to police action for excessive noise. Mr. Kinser has agreed to post the regulations.

Rick Coppock reiterated he had looked at the retention pond and said Mr. Kinser still has work to do on it and as time goes on he will make sure Mr. Kinser follows the plans as originally designed and approved.

Glenn Benninger requested an official letter from the Town which explains what the Town can or can not do according to Code about the issues he has brought to the Town Council and Plan Commission. He added if the lighting keeps his kids awake at night and they fall asleep in school, the school has been known to contact parents about kids sleeping in class so he needs the letter by August 16th before classes begin on the 17th.

James Wagner said he and his wife Kathy support the Benningers and believe the Town was wrong and knows it when allowing Mr. Kinser to construct a mini-warehouse facility in a residential area.

New Business

Parking, Loading and Driveway Amendment Proposal

Jeff York explained hindsight has showed that the Parking Ordinance that was passed previously has many difficulties when trying to enforce; specifically in older subdivisions where driveways were smaller, homes had one car garages and on street parking was prohibited. Therefore, he has reviewed Bloomington's ordinance and has written an amendment to the Town's ordinance which will make the ordinance less intrusive and more doable for the

public to come into compliance. He reviewed the Board of Bloomington's parking ordinance. He went on to explain the proposed changes to Ellettsville's ordinance page by page. The proposal is prefaced with this paragraph: "Off-street parking requirements – In connection with any building or structure which is to be erected or substantially altered, and which requires off-street parking spaces, there shall be provided such off-street parking space in accordance with regulations set forth hereinafter. This chapter is designed to alleviate or prevent congestion of the public streets by establishing minimum requirements for on-site storage of motor vehicles in accordance with the use to which the property is occupied."

- **Page 1** section 152.220 proposed adding the line "except where on-street parking is permitted" to #1. He proposed removal of #3, #4 and #5.
- **Page 2** He proposed removal of #10 & #11. Added #12 which reads "New driveways intersecting streets that are hard-surfaced must have a surface apron made of concrete, asphalt or pavers extending back into the lot from the street ten (10) feet."
- **Page 3** section 152.222 added "commercial and industrial uses shall be subject to the following standards." He proposed removal of the rest of the introductory paragraph.
- **Page 4** added letter G which reads "Parking within a landscaped area or lawn area is strictly prohibited." Section 152.223 (A), he proposed removal of the line "Where on street parking is available in front of a single family or two family home" and added the line "Required off-street parking spaces may include space(s) provided within a garage or carport. Where on-street parking is permitted in residential areas, any vehicle parked in specified areas permitted for on-street parking shall be considered in compliance with these regulations." He proposed removal of the line "Parking areas shall be maintained in good condition and free of chuckholes, weeds, dirt, trash and debris."
- **Page 5** no changes made.
- **Page 6** Added section a new section 152.224 Location of Parking Spaces (a) Street Setbacks. 1. Single-Family Districts and Two-Family Districts. Parking for single-family residential uses shall be prohibited within the setback between the street and the building except on a single driveway not exceeding the width of an attached garage facing the street or twenty-two feet in width where there is no attached garage facing the street. Parking on any portion of the setback between the street and the building or on a lawn in the front yard shall be prohibited. Parking shall not be permitted in driveways serving parking lots. 2. Multi-Family Districts. Parking for multi-family residential uses shall be prohibited within the required street setback as set forth in 12.190. Parking shall not be permitted in driveways serving parking lots. Parking shall be prohibited on lawns. (b) Side and Rear Yards. 1. Single-Family Districts. Parking areas may occupy a maximum of fifty percent of the area extending from the rear of the principal structure to the rear lot line between side lot lines. 2. Multi-Family Districts. The side and rear parking setback requirement shall be one-half the building setback for the district or five feet whichever is greater. Changed the current 152.224 to 152.225.
- **Page 7** changed 152.225 to 152.226 and 152.226 to 152.227
- **Page 8** He proposed removal of section 152.226 (152.227) A. Construction the entire paragraph which reads "New driveways intersecting streets that are hard-surfaced must ... 152.223 (B) 2. Ancillary parking areas are not required to be paved." Added an asterisk in the Driveway Standard Table under Single-Family Residential which refers to the line "Drives may be located at property line in the case of shared driveways."
- **Page 9** changed 152.227 to 152.228. He proposed removal of the line "A permit fee for a residential driveway shall be \$25.00. Fines associated for noncompliance with the above regulations shall be as follows:" Also removed paragraph detailing offenses and fines associated with each offense as well as the line "A person who violates this chapter commits a Class C infraction." Added the paragraph "A written letter, sent by regular mail, shall constitute as a warning. Additionally, tickets may be levied against the property owner who does not comply with the above regulations within 60 days after the written letter. The first ticket issued shall indicate a remedy for the violator to comply. Any additional tickets shall be levied a fine of \$25.00 each.

Jeff read a letter to the Plan Commission of support from Patrick Stoffers. It reads:

Dear Plan Commission Members,

I am writing in support of the proposed amendments to the Ellettsville Town Code relating to Parking, Loading and Driveways. It is my belief the proposal is reasonable and reflects a common

sense approach. Quite clearly, we should have a concise policy regulating these types of activities. In years past, town regulating actions has in many respects been non-existent. Previous town councils have not recognized the changes in our community. The days of single-earner household are gone. With heightened demands placed on the family in terms of children, time, travel and resources it is not particularly unusual to see households with 3, 4, 5 or more vehicles. It may in fact be the norm today. The town government did a poor job of recognizing this reality. For example, our older neighborhoods tend to have insufficient street width to safely allow on-street parking. This in turn has created a conflict between strict and in many cases irrational interpretations of the town code versus simple common sense, relative to changes in our community. There is nothing virtuous in enforcing outdated code provisions that do not reasonably reflect the current situation. Jeff's proposal is sensible. Among other things, it simplifies the processes and procedures and it removes government-created burdens placed on residents in areas of town where street parking is prohibited by allowing parking in the side and rear yards. While I support prohibiting parking on front lawns, Jeff's proposal is a reasonable alternative to what I believe is an irrational policy of prohibiting parking on all landscape areas. I urge a favorable recommendation from the Plan Commission on Mr. York's proposed amendments. Sincerely, Patrick Stoffers, President, Ellettsville Town Council.

Ed Bitner came in late.

Comments:

Lisa Creech said she was concerned about not issuing a permit for a driveway because a new driveway could be installed without the Town's knowledge and it may not meet the standards. She suggested making a driveway permit fee of \$5.00 adding when \$25.00 fines are enforced and collected the funds should be reapplied back to purchase tickets. She said 152.220, #12 should be stricken so it would be easier for the public to comply.

Terry Baker agreed permits should be issued for driveways so the Board knows where any and all new drives are proposed and agreed \$5.00 would be sufficient.

Ed Bitner said in relation to 152.220, #12 should be left in because his driveway has an apron into his gravel drive onto the paved street and the apron helps hold the gravel in place and keep it from washing into the street. On page 8 he would like to keep the paragraph which reads "Single family and two family residential properties not part ...A four inch (4") layer of crushed stone shall be required for driveways and parking areas."

Jeff York explained comparing Ellettsville's ordinance to Bloomington's is that this line would make the Town's more intrusive.

Matt Burton said he sees both sides and has heard comments both for and against the parking ordinance. He understands the apron idea but when he recently checked prices on concrete he found out it costs \$80 per square yard of concrete and a \$50 delivery charge so it can be costly. If the four inches of gravel standard was enforced then in order for it to stay in place the ground would need to be dug out which means either more expense for a backhoe or a strong person who can do the labor. He feels a thin layer of gravel that is maintained, meaning if it starts looking sparse or overgrown to add more gravel, would be the best choice to put in place for the Town Code. He suggested for a flat drive putting down black plastic under the gravel to help keep the weeds down, which is what he did and it has worked fine so far. He works for a gas company and suggested if the public does dig out driveways to comply or anywhere then they need to call for free line locates for safety reasons.

Don Fisher said everyone should behave responsibly and respectfully. Things need to be simple for the public to understand. You have to standards that are dictated by common sense or small problems will develop into bigger problems. You're not going to make everybody happy but do what is best for the majority of the public. The ordinance should say no parking on the grass at any time, leave the ordinance like it is and send out the letters like we currently do. If a property owner can not comply after receiving the letters then they can be dealt with on a case by case basis.

Lisa Creech apologized on behalf of the Town Council for not getting enforcement in place on these issues prior to hiring Jeff York.

Matt Burton agreed with Mr. Fisher. He asked about abandoned vehicles and what was the code concerning this

issue. He thinks this should to be addressed. He also asked if an RV was parked on a non-graveled area and was not plated is it considered an abandoned vehicle.

Lisa Creech said there is an Abandoned Vehicle Law that gives the owner 72 hours to remove the vehicle, but if it can be moved three feet forward or back it is not considered an abandoned vehicle.

Jeff York said they are addressing the abandoned vehicle issue currently. They have revised the ordinance and the second reading will be on August 23rd.

Larry Hash said driveways should be basic, gravel is fine on flat drives; he has a flat drive and doesn't have any trouble keeping it from spreading out. He doesn't feel an apron is necessary but would put one in if code required it. He does agree if there is a grade where the gravel might wash out then yes, an apron would be a good idea to keep the gravel contained. He supports less restriction and wants to be able to maintain what he has and not be penalized with \$200 or \$300 worth of expense for something he feels he doesn't need. He suggested the standards be relaxed so people can have a chance to do what they can do.

Parking on the side and rear lawns on the grass and setbacks were discussed further.

Don Fisher commented that if parking is allowed on grass then the problem is just moving from the front yards to the back and side yards.

Matt Burton said he would like to see a zero setback requirement from the property line.

Lisa Creech gave her interpretation of the consensus of the discussion summing up that they want to reinstate the driveway permit with a lower fee of \$5. Failure to obtain this would be a fine of \$25.00 she thinks only for new parking areas. A point of contention it seems is parking on the side and rear lawns not on an improved surface which should be looked at further as well as egress and ingress. Driveway standards should be discussed with experts to determine how the public can come into compliance standards affordably.

Frank Buczolic closed the discussion by suggesting they take all of the information; the original document, the document as amended and all of the comments and suggestion from tonight's meeting and adjust the ordinance to reflect everything the Plan Commission and the public want for a workable document. He would like to have the revised document available for the next Plan Commission meeting so it can be reviewed and passed along to the Town Council. He said no vote would be taken tonight; the topic would be continued to the next meeting and asked for a motion.

Terry Baker made a motion to continue this until the next meeting. Lisa Creech seconded. Motion carried.

Introduction of annexation request for Brian Hearne at 7405 W. State Road 46 (Proposed Planned Unit Development zone)

Jeff York said this would be tabled until the next public hearing on September 2nd, 2004 due to lack of legal notice.

Proposed Ratliff Road Property Preliminary and Final Plat Approval

Rick Coppock said this request is for the subdivision of the land, they want a two lot subdivision. The development lies off of Ratliff Road and is next to Trooper Lane. They want a larger tract of land of five acres for the purpose of building a church, diagonally across from the Nazarene Church. There aren't any public improvements on this project that the Town is used to seeing, as far as streets, water and sewer line extensions. It will flow to the sewer lift station that services the Nazarene Church. Twenty-five feet of right-of-way has been dedicated along Ratliff Road.

Lisa Creech requested to be excused from this discussion because of the developer of this plat. She has filed a complaint with the State Attorney General against the developer on other issues and it could be a conflict of interest for her to participate in this discussion.

Bryan Cox has lived on Trooper Lane for the last eight years. When he and his wife bought their house he was told there's no worry of any kind of erosion, floods, etc... He believes Robinson owns the property behind his home. He has a major problem with water run off on both sides of his property behind his house and has even gotten so bad that it has came into his home. This is a drainage issue and hopes it can be looked at. His house sets the lowest of seven or eight homes on

this dead end road. He wanted to inform the Plan Commission for future reference and would like to see this drainage issue taken care of with this new development Robinson plans. They don't want this development to make the water run off worse either. He would like to show his property and the water drainage pattern problem to anyone who's willing to look at it.

Mrs. Cox stated their property is right next to this proposed church and she asked what the lighting would be for this church. She added typically churches are well lit, even now the steeple lights from the Nazarene Church shine into their bedroom. There's a tree line right now so if the proposed church is constructed those trees may block any lighting but she asked if the trees were going to be removed. She asked exactly where on the lot the church and parking was going to be constructed.

Rick Coppock said he doesn't think any of the trees are going to be removed. Robinson still has to bring the development plans to the Plan Commission, what he's presenting tonight is just for the actual property. Rick Coppock said he would be willing to look at his property and discuss this with him.

Frank Buczolich asked for a motion to approve the preliminary and final plat. There was hesitation as to approve the preliminary and final plat but Rick Coppock explained the preliminary and final plat he's presenting tonight only approves the subdivision of the land. The development plans will give the details including drainage, layout of the lot, buildings, parking and lighting.

Don Calvert made a motion to accept this, because they'll never see what they're going to do if we don't. Ed Bitner seconded.

Jeff York added the preliminary and final plat does meet the subdivision regulations.

Frank Buczolich asked for a roll call vote. Don Calvert – yes, Terry Baker – yes, Frank Buczolich – yes, Ed Bitner – yes and Lisa Creech – excused herself from voting earlier in the meeting.

Adjournment

Frank Buczolich asked for a motion to adjourn. Ed Bitner made a motion to adjourn. Terry Baker seconded. Motion carried. Meeting adjourned at approximately 8:50 p. m.