

## October 21, 2008

The Ellettsville, Indiana Plan Commission met in special session on Thursday, October 21, 2008 in the Fire Department Training and Conference Room located at 5080 West State Road 46. Terry Baker called the meeting to order at 7:00 P.M. and lead the Pledge of Allegiance.

**Roll Call:** Members present were: Terry Baker, Vice President, Dan Swafford, Don Calvert, Phillip Smith, and Frank Buczolic. Frank Nierzwicki, Director of Planning Services and Connie Griffin were present. Sandra Hash was absent.

### Approval of the Minutes

None

### Old Business

None

### New Business

### Request to have the property at 5858 and 5920 West SR 46 Rezoned from R-1 to C-3 Dave Keister petitioner-Approval

#### Frank Nierzwicki, Director of Planning Services

**Frank Nierzwicki-** This evening we have a request to rezone two properties at 5858 and 5920 West SR 46. The property in question is the stone house. The radio station would like to have a studio located at this location, and the other property for rezone is a wood working shop.

When the notice was advertised in the Journal newspaper it was listed incorrectly as 5290 W. SR 46, instead of 5920 W. SR 46. The notification in the paper had the correct petitioner’s names, and no address is currently listed for 5290 W. SR 46.

I wanted to point that out to you, staff recommends approval from a R-1 to a C-3 zone. The parcel numbers are 009-09260-00 and 009-09260-04.  
Any questions?

**Don Calvert-** Is there sufficient room for parking there?

**Frank Nierzwicki-** Yes.

**Dan Swafford-** When you listed this in the paper, 5920, it was put in the paper as 5290?

**Frank Nierzwicki-** Yes, that is correct.

**Dan Swafford-** Was a letter sent to 5290?

**Frank Nierzwicki-** A letter wasn’t sent to 5290, we sent letters to the adjacent property owners.

**Dan Swafford-** I think we need to correct that and relist it.

**Phill Smith-** Which one is the wood shop?

**Frank Nierzwicki-** 5920.

**Dan Swafford-** So, they are not aware of this at all?

**Frank Nierzwicki-** Yes, they brought it to our attention.

**Dan Swafford-** Are they here?

**Frank Nierzwicki-** Yes.

**Dan Swafford-** If the people are here, do you have a problem with this listing. If you do I will suggest that we table this and relist it correctly.

**Mrs. Richardson-** Everyone that needed to get the notice, were actually notified. And that property doesn't exist that was listed improperly, and this wasn't our fault, so we would like to have this go thru.

**Frank Nierzwicki-** It was my fault that it was listed incorrectly.

**Dan Swafford-** (Speaking to adjacent property owners) Do any of you have any problems with the antenna going in next to you?

Not known who was speaking- We don't have a problem with a 40' tower.

**Terry Baker-** Any other comments? Seeing none. I would entertain a motion.

**Frank Buczolic-** I move that the property at 5858 and 5920 West SR 46 be rezoned from R-1 to C-3. **Phill Smith-** I'll second that. **Terry Baker-** Roll Call.

**Connie Griffin-** Sandra Hash- absent  
Terry Baker- yes  
Phill Smith- yes  
Frank Buczolic- yes  
Dan Swafford- yes  
Don Calvert- yes

**Terry Baker-** Motion carries.

Next item on the agenda is potential town code changes.

**Frank Nierzwicki-** Connie has done most of the work on this and what you have before you is a starting point where we would like to have comment from you tonight, and if you have any changes that you want to make, we can go ahead and make those. We will take the changes and submit those to Mike Spencer and have them put in ordinance form, and then at the next Plan Commission meeting we can hash it out there, since Sandy will be back.

We can go ahead and get started.

We will start with chapter 93 health and sanitation.

**Frank Nierzwicki-** Connie go ahead and start.

**Connie Griffin-** The deputy health officer is currently Jim Ragle, the Street Commissioner. Prior to our work session, Jim Ragle mentioned that he would like to be removed as the deputy health officer.

At the work session we decided to increase the number of deputy health officers. By code, 93.16 D, all street department employees are listed as deputy health officers, as well as the town marshal and deputies that he gives power and authority to.

One of the proposed changes that I think should be made is that all planning staff should be appointed as deputy health officers and we would have identification badges with photo for all people that are conducting enforcement, and we also need the ability to issue fines.

### 93.17 Removal of Excessive Weeds and Vegetation

(B) It would be correct to add: or any deputy health officer, because our code currently states just the Town Health Officer. This should be clarified in several places if we increase the number of deputy health officers and include planning staff.

The posted fine notice, that we would like you to consider, this will eliminate double handling, and going back and forth on inspections. When we see tall grass or a violation, this notice can be posted that day, which means the abatement days start the day the violation notice is posted. That gives us more time to go back to the office and get the letters ready to get those mailed. This would start the clock ticking, and would prevent us from going back and forth to make sure I'm not sending a violation letter to someone that has corrected the violation.

The last change in this section is to eliminate sending the violations by certified mail. We would like to cut costs by sending the letters regular mail. We can eliminate sending the letter by certified mail at this stage of the enforcement process, and reserve sending the fine notice as a certified piece after the ten day abatement has ended and the violation hasn't been corrected.

Part (c) Right now it states in that the Town Council may remove the grass, weeds, or rank vegetation under 93.17 (C). I don't believe Town Council wants to mow; I think this should be stricken since it is mostly the Street Department and the Planning Department which carries out this task.

If a cleanup is required at a property, then a lien is placed on the property. If the lien isn't filed in time, the property could sell or a reason could come up that we can't collect from the property owner, so I would like to suggest that a certified statement be prepared by the clerk treasurer within 10 days of submission of the cleanup charges.

(E) Under section E, if we allow a posted notice to be displayed, as a new process in enforcement, then this would need to be added to section E, that any person who has received a posted fine notice or a written notice to remove grass....

**Don Calvert-** If we have to send out a certified letter can you state that it will be charged to them on a violation notice.

**Connie Griffin-** It's in code that a property in violation, which requires town cleanup, would incur all expenses of the cleanup, including all street department and planning department charges.

**Frank Nierzwicki-** If we send out a letter certified, and they comply and abate the violation, we do not charge for the certified letter expense.

**Darlyne Sowder-** Discussed posting violations. Are you posting it or handing it to them.

**Connie Griffin-** Posting it, if they are not at home.

**Darlyne Sowder-** Say they are on vacation for three weeks and they went on a cruise to the Bahamas or whatever, and they aren't around for three weeks, and all of these time periods have gone by and they have no idea.

**Connie Griffin-** So, you are saying that they haven't made arrangements to have their grass mowed during the three week period?

**Darlyne Sowder-** Well, they may have. Maybe they guy that was going to mow the lawn got sick.

**Frank Nierzwicki-** We have a lot of people going on trips, we've listed the times when we've visited these places and

we've had four or five times that we've gone back to the same property.

**Connie Griffin-** One thing too is they usually don't get a posted violation unless they are a repeat offender. We go out and we make enforcement patrols and I document each and every time we go by a particular home that has the same violation and we give them a lot of time to fix the problem, but after three or four times of seeing the same issue they get the posted violation notice and then they get their letter. We really try to work with people but this is almost a last resort to post these notices.

**Frank Nierzwicki-** We get notified by neighbors, quite often, about what is going on, they still have high grass, what are you doing about it? And we go ahead and tell them it is in the process. The first ten days, they get the first letter, most people respond to that.

**Connie Griffin-** They're provided the different patrol inspection dates listed on the violation notice, and how letters they have received. We also take photos, so we can start the time clock ticking and we have proof.

**Frank Nierzwicki-** We send the photo with the letter.

**Dan Swafford-** Where do you post the notice?

**Connie Griffin-** We put them on their doors, where they will see them.

**Frank Nierzwicki-** You might want to address the addressing on the homes.

**Connie Griffin-** We would like to see all addresses be posted on the homes. We have several homes, which are mostly the ones that have violations, which do not have visible numbers on their homes. This creates a safety issue, and it is also hard for us to identify the home address.

**Dan Swafford-** Discussed green address identifiers on mail boxes, they are nice and consistent looking.

**Connie Griffin-** Parking Loading and Driveways

(B) We don't have a number limiting on-site storage of motor vehicles; I propose we actually put a number to this code to limit the number of vehicles on a property.

**Phill Smith-** Would it make sense to say the vehicles have to be parked on a driveway or something like that?

**Connie Griffin-** That's a good idea, but most of the time they are parked half way on the street and half way on the drive.

**Dan Swafford-** Then this gets into parking on the grass issue.

On the other hand a lot of average families have three children, and they are all driving age, and there are five vehicles. How can you put a limit on it?

**Connie Griffin-** This is for inoperable vehicles that are just sitting there.

**Frank Nierzwicki-** We might need a definition for a storage facility, what you are doing from a personal use type of thing. How many inoperable cars are you going to have in your backyard?

The issue on some of this is, it's an issue for some people in the community. What is the difference between that and a junk yard storage facility? I understand the number of vehicles with kids, but we've had some complaints about this, especially if you live next to someone that has 20 cars in their backyard.

**Dan Swafford-** It's not a pleasant site; I think the non-working vehicles, if broken down needs to be parked in the

driveway, and not on the street. This is more incentive to have the car repaired. I don't know if you should number it, or just say, if you have a non-working vehicle it needs to be in the driveway, with current plates, and I think we already have something about plates.

**Connie Griffin-** (6) Minor vehicle repairs shall be permitted on single-family and two-family residential developments. We have a couple of areas that like to work on cars and leave batteries sitting out and motor parts and oil dripping, so we may need to limit or observe how much time it is taking to put the vehicle back together and we may need to specify a time frame for the repair. If they can't repair it at that time, then they need to put everything up that is an environmental concern.

(7) Parking within a landscaped area or lawn

Parking within a landscaped area is strictly prohibited and we propose to strike number 7. Parking on the lawn causes erosion issues, and just because you don't see gullies or mudslides doesn't mean erosion isn't occurring. Sign of exposed roots, splashing of soil or mud on pavements is a sign of erosion.

152.150 discuss parking and erosion issues.

**Frank Nierzwicki-** What we are looking at with the inspections, I've been through this for the last two to three years. I'm trying to get this in compliance. We talked about this at the work session, and basically this code is unenforceable as it is written at this time.

We propose to look at this from an erosion issue. It would require a new section. We do have erosion control over 1,000 square feet in a construction area. What we are looking at is having it less than 1,000 square feet in a non-construction area. The issue on this is we are not going to be out there looking for how long you have your car parked in the yard to wash it, but if the ground cover is gone, erosion and ruts, then we will look at this and fine the individual. The other item on this, with fees fines and enforcement, right now we have a \$5.00 driveway permit, we propose that this goes to \$25.00.

**Phill Smith-** Frank, if someone went to the county to get a driveway permit, would they automatically send them out here?

**Frank Nierzwicki-** The county shouldn't be taking money from individuals for driveway permits. I tell them to come here. Some people are confused and don't know the boundary of Ellettsville.

In new developments the driveways are approved from the beginning during the review process.

**Dan Swafford-** Do you charge the contractor for each individual driveway?

**Frank Nierzwicki-** We indirectly charge them, because we have a fee on the plat. Each lot has a fee that they pay, and there is a flat fee that they pay on top of that.

**Dan Swafford-** Does size and number of lots have anything to do with it?

**Frank Nierzwicki-** The more lots you have the more you pay.

We also have problems with people that put a driveway in, and don't maintain it, and it has grass growing in it. We've sent letters on that.

**Russ Ryle-** My house was built in 1987, I can't tell you if a driveway permit was required in 1987. The issue I have is what is the beginning date, when the Town of Ellettsville started requiring a driveway permit? Logically that would be the date you could go back to on a driveway that isn't permitted. But, you have to be careful for someone that has had a driveway for 50 years, when Ellettsville only required a permit for the last 20 years.

**Connie Griffin-** I agree, it was passed on 4/26/2004.

4-16 passed 10/20/2004. I have a database developed with all of the driveway permits that we have received since 2004.

**Phill Smith-** I have one suggestion on B.

I think it should say a posted notice or a written letter sent by regular mail.

**Russ Ryle-** I would like to make one comment about a posted notice. In this day and age a property owner needs to be careful when they are gone from home for an extended period that their property doesn't look like it is unoccupied. I'm concerned that a posted notice says this is a home that is unoccupied?

**Darlyne Sowder-** Especially if the date on the notice is three weeks ago.

**Dan Swafford-** That is a good point.

**Connie Griffin-** Under sign regulations- a very minor change to address and name signs, it currently reads unlighted, I don't see a problem with this sign being lighted or unlighted.

Political signs- we've received some complaints in the past that 30 days from display prior to an election isn't fair, because of absentee voting. So, I called and talked to Sandra Hash about voting time frames. Sandra said March 1<sup>st</sup> would be a good date to use for Primary and September 1<sup>st</sup> for the general election. With all signs being removed right after the election. Special promotion signage. We run into monitoring the time frame on this sign type. I propose we require a permit for each display usage. By requiring a permit a specified time frame would be written on the permit. The way the code reads now, is a special promotion sign can't be displayed for more than a two weeks, not more than four weeks total per year. They can display the sign as often as they want for a two week time period as often as they want for 10.00 each time. This will allow us to monitor the dates.

**Phill Smith-** What prevents someone from getting 26 permits?

**Connie Griffin-** It's incoming revenue.

**Frank Nierzwicki-** It is the same fee for a temporary sign, there is talk that it's too much, we are trying to be more open, and look at this from a different perspective. We are trying to have more options for people to advertise in this way.

**Russ Ryle-** My concern is public safety. The reason a town has a right to regulate grass, signs and other issues are safety and health and well being. I've seen some of these signs in such a way that a driver can't see the stop sign. They can't see oncoming traffic or pedestrians. I think we need a minimum setback from the right of way or relative to a stop sign at an intersection.

**Frank Nierzwicki-** I enforce public safety. The only time I ever remove a political sign is if it blocks an intersection and I've done that recently. If there is an issue of seeing I have the authority to move it.

**Russ Ryle-** Define the code so they have to have the sign set back and it's not right on the pavement.

**Dan Swafford-** I think Indiana Code will help us here. Any sign that is blocking view it is already in code. That is where they specify you can't block the view.

**Russ Ryle-** But anyone that is looking for Ellettsville sign code, will go to your web site.

**Connie Griffin-** We could add in code that we have adopted certain Indiana sign code sections.

Additional proposed sign code changes

(2) Width

There currently isn't a limit on sign width. You could have a 1" sign 80 feet long.

**Frank Nierzwicki-** We wanted to ask if there was a special reason for not specifying width regulations.

**Terry Baker-** Terry recalled a sign of short height that ran along the whole length of an area. That is why the regulation was written like this.

**Frank Buczolic-** Is there a safety issue with this being abused in any way shape or form?

**Frank Nierzwicki-** Once again, if it is in the line of sight then it would be a safety issue.

**Frank Buczolic-** Well, you have a way to deal with it if it's a safety issue.

**Don Calvert-** We should just state that a sign can not impede the view of the intersection or road way, and then we won't tie our hands.

**Dan Swafford-** Refer to state code on this one.

**Connie Griffin-** (E) Maintenance and removal.

We do not specify a time period that a closed business can keep a sign up on display. If a business closes there isn't anyone to maintain the sign. We have a couple of areas where the signs look bad, and the businesses are no longer open. I propose we give them a certain length of time that we give them to remove the sign once the business has closed.

**Dan Swafford-** If you make it to long after a business has closed, they are probably done, and there will be no way that you will get them to remove the sign.

**Phill Smith-** I like the sentence you added, all signage after close of business shall be removed 30 days from the closing day of the business, but you need to add or will be removed by the town of Ellettsville.

**Connie Griffin-** Some signs have a plastic removable front piece, and this could be re-worked to be used again, so there is a fine line, if someone can reuse the sign and it isn't broken, we could allow a sign like that to be used again.

**Frank Buczolic-** the property owners typically don't disappear, so they could be billed for the removal of the sign.

**Connie Griffin-** Under exempt signs part (B) add public schools. This will clarify government signs and public schools as having exemptions to certain sign codes.(C) Signs with moving or rotating parts and (E). We propose to allow certain signs that have moving or rotating parts and that flash, strobe or blink, located behind glass in a building with a size restriction imposed.

We have a scrolling sign in the muffler shop and in the Mexican restaurant and during tax time you will see small signs.

**Russ Ryle-** What about an old fashioned barber's pole sign that rotates?

**Phill Smith-** Well, it's behind glass.

**Frank Nierzwicki-** The issue why they wanted to do this is because they didn't want to have a lot of things flashing and blinking and not being able to see street lights and other things. That was the whole idea behind this code.

**Russ Ryle-** I'm not sure how to word this, but anything that is a distraction to a motorist is prohibited?

**Phill Smith-** Yes, but who defines that?

**Dan Swafford-** Behind glass, what if I want to put in a 6' TV monitor on a sign behind glass.

**Connie Griffin-** That is why I say we add a size restriction.

**Dan Swafford-** Maybe it should say in the interior of the building or something like that, instead of behind glass.

**Frank Nierzwicki-** This is why we need input from you and the public on this; we aren't just doing one meeting.

**Connie Griffin-** The last proposed change I have on sign permits is we waive the sign permit fee for all non-profits and schools.

**Frank Nierzwicki-** On the last page of the proposed changes, BZA. I'm looking at adding a definitions section for uses. The uses would include conditional use, special exception and variance. The filing fees 152.335 (A) \$150.00. A variance is \$300.00, because it is permanent. When the code was renewed it wasn't added back into the code.

**Terry Baker-** It was talked about, but when it was written it got dropped out, because we had always had conditional use.

**Frank Buczolic-** Over the next few weeks we can e-mail you our comments on the proposed code changes.

**Frank Nierzwicki-** Yes.

**Dan Swafford-** Good job on this.

**Russ Ryle-** I want to compliment you for the work you've done here. You've cleaned up a lot of nagging issues that have created grief and a lot of work that has not been to fruitful for your office, Frank and Connie. I would like you to consider what can be done for lighted and flashing signs within a given distance of an intersection; something needs to be done to prevent distractions to drivers.

Dan you brought up Indiana Code and line of site, wouldn't that also apply to all other signs?

**Dan Swafford-** I think it applies to any sign or structure that would prohibit your view.

**Russ Ryle-** Then the simple solution would be to cite Indiana Code and nothing in the ordinance supersedes Indiana Code, which prohibits signage, which is by Indiana law a traffic hazard, and then that covers it.

**Don Calvert-** Is there one here in town that you can think of that applies?

**Russ Ryle-** No, not right now. I too have been in places where you can't see at an intersection.

**Frank Nierzwicki-** As technology changes we need to keep up with the times.

**Russ Ryle-** At what point does Ellettsville want to address the coming technologies of these big, back lighted video digital electronic billboards.

**Frank Nierzwicki-** We now have code for not allowing animated signs. How long a sign pauses before it changes come into consideration. I try to check the planning documents nationwide and standards at conferences. I'm watching it.

E-mail me your comments, and I'll have this ready in two weeks for the next Plan Commission meeting. That's all we have.



**Privilege of the Floor- Non Agenda Items -None**

**Adjournment -Terry Baker-** I would entertain a motion. **Frank Buczolich-** I make a motion we adjourn. **Dan Swafford-** I second. **Terry Baker-** All in favor say aye. The meeting adjourned at 8:30 P.M.

Next meeting will be November 6, 2008.