

## **August 1, 2013**

The Ellettsville, Indiana Plan Commission met in regular session on Thursday, August 1, 2013, in the Fire Department Training and Conference Room located at 5080 West State Road 46. Terry Baker called the meeting to order at 6:00 p.m. Don Calvert led the Pledge of Allegiance.

**Roll Call:** Members present were: Terry Baker, President; Russ Ryle, Vice President; Dan Swafford, Don Calvert, Pat Wesolowski and Sandra Hash. Phillip Smith was absent. Connie Griffin, Director of Planning, and Darla Brown, Town Attorney, were also present.

### **Approval of the Minutes – June 6, 2013**

Terry Baker entertained a motion for approval of the minutes for the regular meeting on June 6, 2013. Dan Swafford so moved. Russ Ryle seconded. Pat Wesolowski abstained. Motion carried.

### **New Business**

#### **Richard Senior Center Housing (“Richland”) – Petition for a Landscape Plan Amendment – Dennis Fisher**

**Connie Griffin, Director of Planning**, presented images of the approved original plan, the proposed amended plan and the project to date. The Town does not have a landscape ordinance. Richland’s architect put in a great deal of bushes and plants they weren’t expecting. The amended plan as proposed is sufficient and will result in a lot of nice landscaping. There is native landscaping proposed around the detention pond. The Certificate of Occupancy has been released. The Fire Department is satisfied with the road and has requested no parking signs.

**Marion Jacobs, President of Richland Senior Housing**, thinks this is a good viable plan.

**Connie Griffin** has discussed a fall planting with Richland. Also there has been discussion of individual planters for the residents. They did a great job on the development.

**Don Calvert** asked if there is a fence or barrier to go around the retention area. Ms. Griffin replied they have mentioned a privacy fence by the Knickerbocker property.

Terry Baker entertained a motion to approve the landscape amendment. Don Calvert made a motion to approve the landscape amendment. Dan Swafford seconded. Roll Call Vote: Terry Baker – yes; Russ Ryle – yes; Don Calvert – yes; Dan Swafford – yes; Pat Wesolowski – abstained and Sandra Hash - yes. Motion carried 5-0 with one abstention.

### **Plan Commission Appointments of Pat Wesolowski and David Drake**

**Terry Baker** advised David Drake’s appointment is pending until Phillip Smith submits his resignation. Pat Wesolowski has been appointed to the Plan Commission.

#### **Code Revision Suggestions – Chapter 94: Abandoned, Salvaged and Scraped Vehicles, and 152: Land Usage, Residential – Proposed Codes Will Discuss Parking on the Grass, Junk and Outdoor Storage and Inoperable Vehicle Storage in Residential Zones**

**Connie Griffin** explained Chapter 94 does not deal with the Plan Commission. The Plan Commission has a lot of authority over Chapters 152 and 153. Code Enforcement is having difficulty in Chapter 94 and this will be going before Town Council. Employees of the Planning Department aren’t deputies so they don’t have the ability to run plates for abandoned vehicles. Marshal Tony Bowlen has said “*vehicles parked on private property is a Planning and Zoning issue.*” She agrees and wants to clean up the codes, make them uniform and to the point she and her code enforcement officer can contact the property owner and set up a fine process. If a vehicle is inoperable, tore down or stored inappropriately it can then be enforced. One of the largest complaints

is parking on grass. The economy has been tough and many people are sharing housing which means they bring all their vehicles and park on the grass. The revisions would remove Planning from certain aspects of the abandoned vehicle portion and in commercial lots. They want to focus on residential areas.

The proposed code changes in Chapters 152.054 and 152.055 are as follows:

**§ 152.054 PROHIBITED USE ALL RESIDENTIAL DISTRICTS**

1. It shall be unlawful for any motor vehicle or [any] other vehicle to park in [an] alley. However, this section shall not apply to motor vehicles parking in alleys for a period of not more than one (1) hour for the purpose of loading or unloading vehicles[.]
2. It shall be unlawful for any person to operate or park any motor vehicle on any portion of a lot, lawn or green space in any residential district other than on a drive of [an] approved parking area. No person shall operate or park any vehicle over the curb or curb area unless through a properly designed and designated curb cut.
3. It shall be unlawful to park any motor vehicle or other vehicle or any part of a vehicle on any sidewalk in Town[.] Exception: parking on any portion of a lot, lawn or green space in a residential district for the purpose of loading or unloading or washing of [a] motor vehicle [that] shall not exceed one (1) hour of time[.]
4. Possession of inoperable vehicles, or vehicles with expired license plates or tags, stored on residential property for more than 30 days[.]
5. A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on private property for more than [fourteen] (14) days.
6. A vehicle that is at least three (3) model years old, is mechanically inoperable and is left on private property continuously in a location visible from public property for more than twenty (20) days. For purposes of this subdivision, a vehicle covered by a tarpaulin or other plastic, vinyl, rubber, cloth, or [other] textile is considered to be visible.
7. No outdoor storage of discarded, broken or disabled items including, but not limited to, furniture, appliances, toys, vehicle parts, building materials, tools, machinery parts or other items not in functioning condition unless properly stored and secured within a storage shed or garage[.]
8. Trash containers when not set out for collection, shall meet one or more of the following requirements:
  - (a) Stored in the yard area behind the primary residential structure;
  - (b) Stored in a carport or garage; [or]
  - (c) Stored in the side yard of the primary residential structure adjacent to an exterior wall. The Director of Planning may grant exceptions in neighborhoods where certain housing types prohibit compliance with storage requirements.

**Russ Ryle** asked for elaboration on the different housing types. Ms. Griffin replied they may be looking at a townhouse type situation or apartment complex. Mr. Ryle understands the thinking but is trying to figure out what people may try to drive through the loophole. Ms. Griffin noted the word “may” gives the authority for approval. Mr. Ryle voiced his concern for granting one exception which will then establish a precedent. Ms. Griffin stated she will not make a problem down the road for herself or the community. Mr. Ryle asked if it shouldn’t be brought before the Plan Commission. Ms. Griffin replied there are certain things at certain levels such as minor amendments for which she will be seeking authority to make decisions. The City of Bloomington has minor TIF amendments that they don’t take to the policy committee but make at the technical committee. There are some decisions as a Planning Director for which she would like to have the authority without bringing them before the Plan Commission.

9. No more than thirty percent [(30%)] of the area to the rear of the principal building may be occupied by accessory buildings[.]

10. The placement and use of dumpsters, roll-offs, portable storage containers, or similar containers or structures that are designed for the disposal of trash or the storage of household items and have a capacity of one (1) cubic yard or more shall be prohibited for any length of time exceeding sixty (60) days unless the placement and use of such containers or structures is incident[al] to an active building permit properly issued by Monroe County Building Department and approved by the Director of Planning[.]

**Terry Baker** suggested changing the length of time to 30 days. Ms. Hash commented the Monroe Solid Waste has expanded and has big item drop off days at least once a month. Dan Swafford asked what if the person is doing a project on weekends that could take longer than 30 days. Ms. Griffin replied he is talking about a situation that would not require a building permit. A time extension could be granted on a case by case basis.

11. Recreational vehicles, campers and boats shall be parked on an approved hard surface and shall not obstruct the sidewalk[,], public right-of-way or within the property setbacks[.]
12. Every boat, detached camper, and vehicle except a motor vehicle so stored or parked shall, except when securely attached to a motor vehicle, be securely blocked or restrained from moving, toppling or falling[.]

**Sandra Hash** noted at one point it was mentioned to include the side yards. Mr. Swafford noted people who have campers and boats need a place to put them in the winter. Ms. Griffin replied on Tecumseh in Arrowhead there is a pontoon boat parked in someone's front yard. Mr. Wesolowski asked what she is referring to as a hard surface. Ms. Griffin answered it could be gravel with landscaping. Accessory parking areas allow for gravel unless a homeowners' association specifies otherwise. Ms. Hash noted gravel will absorb rainwater.

13. No vehicle shall cause visible rutting or soil erosion in the moving to and from an approved hard surface or in a manner as to create a fire or safety hazard[.]
14. No boat[,], with or without [a] trailer, specialized trailer, travel trailer or camping trailer, detached camper, jet ski, snowmobile, motorcycle, motor cart, all-terrain vehicle or other vehicle shall be parked or stored on any public street or public right of way[.]
15. No more than [thirty percent] (30%) of the area in front of the front line of the principal building shall be hard surfaced and used for the purpose of parking or storing any vehicle[.]

**Russ Ryle** asked about a fifth wheel or other pull behind camper setting in their driveway for a relative to stay in. Ms. Griffin replied that gets into minimum dwelling standards. Ms. Hash added there was an incident of someone living in a camper in front of someone's house in Arrowhead and the Town did act on that years ago. Mr. Baker said one of the codes states no one is allowed to live in a travel trailer using electricity or water from a dwelling. Mr. Ryle had an incident with a visitor from the east who had a Class C motorhome and setup in their driveway for a week. There has to be a distinction between visits versus someone living in a camper. Ms. Griffin noted the Town needs to watch for granny sheds. Ms. Hash asked the requirement for a minimum dwelling. Ms. Griffin answered there are codes for minimum dwelling standards.

#### **§152.055 VIOLATIONS; ENFORCEMENT**

- (A) The Code Enforcement Officer of the Department of Planning shall attach to vehicles parked in violation of this chapter a notice to the owner of the property that the vehicle has been parked in violation of this chapter or, in the alternative, shall personally deliver or tender the notice to the owner or operator[.]

**Pat Wesolowski** asked when the code enforcement officer goes out and tags the vehicle what backup does the Town have that it has been out 30, 60 days or whatever. Is it in the office? Ms. Griffin replied from the time they go out everything is photographed and documented.

- (1) The property owner, or current resident, shall have [fourteen] 14 days to remove the vehicle[(s)] from the residential property or may be fined daily for each separate offense beginning on the second inspection date if the violation has not been abated[.]

**Dan Swafford** commented they've been in situations before where this is happened and they continually fined the person. They came back to the Town Council and asked for a hearing and all of it got held up. Can they not put something in writing that it goes to the Town Attorney?

- (B) (1) A person who violates the provisions of this chapter commits a [C]lass E ordinance violation and a fine shall be entered against the violator for each day the violation continues beginning on the second inspection date for each separate offense[.]

**Sandra Hash** noted it states the "*fine shall be entered against the violator for each day the violation continues beginning on the second inspection date for each separate offense.*" Is this saying that each day is a separate offense? This may need to be clarified that each day is considered a separate offense. Mr. Swafford noted it should be included in the letter and the fine.

- (C) In lieu of any person being charged in court for a violation of this chapter, the person may appear in person or by attorney or agent in the office of the Town Clerk-Treasurer within ten days after the issuance of a notice and admit liability for the payment of the fine provided by this section and tender the sum owed. The payment of a fine is an acknowledgment of a violation of this chapter, and the Clerk-Treasurer shall issue a receipt to the violator acknowledging payment there[of.]
- (D) If a person alleged to have violated this chapter fails to pay the sum owed to the Clerk-Treasurer as provided in this section, the person shall be charged in court for the violation. The fine shall be recovered in an action in the name of the corporate town in any court having competent jurisdiction. This section of the chapter shall be enforced by the [T]own through its [a]ttorney.

**Sandra Hash** asked if there is an appeal process. Ms. Griffin answered there is not an appeal process. Darla Brown, Town Attorney, commented if they go to court and don't like the result it can always be appealed. Mr. Swafford asked what they tell people if they show up at a Town Council meeting to appeal. Ms. Brown answered once they start allowing grace periods a precedent is established. The best way to handle it would be to tell them it's not part of the procedure allowed under the Town code. Mr. Swafford asked what if after it's been turned over to the Town Attorney she writes a letter stating a deadline for compliance that includes if the fines is paid a week before it goes to trial the Town will discount 20%. Ms. Hash doesn't think there needs to be an out written into the code because it will make it more complicated. Mr. Ryle noted under privilege of the floor there is no discussion. Mr. Swafford disagreed. If a Town Council member wants to answer a question during privilege of the floor they can.

**Pat Wesolowski** asked what happens if they completely ignore the whole process. Ms. Griffin replied the fine could be capped and then turned over to the Town Attorney. Ms. Brown added she will file an ordinance violation in court. The day it's filed she contacts Ms. Hash and Ms. Griffin. If they want to pay after suit has been filed they're to instruct them to contact her so she can talk to them. If people do not show up at court they get default judgments. Maybe they collect and maybe they don't. Typically, people apply for mortgages and jobs and then have to pay the default judgment. Mr. Swafford asked how they proceed if they don't pay the default judgment. Ms. Brown answered if they keep violating they can continue to be charged until they fix it. One of the options is authorization to get an injunction which is decided on a case by case basis. Mr. Swafford asked if violators can negotiate the fine at her level. Ms. Brown replied yes and she tries to be consistent as possible. Ms. Griffin noted the goal is for compliance and to not make money for the Town. They will allow payment arrangements.

**Dan Swafford** asked if people who have a nice antique car and don't have a garage are not allowed to store it under a nice looking tarp. Ms. Griffin replied no, it is not allowed. Mr. Swafford asked if a vehicle can be dismantled. Ms. Griffin replied it's for 14 days. Mr. Swafford asked if there's anything in the code stating a vehicle has to be worked on on a hard surface. Ms. Griffin replied it's prohibited because it is not an allowed use. People only have an hour to have a vehicle in their yard for washing it. If it is not listed as an allowable use it is prohibited. She will work on the suggestions, refine the language and return to the Plan Commission. After that these codes will be enforceable by the Planning Department. It's about educating the public and enforcing second.

**Sandra Hash** commented in the old code they were not allowed to have a big work vehicle such as a dump truck, a truck over a certain weight, or use a semi-trailer has a storage area. This might be a nice opportunity to include these items. There is an area that has had a semi-trailer parked in their driveway forever. Mr. Baker stated if there is a license on it, it can be on the highway.

**Pat Wesolowski** asked if there is a vehicle on the yard, not running and not licensed does the Town have the right to tow that vehicle. Ms. Griffin replied yes. The police officer can tag the vehicle. They have 72 hours for its removal. The Planning Department is written in that code and that's what they want out of because they will approach it differently. Mr. Wesolowski asked if the code enforcement officer goes out and sees six vehicles in a day's time, not tagged, grass growing around them and they haven't moved, does the Town Marshal have the authority to get them towed. Ms. Griffin replied she is taking this out of their hands because it is not a high priority for the Police Department. She and her code enforcement officer can handle this by putting it in the residential code. She will be fining but not towing. Mr. Wesolowski stated if they don't pay the fine and it's towed they will know it's gone. Ms. Hash stated if the vehicle is towed and in a salvage yard then over a period of time, they can get a salvage title to sell the vehicle to recoup their costs. That's a win-win situation for everybody if she is given the authority to tow. Ms. Griffin stated she doesn't want the authority to tow.

## **Privilege of the Floor**

**Sandra Hash** explained last year they discussed a metal donation box placed at Orscheln that Connie Griffin got removed. Since that time, metal boxes have been placed at the Sunoco station, IGA and the laundry mat. Are you going to try and get the others removed? Ms. Griffin replied these are different. The group did not have permission to place a box at Orscheln. She has not asked the other people if the boxes were just placed there. Also, she has not noticed any trash or any extra materials. It's probably not a listed use in a commercial zone. It could be like subcontracting by renting them a spot on their property. There's nothing definitive in the code. Ms. Hash stated the boxes at the laundry mat and Sunoco are out of the way but the one at IGA is in the middle of prime parking spots. Ms. Griffin commented she hasn't noticed that one but will look into it. Ms. Hash noted the RBB Store in Ellettsville serves local citizens by providing free clothes and more to burnout victims or assisting with payment of bills for the needy. She would like to see them protected. In addition, items can be dropped off at the solid waste station.

**Terry Baker** asked Ms. Griffin to look into this to find out where the items are going and do they have permission. If they don't have permission from the property owners they need to be removed. Ms. Hash suggested if the boxes are allowed to stay perhaps their location can be regulated.

**Russ Ryle** stated they've briefly touched on the hard economic times people are facing and their coming together to help relatives and friends. They also have a problem with the livability of residential situations. Does the Town have a minimum square footage? Is there anything prohibiting putting 16 people in an 800 square foot house? Ms. Hash replied the Town does not have an occupancy code. Mr. Ryle asked if this is something that should be looked at from a health and safety standpoint. Mr. Swafford replied it will be difficult to enforce. Ms. Griffin added it would have to be complaint driven. She's not sure how she would even go

about it. Mr. Baker thinks there is something in the code about the number of unrelated people who can be in a dwelling. Ms. Brown advised Bloomington has it in their code. Ms. Griffin said it will be hard for her to enforce because of the potential for bad headlines in the news. She's uncertain they would get compliance from her. Mr. Baker thinks it can be in the code but it needs to be complaint driven. Ms. Griffin noted it could be a temporary situation. Ms. Hash added Bloomington has a department who handles housing issues. The Town doesn't have the personnel for this. Mr. Baker reiterated if it's a complaint then it has to be looked at. Mr. Ryle's concern is he doesn't want to wake up one morning and find out there's been a house fire or other tragedy and a bunch of people are dead because they were living in substandard housing. Mr. Baker commented the Town can't control the living conditions in every house. It's not the Town's responsibility to enforce what they think is proper living conditions. What they think is proper may not be proper for someone else. Mr. Wesolowski thinks the reason Bloomington has a department is because it's student driven. Ellettsville doesn't have that problem.

**Russ Ryle** noted from his neighborhood and driving around in other neighborhoods there is an increasing number of empty and vacant homes. Some are foreclosures that are well maintained and others are not. This is a growing concern from a health and safety standpoint. Ms. Griffin said her code enforcement officer spends a lot of time contacting Wells Fargo or Regions Bank. They try to get them on a schedule. The Street Department recently cut grass on a property. Ms. Hash noted she has filed a couple of liens this year. Mr. Ryle know the subjects he brought up aren't easy ones but they are on the radar screen. Ms. Griffin said for her department it has been a matter of prioritizing and they're ready to take on another layer.

## Adjournment

Terry Baker entertained a motion to adjourn. Dan Swafford made a motion to adjourn. Don Calvert seconded. Motion carried. Terry Baker adjourned the meeting at 7:08 p.m.

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Terry Baker, President

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Russ Ryle, Vice President

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Sandra Hash, Secretary

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Don Calvert

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Phillip Rogers

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Phillip Smith

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Dan Swafford