

Burns Harbor Advisory Plan Commission Minutes of Monday, August 3, 2020

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Monday, August 3, 2020. The meeting was called to order by Advisory Plan Commission President, Eric Hull at 7:00 pm.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Eric Hull.....	Present
Bernie Poparad.....	Present
Toni Biancardi	Absent
Andy Bozak	Present
Gordon McCormick.....	Present
Jeremy McHargue	Arrived Late
Sarah Oudman	Present

Additional Officials Present

Building Commissioner-Rob Wesley
Attorney-Michael Brazil
Global Engineering-Jeanette Hicks
Chesterton Tribune-Lily Rex
Secretary-Marge Falbo

Minutes

Poparad makes a motion to approve the minutes of July 13, 2020 as written. McCormick seconded the motion. Motion carried by unanimous vote.

Communication, Bills, Expenditures

None

Report of Officers, Committee, Staff

Building Commissioner Wesley says July was a very busy month. There were numerous violations. Someone bought the property at 1182 Salt Creek Road. They are tearing down the outbuildings and want to remodel the home. They are aware that the home has to be brought up to the 2020 Residential Code. Hull says are they going to rehab it and try to start over on that foundation. Building Commissioner Wesley says I would not advise them to mess with that

foundation. You can actually see into the basement through the cracks between cinder blocks. Aside from that it's business as usual.

Global Engineer Hicks says we put together a review of the Westport PUD. We only had a couple of comments. One was the developer is coordinating with the Sanitary Board to get the water capacity. I spoke with Biancardi about that today and she agrees with us that the capacity is there, we just have to get the official letter signed. Lot 16 doesn't meet the 3 to 1 lot depth ratio max. I had a conversation with Kaiser of Abonmarche and understand that it is going to be subdivided in the future and will be in compliance with the 3 to 1 max depth ratio. The other item is there was a variance to the Chapter 14 Code we thought should be stated on the primary plat concerning lot corners not having the required radius. Overall, they met all our other comments.

Preliminary Hearing

None

Public Hearing

None

Old Business

Chapter 15 Zoning Ordinance

Storage and the Use of Shipping/Cargo Containers

Hull says you should have received a copy of the ordinance.

ORDINANCE _____

AN ORDINANCE OF THE BURNS HARBOR TOWN COUNCIL AMENDING THE TEXT OF CHAPTER 15 ZONING CONCERNING STORAGE AND THE USE OF SHIPPING/CARGO CONTAINERS WITHIN THE TOWN OF BURNS HARBOR, INDIANA.

WHEREAS, the Burns Harbor Town Council has adopted a Zoning Ordinance codified as Chapter 15 of the Town Code of Burns Harbor, Indiana; and

WHEREAS, the Burns Harbor Advisory Plan Commission has initiated certain amendments to the text of the Zoning Ordinance in order to better regulate Storage and the use of Shipping/Cargo Containers in the Town by adding definitions to distinguish between different types of storage and amending the Zoning Form & Function Table to include Cargo/Incidental Storage; and

WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning these text amendments; and

WHEREAS, a public hearing has been held before the Burns Harbor Advisory Plan Commission and said Commission has paid reasonable regard, in preparing and considering the proposal, to the factors set forth in Indiana Code § 36-7-4-603, including the Comprehensive Plan; and

WHEREAS, the Commission now certifies its proposal to amend the text portions of the Zoning Ordinance to the Burns Harbor Town Council; and

WHEREAS, the Burns Harbor Town Council concurs with its Advisory Plan Commission and accepts this proposal;

NOW THEREFORE, be it and it is hereby ordained by the Burns Harbor Town Council as follows:

Section 1. That section 15.2 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following definition:

15-2-2 Definitions. 181.2. SHIPPING CONTAINER: a container fabricated for the purpose of transporting freight or goods on a truck, railroad or ship, including cargo containers, shipping containers, storage units, or other portable structures that are placed on private property and used for storage of items, including, but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials and merchandise. This definition will include shipping containers used as accessory buildings for temporary storage and shipping containers used as sheds for residential storage. "Shipping Container" shall also include, but is not limited to, storage box shipping containers, storage moving "pods", or any other similar portable storage containers, whether with or without wheels, and whether with or without a chassis.

Section 2. That Section 15.5 of Chapter 15 of the Town Code of the Town of Burns Harbor shall be amended as follows:

15.5 Districts. Table 5-2 Zoning Form & Function Table – k. ACCESSORY USES, add Shipping Container. Permitted in Special Use District. Special Exception in RC1, RC2, and BP.

Section 3. That section 15.13 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following:

15-13-6.1 SHIPPING CONTAINERS

1. A Shipping Container shall conform to the standards found within each corresponding zoning district. However, nothing in this Ordinance shall restrict the placement of a Shipping Container utilized as a temporary moving pod on any parcel when said shipping container is placed on a parcel for no more than ten (10) consecutive days when the occupant(s) of the residential or business parcel are moving in or out of the residence or building located on that parcel, provided that no Shipping Container shall be located in a circulation aisle/lane, fire access, public utility easement or public right-of-way, including streets, alleys, sidewalks, park strips and/or otherwise impede traffic or pedestrians.
2. No Shipping Container shall be located in a circulation aisle/lane, fire access, public utility easement or public right-of-way, including streets, alleys, sidewalks, park strips, and/or otherwise impede traffic or pedestrians.
3. Except for the use stated above, the use of any Shipping Container requires permit approval from the Burns Harbor Building Commissioner.
4. A Shipping Container may be used for shipping and receiving merchandise and goods in a commercial use, provided that the Shipping Container does not remain on a parcel for more than ten (10) days, and provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right-of-way, in an area visible from the property's primary street.

5. A single Shipping Container may be used in all residential zoning districts when a building permit has been issued for construction of a residential unit on that parcel. The Shipping Container shall be allowed on the residential parcel during construction only. The Shipping Container shall be removed within ten (10) days after the final building inspection upon completion of the residential unit or ten (10) days after the end of construction period defined within the building permit issued for the parcel, whichever comes first.
6. Each Shipping Container used for construction purposes must be approved by the Burns Harbor Building Commissioner prior to placement when used during construction for less than twelve (12) months.
7. No Shipping Container shall be permitted on a vacant parcel unless the vacant parcel is adjacent to the parcel where a construction or ~~remodel~~ a **remodeling** project has been approved by the Burns Harbor Building Commissioner.
8. No Shipping Container shall otherwise be allowed when any portion of the property contains a residential dwelling unit.
9. A Shipping Container may not be used as a dwelling or living quarters, nor for camping, cooking or recreation purposes for any amount of time in any district.
10. The number of shipping containers allowed per business is limited to one (1).
11. In all districts, any Shipping Container must be kept in good repair, be secured against unauthorized entry, and comply with health regulations.
 - A. A Shipping Container is not in a state of good repair when it is incapable of being moved intact, holes in the container exist due to damage or rust, or it has been infested with vermin or other pests.
 - B. Any Shipping Container that has deteriorated and is not in a state of good repair must be removed immediately.
12. Vertical Stacking of Shipping Containers and stacking of any other materials on top of or around any Shipping Container shall be prohibited in all districts.
13. Any Shipping Container existing on any property in the Town of Burns Harbor on the date of final passage of this ordinance shall either be removed from such property or be brought into compliance with the provisions of this section within ninety (90) days of final passage of this ordinance.
14. Districts: **Except as noted above in 15-13-6.1** -
 - A. **Residential Open Space District:** The use of a Shipping Container in a Residential Open Space ("ROS") District is prohibited.
 - B. **Residential District:** The use of a Shipping Container in a Residential ("R") District is prohibited.
 - C. **Downtown District:** The use of a Shipping Container in a Downtown ("DD") District is prohibited.
 - D. **Residential/Commercial District 1:** The use of a Shipping Container in a Residential/Commercial 1 ("RC1") District is prohibited.

- E. Residential/Commercial 2: The use of a Shipping Container in a Residential/Commercial 2 ("RC2") District is prohibited, except for the following uses:
- i. Shipping Container may be used for shipping and receiving merchandise and goods in a commercial use, provided that the Shipping Container does not remain on a parcel for more than ten (10) days, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right-of-way, **alleys**, or in an area visible from the property's primary street.
 - ii. A Shipping Container may be used for storing merchandise or goods, including long-term storage, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right-of-way, **alleys**, in an area visible from the property's primary street.
 - iii. A Shipping Container shall not impede traffic or pedestrians. No Shipping Container shall be located in a circulation aisle/lane, fire access, public utility easement or public right-of-way, including streets, **alleys**, sidewalks, and park strips.
 - iv. Any Shipping Container intended for more than ten (10) days use and visible from any public right of way must be a solid neutral color or match the structure.
- F. Business Park District: The use of a Shipping Container is permissible.
- i. A Shipping Container may be used for storing merchandise or goods, including long-term storage, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access, public right of way, **alleys**, or in an area visible from the property's primary street.
 - ii. Any Shipping Container intended for more than ten (10) days use and visible from any public right of way must be a solid neutral color or match the structure.
- G. Special Use District: The use of a Shipping Container is permissible in a Special Use District, except where the Special Use District's primary use is residential, and provided the Shipping Container is not stored on public right of way, in fire access, **alleys**, in landscaped or front setback areas or in an area visible from the property's primary street.
15. Permit Fees: **Does this go in this ordinance section or in a fee table elsewhere?**
- A. Moving Pods: Moving Pods are permitted in all districts and no permit fee is required for use up to 10 days.
 - B. Construction Containers: Construction Containers are permitted in all districts, a \$200.00 fee is required for use up to 1 year or the certificate of occupancy, and a \$50.00 renewal fee is required if the building permit is extended or the storage container is moved to another building site.
 - C. Temporary Use for Commercial Purposes: Temporary Use for Commercial Purposes is permitted in RC2, BP, and Special Use districts, and a \$50.00 fee is required for use up to 10 days.

- D. Long Term Use for Commercial Purposes: Long Term Use for Commercial Purposes is permitted in RC2, BP, and Special Use districts, a \$200.00 annual fee is required, and a \$50.00 annual inspection fee is required.
- E. The permit fee is per container if a variance is granted by the Board of Zoning and Appeals for additional containers.

16. Penalties for Violations:

- A. Any person found in violation of any provision of this chapter shall be punishable by a fine of: \$500.00 for a first offense; \$1,000.00 for a second offense, and an additional \$250.00 for each subsequent day the violation occurs after receiving notice of a second offense; and \$2,500.00 for a third offense and the Town will remove the storage container. ~~the~~ **The** owner will be held responsible for all costs of removal and storage of the storage container, the Town will lien property for all costs and fines, and any further permits will be revoked.
- B. For the purpose of this section, a second and third offense occurs when: a violation of the provisions of this chapter is committed by the same person and the violation is of the same provision of this chapter as the previous violation; or the person found to be in violation of the provisions of this chapter fails to remove the storage container in violation of the provisions of this chapter within 7 days of receiving notice of the first or second offense.

Section 4. This Ordinance shall be effective upon its adoption and publication.

All of which is ADOPTED this _____ day of _____, 2020.

Oudman says the name changes were just a little bit of wording. The information on the fees – should it be inserted in the ordinance or put in a fee table Hull says they have to go into the Fee table to avoid changing an ordinance if fee changes are necessary.

McCormick says how will this new ordinance be enforced at Arcelor Mittal where numerous contractors have shipping containers on site. Building Commissioner Wesley says mainly I'll be checking that the containers on the job site are planned for and not affecting neighboring properties. Hull says there is nothing wrong with sending Mittal a letter telling them that the new regulation requires all contractors need to have a license and letting them know we're going to check on things if they don't work with us. This isn't to make some extra fees--it's more for everywhere else in Town that has the problem. McHargue says the Mill should not be exempt from the new ordinance but enforcement on the property may be difficult.

Bozak makes a motion to move this to Public Hearing on Monday, September 14, 2020 as is minus the fees being moved to the Fee Table and the changes you've made and highlighted. Also, a final draft be prepared in time for posting. McHargue seconded the motion. **Motion carried by unanimous vote.**

New Business

Holladay Properties

Westport PUD Primary Plat Approval

Hull says the next step for this is to move it to a Public Hearing. I've been led to believe that the solution to Lot 16 is there is work in progress to split those two. You'll receive an updated plat prior to the posting of the public hearing that would show that Lot 16 satisfies the requirement.

Global Engineering recommends Primary Plat Approval contingent upon satisfying the following items:

11. Chapter 14-4 C5: requires lot depth to width ratio of 3:1 maximum. Lots 2, 3, 4, 6, 9, and 16 currently do not meet this requirement. **(Lots 2-6 have been noted as zero usable area on the plat and Lot 9 has been designated for stormwater collection. In compliance.) Petitioner is considering options for Lot 16 to satisfy the 3:1 requirement. It is understood that this Lot will be further subdivided in the future when developed into Townhouses.**
12. Petitioner's previous Zoning variances (Chapter 15) have been adopted as part of the PUD approval. Petitioner shall include previously requested Chapter 14 variances on the Primary Plat document as follows:
 - a. **14-4-9 – Property lines at intersection of streets shall not be required to be rounded by a radius in lieu of being required to be rounded by a radius of at least 25 feet or by chords of such arcs.**

Bozak makes a motion to move the Westport PUD Primary Plat Approval for Public Hearing on Monday, September 14, 2020 as long as Global's requirements for 11 and 12 have been met. McHargue seconded the motion. Motion carried by unanimous vote.

Fire Code

Building Commissioner Wesley says I would love to see the Town adopt the Fire Code because I am in a situation now where a certain business in Town decided they are going to move a 1,000-gallon diesel fuel tank onto their property without any type of permits, plan release or anything. The Town has not adopted the Fire Code. Hull says the Fire Chief Arney can go down there and write a ticket because putting a 1,000-gallon fuel tank there with no containment is against the Fire Code.

McHargue says we need to adopt the State Fire Code so we are able to write violations otherwise we can't do that. Bozak says why do we have to adopt it if its already a State Law. Hull says because the Building Commissioner currently doesn't have the authority to enforce a Fire violation. Building Commissioner Wesley says the State Fire Code is the only thing that is not referenced in our Ordinance that is enforceable by me. McCormick says is that something for us to do or for the Town Council. Hull says if its for the Building Commissioner its for us to do. I believe we can have Attorney Brazil look at our current Code and find out what others are doing. Attorney Brazil says I'll work with Building Commissioner Wesley until we figure it out and have answers for next meeting.

Review: Bonds, Maintenance Guarantees, Letters of Credit

Hull says the we have a Maintenance Bond due in January 2021. We'll need to check on that in November.

Good of the Order and Any Other Business

None

Announcements

None

Adjournment

McHargue makes a motion to adjourn at 8:16 p.m. Bozak seconded the motion. Motion carried by unanimous vote.

APPROVED on September 14, 2020

Eric Hull, President

Marge Falbo, Secretary