

TOWN OF NEW WHITELAND
ORDINANCE NO. ~~99-02~~ 974

AN ORDINANCE TO AMEND THE EXISTING NEW WHITELAND ZONING ORDINANCE TO REQUIRE A BUILDING PERMIT FOR DRIVEWAY PROJECTS, TO FURTHER RESTRICT THE BUILDING PERMIT EXCEPTION FOR ORDINARY REPAIR AND MAINTENANCE, TO DELETE THE CURRENT FEE IMPOSED FOR A PERSON INITIATING CONSTRUCTION WITHOUT FIRST OBTAINING A PERMIT, AND TO ADD A FINE FOR ANY PERSON INITIATING IMPROVEMENTS WITHOUT FIRST OBTAINING A BUILDING PERMIT, AND REQUIRE REMOVAL OR MODIFICATION OF THE IMPROVEMENTS IF THEY DO NOT COMPLY WITH THE NEW WHITELAND ZONING ORDINANCE, OR IF COMPLIANCE CANNOT BE DETERMINED THROUGH INSPECTION.

WHEREAS, the New Whiteland Town Council and the New Whiteland Advisory Plan Commission ("Plan Commission") have initiated a proposal to amend the New Whiteland Zoning Ordinance pursuant to I.C. 36-7-4-701 and I.C. 36-7-4-602; and

WHEREAS, the Amendments herein are consistent with following purposes, as required under I.C. 36-7-4-601(c):

- a. Securing adequate light, air, convenience of access, and safety from fire, flood, and other danger;
- b. Lessening or avoiding congestion in public ways;
- c. Promoting the public health, safety, comfort, morals, convenience, and general welfare; and
- d. Otherwise accomplishing the purposes of I.C. 36-7-4.

WHEREAS, the Plan Commission has given notice and held a public hearing on the proposed amendments to the Zoning Ordinance; and

WHEREAS, the Plan Commission, after paying reasonable regard to (1) the New Whiteland Comprehensive Plan, (2) the current conditions and the character of the current structures and use in each district, (3) the most desirable use for which the land in each district is adapted, (4) the conservation of property values throughout the jurisdiction, and (5) responsible development and growth, made a favorable recommendation regarding the amendment of the New Whiteland Subdivision Control Ordinance and has certified the same to the Council; and

WHEREAS, the Council has considered the Plan Commission's recommendation concerning the proposed amendments to the Zoning Ordinance, and has paid reasonable regard to items 1 through 5 referred to above; and

WHEREAS, the Council has given notice under I.C. 5-14-1.5-5 (the Open Door Law) of its intention to consider the amendments to the New Whiteland Zoning Ordinance; and

WHEREAS, the New Whiteland Town Council ("Council") has determined it to be appropriate to amend the existing New Whiteland Zoning Ordinance to require a building permit for driveway projects, to further restrict the building permit exception for ordinary repair and maintenance, to delete the current fee imposed for a person initiating construction without first obtaining a permit, and to add a fine for any person initiating improvements without first obtaining a building permit, and require removal or modification of the improvements if they do not comply with the New Whiteland Zoning Ordinance, or if compliance cannot be determined through inspection.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of New Whiteland, Indiana, that;

Section 1. The Zoning Ordinance of the Town of New Whiteland shall be amended by including driveways as a specific project requiring a building permit. The New Whiteland Zoning Ordinance shall be amended by adding Article III Section 400(Q), which shall read as follows:

Q. Driveways;

Section 2. The Zoning Ordinance of the Town of New Whiteland shall be amended by adding the further restriction of not expanding the scope of any existing use to the exception to obtaining an improvement location permit for ordinary repair and maintenance. Article III Section 400 which shall read as follows:

No improvement location permit (building permit) shall be required for ordinary repair and maintenance where the total cost of materials and labor does not exceed five hundred dollars (\$500.00) and the work does not include a potential health or safety hazard or expand the scope of any existing use.

Section 3. The Zoning Ordinance of the Town of New Whiteland shall be amended by deleting the following sentence from the middle of Section 3-402: "Any person who initiates construction of a structure prior to obtaining an improvement location permit or any other required permit shall pay twice the amount of the current permit fee." Section 3-402 shall read as follows:

3-402. **Fees.** Fees shall be charged for all applications for permits or petitions in accordance with the fee schedule adopted by the New Whiteland Plan Commission and Town Council. Until all applicable fees, charges, and expenses have been paid in full, no final action shall be taken on any permit application, appeal or petition. No fee shall be required for appealing a decision of the Zoning Administrator.

Section 4. The Zoning Ordinance of the Town of New Whiteland shall be amended as follows:

Section 3-500. VIOLATIONS & PENALTIES. It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any structure or land in violation of any regulation in, or any provisions of, this Ordinance or any regulation enacted hereunder by the Commission or Board. Any person who initiates construction of any project, for which a building permit is required by the relevant provisions of this Ordinance, prior to obtaining a building permit and all other required permits shall be subject to a fine of Five Hundred Dollars (\$500.00) and may be required to remove or modify improvements made prior to issuance of all requisite permits that : (i) do not conform with all relevant provisions of this Ordinance, or (ii) because any such improvements are covered or concealed and not open to inspection, their conformance with all relevant provisions of this Ordinance cannot be confirmed. Any person who otherwise violates this Ordinance or fails to comply with its other provisions shall be fined not less than ten dollars (\$10.00) and not more than three hundred dollars (\$300.00). Each day the violation continues shall constitute a separate and distinct violation.

Section 5. All ordinances and sections of ordinances in conflict herewith are hereby repealed to the extent that they conflict with any of the provisions contained herein.

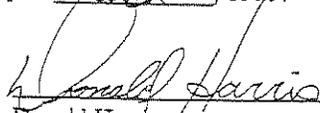
Section 6. The New Whiteland Plan Commission is hereby authorized to make the above-described changes to the zoning ordinance text, to print the text of the amendments so as to be inserted into the book version of the New Whiteland Subdivision Control, and to file two (2) copies of this ordinance in the office of the New Whiteland Clerk-Treasurer to keep on file for public inspection. The New Whiteland Clerk-Treasurer shall keep additional copies of the Subdivision Control Ordinance book in the office for the purpose of sale or distribution.

Section 7. The sections, paragraphs, sentences, clauses, phrases and words of this Ordinance are separable, and if any word, phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining words, phrases, clauses, sentences, paragraphs and sections of this Ordinance.

Section 8. This Ordinance shall have no effect on existing litigation or causes in action, and shall not operate as an abatement of any action or proceeding now pending or which could be brought as to changing any other provision of the New Whiteland Town Code, as amended, by virtue of the ordinances or sections of ordinances or Code provisions so amended or repealed and this Ordinance is to amend only as provided above and does not affect any other sections of the New Whiteland Zoning Ordinance or New Whiteland Town Code, except to the extent necessary to give this Ordinance full force and effect.

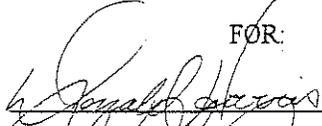
Section 9. The Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

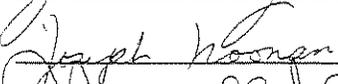
Adopted by an affirmative vote of the Town Council of the Town of New Whiteland at the regular meeting of the Town Council on the 16 day of March, 1998.

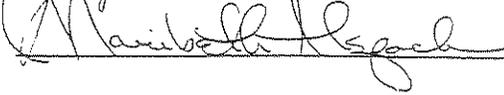


Donald Harris

FOR:

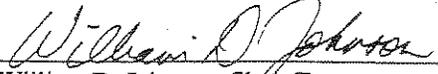






AGAINST:

ATTEST:



William D. Johnson, Clerk-Treasurer