

**JOINT HEARING OF THE
PLAN COMMISSION AND
ZONING BOARD OF APPEALS
August 8, 2001**

Plan Commission Members Present: Cheryl Ross*, Bryan Winter, Steve Park, Kathryn McDermott, and Chairman Lyle Foster

Plan Commission Members Absent: Frank Papp and Jim Sula

Zoning Board Members Present: Richard McFarlane, Karen Wasser, Daniel Kloczkowski, David Nordentoft, Stuart Vieth, and Chairman Tom Hood

Zoning Board Members Absent: David Kauffman

Other Officials Present: Rudy Magna, Village Attorney; Tracy Velkover, Village Planner; Kirk Skoog, Associate Planner; and Mike Prusila, Planning Intern

*Arrived at 7:40 p.m.

1. The meeting was called to order at 7:35 p.m.
2. a. Mr. Park moved, seconded by Mr. Winter, to approve the minutes of the public hearing at the June 27, 2001 Joint Meeting of the Plan Commission and Zoning Board of Appeals.

Roll Call Vote:

Ayes: Winter, Park, McDermott, & Foster

Nays: None

Motion Carried: 4-0

b. Mr. Park moved, seconded by Mr. Winter, to approve the minutes of the workshop session at the June 27, 2001 Joint Meeting of the Plan Commission and Zoning Board of Appeals.

Roll Call Vote:

Ayes: Winter, Park, McDermott, & Foster

Nays: None

Motion Carried: 4-0

3. Public Hearing: Petition to Amend the Text of the Zoning Ordinance to Allow Outdoor Storage Containers as a Temporary Use

Ms. Velkover introduced the proposed text amendments, stating that some area retailers had expressed interest in the possibility of being allowed to use outdoor storage containers as a temporary use, primarily during the holiday season. Based upon concerns expressed by the Plan Commission and ZBA at the last hearing, additional language has been incorporated into the proposed text amendments. Ms. Velkover then read through the proposed amendments.

Mr. Aaron Shepley, from the law firm of Hinshaw and Culbertson in Crystal Lake, IL, stated that he is an attorney representing Wal-Mart. Mr. Shepley made positive comments about the proposed amendments, and also indicated his understanding that there had been some concerns about his client and its use of storage containers.

Mr. Shepley then stated that he would request, on behalf of his client, a ratio of container floor space to principal building floor space of around 5.3%.

Mr. Winter asked if a 90-day time limit on temporary use permits was feasible for Wal-Mart. Mr. Shepley replied affirmatively.

Mr. Winter then asked why 36,000 square feet was listed as the minimum floor area for a building in order to qualify for a temporary use permit. Ms. Velkover responded that if the Plan Commission were to recommend a 1% ratio of container to building floor area, a 36,000 square foot store would be allowed one 9' x 40' (360 sq. ft.) container. In other words, one storage container has 1% of the floor space of a 36,000 square foot building. She also explained that this number limits eligible businesses to larger mass retailers.

Mr. Magna indicated that this might be a point of legal contention among smaller retailers. Ms. Velkover stated that this standard could be removed if it is a serious concern.

Mr. Magna also asked if "primary customer parking area" is defined in the Zoning Ordinance. Ms. Velkover stated that it is not defined. However, the document indicates that the determination of "primary customer parking area" is to be made by the Zoning Administrator. "Primary customer parking area" refers to paved or graded areas commonly located to the front or side of buildings. It does not refer to areas located at the rear of a building that are typically earmarked for employee parking. Ms. Velkover explained that site plans do not reflect customer parking versus employee parking areas. This will be a judgement call by the Zoning Administrator. The intention is clear though. Parking to the front and sides of buildings where customers typically park are not appropriate locations for storage containers. Parking areas in back of buildings where employees are typically instructed to park are appropriate locations for these types of structures.

Mr. Park asked whether employees would park in customer areas if displaced by storage containers during the holiday season. Mr. Shepley replied that Item 5 in the draft addresses this situation by not allowing encroachment upon the minimum number of parking spaces as required by the Zoning Ordinance. Mr. Park then observed that the minimum number of spaces, as provided in the Zoning Ordinance, might be less than the number of spaces approved as part of an annexation agreement or PUD. He also pointed out that the minimum ordinance requirement could be below what the store actually needs, especially during the busy holiday season. Mr. Shepley commented that many retailers would find it difficult to give up customer parking in order to increase storage space. He added that Wal-Mart does not have parking behind the store, which is where the store intends to locate containers.

Mr. Winter stated that allowing the Zoning Administrator to determine the appropriateness of the containers' location would be acceptable. He then asked if the Village had received any complaints in the past regarding the use of these structures and if there are any safety issues. Ms. Velkover replied that one resident has complained, but that the fire department has not had any comments regarding safety hazards.

Chairman Foster stated that he had been under the impression that this privilege was going to be reserved for large users. Removing a minimum size restriction would allow all retailers to take advantage. He expressed concern with removing this standard. He also stated that the percentage of temporary space to permanent space should be kept low.

Mr. Winter proposed a four or five percent ratio, with no users of less than 10,000 square feet.

Mr. Magna said that businesses could use smaller containers and that the ordinance might not equally protect all retailers. He suggested that the ratio be regulated by lot size or percentage of open area.

Mr. McFarlane stated that Item 9 should be changed to a percentage of lot area, because, if the 10,000 square foot minimum was used, seven stores in a multi-unit building could use 70,000 square feet of storage containers. Mr. Magna felt that the ordinance should still apply to individual units. Mr. Winter agreed that the use of storage containers should be limited to

individual businesses and asked what size building will accommodate the proposed regulations. Ms. Wasser reiterated that minimum size should not be based upon indoor square footage.

Ms. Velkover stated that size standards have been set in the draft. Ms. McDermott added that if a store wants more storage containers than what is allowed, it could apply for a special use permit. Mr. Park suggested that the percentage be reasonable, and not be based upon the demand of a single user, in this case, Wal-Mart. He also expressed concern over the visibility of the containers from areas at the front of stores used by shoppers.

Mr. Magna suggested that a provision be added to limit storage to merchandise for buildings and uses immediately on-site. Mr. Shepley stated that Wal-Mart intends to use containers for storage of goods to be sold at the Gurnee store only.

Mr. Winter said that of 4% or 5%, 4% seems more realistic. Ms. Velkover then gave some examples of the numbers of containers available to local retailers given various floor space ratios. Mr. Park indicated that he is comfortable with a maximum of 3%.

Mr. Kloczkowski asked if the special use permit would need to be renewed each year. Ms. Velkover said the special use permit could be recurring, as is the case with Home Depot's outdoor display special use permit, or it could expire every year. Mr. Hood thought it would be better to set a recurring special use permit. Mr. Winter agreed. Mr. Magna suggested that since this is an experimental ordinance, it might be wise to set special uses with expirations in case there are unforeseen problems.

Ms. Wasser asked if there were problems with a 5% ratio if all other regulations were met. Mr. Park replied that he is not convinced that the Village should allow the units at all and that his suggestion of 3% is a compromise. He also stated that the use should be limited to retailers exclusively. Mr. Winter agreed that industrial zoning districts should not be included in the amendments. Mr. Winter, Ms. McDermott, and Ms. Wasser all agreed that 5% is a legitimate ratio.

Mr. Winter moved, seconded by Ms. McDermott, that the Plan Commission forward a favorable recommendation to the Village Board to amend the text of the Zoning Ordinance to include the section "Temporary Storage Containers" under Article 8.6.4, "Temporary Use Regulations: Uses and Structures," subject to the following modifications:

1. The use of storage containers is restricted to retail users in the C/B-2 zoning district;
2. That Item 1, the regulation requiring a store contain a minimum of 36,000 sq. ft. in area before qualifying for temporary containers, be stricken;
3. That customer entryways be added to the list of areas in Item 3;
4. That Item 6 stipulate that the containers shall remain secured at all times;
5. That the word "associated" be struck from Item 8 and "or business requesting the temporary use permit" be added;
6. That 5% be established as the ratio of temporary storage area to permanent store area listed in Item 9; and
7. That an addendum be added to Item 12, reading: "All permits issued hereunder shall have a commencement date and expiration date consistent with these regulations."

Roll Call Vote:

Ayes: Ross, Winter, Park, McDermott, & Foster

Nays: None

Motion Carried: 5-0

Mr. Nordentoft moved, seconded by Ms. Wasser, that the Zoning Board of Appeals forward a favorable recommendation to the Village Board to amend the text of the Zoning Ordinance to

include the section "Temporary Storage Containers" under Article 8.6.4, "Temporary Use Regulations: Uses and Structures," subject to the same modifications incorporated into the Plan Commission's motion.

Roll Call Vote:

Ayes: McFarlane, Wasser, Kloczkowski, Nordentoft, & Hood

Nays: Vieth

Motion Carried: 5-1

The public hearing adjourned at 8:50 p.m.

Submitted by,

Michael Prusila
Planning Intern