

# COVERT TOWNSHIP

## PLANNING COMMISSION

MINUTES OF THE AUGUST 21, 2024 REGULAR MEETING

6:30 P.M., COVERT TOWNSHIP HALL

### Call to Order / Roll Call / Pledge of Allegiance

Chair Rendell called the meeting to order at 6:30 p.m.

Members Present: Robert Brown, Tom Bury, Luke Dennison, Austin Harding, Jena Johnson, Wayne Rendell, Lonze Taylor

Members Absent: None

Others Present: Rebecca Harvey, Township Planning Consultant

### Approval of Agenda

Motion by Brown, seconded by Bury, to approve the agenda of the August 21, 2024 regular meeting, as presented. Motion carried unanimously.

### Approval of Minutes – July 17, 2024 Regular Meeting

Motion by Taylor, seconded by Dennison, to approve the minutes of the July 21, 2024 regular meeting, as presented. Motion carried unanimously.

### Public Comment

No public comment was offered.

**Public Hearing: Text Amendments – Battery Energy Storage Systems (BESS); Schedule of Regulations (Supplemental Setback in I District)**

Chair Rendell stated that the next matter to come before the Commission was consideration of the proposed amendments to Section 2.02 – Definitions, Section 13.03 – I District, Sections 15.01/15.02 – Schedule of Regulations (Table & Notes), and the proposed addition of Section 18.35 – Battery Energy Storage Systems (BESS).

Chair Rendell opened the public hearing.

Harvey provided an overview of the draft text, highlighting the changes made pursuant to the Commission’s review in July.

Steve Estey, an attorney specializing in land use law and representing generally developers within the battery energy storage systems industry, provided the following comments on the proposed text amendments:

- The proposed draft text is largely acceptable as a ‘workable’ ordinance.
- Limiting battery energy storage systems to the I District is a reasonable approach but might not work in all instances and will result in rezoning requests.
- The battery devices are contained within an ‘enclosure’ typically referred to as a ‘purpose-built container’; the battery energy storage system consists of a series of ‘purpose-built containers’.
- There is still concern regarding the Township’s Noise Ordinance and if/how it considers existing ambient sound in determining compliance with decibel levels. Perhaps this could best be addressed by the Township Board through an amendment to the Noise Ordinance.
- The proposed 50 ft setback applicable when abutting ag/residential zoning is acceptable if there is flexibility in its application. Specifically, will the 50 ft setback requirement apply to system components such as fencing or utility poles?
- There is a desire to develop in the Township and appreciation for the opportunity to participate in the process.

Liz Smaka, Township resident and nearby neighbor of industrial zoning within the Township, expressed opposition to the proposed amendment stating that it will serve as an incentive to the industry to locate in the Township by providing an easier path to approval than through the State process that already applies.

Estey noted that the 'workable' ordinance approach allows for the inclusion of tighter standards of development and more protection, as well as local oversight of any proposed project.

No further public comment was offered on the matter and the public comment portion of the public hearing was closed.

In response to Commission questions regarding the operational features of a battery energy storage system, specifically related to noise, Blair Debbau (Tenaska) provided the following input:

- The 'purpose-built containers' are metal and manufactured off-site but are provided some insulation.
- Each 'purpose-built container' has a fan that runs during the operation of the battery storage devices . . . which averages a total of 8 hours during a 24-hour period.
- The fan is located on the top of the 'purpose-built container' and is the primary source of the noise generated by a battery energy storage system.
- There are some options available to 'muffle' the noise made by the fans.
- A battery energy storage system typically includes a small mobile office; a transformer; a water tank; a substation; and the 'purpose-built containers' containing the battery storage devices.

Commission discussion ensued regarding the issues raised related to noise and setbacks. It was noted that the purpose of a setback standard is not limited to reducing noise impacts but is also intended to provide a physical separation/buffer between the use and adjacent properties and to address access and safety concerns. It was further noted that the side and rear setback requirements in the I District are 20 ft and 40 ft respectively, and that the proposed 50 ft setback would only apply to a site boundary that was adjacent to the AG District or any residential district. There was consensus that the proposed 50 ft setback is reasonable and does not preclude a reduction of any of the setback requirements on a per project basis if justified.

In consideration of the review comments offered by the public, the Commission noted the following:

- Due to the presence of existing energy-related facilities in the Township, the establishment of battery energy storage systems in the Township seems imminent.

- Under the current circumstances due to PA 233, a ‘workable ordinance’ will not invite nor incentivize location in the Township, but rather will offer the greatest protection to the Township through stricter standards and local participation in the review process.
- There is general support for growth within the Township and a desire to work with Township residents and applicants in determining how to grow appropriately. There is not a desire to leave the review/approval process for energy-related systems up to the State.
- The following revisions to the draft text dated August 21, 2024 are acceptable:
  - : Revise proposed Section 2.02 – Definitions to read – ‘One or more devices, assembled together **within a purpose-built container**, capable of storing . . .’
  - : Revise proposed Section 18.35 B. 3. – Height to read – ‘Tier 2 Battery Energy Storage Systems **purpose-built containers** shall not be stacked above the height of a single battery storage **purpose-built container**’.
  - : Revise proposed Section 18.35 B. 4. – Fire Safety to read – ‘Tier 2 Battery Energy Storage Systems shall comply with the National Fire Protection **Association’s** (NFPA) Fire **Standard** 855 regarding ‘energy storage systems’.’
  - : Revise proposed Section 18.35 B. 5. – Utilities to read – ‘**Utility Lines**’.

Motion by Dennison, seconded by Johnson, to recommend Township Board approval of the proposed amendments to Section 2.02 – Definitions, Section 13.03 – I District, and Sections 15.01/15.02 – Schedule of Regulations (Table & Notes), and the proposed addition of Section 18.35 – Battery Energy Storage Systems (BESS) , as referenced in public hearing notice items #1 - #4 and as presented in the ‘public hearing draft’ text, with the revisions noted. Motion carried unanimously.

## **New Business**

Chair Rendell stated that no New Business is scheduled for consideration.

## Ongoing Business

### ***Text Amendment: Shipping/Storage Containers***

Chair Rendell reminded that the Commission reviewed/discussed Draft #1 - 'Shipping Containers as Accessory Structures', which contains definitions for 'cargo container' and 'portable storage container' and an amendment of Section 18.14 to include regulations for both, in June and July. He noted that Harvey was then directed to revise the draft text to reflect/address the Planning Commission's discussion to date for continued consideration in August.

Harvey provided an overview of Draft #2, highlighting the revisions made in response to Planning Commission review comments.

Taylor questioned how the proposed regulations would apply to sites where shipping containers are currently in use in violation of the existing Zoning Ordinance. Lengthy Planning Commission discussion ensued regarding how and when any new standards would be applied to existing situations. Harvey explained that the decision to apply the current or any new regulation to existing violations rests with the Township Board as an enforcement issue. Taylor agreed that the matter is the responsibility of the Township Board and the Planning Commission should draft the regulations for application moving forward.

Chair Rendell questioned if, rather than apply the proposed regulations to 'all zoning districts', as proposed, it would be more reasonable to exempt the AG and I Districts from the standards. Harvey offered that another approach to providing desired flexibility would be to allow deviations through the special land use permit process.

The revised text in proposed Section 18.14 2. B. 2) was then discussed at length. Harvey noted that the phrase 'permanent, durable and dustless hard surface' is the standard applied to parking lots in Section 19.10 10. The Commission noted that there had been no issues with the application of the standard to date and agreed with the consistent use of the standard.

Dennison noted support for the draft text as presented, with the addition of the suggested deviation option. Chair Rendell and Johnson agreed.

Chair Rendell and Bury expressed concern with the appearance of blight within the Township that could be associated with unregulated use of shipping containers. Discussion on the merit of

allowing use of shipping containers for storage in the AG and residential districts but not in non-residential districts then ensued.

At the conclusion of the discussion, the Planning Commission agreed to move the proposed text forward as drafted, noting that it can be modified in the future if desired.

Harding stated that he supports the development of standards for the use of shipping containers for storage and feels the proposed text is a solid way to move forward on the matter.

Chair Rendell and Bury reiterated their desire to advocate for land use that is compatible and their concern with how the existing use of shipping containers within the Township will be addressed. It was suggested that the proposed text and the existing situation regarding the use of shipping containers in violation of the Ordinance may be a good topic for a joint meeting between the boards.

Harvey was directed to revise the draft text to include the discussed waiver provision for Planning Commission final review in September. It was noted that a public hearing would then be scheduled on the proposed amendment.

### **Communications**

Due to the lateness of the hour, no communications were offered.

### **Public Comments**

No public comment was offered.

### **Adjournment**

There being no further business to come before the Commission, the meeting was adjourned at 8:55 p.m.

Respectfully Submitted,  
Rebecca Harvey, AICP, PCP  
(McKenna)Township Planning Consultant