

Town of Lovettsville

Minutes of Planning Commission Public Hearings, April 22, 2009

The Public Hearing of the Lovettsville Planning Commission was called to order by Vice Chair Mari Bushway on Wednesday, April 22, 2009 at 7:32 P.M. at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180.

Welcomes and Introductions

Vice Chair Bushway welcomed the citizens attending the meeting and thanked them for coming. She introduced Mayor Walker and Planning Commissioners Lorraine Bauer, Jack Burden, Joanne Cooper, and Elaine Fischer. Commissioner Rodney Gray arrived at 7:34 PM and was introduced at that time. Vice Chair Bushway welcomed Commissioners Cooper and Fischer to their first Planning Commission meeting and thanked them for volunteering their time to the Town. She also introduced Town Manager Keith Markel, Zoning Administrator Steve McGregor, and Town Clerk Judy Kromholz.

Absent

Commission Chair Robert Zachritz

Audience

Councilwoman Charlotte Coleman was among those present

Public Hearing on LVZA 2009-0002 Wall Check Plat Zoning Ordinance Amendment

Explanation of Procedures and Opening of the Hearing

Vice Chair Bushway read the Public Notice of this Public Hearings as it appeared in *Leesburg Today* on April 3, 2009 and April 10, 2009 (Attachment I).

Presentation

Administrator McGregor welcomed the new commissioners and made a presentation on this proposed amendment. (Attachment II)

Public Speakers

Vice Chair Bushway called on speakers in the order in which they signed up.

- 1 Jim McDonough a) Mr. McDonough thanked Administrator McGregor for his notice concerning this hearing and stated that he is very familiar with the problem faced by the Town on this issue.
3 Short Hill Chase b) He is uncertain as to necessity for this amendment, noting that 225 homes have been built by qualified builders in the last few years without this requirement.
c) He explained the process by which builder set this normally, and noted that the process is very precise and normally not an issue.
d) He stated that he had spoken with the surveyor involved with the problem property and the surveyor had stated that the property was staked properly and frequently.
e) Mr. McDonough feels that this was an isolated incident. He stated that this requirement would cost an additional \$300/house and would cause upwards of a 2 week delay in building each house.
f) He stated that the Commission had a good discussion on this issue but he is concerned that the Town may be imposing laws that are not necessary.
g) He stated that this is not a problem they will see in the future and they should write it off to an inexperienced builder.
h) He does not believe that this process exists in Loudoun County or in Purcellville.
i) He is not certain this is necessary and believes that it will penalize builders who do things correctly.

Vice Chair Bushway asked if there were any further speakers on this topic and there were none. Manager Markel and Clerk Kromholz confirmed that no written communications had been received at Town Hall for this Hearing. There being no further speakers, Vice Chair Bushway declared the hearing closed at 7:44 PM.

Public Hearing on LVZA 2009-0003 Inoperable Vehicle Zoning Ordinance Amendment

Presentation

Administrator McGregor made a presentation on this proposed amendment. (Attachment III)

Public Speakers

Vice Chair Bushway opened the public hearing on LVZA 2009-0003 Inoperable Vehicle Zoning Ordinance Amendment and called for speakers.

- 1 Larry Woodland a) Mr. Woodland has lived in Lovettsville for 28 years. He works for Loudoun
23 S. Loudoun Street County and teaches middle school.
 b) His hobby is old Chevys and he sees nothing in the Amendment that discusses
 hobby or antique vehicles.
 c) He noted that the Town asks him to participate in Town events with these
 antiques/collectibles.
 d) He stated that he took a loss back in 1991 when the Town had a similar
 enforcement effort because he sold a car he could not store property.
 e) He has researched the Code of Virginia and it allows for storage of up to two
 vehicles for repair or restoration for up to two years.
 f) He noted that installing an 8 foot fence can be prohibitively expensive, especially
 in these economic times.

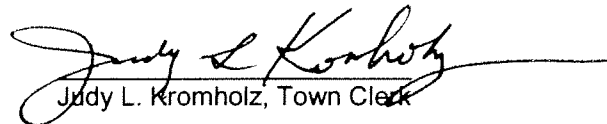
Commissioner Gray asked the speaker if he had antique licenses for his vehicles and Mr. Woodland said that he did. Mr. Woodland also stated that the County only charges \$1 for decals for antique vehicles, while the Town charges \$25.

Vice Chair Bushway asked if there were any further speakers on this topic and there were none. Manager Markel and Clerk Kromholz confirmed that no written communications had been received at Town Hall for this Hearing.

Declaration to Close the Public Hearing

Vice Chair Bushway declared these Public Hearings closed at 8:00 P.M.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: September 2, 2009

Attachment I: *Leesburg Today* Advertisement for Both Public Hearings

Attachment II: LVZA 2009-0002 Wall Check Plat Zoning Ordinance Amendment Staff Report

Attachment III: LVZA 2009-0003 Inoperable Vehicle Zoning Ordinance Amendment Staff Report

ABC LICENSE

REC Solutions, L.L.C., and/or Projects, L.L.C., and/or... 4/10/2009

NOTICE OF TRUSTEES SALE

in execution of a certain deed of trust dated... 4/3 & 4/10/2009

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PUBLIC HEARING NOTICE

The Lovettsville Planning Commission will hold a public hearing at 7:30 PM Wednesday, April 22, 2009, to hear... 4/3 & 4/10/09

NOTICE OF TRUSTEES SALE

in execution of a certain deed of trust dated... 4/3 & 4/10/2009

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LVZA 2009-0002 Wall Check Plat
Zoning Ordinance Amendment
LVSA 2009-0001 Wall Check Plat
Subdivision Ordinance Amendment

STAFF REPORT

Planning Commission Public Hearing

April 22, 2009

**7:30 PM at the Lovettsville Town Office, 6 E. Pennsylvania Avenue
Lovettsville, Virginia**

APPLICANT: Town of Lovettsville.

PURPOSE: To amend the Zoning Ordinance and the Subdivision Ordinance to require certification of the footprint of buildings prior to the full erection of the building.

BACKGROUND: On December 18, 2008 the Town Council authorized a zoning ordinance amendment by the Town to require wall check plats for all buildings to be constructed. The Council wants to avoid having a structure erected that violates setback regulations as happened in 2008. This infraction caused the need for the Town to undertake a public hearing process for a conditional use permit to waive the setback requirement.

DISCUSSION: As provided in the ordinance currently, in order to erect a building, a zoning permit for building location is required to undertake construction and an occupancy permit is required before the building is inhabited or used. By the time the occupancy permit is submitted, the structure is fully erected. At this point in the construction process there is no practical way to rectify a setback infraction without the potential of major reconstruction of a building. In order to avoid the necessity of requiring a builder to undertake major reconstruction of a building or requiring the Town to undergo a conditional use permit process to waive the setback requirement, the Town is proposing to institute a wall check plat requirement. This will require the builder to demonstrate through a certified land surveyor that the building will be erected in conformance with the building location permit. The certification demonstrates the building location at the point where the corners of a concrete slab or the placement of the corners of the foundation, whichever is applicable in establishing the exact location of all corners of the building, are installed. This enables the builder to make any adjustments to the building footprint that may be necessary to comply with setback requirements.

RECOMMENDATION:

The following text amendments are proposed to institute a wall check plat requirement in the building process:

Zoning Ordinance

DELETE: existing Section 10-10 DATE ARTICLE LAST AMENDED

ADD: Section 10-10 entitled: "WALL CHECK PLAT" to read:

"The erection of a building (see major improvement, as defined in Section 10-4 (d)), shall not proceed beyond a point in the construction process where the corners of a concrete slab or the placement of the corners of the foundation, whichever is applicable in establishing the exact location of all corners of the building, until such location is indicated on a plat, known as a "wall check plat", by a certified land surveyor, submitted and approved by the Zoning Administrator."

ADD: Section 10-11 DATE ARTICLE LAST AMENDED (No text)

Subdivision Ordinance

ADD: Section:

4.10 WALL CHECK PLAT The erection of a building (as defined as a major improvement in the Zoning Ordinance, Section 10-4 (d)), shall not proceed beyond a point in the construction process where the corners of a concrete slab or the placement of the corners of the foundation, whichever is applicable in establishing the exact location of all corners of the building, until such location is indicated on a plat, known as a "wall check plat", by a certified land surveyor, submitted and approved by the Zoning Administrator."

DRAFT MOTION:

"I move that the Planning Commission recommend approval of the proposed Zoning Ordinance and Subdivision Ordinance amendments as presented in item LVZA 2009-0002 Wall Check Plat and LVSA 2009-0001 Wall Check Plat"



LVZA 2009-0003 Inoperable Vehicles
Zoning Ordinance Amendment

STAFF REPORT

Planning Commission Public Hearing

April 22, 2009

7:30 PM at the Lovettsville Town Office, 6 E. Pennsylvania Avenue
Lovettsville, Virginia

APPLICANT: Town of Lovettsville.

PURPOSE: To amend the Zoning Ordinance to clarify and simplify the regulations controlling inoperable vehicles and to modify them to apply on all land in the Town instead of only on certain land with certain zoning and to protect adjacent neighbors as well as people driving on public or private streets.

BACKGROUND: On December 18, 2008 the Town Council authorized a zoning ordinance amendment by the Town to amend Section 4-12 Storage of Dismantled and Inoperable Vehicles because the Zoning Administrator indicated that there is a contradiction in the regulation and that the regulation should apply to all property in the Town, not just residential districts.

DISCUSSION: The current regulation states that inoperable vehicles are not permitted to be seen from public or private streets *and* must be enclosed in a building. This is contradictory because such a vehicle can be kept out of sight from streets and not be enclosed in a building. Such a vehicle can be placed behind a building and screened from view from streets.

The intent of the regulation should be reevaluated. Aside from the contradiction there are two other issues that should be addressed: 1) that inoperable vehicles pose the same visual nuisance if they are on property zoned under non-residential districts (commercial or light industrial) as they do on land zoned under residential districts; and 2) that there should be some time allowance for inoperable vehicles to be visible because of the personal circumstances of owners, who may not be able to comply with the regulation for a limited amount of time.

I believe that the inoperable vehicle regulation should apply to all property in the Town as almost all property is visible either from streets or adjacent property. I believe that neighbors should not have to view inoperable vehicles just as people driving or walking along streets should not have to view them.

April 3, 2009

To clear up the contradiction about where inoperable vehicles should be kept on property the regulation should make it clear that such a vehicle should be either kept out of sight *or* enclosed in a building, not both. Another option is to allow such vehicles to be screened by opaque fencing or walls and not required to be enclosed in buildings. This would help keep them from view for adjacent neighbors as well as from streets. This will help improve the living environment in residential areas, many of which are adjacent to commercial and light industrial property.

The current regulation of inoperable and dismantled vehicles only applies to land zoned under residential districts and allows one such vehicle on lots greater than five acres. In one instance there is a residential use on a parcel zoned for commercial use and there is an inoperable vehicle that cannot be cited for violation because the regulation is limited to residentially zoned property. In another instance, there is an inoperative vehicle on a residential parcel larger than five acres that is clearly visible to people who do not live on the property. I think the regulations for such vehicles should be applied to all property in the Town.

The revised definition of "light vehicle repair" use permits inoperable vehicles to be visible for up to two weeks. The proposed revised regulation would not supersede this restriction. The current regulation of inoperative and dismantled vehicles, Section 4-12, provides an exception to the rule for inoperable or dismantled if they are housed on junk yards. Junk yards have been removed from any zoning district in the ordinance; therefore, such use should be removed from the Section 4-12 regulation.

PLANNING COMMISSION DIRECTIVE: The Planning Commission has reviewed the issues related to this subject, as directed by the Council, and recommended the text in the following section be brought to public hearing.

RECOMMENDATION:

The following zoning ordinance text amendments are proposed to clarify, update and expand the regulation of inoperable vehicles. It permits and requires that such vehicles be located behind opaque fences or wall and buildings but does not require them to be located inside buildings. Nor does it limit the visibility restriction to visibility from streets. It restricts visibility to adjacent property as well. The revised text also applies the regulation to all property in the Town so that such vehicles are not visible from commercial or light industrial property, which will help create a better residential living environment in the town.

MODIFY: Section 4-12 STORAGE OF DISMANTLED OR INOPERABLE VEHICLES to read:

"4-12 INOPERABLE VEHICLES ~~No dismantled or inoperable vehicle shall be parked or stored outdoors for more than one (1) week on a lot of less than five (5) acres in area in any residential district. Not more than one (1) dismantled or inoperable vehicle at a time may be parked outdoors on any lot greater than five (5) acres in area in any residential district. Any vehicle not displaying current license plates and inspection validation certificate as required by~~

~~Virginia law shall be construed as an inoperable vehicle. Dismantled or inoperable vehicles may be kept on a lot or tract in any zoning district provided they are kept within enclosed building or within the confines of a licensed junk yard. No inoperable vehicle shall be so located on any lot in any residential district as to be visible from a Class I or II road on any privately owned property in the Town unless it is enclosed in a building or enclosed on four sides by opaque outdoor fencing or walls that are at least six feet in height for passenger cars in residential districts or eight feet in height for vehicles over 3.5 tons in commercial or industrial districts. An inoperable vehicle may be parked in view from any adjacent property or street for a period of time not exceeding thirty (30) days only if it is covered by a fitted vehicle cover, except as stated in the definition of light vehicle repair use.~~

MODIFY: Page 13-6, Section 13-2 DEFINITIONS, INOPERATIVE VEHICLE to read:

~~INOPERATIVE VEHICLE~~ INOPERABLE VEHICLE: Any vehicle which does not display the following: (1) valid state license plate(s); (2) valid inspection certificate (if required) for the state in which the vehicle is licensed; and (3) a valid Town decal or other device, as required by Town ordinance. However, farm vehicles and other vehicles which are exempted from the requirements of displaying Virginia license plates, under the provisions of Articles 4, 5 and 6 of Chapter 6 of Title 46.2 of the Code of Virginia, 1950, as amended, are not included in this definition.

DRAFT MOTION:

"I move that the Planning Commission recommend approval of the proposed Zoning Ordinance amendment as presented in item LVZA 2009-0003 Inoperable Vehicles"