

Town of Lovettsville

Minutes of Town Council Public Hearings, June 18, 2009

The Lovettsville Town Council Public Hearing on LVZA 2009-0002 Wall Check Plat (Zoning Ordinance Amendment) and LVSA 2009-0001 Wall Check Plat (Subdivision Ordinance Amendment) was called to order by Mayor Elaine Walker at 8:25 PM at the Lovettsville Town Hall.

Welcomes and Introductions

Mayor Walker welcomed the citizens attending the meeting and introduced Vice Mayor Robert Zoldos II, and Council Members Charlotte Coleman, Scott Dockum, and Shaun Staley. The Mayor also introduced the Town Staff, including Town Attorney Liz Whiting, Zoning Administrator Steve McGregor, Project Manager Karin Fellers and Town Clerk Judy Kromholz.

Cub Scout Robert Zoldos Jr. led the Pledge of Allegiance.

Absent:

Council Members Michael Senate, DiJon Jones
Town Manager Keith Markel

Introduction of New Community Sherriff

Deputy Sheriff JJ Davis introduced Lovettsville's new Community Policing Deputy Sheriff Vanessa Mertz-Myers.

Opening of the Hearing

Mayor Walker read the public notice of the Public Hearing as it appeared in *Leesburg Today* (Attachment I).

Presentation

Zoning Administrator McGregor made a presentation on this public hearing item. (Attachment II: Staff Report).

Public Speakers

No member of the public had signed up to speak. Mayor Walker asked Clerk Kromholz if any written correspondence had been received for this Public Hearing and Clerk Kromholz stated that there had been no correspondence. Mayor Walker asked the Council if they had any questions and they did not. Mayor Walker again asked if there were speakers and there were none.

Declaration to Close the Public Hearing

Mayor Walker stated that this issue would be open for written comments for an additional ten days and declared this Public Hearing closed at 8:32 PM.

Declaration to Open the Public Hearing

The Lovettsville Town Council Public Hearing on LVZA 2009-0003 Inoperable Vehicles (Zoning Ordinance Amendment) was called to order by Mayor Elaine Walker at 8:33 PM at the Lovettsville Town Hall.

Explanation of Procedures

Mayor Walker read the public notice of this Public Hearing as it appeared in *Leesburg Today* (Attachment III).

Presentation

Zoning Administrator McGregor made a presentation on this public hearing item. (Attachment IV: Staff Report).

Public Speakers

No member of the public had signed up to speak. Mayor Walker asked Clerk Kromholz if any written correspondence had been received for this Public Hearing and Clerk Kromholz stated that there had been no correspondence. Mayor Walker asked the Council if they had any questions and they did not. Mayor Walker again asked if there were speakers and there were none.

Declaration to Close the Public Hearing

Mayor Walker stated that this issue would be open for written comments for an additional ten days and declared this Public Hearing closed at 8:37 P.M.

Respectfully submitted,


Judy L. Kromholz, Town Clerk

Date Approved: September 10, 2009

Attachments:

- I. *Leesburg Today* Public Notice for LVZA 2009-0002 Wall Check Plat (Zoning Ordinance Amendment) and LVSA 2009-0001 Wall Check Plat (Subdivision Ordinance Amendment)
- II. Staff Report: LVZA 2009-0002 Wall Check Plat (Zoning Ordinance Amendment) and LVSA 2009-0001 Wall Check Plat (Subdivision Ordinance Amendment)
- III. *Leesburg Today* Public Notice for LVZA 2009-0003 Inoperable Vehicles (Zoning Ordinance Amendment)
- IV. Staff Report: LVZA 2009-0003 Inoperable Vehicles (Zoning Ordinance Amendment)

**LVZA 2009-0002 WALL CHECK
PLAT REQUIREMENT – ZONING
ORDINANCE AMENDMENT**

**PUBLIC HEARING NOTICE
LOVETTSVILLE TOWN COUNCIL**

The Lovettsville Town Council will hold a public hearing at 8:00 PM Thursday, June 18, 2009, to hear comments from any person on the following:

LVZA 2009-0002 and LVSA 2009-0001:

To amend the Town of Lovettsville Zoning Ordinance to **Add** a new Section 10-10 entitled “Wall Check Plat ” so that construction of a building shall not proceed beyond the erection of the corners of a slab or foundation until a wall check plat is provided by a certified land surveyor, and renumbering existing Section 10-10 and following sections accordingly; and to **Add** to the Subdivision Ordinance, a new Section 4.10 entitled ”Wall Check Plat” for the same purpose as amending Section 10-10 of the Zoning Ordinance.

The hearing will take place at the Town Office, 6 E. Pennsylvania Avenue, Lovettsville, Virginia 20180. The text under consideration is available at the Town Office between the hours of 9AM and 3PM weekdays, holidays excepted. Call 540-822-5788.

By Order of Elaine Walker, Mayor

6/5 & 6/12/09

STAFF REPORT

Town of Lovettsville

TOWN COUNCIL PUBLIC HEARING

JUNE 18, 2009

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

Applicant: Town of Lovettsville

Location of Hearing: Town Office at 6 E. Pennsylvania Avenue
Time of Hearing: 8PM
Call for Information: Steve McGregor (540)-822-5788
Town Office Hours: 9AM-4:30PM (except holidays)

PURPOSE: To amend the Zoning Ordinance and the Subdivision Ordinance to require certification of the footprint of buildings at a point in the construction process when the corners of the foundation or slab is established.

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 Planning Commission held a public hearing on April 22, 2009 and on May 6 the Commission recommended that the ordinance should be amended per language presented in the public hearing staff report with a minor editorial change.

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. When 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.

One person testified at the Commission public hearing and said that good builders have a wall check plat as a matter of course so it isn't necessary for the Town to require one. He noted that over 150 units have been built in the past few years without encroachment into the required yards. He also said it would add a cost to each unit, which would be passed along to the buyer. The Commission weighed these comments and felt that it could help save small builders from making mistakes that cost the Town time in a conditional permit process and that it makes no cost impact on major builders if they are having plats prepared already.

PLANNING COMMISSION RECOMMENDATION:

The following ordinance text amendments were recommended for approval by the Planning Commission:

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 placement of the corners of a concrete slab or a poured foundation (whichever is applicable in establishing the exact location of all corners of the building) until the corner locations are indicated on a plat (known as a “wall check plat”) by a certified land surveyor and submitted and approved by the Zoning Administrator.”

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

Subdivision Ordinance

ADD: A new section:

4.10 WALL CHECK PLAT 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 placement of the corners of a concrete slab or a poured foundation (whichever is applicable in establishing the exact location of all corners of the building) until the corner locations are indicated on a plat (known as a “wall check plat”) by a certified land surveyor and submitted and approved by the Zoning Administrator.”

DRAFT MOTION:

“I move that the Town Council approve 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**

**PUBLIC HEARING NOTICE
LOVETTSTVILLE TOWN COUNCIL**

The Lovettsville Town Council will hold a public hearing at 8:00 PM Thursday, June 18, 2009, to hear comments from any person on the following:

LVZA 2009-0003 to amend the Town of Lovettsville Zoning Ordinance for inoperable vehicles to **Modify** Section 4-12 STORAGE OF DISMANTELD OR INOPERABLE VEHICLES to change the title and change the term in Section 13-2 Definitions from “inoperative vehicle” to “inoperable vehicle”; and to change the text clarifying the intent and the regulation and to apply the regulation to all properties in the Town.

The hearing will take place at the Town Office, 6 E. Pennsylvania Avenue, Lovettsville, Virginia 20180. The text under consideration is available at the Town Office between the hours of 9AM and 3PM weekdays, holidays excepted. Call 540-822-5788.

By Order of Elaine Walker, Mayor

6/5 & 6/12/09

STAFF REPORT

Town of Lovettsville

TOWN COUNCIL PUBLIC HEARING

JUNE 18, 2009

LVZA 2009-0003 Inoperable Vehicles (Zoning Ordinance Amendment)

Applicant: Town of Lovettsville

Location of Hearing: Town Office at 6 E. Pennsylvania Avenue

Time of Hearing: 8PM

Call for Information: Steve McGregor (540)-822-5788

Town Office Hours: 9AM-4:30PM (except holidays)

PURPOSE: To amend the Zoning Ordinance to make consistent and update the regulations controlling inoperable vehicles.

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. The regulation also contains a reference to junk yards, which are no longer allowed in the Town.

On April 22 the Planning Commission made a recommendation to the Town Council to approve text amending the ordinance for inoperable vehicles.

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, which is contradictory, confusing and impossible to enforce effectively. The options for storing an inoperable vehicle on a property should be clear.

Another limitation of the current regulation is that inoperable vehicles pose the same visual nuisance on any property in the Town and the current regulation applies only to property zoned for residential use. The regulation should be expanded to include all property in the Town, except for property with light vehicle repair use, which has its own regulations for inoperable vehicles.

Another issue is that inoperable vehicles are not just an eyesore to people driving or walking streets but they are also a nuisance to adjacent property owners, who might have to look at them from their front or back yards.

The Town has an obligation to make clear in the ordinance what options a property owner has when it comes to inoperable vehicles (including antique vehicles). Do they have to house it in a building; screen it from the street, or screen it from streets and adjacent property? The issue should be resolved in order to protect the right of property owners to possess and store inoperable vehicles and to protect the visible environment of the public throughout 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.

The Planning Commission discussed the issue and was concerned about an issue raised at their public hearing by a speaker: can a person store an antique vehicle on their property. The Commission decided to craft text that would allow any inoperable vehicle, including those that are antique, to be stored on property if it were screened by an opaque fence wall or building. No longer would an inoperable vehicle have to be stored in an enclosed building, except for light vehicle repair use, which has its own

regulation. They decided that the regulation should apply to all property in the Town, not just residentially zoned property. They decided to allow people to store inoperable vehicles outdoors without screening for a limited time if they are covered.

PLANNING COMMISSION RECOMMENDATION: On May 6 the Planning Commission Recommended that the text shown below be approved amending the Zoning Ordinance for Section 4-12.

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 Town Council approve proposed Zoning Ordinance amendment LVZA 2009-0003 Inoperable Vehicles, as stated in this report.”