

# Town of Lovettsville

Minutes of the Planning Commission  
Public Hearing and Regular Meeting  
August 5, 2015  
**APPROVED ON SEPTEMBER 6, 2017**

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

Chairman Frank McDonough called the regular meeting of the Lovettsville Planning Commission to order at 7:30 p.m. on August 5, 2015 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

## **Pledge of Allegiance**

Chairman McDonough led those present in the Pledge of Allegiance.

## **Present at Meeting**

- Chairman Frank McDonough
- Vice Chair Robert Gentile
- Commissioner Thomas Ciolkosz
- Commissioner Joseph Mueller
- Commissioner Buchanan Smith
- Commissioner Nate Fontaine

## **Commissioners Absent**

- Commissioner Anthony Quintana

## **Staff Present**

- Zoning Administrator Joshua Bateman
- Town Manager Laszlo Palko
- Town Clerk Harriet West

## **Public Comment**

Chairman McDonough called for comments from the public. There were none.

## **Additions/Deletions/Modifications to the Agenda**

There were none.

## **Approval of Planning Commission Minutes**

### **A. February 4, 2015 Regular Meeting and Public Hearing**

- Motion:** To approve the minutes of the February 4, 2015 Regular Meeting and Public Hearing as amended.
- By:** Commissioner Mueller
- Second:** Commissioner Ciolkosz
- Aye:** Commissioners Ciolkosz, Gentile, McDonough, Mueller, and Smith
- Nay:** None
- Abstain:** Commissioner Fontaine
- Absent:** Commissioner Quintana

## **Staff Reports**

Mr. Bateman stated that he did not wish to elaborate on development activity at this time since he has been out of the office for the last week. He stated that the Town did receive a revised rezoning concept

plan for the Keena Subdivision while he was out. Chairman McDonough stated that he did see additional homes being constructed in Town Center. Mr. Ciolkosz asked whether there was a staff report in the packet, and Mr. Bateman stated that there was no written report but that the report will be distributed at the next meeting.

**Action/Discussion Item**

**A. LVZA 2015-0002: Amendment to Clarify the Requirements Applicable to Nonconformities**

Mr. Bateman presented this item. The Planning Commission is being asked to conduct a public hearing on an amendment to the zoning ordinance to clarify the requirements applicable to nonconforming buildings, parcels, and uses. Mr. Bateman explained that the current ordinance discourages improvements to nonconforming buildings and the amendment was drafted to fix that also. He further stated that the Town Attorney has reviewed the amendment and that the Commission should hopefully have a good idea of what they are doing with the amendment even though the subject is a complicated one. He stated that he felt that the amendment on the whole is slightly more permissive with respect to nonconforming uses in terms of continuation and abandonment of such uses, but that by clearly differentiating them from nonconforming structures, it eliminates confusion in the administration of the zoning ordinance and this represents a good trade off. He concluded by recommending approval of the amendment.

Chairman McDonough opened the public hearing at 7:36 PM. Mr. Mueller read the notice of public hearing and Mr. Gentile then read the rules for public comment.

Chairman McDonough called for public comments. There were none.

Chairman McDonough stated that, although Mr. Bateman has explained the amendment prior to the public hearing, now the Commission is in the public hearing, and so he asked him if he would explain the high points. Mr. Bateman agreed and asked the Chairman what more he would like explained. Mr. Mueller stated that the amendment makes basic changes to when nonconforming uses and buildings may change and asked Mr. Bateman to explain how a nonconforming building would be affected going forward. Mr. Bateman stated that the amendment clarifies how a nonconforming building could be rebuilt, continued, and expanded and that these requirements are covered in Section 42-67. He clarified that the amendment would eliminate language in that section that discourages normal maintenance and repairs to a nonconforming structure, or to a conforming structure devoted to a nonconforming use. The proposed language which replaces the deleted text would specify that a nonconforming structure for which an owner has obtained a variance would still be considered nonconforming. He further explained that the amendment adds rules to that section about how a nonconforming structure may be expanded generally and replaced in the event it is destroyed by an act of God. He cited Superstorm Sandy as an example of how it can take considerable time to rebuild in the event of a natural disaster.

Mr. McDonough stated that one of the biggest impacts involves the permitting process for nonconformities. Mr. Bateman stated that he does not believe the Town ever did any permitting of nonconforming buildings or uses in existence at the time the current ordinance became effective in 2006, so the amendment merely eliminates permitting requirements which the Town likely did not follow anyway. Mr. Bateman further explained problems with the existing grandfathering requirements and why they were deleted.

Mr. McDonough stated that Section 42-66 was rewritten to be more concise. Mr. Bateman read the proposed amendment to the existing restrictive language regarding the restoration of nonconforming buildings and noted how this was inconsistent with Section 15.2-2307 of the Code of Virginia. Mr. Mueller asked whether the amendment brings the rules for nonconforming buildings more in line with those for conforming buildings that are destroyed by an act of God. Mr. Bateman replied that the amendment applies the same reasonable standards that are applied generally to all buildings destroyed by an act of God. He further explained how the existing ordinance language is too restrictive relative to what the Town is authorized to do under state law by creating an unreasonable burden on homeowners looking to rebuild.

Chairman McDonough asked each member of the Commission whether they had any additional questions. There being none, Chairman McDonough called for a motion.

**Motion:** I move to recommend approval of Case No. LVZA 2015-0002 to the Town Council as presented by staff.  
**By:** Commissioner Smith  
**Second:** Commissioner Mueller  
**Aye:** Commissioners Ciolkosz, Fontaine, Gentile, McDonough, Mueller, and Smith  
**Nay:** None  
**Abstain:** None  
**Absent:** Commissioner Quintana

Chairman McDonough closed the public hearing at 7:56 p.m. and reopened the regular meeting.

B. Zoning Amendments to Modify Lot Coverage Requirements and Garage Setbacks in Residential Zoning Districts

Mr. Bateman presented this item. He stated that the method for determining the maximum lot coverage is inconsistent across the residential zoning districts and imposes an alternative maximum lot coverage based on the total square footage of the footprint area of the buildings located on a particular parcel; or, in at least one other district, the portion of the building envelope located within the buildable area of the lot. He stated that lot coverage is typically determined as the percentage of a parcel that is occupied by the footprint area of all buildings on a lot, and that by having an alternative absolute maximum based on square footage, the applicable requirement on a given lot in the Town would almost always be that alternative. He drew an example on the dry-erase board of a fictional lot located in the R-1 District to illustrate his point. He asked Commissioners to pull the plat of their property and perform the same analysis to confirm that the alternative maximum is the lesser of the two figures for each of their properties. He further explained that he does not believe the lot coverage requirements have been consistently enforced by the Town and that the local housing market typically dictates the size of the parcel and single-family home constructed on that lot. Mr. Fontaine noted that different districts have different requirements regarding the footprint area utilized in the calculation. Mr. Bateman stated that lot coverage should include the area of all buildings located on the entire lot and that he would address this inconsistency in drafting the amendment.

Mr. Bateman pointed out that the second part of the amendment clarifies that the setback for garages applies to detached garages only. He indicated that previous Town staff persons had opined that the rule applied only to detached garages, but he felt the language needs to be clearer. Mr. McDonough asked whether staff was seeking direction about how to proceed, to which Mr. Bateman replied that he was asking for authorization to proceed. Mr. Mueller asked if staff would be bringing back proposed lot coverage percentages for the various residential zoning districts and Mr. Bateman responded that he would bring back examples at the next meeting and compare those to what commissioners find when they bring their plats before engaging the Commission in discussions at the next meeting. A discussion followed about what staff intends to bring back at the next meeting and what commissioners are being asked to bring to the next meeting.

**Motion:** To initiate an amendment to the zoning ordinance in order to address the deficiencies in the provisions pertaining to maximum lot coverage and setbacks for private garages in the residential zoning districts.  
**By:** Commissioner Mueller  
**Second:** Commissioner Gentile  
**Aye:** Commissioners Ciolkosz, Gentile, McDonough, Mueller, and Smith  
**Nay:** None  
**Abstain:** None  
**Absent:** Commissioner Quintana

**C. Formations of Procedures Review Committee**

Chairman McDonough indicated that he wished to form a special committee comprised of three planning commissioners, the Mayor, and staff to review the Commission's Rules of Procedure. Mr. Ciolkosz and Mr. Mueller volunteered to serve on the committee. Chairman McDonough reported that the committee will consist of the Chairman; Commissioners Smith, Ciolkosz and Mueller; the Mayor; and staff. The Commission voted unanimously to form such a committee.

Commissioner Smith left the meeting at 8:11 p.m.

**Information Items**

Chairman McDonough informed the Commission that he and Mr. Bateman recently attended the annual conference of the Virginia Chapter of the American Planning Association in Norfolk, Virginia and asked Mr. Bateman to give a summary to the Commission. Mr. Bateman delivered a summary of the conference and indicated that Loudoun County's planners were well represented, and that the event was a good networking opportunity overall.

Chairman McDonough stated that pedestrian and bicycle facilities represented a major topic of discussion at the conference because they afford easy way for the public to access commercial and retail areas. Mr. Bateman highlighted the Loudoun Station project in Ashburn as a good example of one such project.

**Next Meeting**

Chairman McDonough stated that the next meeting will be held on August 19<sup>th</sup>. Mr. Bateman stated that the meeting will be very important and that he has been working with the Town's economic planning consultant Sam Finz to sort policies by topic area and develop the proposed future land use map and other meeting materials. Mr. Bateman summarized the topics they will be discussing and located parcels having commercial development potential on the map. He described some of the current problems with the commercial land use plan in the existing comprehensive plan as well as the commercial land use descriptions. He also pointed out problems such as the current plan's recommendations for townhouses next to New Town Meadows and stated that the Commission does not want to set unreasonable expectations in the plan with respect to the potential for the development of various parcels.

Mr. Gentile asked whether the list of policies could be reorganized to list the most important first and Mr. Bateman confirmed that they could. Mr. Bateman summarized the responses to the economic development survey recently distributed to the public and indicated that the response rate was high.

Mr. Mueller asked Mr. Bateman whether there were any great revelations at the previous Economic Development Advisory Committee meeting. Mr. Bateman indicated the committee revised the general economic development policies substantially.

Chairman McDonough asked that the Commissioners let him know if they are unable to attend future meetings so that he can ensure that a quorum is present. Mr. Mueller indicated that residents of the Kingsridge subdivision have taken over control of the homeowners' association and gave an update on the current state of affairs in the Kingsridge Homeowners' Association. A discussion followed regarding issues affecting the homeowners' associations. Mr. Ciolkosz brought up parking problems in the Town Center neighborhood now that the commercial development is underway. Mr. McDonough asked Mr. Bateman whether parking would be covered in the transportation section of the comprehensive plan. He replied that transportation would be the logical place to discuss this issue. A discussion followed about parking enforcement in the Town Center commercial and residential areas generally.

Mr. Mueller asked whether the Commission had a schedule for attendance at future Town Council meetings, and Chairman McDonough replied that he planned to attend the next several Council meetings on behalf of the Commission.

**Comments from the Mayor and Commissioners**

Mayor Zoldos delivered a report on events and issues in and around the Town and issues currently being discussed and decided by the Town Council. Several Planning Commissioners requested clarification on issues involving Town events and the Mayor responded to these various inquiries.

**Adjournment**

There being no further business before the Planning Commission the meeting was adjourned at 8:48 p.m.

Respectfully submitted,



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Harriet West, Town Clerk

Date Approved: September 6, 2017

Attachments:

None