

# Town of Lovettsville

## Planning Commission

### Minutes of Public Hearing and Regular Meeting, September 1, 2010

The Public Hearing of the Lovettsville Planning Commission was called to order by Chairwoman Mari Bushway on Wednesday, Sept 1, 2010 at 7:32 PM at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA 20180.

#### **Welcomes and Introductions**

Chairwoman Bushway welcomed the citizens attending the meeting and thanked them for coming. She introduced Mayor Elaine Walker and Planning Commissioners Lorraine Bauer, Jack Burden, Elaine Fischer, Rodney Gray, and Joseph Mueller. She also introduced Town Manager Keith Markel, Zoning Administrator Steve McGregor and Town Clerk Judy Kromholz.

#### **Absent**

Commissioner Aaron Kahn

#### **Audience**

Among those present in the audience were Doug Wagner (Bowman Consulting), Alan Dykstra, Councilman Dockum *{arrived at 8:00 PM}* and Councilwoman Charlotte Coleman *{arrived at 8:25 PM}*.

#### **Explanation of Procedures and Opening of the Hearings**

Chairwoman Bushway read the Public Notice of these Public Hearings as it appeared in the *Purcellville Gazette* (Attachment I: Public Notice). She then opened the first Public Hearing on LVZA 2010-0003: Outdoor Swimming Pools, Hot Tubs and Spas.

#### **Presentation**

Administrator McGregor made a presentation on LVZA 2010-0003: Outdoor Swimming Pools, Hot Tubs and Spas (Attachment II: Staff Report)

#### **Public Speakers**

Chairwoman Bushway introduced the speakers in the order in which they had signed up to speak (Attachment III: Speaker Sign up Sheet).

- 1 John Pek  
Lovettsville Town Center Mr. Pek questioned the likening of a hot tub to a pool. He asked if the Town would require a fence around a hot tub, given that there is already a cover on the hot tub. Manager Markel explained that safety requirements would be governed by Loudoun County.

Chairwoman Bushway confirmed that no other member of the audience wished to speak and declared this Hearing closed at 7:46 PM.

Chairwoman Bushway opened the Public Hearing on LVZA 2010-0005: Deck Regulations at 7:47 PM.

#### **Presentation**

Administrator McGregor made a presentation on LVZA 2010-0005: Deck Regulations (Attachment IV: Staff Report)

#### **Public Speakers**

Chairwoman Bushway introduced the speakers in the order in which they had signed up to speak.

- 1 John Pek  
Lovettsville Town Center Asked what the limits would be if the deck is enclosed. Administrator McGregor explained that this would be a major improvement and other Zoning Ordinances would apply.
- 2 Bernadette deCruz  
Lovettsville Town Center Asked for clarification of the setback from the rear of the property which went from 25 feet to 15 feet.
- 3 John Pek  
Lovettsville Town Center Questioned the rear of the deck as an extension of the house, also asked for clarification of the discrepancy between the 15 and 25 foot setbacks.

There being no further speakers, Chairwoman Bushway asked if the Town had received any written comments. Clerk Kromholz noted that an email had been received from Mary Moss at Lovettsville Town Center (Attachment V) and that copies of the email had been distributed to the Commission. There being no further speakers, Chairwoman Bushway declared the Hearing closed at 7:58 PM.

Chairwoman Bushway called the Regular Monthly Meeting of the Lovettsville Planning Commission to order at 7:59 PM.

**Public Comment**

Chairwoman Bushway called on the public for comment in the order in which they had signed up to speak.

Alan Dykstra, a 10 year resident of the Town reported that he is going to ask for a Conditional Use Permit on the Wheeler property (19 East Broad Way). He distributed plats to the Commission (Attachment VI) showing the portion of the property he is hoping to rent. He stated that the current setback and landscaping regulations would render the property useless for his application. He also stated that the property is currently in poor condition and has become an attractive nuisance. Manager Markel reported that he and Administrator McGregor had walked the property with Mr. Dykstra, and had suggested that Mr. Dykstra personally explain the situation to the Planning Commission and Town Council to gauge their interest in his plan for the property before going through the time and expense of filing an application.

Councilman Scott Dockum gave an update on Oktoberfest planning and asked the Commissioners and the members of the audience to volunteer to work on this event.

Bernadette deCruz stated that the proposed 25 foot rear yard setback for decks concerns her, noting that her lot in Lovettsville Town Center is wide, but not very deep.

John Pek stated that in their case it would be less intrusive to their neighbors to have their deck go back further back into their property, rather than wide.

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

Chairwoman Bushway called for changes to the agenda. Because Mr. Wagner from Bowman Consulting was present, the Commission agreed to consider LVSU 2010-0001: Lovettsville Town Center Section 2 Final Subdivision as Action Item A.

**Approval of Planning Commission Minutes**

A. Planning Commission Public Hearing and Regular Meeting – June 2, 2010

**Motion:** To approve the minutes of the June 2, 2010 Planning Commission Public Hearing and Regular Meeting as presented.

**By:** Commissioner Mueller

**Second:** Commissioner Burden

**Aye:** Commissioners Bauer, Burden, Fischer, Gray, Mueller

**Nay:** None

**Abstain:** Chairwoman Bushway

**Absent:** Commissioner Kahn

B. Planning Commission Regular Meeting – July 7, 2010

**Motion:** To approve the minutes of the July 7, 2010 Planning Commission Regular Meeting as presented.

**By:** Commissioner Mueller

**Second:** Chairwoman Bushway

**Aye:** Commissioners Bauer, Burden, Bushway, Fischer, Gray, Mueller

**Nay:** None

**Abstain:** None

**Absent:** Commissioner Kahn

**Staff Reports**

Administrator McGregor presented his written reports for June and July 2010. There were no questions from the Commission.

**Action/Discussion Items**

**A. LVSU 2010-0001: Lovettsville Town Center Section 2 Final Subdivision**

Administrator McGregor presented this item and introduced Mr. Wagner from Bowman Construction who was available to answer any questions from the Commission. Administrator McGregor explained that the plan had gone through a lengthy review process involving numerous reviewing organizations. VDOT has approved the preliminary subdivision plans; therefore they are not expected to review the final plans. VDOT has provided comments on the construction plans that are currently being addressed by the applicant. Manager Markel explained that the Commission will be approving the plat portion of the Final Subdivision. Attorney Whiting is reviewing the deeds of easement and dedication.

**Motion:** I move that the Final Subdivision Plan for Lovettsville Town Center, Section 2, dated February 13, 2006 and revised through August 25, 2010, prepared by Bowman Consulting and consisting of five sheets, be approved in accordance with section 2.9 of the Subdivision Ordinance on condition that the applicant and the Town Attorney reach an agreement regarding the deed within 30 days of this approval.

**By:** Commissioner Burden

**Second:** Commissioner Fischer

Chairwoman Bushway called for discussion by the Commissioners and there was none.

**Aye:** Commissioners Bauer, Burden, Bushway, Fischer, Gray, Mueller

**Nay:** None

**Abstain:** None

**Absent:** Commissioner Kahn

Mr. Wagner left the meeting after this discussion.

**B. LVZA 2010-0003: Outdoor Residential Swimming Pools**

Administrator McGregor asked the Commission if they requested any further clarifications and Commissioner Mueller stated that the Commission had reviewed this thoroughly at their last meeting and that the only change was the addition of hot tubs and spas to the Ordinance.

**Motion:** I move that the Planning Commission recommend approval of the proposed text in the August 4, 2010 staff report for item LVZA 2010-0003 Outdoor Residential Swimming Pools, Hot Tubs and Spas to amend Section 4-8 of the Zoning Ordinance.

**By:** Commissioner Burden

**Second:** Commissioner Fischer

Chairwoman Bushway asked for further discussion. Commissioner Gray expressed concern that this Ordinance would impose another step on the citizens for products (hot tubs and spas) that they can purchase and install themselves. Commissioner Burden noted that these products are already regulated by the County and this Ordinance would create consistency. Manager Markel noted that the County must approve the construction and safety elements, the Town would not be involved with that process.

The Planning Commission instructed Administrator McGregor to inform the Council that they recommend the Town impose reduced or no fees for reviewing these items. There being no further discussion, Chairwoman Bushway called for the vote.

**Aye:** Commissioners Bauer, Burden, Bushway, Fischer, Gray, Mueller

**Nay:** None

**Abstain:** None

**Absent:** Commissioner Kahn

**C. LVZA 2010-0005: Deck Regulations**

Chairwoman Bushway called for comments from the Commissioners. Commissioner Mueller noted that during their prior discussion they established building setbacks but had not really considered the depth of the property. After discussion, the Commissioners agreed to recommend a 15 foot rear setback. There being no further discussion, Commissioner Bushway called for the vote.

**Motion:** I move that the Planning Commission recommend approval of the proposed text in

the August 4, 2010 staff report as amended to reflect the changes discussed concerning the rear setback at this meeting for item LVZA 2010-0005 Deck Regulations to amend Section 4-7 (e) of the Zoning Ordinance.

**By:** Commissioner Burden  
**Second:** Commissioner Mueller  
**Aye:** Commissioners Bauer, Burden, Bushway, Fischer, Gray, Mueller  
**Nay:** None  
**Abstain:** None  
**Absent:** Commissioner Kahn

D. LVZA 2009-0004: Sign Ordinance

Administrator McGregor made a brief presentation detailing the progress to date and asking the Commission for guidance on the next steps to be taken. Commissioner Burden stated that establishing a subcommittee to review the final changes to the draft was an effective suggestion and offered to chair the subcommittee. Commissioner Mueller also volunteered to serve on the subcommittee. Commissioner Burden suggested inviting Councilman Dockum to join the committee because of his prior involvement. Commissioner Mueller suggested that a joint subcommittee would help expedite the review process. Manager Markel reminded the Commissioners that this draft only reflects format changes from prior drafts; generally speaking content was not affected. He suggested that the subcommittee could complete its work in a few weeks. Administrator McGregor noted that Attorney Whiting had suggested some content-related changes; the major one being that the five year sunset limit suggested by the original committee will not be legal under Virginia law. There being no further discussion, Chairwoman Bushway called for a motion.

**Motion:** I move that the Planning Commission appoint a subcommittee of 2-3 members to meet and discuss the sign ordinance, and to invite Councilmen Dockum and Senate to join them. The subcommittee is to report back to the Commission at the next regular meeting.

**By:** Commissioner Mueller  
**Second:** Commissioner Burden  
**Aye:** Commissioners Bauer, Burden, Bushway, Fischer, Gray, Mueller  
**Nay:** None  
**Abstain:** None  
**Absent:** Commissioner Kahn

E. LVZA 2010-0007: Itinerant Sales or Temporary Outdoor Sales

Administrator McGregor presented this item. Commissioner Bauer asked how temporary sales differ from seasonal sales and Administrator McGregor noted that the differences are fuzzy and would have to be defined in any ordinance. Commissioner Mueller stated that while he was not pleased with the furniture truck on the old post office property, he feels there should be a place for this type of business in the Town. He does believe there should be some sort of permitting process. Commissioner Gray asked if a current business owner would be permitted to allow a sales truck onto their property. Commissioner Bauer noted that this would be a different situation than a transient business. *{Commissioner Fischer left the meeting during this discussion at 9:30 PM.}*

Chairwoman Bushway asked how fundraisers would be addressed. Commissioner Burden stated that he believes temporary sales should be regulated, not banned. He spoke in favor of time limits and parking requirements, but against requiring sanitary facilities in all cases. Chairwoman Bushway stated that if the activity takes place on a commercial property the property should provide restroom facilities.

Administrator McGregor reminded the Commission that competition with established local businesses and the character of the Town must be considered. There being no further discussion, Chairwoman Bushway called for a motion.

**Motion:** I move that the Planning Commission discuss the regulation of temporary outdoor sales, including sales of seasonal items and non-seasonal items, as well as the regulation of non-stationary temporary sales, such as ice cream trucks and door-to-door sales. In furtherance of this discussion the Planning Commission requests the staff to develop an evaluation and draft set of regulations. We wish staff to consider this a low priority.

**By:** Chairwoman Bushway  
**Second:** Commissioner Mueller  
**Aye:** Commissioners Bauer, Burden, Bushway, Gray, Mueller  
**Nay:** None  
**Abstain:** None  
**Absent:** Commissioners Fischer, Kahn

**Information Items**

There were no information items on the agenda.

**Comments from the Mayor and Commissioners**

Chairwoman Bushway called for comments from the Mayor and the Commissioners.

Commissioner Burden reminded the Commissioners that there will be a FIOA presentation in Leesburg next week. He also mentioned that he has spoken with a doctor who wants to subdivide a lot in Town and locate his practice in Lovettsville. He mentioned that a group is being formed to investigate the possibility of opening a grocery cooperative in Lovettsville. Manager Markel informed the Commission that the Coop group will be making a presentation to the Town Council on September 9, 2010. .

Commissioner Burden stated that he is sensitive to what Mr. Dykstra wants done, but he is not sure how the Town goes about it. The Commissioners all agreed that they are interested in considering the issue further, pending Council instruction. They suggested expediting the process.

Mayor Walker reported on the following:

- Next Monday is Labor Day and Town Hall will be closed.
- The Oktoberfest Committee could really use additional help, especially on the Wednesday night before the event to do setup.
- The next Movie in the Park will be on September 10<sup>th</sup>.
- She will, as usual, be ringing the church bells at St. James Church on 9/11 and everyone is invited to participate.

**Adjournment/Recess**

There being no further business before the Commission, Chairwoman Bushway called for a motion.

**Motion:** To adjourn the Planning Commission meeting of September 1, 2010  
**By:** Commissioner Gray  
**Second:** Commissioner Mueller  
**Aye:** Commissioners Bauer, Burden, Bushway, Gray, Mueller  
**Nay:** None  
**Abstain:** None  
**Absent:** Commissioners Fischer, Kahn

The Meeting was adjourned at 10:20 PM.

Respectfully submitted,

  
Judy L. Kromholz, Town Clerk

Date Approved: January 5, 2011

Attachments:

- I. Purcellville Gazette Public Notice Advertisement
- II. Staff Report: LVZA 2010-0003 Outdoor Swimming Pools, Hot Tubs and Spas
- III. Speaker Signup Sheet
- IV. Staff Report: LVZA 2010-0005: Deck Regulations
- V. Email from Mary Moss dated August 28, 2010
- VI. Dykstra plats detailing proposed business location

# Theater Review

**"Romance" in the Park  
Reviewed by David Sackrider**

At the outset let us say that Meredith Bean McMath wrote a fine script – brief, clever, poignant – and that she directed a trio of actors – Penny Hauffe, Phil Erikson, and Nancy Purcell – who took life on stage as a dysfunctional couple and the cagey director holding them together because the show must go on. With minor modifications the script could stand on its own. But that was not necessary since this little comedy-drama McMath called "Romance from Broadway to Lincoln Center" was the glue holding together a sequence of vocal performance alternating between operatic arias and classic songs from musical theatre.

The Loudoun Lyric Opera production of "Romance" primarily came into being as an opportunity for our community to once again enjoy singing at its highest level. And enjoy it we did.

The singing cast – Fence Fava, Sean Pflueger, Melody Prochazka, Kim Shabazzian, Anthony Vargas, Jennifer Weingartner – have impressive resumes in both training and prior performance. That however, would be empty had they not sung well at Franklin Park last weekend. Fortunately for those in attendance they knocked it out of the park. They made us proud, and somewhat amazed, to be members of the same species that could create such magic with their voices.

When putting the show together, McMath needed to chart a course that avoided running up fees for royalties. That resulted in a song list missing any of the recent (meaning past sixty years or so) Broadway blockbusters. Thank goodness she and musical director Cuong Hung Van have enough knowledge of musical theatre to tap the older shows for such nuggets as "For Me and My Gal," "Ain't We Got Fun," "You Made me Love You" and others. Prochazka's rendition of "Where Has My Hubby Gone Blues" evoked heartache and loss as well as anything more recent.

The operatic numbers from composers including Puccini, Mozart, and Bizet, put the singers into familiar territory. Once there they showed us why audiences have filled opera houses for centuries. All six singers wrapped dramatic presentation around their vocal ability. Of particular delight in this regard were Shabazzian finding her inner-Carmen and her duel from "Don Giovanni" with Pflueger.

The evening's only shortcoming was that occasionally Cuong Hung Van's gusto on the piano overpowered the singers. As performance companies continue to learn how to use the center's space minor things like this will happen from time to time. No doubt this lesson has now been learned.

As a special treat local resident Maddy Curtis sang three songs between the two acts of "Romance." She certainly has the talent to justify her recent national exposure and we can look forward to great things from her.

Loudoun Lyric Opera presented "Romance from Broadway to Lincoln Center" at Franklin Park on August 21 and 22. ♦

## Dr. Grady's Dental Spa

Photo by Suzanne



Dr. Sean Grady of Round Hill hosted an open house on August 19th for patients and those curious about the Dental Spa located in the heart of Round Hill. While the term Dental Spa is not a commonly used phrase, it was clear that that was just what it was. "We have only two exam rooms, so we do not overbook or treat our patients as numbers," said Dr. Grady. The room, outfitted with granite countertops, a tranquil waterfall and a reclining leather heated/massage chair was extremely inviting. Guests were invited to tour the "high design" office. Dr. Grady offered guests a glass of wine or soda, and with a slight grin, even a hot moist towel. When questioned about the "hot towel," he stated that after each exam, the patient is treated to a hot towel and a chance to relax in the chair. "We want our patients' visit to be a relaxing one," said Dr. Grady.

To learn more about Dr. Grady and his Dental Spa, visit [www.seangradydds.com](http://www.seangradydds.com) ♦

The Purcellville Gazette is an  
**OFFICIAL Paper of Record**  
for Loudoun County

[WWW.PURCELLVILLEGAZETTE.COM](http://WWW.PURCELLVILLEGAZETTE.COM)

*Retainke your forever home*

Additions & Renovations  
Kitchen Renovations  
Carriage Houses & Garages  
Finished Basements  
Window Replacement  
Decks, Walkways, Patios

**Waterford**  
HOME BUILDERS

540.751.2227

10000 WOODBURN DRIVE, SUITE 100, WOODBURN, VA 20193

### Public Hearing/Legal Notices

#### Notice of Public Hearing Town of Lovettsville

The Lovettsville Planning Commission will hold a public hearing at 7:30 PM Wednesday, September 1, 2010, to hear comments from any person on the following:

**LVZA 2010-0003 Outdoor Residential Swimming Pools, Hot Tubs and Spas.** by the Town of Lovettsville to amend the Town of Lovettsville Zoning Ordinance to:

**Modify Article 4, General Regulations, Section 4.8 Private Outdoor Swimming Pools** to include Hot Tubs and Spas and to integrate Town Ordinances with County and State-wide Building Code regulations.

**LVZA 2010-0005 Deck Regulations.** by the Town of Lovettsville to amend the Town of Lovettsville Zoning Ordinance to:

**Modify Article 4, Section 4.7 USES AND STRUCTURES PERMITTED IN REQUIRED YARDS,** (a), to modify setback requirements.

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.

# Town of Lovettsville

## STAFF REPORT

### PLANNING COMMISSION

PUBLIC HEARING	
ITEM IDENTIFICATION	LVZA 2010-0003 Outdoor Swimming Pools, Hot Tubs and Spas
TYPE OF ITEM	Zoning Ordinance Amendment
DATE OF HEARING	August 4, 2010
APPLICANT	Town of Lovettsville

**BACKGROUND:** On February 11, 2010 the Town Council directed staff and the Zoning Administrator to develop an evaluation of the private outdoor swimming pool regulations. The existing text has an overlap of technical inspection responsibilities which are already within the purview of the County building permit process. The Council asked that the Town regulations be limited to setback requirements since the County is responsible for regulating and enforcing safety aspects of the outdoor swimming pool use. On May 5 the Planning Commission discussed the issues raised by the Council and staff, authorizing a June 2 public hearing for a Zoning Ordinance amendment that would address these issues. Subsequent to the Commission making a recommendation for amending the outdoor swimming pool regulations the Council held a public hearing on June 24.

At the discussion after the hearing the Council concluded that it wanted the Planning Commission to reconsider some of the outdoor swimming pool-hot tub-spa issues in view of County regulations and potential changes to the Town's deck setback regulations. Particularly, the Council wants to include hot tubs and spas (jacuzzis) within the definition of outdoor swimming pools because the County already includes them in their regulations and because they pose the same potential safety hazard as regular outdoor swimming pools. The Council also had a concern about the required setback since deck setback regulation is under consideration for modification. The Council has concern about having a uniform setback for outdoor swimming pools, hot tubs and spas if deck setbacks might be changed to vary with building setbacks. This could pose an enforcement problem and an inconvenience for homeowners if hot tubs and spas could not be placed anywhere on a deck because of a uniform (and different) setback than decks.

At the July 7 meeting the Planning Commission discussed the issues raised by the Council. The original Commission recommendation had included text for establishing details of an application process that the staff had recommended. Staff indicated during the July 7 meeting that this was not appropriate in terms of the Council's legislative role. The Commission authorized another public hearing that advertises revised text for the swimming pool Zoning Ordinance regulations to include setback regulations for hot tubs and spas and that the setback for these facilities, if located on a deck, should be the same as the setback for a deck.

**DISCUSSION:** One of the original purposes of considering changes to the outdoor swimming pool regulations was to create a clean separation between the County building permit process for swimming pools and the Town regulations. The Council and the Commission have agreed that since the County building permit is required for a pool with a water depth of two feet or more this should be the water depth that defines swimming pools for regulation purposes. The two bodies also agreed that safety aspects of outdoor swimming pools, such as fencing and door alarms, should be regulated only by the County since the County has such requirements built into the building permit process currently and people have been required to get a building permit all along for outdoor swimming pools, hot tubs and spas from the County.

The Planning Commission in its latest discussions has agreed with the Council that since hot tubs and spas in the Town already require a County building permit that these facilities should be included in the Town regulations in terms of setbacks and requiring a Town zoning permit. The Commission understands the Council's concern about having a different hot tub and spa setback if these are located on decks with a different setback.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission directed staff to advertise a public hearing proposing the following changes to the existing Zoning Ordinance regulations for swimming pools:

#### 4-8 ~~PRIVATE~~ OUTDOOR SWIMMING POOLS, HOT TUBS AND SPAS

A ~~location zoning~~ permit shall be required ~~granted~~ for the installation or construction of a ~~private outdoor swimming pool on the same lot as the principal residence, temporary, permanent, public or private, in-ground or above ground~~ outdoor swimming pool, hot tub or spa with a water depth of two (2) feet or more in any zoning district, subject to the following conditions:

- (a) ~~Such pool may be erected on the required rear yard but not in the required side or front yard. In residential districts and the residential portions of districts that allow residential use, an outdoor swimming pool, hot tub or spa shall only be located in~~



a rear yard. A swimming pool, hot tub or spa is permitted in a front yard on a through lot only if it is located in the front yard opposite the front entrance of the structure on the lot.

- (b) ~~The edge of such pool shall not be located nearer than ten (10) feet to any lot line. An outdoor swimming pool, hot tub or spa located in a residential district or in the residential portion of districts that allow residential use shall be set back at least ten (10) feet from a property boundary. If a hot tub or spa is located on a deck its setback may be the same as that allowed for the deck from any property boundary or the same as the minimum setback allowed for the primary structure if it not located on a deck.~~
- (c) ~~Any pool with a surface of one hundred fifty (150) square feet or more or a depth in excess of two (2) feet shall be completely surrounded by a fence or wall six (6) feet in height designed to prevent access thereto by small children and animals. In commercial districts and the light industrial district a swimming pool, hot tub or spa is permitted to be located in a front, side and rear yard. Such facilities shall be set back at least fifty (50) feet from an adjacent residential district or from any district that allows residential use by right.~~
- (d) ~~All gates or doors opening through said fence shall be erected, maintained and provided with a self-closing, self-latching gate to prevent unauthorized use of the pool.~~
- (e) ~~All electrical wiring used in conjunction with such pool shall be installed below the ground or in a conduit to the nearest point of use. All wiring shall be waterproof. All connections shall be waterproof. All electric motors, lights, pumps, and like items shall be properly grounded.~~

**DRAFT MOTION:** “I move that the Planning Commission recommend approval of the proposed text in the August 4, 2010 staff report for item LVZA 2010-0003 Outdoor Residential Swimming Pools, Hot Tubs and Spas to amend Section 4-8 of the Zoning Ordinance.”

# Town of Lovettsville

## Speaker Sign - Up Sheet Planning Commission Public Hearings & Meeting of September 1, 2010

Please Print.

Name and Association	Address	Topic	Email Address (Optional)
Alan Dykstra	4 S. Loupou St	Zoning for commercial use	adykstr@mac.com
Scott Dockum		October Fest	
Bernadette DeCruise			
John Reek			

<sup>1</sup> If you provide your email address, you will be added to the Town Council & Planning Commission Meeting Notification List.

Each speaker will be limited to no more than three (3) minutes at the beginning of the meeting, or no more than five (5) minutes at the end of the meeting.

# Town of Lovettsville

## STAFF REPORT

### PLANNING COMMISSION

PUBLIC HEARING	
ITEM IDENTIFICATION	LVZA 2010-0005 Deck Regulations
TYPE OF ITEM	Zoning Ordinance Amendment
DATE OF HEARING	August 4, 2010
APPLICANT	Town of Lovettsville

**BACKGROUND:** Numerous citizen complaints have been received stating that the Town setback requirement of fifteen (15) feet for a deck from a property boundary is not logical given the fact that some houses are permitted to be within five (5) feet of a property boundary for some residential zoning districts. On June 24 the Town Council authorized the Zoning Administrator, Staff and the Planning Commission to prepare an item evaluating this issue and making recommendations for changing the setback requirements for decks.

**DISCUSSION:** The current regulation (Section 4-7 Uses and Structures Permitted in Required Yards, (e) for decks requires a setback of at least fifteen (15) feet from a rear or side property boundary regardless of the setback requirement for the primary structure). The following table shows that a primary dwelling is permitted to be as close to a side property boundary as five (5) feet:

Residential Zoning District	Minimum side yard allowed for a dwelling (in feet)
R-1	8
R-2	8
R-3	8
Town Center (T-C)	5
Planned Infill	6

Builders in active subdivisions are installing units designed with French doors to the outside for decks located at such a point that it would require the deck to be closer to the side property boundary than the Town's fifteen foot setback requirement. This poses an inconvenience to the homeowner as it might preclude them from having a

deck. It can be surmised that the intent of the Zoning Ordinance in establishing a fifteen foot setback for decks was to keep an outdoor activity area separated from the adjacent property in order to ameliorate potential noise and visual intrusion. This is a legitimate consideration when discussing deck setback regulation modifications. What then is the proper balance between allowing a deck as close as the setback allowed for a primary structure to a property boundary as a matter of convenience for the homeowner and setting a deck back from an adjacent residential property boundary to decrease potential noise interference for the neighbor? One option would be to allow a deck setback as close as the setback allowed for a primary structure to a property boundary on the basis that deck noise would not create any more adverse impact on the neighbor than the dwelling itself. Another option is to allow a deck setback as close as the setback allowed for a primary structure to a property boundary but with a requirement that if the deck were closer than fifteen (15) feet to a property boundary then an opaque screen would be required to shield the adjacent property. This, however, presents enforcement difficulties. The applicant would have to provide drawings of a screen and the Town would have to inspect the sites where these are required.

At the July 7 meeting the Planning Commission discussed the issues and various options, including the noise impact if hot tubs and spas were allowed on decks close to adjacent property boundaries. They concluded that any potential noise impact from decks being located closer than 15 feet from a property boundary is offset by the advantage of being able to build a deck with the same setback as a primary structure. This would mean deck setbacks would vary with primary building setbacks. The Commission also agreed with the staff recommendation that decks should be allowed on through lots, which, technically they are not given that a through lot has two front yards because of having frontage on two public streets.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission authorized a public hearing of item LVZA 2010-0005 Deck Regulations to amend the deck regulations as follows:

**"4-7 USES AND STRUCTURES PERMITTED IN REQUIRED YARDS**

- (e) Decks are permitted and may project into any required yard other than a front yard ~~provided that the structure is not less than fifteen (15) feet from the property line.~~ except for a through lot, provided that the deck is set back no more than the minimum setback allowed for the primary structure from a property boundary. A deck may be located on a through lot provided that it is located in the side yard and/or the front yard opposite the front entrance of the primary structure on the lot."

LVZA 2010-0005  
Deck Regulations  
Planning Commission  
August 4, 2010  
Page 3

**DRAFT MOTION:** “I move that the Planning Commission recommend approval of the proposed text in the August 4, 2010 staff report for item LVZA 2010-0005 Deck Regulations to amend Section 4-7 (e) of the Zoning Ordinance.”



Town of Lovettsville &lt;toflovettsville@gmail.com&gt;

---

**Re: LVZA-2010-0005 Deck Regulations**

---

Mary Moss &lt;crumoss2@yahoo.com&gt;

Sun, Aug 29, 2010 at 11:01 AM

To: Lovettsville Town Clerk &lt;clerk@lovettsvilleva.gov&gt;

Ms. Kromholz and Lovettsville Planning Commission:

We are homeowners in Lovettsville Town Center, and as ones who have been negatively affected by the present "deck regulations", we want to strongly urge the Planning Commission to adopt the proposed changes to deck setback requirements. The current ones have no rational basis that we can discern when applied to this particular development, which this commission approved.

Several months ago, we submitted a deck construction proposal to the developer's architectural review board and obtained approval. Both homeowners adjacent to us were given notice and signed the proposal accordingly. Loudoun Deck and Fence had the materials delivered to the back of my lot and sought a permit from the town. To our astonishment it was turned down because the deck (which was to be built off the sliding door in our kitchen) was less than 15 feet from the property line on that side of the home. Needless to say the foundation of the house is similarly at that same location, but that is acceptable under existing regulations for foundations.

We had no choice but to cancel our contract with Loudoun Deck and Fence and they picked up the construction materials. No doubt others will soon be similarly affected as more homes are constructed here. Any home plan with its kitchen and sliding door at the narrower setback of its lot will be inside of 15'. That is the very nature of this development's layout. Apparently noise abatement is the justification for the current regulation, but no one can seriously contend that certain noise is abusive at 10', but not at 15'.

This matter has seriously affected our enjoyment of the property this past summer and will continue to do so if not properly addressed by the Commission at this time. Thanking you for the opportunity to be heard, we are

Respectfully yours,

Milton & Mary Moss  
34 Town Center Drive  
(540) 822-4383

--- On Fri, 8/27/10, Lovettsville Town Clerk <clerk@lovettsvilleva.gov> wrote:

From: Lovettsville Town Clerk <clerk@lovettsvilleva.gov>  
Subject: Town Hall Events – Week of August 29, 2010  
To: clerk@lovettsvilleva.gov  
Date: Friday, August 27, 2010, 1:37 PM

**This Week:**

Oktoberfest Committee: The next Oktoberfest Committee meeting will be Monday, August 30<sup>th</sup> at 7:30 PM at the Lovettsville Town Hall. Oktoberfest is only four weeks away; new volunteers are still welcome. Email questions to Oktoberfest@LovettsvilleVA.gov or simply attend the next meeting.

**Lovettsville Planning Commission**

The Planning Commission will hold Public Hearings and a Regular Meeting on Wednesday, September 1, 2010 at 7:30 PM in Town Hall. The agenda is attached.

**Mark Your Calendars:**

**Lovettsville Game Club Barbeque Takeout**

The Lovettsville Game Club will be holding a Pecan Smoked Chicken Barbeque on Sunday, September 5<sup>th</sup> starting at 1:00 PM (takeout only) to benefit their Education Fund. For more information, and to place your order early, visit their website at [www.lovettsvillegameclub.org](http://www.lovettsvillegameclub.org).

**Lovettsville Town Council**

The next regular meeting of the Town Council will be Thursday, September 9<sup>th</sup>.

**Movie in the Park**

The next **Lovettsville Movie in the Park** will be *Herbie Fully Loaded* on Friday, September 10<sup>th</sup>. The movie will begin at sundown (approximately 8:00 PM), preceded by themed activities. This movie is jointly sponsored by State Farm Agent John Goldsmith, the Town of Lovettsville and the Lovettsville Community Center. Visit our website at [www.lovettsvilleva.gov](http://www.lovettsvilleva.gov) for additional information.

**Lovettsville Game Protective Association Ho-Kiss Po-Kiss Dance**

There will be a Ho-Kiss Po-Kiss Dance at the LGPA on Saturday, September 11<sup>th</sup>. For additional information visit their website at [www.lovettsvillegameclub.org](http://www.lovettsvillegameclub.org) or call 540-822-5956.

**Lovettsville's 17<sup>th</sup> Annual Oktoberfest**

September 24<sup>th</sup> through September 27<sup>th</sup>. Visit the Town website at [www.lovettsvilleva.gov](http://www.lovettsvilleva.gov) for a list of each day's activities.

Regards,

Judy

Judy L. Kromholz, Lovettsville Town Clerk

---

AREA A 7.5  
AREA B 1.6  
5.9 CFS. REVEN.  
AREA A 1.4  
AREA B 3.3  
1.9 CFS. REVEN.

P17 - 6,000 C.F.  
DRAWN IN - 2 Hrs  
F14 IN

Mid Stream  
Three Pond Area

RECCA  
DB 1341-1583

931°12'47"E 70.80' 20'

FENCE 78.90'  
18'9"

LOT 2  
33315583000

0.2539 AC

559°34'48"W  
144.57'

144.78'

559°30'42"W  
149.70'

149.70'

20'  
green  
SPACE

20'

DR  
HAWK

FENCE  
CORNER  
529°39'17"E 92.11'

28.21'

FRAME SHED

Telephone  
POLE

FRAME  
SARAGE  
20.3'

3154704000

0.3977 AC.

0.2562 AC.

186.41'

157°28'15"N  
311.22'

158.06'

18'  
9"

FRAME  
SHED

149.70'

DECK

2 STORY  
BRICK  
FRAME  
#17  
20.9'

23.0'  
11.7'

PORCH

CONCRETE  
DRIVEWAY

GRAVEL DRIVEWAY

1 STORY  
FRAME  
#19  
17.2'

14.0'  
10.5'

20.9' 157°28'09"W R D R A IN ( ) A REPT... 100 PLAT... MAP 604



KOCCA 5981<sup>200</sup> MK  
 A 7.5<sup>3</sup> A1.4  
 B 1.6 B.3 - 4M P...  
 5.9 CFS REVEN. 1.9 CFS REVEN.  
 L

P17 - GOOD C.A.  
 DRAIN IN - 2 H.A.  
 F14 IN

Wild Safety  
 Have Paid Now.

FOCCA  
 DB 1341 - 1583

FOCCA  
 DB 1341 - 1583

S31°12'47"E 78.80  
 FENCE 78.80

Lot 2  
 333155813000

0.2539 AC.

S59°34'40"W  
 149.58

20'  
 63'

FENCE CORNER  
 S29°39'17"E 92.11

0.3977 AC.

FRAME SHED

FRAME GARAGE  
 303

Lot 1  
 3154704800

0.2562 AC.

S51°30'12"W  
 149.70

186.41

N57°05'52"E  
 311.92.65N

OLDF

2 STORY  
 BRICK &  
 FRAME #17  
 18A'

22.0' x 11.7'  
 11.7' x 11.0'

FRAME SHED

1 STORY  
 FRAME #19  
 12.2'

GRAVEL DRIVEWAY  
 CONCRETE DRIVEWAY

N29°50'09"W

94.72

REPORT NOV 1960