

Town of Lovettsville

Minutes of the Planning Commission Meeting March 15, 2017

Call to Order/Pledge of Allegiance

Chairman Frank McDonough called the Meeting of the Lovettsville Planning Commission to order at 7:30p.m. on March 15, 2017 at the Lovettsville Town Hall, 6 E Pennsylvania Ave, Lovettsville, Virginia.

Pledge of Allegiance

Chairman McDonough led those present in the Pledge of Allegiance.

Present at Meeting

- Chairman Frank McDonough
- Commissioner Christopher Hornbaker
- Commissioner Joseph Mueller
- Commissioner Shiva Schilling (arrived at 8:04 p.m.)
- Commissioner Stephanie Wolf
- Commissioner Thomas Ciolkosz
- Commissioner Nate Fontaine

Absent

None.

Staff Present

- Zoning Administrator Joshua Bateman
- 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.

Planning Commission Minutes

There were none.

Zoning Administrator Monthly Activity Report

Mr. Bateman stated that he finished his report this morning and has not yet had a chance to distribute it to the Commission. Chairman McDonough asked whether there were any highlights, and Mr. Bateman replied that the Planning Commission considered an amendment to the bylaws and special rules and procedure, the Town Council took final action on the comprehensive plan amendment, and several zoning ordinance amendments proceeded, including the one for the annexation of the fire company property. He noted that the boundary line adjustment will be discussed by the Council at a work session scheduled for March 16th.

Action/Discussion Items

A. LVZA 2017-0003: Zoning Ordinance Amendment to Section 42-2(b), Definition of *Child Care Home*

Chairman McDonough opened the public hearing at 7:33 p.m. and read the public hearing notice.

Mr. Bateman presented on this item. He thanked Mr. Blanco for being in attendance to represent the applicant, who has a last-minute emergency, and explained that the Commission is being asked to conduct a public hearing and make a formal recommendation on a zoning ordinance amendment

requested by M. Isabel Brito-Rodriguez of 4 Joel Way in the Kingsridge Subdivision to amend the definition of "child care home" in Section 42-2 (b) of the zoning ordinance. He read and explained the amendment to the Commission. The amendment increases the allowable capacity of such homes, in terms of the number of children for which care may be provided, from nine to twelve.

Mr. Bateman discussed Town and state requirements pertaining to the regulation of child care centers and family day homes, and he explained the discrepancy between the state regulations allowing up to 12 children in a family day home, whereas the Town zoning ordinance currently limits this to 9. He said that the result is that operators of such homes may obtain a state license for a home serving 11 children and think they meet all requirements, only to find that when they go to obtain their Town business license that only 9 are permitted. Such businesses currently operating may think they can have more children in the family day home because their state license permits it. He said that increasing the number of children allowed from 9 to 12 would have implications for traffic, parking, and water usage associated with the additional children and employees, but that the impact of six additional vehicles per day on Joel Way would likely be minimal. He said that a family day home located on another Town street could potentially create a traffic problem, but that the traffic impact of such a small increase would likely be modest. Mr. Bateman said that no expansion of parking is allowed for any home occupation, so any such home occupation would be disallowed once it grew to a size where additional off-street parking became necessary. Any overflow parking would have to be in the street, which would be available on a first-come, first-serve basis.

Chairman McDonough said the availability of parking spaces on the street during the day would be adequate given that those spaces are typically available during normal business hours. Mr. Bateman said that this is a fair assessment, but that Commissioners know more than he does concerning the traffic situation in the evening when they return home to their respective neighborhoods. He said there is another provision in Section 42-197 that applies to family day homes requiring parking to be designed to maximize child safety when the same are entering and exiting the home. Mr. Bateman said he is not too worried about traffic on Joel Way, but knows of other locations where this could be a problem if the only available parking is off-street. He said it makes sense to require a proprietor of such a business to make an off-street parking space available during times when the business is open to prevent a distracted driver from accidentally striking a kid or side-swiping another vehicle. Mr. Bateman said that dropping children off on-site is the safest arrangement. He explained that property owners lacking space for sufficient on-site parking would likely not be permitted to establish a family day home.

Mr. Bateman read from his memo regarding the implications of increasing the maximum number of children who may receive care at a family day home. He noted it would be difficult to meet this proposed parking requirement on South Loudoun Street due to insufficient on-street parking.

Mr. Bateman explained that allowing three additional children in a family day home would be unlikely to have a major effect on water usage. He stated that the requirement that not more than one nonresident caretaker may be employed in the home-based business is more problematic. Mr. Bateman explained that this is because maximum capacity is defined by the Department of Social Services using two separate but related criteria: the total number of children and the ages of those children. These two variables are combined via a point system to determine the number of caretakers which must be present at any time under the state regulations. By increasing the allowable capacity in terms of the number of kids who may attend, the family day home would increase the risk of running afoul of the maximum number of employees permitted in Section 42-199 of the Town Zoning Ordinance.

Mr. Bateman stated that there were no specific policies in the comprehensive plan regarding this use, but that demand for child care will continue to increase as both the Town population and average household size increase and younger families continue moving into town. Mr. Bateman recommended that the zoning ordinance amendment be denied unless there are additional changes. He said that you oftentimes cannot make an amendment to one section of the ordinance without affecting another section. He said that additional amendments are needed based on Recommendations 1 and 2 in the staff memorandum. Mr. Bateman read the written recommendation in the memo increasing the maximum

number of nonresident caretakers permitted for family day homes and requiring at least one parking space on the owner's property, otherwise the owner must demonstrate that at least one additional on-street space is available within 100 feet of the applicant's property line.

Mr. Mueller noted that homes across the street from Joel Way are served by rear alleys, so the requirement for on-site parking in a driveway could not be met in certain locations. He said that it would be inconvenient for a parent dropping off or picking up to have to walk around to the front of the house. Mr. Bateman asked whether these houses with rear-loaded garages have sufficient driveways in front of the garages. Mr. Mueller said he believes they do. Mr. Ciolkosz said that the houses in Town Center having rear-loaded garages had to have a driveway that was at least a car length between the alley and garage.

Renee Edmondson said that Purcellville requires family day homes to be connected by a continuous sidewalk or paved surface to convey children from the drop-off and pick-up locations. She said that the requirement for driveway parking would not work if the Town has a provision like Purcellville's. Mr. Mueller said that is why he brought it up.

Mr. Bateman said it sounds like it is safer for kids to get to the house if parking is on the street rather than in a rear-loaded driveway. Mr. Mueller agreed.

Mr. Ciolkosz requested clarification regarding the points system and whether 12 children multiplied by four points each would equate with 48 points and therefore require a total of three caretakers. Mr. Bateman replied in the affirmative. A discussion followed on the capacity and required number of caretakers for family day homes caring for 9 children.

Mr. Blanco said that typically you would have mixed ages of children, and Mr. Bateman agreed that caring for 12 children of the same age category would be unusual.

Mr. Fontaine noted that the Town has older streets with narrow, single-lane sections. He said that if someone parked on the street in those areas, traffic would be blocked. He suggested doing something similar like what the Town did with the Town Center where the owner was required to provide parking through a combination of on-street and off-street parking. Mr. Fontaine said he wants to make sure that the parking requirement is appropriate to these older sections of town.

Mr. Hornbaker asked Mr. Bateman whether he has spoken with the owners of other family day homes in town, and Mr. Bateman said he does not know all the family day homes in Town. Mr. Hornbaker said we are putting restrictions on those operations, and Mr. Bateman said that is correct, but we are doing so to allow them to increase their capacity. Ms. Wolf said she lives two doors down from one where she takes her child, so she is familiar with the traffic and other effects of family day homes. She said concentrating traffic in a private alley would be dangerous from a driving perspective and that she does not see the need for driveway parking. She expressed support for Mrs. Edmonston's recommendation that there be some type of sidewalk or walkway connecting to the entrance of the home. Mr. Fontaine said the alleyway is intended for use of the residents only, and a discussion followed regarding Heather's Kids family day home and their use of the alley as drop-off and pick-up location.

Mr. Bateman said he wants the provision and its enforcement to be as safe for children as possible and that, for front-loaded driveways and garages, the driveway is the safest location from that standpoint. He said that it does not make sense to concentrate traffic in a 15-foot wide alleyway for the rear-loaded garages. Mr. Mueller said he brought the issue up to discuss public safety. Chairman McDonough said the best place to discuss this is following the staff presentation. He invited Mr. Blanco to comment as the applicant's representative. Mr. Blanco said he understands the parking discussion, but that his driveway has sufficient space for parents to park in the driveway. He said he understands the need to create a rule that covers all types of parking situations, however. Mr. Brito said that in a situation where 12 children are receiving care, a second nonresident caretaker would be necessary under the point system. Mr. Hornbaker asked the Chairman for an opportunity to ask questions of the applicant, and Chairman

McDonough agreed. Mr. Hornbaker asked whether there would be the need for a second nonresident caretaker to work at the family day home if most of the kids were in the 2 to 3 point range. Mr. Blanco said that the family day home could handle that if there weren't more than perhaps two children of the four point value and more having lesser point values.

Mr. Mueller read the rules for public comment.

Renee Edmonston of 10 Cooper Run Street stated that she did research and has recommendations regarding verbiage. She said that Leesburg and Purcellville are very general with respect to their verbiage and that liability lies with the business owner. She said their requirements pertain to safety and are much more general, such as their requirement for paved surfaces connecting the drop-off location to the entrance of the home. She requested that the Commission consider verbiage that requires the proprietor to verify approval has been issued by the homeowners' association as part of the documentation submitted with the zoning permit. Mrs. Edmonston stated that Leesburg and Purcellville also limit the hours of operation for family day homes located in residential neighborhoods. She recommended that Purcellville's hours of operation for such uses, from 6:00 a.m. to 7:00 p.m., be imposed in the Lovettsville ordinance.

Mr. Mueller asked Mrs. Edmonston whether her HOA has a requirement when opening such home-based businesses, and Mrs. Edmonston replied yes, the HOA has an approval process for such uses, that she is on the Kingsridge HOA Board and that she is familiar with the process having opened a home-based business herself.

Chairman McDonough closed the public hearing at 8:06 p.m. He called for a motion regarding the proposed zoning ordinance amendment.

Motion: I move to that the Commission direct the Zoning Administrator draft language to amend Section 42-2 in regard to home occupations and specifically home day cares.
By: Commissioner Mueller
Second: Commissioner Wolf

Mr. Ciolkosz suggesting adding language to cover concerns related to hours of operation by restricting the operation of family day homes from 6:00 a.m. to 7:00 p.m. Chairman McDonough asked whether Mr. Ciolkosz wants the Zoning Administrator to draft language restricting the hours of operation from 6 p.m. to 7 p.m., and Mr. Ciolkosz confirmed this. Mr. Mueller said that he supports the zoning amendment in general but would like to get the amendment right for all situations that might occur in town.

Mr. Hornbaker stated that he reached out to HOA president and asked him what thought about the proposal, and that the president said that concerns regarding traffic pale in comparison to other traffic issues in the subdivision. He said that as president of the Lovettsville Town Center HOA he does not see a problem but would prefer the language be more general regarding pick-up and drop-off locations.

Mr. Fontaine stated that he wants to ensure that adequate parking is available, whether on-street or on the premises. He explained how the Town Center was allowed to use on-street parking spaces in lieu of providing certain off-street spaces.

Mr. Bateman said that, for review, he is not hearing significant concerns about the precise locations of required loading and unloading spaces, although Commissioners are concerned about employee and resident parking. Mr. Fontaine said that sufficient parking must be provided either on-street or on the site in cases where existing street is too narrow for on-street parking.

Chairman McDonough suggested that the ordinance specify that pick-up and drop-off locations must be in a curbed parking space and not in a travel lane on that street. A discussion followed about where parking would likely be in various areas of town and the presence of curbing on those streets.

Chairman McDonough asked whether the Commission would prefer that the language specify that pick-up and drop-off locations cannot be in a travel lane, and the Commission agreed without objection to this change.

Ms. Wolf said that she lives a few doors down from a family day home and that six additional vehicles per day would not even be noticed by residents.

Mr. Bateman asked whether the Commission would prefer to increase the number of non-resident caretakers to a maximum of two, and the Commission agreed without objection to the change. Mr. Bateman asked the applicant whether restrictions on the hours of operation were acceptable to the applicant, and Mr. Blanco said that the day care is never open that late. A discussion followed regarding the state requirements with respect to hours of operation limitations and overnight care. Mr. Mueller asked whether the Town is prohibited from requiring HOA approval, and a discussion followed. Mr. Ciolkosz explained that HOA restrictions do not govern the picking up and dropping off of people but may regulate vehicles left stranded on private property. Mr. Bateman expressed his preference for not requiring HOA approval since the Town and HOA processes are entirely separate. Mr. Ciolkosz said let the HOA handle it themselves.

Ms. Wolf asked whether the motion is sufficient or needs to be amended. Mr. Bateman suggested amending the motion to postpone action until staff has had an opportunity to make the modifications to the amendment requested by the Commission this evening. Mr. Mueller stated he is willing to withdraw his motion.

Motion: To postpone action on LVZA 2017-0003 until April 5, 2017.
By: Ciolkosz
Second: Hornbaker
Aye: Commissioners Ciolkosz, Fontaine, Hornbaker, Mueller, McDonough, Wolf, and Schilling
Nay: None
Abstain: None
Absent: None

Mrs. Edmonston asked whether someone wanting to build a deck is required to show approval from the HOA before obtaining zoning approval. Mr. Bateman replied no. Mr. Ciolkosz stated the HOA can act independently against someone who fails to obtain their approval.

Information Items

Chairman McDonough announced that there was confusion about the recommendation made at the last meeting by the Commission regarding the zoning amendment for the fire department. He stated that the Commission was instructed to do specific things in the Town Council resolution referring this matter to the Commission, including making considerations for and developing provisions pertaining to uses in the I-1 District. He said the Commission did not elect to do any of this; however, the Commission did not recommend that the Council not make these changes. He said that changes to the I-1 and C-2 District are on the Council's agenda tomorrow, which is fine because the Commission did not say anything about this as part of its recommendation. He said that he did not attach a cover memo to the recommendation explaining the Commission rationale for not changing those districts, noted that the Commission is an advisory body, and stated that no one begrudges the fact that the Council can act as it wishes. Chairman McDonough said that he was of the impression based on the Commission's deliberations that the Commission was not trying to make changes carte blanche to any other zoning districts to accommodate the fire station. He said he has been asked to attend the meeting tomorrow night and explain the Planning Commission's recommendation. He expects significant modifications to the I-1 and C-2, but he is recommended that the Council formally refer the non-residential zoning districts to the Commission for the purpose of drafting an amendment. He asked whether there was any objection, and if so, he would be willing to present that dissenting opinion to the Council as well. Mr. Mueller said that he recommends that the Chairman do just that, that the Commission should draft such a zoning amendment to give the

Council a second set of eyes, and that he thinks the Commission can accomplish this task. Chairman McDonough said it is customary for the Chairman to include a cover memo explaining a Commission's recommendation to the Town Council and that previous chairs have done this. He stated that he wanted to bring this to the Commission before the recommendation is presented to the Council.

Mr. Ciolkosz apologized for missing the previous meeting and read the duties and responsibilities of the Planning Commission. He said he remembers defining each district for clarity and that the Commission did not sufficiently do that. He said that it would be appropriate to ask Town Council for an opportunity to clearly define these zoning districts and what they should include so the Commission can make a recommendation supporting such changes. He expressed the need for the Commission to be an independent voice on land use issues.

Mr. Hornbaker said the Commissioners' report is included in those meetings and adequately conveys the concerns and reasoning of the Commission in making its recommendations. He explained the reasoning behind drafting changes to the CR-1 District as opposed to the existing non-residential districts. Mr. Ciolkosz said that providing independent advice is why the Commission exists, and that Commissioners are appointed and not elected officials put in place to assist the Town Council in making the right decisions.

Chairman McDonough expressed appreciation for the input and said that his recommendation to the Council would be stronger because of it.

Next Meeting

Chairman McDonough announced that the next meeting will be held on April 5, 2017 and that he will be absent for the meeting. He stated that Vice Chairman Fontaine will be chairing the meeting.

Committee Reports

Chairman McDonough suggested skipping this item and asked whether there was any objection.

Mr. Hornbaker announced that the Town is developing a new website in WordPress and that staff is adding content but the Town is not quite ready to deploy the website.

Comments from the Commissioners

Mayor Zoldos congratulated the Commission on completing two major milestones: completing the comprehensive plan amendment and certification for every Commissioner under the Certified Planning Commissioner Program. He went on to announce issues currently before and coming before the Town Council, events and happenings in the Town generally, and recent acquisitions of equipment by the Town.

Adjournment

There being no additional business to come before the Planning Commission, the meeting adjourned at at 8:41 p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: June 20, 2018

Attachments:

None