

Village of Lexington
Planning Commission Regular Meeting
Village Hall, 7227 Huron Ave., Lexington, MI 48450
April 11, 2023
7 PM

CALL TO ORDER REGULAR MEETING: Mike Ziegler

ROLL CALL: Vicki Scott

Members: Ziegler Stencil Roehl Fulton Kaatz
 Picot Regan Morris Huepenbecker

APPROVAL OF AGENDA:

APPROVAL OF MINUTES:

Pages 1-2

Motion to approve the minutes of the Regular Meeting of February 6, 2023

PUBLIC COMMENT: (3-minute limit)

ZONING ADMINISTRATOR'S REPORT

Pages 3-4

OLD BUSINESS

Pages 5-6

1. **Discussion of Screening of Trash Containers**
(Zoning Ordinance 6.2.9)
2. **Discussion of possible Solar Ordinance**

NEW BUSINESS

Pages 7-11

1. **Discussion of Ad Hoc Committees**
There is much to be done. It may be feasible to break into two Ad Hoc committees to report monthly and make recommendations to the Commission.
2. **Approve holding a public hearing on June 5 for the following amendments to the zoning ordinance related to Violations and Penalties:**
 - SEC. 3.2.6 Duties of Zoning Administrator (Violations)
 - SEC. 3.4.10 Violations
 - SEC. 3.9 Violations and Penalties
3. **Approve holding a public hearing on June 5 for the following amendments to the zoning ordinance pertaining to Decks:**
 - SEC. 3.4.1 Site Plan Review
 - SEC. 4.11.1 Footnote to Schedule of Regulations
4. **Approve holding a public hearing on June 5 for the following amendments to the zoning ordinance clarifying the Requirements for Temporary/Portable Accessory Buildings**
 - SEC. 2.2 Definition of Accessory Buildings and Structures
 - SEC. 5.4 Accessory Buildings
5. **Discussion of Industrial Roadway**

PUBLIC COMMENT: (3-minute limit)

ADJOURNMENT

VILLAGE OF LEXINGTON
Planning Commission Regular Meeting
Village Hall
7227 Huron Avenue, Lexington, MI
February 6, 2023 at 7 p.m.

Regular Meeting called to order at 7:00 p.m. by Chairman Ziegler

Roll Call: Vicki Scott, Clerk

Present: Ziegler, Picot, Stencel, Kaatz, Fulton

Absent: Morris, Roehl, Huepenbecker

Others Present: C. Cutright, D. Klaas, Jackie Huepenbecker (via phone)
K. DeCoster, L. Adams, P. Muoio, M. McGovern

Approval of Agenda:

Motion by Picot, seconded by Fulton, to approve the agenda as presented.

All ayes

Motion carried

Approval of Minutes:

Motion by Picot, seconded by Stencel, to approve the minutes of the Regular Meeting of January 9, 2023, as presented.

All ayes

Motion carried

Public Comment: None

Zoning Administrator's Report:

D. Klaas reported that his training is going well.

Klaas sent letters out for trash/dumpster fencing. The Methodist church will be removing its dumpster.

Klaas sent letters out for sandwich signs clarifying the ordinance. Klaas explained the residents he was currently working with. He commented that having a welcome packet available for new businesses and residents would be nice.

Discussion continued on the dumpster issue and following the ordinance. Stencel suggested we address the dumpster issue before June 30th. Board agreed to place this item on the agenda for the next meeting.

Motion by Kaatz, seconded by Fulton, to accept the Zoning Administrator's report.

All ayes

Motion carried

Old Business:

1. **Fellowship – Ameri-Corps** – Ziegler explained that Morris is not here to discuss this issue. We will move it to the next meeting when Morris is available.
2. **Training Update** – Picot remarked that the RRC Virtual Academy is an excellent opportunity for the Village groups. Cutright agreed to make sure each board receives the flyer. Cutright hands out the township's solar ordinance. Picot explained that this is homework to bring back next month with suggestions.

3. **RRC Status Report** – Picot thanked Huepenbecker for putting together the report. It will help other groups know what needs to be done. The DDA is working on: 4.2, 4.3, and 4.6. Picot reported that staff members from RRC are coming to visit the Village on February 27 from 9:30-11:30 AM. He reviewed the draft itinerary.

Motion by Fulton, seconded by Picot, to approve RRC Status Report and send it to Council, DDA, and ZBA.

All ayes

Motion carried

New Business:

1. Collaboration with other groups

Picot stated that an updated list was distributed. Fulton asked about the best way to get all the Village groups together. Discussion followed on it being a social event at the theater, possibly once a year.

Kaatz suggested having an individual in charge of distributing information on the website so it is used more effectively for each committee. Klaas suggested checking into having someone from St. Clair Tech. Kaatz suggested making a recommendation to Council. Klaas suggested updating to a digital format. Cutright stated Port Huron has a community liaison that works with the IT Department.

2. Suggested Public Participation Event

Picot worked on putting together an example of a questionnaire for the website asking the public for their response on issues like electronic signs. The example would include a link showing why it is important to have ordinances in place.

Picot stated he will work with the DDA Chairperson on parking issues in the Village. Ziegler commented that the Smith Group just did a parking survey. Discussion followed on getting clearer signage for parking.

Ziegler asked if there was an update for the 8 million dollars the Village is to receive.

Cutright explained that it was signed into law at the end of January. We received a supplemental budget appropriation of 8 million dollars for harbor improvements. This came through the State's budget process with the legislator and was through the Department of Labor and Economic Opportunity.

The 8 million dollars is part of the greater 12-million-dollar project to revamp the harbor front, waterfront area, docks, and upland. The project has to be completed by September 30, 2026. We are continuing discussions with the DNR on leveraging the money we received to make up for the additional 4 million to fulfill the plans we agreed upon with the DNR. The grant agreement is due May 1, 2023. Discussion followed.

Public Comment

- Peter Muoio (7276 Lester) – Comments no success with cable commission working with high school to help with media needs, be careful before adding staff, and it's no problem for parking in church lots.
- Larry Adams (7311 Lake) – Commented on the DNR docks funding and changing parking on Huron Ave.

Adjournment - Motion by Kaatz, seconded by Fulton, to adjourn at 8:05 p.m.

Respectfully submitted,
Vicki Scott

Zoning Administrator Report
Village of Lexington
April 5th, 2023

I am pleased to report that I have been able to make great strides in my role as the Zoning Administrator. I have:

- I have obtained my Zoning Certification Course.
- Sent out letters to local businesses that were in violation of the trash container screening ordinance and gave them extension to the previous June 30th deadline till the Planning Commission finished their research and discussion phase on the ordinance. If the ordinance is to stay at is, then I will assign a new deadline to comply with the ordinance.
- Worked with Cynthia and the owners of Butler Photography to the demolition of their unsafe building. They are in the process of getting a contractor to demo the building.
- Currently working with the Planning Commission and Gielow LLC on the expansion of their faculty at 5120 Lakeshore.

(14) Land Use Permit Applications:

5203 Main St. Lot 163 St (Deck Permit)
5203 Main St. Lot 141 (Land Use Permit "New Mobile")
5203 Main St. Lot 111 (Demo Permit)
7009 Greenbush (Land Use Permit "Fence")
Meyer School (Land Use Permit "Cement Pad") *Denied*
5435 Main St. (Sign Permit)
5489 Dallas St. (Land Use Permit "Deck")
5435 Main St. (Commercial Land Use Permit "Open Air Farmers Market")
5536 Main St. (Commercial Land Use Permit "Parking Lot Permit")
5565 Main St. (Sandwich Board Sign Permit)
5120 Lakeshore (Commercial Land Use Permit) *In Preliminary Review Phase*
7266 Boynton St. (Sandwich Board Sign Permit)
5612 Main St. (Seasonal Open-Air Business)
7231 Simons (Land Use Permit "New Residential Home")

I am currently working on making sure that residences and business owners in Lexington are complying with the Village ordinances. I am still learning the ins and outs of the ordinances, but I am determined to ensure that all residences and businesses are following the rules and regulations set out by the Village of Lexington.

I understand that there are many nuances to consider when making sure that residences and businesses are following the ordinances, and I am committed to learning as much as I can about them. I am confident that with the help of the Planning Commission, I can ensure that all residences and businesses are meeting the requirements set out by the Village ordinances.

Sincerely,

Dennis Klaas

This is a report of a conversation concerning dumpster enclosures that took place in early March. The conversation was made necessary when concerns arose after enclosure enforcement letters were sent out by the Zoning Administrator.

Attending: Mike Ziegler, Mike Fulton, Wil Morris, Cynthia Cutright, Dave Picot, Steven Stencel, Dennis Klaas, Mike McGovern

Comments:

Steven Stencel:

Enclosures become damaged through time and add to the eyesore issue more so than if there were no enclosures.

Enclosures hamper collection, and may reduce parking spaces.

A painted dumpster is good enough.

The village doesn't offer a public trash disposal opportunity. Some people try to dispose of their trash in private dumpsters.

Occasional dumpster overflow may occur during busy weekends and some tolerance should be extended to businesses when this occurs.

Mike McGovern:

Dumpsters should be inconspicuous; no advertising.

Village could pay for extra pickups.

Dennis Klaas:

Enclosure material requirements could be relaxed.

Manistee gave a two year lead for compliance.

Wil Morris:

If an ordinance on this remains, the language should be more carefully written.

Sizing the dumpster correctly allows for all of the trash to be contained inside the dumpster.

The village should lead by example and manage their trash correctly.

Mike Ziegler:

Blight laws are sufficient to address trash handling problems.

Enclosures don't work.

Cynthia Cutright:

Standards for dumpster appearance and general condition are not necessarily a manageable item for the dumpster renter. Enforcement for this item would be difficult.

Mike Fulton:

Non-dumpster trash containers and trash handling, both commercial and residential, may need to be addressed by ordinance. The nuisance ordinance in the municipal code may pertain.

Dave Picot:

All of the costs of trash handling should be the responsibility of the business owner, both financially and otherwise. (visual, odor, rodents)

Employees should put the trash in the dumpster, not on it or beside it.

Grease storage is also an item that adds to unpleasant circumstances.

If dumpster screening is removed from the ordinance, the screening requirement between incompatible land uses will remain and could still be cause for a dumpster to require screening.

Suggested Ad Hoc Committees

Business items and Possible Commissioner Assignments

Ziegler / Stencil / Picot / Klaas / Morris (when available)

- *Solar ordinance: Mark up Lexington Township's ordinance and recommend
- *Dumpster enclosure requirement: Amend or strike
- *Gielow land use: Zoning Administrator assist

Fulton / Huepenbecker / Regan / Roehl / Kaatz (when available)

All relate to Redevelopment Ready Communities

- *Certification Progress
- *Zoning Board of Appeals: Bylaws, Training, Participation (Klaas, too)
- *Capital Improvements Plan: Update with Village staff

May 1 agenda: Ad Hoc committees report on timelines and progress:



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Memorandum

To: Village of Lexington, Mr. Dennis Klaas, Zoning Administrator
From: Adam Young, AICP, Project Manager/Vice President
Date: February 7, 2023
Subject: Zoning Ordinance Amendments

We have been asked to assist the Village of Lexington in the development of minor text amendments to the Village’s Zoning Ordinance. These amendments are being prepared to address concerns noted by the Village in the day-to-day administration of the ordinance. Specifically, the following sections/topics have been identified as needing amendments:

- Section 3.9 (Violations & Penalties) – The Village Council will soon be adopting a new violations fee schedule with higher fees. Therefore, Section 3.9 is proposed to be amended to reflect this new fee schedule, as may be amended over time. Amendments to two other related sections of the Zoning Ordinance are necessary to ensure consistency with regard to violations.
- You have indicated that the Zoning Ordinance is not clear as to the review and approval process for new, expanded, or reconstructed decks. The only apparent reference to decks is found in Section 4.11.1,(8), which seems to indicate that Planning Commission approval is required. Amendments to the Zoning Ordinance would be necessary to clarify that a zoning permit would be required to be reviewed and approved by the Zoning Administrator.
- Section 5.4 (Accessory Buildings) – The Village would like to tighten up its regulations pertaining to portable accessory structures. Amendments may be necessary to clarify that the accessory building provisions of Section 5.4 are applicable to any accessory structure, whether temporary, portable, or permanent. It may also be appropriate to add new language prohibiting the use of shipping containers as accessory buildings, except were associated with temporary construction activities.

For your review and consideration, the following text amendments are proposed to address these concerns. Text proposed to be deleted is shown with a strikethrough (i.e., ~~text to be deleted~~), while text to be added is shown in bold (i.e., **text to be added**).

Proposed Amendments related to Violations and Penalties

Amendment #1 - Amend Section 3.2 (Duties), Subsection 3.2.6, as follows:

SEC. 3.2 DUTIES

The Zoning Administrator Shall:

- 3.2.6. ~~Shall, after determining a violation of the Ordinance, revoke the LUP. Violations determined after the completion of the LUP permit shall be notified by mail and given ten (10) days to comply. Failure to comply with the ordinance shall result in a ticket issued or served by the Zoning Administrator or Village Police Department. Any person who violates this Ordinance or fails to comply with any of the requirements of~~

~~this Ordinance shall be fined pursuant to the Civil Infraction Schedule as established in the Village and shall be required to pay all costs and expenses incurred by the Village in prosecuting the violator. The owner of record of real property, a tenant on any real property, and any builder, architect, contractor or agent or person who commits, participates in, assists in, or maintains such violation may be found responsible of a separate offence and the penalties herein provided. The imposition of any fine, and/or cost shall not exempt or relieve the violator(s) from compliance with the provisions of this Ordinance. Order the discontinuance of illegal uses of land, buildings, or structures; order the removal of illegal buildings or structures; order the discontinuance of any illegal work being done; revoke land use permits where violations have been determined to occur; and/or take any other action authorized by this Ordinance to ensure compliance with or prevent violations of its provisions.~~

Wade Trim Commentary: The proposed amendment to Section 3.2.6 deletes the specific procedures for violations (so that there is no conflict with the procedures outlined in Section 3.9) and substitutes general language to describe the duties of the Zoning Administrator to ensure compliance with the Ordinance or to prevent violations of the Ordinance.

Amendment #2 - Amend Section 3.4 (Site Plan Review), Subsection 3.4.10, as follows:

3.4.10. Violations.

The approved final site plan shall regulate development of the property and any violation of this Article, including any improvement not in conformance of the approved final site plan, shall be deemed a violation of this Ordinance ~~as provided in Article 1 of the Code of Ordinances, and shall be subject to all penalties therein~~ **subject to penalties in accordance with Section 3.9.**

Wade Trim Commentary: The proposed amendment to Section 3.4.10 eliminates any conflicting language regarding violations and simply refers to penalties "in accordance with Section 3.9."

Amendment #3 - Amend Section 3.9 (Violations & Penalties) as follows:

SEC. 3.9 VIOLATIONS & PENALTIES

Uses of land, buildings, or structures, including tents and mobile homes, erected, altered, razed, or converted in violation of this Ordinance are hereby declared to be nuisances per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. Anyone violating any of the provisions of this Ordinance shall upon conviction thereof be subject to a fine ~~of not more than "as per Council Resolution"~~ **(as outlined in the "Village of Lexington Fee Schedule" adopted by the Lexington Village Council)** and the costs of prosecution thereof, by imprisonment in the County Jail for a period not to exceed thirty (30) days, or both. Each day that a violation is permitted to exist from the time of formal citation by the Village shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

Wade Trim Commentary: This proposed amendment to Section 3.9 make a reference to the newly adopted Village of Lexington XXXXXXXXXXXXXXXXXXXX.

Proposed Amendments Pertaining to Decks

Amendment #1 - Amend Section 3.4 (Site Plan Review), Subsection 3.4.1.,3 as follows:

SEC. 3.4 SITE PLAN REVIEW

3.4.1. Where required.

3. A full site plan reviewed and approved by the Planning Commission shall not be required for individual single-family dwellings, **additions to single-family dwellings, decks, porches**, or residential accessory storage or garages. However, a **site plot** plan shall accompany a land use **permit** application to be reviewed and approved by the Zoning Administrator to ensure such improvements meet all of the requirements of this ordinance.

Wade Trim Commentary: This proposed amendment clarifies that site plan review is not required for single-family dwellings, including additions, decks, porches, garages, and accessory structures. Rather, a land use permit from the Zoning Administrator must be secured.

Amendment #2 - Amend Section 4.11 (Schedule of Regulations), Subsection 4.11.1.,8 as follows:

SEC. 4.11 SCHEDULE OF REGULATIONS

4.11.1. Footnotes to Schedule of Regulations.

8. Decks and porches are conditionally allowed within the front setback area if they are not supported by a permanent foundation. A land use permit is required, and approval is made on a case-by-case basis ~~by the Planning Commission~~ (see Sections 3.4.1.3 and 3.4.1.4). Existing nonconforming decks and porches may be replaced without a land use permit provided the replacement is of the same size and in the same location.

Wade Trim Commentary: This proposed amendment deletes the language suggesting that the Planning Commission must approve decks. New cross references point readers to the applicable ordinance sections dealing with the review of decks - Section 3.4.1.3 for a deck within the R-1 District and Section 3.4.1.4 for a deck on a Cottage Lot.

Proposed Amendments Clarifying the Requirements for Temporary/Portable Accessory Structures

Amendment #1 - Amend Section 2.2 (Definitions), definition for "Accessory Buildings and Structures" as follows:

ACCESSORY BUILDINGS AND STRUCTURES. A supplementary building or structure on the same lot or parcel of land as the principal building, occupied by or devoted exclusively to an accessory use. **This definition refers to both temporary and permanent structures, and**

includes canvas, vinyl or similar carports, storage tents (as opposed to personal recreational tents) and shelters.

Wade Trim Commentary: This proposed amendment clarifies that accessory structures may include temporary and portable structures.

Amendment #2 - Amend Section 5.4 (Accessory Buildings), Subsection 5.4.1 as follows:

SEC. 5.4 ACCESSORY BUILDINGS

5.4.1. Requirements Applicable to Accessory Buildings.

The following requirements shall apply to accessory buildings and structures. However, these requirements shall not apply to temporary or portable accessory buildings or structures located on the premises for less than seventy-two (72) hours during any thirty (30) day period.

[No proposed changes to existing subsections 1 through 14]

15. **The placement and use of any cargo container as an accessory building or structure is prohibited. For the purposes of this subsection, a cargo container shall be defined as a reusable vessel that was originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, which is capable of being mounted or moved by rail, truck or ship, including any other portable containers or pods used for storage with similar appearance and characteristics of cargo containers. This provision shall not apply to the temporary use of storage containers for construction activities on properties with an active building permit.**

Wade Trim Commentary: By amending the definition of accessory buildings and structures to include temporary and portable structures, they would therefore be subject to the requirements of Section 5.4. However, the first part of this amendment exempts temporary or portable accessory structures which will be on the premises for less than 72-hours. The second part of this amendment is to add a new subsection which specifically prohibits the use of any cargo container or storage pod as an accessory building, except if they are on site for less than 72-hours or are placed on property while the site is under construction.

If you have any questions or need further information, please contact me at 313.961.3650 or ayoung@wadetrim.com.

ACY:lkf
AAA 8140-23

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