

**MINUTES  
TOWN OF MONTVERDE  
PLANNING AND ZONING BOARD**

**January 25, 2016**

The Planning and Zoning Board of Montverde met on January 25, 2016 at 6:30 p.m. in regular session in the Town Hall Mayor's Office.

The recommendations of the Planning and Zoning Board will be submitted to the Town Council at a Council meeting to be held on Tuesday, January 26, 2016 at 7:00 p.m. in the Town Hall Auditorium.

**Board Members Present:**

Glen Brecheen  
Skip Perry  
Chris Mitchell  
Allan Hartle  
Sandy Baker

**Staff Present:**

Graham Wells, Town Clerk,  
Sean Parks, Town Planner

Glen Brecheen called the meeting to order at 6:33 p.m., and then led the Pledge of Allegiance. He welcomed new member Sandy Baker to the Planning and Zoning Board.

**ROLL CALL:**

Following the roll call by Graham Wells, Town Clerk; a quorum was announced.

**MINUTES:**

Minutes for the Planning and Zoning meeting held on December 2, 2015 were unanimously approved with no amendments.

**MINUTE APPROVAL:**

**MOTION** by Chris Mitchell **SECONDED** by Allen Hartle, to approve Planning and Zoning Board Minutes for December 2, 2015.

**FOR:** Brecheen, Hartle, Mitchell, Perry (Sandy Baker was not at the December 2, meeting)

**AGAINST:** None

**MOTION CARRIED: 4-0**

*Chairman Glen Brecheen* handed the meeting over to *Sean Parks*. He outlined the items on the agenda; there were four ordinances for review and recommendation, three of which were changes to Chapter 4 of the Land Development Code, 2016-02, 2016-03 and 2016-04 and the fourth, 2016-05 which was to change to the designation of the Cemetery Board to a Committee. For the benefit of the new member he said that the P & Z Board would make recommendations to Council on these ordinances to accept the changes, or not.

## PUBLIC HEARINGS:

**Ordinance 2016-02 proposing amendments to Chapter 4 of the Land Development Code. Specifically clarifying the definition of Accessory Building, amending the Definition of Canopy, Temporary Canopy and Permanent Canopy, deleting the definition of Semi-Permanent Canopy, allowing certain Storage Sheds and other Accessory Structures to be located no less than 7.5 feet from a property line.**

*Sean Parks* said that 2016-02 concerned changes to the definition of Accessory Structures in Chapter 1 of the LDC as per the handout and pointed out those additions to the code were underlined and removals were struck through. The changes were highlighted in yellow. Changes to Chapter 4, Article 4 'Canopies' redefined the Temporary Canopy, deleted the Semi-Permanent Canopy and added additional language to Permanent Canopy. In future there would only be Temporary and Permanent Canopies. He said that the issue with the Semi-Permanent Canopy was that interpretation was difficult for Town Staff when issuing permits or zoning clearances.

There was also a Shed Exemption added which was the biggest change to the code. Sheds equal to or less than 120 square feet did not require a building permit which was in line with the Florida Building Code and also the recent revisions that had been made to the Lake County code. The same language is used in this ordinance. The setbacks would be 7.5 feet from the side and also from the rear property line.

*Glen Brecheen* referring to page 2 stated that a temporary canopy could be put up for 80 consecutive days in a twelve month period which contradicted the first part of the statement which was 14 days or less within a 60 day period. His issue was the inclusion of the word 'consecutive' and felt the 80 day was hardly temporary. Six periods of 14 days in a year totaled 84 days which negated the need to having the 80 day clause in at all. This was generally agreed on and *Sean Parks* said that when the motion is made it should reflect that change.

On the issue of the Shed Exemption in Sec. 4-291, *Glen Brecheen* questioned that the exemption was allowed in all residential districts but that office and commercial were excluded from the ORC zoning district. *Sean Parks* said that if a parcel was zoned ORC and was used for either office or commercial use then this exemption would not apply. It would only apply to properties being used as a residence within ORC.

He also said that a zoning clearance should be required as it was not illegal to have more than one shed but that the second or subsequent ones would have to be erected within the 25 feet setback. There would be no fee for the shed although this would remain part of the fee schedule and not stated in the ordinance. This gives Council the opportunity to revise the fee schedule at a later date should they wish to. Sheds 121 square feet or greater would require both a zoning clearance from the Town and a building permit from Lake County. There would be a fee of \$50 which is in the current fee schedule. *Graham Wells* pointed out that only sheds of 90 square feet were currently exempted so this would make permitting much simpler. It was agreed that Sec. 4-291 (c) iii would be added requiring a zoning clearance for all residential shed exemption.

*Glen Brecheen* asked whether temporary canopies were regarded as accessory buildings. *Sean Parks* responded that as they are not required to be anchored to the ground they were not an accessory building. *Glen* went on to ask if they were permitted in the front yard, as accessory buildings have to be 25 feet from the Right of Way. He asked if there was anything to say that as they were not accessory buildings that they could not be put up in the front yard.

*Sean Parks* responded that they could be put in the front yard and that they just had to adhere to the time period. *Glen Brecheen* said that the 25 feet setback at the front was to prevent a traffic hazard being created. *Graham Wells* said that most of the permits issued were to the Academy to put up a tent for a function but that it should be made clear and not open to assumptions. *Sean Parks* asked if the members wanted them allowed within stated setbacks. No permit is required but a zoning clearance would be needed for control purposes. *Graham wells* said that if the tent had sides to it then it could create the traffic hazard.

*Glen Brecheen* asked whether existing canopies would be grandfathered in if they did not conform to the new code. The current issue with the canopy on Omega Court was discussed as this brought up many different questions which needed to be taken into consideration. The code has to be made perfectly clear to prevent any misinterpretation. *Glen Brecheen* suggested that if a canopy or tent had sides that it must be at least 25 feet from the Right of Way so as not to interfere with the line of site of residents pulling out of their drives and onto the highway.

It was generally agreed that a zoning clearance would continue to be required for a temporary canopy or tent. If it was placed in the front yard and did not have sides then it would not have to comply with the 25 feet setback, however if it did have sides then it would have to comply with the 25 feet from any Right of Way which covers corner lots.

The issue of fees for tents was discussed and *Sandy Baker* asked if a resident had to pay \$50 just to put up a tent. *Graham Wells* said that the fees were a separate issue as they were covered by the fee schedule already in place.

*Glen Brecheen* asked why on page 4 there was a 10 feet setback for storage structures as this was different from the 7.5 feet side setback and 25 feet front setback. This was not a change but was in the existing code. *Sean Parks* said he did not know the history of how this came to be but thought it might be to encourage the units to be put on the driveway and away from a neighbor's property. The storage containers were thought to refer to PODS and that they had restricted space to get them on and off of the vehicle. Discussion on the setback and also the time period that they were able to be there was discussed at length and with no better solution offered it was decided to leave it as currently written. It was agreed that POD would be added to ...or similar type sealed container.

*Sean Parks* summarized the changes that would be recommended to Council:

*Section 4-290, Definitions – The reference to 80 days per calendar year should be deleted.*

*Section 4-291, Placement (c) – iii. A zoning clearance is required for all residential storage shed exemptions should be added.*

*Section 4-292, Building Permits – Temporary Canopies require a zoning clearance, and Temporary Canopies that have siding cannot be located within 25 feet of a public right-of-way should be added.*

*Section 10-82 (e), Location – the wording, such as a POD or similar type of sealed container should be added.*

There being no more questions or discussion *Chairman Brecheen* requested a motion to recommend or deny approval of Ordinance 2016-02 with the changes recommended.

**MOTION by Skip Perry, SECONDED by Sandy Baker, to recommend to Council to approve the Ordinance 2016-02 with the recommended changes.**

**Glen Brecheen asked for a roll call vote.**

**FOR: Brecheen, Hartle, Perry, Mitchell, Baker**

**AGAINST: None**

**MOTION CARRIED: 5-0**

**Ordinance 2016-03 proposing the amendment of Sec. 4-241 of the Land Development Code to allow screen enclosures in residential districts to be located 7.5 feet from the rear and side yard property lines.**

*Sean Parks* outlined that this was called the screen enclosure exemption. At present the rear setback for a swimming pool with a screen around it is only 7.5 feet whereas a screen enclosure around a simple patio extending from the house is required to have a 25 feet setback. The patio itself can extend right up to the property line so long as it does not cause a water run off problem into a neighbor's yard, however a screen put around it has to be 25 feet from the rear property line.

Currently the only way to have a screened enclosure around anything other than a pool closer than 25 feet is to request a variance which as *Glen Brecheen* said is a costly and time consuming process with no definite outcome. To overcome this issue, paragraph (e) was proposed to be added to Sec. 4-241 of the LDC. *Sean Parks* said that the new language was underlined and covered the change to 7.5 feet if the screened enclosure met certain criteria. *Glen Brecheen* asked for clarification of the change being allowed in the ORC district. *Sean Parks* responded that it was only in the residential part and would not apply to Office or Commercial within the ORC district.

The framed screen enclosure could have a metal kick plate or be fully screened to the ground. The metal kick plate was only to prevent damage to the screen caused by mowing, edging or from pets and was not in any way designed to be structural. *Sandy Baker* asked about having a low wall instead but this is where the distinction is important. A low wall is a structure and therefore is required to meet the 25 feet setback. A low wall could also be used to create another room.

The issue of whether a solid roof was allowed as part of the screen enclosure was discussed at some length and included a specific property on Neal Drive. The owner wanted a screened enclosure but could not meet the current 25 feet setback requirement. A roof had to have upright supports which must be 25 feet from the rear property line. The nominal overhang (2 feet) could be in the setback. This also fell under a different part of the code. It was only a completely framed and screened enclosure attached to the house that would fall into this exemption.

The intent of the ordinance was to remove the setback anomaly between a screened enclosure around a pool (7.5 feet) and an enclosure around a patio. The swimming pool by law had to have either a fence or screen around it which is why it was at 7.5 feet. *Graham Wells* said that to bring them both in line with each other the enclosure must be full framed and screened with no solid roof. *Glen Brecheen* said that a roof would have to have substantial poles to hold it up and would be dictated by the Florida Building Code. The framing for the screen enclosure was not regarded as structural.

He went on to suggest that a clear definition of 'Screen Enclosure' was needed to avoid ambiguity. *Graham Wells* agreed and said that once we were all gone, the code should be clear to future readers. The key point was that it should be completely framed. An 18 inch kick plate would be allowed but was not mandatory. The final wording was agreed on:

*The framed screen enclosure can contain an aluminum or other metal kick plate that is no more than 18 inches in height or is completely screened to the ground. All other types of screen enclosures and/or Florida rooms must adhere to standard set back criteria prescribed in Chapter 10 of the LDC. A zoning clearance was also required prior to installation or construction.*

A motion was requested by *Glen Brecheen* to approve the ordinance with the changes outlined.

**MOTION by Chris Mitchell, SECONDED by Skip Perry, to recommend to Council approval of Ordinance 2016-03 with the changes outlined.**

**Glen Brecheen asked for a roll call vote.**

**FOR: Brecheen, Hartle, Perry, Mitchell, Baker**

**AGAINST: None**

**MOTION CARRIED: 5-0**

**Ordinance 2016-04 proposing the amendment of Section 4-254 of the Land Development Code, prohibiting Cloth or Fabric Fencing; providing an exemption and clarifying the types of fences allowed.**

*Sean Parks* said that this ordinance was to define the types of fences that would be permitted under the existing Sec. 4-254 of the Land Development Code and to specifically prohibit cloth and fabric types of material. *Skip Perry* asked if existing nonconforming fences would be grandfathered in. *Glen Brecheen* said that he was not in favor of taking away the rights of people who already had a permitted fence.

*Graham Wells* outlined why this was being brought up. The Town has a resident on Burke Street who had legitimately applied for a permit to install a polypropylene fence which was granted. A privacy fence was typically described as Plastic, Vinyl or PVC; PVC standing for Polyvinylchloride so when described as polypropylene it was expected to be a similar privacy fence. Not so; what they did was to take the green fabric that is normally attached to a chain link fence and stapled it to a line of 4 x 4 posts. Similarly a resident on Omega Court attached colored bed sheets to posts and called it a fence.

Welded wire mesh fixed to posts alone was not considered a fence and was only to be allowed when attached to a permitted fence for the purpose of keeping small animals in or out. *Skip Perry* suggested that wording 'permitted when attached to an existing fence' should be used. *Graham Wells* said that the aim was to prohibit it to make the town look better. *Glen Brecheen* said that it was not seen as much these days and *Skip Perry* said that he would not want to see it in a front yard. *Graham Wells* said that it needed some type of support structure and not just nailed between trees. *Glen Brecheen* said that they cannot use just fence posts to make a fence from bed sheets.

*Glen Brecheen* said that he would not want to pay for a new privacy fence when green fabric can be attached to an existing chain-link fence. This was permitted unless the chain-link fence was 25 feet from the Right-of-Way as it would no longer allow 85% light and air through the fence. This was a requirement for the fence to be on the front property line. *Graham Wells* said that the same thing applied to Welded Wire Mesh; it could be attached to a properly permitted fence but not be used as a fence itself.

*Sandy Baker* asked if we were trying to prohibit cloth or fabric being attached to fences other than those around an athletic field. *Glen Brecheen* said he would not want to see this. *Graham Wells* asked if there was a specific name for the fabric used on fences around athletic fields. He added that the code should be clear as to the types of fence that you can have and what you can add to a fence. The fence on Burke St just had the material nailed to 4 x 4's. *Chris Mitchell* also added that the fabric must be attached and not just draped over the top of the fence.

*Graham Wells* said that the first section should state only the types of fence materials that can be used. This would specifically prohibit Welded Wire Mesh, Cloth and Fabric as a material. In the second section it can be worded that Welded Wire Mesh and Fabric can be added to a permitted fence and take out the word cloth completely.

*Allen Hartle* suggested calling it Commercial Grade Screening or Poly Mesh Screening which along with Welded Wire Mesh is permitted when it is attached to a permanent fence. Commercial Grade Screening was felt to indicate that it was purchased specifically for the purpose. There was a consensus to use Commercial Grade Screening. The issue of color for the screen was brought up and when googled was found to be available in pink, yellow, purple and many other bright colors. It was agreed that where permitted the screen could be black, dark green, brown or gray.

Being no further discussion Chairman *Glen Brecheen* asked for a motion.

**MOTION by Chris Mitchell, SECONDED by Sandy Baker, to recommend to Council approval of Ordinance 2016-04 with the revised wording.**

**Glen Brecheen asked for a roll call vote.**

**FOR: Brecheen, Hartle, Perry, Mitchell, Baker**

**AGAINST: None**

**MOTION CARRIED: 5-0**

**Ordinance 2016-05 amending chapter 6 of the Code of Ordinances to change the designation of the Cemetery Board to a Committee.**

*Graham Wells* said that this would be quick and easy. There was a conflict in two areas of the code; one which referred the Cemetery body as a Board and one as a Committee. *Mayor Wynkoop* asked if this needed to come before the Planning and Zoning Board. *Glen Brecheen* asked what document this ordinance was amending. As it was an amendment to the Code of Ordinances *Glen Brecheen* said that it should.

*Graham Wells* said that in Sec. 2-141 of the code it defined Boards as Planning and Zoning, Code Enforcement and also Cemetery whereas Chapter 6 entitled *Cemeteries* refers to the advisory body as the Cemetery Committee. The difference is that a board member must live within the limits of the town, whereas a committee member can reside in the town's 180 district or even outside if they were a non-voting member. *Glen Brecheen* said that a board was a quasi-judicial entity whereas a committee acts in an advisory capacity only.

Being no further discussion motion was made by Skip Perry.

**MOTION by Skip Perry, SECONDED by Chris Mitchell, to recommend to Council approval of Ordinance 2016-04 as read.**

**FOR: Brecheen, Hartle, Perry, Mitchell, Baker**

**AGAINST: None**

**MOTION CARRIED: 5-0**

*Chairman Brecheen* asked if there was any further discussion on any topic while the meeting was still in session. *Mayor Wynkoop* thanked the members for their participation.

Being no further business a motion to adjourn was requested at 8:45 pm.

**ADJOURNMENT:**

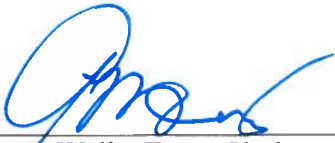
**MOTION by Chris Mitchell, SECONDED by Skip Perry to adjourn.**

**FOR: Brecheen, Hartle, Mitchell, Perry, Baker**

**AGAINST: None**

**MOTION CARRIED: 5-0**

Respectfully submitted,



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Graham Wells, Town Clerk



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Glen Brecheen, Chairman

