

**MINUTES
TOWN OF MONTVERDE
SPECIAL COUNCIL MEETING**

January 26, 2016

The Town of Montverde met in special session on Tuesday, January 26, 2016 at 6:30 pm in the Mayor's Office in Town Hall.

Council Members Present:

President Billy Bates

Vice President Glenn Burns

Jim Ley

Jim Peacock

Judy Smith

Staff Present:

Graham Wells, Town Clerk

Terry Burden, Public Works Director

Anita Geraci-Carver, Town Attorney

Sean Parks, Town Planner

Mayor Wynkoop called the meeting to order at 6:30 pm and led the Pledge of Allegiance.

Roll call was performed, and it was determined that a quorum was present.

MINUTE APPROVAL

There were no minutes for approval.

CITIZEN QUESTION AND COMMENT PERIOD

There were no citizens present at the meeting.

ORDINANCE 2016-02 AMENDING THE CODE, CLARIFYING THE DEFINITIONS OF ACCESSORY BUILDINGS, CANOPIES AND SHEDS

Attorney Anita Geraci-Carver read the ordinance title and the details were outlined by Town Planner *Sean Parks*. He summarized the definition of accessory buildings in Chapter 1 of the Land Development Code adding additional language and also Canopies as defined in Chapter 4.

The purpose of the ordinance is to make clear what an accessory building is, to clarify what a canopy is, to remove the semi-permanent canopy designation and create a Storage Shed exemption. All of these changes applied only to residential properties and those residential properties in the Office/ Residential/Commercial (ORC) zoning designation. Office and Commercial within ORC are excluded from these changes.

Sheds - Currently sheds of the prefabricated type bought from Lowes or Home Depot up to 90 square feet do not need a building permit and only require a setback from the rear and side of 7.5 feet. The proposal if approved would increase the size to equal or less than 120 square feet. A zoning clearance is required but a building permit from the County is not. Only one shed per property is allowed under this exemption and a second or additional shed would be required to conform to the 25 foot rear setback as with sheds of 121 square feet or more. There would be no fee for the zoning clearance as recommended by the Planning and Zoning Board. Sheds of 121 square feet or greater would have to conform to the 25 foot rear setback and would be required to obtain a building permit from Lake County. This would be consistent with Lake County Building Code.

Canopies – Following lengthy discussion by the Planning and Zoning Board at their meeting on January 25, 2016 they had made recommendations that the sentence in Sec. 4-290 Temporary Canopy *...or less than or equal to eighty (80) consecutive days per calendar year* be taken out. *Mayor Wynkoop* asked why that was and *Sean Parks* responded that it contradicted the first part of the sentence. *Councilman Ley* clarified that a temporary canopy was like a tent erected by the church to sell Christmas trees for a short period.

A temporary canopy did require a zoning clearance and could be erected in the front yard for example for a yard sale. The P & Z Board however voted that if the canopy/tent had sides then it must conform to the 25 foot setback so as not to block the view of residents trying to turn onto the right of way.

In Sec. 10-82 (e) POD or similar type sealed container was added as a temporary storage structure. *Councilman Ley* questioned why they have a 10 foot setback instead of 7.5 feet as with other structures. Although there was not a definitive answer it was thought that it was to encourage them to be put on the driveway. *Councilman Bates* was concerned about them blocking the view of residents trying to turn on to the right of way. *Councilwoman Smith* said that it was discussed at P & Z and they recommended that it stayed as written. The consensus of Council was the same.

Councilman Peacock asked for clarification that there was no permit required nor tie-down requirement for a shed within the 7.5 foot setback. *Graham Wells* said that only those over 121 square feet needed a building permit and that the County were responsible for making sure that it was properly secured. We only issue a zoning clearance for setbacks. He added that if a bathroom was added or power was installed then a permit from the County was required irrespective of the size of the structure.

Councilman Ley asked what the definition of 'good repair' was as it was required for all accessory buildings under Sec. 4-9293 (c). *Sean Parks* said that there was no definition. *Councilman Ley* asked who determines what good repair is. *Anita Geraci-Carver* said that it was the Code Enforcement Board. *Mayor Wynkoop* suggested that ultimately it was Council that would decide but *Anita* said that Council could not override the Code Enforcement Board. *Councilman Ley* cited a roof collapsing, holes in the wall as obvious signs and suggested language like structurally sound or weather tight might be added. *Councilman Ley* said that he did not want to put an unnecessary burden on the residents. Who decides what is structurally sound was asked. *The Mayor* said Code Enforcement decides.

Terry Burden asked what defines a custom shed. *Graham Wells* said that if one light or power outlet was installed then the resident would need to be sent to the County for a permit. We were not involved other than with setbacks. *The Mayor* asked that if a 110 square foot shed with a light needs a building permit and the answer is yes. *Terry* said that Superior Sheds would normally direct the resident to the County if they felt a permit was needed. *Councilman Bates* asked if a resident could put up two 10' x 10' sheds. *Sean Parks* said that they could but the second one would have to conform to the 25 foot setback.

Councilman Bates asked why Semi-Permanent Canopies had been scratched out. He said that this category was put many years ago to cover 'Frame and Tarp' for car ports, boat and grille covers. It was to do with tie downs. It exceeded the requirements for a temporary canopy but would not reach the designation of permanent because it would not meet the building codes. *Sean Parks* said that a permanent canopy must be fixed to the ground whereas the semi-permanent canopy was not required to.

Sean Parks said that there were two situations. One is that four poles and a tarp type of canopy was temporary and that something better and more expensive would typically be used in a permanent situation. He said that the semi-permanent would be erected for a longer period than allowed under the temporary designation but would not require a building permit. This was a very gray area which is why it was being looked at.

The issue that the town was currently dealing with on Omega Court was cited where a non-permitted canopy had been hung over poles which were in buckets and sitting on the drive. The corners were secured to the house and also to two 4 x 4 posts which were in the ground. Technically this is a permanent canopy but would not pass County building codes. It would never have been permitted but it had been up for at least two years.

The semi-permanent designation was poorly worded as the pole and tarp structures were normally anchored to the ground which by definition makes them Permanent unless secured only by tie-downs. *Councilman Bates* did not agree with getting rid of the semi-permanent designation as there were so many in the Town already. Councilwoman Smith asked what the reason was for getting rid of it; was it just because of Omega Court. *Sean* said that it was not but it did highlight the issue of semi-permanent canopies with regards to size, anchoring and setback requirements. Temporary was easily defined as was permanent which had the same restrictions as an accessory building.

The question of requiring temporary canopies to adhere to setbacks was raised and the consensus was no unless it had sides. It was suggested that the semi-permanent canopy have a 3 foot setback for rear and side but Councilman Ley felt that this was too close to the property line and should be 7.5 feet. Councilman Peacock stressed that the canopy must be tied down and by not having a maximum size he questioned whether tie-downs would be adequate for large canopies.

Mayor Wynkoop asked what the County or other cities do as far as size and setbacks. It was thought that both the County and Clermont only had a Temporary and Permanent Canopy designation. *Sean Parks* said that he would check this out. *Councilman Burns* asked if any changes were approved whether they would be retroactive. *Anita Geraci-Carver* said that language could be added so that it only affected those canopies approved and permitted after the date that the ordinance became effective.

At this point it was suggested that *Sean Parks* be tasked with researching what the County and other cities had in their code and bring it back to council at a later date. Being no further discussion a motion was made to table this ordinance to a later date.

MOTION by Councilman Peacock to table Ordinance 2016-02 to a later date; SECONDED by Councilman Ley

For: Bates, Burns, Ley, Peacock, Smith

Against: None

MOTION CARRIED 5-0

ORDINANCE 2016-03 AMENDING THE CODE FOR SETBACKS FOR SCREEN ENCLOSURES.

Anita Geraci-Carver read the ordinance title and the changes to the code were explained by Town Planner *Sean Parks*. There was an anomaly between the setbacks for screened enclosures around a swimming pool and screened enclosure around a patio. Currently the setback for screened patios is 25 feet from the rear property line. This in certain instances prevents residents from being able to screen in a patio due to lack of room in their back yard. The setback for screened pools is only 7.5 feet and the purpose of this ordinance is to create consistency and have rear setbacks for both pool and patio enclosures at 7.5 feet.

The anomaly is created due to in ground pools only requiring a 7.5 feet setback and the code requiring them to have either a pool fence or a screened enclosure to prevent anyone from falling in the pool. Therefore by default the screen enclosure has the same 7.5 feet setback. This is not the same for screened in patios which has a 25 feet setback requirement.

Councilwoman Smith said that the 25 feet setback, even for a building is a burden to some owners. *Sean Parks* responded that he did not know the history of why there was a 25 feet rear setback. He understood the 7.5 feet side setback requirement was for emergency access and surmised that the additional in the rear was due to separation from other properties to give privacy for rear yard activities. *Councilwoman Smith* said that a screened porch with a roof required 25 feet in Montverde but that the County only required a 15 feet rear setback. Councilman Peacock said that he was good with a screened porch being at 7.5 feet and 15 feet if it had a roof.

Town Clerk, Graham Wells said that changing the rear setback to 15 feet would be a fundamental amendment to the code and would require going through the Planning and Zoning Board. If a screened enclosure had a roof then the setback would remain at 25 feet. *Mayor Wynkoop* confirmed that posts holding up the roof would have to be 25 feet from the rear property line, albeit the nominal overhang (2 foot) could be in the setback. *Graham Wells* cited the recently approved gas station canopy where the uprights supporting the canopy were 25 feet but the 12 foot overhang was allowed within the setback as this was considered nominal for a gas station. *Councilman Ley* asked if this was the reason that an 18" kick plate for dogs was there instead of a low wall. This was confirmed.

It was suggested that P & Z should look at changing the rear setback from 25 feet to 15 feet and *Sean Parks* said that he would have to look at the entire code as there were many areas that would have to be modified.

Being no further discussion a motion was requested.

MOTION by Councilman Peacock to approve Ordinance 2016-03; SECONDED by Councilman Bates

For: Bates, Burns, Ley, Peacock, Smith

Against: None

MOTION CARRIED 5-0

ORDINANCE 2015-04 AMENDING THE CODE, CLARIFYING THE TYPES OF FENCES AND FENCE MATERIAL ALLOWED

Anita Geraci-Carver read the ordinance title and *Sean Parks* explained that there had been recent questions regarding interpretation of the definitions of fences. He said that there was new language highlighted in green which was the recommendations from the P & Z Board meeting. The main changes were the exclusion of welded wire mesh, cloth and fabric from permitted fence types. Commercial grade screening in specific colors and welded wire mesh could be attached to a properly permitted fence. It was stated that State Statutes for agricultural fences were exempted from the proposed changes.

Mayor Wynkoop explained the issues that we currently have with non-conforming fences that have been erected on Burke Street and Omega Court. Councilwoman Smith said that she did not want to see green fencing all over town. It was reiterated that commercial grade screening was permitted and then only when attached to a properly permitted fence.

Much discussion took place on the merits of why welded wire mesh was excluded as a fence material. *Councilman Bates* did not have a problem with it as there was already so much of it around town and he did not want the owners to have to take it out based on the new ordinance.

It was thought that existing fences would be grandfathered in. *Graham Wells* explained why welded wire mesh was being excluded as a fence material but that if properly supported it would be acceptable.

The main area of contention was that some felt that welded wire mesh attached to upright posts made it a fence. *Councilman Peacock* said that without some horizontal support it would quickly fall into disrepair which was why it was able to be attached to a fence that was already erected.

Councilman Bates said that some owners could not afford to put up expensive fences and that posts with welded wire mesh attached was an inexpensive option that should be available. *Councilman Peacock* said that if a top rail was added between the posts then it was a barrier and that fixing welded wire mesh to that would be acceptable and add only minimal cost. He felt that the mesh needed continuous support to prevent it from being trodden down. *Councilman Ley* concurred.

Graham Wells said that the code needed to be clear so that future zoning clearances could be issued without the need for interpretation after we are all long gone. He added that currently welded wire mesh was not permitted at all as a fence material so having it permitted when attached to a properly permitted fence was a bonus.

A motion by *Councilman Bates* taking out the word material and also the exclusion of welded wire mesh was made but the exact wording of the motion was not clear. The motion was *seconded* by *Councilman Burns* for the sake of discussion. The wording for what would be acceptable to enable welded wire mesh was the sticking point as it could be attached to any type of permitted fence with the aim of keeping small dogs in. *Councilman Peacock* said that changing the wording of one paragraph was negated as it excluded it in the following paragraph. *Anita Geraci-Carver* agreed and made the suggestion to merge the wording into one paragraph making it clearer. The motion and second were withdrawn and a new motion was made.

MOTION by Councilman Bates to approve Ordinance 2016-04 per the discussion points noted by Sean Parks including adding the words ‘unless supported by a cross member, or a permitted fence’ and additional language to grandfather in existing welded wire mesh fences which would be provided by the Attorney; SECONDED by Councilwoman Smith
For: Bates, Burns, Ley, Peacock, Smith

Against: None

MOTION CARRIED 5-0

ORDINANCE 2016-05 AMENDING SECTION 2-141 IN CHAPTER 2 OF THE TOWN'S CODE OF ORDINANCES

Anita Geraci-Carver read the ordinance title, changing the designation of the Cemetery Board to a Committee. She said that the title conflicted in different sections of the code and that the cemetery was more appropriate as a committee than as a board. She added that she had removed the word degree from the towns 180 utility service district in the Definition of Committee. As a committee member was not required to be a resident of the town, an amendment changing ‘residents of the Town of Montverde’ to ‘members’ was also made in Section 6-2.

Councilman Bates asked for clarification of the difference in the roles a Board member as opposed to a committee member. *Anita Geraci-Carver* said that boards such as Planning and Zoning and Code Enforcement were more Statute based whereas a committee such as the cemetery is more advisory.

Being no further discussion, a motion to approve was requested.

MOTION by Councilman Peacock to approve Ordinance 2016-05 as read; SECONDED by Councilwoman Smith

For: Bates, Burns, Ley, Peacock, Smith

Against: None

MOTION CARRIED 5-0

ADDITION OF NEW MEMBERS TO COMMITTEES

A recommendation by *Mayor Wynkoop* was made for the following residents to be added to the following committees:

Public Safety Committee: Roy Patterson and Debbie Driscoll

Library Committee: Denise Fields, Sandi Fields and Lori Gifford

Cemetery Committee: Ginny Kontny

MOTION by Councilwoman Smith to approve the new committee members; SECONDED by Councilman Billy Bates

For: Bates, Burns, Ley, Peacock, Smith

Against: None

MOTION CARRIED 5-0

Being no further business a motion to adjourn was requested.

MOTION by Councilman Peacock to adjourn; SECONDED by Councilwoman Smith

For: Bates, Burns, Ley, Peacock, Smith

Against: None

MOTION CARRIED 5-0

Respectfully submitted,



Joe Wynkoop, Mayor

ATTEST:



Graham Wells, Town Clerk



Billy Bates, Council President