

MINUTES
BOARD OF ZONING APPEALS
February 19, 2018

The meeting of the Board of Zoning Appeals for the City of Mentor-on-the-Lake was called to order on February 19, 2018 by Chairman Al Buescher, at 7:00 p.m. in the Community Room at City Hall, 5860 Andrews Road.

ROLL CALL: Mr. Bittner
Mr. Buescher
Mr. Sweeney
Mr. May-absent
Mr. Baranski

Also present – Desirea Thompson, Council President

APPROVAL OF THE MINUTES: October 16, 2017

MOTION made by Mr. Sweeney and then a second by Mr. Buescher to approve the minutes.

ROLL CALL: Mr. Bittner
Mr. Buescher
Mr. Sweeney
Mr. May-absent
Mr. Baranski

MOTION CARRIED 4/0

ELECTION OF OFFICERS:

MOTION made by Mr. Sweeney and then a second by Mr. Bittner to keep Mr. Buescher as Chair and Mr. Baranski as Vice Chair.

ROLL CALL: Mr. Bittner
Mr. Buescher
Mr. Sweeney
Mr. May-absent
Mr. Baranski

MOTION CARRIED 4/0

NO PUBLIC HEARING: None

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COUNCIL REPRESENTATIVE REPORT: There was an election since the last meeting. Mr. Bittner was voted in on Council for another four years. Ms. Thompson was elected to fill the role as President of Council. Mr. Lunder was also elected to Council and will be serving as the Vice President of Council. Mr. Wolk was also elected to Council. They have gone over the budget and it is currently on the first reading. There were a few things that were passed on an emergency measure. The Fire Department will be getting a new Squad with power load systems. The Service Department was approved for a partial truck. It was a model that only had two left in stock, so it needed to be moved on quickly. It is the cab and the frame. The bed did not have to be purchased at the time to save money. It will go to three readings. It will push it off, and maybe built by winter. It is going to be a salt truck. The other truck was traded in for \$30,000.00.

There is a new Fire Chief, Jamie Pechatsko. Council voted to keep the current language in the ordinance, this was to have a FT Fire Chief. They have been running with a PT Fire Chief the last two years. There still 4 full timers and the part timers change daily.

OLD BUSINESS: None

NEW BUSINESS: Residential District Ordinance Review.

Mr. Buescher stated that he was asked by Mr. Morris to attend an Ordinance Committee Meeting. During that meeting Mr. Buescher expressed with them the dilemma that the BZA board had, in reference to Mr. Kaim's variance request. He felt that what that left us, was two ordinances on the books that the board would have to overlook and or going against the recent decision. The board should not be in a position to where they would have to overlook any ordinances on the books, specifically 1252.07 the joining of lots.

Mr. Moore stated that he recently had the same scenario, where he has three lots. He was told that he would have to join two of them, because it's still the ordinance. He was good with it. Mr. Buescher mentioned that it was a grey area. This board cannot vote on the zoning portion.

Mr. Buescher mentioned that in the interest of all parties, he asked the ordinance committee to step back and to look at the residential ordinances as a whole. Mr. Buescher mentioned that back in 1979, there was a revamp of the old ordinances. They basically increased the width and the area. A lot of cities around the country have as well.

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Mr. Buescher spoke in length about the residential ordinance review and what he would like to see addressed and possibly changed. He mentioned this was come about based on the Kaim decision, knowing that there are possible lots of the same size. Mr. Buescher talked about then that there would be two sets of criteria, conforming and then non-conforming. Conforming is what the city should strive to follow. What criteria do we define knowing that there are 40 up to 60 foot wide lots? Do not ignore them, but what changes do we need to make to clearly communicate how those parcels get developed or re-developed. That's why he took the schedule that's in the ordinances and then would make that a conforming schedule, which it has always been. Then he mentioned that we should have another schedule that clearly communicates the plan for the non-conforming lots. That's why he feels that there should be two schedules. It would be clearly defined, and anyone would be able to clearly understand and be able to follow the ordinances and the requirements.

He continued to talk extensively about the schedules, giving his opinion and what he would like to see.

The big change would be in 1252.07(a) (b). It would not force the land owners to combine them.

Mr. Baranski asked what is defined as a conforming and a non-conforming lot. Mr. Buescher stated that if it is not a 60 foot wide lot then it would be non-conforming. The other issue is that it is all in the ordinances, but in many different areas. Mr. Buescher is trying to take all the information and put it into one schedule, which would allow it to be easily identified as to what they can and cannot do. He referenced the document that each board member had in front of them. He pointed out that the red lettering would be proposed changes and the blue lettering is the description. District E is the largest district in the City, about 75 percent of the parcels. He continued discussion on the specifics surrounding setbacks, ground floor area. Mr. Baranski asked how do you define a conforming and non-conforming according to what is written. Mr. Moore stated that in District E, there is a minimum of 7500 square feet, which is clearly defined. Mr. Buescher mentioned that what came up in the P & Z meeting was that this document was great, but it is a lot of detail. He is familiar with it, but it doesn't make sense to the public. Mr. Moore agreed with the concept, but it is very complicated for just anyone to understand. Mr. Buescher mentioned that this document is very difficult to read, that's why he identifies the wording in different colors. He also stated that this would not be the final copy, that it is going to be looked over and changes made to present to P & Z for consideration before presented to council.

There was continued discussion among the board on some of the specifics that was on the document.

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Mr. Buescher also pointed out on the documents, his attempt in trying to keep adequate light and ventilation between homes. Planning and Zoning correctly identified the fact that you can't tell someone they can't build a colonial. Mr. Buescher was trying to restrict the second floor.

Mr. Buescher asked Mr. Baranski what comes to his mind on a conforming and a non-conforming lot. His response was that he was trying to figure that out. He says there should be something stated that clearly identifies them, that way there is no confusion.

Continued discussion took place among the board. Mr. Moore stated that the Law Director has to look over it as well.

Mr. Buescher further discussed light and ventilation.

Mr. Buescher also discussed the previous variance request from Mr. Kaim. He stated that we are a zoning friendly. Mr. Kaim asked for a variance. The board could have kept him to a 5 and 15. He argued that a two car garage is preferable to the market. Mr. Buescher repeated that the board was not there to look at the economics. The board granted him the 4 foot side set back, but what they didn't think of was when the first floor went over a foot so did the second floor. This is also what Mr. Buescher would like to see changed. He would like to see each district treated the same, with a wider lot that would not be needed.

Mr. Buescher talked about an open air gradient, which comes off of the side lot. This would be to maintain the airspace on the smaller lots. Mr. Buescher mentioned that there is an argument in his mind as to if an applicant wants to go into the side yard setback, that they should also bring in the second story in a foot, otherwise keep it the same and be at the 5 feet set back. He pointed out with his idea, that it would promote differentiation in design of the structure, again his opinion. He referenced the home on southland, with the second story deck; it was just a high box. They gave them the deck just to split up the elevation. It was an astatic consideration.

Mr. Buescher appreciates all the confusion. It helps to identify what others are possibly thinking as well. He asked the board if they have any objections on these non-conforming lots to try and maintain or increase the ventilation and air space in between structures. Is this a consideration the City should be looking at? Do you only apply this to the 40 foot lots and not the 50 foot lots? Mr. Bittner mentioned it should have to be done everywhere. Mr. Buescher mentioned that a 60 foot lot is conforming. Mr. Sweeney asked if he would propose the second floor setback on a 60 foot lot, if they wanted the side set back at 4 feet. His response was that the best argument or defense the City has is to apply that to all the districts.

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Each applicant would be treated the same. Mr. Moore stated if there was a fire on one of the non-conforming lots and the house had to be torn down; they would be able to rebuild using the existing foundation. Mr. Buescher stated that he disagreed. Mr. Moore stated that they have to meet the minimum square footage, which is 1,056 in district E. Mr. Buescher, disagreed, because when a structure is torn down, you then have the opportunity to adhere to the City Ordinances. This is one of Mr. Buescher's recommendations to have changed. Further discussion continued to take place among the board.

Mr. Baranski asked exactly what Mr. Buescher was showing them. He stated he was defining open air gradients, which is an area that you would not go into. It reduces the second floor on the narrow side of the side yard setback.

Mr. Buescher mentioned that he is all about property rights. He mentioned more about the light and air ventilations and some simple solutions he would suggest. This particular is one that he is trying to address. Mr. Buescher asked the board, if this was something that needed to be addressed. Mr. Bittner suggested leaving alone the side setback at 5 and 15. If he looked at his home, he would be opposed to losing a foot on his upstairs bedroom. Mr. Sweeney agreed to keep it at the 20 feet. It would take away space from the whole upstairs. Mr. Buescher agreed to take this out of the proposed document. The board continued with discussion about side and rear setbacks. They discussed accessory buildings as well. Mr. Buescher plans to propose that an accessory building can be 5 from the rear and 5 from the side. No reason that two sheds can't be 10 feet apart. There was continued discussion among the board on conforming and non-conforming lots for each district.

Mr. Buescher stated that after discussion with the P & Z commission, he has added another column to the proposed plan. This document will allow anyone to look at the schedule and be able to identify where in the ordinance they can find the correct information pertaining to the specific area of need.

Mr. Baranski asked how the districts are established. Mr. Moore stated that there are maps to identify those districts. There is one at the main counter of City Hall, and Mary has one in her office. Desirea Thompson had one in the council chambers to show Mr. Baranski. Mr. Moore stated that the City is waiting on larger map. Mr. Buescher stated that his proposal, once it is adopted will be able to be put on line. This schedule will make it easy for anyone to read and understand.

Mr. Buescher is asking that they totally omit 1252.07 (a) (b). They spoke of the lots sizes and them being contiguous. This was exactly what they were trying to get Mr. Kaim to do.

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Mr. Buescher asked Mr. Moore if we had any 30 foot lots, and his response was that there was one on Hickory.

Mr. Buescher wants to recommend that any lot less than 40 feet can't be built on, only for use of adjacent property owners.

Mr. Baranski asked how many open lots are currently buildable. Mr. Moore stated that people are buying up lots and tearing down the old cottages and building new homes. There was further discussion on the document that was presented, and the clarification of the document, making it easy for anyone to read and understand what they can and cannot do.

Mr. Buescher will be adding examples from Euclid and Willoughby, for example lots that are 100 feet are difficult to follow front and rear setbacks of 40. Willoughby has a lesser of 30 percent of lot depth. If a resident has a 125 lot depth it would come down to just a little over 40 feet. His proposal would come in to action if it was under the 125 lot depth. If you had 100 feet, it would 33 percent. No question asked, no variance would be needed with the added language to the ordinance. In no event shall the rear yard be less than half the height of the building. The reason would be they would not want a two story colonial being 8 feet from the property line. The typical two story colonial would be 26 feet high. It can't be less than 13 feet. Mr. Buescher added that Willoughby has language that where a side yard has a driveway, it cannot be less than 9 feet. This would be if there was a rear yard garage. This is just another circumstance in which to look at.

Mr. Buescher stated that he got feedback from P & Z and then the discussion from this board, his intent is to then go to the ordinance committee with what he has come up with. Give it to everyone for review and consideration. His intent is to make it clear enough with the two schedules between illustrations and the references, which reflect the ordinances. He would also like to re define the word structure. Discussion among the board about overhangs, and then the 30 percent of usable yard space took place. He talked about his uncle and how he wants him to put a master suite off the back of his house. If the he considers the deck, then that would put him over the 30 percent allowed, which Mr. Moore said we do consider. Mr. Buescher asked if the only authority to regulate is for the health and safety, light and ventilation. He would argue that a low deck is no different than a concrete driveway. A fire crew could get back there just as fast. The concept of a structure should be from a person physically sawing wood and putting in together to in the context of obstructing light air and ventilation and or obstructing safety services. For example and above ground pool should be considered as part of the 30 percent coverage, especially with a deck attached.

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An in ground pool, in my opinion would allow for safety vehicles to access the back yard easier than if they had an above ground pool to go around. Mr. Bittner disagreed, that he thought they are the same. You still have to go around them.

There was continued discussion about decks, structures and fences. What should be considered a structure under the 30 percent coverage allowed? Mr. Buescher stated again this was another area, he would like to address. If there is anything that you don't like, it can certainly be addressed per issue as defined in his proposal.

Mr. Moore stated Planning and Zoning will vote to give it to Council, and then Council will decide what to do with it at that time. The proposed changes will also be reviewed by the Law Director.

A MOTION by Mr. Buescher to adjourn and a second by Mr. Baranski.

ROLL CALL: Mr. Bittner
Mr. Buescher
Mr. Sweeney
Mr. May-absent
Mr. Baranski

MOTION CARRIED 4/0

APPROVED

10/15/18

Date



Chairman

ATTEST



Board of Zoning Appeals Clerk