

2015 ZONING ORDINANCE

Commissioners' Meeting

September 18, 2015

Mayor Sam Cooper

Why Was This Ordinance Passed?

This ordinance was passed on July 17, 2015 after many residents called on the city to do something about the problems of noise, pools, congestion on residential streets and new houses that are out of character with the neighborhoods in which they were built. The Mayor and Commissioners first began discussion of these issues at a joint meeting with the Planning Commission on September 12, 2014.

Following that initial meeting there were 18 regular and special meetings of the Mayor and Commissioners to develop solutions to the multiple issues presented. The Mayor and Commissioners received several hundred letters and emails regarding these issues.

What Does This Ordinance Do?

This ordinance tweaks the zoning code in response to changes occurring in the character of the residential neighborhoods of the city. Neighborhoods are being transformed with the demolition of modest cottages to make way for houses that stretch the zoning code to its limit.

In the past houses were built “within” the zoning code. Lately nearly all houses are being built “to” the zoning code.

What's Included?

- In the R-1 and R-2 districts, change from 50% to 40% the maximum percentage of a lot permitted to be covered by buildings and structures.
- In the R-1 and R-2 districts, change from 40% to 50% the minimum percentage of a lot that must remain as natural area.
- In all residential districts, add the requirement that 50% of the front yard setback remain as natural area.
- In the R-1 and R-2 districts, reduce the Floor Area Ratio from 0.60 to 0.50 if the property incorporates a swimming pool.

- In the R-1 and R-2 districts, reduce the Floor Area Ratio from 0.60 to 0.30 for the gross lot area in excess of the first 5,000 square feet.
- In the R-1 and R-2 districts, limit the maximum dwelling size to 4,500 square feet and 6,000 square feet in the R-1(S) district.
- In the R-1 and R-2 districts, change the rear yard setback from 10 to 15 feet.
- In the R-1 and R-2 districts, permit accessory structures to encroach into the rear yard and one side yard to within 4 feet of the property line.

What's Not Included?

This ordinance:

- Does not change the requirements for off-street parking.
- Does not prohibit the construction of porches.
- Does not mandate the construction of big boxes.
- Does not make every existing house nonconforming or prevent houses from being remodeled or expanded.
- Does not change the fact that a nonconforming house can be replaced in-kind if damaged or destroyed by an act of God.

A LOOK AT THE CHANGES

Why Change Lot Coverage?

The zoning code permits up to 50% of the area of lots in R-1 and R-2 districts be covered with buildings and structures. This is much more lot coverage than has been typical of our neighborhoods. The increased coverage leads to less light and air and dramatically increases stormwater run off - exacerbating drainage issues in the city.

This ordinance will reduce permitted lot coverage to 40% - more in line with traditional development patterns.

Why Change Natural Area?

The zoning code requires at minimum 40% of the area of lots in R-1 and R-2 districts remain as natural area – covered by grass, trees, mulch and the like. Rehoboth Beach is atypical of ocean resorts because of its many, many trees and other greenery. The opportunity to increase natural area is directly proportional to reducing lot coverage.

This ordinance increases minimum natural area to 50% of the lot area, increasing the opportunity for more and healthier trees. It also ensures more rainfall is infiltrated into the ground thereby reducing runoff to our lakes and ocean.

Why Require Front Yard Natural Area?

Currently the zoning code does not require any of the front yard setback area remain as a natural area. The entire front yard could be paved over or covered with other impervious surfaces.

This ordinance requires that a minimum 50% of the front yard setback area remain as a natural area, ensuring that properties contribute to the esthetics of the streetscape and fit with the character of the neighborhood.

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Why Change FAR for a Swimming Pool?

Currently a swimming pool counts toward lot coverage but is not used in the calculation of Floor Area Ratio (FAR). Over the last year of investigation it became clear that a swimming pool adds to the intensity of use of properties and often the noise carrying over into neighboring homes. This intensity of use however is not reflected in the FAR. In ground pools, because of their deep excavation, negatively impact existing and potential trees.

To mitigate these impacts, this ordinance will reduce the FAR from 0.60 to 0.50 for lots in R-1 and R-2 districts that incorporate a swimming pool.

Why Change FAR for Large Lots?

Currently Floor Area Ratio (FAR) is totally proportional to lot area. The majority of lots in the city are 50 x 100 feet or 5,000 square feet. There are a number of larger lots: some wider, some deeper and a few wider and deeper. A house built to the maximum on a large lot can overwhelm its neighbors and/or neighborhood.

This ordinance, in the R-1 and R-2 districts, maintains the FAR at 0.60 for the first 5,000 square feet of a lot but decreases it to 0.30 for the square footage in excess of 5,000 square feet.

Why Limit the Total Size of a Dwelling?

Overly large houses overwhelm their neighbors, are out of place in Rehoboth and detract from the rhythm of neighborhoods. Henlopen Acres, with much larger lots, limits houses to 6,000 square feet.

This ordinance will limit the total floor area of a dwelling in R-1 and R-2 districts to 4,500 square feet and to 6,000 square feet in the R-1(S) district.

Why Change the Rear Yard Setback?

The zoning code requires a rear yard setback at least 10 feet in depth in R-1 and R-2 districts. This was determined to provide an inadequate separation to ensure light and air can reach all homes and yards, and contributes to noise from one property carrying to another. The 10 foot setbacks are not in keeping with good planning practices.

This ordinance will increase the rear yard setback to a minimum of 15 feet in depth in R-1 and R-2 districts.

Why Change Encroachment of Accessory Structures?

Currently the zoning code permits an accessory structure to encroach into one side yard or the rear yard up to the property line. The wall on the property line must be of masonry and the adjoining property owner must give consent. This has seldom been used and is awkward.

This ordinance will allow an accessory structure to encroach into both the rear setback, and one side yard setback but no closer than 4 feet to the property lines.

Conclusion

The city's residential neighborhoods are being redeveloped at a fairly rapid rate. Without exception the new construction is larger and covers more of the lot than what is being removed. Many of the provisions of the zoning code are not adequately protecting the character of our neighborhoods.

It is not realistic to expect that we can freeze Rehoboth in time, nor do we want to, but we can take reasonable and measured steps to sustain what makes us so special. This zoning ordinance was carefully drafted in response to citizen requests to help preserve our character while allowing for flexibility of design.