# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949
Phone 252-261-2394 / Fax 252-255-0876
www.southernshores-nc.gov


MEETING MINUTES
PLANNING BOARD-MAY 17, 2021, 5:30 P.M.
LOCATION: PITTS CENTER-5377 N VIRGINIA DARE TRAIL, SOUTHERN SHORES, NC 27949

## I. CALL TO ORDER:

Chairperson Andy Ward called the meeting to order at 5:30 pm. Planning Board Members Lynda Burek, Ed Lawler, alternate member Jan Collins, Tony DiBernardo (Vice Chairperson), Andy Ward (Chairperson), John Finelli (ETJ representative), Deputy Town Manager/Planning Director Wes Haskett, and Town Clerk Sheila Kane were present.

## II. PLEDGE OF ALLEGIANCE:

Chairperson Ward led the Pledge of Allegiance.

## III. APROVAL OF MINUTES

Vice Chairperson DiBernardo motioned to approve the minutes of the March 15, 2021 Planning Board meeting as corrected. Planning Board Member Burek seconded the motion. The motion passed unanimously (5-0).

## IV. APPROVAL OF AGENDA:

Planning Board Member Lawler motioned to approve the agenda. Vice Chairperson DiBernardo seconded the motion. The motion passed unanimously (5-0).

## V. PUBLIC COMMENT:

None

## VI. OLD BUSINESS

ZTA-21-02, EAVES & TEMPORARY HEALTHCARE STRUCTURES

**Amendment of the Town Zoning Ordinance by amending Section 36-57, Definition of Specific Terms and Words and Section 36-168, Temporary Uses.**

At the March 2, 2021 Town Council meeting, the Town Council instructed Town Staff to take valuable elements out of the adoption draft of the Town Code Update written by CodeWright for review by the Planning Board and the Town Council for future consideration. The proposed amendments to Section 36-57, Definition of Specific Terms and Words are a result of direction from the Planning Board at the March 15, 2021 Planning Board meeting. The proposed amendments allow the outermost three feet of eaves to encroach yard (setback) requirements on all sides of a structure instead of only from the building setback line. The proposed

amendments to Section 36-168, Temporary Uses are a result of State Law changes from S.L. 2014-94 which establishes temporary health care structures as permitted accessory uses in any single-family residential zoning district on lots zoned for single-family detached dwellings. At the April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of the ZTA with amendments to the Town Council. At the May 4, 2021 Town Council meeting, Town Staff requested Council to table consideration of the ZTA so that the Town Attorney could review and comment on it. A revised ZTA-21-02 is anticipated and will be provided once complete. The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- Policy 2: The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

Chairperson Ward asked how the Planning Board felt about extended eaves in the setback?

Vice Chair DiBernardo stated in his research he found most hurricane prone areas have a maximum eave of 20 inches and asked what the thought process behind the 3 feet was.

Mark Martin (builder/resident in audience) asked to speak. He stated that 16–24-inch eaves are typical and if you go out beyond 3 feet it must be engineered to carry that force. Less overhang equals more rot on your house. Mr. Martin also stated that the reduced eave amount in other areas could also be due to the size of the lots.

Chairperson Ward stated the most concerning are the eaves on 50 ft. lots, especially when they receive a variance for 12 ft setbacks.

Vice Chair DiBernardo stated lot size could be tied in with the eave size calculation.

Planning Board Member Collins (Alternate) suggested the eaves could count against a certain amount of lot coverage.

Planning Board Member Lawler stated if the eaves are for stormwater runoff, then why are the eaves only counted on the front of the house and not the sides.

Planning Board Member (ETJ) Finelli stated if you want to have different standards, he suggested basing it on the lot width, rather than lot size.

Chairperson Ward stated the number of nonconforming lots coming forward to build on are minimal. There are not many 50 ft side by side lots left and creating different standards may "*muddy the water*" with what the board is trying to achieve; a reasonable compromise for how the building corners sit on the ground and the eave contributes to lot coverage.

**MOTION** made by Vice Chairperson DiBernardo to approve ZTA-21-02 to allow the outermost three feet of eaves to encroach yard (setback) requirements on all sides of a structure instead of

only from the building setback line, as established in part one of ZTA-21-02, Seconded by Planning Board Member Burek.

Planning Board Member Burek asked if this approval would hamper any applications current in process?

Vice Chairperson DiBernardo **amended his motion** to include date of adoption, Seconded by Planning Board Member Burek. Motion passed unanimously (5-0).
[Clerk's Note: Planning Board ETJ Representative John Finelli was in attendance and voted "aye"; including this vote is unanimous 6-0]

Chairperson Ward stated the Town Attorney is still reviewing the temporary healthcare structure section and by **CONSENSUS**, the Planning Board tabled the temporary healthcare structure section.

## VII. NEW BUSINESS

### 279 HILLCREST DR. PRELIMINARY SUBDIVISION PLAT

Requested Action: Approval of Preliminary Subdivision Plat for 279 Hillcrest Dr.
PIN #: 986813240382
Location: 279 Hillcrest Dr.
Zoning: RS-1, Single-Family Residential District
Existing Land Use: "Residential"
Surrounding Land Use & Zoning:
- North- Residential; RS-1, Single-Family Residential District
- South- Residential; RS-1, Single-Family Residential District
- East- Residential; RS-1, Single-Family Residential District
- West- Residential; RS-1, Single-Family Residential District

Physical Characteristics: Developed
Applicable Regulations: Chapter 30, Subdivisions: All Articles; Town Zoning Ordinance: Article III, Interpretation and Definition of Terms; Article IV, Application of Regulations; Article VII, Schedule of District Regulations.

The Town's Subdivision Ordinance establishes a review process for subdivisions that requires Planning Board review and recommendations on all preliminary and final subdivision plats (except for exempted subdivisions). The applicant is requesting to subdivide the lot located at 279 Hillcrest Dr. into two new lots. The existing single-family dwelling and other improvements currently situated at 279 Hillcrest Dr. are proposed to be located on new Lot 4A with a lot size of 65,393 sq. ft. and the remaining property is proposed to be located on new Lot 4B with a lot size of 34,720.3 sq. ft. Both lots as proposed meet the Town's minimum lot size requirement of 20,000 sq. ft. and lot width of 100 ft. Both lots also meet the Town's frontage requirement by providing at least 30 ft. of frontage that abuts a public right-of-way or easement. With respect to access, a minimum pavement width of 16 ft. and a minimum 20 ft. turnaround area should be provided.

Town Staff recommends approval of the preliminary plat with the condition that the final plat shall show an improved access with a minimum pavement width of 16ft. and a 20 ft. turnaround area.

Chairperson Ward stated the email received form the Town Attorney in 2011 stated the proposed subdivision would be approvable. Mr. Ward stated a concern that the access easement could potentially become a public street.

Planning Board Member Lawler inquired if this was a flag lot, to which Planning Director Haskett informed him that it was not.

Chairperson Ward inquired if the owner could put a big addition to the front. Planning Director Haskett stated the front setback remains the same.

Chairperson Ward stated a condition would need to be placed on the side setback along the easement, rather than a setback from the property line.

Planning Board Member Collins (Alternate) questioned if a fire truck would be able to access and turn around. Planning Director Haskett stated the Fire Chief has not had a chance to review the preliminary plat but that could be a condition. He further stated the category of street this would be considered is a cul-de-sac/dead end street, which the 16-foot pavement width and 20-foot turn are consistent.

Planning Board Member Lawler agreed that it must be built to fire department standards.

The responsibility and ownership of the easement was questioned by several board members. Planning Director Haskett stated a condition could be placed that the owner(s) must be responsible for maintenance. It would still be considered a "public easement".

Vice Chair DiBernardo stated the Town of Duck has some private streets which maintenance responsibility is placed on the homeowners.

Chairperson Ward stated it is essentially just a long driveway and the Town should not be responsible. Lot 4A and 4B can figure out among themselves who takes responsibility.

**MOTION** made by Vice Chairperson DiBernardo to approve PSP-21-01 with the following conditions:

1. An improved access should be installed with a minimum pavement width of 16 feet and a minimum 20-foot turnaround area in accordance with section 30-76.1 and subject to approval by SSVFD.
2. The public easement specifics including maintenance shall be shown on the final plat or in a separate document to be recorded.
3. Add a fifteen-foot side setback along the easement and turn around area.
4. Maintenance of the easement area shall be the responsibility of the property owner(s).

Seconded by Planning Board member Burek. Motion passed unanimously (5-0).

ZTA-21-05, PROHIBITED USES

Amendment of the Town Zoning Ordinance by amending Section 36-89, Use, Occupancy and Construction

Planning Director Wes Haskett stated this is a housekeeping item and provided the agenda summary.

At the April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of ZTA-21-04 (Prohibited Uses) with amendments to the Town Council. At the May 4, 2021 Town Council meeting, the Town Council unanimously adopted ZTA-21-04. Following Council adoption, Town Staff determined that Section 36-89 should be amended so that permitted, conditional, and prohibited uses can be found in Article VII, Schedule of District Regulations and to remove the requirement that any use not specifically designated as a permitted or conditional use shall be deemed to be prohibited.

The Town's currently adopted Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- Policy 2: The community values and the Town will continue to comply with the founder's original vision for Southern Shores: a low-density residential community comprised of single-family dwellings on large lots (served by a small commercial district for convenience shopping and services located at the southern end of the Town. This blueprint for land use naturally protects environmental resources and fragile areas by limiting development and growth.

**MOTION** made by Planning Board Member Collins (Alternate) to approve ZTA-21-05 as written, Seconded by Planning Board Member Burek. Motion passed unanimously (5-0).
[Clerk's Note: Planning Board ETJ Representative John Finelli was in attendance and voted "aye"; including this vote is unanimous 6-0]

## VIII. Public Comment

None

## IX. Planning Board Member Comments

None

## X. Announcements

Planning Director Wes Haskett stated the next meeting is June 21st at 5:30 PM and the agenda will include consideration of the revised Temporary Healthcare Structures.

## XI. Adjourn

**MOTION** made by Vice Chairperson DiBernardo to adjourn, Seconded by Chairperson Ward. Motion passed unanimously (5-0). The time was 6:53 P.M.

ATTEST:

Andy Ward, Chairperson

TOWN OF SOUTHERN SHORES SEAL NC

Respectfully submitted,

Sheila Kane, Town Clerk