



# Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

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[www.southernshores-nc.gov](http://www.southernshores-nc.gov)

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## 10 MEETING MINUTES

11 PLANNING BOARD-MAY 17, 2021, 5:30 P.M.

12 LOCATION: PITTS CENTER-5377 N VIRGINIA DARE TRAIL, SOUTHERN SHORES, NC 27949

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### 15 I. CALL TO ORDER:

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

20

### 21 II. PLEDGE OF ALLEGIANCE:

22 Chairperson Ward led the Pledge of Allegiance.

23

### 24 III. APPROVAL OF MINUTES

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

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### 29 IV. APPROVAL OF AGENDA:

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

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### 33 V. PUBLIC COMMENT:

34 None

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### 36 VI. OLD BUSINESS

#### 37 ZTA-21-02, EAVES & TEMPORARY HEALTHCARE STRUCTURES

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

40

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

48 amendments to Section 36-168, Temporary Uses are a result of State Law changes from S.L.  
49 2014-94 which establishes temporary health care structures as permitted accessory uses in any  
50 single-family residential zoning district on lots zoned for single-family detached dwellings. At the  
51 April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of the  
52 ZTA with amendments to the Town Council. At the May 4, 2021 Town Council meeting, Town  
53 Staff requested Council to table consideration of the ZTA so that the Town Attorney could review  
54 and comment on it. A revised ZTA-21-02 is anticipated and will be provided once complete.  
55 The Town's currently adopted Land Use Plan contains the following Policy that is applicable to  
56 the proposed ZTA:

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

63  
64 Chairperson Ward asked how the Planning Board felt about extended eaves in the setback?

65  
66 Vice Chair DiBernardo stated in his research he found most hurricane prone areas have a  
67 maximum eave of 20 inches and asked what the thought process behind the 3 feet was.

68  
69 Mark Martin (builder/resident in audience) asked to speak. He stated that 16–24-inch eaves are  
70 typical and if you go out beyond 3 feet it must be engineered to carry that force. Less overhang  
71 equals more rot on your house. Mr. Martin also stated that the reduced eave amount in other  
72 areas could also be due to the size of the lots.

73  
74 Chairperson Ward stated the most concerning are the eaves on 50 ft. lots, especially when they  
75 receive a variance for 12 ft setbacks.

76  
77 Vice Chair DiBernardo stated lot size could be tied in with the eave size calculation.

78  
79 Planning Board Member Collins (Alternate) suggested the eaves could count against a certain  
80 amount of lot coverage.

81  
82 Planning Board Member Lawler stated if the eaves are for stormwater runoff, then why are the  
83 eaves only counted on the front of the house and not the sides.

84  
85 Planning Board Member (ETJ) Finelli stated if you want to have different standards, he suggested  
86 basing it on the lot width, rather than lot size.

87  
88 Chairperson Ward stated the number of nonconforming lots coming forward to build on are  
89 minimal. There are not many 50 ft side by side lots left and creating different standards may  
90 "muddy the water" with what the board is trying to achieve; a reasonable compromise for how  
91 the building corners sit on the ground and the eave contributes to lot coverage.

92  
93 **MOTION** made by Vice Chairperson DiBernardo to approve ZTA-21-02 to allow the outermost  
94 three feet of eaves to encroach yard (setback) requirements on all sides of a structure instead of

95 only from the building setback line, as established in part one of ZTA-21-02, Seconded by  
96 Planning Board Member Burek.  
97  
98 Planning Board Member Burek asked if this approval would hamper any applications current in  
99 process?  
100  
101 Vice Chairperson DiBernardo **amended his motion** to include date of adoption, Seconded by  
102 Planning Board Member Burek. Motion passed unanimously (5-0).  
103 [Clerk’s Note: Planning Board ETJ Representative John Finelli was in attendance and voted “aye”;  
104 including this vote is unanimous 6-0]  
105  
106 Chairperson Ward stated the Town Attorney is still reviewing the temporary healthcare structure  
107 section and by **CONSENSUS**, the Planning Board tabled the temporary healthcare structure  
108 section.  
109  
110  
111 **VII. NEW BUSINESS**  
112 **279 HILLCREST DR. PRELIMINARY SUBDIVISION PLAT**  
113 Requested Action: Approval of Preliminary Subdivision Plat for 279 Hillcrest Dr.  
114 PIN #: 986813240382  
115 Location: 279 Hillcrest Dr.  
116 Zoning: RS-1, Single-Family Residential District  
117 Existing Land Use: “Residential”  
118 Surrounding Land Use & Zoning:  
119 North- Residential; RS-1, Single-Family Residential District  
120 South- Residential; RS-1, Single-Family Residential District  
121 East- Residential; RS-1, Single-Family Residential District  
122 West- Residential; RS-1, Single-Family Residential District  
123 Physical Characteristics: Developed  
124 Applicable Regulations: Chapter 30, Subdivisions: All Articles; Town Zoning Ordinance: Article III,  
125 Interpretation and Definition of Terms; Article IV, Application of Regulations; Article VII, Schedule  
126 of District Regulations.  
127  
128 The Town’s Subdivision Ordinance establishes a review process for subdivisions that requires  
129 Planning Board review and recommendations on all preliminary and final subdivision plats  
130 (except for exempted subdivisions). The applicant is requesting to subdivide the lot located at  
131 279 Hillcrest Dr. into two new lots. The existing single-family dwelling and other improvements  
132 currently situated at 279 Hillcrest Dr. are proposed to be located on new Lot 4A with a lot size of  
133 65,393 sq. ft. and the remaining property is proposed to be located on new Lot 4B with a lot size  
134 of 34,720.3 sq. ft. Both lots as proposed meet the Town’s minimum lot size requirement of  
135 20,000 sq. ft. and lot width of 100 ft. Both lots also meet the Town’s frontage requirement by  
136 providing at least 30 ft. of frontage that abuts a public right-of-way or easement. With respect to  
137 access, a minimum pavement width of 16 ft. and a minimum 20 ft. turnaround area should be  
138 provided.  
139  
140 Town Staff recommends approval of the preliminary plat with the condition that the final plat  
141 shall show an improved access with a minimum pavement width of 16ft. and a 20 ft. turnaround  
142 area.

143  
144 Chairperson Ward stated the email received from the Town Attorney in 2011 stated the  
145 proposed subdivision would be approvable. Mr. Ward stated a concern that the access easement  
146 could potentially become a public street.

147  
148 Planning Board Member Lawler inquired if this was a flag lot, to which Planning Director Haskett  
149 informed him that it was not.

150  
151 Chairperson Ward inquired if the owner could put a big addition to the front. Planning Director  
152 Haskett stated the front setback remains the same.

153  
154 Chairperson Ward stated a condition would need to be placed on the side setback along the  
155 easement, rather than a setback from the property line.

156  
157 Planning Board Member Collins (Alternate) questioned if a fire truck would be able to access and  
158 turn around. Planning Director Haskett stated the Fire Chief has not had a chance to review the  
159 preliminary plat but that could be a condition. He further stated the category of street this would  
160 be considered is a cul-de-sac/dead end street, which the 16-foot pavement width and 20-foot  
161 turn are consistent.

162  
163 Planning Board Member Lawler agreed that it must be built to fire department standards.

164  
165 The responsibility and ownership of the easement was questioned by several board members.  
166 Planning Director Haskett stated a condition could be placed that the owner(s) must be  
167 responsible for maintenance. It would still be considered a "public easement".

168  
169 Vice Chair DiBernardo stated the Town of Duck has some private streets which maintenance  
170 responsibility is placed on the homeowners.

171  
172 Chairperson Ward stated it is essentially just a long driveway and the Town should not be  
173 responsible. Lot 4A and 4B can figure out among themselves who takes responsibility.

174  
175 **MOTION** made by Vice Chairperson DiBernardo to approve PSP-21-01 with the following  
176 conditions:

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

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

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191 **ZTA-21-05, PROHIBITED USES**

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

194  
195 Planning Director Wes Haskett stated this is a housekeeping item and provided the agenda  
196 summary.

197  
198 At the April 19, 2021 Planning Board meeting, the Board unanimously recommended approval of  
199 ZTA-21-04 (Prohibited Uses) with amendments to the Town Council. At the May 4, 2021 Town  
200 Council meeting, the Town Council unanimously adopted ZTA-21-04. Following Council adoption,  
201 Town Staff determined that Section 36-89 should be amended so that permitted, conditional,  
202 and prohibited uses can be found in Article VII, Schedule of District Regulations and to remove  
203 the requirement that any use not specifically designated as a permitted or conditional use shall  
204 be deemed to be prohibited.

205  
206 The Town’s currently adopted Land Use Plan contains the following Policy that is applicable to  
207 the proposed ZTA:

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

214  
215 **MOTION** made by Planning Board Member Collins (Alternate) to approve ZTA-21-05 as written,  
216 Seconded by Planning Board Member Burek. Motion passed unanimously (5-0).  
217 [Clerk’s Note: Planning Board ETJ Representative John Finelli was in attendance and voted “aye”;  
218 including this vote is unanimous 6-0]

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221 **VIII. Public Comment**

222 None

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225 **IX. Planning Board Member Comments**

226 None

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229 **X. Announcements**

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

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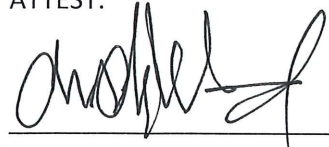
234 **XI. Adjourn**

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

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ATTEST:

  
Andy Ward, Chairperson



Respectfully submitted,

  
Sheila Kane, Town Clerk