

FINAL



Town of Southern Shores

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

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Planning Board Meeting

November 18, 2019

5:30 p.m., Pitts Center

MEETING MINUTES

I. CALL TO ORDER:

Chairperson Morey called the meeting to order at 5:30 p.m. Planning Board Members Ed Lawler, David Neal, Don Sowder, John Finelli and Andy Ward were present.

II. PLEDGE OF ALLEGIANCE:

Chairperson Morey led the Pledge of Allegiance.

III. APPROVAL OF AGENDA:

Andy Ward made a motion to approve the agenda. Don Sowder seconded the motion. The motion passed unanimously (6-0).

IV. APPROVAL OF MINUTES:

Chairperson Morey made the Board aware of changes made by Dabni Shelton at the request of Elizabeth Morey and John Finelli. David Neal made a motion to approve the minutes with changes. Andy Ward seconded the motion. The motion passed unanimously (6-0).

V. PUBLIC COMMENT:

Tony DiBernardo – 32 Ninth Avenue – Thanked Elizabeth Morey for her service as Planning Board member. He commented about remaining lots within town that are not able to be built upon without retaining walls. Asked the board to consider what is discussed that would not prevent lots from becoming buildable.

Doug Boulter – 5 Ocean View Loop – He provided pictures of retaining walls in Europe used as art which are walls used as a decorative feature. With fewer buildable lots in town, he is hoping that lots will not be built upon using retaining walls that would have neighbors and builders set against each other.

Mark Martin – 191 Wax Myrtle Trail – Thanked Elizabeth Morey for her service and great job on the Planning Board. Over the past 20 years building since he has been building here, he is aware of at least four different occasions where designs were made to lots with a “hole” on the lot and his construction company designed a four foot retaining wall to flatten the lot for a buildable area and also to retain stormwater runoff. Depending on what is adopted, these walls could become nonconforming and problematic if they need to be rebuilt or repaired.

VI. OLD BUSINESS:

A. Discussion of the Town's current height requirements for banks.

Planning Director, Wes Haskett referenced the current definition in the Town Code of Ordinances for retaining walls before the discussion of height requirements for banks.

Chairperson Morey acknowledged that the discussion of retaining walls was appropriate at that time based on the public comments related to retaining walls.

B. Discussion of the Town's current requirements for retaining walls.

Chairperson Morey, asked about a lot in town currently with a new bulkhead and asked if there is a height limit and difference between a bulkhead built on the canal and a retaining wall.

Wes Haskett stated that he considered a bulkhead on the canal to be separate from a retaining wall. It is a different type of accessory structure.

Chairperson Morey asked if there was a height limit for a bulkhead on the canal.

Wes Haskett answered that the town code does not limit the height and he was not aware that CAMA regulated height on bulkheads. The building code would regulate the height of such structures.

David Neal commented that a bulkhead sometimes needed to be higher in height to get above the water and was not the same as retaining walls.

Andy Ward asked if the bulkhead in question was like others on the canal and Wes Haskett confirmed to his knowledge that it was. Andy Ward further asked if you could build a bulkhead and go back and build an adjacent wall. Wes Haskett answered that you could and that there are other instances where retaining walls have been terraced in elevations.

Chairperson Morey stated that Mr. Boulter has not presented the Board with an example of a retaining wall in town that is a problem. The only one discussed in previous meetings was in Martins Point that was brought to the Boards attention by John Finelli.

Andy Ward asked Wes Haskett why ten foot high retaining walls/fences are required for commercial properties. Wes Haskett answered that it is common in other jurisdictions to require the higher height for commercial properties especially adjacent to residential properties.

Chairperson Morey asked if that was to create a barrier between residential and commercial properties. Wes Haskett concurred.

Don Sowder reiterated from the October board meeting that he does not see a problem in town with six foot high fences and retaining walls in residential districts and that the problem is that the majority of remaining lots in town are not flat and in order to build they will require a lot of ingenuity in building and it may require retaining walls.

Chairperson Morey asked Wes Haskett if when reviewing a site plan for retaining walls does he take in to account adjoining property owners in terms of aesthetics or effect on their properties.

Wes Haskett responded that there is nothing in the code that says he should be doing that however; he reviews site plans to confirm that they're no greater than six feet in height and within all property lines. If there were standards for aesthetics, he would consider them however at this time he cannot legally enforce them.

Andy Ward stated that he has a six foot high retaining wall approximately thirty feet from the canal and a railing for safety. If the fence were right on the property line he feels it presents a difference. He asked if there was an instance of a pool fence and a retaining on top.

After discussion, Wes was not aware of a fence on top of a pool fence exceeding the maximum height. The fence height is measured from the outside of the fence.

Andy Ward said that he doesn't think that neighbors want to see nine foot high fences towards their properties.

David Neal asked Wes Haskett if you have a lot with a hill, can you push it down to the edge of your lot and build a six foot high retaining wall and if there is a slope to maintain.

Wes Haskett replied that yes, the ordinance requires a 3:1 slope in the side and rear setback areas.

John Finelli commented that he had never seen a slope like that on a lot.

Andy Ward referenced a newly constructed house on Woodland Drive with a 3:1 slope in the setbacks and then a retaining wall. Wes Haskett concurred that he inspected the site that it met the 3:1 slope requirement.

Chairperson Morey clarified that in that case the 3:1 slope is from the property line then the retaining wall begins.

John Finelli commented that other towns have a 24inch limit on retaining walls with backfill and he thinks six feet is a little much.

Chairperson Morey opened Public Comment

Matt Neal – 163 Wax Myrtle Trail – When you have a 3:1 slope to property lines you either have a slope or a retaining wall for stabilization. In his opinion he stated there's really no difference between a six foot high fence or six foot high retaining wall at the property lines. Aesthetically, they look the same. And he added that a lot of the time in this day and age you are not retaining your soil you are retaining your neighbors' lot which is higher. The retaining wall is in lieu of the 3:1 slope.

David Neal asked if about the lot on Woodland Drive and if they could of built the retaining wall to the property line. Wes Haskett answered that at the time of construction they could have built the retaining wall to the property line.

Chairperson Morey stated that based on the discussion, she was not inclined to recommend changes to Council at this time regarding retaining walls and suggested the Board gather more input in future meetings.

A. Discussion of Town's current height requirements for banks.

Wes Haskett explained the email correspondence in the Board packets between him and the Town Attorney addressing nonconforming structures, specifically Towne Bank with a cupola that is well above the 35 foot height as it was formally permitted. At the last Council meeting on November 6th, the Council approved ZTA-19-01 as recommended by the Board and they adopted everything except for the height requirement for cupolas and watch towers for banks and that means they are no longer allowed. The email from Mr. Gallop basically states that the Towne Bank cupola is allowed to remain as is and should there be a natural disaster it could be rebuilt in the same footprint and most likely with a similar height cupola. However, no other banks can exceed the height requirement and they would have to adhere to the 35 foot maximum height requirement as it is town wide. Also, if the Towne Bank went out of business and another use was proposed, the structure would be able to remain as is. Only in the event that it was destroyed by a non-man made disaster or damage and more than 50% would they be required to be compliant with current code when rebuilt.

Andy Ward commented that Mr. Gallop's email answered his questions about nonconforming.

Wes Haskett further explained that the Towne Bank was approved with the cupola and is legally nonconforming and Town Council's decision has made exceeding the maximum 35 foot height no longer allowed in Town by other banks.

Chairperson Morey stated that her recollection was that the Board did not want the height above 35 feet and that this took care of their concerns.

Wes Haskett concurred that Council's decision was what the Board was wanting to address.

VII. NEW BUSINESS:

None

VIII. PUBLIC COMMENT:

Doug Boulter – 5 Ocean View Loop – He referenced on the internet in the engineering community that the height of a wall normally includes the footing and he thinks that the town should be careful to take the building code into account when requiring a footing and retaining wall. He is concerned about the flat surface on a retaining wall and the engineering for future use. Not having a setback to the neighbor does not allow for maintenance on that side. He thinks guardrails are necessary on top of a retaining wall.

IX. PLANNING BOARD MEMBER COMMENTS:

Planning Board member Ed Lawler asked the difference between a deck over three feet and a retaining wall over three feet and the requirement for railings.

Doug Boulter asked to comment on Mr. Lawler's question. Mr. Boulter stated that the former building codes addressed guardrails in that context. No additional explanation was given.

X. ANNOUNCEMENTS:

Wes stated that at this time there are no current agenda items for the December meeting other than the approval of the 2020 meeting schedule which can be pushed back to January 2020. No applications have been received at this point and he cannot recall any other ZTA's at this time that have been previously discussed.

Chairperson Morey recommended not having a December meeting and asked if there were any objections from other Board members. All agreed for the next scheduled meeting to be in January 2020. Wes Haskett commented that since the regular meeting date in January is a holiday, the meeting would be on the following Tuesday.

Andy Ward asked property owner Mr. Burden if he was satisfied with the actions by this Board related to his situation. He said he is following what he was told to do at this point and thanked the Board for their efforts.

XI. ADJOURNMENT:

Don Sowder made a motion to adjourn. Andy Ward seconded the motion and the meeting adjourned at 6:18 p.m.

ATTEST:

RESPECTFULLY SUBMITTED:

Elizabeth Morey, Chairperson

Dabni Shelton, Permit Officer