



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

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MEETING MINUTES

PLANNING BOARD-FEBRUARY 22, 2022, 5:00 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 5:00 pm. Planning Board Members Lynda Burek, Ed Lawler, Robert McClendon, Richard Galganski (alternate), Andy Ward (Chairperson), and Deputy Town Manager/Planning Director Wes Haskett were present.

ABSENT: Tony DiBernardo (Vice Chairperson),

II. PLEDGE OF ALLEGIANCE:

Chairperson Ward led the Pledge of Allegiance.

III. APPROVAL OF AGENDA:

Planning Board Member Lawler moved to approve the agenda as presented, Seconded by Planning Board Member Burek. The motion passed unanimously (5-0).

IV. APPROVAL OF MINUTES:

Planning Board Member Lawler moved to approve the minutes of December 20, 2022 and January 18, 2022 as amended, Seconded by Planning Board Member Galganski. The motion passed unanimously (5-0).

V. PUBLIC COMMENT

Sally Gudus: The Southern Shores Historic Flat Top Cottage Tour will be held on Saturday, April 30th, 2022 from 1:00 PM to 5:00 PM. The fifth such tour of these historic flat tops in the Town of Southern Shores, proceeds will again benefit the Flat Top Preservation Fund of the Outer Banks Community Foundation. \$10 tickets (2 for \$15) will be available on the day of the tour from 1 PM – 5 PM. Tickets will be sold the day of the tour beginning at 1 PM at 156 Wax Myrtle Trail and at the Outer Banks Community Foundation at 13 Skyline Road. Tickets cover admission to all 12 homes on the tour.

VI. OLD BUSINESS

None

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VII. New Business

Amendment of the Town Zoning Ordinance by amending Section 36-202 (d)(6), 36-203 (d)(6), 36-204 (d)(6), 36-205 (d)(6), and 36-206 (d)(6)

The staff report read as, the proposed amendments to Sections 36-202 (d)(6), 36-203 (d)(6), 36-204 (d)(6), 36-205 (d)(6) and 36-206 (d)(6) are being proposed by Town Staff as a result of feedback provided by property owners and contractors regarding the open-slatted deck exemption from lot coverage requirements. Currently, open-slatted decks that allow water to penetrate through to pervious material, not exceeding a total of 25 percent of the total footprint area of the attached single- family dwelling, can be exempted from the maximum lot coverage requirement in the RS-1 zoning district. The exemption is only available to an applicant for a building/zoning permit for a single-family dwelling or attached open-slatted deck over pervious material, upon presentation of a survey with all applicable requirements including plan certification, for a lot disturbance and stormwater management permit as described in subsection 36-171(3).

The exemption only applies to new open-slatted decks in the RS-1 zoning district that allow water to penetrate through to pervious material if an engineered stormwater plan that demonstrates that following construction of the proposed improvements, the property will retain all stormwater generated by a one and one-half inch rain event and will not adversely affect any stormwater management system previously constructed by the Town or on adjacent properties. Since the current exemption became effective, property owners and contractors have voiced concerns about not allowing the same exemption for existing open-slatted decks. In some instances, existing open-slatted decks were demolished and rebuilt in order to qualify for the exemption. The proposed amendments would allow existing decks not exceeding a total of 25% of the total footprint area of a permitted single-family dwelling on the same lot to qualify for the open-slatted deck exemption in all of the Town’s residential zoning districts and the government and institutional district following submittal of an engineered stormwater plan.

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.

RECOMMENDATION

Town Staff has determined that the proposed amendments are consistent with the Town’s currently adopted Land Use Plan and Town Staff recommends approval of the proposed ZTA.

Chairperson Ward reviewed lot coverage history.

- 9/5/2017 ZTA-17-03 (lot coverage) brought to Town Council with a public hearing, failed to move forward with a 3-2 vote.

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- 7/10/2018 ZTA 18-04 brought up to Town Council for consideration. Andy Ward requested the Planning Board be allowed another look; Council agreed.
 - 8/20/2018 Planning Board revised 1st edition of lot coverage which deleted 4 foot eaves, pavers, pools for any exception.
 - 9/5/2018 Town Council passed revised (current) lot coverage ZTA 18-04
 - 3/15/2021 Eaves resurfaced

105 Chairperson Ward reviewed the CodeWright survey results from the question asking if the
106 Town should increase maximum allowable lot coverage. The survey answer was 62% disagreed
107 or strongly disagreed, 30% agreed or strongly agreed to increase it, and 8% were undecided.

108

109 Chairperson Ward then reviewed the definition of lot coverage; Lot coverage means that
110 portion of the lot area, expressed as a percentage, that is occupied and obstructed by any
111 structure above the ground including, but not limited to, building, decks, pools, parking areas,
112 accessways, private sidewalks, driveways, and roadways, and any accessory use or structure
113 requiring location on or above the ground. Government owned and maintained sidewalks and
114 multipurpose pathways located on private property are excluded from the calculation of lot
115 coverage.

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117 Chairperson Ward asked Planning Director Haskett if cantilevered decks and heat pump stands
118 count towards lot coverage? Planning Director Haskett stated cantilever portions of a house
119 should contribute, HVAC stands also contribute.

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121 Planning Board Member Lawler stated that every lot with 30% lot coverage should
122 accommodate a one-and-a-half-inch rain event over a one-hour period, maintaining the runoff
123 on the property with no overflow onto the street or adjacent property.

124

125 Planning Director Haskett replied that if they want to be eligible for the exemption that we're
126 speaking of (up to 25% of the attached single-family dwelling) they must submit an engineered
127 stormwater plan for a one-and-a-half-inch rain event; otherwise, any development requiring a
128 building permit and zoning permit, the property is supposed to retain all stormwater generated
129 by a one-and-a-half-inch rain event (with no time constraint currently allowed).

130

131 Planning Board Member McClendon asked if a stormwater permit is a requirement for getting a
132 building permit? Planning Director Haskett stated before you can apply for a building permit
133 and a zoning permit for the development, you must obtain a lot disturbance and stormwater
134 management permit and that is when they must demonstrate they are meeting the one-and-a-
135 half-inch requirement. The only time an engineered stormwater plan is required is if you are
136 seeking the open slatted deck exemption or if the zoning officer feels it is necessary (case by
137 case basis).

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139 Planning Board Member McClendon stated what is before the board is not debating the lot
140 coverage standards, we are debating whether it should be applied to existing open slatted
141 decks.

142
143 Chairperson Ward asked Planning Director Haskett to put pictures of a selection of homes along
144 Ocean Blvd up on the monitors so the board could get a visual of what is and what could be the
145 result of allowing the coverage to existing properties. He reviewed the formula to this
146 ordinance, instead of going to 30% lot coverage, would go to 35% actual lot coverage as
147 defined.

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149 Chairperson Ward stated that with the way this law is written he could find an engineer that
150 would give me a storm water certification and I could build up to 600-700 square feet, pushing
151 the lot coverage.

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153 Planning Board Member McClendon stated you are looking at coverage in two different ways.
154 First, back in the day, someone said we are going to allow 30% lot coverage because we want
155 low density. Then you are talking about 30 % lot coverage from a storm water standpoint. If you
156 go to 32 and a half percent "lot coverage" you are still meeting the storm water requirements,
157 which is what I care about. As far as limiting construction for open space and things, people do
158 more damage with 30% than other people do with 60%. You can take 30% lot coverage and
159 mow the lot down from the front to the back, doing more damage. If you are giving someone a
160 credit with this ordinance and they build a 766-foot addition, they are at least meeting our
161 intention, stormwater planning. We can't say we just don't like the aesthetics.

162
163 Chairperson Ward stated it bumps the lot coverage up and he does not like that. He has been
164 here for 38 years, and it has always been 30% lot coverage, people learn to work around it. He
165 favors the aesthetics of having a 30% lot coverage, rather than having worry of storm water
166 runoff because it isn't clay out there, it is mostly just sand.

167
168 Planning Board Member McClendon ask to clarify that existing open slatted decking would
169 need to be torn out and built new to qualify for the exemption. Planning Director Haskett
170 stated as it is currently written, that is true, it doesn't incorporate existing. Someone could
171 submit an application to tear down and rebuild it, submit an engineered stormwater plan and
172 then still get the exemption. That is mostly what brought this amendment on.

173
174 Chairperson Ward stated he is totally against that. Give people credit for what is there rather
175 than making them tear it down just to build it back. He further stated he is not for just giving
176 them 25% credit.

177
178 Planning Board Member Galganski asked if they could build another bedroom, thus expanding
179 the occupancy? Planning Director Haskett stated the Town has a 14-person septic capacity and
180 a 6000 square foot heated space restriction.

181
182 Planning Board Member Burek suggested giving the credit but not going over the 30% lot
183 coverage. Provide the 25% open slat deck exemption but do not allow the overall lot coverage
184 to exceed 30%.

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186 Chairperson Ward suggested capping the credit at 250 square feet.
187
188 Planning Board Member Burek stated that would put them over lot coverage and felt there
189 should be a consistent standard, 30% lot coverage. Planning Director Haskett stated what
190 Member Burek is describing, is how it is currently.
191
192 Planning Board Member Galganski stated if property owners have chosen to build to the
193 maximum 30%, then that is it. They are maxed out by choice.
194
195 Chairperson Ward stated he was willing to compromise by allowing 250 square feet, it is better
196 than another 1000 sq. feet.
197
198 Planning Board Member McClendon liked both Chairperson Ward’s recommendation and
199 Planning Board Member Burek’s. He stated utilizing the percentage benefits mostly the larger
200 homes, where the 250-foot option makes it the same for everyone.
201
202 Planning Director Haskett stated if the board was inclined to recommend the extra 250 sq. feet,
203 there is no need to reference the interior space and just say 250 sq. feet, period. He asked if it
204 mattered, whether attached or detached and existing or proposed. The board by **consensus**
205 agreed it didn’t matter, in either instance. He stated the exemption would still require a
206 stormwater plan and subsections d and e would be amended to read as:
207 • d.) up to 250 square feet of open slatted deck that allow water to penetrate
208 through the pervious material shall not contribute to lot coverage.
209 • Would take out what is stricken and read e.) e. Those allowances and/or
210 exemptions listed in sub-section d. of this paragraph (6) shall be available only
211 upon presentation of a survey with all applicable requirements including plan
212 certification, for a Lot Disturbance and Storm water Management Permit as
213 described in Sec. 36-171 (3) of the Town Code of Ordinances.
214
215 Planning Director Haskett stated these properties will be legally non-conforming.
216
217 Planning Board Member McClendon stated he did not like the fact that the current credit is tied
218 to the size of the structure.
219
220 Planning Board Member Lawler stated on page 3, line 27 “the calculation “needs to be stricken.
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223 **MOTION:** Planning Board Member Galganski moved to approve ZTA 22-01 as amended,
224 Seconded by Planning Board Member Lawler. The motion passed unanimously (5-0).
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227 **VIII. Public Comment**
228 none
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230 **IX. Planning Board Member Comments**

231 Planning Board Member Galganski would like to see a requirement for tarping the top of roll off
232 dumpsters at job sites added to the trash ordinance. Planning Director Haskett stated the
233 building inspector has the authority to require one if there seems to be an issue.

234
235 Planning Board Member Lawler asked for an update on the Marketplace. Planning Director
236 Haskett stated the demo and building/zoning permit application have been submitted. The Town
237 engineer has signed off on the stormwater requirement by the Town.

238
239 Chairperson Ward asked Planning Director Haskett for a trash ordinance update. Planning
240 Director Haskett stated staff is drafting the Town Code amendment and will be presented to
241 Council at their March 9th workshop meeting.

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244 **X. Announcements**

245 Planning Director Wes Haskett stated the next meeting is Monday, March 21 at 5:00 p.m.
246 Items on the agenda may include a text amendment application submitted by Quible and Assoc.
247 on behalf of Ginguite, LLC and Town Code Section 36-165, Regulations Governing Signs.

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250 **XI. Adjourn**

251 Hearing no further business, **motion** made by Planning Board Member Lawler to adjourn,
252 Seconded by Planning Board Member Burek. Motion passed unanimously. The time was 7:15
253 P.M.

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257 ATTEST:

Respectfully submitted,

258 _____
259 Andy Ward, Chairperson

Sheila Kane, Town Clerk

stated the building inspector has the authority to require one if there seems to be an issue.

Planning Board Member Lawler asked for an update on the Marketplace. Planning Director Haskett stated the demo and building/zoning permit application have been submitted. The Town engineer has signed off on the stormwater requirement by the Town.

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XI. Adjourn

Hearing no further business, **motion** made by Planning Board Member Lawler to adjourn, Seconded by Planning Board Member Burek. Motion passed unanimously. The time was 7:15 P.M.

ATTEST:



Andy Ward, Chairperson

Respectfully submitted,


Sheila Kane, Town Clerk