



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

## MEETING MINUTES

PLANNING BOARD-MARCH 15, 2021, 4:00 P.M.

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

### CALL TO ORDER

Chairperson Andy Ward called the meeting to order at 4:00 pm. Planning Board Members Lynda Burek, Tony DiBernardo (Vice Chairperson), Ed Lawler, Robert McClendon, and Andy Ward (Chairperson), Town Manager/Planning Director Wes Haskett, and Town Clerk Sheila Kane were present.

### PLEDGE OF ALLEGIANCE

Chairperson Ward led the Pledge of Allegiance.

### APPROVAL OF AGENDA:

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

### APPROVAL OF MINUTES

Planning Board Member Lawler moved to approve the minutes of January 18, 2021 and February 16, 2021. The motion was seconded by Vice Chair DiBernardo. The motion passed unanimously (5-0).

### PUBLIC COMMENT

None

### BUSINESS ITEMS

- A. The purpose of the meeting is for the Board to continue its final review of Chapter 22, Zoning; Chapter 26, Subdivisions; and Chapter 28, Flood Damage Prevention in the Adoption Draft of the Town Code Update.

Planning Director Haskett briefed the board on the actions taken at the March 2<sup>nd</sup> Town Council meeting. The Town Council met and heard a presentation from Chad Meadows with Code Wright Planners, which is the consultant assisting the Town with the town code update. Following the presentation, the Town Council took action and voted unanimously *"to instruct town staff to take valuable elements out of the adoption draft written by Code Wright for review by the Planning Board and the Town Council for future consideration"*. As a result, Town staff will

be compiling different elements out of the zoning chapter, subdivision chapter, chapter 28, or definitions that staff feels are important and need to be updated. Whether it be the language provided by Code Wright or some other language. The changes that Planning Director Haskett stated he has started working on are mostly the state law changes, the ones that absolutely need to make.

Planning Director Haskett provided a list of items that need to be addressed to be in compliance with state law:

1. Manufactured homes
2. Temporary healthcare structures
3. Signage
4. Minimum living space
5. Subdivisions
6. Performance guarantees
7. Protest petitions

Mr. Haskett stated staff will be coming back to the Planning Board with a zoning text amendment that will include the state law changes. If the Planning Board has any other guidance on specific sections that they would like to see included at the same time, it can be addressed as well.

Chairperson Ward inquired if all 160D regulations will be in the form of a zoning text amendment (ZTA) and what does the timeframe look like. Planning Director Haskett stated all zoning or land development will be in the form of zoning text amendments; all others will be done as town code updates (TCA) which does not come through the Planning Board. Mr. Haskett was confident that he could have the zoning text amendments available for consideration prior to or no later than the Planning Board's April meeting. He would also seek guidance from the Town Attorney if needed, prior to that point.

Chairperson Ward asked, outside of manufactured homes, what would be a source of regulation coming out of that 160D that would affect how our existing regulations operate? Planning Director Haskett stated an example is Southern Shores has permitted uses by right and then there are conditional uses. One change in 160D is you no longer have conditional uses; they are special use permits instead of conditional use permits. Every reference to conditional use permit will need to be changes to special use permit. It is not substantive changes that change development patterns, or the way permits are issued, it is verbiage.

Planning Board Member Lawler inquired as to the difference between the two, conditional use vs special use? Planning Director Haskett stated they are for the most part the same and will act the same, in the way the Town will be implementing it as a quasi-judicial procedure. State law would allow for the Planning Board to issue the special use permit, but Mr. Haskett stated his thinking is to stay close to our current permitting process which requires the Planning Board to act as an advisory body and make a recommendation, and Council is the decision maker.

Planning Board Member Lawler also inquired if the Planning Board has any editing capability or do, we need to just take what the state provides and plug them in. Planning Director Haskett stated in his opinion, it should be worded the way the language is presented in the adoption

draft and should be consistent with the statutes. There may be some leeway, but the Planning Board can only adopt requirements in language that the statutes allow us to adopt and implement.

#### MANUFACTURED HOMES

Chairperson Ward asked Planning Director Haskett how regulations on manufactured homes could be stiffened and still stay in the guideline of state requirements? Mr. Haskett stated Southern Shores currently does not allow manufactured homes but now the state requires that we do. Manufactured homes in Dare County would have to comply with flood related requirements. They would be subject to setback requirements, lot coverage requirements and then in addition to that, Code Wright proposed aesthetic related requirements. There is also a possibility that the local homeowner associations (SSCA and CPOA) could restrict by covenants, but that is not something the Town as a local entity could restrict.

Vice Chairperson DiBernardo stated he does not believe there are any SSCA covenants that addressed manufactured homes, but Chichauk Homeowner Assoc may have them.

Chairperson Ward asked Mayor pro tem Morey (in audience) if she had any comment. Mayor pro tem Morey stated she believed it would be in the Town's purview to require manufactured homes engineered for hurricane force winds.

Chairperson Ward stated we are stuck with what we must do on the state level, so he thinks this board would certainly be in favor of making it as stringent as possible outside of the state requirement.

Planning Director Haskett reviewed the proposed language with the Planning Board:

#### Sec. 36-177. – Manufactured homes.

(a) Generally

A manufactured home on an individual lot shall comply with the following requirements:

- (1) It shall be occupied only as a single-family dwelling;
- (2) It shall not be used solely for the purposes of storage;
- (3) It shall be set up in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured/Mobile Homes;
- (4) It shall maintain a minimum width of 16 feet;
- (5) It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;
- (6) Towing apparatus, wheels, axles, and transporting lights shall be removed;
- (7) With the exception of temporary health care structures, it shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, unpierced except for required ventilation and access, installed under the perimeter;

- (8) It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina State Building Code. They shall be attached to the primary structure and anchored in accordance with all local, State, and Federal requirements;
- (9) It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following: 1) Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint); 2) Cedar or other wood siding; 3) Stucco siding; 4) Brick or stone siding.
- (10) It shall maintain a roof pitch with a minimum vertical rise of at least three feet for each 12 feet of horizontal run;
- (11) It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
- (12) It shall provide an eave projection of no less than six inches and not greater than the other Town requirements for eaves, which may include a gutter; and
- (13) Shall also comply with the requirements established in Chapter 16, Flood Damage Prevention.

Planning Director Haskett felt this was a good start for restrictive requirements.

Chairperson Ward requested to make sure it will comply with everything else we have to comply with here, as far as building a dwelling in Southern Shores. Planning Director Haskett stated it will follow in the schedule of district regulations where it is a permitted use by right single-family dwelling, permitted use by right manufactured home. It will have same setback requirements, lot coverage, parking requirements, and driveway requirements.

Vice Chairperson DiBernardo asked if the Town has ever had an application request for a manufactured home? Mr. Haskett stated he has received modular which were permitted, but no manufactured home request.

Planning Board Member McClendon stated a manufactured home is considered personal property and it is licensed by the state as such until you take it and put it on a permanent foundation on a piece of land you own and take the wheels off, it then becomes real property. Manufactured homes as they come may not even fit in the Southern Shores single family home dwelling requirements, an example being the roof pitch requirements.

Planning Board Member Lawler stated we may have to lean heavily on homeowner association covenants. Planning Director Haskett stated the Town can encourage an applicant to get educated on covenant restrictions.

## TOWNHOUSES

Planning Board Chairperson Ward referenced a concern at the previous meeting by Planning Board Member Collins about the townhouse language and regulations. He inquired if that would need to be looked at by the Planning Board. Planning Director Haskett stated the current code only allows townhouses as part of a group development, which would have to go through a

conditional use process. It is currently not a permitted use by right and he felt the current code was sufficient.

#### WIND GENERATION FACILITY

Chairperson Ward asked if the wind generation facility definition and what is currently in place was adequate. Planning Director Haskett was comfortable with the current definition and the wind generation facility ordinance as adopted.

#### EAVES

Planning Board Chair Ward stated the Planning Board sent a revised version of ZTA-18-04 to the Town Council that passed September 5, 2018. It is the final lot coverage ordinance and as a Planning Board we did not send a recommendation to put eaves in that definition in the lot coverage.

Planning Board Chair Ward stated that eaves were not in the language the Town Council passed, we did not address it but eaves are in the definition of building setback lines. They are not mentioned in respect to lot coverage.

Chairperson Ward stated the Planning Board chose not to include eaves in the original ZTA that was not approved by Town Council at the July Town Council meeting of 2018. At that point it did have eaves in there, *"the outermost four feet of eaves shall not contribute to lot coverage"* was the language. The Planning Board chose not to address eaves because it was addressed in the definition of front setback or building setback line.

Planning Board Member Lawler stated you need to address eaves as part of the lot coverage because it is the roof. Why would you cut the eaves out with calculating lot coverage?

Planning Board Chair stated previously the board agreed with the language that the eaves can encroach up to three feet in your front setback, should also follow through on the other three sides of the house. Planning Director Haskett stated the Planning Board can certainly recommend it to Council.

Planning Board Member McClendon asked if the side and rear setback definitions had the same language and the front setback? Planning Director Haskett stated the way our setbacks are established with our current code, it uses the term yard and a definition for that but does not mention the three feet exclusion.

Planning Board Chair Ward stated the easy fix would just to allow eaves up to three feet in all setback areas that are not counted against you in lot coverage.

There was no further action on eaves.

#### BOATHOUSES

Planning Board Chair Ward asked if boathouses were an issue and needed to be addressed. Planning Director Haskett stated it was not and they are regulated by CAMA.

Planning Board Chair Ward inquired as to the next steps. Planning Director Haskett stated these will all be put in a ZTA and will be available for consideration at your April 19<sup>th</sup> meeting.

**Public Comment**

None

**Planning Board Member Comments**

Planning Board Chair Ward called on the board for comment. No member provided comment.

**Announcements**

Planning Director Haskett stated Board Member David Neal has resigned from the Planning Board. The appointment to fill the vacancy will be on the Council’s regular April meeting agenda. Also, there will be an amendment to the flood damage prevention ordinance for Planning Board consideration at the April 19<sup>th</sup> meeting. It is an amendment required by CRS to receive credit that will translate to lower insurance rates for residents and grants available to the Town. The change will be in the AO definition.

**Adjourn**

**MOTION:** Hearing no other business, Vice Chairperson DiBernardo moved to adjourn. The motion was seconded by Planning Board Member McClendon. The motion passed unanimously (5-0). The time was 5:03 PM.

ATTEST:

Respectfully submitted,

  
\_\_\_\_\_  
Andy Ward, Chairperson

   
\_\_\_\_\_  
Sheila Kane, Town Clerk