

**FINAL**



## **Town of Southern Shores**

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### **Planning Board Meeting**

**June 17, 2019**

**5:30 p.m., Pitts Center**

### **MEETING MINUTES**

#### **I. CALL TO ORDER:**

Chairperson Elizabeth Morey called the meeting to order at 5:30 p.m. Planning Board Members Ed Lawler, Joe McGraw, Elizabeth Morey, David Neal, Andy Ward, Town Attorney Ben Gallop, and Deputy Town Manager/Planning Director Wes Haskett were present.

#### **II. PLEDGE OF ALLEGIANCE:**

Chairperson Morey led the Pledge of Allegiance.

#### **III. APPROVAL OF AGENDA:**

Chairperson Morey motioned to approve the agenda. David Neal seconded the motion. The motion passed unanimously (5-0).

#### **IV. APPROVAL OF MINUTES:**

Joe McGraw motioned to approve the April 26, 2019 Special Meeting minutes. Ed Lawler seconded the motion. The motion passed unanimously.

David Neal motioned to approve the May 20, 2019 Planning Board meeting minutes. Andy Ward seconded the motion. The motion passed unanimously.

#### **V. PUBLIC COMMENT:**

None.

#### **VI. OLD BUSINESS:**

A. ZTA-18-09 PB01, a Zoning Text Amendment application submitted by the Town of Southern Shores to amend the Southern Shores Town Code by amending Section 36-132, Regulation of Structures and Uses Nonconforming

Chairperson Morey introduced the application and called on Wes Haskett to present the Staff Report (attached) and to show aerial image examples of the proposed exceptions in ZTA-18-09 PB01.

The Board discussed properties along Skyline Rd. and whether or not they could be considered as exceptions. Ben Gallop stated that the proposed exceptions do not apply to the properties in question.

David Neal stated expressed concerns about whether or not the proposed ZTA is addressing the problem with nonconforming lots. The Town is 90% built out and we want to keep the character of the Town.

Andy Ward stated that there are more nonconforming lots on Wax Myrtle Trl. Skyline is the oldest section in the Town dating back to 1955. It is a density issue as well when four houses are allowed on two parcels.

The Board continued discussing the remaining proposed exceptions.

Ben Gallop stated that he had spoken with Chip Burden, who owns a parcel with his brother that is made up of two nonconforming lots. Exception 3 could have applied if the effective date was not September 5, 2018.

Chairperson Morey asked if a ZTA could be drafted that only addressed splitting a 100 ft. parcel into two nonconforming 50 ft. lots. Ben Gallop stated that nonconforming lots were created when the dimensional requirements of 20,000 sq. ft. lot area and 100 ft. lot width were established.

Chairperson Morey opened the floor for public comments.

Jim Burden stated their lots are on Duck Rd. at the intersection with Fifth Ave. and they were told that the lots were developable. He asked who he could talk to about what can and cannot be done. Being able to develop only one house on both lots impacts their inheritance.

Matt Neal stated that Mr. Burden had contacted him as well and explained that the original plats of Seacrest Village show that all of the lots are nonconforming. In 1953, surveyors began showing lots as 100 ft. wide.

Ann Sjoerdsma stated that she supported the first two exceptions. The rest of the exceptions are preferential treatment. She stated that Section 36-132 has always been in the Zoning Ordinance. She read an older version of it to the Board. She stated that 64 Ocean Blvd. should have been recombined. She asked the Board to look at the facts and not the circumstances.

Chairperson Morey closed the floor for public comments.

Andy Ward asked Ben Gallop how Section 36-132 was previously written and interpreted. Ben Gallop explained that the previous version stated that nonconforming lots had to be treated as a single conforming lot or multiple conforming lots. The recombination of 64 Ocean Blvd. was not required.

The Board and Ben Gallop continued discussion of 64 Ocean Blvd.

Andy Ward asked Ben Gallop if all of the proposed exceptions would have been allowed to be developed prior to adoption of ZTA-18-07. Ben Gallop confirmed that they all would have been allowed.

Andy Ward motioned to recommend approval of ZTA-18-09 PB01 to the Town Council. Chairperson Morey seconded the motion.

The Board continued discussion of the proposed exceptions and how nonconforming lots in Seacrest Village could be impacted.

Chairperson Morey called for a vote and the motion passed unanimously.

**VII. NEW BUSINESS:**

**A. Special Events and Occupancy Limitation Ordinance**

Wes Haskett briefly explained that the Town Council had previously asked Town Staff to revise the draft Special Events and Occupancy Limitation Ordinance that was drafted in December, 2015 and at the same time, the Town Council asked the Board to review and consider the original draft.

Chairperson Morey stated that the floor was open for an open discussion. The draft ordinance does not require a recommendation from the Board, and it is not a Zoning Ordinance.

Porter Graham, Government Affairs Director with the Outer Banks Association of Realtors stated that he has over 100 constituents of property managers and they are concerned about the impact the draft ordinance will have on rentals. It would offset income. Seven to ten events are usually held on a property and limiting the number of events to 3 would have severe impacts. The majority of events are held in the offseason when the draft ordinance is not as necessary. Look at what the Town of Duck has in place. Address noise, nuisances, and traffic.

The Board and Porter Graham discussed the Town of Duck's requirements, the number of events, and parking.

Matt Neal stated that he had spoken at the last Town Council meeting about how he would have to obtain a permit to have a Birthday party for his children. He also suggested that the Town talk to Event Planners to find out the number of people attending events. A 150-person event should have fire safety. The proposed ordinance is tough and strict. We do not see the Police Dept. Chief complaining about the number of calls they have to events.

Chairperson Morey and Andy Ward asked Wes Haskett about the number of complaints related to events. Wes Haskett stated the he was not aware of any complaints specifically related to an event.

Andy Ward stated that two houses with 12 bedrooms that can accommodate 100 people at an event is something different.

Matt Neal suggested observing what happens with those two properties for a year and also obtain information from Event Planners regarding the number of people attending events. It seems that houses that are built for events are the problem so the scope should stay within that and not a Grandmother's funeral.

Chairperson Morey asked Porter Graham if the events industry is ok with the Town of Duck's requirements. Porter Graham stated yes and prohibiting events of 200 plus people is going overboard. The average number of attendees at an event is 35 people.

The Board and Ben Gallop discussed the Town of Duck's requirements. The Board agreed that drafting something similar to that may be the direction the Town should go which would apply to single-family dwellings and vacation cottages.

Chairperson Morey stated that she and Andy Ward would meet with Town Staff to discuss suggested revisions to the original draft ordinance for the Town Council to consider.

Ann Sjoerdsma stated that Andy Ward has ideas and others do not. Maybe the best move forward would be to form a Committee.

Andy Ward stated that this is our town. We live here. I want people in town who do business to succeed but not at the expense of other property owners. What we have in place now does not address anything.

Ben Gallop explained that the problem is that the current ordinance defines an event facility as a location where the primary use of the facility or structure is for events. That is hard to apply to single-family dwellings.

**VIII. PLANNING BOARD MEMBER COMMENTS:**

None.

**IX. ANNOUNCEMENTS:**

Wes Haskett stated that the next scheduled meeting is July 15, 2019 and explained that an Election of Officers would be included on the agenda. Chairperson Morey asked to add building height and fill requirements to the agenda.

**X. ADJOURNMENT:**

Andy Ward motioned to adjourn. David Neal seconded the motion and the meeting adjourned at 7:35 p.m.

ATTEST:

  
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Elizabeth Morey, Chairperson

RESPECTFULLY SUBMITTED:

  
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Wes Haskett, Deputy Town  
Manager/Planning Director

**STAFF REPORT**

**To:** Southern Shores Planning Board  
**Date:** June 11, 2019  
**Case:** ZTA-18-09 PB01  
**Prepared By:** Wes Haskett, Deputy Town Manager/Planning Director

**GENERAL INFORMATION**

**Applicant:** Town of Southern Shores

**Requested Action:** Amendment of the Town Zoning Ordinance by amending Section 36-132, Regulation of Structures and Uses Nonconforming

**ANALYSIS**

At the April 23, 2019 Special Planning Board meeting, Town Staff presented its findings on its research on the nonconforming lots in the Town and the Board asked Town Staff to draft a ZTA that includes all of the situations identified in ZTA-18-09 PB with the addition of a situation where a lot is less than 100 ft. wide but greater than 20,000 sq. ft that is adjacent to a conforming lot with a single-family dwelling and a situation where three adjacent 50 ft. lots are under the same familial ownership (siblings) when the deed was recorded prior to September 5, 2018. ZTA-19-01 PB01 is an attempt to address all of the nonconforming lot situations that have been identified by Town Staff and the Board.

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 that the Board consider this when making its recommendation to the Town Council. Please note that prior to adopting or rejecting any zoning amendment, the Planning Board shall adopt a statement describing whether its action is consistent with the adopted Town Comprehensive Land Use Plan and explaining why the Planning Board considers the action taken to be reasonable and in the public interest. That statement is not subject to judicial review.