



# 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-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

47  
48 **VII. New Business**

49 Amendment of the Town Zoning Ordinance by amending Section 36-202 (d)(6), 36-203 (d)(6),  
50 36-204 (d)(6), 36-205 (d)(6), and 36-206 (d)(6)

51 The staff report read as, the proposed amendments to Sections 36-202 (d)(6), 36-203 (d)(6), 36-  
52 204 (d)(6), 36-205 (d)(6) and 36-206 (d)(6) are being proposed by Town Staff as a result of  
53 feedback provided by property owners and contractors regarding the open-slatted deck  
54 exemption from lot coverage requirements. Currently, open-slatted decks that allow water to  
55 penetrate through to pervious material, not exceeding a total of 25 percent of the total  
56 footprint area of the attached single- family dwelling, can be exempted from the maximum lot  
57 coverage requirement in the RS-1 zoning district. The exemption is only available to an  
58 applicant for a building/zoning permit for a single-family dwelling or attached open-slatted deck  
59 over pervious material, upon presentation of a survey with all applicable requirements  
60 including plan certification, for a lot disturbance and stormwater management permit as  
61 described in subsection 36-171(3).

62  
63 The exemption only applies to new open-slatted decks in the RS-1 zoning district that allow  
64 water to penetrate through to pervious material if an engineered stormwater plan that  
65 demonstrates that following construction of the proposed improvements, the property will  
66 retain all stormwater generated by a one and one-half inch rain event and will not adversely  
67 affect any stormwater management system previously constructed by the Town or on adjacent  
68 properties. Since the current exemption became effective, property owners and contractors  
69 have voiced concerns about not allowing the same exemption for existing open-slatted decks.  
70 In some instances, existing open-slatted decks were demolished and rebuilt in order to qualify  
71 for the exemption. The proposed amendments would allow existing decks not exceeding a total  
72 of 25% of the total footprint area of a permitted single-family dwelling on the same lot to  
73 qualify for the open-slatted deck exemption in all of the Town's residential zoning districts and  
74 the government and institutional district following submittal of an engineered stormwater plan.

75  
76 The Town's currently adopted Land Use Plan contains the following Policy that is applicable to  
77 the proposed ZTA:

- 78  
79 • Policy 2: The community values and the Town will continue to comply with the  
80 founder's original vision for Southern Shores: a low-density residential community comprised of  
81 single-family dwellings on large lots (served by a small commercial district for convenience  
82 shopping and services located at the southern end of the Town. This blueprint for land use  
83 naturally protects environmental resources and fragile areas by limiting development and  
84 growth.

85  
86 **RECOMMENDATION**

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

89  
90 Chairperson Ward reviewed lot coverage history.

- 91  
92 • 9/5/2017 ZTA-17-03 (lot coverage) brought to Town Council with a public hearing, failed  
93 to move forward with a 3-2 vote.

- 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 1<sup>st</sup> 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairperson Ward suggested capping the credit at 250 square feet.

Planning Board Member Burek stated that would put them over lot coverage and felt there should be a consistent standard, 30% lot coverage. Planning Director Haskett stated what Member Burek is describing, is how it is currently.

Planning Board Member Galganski stated if property owners have chosen to build to the maximum 30%, then that is it. They are maxed out by choice.

Chairperson Ward stated he was willing to compromise by allowing 250 square feet, it is better than another 1000 sq. feet.

Planning Board Member McClendon liked both Chairperson Ward's recommendation and Planning Board Member Burek's. He stated utilizing the percentage benefits mostly the larger homes, where the 250-foot option makes it the same for everyone.

Planning Director Haskett stated if the board was inclined to recommend the extra 250 sq. feet, there is no need to reference the interior space and just say 250 sq. feet, period. He asked if it mattered, whether attached or detached and existing or proposed. The board by **consensus** agreed it didn't matter, in either instance. He stated the exemption would still require a stormwater plan and subsections d and e would be amended to read as:

- d.) up to 250 square feet of open slatted deck that allow water to penetrate through the pervious material shall not contribute to lot coverage.
- Would take out what is stricken and read e.) e. Those allowances and/or exemptions listed in sub-section d. of this paragraph ( 6) shall be available only upon presentation of a survey with all applicable requirements including plan certification, for a Lot Disturbance and Storm water Management Permit as described in Sec. 36-171 (3) of the Town Code of Ordinances.

Planning Director Haskett stated these properties will be legally non-conforming.

Planning Board Member McClendon stated he did not like the fact that the current credit is tied to the size of the structure.

Planning Board Member Lawler stated on page 3, line 27 "the calculation "needs to be stricken.

**MOTION:** Planning Board Member Galganski moved to approve ZTA 22-01 as amended, Seconded by Planning Board Member Lawler. The motion passed unanimously (5-0).

#### VIII. Public Comment

none

#### IX. Planning Board Member Comments

Planning Board Member Galganski would like to see a requirement for tarping the top of roll off dumpsters at job sites added to the trash ordinance. Planning Director Haskett 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.

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

#### **X. Announcements**

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

#### **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

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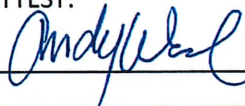
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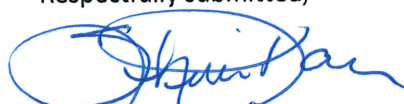
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