



Town of Southern Shores

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

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9 MEETING MINUTES

10 PLANNING BOARD-FEBRUARY 22, 2023, 5:00 P.M.

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

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14 CALL TO ORDER:

15 Chairperson Andy Ward called the meeting to order at 5:00 pm. Planning Board Members Ed
16 Lawler, Robert McClendon, Jan Collins, Tony DiBernardo (Vice Chairperson), Andy Ward
17 (Chairperson), and Deputy Town Manager/Planning Director Wes Haskett were present.

18

19 PLEDGE OF ALLEGIANCE:

20 Chairperson Ward led the Pledge of Allegiance.

21

22 APPROVAL OF AGENDA:

23 **Motion** made by Vice Chairperson DiBernardo to approve the agenda as presented, Seconded by
24 Chairperson Ward. The motion passed unanimously (5-0).

25

26 APPROVAL OF MINUTES – DECEMBER 1, 2022

27 Chairperson Ward moved to approve the minutes as corrected, Seconded by Vice Chairperson
28 DiBernardo. The motion passed unanimously (5-0).

29

30 PUBLIC COMMENT

31 NONE

32

33 OLD BUSINESS

34 DISCUSSION OF POTENTIAL COMMERCIAL DESIGN STANDARDS

35 Chairperson Ward referenced the list of potential commercial design standards previously
36 discussed and asked the board members if they had any additions.

37

- Require a sketch plan review.

38

- Don't allow bright colors and allow earth tone and neutral colors.

39

- o Limit color schemes to two.

40

- Screen utilities, HVAC units, and solid waste receptacles.

41

- Buildings should have a residential appearance.

42

- Requirements should apply to renovations.

43

- Glazing of storefronts.

44

- Require covered walkways for multitenant buildings/group developments.

45

- o Duck has 2/3 requirement.

46

- Require 8 ft. wide covered walkways for group developments.

- 47 • Require breaks in façades and rooflines.
- 48 • Decrease the number of required parking spaces to allow for more landscaping.
- 49 • Add space requirement for open space/landscaping.

50
51 Vice Chairperson DiBernardo mentioned that certain stores will have a predetermined façade
52 that will need to be taken into consideration.

53
54 Planning Board Member Lawler stated the business will either have to conform to the
55 commercial standards or find someplace else.

56
57 Planning Board Member Collins stated a sketch plan will be required in the beginning which
58 would lay out the colors they will use, the overhangs, and the utilities and then we can bring up
59 the points that do not fall into the requirements.

60
61 Vice Chairperson DiBernardo stated it will be difficult because most stores will not fit into these
62 standards and questioned if the stores would be required to fit all the potential standards. He
63 asked the Planning Director if there were any vacant commercial properties on Highway 158.

64
65 Planning Director Haskett mentioned one property owned by the Stone family and one property
66 owned by SAGA.

67
68 Vice Chairperson DiBernardo stated he would not be surprised if Royal Farms would inquire
69 about the area. Planning Director Haskett stated gas stations are a prohibited use.

70
71 Chairperson Ward inquired as to the procedure Taco Bell had to take when applying for the
72 building permit.

73
74 Planning Director Haskett stated Taco Bell submitted building plans, and elevation sheets.

75
76 Chairperson Ward recommended a standard that would eliminate bright color schemes, such as
77 the current Taco Bell.

78
79 Planning Board Member Collins stated other businesses, such as McDonald's, have conformed to
80 color requirements in other areas.

81
82 Planning Director Haskett stated some standards may just say avoid bright colors but not
83 specifically hold them to a particular color scheme.

84
85 Planning Board Member Collins recommended colors such as earth tones could be listed.

86
87 Planning Director Haskett stated staff is asking for the board's input before a ZTA is drawn up
88 and then reviewed by the town attorney. The board can include a color scheme or a list for
89 guidance.

90
91 Chairperson Ward recommended an addendum/cover page to the ZTA that would highlight
92 which municipality each standard came from as a reference for the board members to follow.

93 The ZTA will need to be “buttoned up” but the addendum would provide where the idea
94 originated. The board was in favor of a reference guide.
95
96 Planning Board Member McClendon inquired if a sketch plan review was required? Planning
97 Director Haskett stated it currently is voluntary.
98
99 Chairperson Ward had the Planning Board members review each item currently on the potential
100 standards list.
101
102 Planning Board Member McClendon stated the first item listed requires a sketch plan review.
103 This needs to be specified, naming the Planning Board as who would be receiving that
104 information for review.
105
106 Chairperson Ward asked the Board Members to provide input on color requirements.
107
108 Planning Board Member McClendon asked what exactly is meant by limited color schemes to
109 two as colors.
110
111 The board agreed that colors should be consistent and cohesive with others in the same
112 development and should be earth tone or neutral in nature.
113
114 Planning Board Member McClendon then stated this would be easy if the town was new and
115 branding itself, but most businesses are already established and use the same colors they have
116 been using.
117
118 Chairperson Ward recommended limiting the color scheme to two colors on the main building,
119 trim being separate.
120
121 Planning Board Member McClendon stated limiting the number of colors makes more sense.
122
123 Planning Board Member Collins recommended leaving earthtones or neutrals in the color
124 description and that paint colors be part of the sketch plan review conducted by the Planning
125 Board. She stated it is like the homeowner’s association requirement.
126
127 Planning Director Haskett stated he will remove the word “two” from the color scheme
128 requirement and list it as limit colors to earthtones or neutrals.
129
130 Chairperson Ward moved down the standards list highlighting the screening utilities were pretty
131 cut and dry.
132
133 Planning Board Member McClendon recommended not allowing white plastic fences as a wood
134 fence blends into the neighborhood better. He stated with residential homes, everyone has their
135 own taste, but this could be required for commercial.
136
137 The board agreed to require the fence be plain wood or match the building structure.
138

139 Chairperson Ward moved to the next item; the building should have a residential appearance.
140 He stated Southern Shores Crossing has done a good job.
141
142 Planning Board Member Lawler stated “that doesn’t lend itself to big box stores”.
143 Planning Board Member Collins commented do we want big box stores. She recommended
144 limiting the store size to 10,000 square feet if that is the desire of the board.
145
146 Chairperson Ward stated that would eliminate Food Lion.
147
148 Planning Board Member Lawler agreed that size requirement would eliminate any other
149 potential grocery store. A large store such as a grocery store typically anchors a commercial
150 group of stores.
151
152 Planning Director Haskett stated typically the commercial sites are a tenant upfit, the tenant
153 changes the interior only.
154
155 Planning Board Member McClendon understood the requirements for breaks in the façade and
156 roofline but requiring a residential appearance he did not understand. Nags Head has a brand of
157 old cottages replicated but the only one Southern Shores has is flattops. He wasn’t sure that it
158 could be regulated into a commercial design standard.
159
160 Chairperson Ward stated TowneBank has a residential look, a look of a big stately house.
161
162 Planning Director Haskett stated requiring the use of gable bars or gable brackets could
163 accentuate a residential look.
164
165 Planning Board Member Collins suggested limiting the size of the windows.
166
167 Chairperson Ward highlighted Duck’s requirements of breaks in the roof line every 50 feet, 50
168 feet of the horizontal distance should be windows at street level constitute 20-50% of the front
169 façade. He stated that is a good footnote from Duck, and we could use similar language with
170 crafting the ZTA. Just stating building should have a residential appearance in a ZTA would not
171 work.
172
173 Planning Director Haskett stated the residential look was just capturing the previous discussions.
174
175 Planning Director Haskett asked the board to clarify the potential standard bullet that states
176 *requirements should apply to renovations*. He felt that this would only apply to free standing
177 structures.
178
179 Planning Board Member Collins stated only if the renovations apply to the outside and then they
180 would be required to submit a sketch plan. If they are not changing the exterior, then it would
181 not apply.
182
183 Planning Director Haskett asked if there was a dollar amount figure that would trigger the
184 requirement?
185

186 Planning Board Member Collins mentioned the exterior of a business being repainted. Planning
187 Director Haskett stated a permit is not required to paint a building and staff would not be aware
188 of the paint color change until after the fact.

189
190 Planning Director Haskett stated staff will investigate addressing the repainting requirements
191 and try and incorporate something in the ZTA addressing this item.

192
193 Chairperson Ward commented that it gets tricky when a covenant bleeds over to an ordinance.

194
195 Chairperson Ward reviewed highpoints from the Town of Duck's requirements:

- 196 • Awning width ratio to the sidewalk.
- 197 • Additions and new construction shall use compatible finishes.
- 198 • Break in the wall roof at least every 50 feet
- 199 • 50 percent of the horizontal distance of any building front shall be designed with arcades,
200 windows, entrances, awnings, architectural elements including but not limited to
201 pilasters, wall control joints, building appendages, screen walls or changes in parapet wall
202 heights.
- 203 • Windows at street level constitute 20-50 percent of the façade.

204
205 Chairperson Ward reviewed examples of commercial businesses (pictures) with the board
206 members, some businesses visually appealing and others not. He highlighted the standards that
207 were set by other towns and how they looked when applied to a commercial building.

208
209 Chairperson Ward recommended windows shall comprise not less than 10 percent and not more
210 than 40 percent of each building's vertical wall area. The board agreed.

211
212 Chairperson Ward recommended the covered walkways 2/3 requirement as used in Duck's
213 standards. The board agreed.

214
215 Chairperson Ward inquired with the board members their thoughts on a requirement of 8 ft.
216 covered walkways for group developments.

217
218 Planning Board Member Collins stated SAGA said they were going to have covered walkways in
219 their proposed mixed-use group development.

220
221 Chairperson Ward recommended adding *mixed use* to the 8 ft. covered walkways requirement.
222 The board agreed.

223
224 Planning Board Member McClendon asked if there were standards that the board would not
225 want in a mixed-use group development. Chairperson Ward stated some of the elements may
226 not apply to mixed use group developments and left those to the discretion of Planning Director
227 Haskett and staff to consider when developing the ZTA.

228
229 Chairperson Ward reviewed some pictures of breaks in the shopping center exterior walls, and
230 recommended breaks in the façade and roof lines. The board agreed.

231

232 Chairperson Ward inquired about decreasing parking spaces, possibly credit for landscaping
233 islands.
234
235 Planning Board Member Lawler stated the parking lots are the ugliest part about the shopping
236 center.
237
238 Planning Board Member Collins suggested rather than saying decreasing parking spaces for more
239 landscaping, say for so many feet of parking area you are required to have a specific amount of
240 landscaping area, essentially breaking up the look of the parking lot.
241
242 Planning Director Haskett stated that staff could look to incorporate a formula into the ZTA.
243
244 Vice Chairperson DiBernardo suggested picking a flat percentage amount for required
245 landscaping in a parking area, give credit towards lot coverage by utilizing the landscaping
246 percentage.
247
248 Chairperson Ward suggested adding a roof pitch requirement. He suggested putting a minimum
249 requirement. Planning Board Member McClendon asked what about a flat top? The board
250 members were not in agreement.
251
252 Planning Board Member McClendon suggested if the roof is visible then require a roof pitch
253 (anything but a flat top). The board agreed.
254
255 Planning Board Member Collins again mentioned limiting the size of a freestanding building.
256 Chairperson Ward was hesitant.
257
258 Planning Director Haskett stated staff can work on a ZTA and the board can revisit limiting size
259 when the draft is ready for review.
260
261 Planning Board Member McClendon asked if a non-elected board would have discretion with the
262 sketch plan; if a highly desirable store was larger than the max allowance would this board be
263 allowed to approve it, or would the owner need to go through the variance process? He further
264 stated that he did not have an issue with placing the restriction, but times change and there
265 needs to be a process to work with or change that requirement.
266
267 Planning Director Haskett stated most likely the board could disapprove an applicant's sketch
268 plan, but they could still move forward to Council for consideration. He also stated that he did
269 not think the other municipalities had size requirements, but they had different requirements
270 per size categories.
271
272 Planning Board Member Collins didn't think there was a large area in Southern Shores that would
273 take a big business. The board agreed to limit individual business sizes but wanted to research
274 some business sizes.
275
276 Planning Board Member Lawler inquired about flipping businesses forward and parking areas to
277 the rear of the building. Planning Director Haskett stated that is common practice now.
278

279 Planning Director Haskett stated he has received enough information to get a draft ZTA together
280 and will send it to the town attorney to make sure we have the authority to make some of these
281 suggestions and will bring it to the board when it is ready.
282

283 Planning Board Member Lawler asked if it was too late to impose the parking lot placement in
284 the rear of the buildings to the SAGA project. Planning Director Haskett stated it would need to
285 be in effect when SAGA applies.
286

287 **NEW BUSINESS**

288 **DISCUSSION OF ADDITIONAL REQUIREMENTS FOR ACCESSORY STRUCTURES THAT CONTAIN** 289 **LIVING SPACE**

290
291 Planning Board Member Lawler asked if accessory structures could be limited to one bedroom.
292 Planning Director Haskett answered, maybe.
293

294 Chairperson Ward reviewed pictures of accessory structures currently in town.
295

296 144 Beech Tree Trail-one-bedroom tiny house

- 297 • Permitted as no cooking (no stove/oven allowed)
- 298 • permitted as an accessory structure-office/studio 24 x 18 heated living space.
- 299 • 482 sq. feet

300
301 Chairperson Ward stated the structure is close to the side setback and close to the front of the
302 property.
303

304 Planning Board Member Collins asked if it was tied into the current septic system. Planning
305 Director Haskett stated he would have to check.
306

307 Chairperson Ward stated they can either have a bedroom and no stove/oven or a stove/oven
308 and no bedroom. Either way there are ways around it if people choose to go that route.
309

310 Vice Chairperson DiBernardo stated he voted against this ordinance when it originally came up, it
311 is so easy to get around it.
312

313 Chairperson Ward stated Airbnb is here to stay and he does not have an issue with Airbnb's, but
314 we need to work toward getting these structures closer to the primary house and attached.
315

316 Vice Chairperson DiBernardo commented that covenants in certain areas state you must have
317 the accessory structure attached to the house by walkway or some means, but that is a
318 covenant. It is just a tool that can be used, and it is a shame covenants and ordinances cannot
319 work together.
320

321 Planning Board Member Collins asked what is the objective; to regulate, ban or figure out how
322 they can work within the confines of our development?
323

324 Chairperson Ward stated there is a lot of land in Southern Shores and if the structures could be
325 placed up by the primary home it would look aesthetically better for the community.

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54 Ocean Blvd.

- Attached to primary structure.
- Accessory structure with living space above, no stove/oven allowed.
- Living space (988 sq. feet)

Planning Board Member Collins referenced the structure on Ocean Blvd., she would classify it as an ADU and looks like an attached garage.

110 Ocean Blvd.

- 3 car garage
- Bedroom, laundry room, bathroom, kitchen but no stove/oven.

Planning Board Member Lawler felt the accessory structures should be attached to the main house. Chairperson Ward reiterated this.

Chairperson Ward showed the accessory structure picture from 54 Ocean Blvd. that is attached to the primary home, it is cohesive.

Planning Board Member McClendon asked if there is a distance requirement? Chairperson Ward stated that needs to be discussed but it needs to have a substantial deck.

Chairperson Ward said some type of criteria needs to be discussed.

Planning Board Member Collins stated ADU's are a big thing, and a lot of states support them and the ability to house family and seniors. She did not know if Southern Shores could differentiate or stipulate who the property owner is or if they rent it.

Planning Board Member McClendon stated what the board passed last week was a requirement from the State of NC to meet their language, you can put a stove in there and all you have to do is say this is a den or a library. The town has no regulation on how you furnish that property. The town only has regulations on what you label it when you get your permit.

Chairperson Ward disagreed.

Planning Director Haskett stated the health department determines if it is or is not a bedroom.

Chairperson Ward stated the issue is aesthetic, do we want closer to the house, up next to the street, or in the middle of the lot.

Planning Board Member Lawler stated the closer to the house and attached is a self-limiting feature. It would reduce the number of people using it because it is right there next to the primary property owner.

Chairperson Ward stated he had no issue with accessory dwelling units, they just need to be in the proper context. He further stated we create ordinances all the time for aesthetics.

373 Planning Board Member McClendon stated he can understand that you would want the ADU to
374 have a direct relationship to the primary structure in look, design, maybe a physical connection.
375 It needs to be in direct relation to the primary structure, maybe 10 feet away or something
376 similar. Planning Board Member Collins agreed.

377
378 Chairperson Ward was explained to the board that he inquired if you could have an accessory
379 dwelling unit, a shed, and the primary structure all on the same lot. Planning Director Haskett
380 answered you can have one principal structure and its associated customary accessory building
381 (singular).

382
383 Chairperson Ward then stated he believes the intent was one primary building, one free standing
384 garage/ and or shed or one building and one accessory building. Town Code section 36-202 says
385 customary accessory buildings (plural) and structures are a permitted use and include but not
386 limited to swimming pools, tennis courts, and garages, provided no dwelling unit is in the
387 accessory structure. He stated it all needs to be cleaned up and more consistent.

388
389 Planning Board Member McClendon referenced the example picture from 54 Ocean Blvd., and
390 stated the example said that a dwelling unit had to have stove and bedroom.

391
392 Planning Director Haskett stated based on the new definition of dwelling unit it must have all of
393 those things, if it doesn't have all those things, it is not a dwelling unit.

394
395 Planning Board Member McClendon replied that our code is technically correct at this point.
396 You can't have a dwelling unit; you can have an Airbnb place where people can sleep and pay
397 you to stay there but you can't have a true dwelling unit.

398
399 Chairperson Ward maintained that those four definitions need to be cleaned up and how they
400 plug into the ordinance. He further stated why not allow an oven in the units.

401
402 Planning Director Haskett stated the current requirements were adopted to avoid increasing
403 density.

404
405 Chairperson Ward stated the density is controlled by the septic capacity. Airbnb is here and is
406 not going anywhere. He doesn't see how you are increasing density by adding an oven. He felt
407 what was occurring in the ordinances needed to be modernized.

408
409 Chairperson Ward stated there is no registration process any longer with the Airbnb properties,
410 the legislature restricted it. As a town we need to know a little bit about what is going on.
411 Density is being increased with numerous Airbnb properties. Town staff and the town attorney
412 will need to get creative. He read a section on development approvals for short-term rentals,
413 which read as, based on state law and the Schrader case, local governments may not impose a
414 registration requirement on short-term rental operations, moreover, regulations and standards
415 that are inextricably linked to a registration requirement may be struck down but local
416 governments still have authority to regulate short-term rentals through common development
417 regulation and police power ordinances focused on public health and safety.

418

419 Chairperson Ward asked Planning Director Haskett one more time was the intent of the current
420 wording not allowing stove/oven. Planning Director Haskett stated the intent was to allow
421 accessory buildings with living space provided that it was not a dwelling unit so that it was
422 consistent with our land use plan for low density, a low-density community. He further stated
423 that it would be another hurdle if you do want to outright allow accessory dwelling units and
424 increase the density, then we would have to amend our land use plan.

425
426 Chairperson Ward stated we are essentially allowing it, so why not allow them.

427
428 Planning Board Member McClendon stated Southern Shores would not be the first beach
429 community to allow accessory dwelling units. He also said if we allow them and are going to try
430 and regulate them then we need an attorney involved for guidance.

431
432 Planning Director Haskett stated the town attorney would be involved in drafting the ordinance.

433
434 Chairperson Ward stated if the accessory structure could be up next to the primary house and
435 the lot size supports it, then he supports it. He did not have an issue allowing both a bedroom
436 and a stove/oven in the same unit.

437
438 Planning Board Member Collins stated her issue is septic and the capacity to support both
439 structures.

440
441 Chairperson Ward stated his issue is do we allow a stove/oven and a bedroom and do away with
442 the language that says either or. Planning Board Member McClendon supported this but was
443 curious if there was any idea whether any council members would support it.

444
445 Chairperson Ward agreed to meet with staff and talk to the mayor to gauge her thoughts. He felt
446 the ordinance needed to be modernized as times have changed.

447
448 Hearing no further comments, Chairperson Ward called for public comment.

449
450 **PUBLIC COMMENT-**
451 None.

452
453 **PLANNING BOARD MEMBER COMMENTS**
454 None.

455
456 **ANNOUNCEMENTS**
457 Planning Director Wes Haskett stated the next meeting will be held on Monday, March 20th at
458 5:00 pm. He also stated the Council voted to appoint Jan Collins as a regular member of the
459 Planning Board.

460
461 **ADJOURN**
462 Hearing no further business, **motion** made by Vice Chairperson DiBernardo to adjourn,
463 Seconded by Planning Board Member Lawler. Motion passed unanimously. The time was 7:11
464 P.M.

465

ATTEST:

Andy Ward

Andy Ward, Chairperson

Respectfully submitted,

Sheila Kane

Sheila Kane, Town Clerk

