

FINAL



Town of Southern Shores

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Planning Board Meeting

March 20, 2017

5:30 p.m., Pitts Center

MEETING MINUTES

I. CALL TO ORDER:

Chairperson Sam Williams called the meeting to order at 5:30 pm. Planning Board Members Gray Berryman, Elizabeth Morey, Sam Williams, Jay Russell, David Neal, Town Attorney Ben Gallop, Town Planner Wes Haskett, and Town Clerk Sheila Kane were present.

II. PLEDGE OF ALLEGIANCE:

Chairperson Sam Williams led the Pledge of Allegiance.

III. APPROVAL OF AGENDA:

Chairperson Williams stated the Southern Shores Town Code Update should be added under New Business. Jay Russell motioned to approve the amended agenda. Gray Berryman seconded the motion. The motion passed unanimously (5-0).

IV. APPROVAL OF MINUTES:

Gray Berryman motioned to approve the minutes of the December 19, 2017 Planning Board Meeting. Elizabeth Morey seconded the motion. The motion passed unanimously (5-0).

David Neal motioned to approve the minutes of the February 21, 2017 Planning Board Meeting. Gray Berryman seconded the motion. The motion passed unanimously (5-0).

V. PUBLIC COMMENT:

None

VI. NEW BUSINESS:

- A. VA-16-02 VARIANCE REQUEST FROM HOUSE ENGINEERING P.C. FOR 103 OCEAN BLVD. (performing the duties of the Board of Adjustment).

Chairperson Williams stated that the Board of Adjustment hearing is a quasi-judicial hearing and explained the quasi-judicial public hearing procedure and rules. He stated that all witnesses wishing to give testimony needed to be sworn in by the Clerk. He then reviewed several areas of possible conflicts of interest and asked the Planning Board members if they had any conflicts of interest; hearing none Chairperson Williams moved on.

SWEARING IN OF ALL PEOPLE GIVING TESTIMONY

All parties wishing to give testimony during the public hearing were sworn in by the Clerk.

OPEN HEARING & EVIDENTIARY PORTION OF HEARING

Chairperson Williams opened the public hearing and called on Wes Haskett to present the Staff Report (attached).

Mr. Haskett stated the applicant is requesting a variance of three feet on both (north and south) side yard setback requirements. The applicable side yard setback requirements in the RS-1 Single-Family Residential District is 15 ft. The width of the subject property is 50 ft. which would result in a single-family dwelling that could not exceed 20 ft. in width if the applicable side yard setback requirements were met.

Section 36-367 of the Town Zoning Ordinance establishes that the Planning Board, when performing the duties of the Town Board of Adjustment, shall vary any of the provisions of the Zoning Ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - The subject property is 50 ft. wide with 15 ft. side yard setback requirements which leaves a width of 20 ft. for development. To the best of Town Staff's knowledge, there are no existing 20 ft. wide single-family dwellings in the Town.
 - A Demolition Permit was issued on December 14, 2016 which was to demolish a duplex that was formerly located on the subject property and the adjacent property (Lot 6).
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - There are several other 50 ft. wide vacant lots of record that are oceanfront and non-oceanfront. There are also existing single-family dwellings that are built on multiple 50 ft. lots that encroach on the currently applicable 15 ft. side yard setback requirement.
- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - The subject property is a lot of record that was originally established around 1948 with a width of 50 ft. and subsequently purchased by the current owner.
 - Demolition of the duplex and transferring ownership were acts taken by the applicant that may have resulted in the hardship in the applicant's complaint.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
 - The Town's Zoning Ordinance allows for development on nonconforming lots of record. Section 36-132, (a), (1) states that in any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of adoption of the ordinance from which the chapter is derived, notwithstanding limitations imposed by other provisions of the chapter. These provisions shall apply even though such lot fails to meet the requirements for area or width, that are generally applicable in the district provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall

conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment as established in article XII of the chapter.

The applicant, Rick House with House Engineering, stated that the 50 x 200 lot was platted in 1948. The Town has recently granted a variance for a similar width lot with the same requirements. He stated they were asking for a 12-ft. side setback on both sides of the lot. This would allow for a 26 ft wide house to be built.

Chairperson Williams asked what type of house is the applicant seeking to build. Rick House stated a four-bedroom reverse floor plan with underneath parking is the intention.

Chairperson Williams called for Public Comment:

Jim Connors from 83 Duck Woods Drive. Stated in 1995 side setbacks were 10 ft and sometime later changed to 15 ft. He stated all 50 ft lots should be granted the original 10 ft. setback.

David Neil asked Jim Connors if the setback was changed to stop the big houses from being built to which Mr. Connors replied that was his understanding. Mr. Neil stated he thought the change was for emergency access.

Rick House stated that the 10ft. side yard setback will allow a total of 20 ft. for emergency access. A fire drive isle must be a minimum of 20 ft. This would allow sufficient access.

Chairperson Williams closed the evidentiary portion of the hearing.

Town Attorney Gallop stated that the Board must make the decision of whether this was a self-created hardship. There was a duplex on the property and the owner removed it. He questioned if the hardship was self-created.

DELIBERATION AND DECISION

Chairperson Williams stated that the staff report, application, and all information in the packet received by the Board was to be entered into the record.

Chairperson Williams stated that the four (4) standards previously presented must be met and voted on separately.

David Neil stated that there is a problem with the Town's ordinance and after this hearing the ordinance needs to be changed.

Chairperson Williams opened the floor for deliberation and a decision.

The board held a brief discussion on finding #1.

(1) Does a strict application of the ordinance result in an unnecessary hardship to the applicant. **Vote of Yes (5 Yes-0 No) passed unanimously.**

The board held a brief discussion on finding #2.

(2) Does the hardship result from conditions that are peculiar to the property, such as location, size, or topography. **Vote (4 Yes-1 No) passed.** Gray Berryman casting the sole NO vote.

The board held a brief discussion on finding #3.

(3) The hardship did not result from actions taken by the applicant (or the property owner). Voting no is for the denial of the variance. **Vote (4 Yes-1 No) passed.** Chairperson Sam Williams casting the sole NO vote.

The board held a brief discussion on finding #4.

(4) Is the requested variance consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and is substantial justice is achieved. **Vote of Yes (5-0) passed unanimously.**

MOTION: Chairperson Sam Williams moved to approve the variance as requested. The motion was seconded by Elizabeth Morey. The motion passed unanimously (5-0).

Chairperson Williams closed the Board of Adjustment hearing.

VII. NEW BUSINESS

A. Land Use Plan Update

Town Planner Wes Haskett stated that at the last Town Council meeting, the Council voted unanimously to update the adopted Land Use Plan. He stated that one of the core duties and responsibilities of the Planning Board is to oversee the development of the Town's Land Use Plan. Town Staff has requested funding in the next Fiscal Year to hire a consultant to assist in the process. He is confident that Council will grant the request as the vote to update the plan was unanimous.

B. Town Code Update

Because Module One of the Town Code Update is long, Chairperson Williams stated he would like the Board to consider additional meetings, rather than meeting once a month, so the review could be completed in a timely manner. Decisions on the review process and meeting frequency will be made at the next meeting.

Elizabeth Morey stated she would like to prioritize the issues and start with zoning. She stated trees and storm water have already been discussed.

Town Planner Wes Haskett stated that the consultant, CodeWright Planners, has provided the draft with some options to consider in some cases. The Planning Board can recommend one, none, or its own solution. The options are up to the Board.

Chairperson Williams stated that the Board could recommend putting something in the Town Code to deal with these 50ft. wide lots. He stated that is going to take some discussion before a decision could be made.

VIII. PUBLIC COMMENT:

None

IX. PLANNING BOARD MEMBER COMMENTS:

Gray Berryman and David Neil agreed that adding revised setback requirements for 50 ft wide lots to the Code update should be considered.

X. ANNOUNCEMENTS:

Chairperson Williams announced that the next planning board meeting is April 17th..

XI. ADJOURNMENT:

Hearing no other business Chairperson Williams called for a motion to adjourn. Elizabeth Morey moved to adjourn. The motion was seconded by Gray Berryman. The motion to adjourn was carried at 6:52 pm.

ATTEST:

RESPECTFULLY SUBMITTED:



Sam Williams, Chairperson



Sheila Karre, Town Clerk

STAFF REPORT

To: Southern Shores Planning Board
Date: March 16, 2017
Case: VA-16-02
Prepared By: Wes Haskett, Town Planner/Code Enforcement Officer

GENERAL INFORMATION

Applicant: House Engineering, P.C.
 P.O. Box 466
 Kitty Hawk, NC 27949

Requested Action: Variance from Section 36-202, (d), Dimensional Requirements for the RS-1 Single-family Residential District

PIN #: 986712863880
Location: 103 Ocean Blvd.
Zoning: RS-1, Single-Family Residential District

Existing Land Use: "Residential"

Surrounding Land Use & Zoning:

- North- Residential; RS-1, Single-Family Residential District
- South- Residential; RS-1, Single-Family Residential District
- East- Residential; RS-1, Single-Family Residential District
- West- Conservation; RS-1, Single-Family Residential District

Physical Characteristics: Vacant

Applicable Regulations: Chapter 36, Zoning Ordinance: Article III, Interpretation and Definition of Terms; Article V, Nonconformities; Article VII, Schedule of District Regulations, Article XII, Board of Adjustment.

ANALYSIS

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