



# Town of Oak Island

## Brunswick County, NC

*The Town of Oak Island will preserve, protect, and enhance the quality of the natural and cultural environment of the community. In order to achieve this goal, the Town will improve the quality of its waterways, natural environment, beaches, dunes, water access and residential areas. The Town will maintain a unique scale and character that fosters a sense of community to make the Town a desirable place to live, work and call home, and a family vacation destination. The Town will also develop efficient sidewalks, bikeways, and roadway systems to protect its attractiveness in the future. The Town will also expand its recreational opportunities for residents of all ages and abilities. The Town will balance social and commercial needs and objectives for economic vitality.*

## Planning Board Meeting Agenda August 16, 2018 • 10:30 AM Town Hall • Council Chambers

### I. START-UP

1. **Call to Order:**
2. **Additions or corrections to the agenda**
3. **Approval of the Minutes:** (7-26-2018)
4. **Public Comment:** Please state your name and address for the record.

### II. OLD BUSINESS

1. **Outdoor Shower – Text Amendment**

### III. NEW BUSINESS

1. **New Chair/Roster membership update**
2. **September Meeting Date Change**

### IV. REPORTS/UPDATES

1. **Board Member Reports**
2. **Staff Reports – (July Council meeting)**

### V. OTHER

**Future Meetings:  
Adjournment**



MINUTES  
PLANNING BOARD  
July 26, 2018 – 10:30 A.M.  
COUNCIL CHAMBERS – TOWN HALL

Present: Board members Cathy Bowes, Mike Defeo, Bob Germaine and Willie Williams, Planning and Zoning Coordinator Jake Vares and Assistant Manager/Town Clerk Lisa P. Stites, MMC. Chairman Denise Pacula, Vic-chairman Bob Carpenter and member Clay Jenkins were unable to attend the meeting as rescheduled.

The meeting was called to order at 10:30 a.m.

**Mr. Williams nominated Mr. Defeo to serve as Chairman for the meeting. Ms. Bowes seconded and the motion passed unanimously.**

Approval of the Minutes of the June 21 meeting: **Mr. Williams made a motion to approve the Minutes as presented, Ms. Bowes seconded and the motion passed unanimously.**

Kelley Germaine, 6610 Kings Lynn Drive: Regarding the setbacks, Ms. Germaine said that the setbacks between houses were there so work could be done between houses without imposing on neighbors. She asked that the setbacks be maintained.

Scott Buff, with Buff Builders: Mr. Buff said that we had talked about tree and vegetation issues several times. He did not see how the tree and stormwater regulations could work together. He encouraged the Planning Board to review stages of a house under construction to see firsthand what they are dealing with for installing stormwater, power, sewer, driveways, etc. He said not only do they have to remove vegetation, but they don't have the room to put it back. He said he hates cutting the trees down and that it costs them money to haul them off. He said that it seems the best trees are often in the footprint for the house, and that they can no longer use the sides for trees since the stormwater has to be there.

Bill Easley, former Town Council member and resident: Mr. Easley said that he'd like to see a workshop scheduled to work this out. He said there was no "meshing" of the various rules. It was easy to say more trees needed to be left on a lot, but it was another thing to make it work. The lots are expensive enough now that a more expensive house is required. The days of building a little fishing shack in the middle of two lots are long gone. He encouraged finding an actual solution instead of one hand not knowing what the other is doing.

Todd Tanck, with SeaCoast Homes: Mr. Tanck said that we have talked about this issues several times. He suggested doing more soil testing to see if we can have other options for stormwater. There needs to be a reasonable number of trees to keep. He said clients like large trees, and so does he. It makes it easier to sell a house, and it does cost them money to haul trees off a property. With utilities, gutters, stormwater, etc. they have a lot of things to work around. Regarding personal property rights, he said that people have a right to put a house on their properties. He also said with the cost of lots, you can't put a teeny house on it. He also encouraged Planning Board members to review a construction site.

Mr. Easley asked where this new document came from. Mr. Vares said that Council had directed it and that staff wrote the language. Mr. Easley asked why it was before the Planning Board; Mr. Vares explained the process for this type of ordinance amendment. Mr. Easley said that at the last workshop, Mr. Vares had given examples from other municipalities which exempted properties smaller than one acre. Answering a question from Mr. Defeo, Mr. Tanck said that his comments were specific to the island-portion of town.

Consensus of the Planning Board was to change the order of the agenda and discuss both agenda items regarding the tree and vegetation ordinances first (Old Business 2 and New Business 1).

Mr. Germaine said that he believed that with the size of homes being built, swimming pools being installed, he is not sure how even one tree can be saved on a lot. He also said that trees are removed when they block the view of the water.

Ms. Bowes asked if there had been any response from the State regarding the Town's request regarding stormwater regulations. Ms. Stites said that the Town had reached out, but there had been a formal answer at this point.

Mr. Buff said that a few of them had reached out to someone in the Wilmington office, that she had no recollection of anyone reaching out, and that she seemed to indicate there could be some relief. He said that their problem is that not all of the municipalities even use the stormwater plans. He said that it will likely take a "squeaky wheel gets the grease" approach to make things change. Mr. Buff said that sometimes power and water/sewer on different corners of a lot, so that leaves a limited place to leave trees. Mr. Buff said that the builders are accused of just going in and cutting down trees, but they would like to keep more. He explained the change in the size for the stormwater retention apparatus.

Ms. Bowes suggested that the Planning Board recommend that staff bring them back a plan for how it will move forward with getting an answer from the State. She also asked about data on how trees affect stormwater runoff. Ms. Stites said she would speak to the Town Manager and that he could report back to Council. Mr. Defeo suggested making a recommendation that Council table action on new tree and vegetation amendments until this information is available and to have the developers be involved in the process to draft the amendments. Mr. Vares said that the information on tree size, the effect of trees on stormwater retention, etc. is already available. Ms. Bowes said that using trees as part of stormwater retention should be considered part of the stormwater regulations. Mr. Defeo said that it seemed that not everyone who should be involved in the process was involved.

**Ms. Bowes made a motion to table this item and recommend to Council that they gather together everyone impacted to try to determine how to put together tree preservation and stormwater runoff so that the rules governing Oak Island will work for everyone, and also they contact the State and get them involved. Mr. Williams seconded the motion and it passed unanimously.** The Board clarified that this action referred only to Old Business 1. Mr. Defeo asked if the builders would be willing to be involved; those present indicated they would.

Mr. Tanck said that he still believed that it would be beneficial to visit a couple of construction sites.

Ms. Easley said that it would even help to review surveys to see how much building envelope to work with.

Old Business 1: Outdoor Showers: Mr. Vares said that there was nothing in the ordinance to address outdoor showers. Ms. Bowes said that the ordinance proposes they be measured from the outside of the structure; since builders are given leeway for an additional 6 inches, she would prefer the measurement be taken from the property line. Mr. Vares said the de minimis text does not give leeway, it allows for forgiveness for an amount less than 6 inches when surveyed when construction was complete. Mr. Vares said that builders were not permitted an additional six inches at the outset. Ms. Bowes said that the setback then may only be 7.5 feet, and she would like the measurement to come from the property line. Ms. Bowes also said that elevators are not allowed in the side yard setback, when they were actually a need, but this would allow something that was a luxury allowed in the setback.

Mr. Germaine said that there have been times when people working on another property have driven over their water and sewer lines. He said he thinks the setback is there to allow access to an individual home, not to allow a neighbor to impose on another property. He said that outdoor showers could be located in rear yards. Mr. Defeo said that if we are concerned about safety, we shouldn't be allowing anything in the setback. He suggested implementing a maximum footprint for apparatus in the side setback rather than dealing with specific uses.

**Ms. Bowes made a motion to reject the proposed text amendments. Mr. Germaine seconded the motion. Voting on the motion was tied, with members Bowes and Germaine in favor and members Defeo and Williams opposed.** The Board discussed effects of taking or not taking any action. **Ms. Bowes made a motion to allow them only in the rear setback. Mr. Germaine seconded. Voting on the motion was tied, with members Bowes and Germaine in favor and members Defeo and Williams opposed. Mr. Defeo made a motion to table this item until the next Planning Board meeting. Mr. Williams seconded and the motion and it passed unanimously.**

New Business 1, Mainland tree ordinance: Ms. Stites suggested changing the wording of the proposed ordinance as follows: "Any application for a major subdivision on the mainland..." **Mr. Williams made a motion to approve the proposed amendment as amended and adopt the associated Plan consistency statement, Ms. Bowes seconded and the motion passed unanimously.**

New Business 2, Development Line amendment: Mr. Vares said the Development Line is the most seaward line where development can occur on the oceanfront. It was approved by the Coastal Resources Commission. He said that this request is for a modification of the line in the former Yaupon area of Town; a map is included in the agenda packet and is hereby incorporated as a part of these Minutes.

Ms. Bowes asked if the change was only for a small area on the east end; Mr. Vares said that was correct. She also clarified that CAMA officials would still measure the distance to the vegetation; Mr. Vares said they would. Ms. Bowes asked where on the map would be considered buildable. Mr. Vares said the only way to really do that was to have the property surveyed. Mr. Defeo asked what motivated the change. Mr. Vares said that in reviewing the Development Line, staff realized this area did not really mesh with other areas. Mr. Edwards said that when the line was originally drawn, he followed the road line rather than the beach profile, and he is just looking to straighten that.

**Mr. Williams made a motion to approve the Development Line alteration as presented. Mr. Germaine seconded the motion. The motion passed 4-0, with members Defeo, Germaine and Williams in favor; Ms. Bowes abstained, which counted as a vote in favor.**

Board Reports: Mr. Williams asked what St. James was doing on Oak Island Drive; Mr. Vares said the Club was adding a parking lot. Mr. Williams asked if the Town could consider to look into an ordinance amendment that would require an address post for houses to be placed in the same place in every yard. He said visitors don't understand that some of the blocks don't go through to the beach. He said he thinks one of the neighboring beaches has such an ordinance. Ms. Stites noted that right-of-way issues in general would be on Council's August agenda.

Staff Reports: Mr. Vares noted what items would be on the August Council agenda. The Unified Development Ordinance is tentatively scheduled for a Public Hearing in September. He also mentioned the greenways trails grant applied for between Pine Forest/Oak Island and Boiling Spring Lakes for a trail system between the areas. His request to change the date for the September Planning Board meeting will be discussed during the August Planning Board meeting.

**Ms. Bowes made a motion to adjourn at 11:35 a.m., Mr. Williams seconded and the motion passed unanimously.**

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Denise Pacula, Chairman

Attested: \_\_\_\_\_  
Lisa P. Stites, MMC  
Assistant Manager/Town Clerk

**TOWN OF OAK ISLAND  
PLANNING BOARD  
AGENDA ITEM MEMO**

Agenda Item: Old Business No. 1

Date: July 30, 2018



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**Issue:** Outdoor Shower – Text Amendment

**Department:** Planning & Zoning Administrator

**Presented by:** Jake Vares

**Presentation:** None

**Estimated Time for Discussion:** 40 Minutes

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**Subject Summary:**

Staff is requesting a text amendment clarification for outdoor showers. The ordinance does not clearly spell what the standards are for outdoor showers and neither does the UDO. The proposed wording states that a permit is required and that they are permissible in rear, and side-yard setbacks for up to five feet. This type of structure is not anticipated to be an issue in the front or the rear yard. Typically when requested it is the side-yard where property owners request to place the outdoor shower. Outdoor showers are not a commonly requested permit or issue the Development Services Department has to deal with. No state building code issues would be created with the allowance of this. Normal roof overhands and AC-units are permissible in the side-yard but cargo-lifts are not. Please remember to adopt the plan consistency statement in your motion.

The ordinance previously specified that the setback encroachment for outdoor showers was permissible in the side, rear and front yard setbacks. It has since been altered to only apply to the side and rear and not the front yard. Per Planning Boards request the setback encroachment allowance has now been adjusted to 4 feet instead of 5 feet. Additionally, this ordinance proposal now specifies that the 4ft encroachment allowance for outdoor showers be measured from principal structure outward. The Planning Board also requested an additional detail that mandated outdoor showers be at grade level. Additionally, a requirement to mandate a roof over the shower was added because of concerns of a potential neighboring house next door being three stories tall on stilts being able to see in the shower.

The UDO (Unified Development Ordinance) states in Section 8.14.7. “*Uncovered decks and porches attached to a principal structure and mechanical equipment, such as wells and air conditioning/heating units, which services the principal structure may be located in side or rear yards provided such uses shall not be less than five (5) feet from any lot line. This provision does not allow the encroachment of these uses into front and corner lot yard setbacks. This provision does not include covered decks, covered porches, or covered sunrooms. No encroachment into utility easements is permitted.*” To summarize the UDO grants a 3 foot allowance from the side of the house, assuming an 8 foot setback measuring 5 feet back from the property

line, which leaves a 3 feet allowable encroachment for decks in regular residential interior lots. The UDO does allow stoops/stairs in these areas as well since that would be a part of the deck.

At the previous Planning Board meeting there was a discussion of managing this issue by using dimensional standards only rather than making this use applicable to outdoor showers only. A concern for that was raised because then unlimited amounts of any type structure would then be permissible installed. An example could be an elevated brick compost pile which staff does not think the town or Planning Board would want to be permissible in the side-yard setback. This ordinance amendment does not grant carte blanche setback encroachments because it is specific to outdoor showers only. Typically we see outdoor showers being built during the final construction phases but phone calls are received occasionally on this topic. An outdoor shower would not be considered an accessory structure if it is attached to the house. A change made to this wording at the July 2018 planning board meeting is to measure the outdoor shower encroachment allowance to be measured from the property line instead of from the principal structure to the property line from there. Staff is not sure what that has to do with the de-minimus ordinance or how it effects the proposed ordinance. Please keep in mind this proposed ordinance is not for outdoor showers built outside the setback. Hypothetically, if a property owner currently wanted three outdoor showers on every side of his/her house and none of them would encroach into a setback, that would be permissible. This text amendment is only for a 4 foot setback encroachment allowance on the side and rear property line setbacks.

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**Attachments:** Proposed Ordinance Amendment wording

**Recommendation/Action Needed:** Approval

**Suggested Motion:** I make a motion to approve or deny the proposed text amendment and to adopt the associated plan consistency statement.

**Planning Board Recommendation:** TBD

**Funds Needed:** \$0.00

**Follow Up Action Needed:** Forward recommendation to Town Council

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## Attachment

Sec. 18-117. - Area and height table; residential districts.

				Side Yard Setback			Building Height Limits <sup>(d)</sup>	
Zoning District	Lot Area Per Dwelling Unit (Square Feet)	Lot Width (Feet)	Front Yard Setback (Feet) <sup>(c)</sup>	Interior Lot (feet)	Corner Lot (Feet) <sup>(f)</sup>	Rear Yard Setback (Feet) <sup>(c)</sup>	Outside VE Zone (Feet)	Inside VE Zone (Feet)
R-20	20,000	100	30	10	20	15	35	41



R-9 <sup>(e)</sup>	9,000	75	25	8	10	20	35	41
R-7.5 <sup>(a)</sup>	7,500	75	25	8	15	20	35	41
R-7 <sup>(e)</sup>			25	8	10	20	35	41
One-family	7,500	60 <sup>(b)</sup>						
Two-family	10,000	75						
R-6A <sup>(e)</sup>			25	8	10	20	35	41
One-family	6,600	60 <sup>(b)</sup>						
Two-family								
R-6B	6,600	60 <sup>(b)</sup>	25	8	10	20	35	41
R-6MF <sup>(e)</sup>			25	8	10	20	35	41
One-family	6,600	60 <sup>(b)</sup>						
Two-family	11,000	100						
Three-family	15,000	140						
MH						10		
Triplex	15,000							

<sup>(a)</sup> Special dimension requirements:

Places of worship: lot area equals three acres.

Public education facilities: lot width equals 300 feet and lot area equals five acres.

Private education facilities: lot width equals 200 feet and lot area equals two acres.

Community and municipal buildings: lot width equals 200 feet and lot area equals one acre.

Private clubs: lot area equals ten acres.

Residential lots of record 60 feet or less in width:

Interior lot: side yard equals eight feet.

Corner lot: side yard equals ten feet.

<sup>(b)</sup> Lots created before effective date of the ordinance from which this article is derived: lot width equals 50 feet.

<sup>(c)</sup> Steps and uncovered landings may encroach up to a maximum of three feet into the required front yard setback, or up to a maximum of five feet into the required rear yard. These encroachments are allowed in the front yard or rear yard, but not both.

(d) The following are exceptions to the height limits: Spires or belfries on places of worship, cupola, dome or ornamental tower not intended for human occupancy, monuments, water towers, observation towers, chimneys and smokestacks, conveyors, flagpoles, radio or televisions aerials for residential use, masts, parapet walls not to exceed more than three feet above the roofline of the building, and necessary mechanical appurtenances. Building height in the island part of the town is established by an act of the state legislature, and may only be changed by a local referendum.

(e) The front yard setback for oceanfront properties in zoning districts R-9, R-7, R-6A, and R-6MF shall be 15 feet. The 2000 USACE - MHW line or the traditional rear yard setback, whichever is more restrictive, is considered the rear-yard setback.

(f) Corner lots on the island that are contiguous to major water bodies shall have an eight-foot corner side yard setback and no additional flexibility per section 32-78.

(g) 1. Fireplaces may extend up to 24 inches into required yard setbacks.

2. New elevators, mobility or cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, or up to five feet into the required front setback. The board of adjustment will review variance requests for proposed elevators, mobility and cargo lifts in any other areas of existing residential structures to determine if it meets the General Statute required findings of facts.

3. Grade level enclosed outdoor showers with a roof require a permit and are permissible in rear, and side-yard setbacks for up to four feet from the principal structure **to be measured from the property line to the principal structure**. This provision does not allow the encroachment of this use into front and corner lot yard setbacks.

(h) Flag lots and interior lots contiguous to major water features, navigable waters such as the Davis Canal, the Intracoastal Waterway, and the Atlantic Ocean, shall have a front yard setback along the water feature according to the illustrations in figures 1A and 1B in section 18-32.

(i) The footprint of structures which are within six inches (0.5 feet) of the required side yard setback distance and front or rear yard setback distance shall be considered compliant with the requirements of this chapter if the de minimis encroachment was done in error demonstrated by conflicting surveys. Regardless of any allowances, any expansion of an existing principal structure cannot be outside the allowable setback.