



Planning Board
May 18, 2016
Town Hall 10:30 am

Regular Monthly Meeting Agenda

Call to Order:

Approval of the Minutes:

Public Comment: Please state your name and address for the record.

Approval of the Agenda:

Old Business:

- 1) Land Use Plan

New Business:

- 1) Fence Text Amendment
- 2) Corner Lots Text Amendment

Other Business:

- 1) Board Member Reports
- 2) Staff Reports – Tree Protection Ordinance,
- 3) Updates from Council Meeting – (dune protection, development line, final plat)

Adjournment

TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO

Agenda Item: New Business No. 1

Date: April 18, 2016

Issue: Fences Text Amendment

Department: Planning & Zoning Administrator

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 20 Minutes

Subject Summary:

A property owner within the Town of Oak Island has submitted a text amendment to adjust the fencing regulations within the zoning ordinance. Section. 18-82 - Specific regulations – part (2) is the specific section where the text amendment is requested (see attached). The goal with these (i.e. text amendments) is to be careful not to have it create any other situations in other parts on the town that would be unfavorable since the text amendments then apply to the entire Oak Island jurisdiction.

The address where this issue has occurred is 101 NE 72nd Street (see maps). The fencing situation is unique because the adjoining property owner is facing East Oak Island Drive and the property in question has 72nd Street as its front yard. This creates a disconnect between the structure layout and where the corner of the adjacent building ends. As you can see from the wording in number three (see below); there is that 25ft road right-of-way rule. This text amendment would allow the applicant to have his proposed fence be 6ft all the way along his/her side property line. As the language is currently written, it reads that once the 6ft fence reaches the corner of the house it can no longer be that height. If adopted even if a house itself exceeds the minimum building line setback, the building would be able to construct its fence the same length of the adjacent properties. This will enhance the continuity of the fences in Oak Island.

Attachments: Proposed Text Amendment, Site Maps,

Recommendation/Action Needed:

Suggested Motion: none

Funds Needed: \$0.00

Follow Up Action Needed: Forward recommendation along to Town Council

Attachments

Section 18-82

h) Fences.

(1) Except as provided in subsection (d) of this section, any fence built on residential property shall be a maximum of six feet high at the highest corner of the property, except oceanfront lots.

(2) Fences not exceeding six feet may be erected only in side or rear yards and may not be extended toward the street beyond the front corner of the principal building.

(3) No fence exceeding a height of four feet will be constructed within 25 feet of any street right-of-way, excluding alleys.

(4) If the side yard of a lot adjoins the rear property line of a separate lot that is perpendicular to the lot, then a six foot fence is allowed along the entire side yard of the property line.

5(X) Fences not exceeding four feet may be constructed to the street right-of-way except corner lot situations when the corner visibility provisions in as indicated by subsection (5) below may be impose stricter limits.

6(X) On a corner lot in all districts, nothing shall be erected, planted, or allowed to grow in such a manner as to impede vision over a height of three feet above the centerline grades of the intersecting streets within the triangular area bounded on two sides by the two street centerlines and on the third side by a straight line connecting points on the street centerlines located one-half the street right-of-way width plus 40 feet measured from the intersection of the centerlines.

7(X) In commercial districts, except oceanfront lots, solid wood fences shall be a maximum of six feet or ten feet for a metal chainlink fence.

8(X) On oceanfront lots, fences shall be a maximum of four feet in height. Fences shall be designed in a manner so that views of the ocean are preserved.

9(X) Fences shall be constructed so that the finished (sheathed) side is oriented toward adjoining lots or the public right-of-way.

101 NE 72nd Street

Edge of house corner.
One structure faces East Oak Island Drive
and the other structure face NE 72nd St.

NE 72ND

E. OAK ISLAND



Streets
Parcels

0 10 20 40 60 Feet

1 = 40 Feet



Disclaimer: Map and place data are believed to be accurate, but accuracy is not guaranteed. This is not a legal document and should not be substituted for a title search, appraisal, survey, or other zoning verification.

TOWN OF OAK ISLAND
PLANNING BOARD
AGENDA ITEM MEMO

Agenda Item: New Business Item No. 2

Date: April 18, 2016

Issue: Corner Lots

Department: Development Services

Presented by: Jake Vares

Presentation: None

Estimated Time for Discussion: 25 Minutes

Subject Summary:

An inconsistency regarding part of the town zoning ordinance has come to light. The ordinance language is both inconsistent as it is written but also with what staff has found on file as to what it should actually say. The way the text is currently written and shown online and in the code of ordinances book is “*(f) Corner lots shall have an eight-foot corner side yard setback and no additional flexibility per section 32-78.*” This language makes little sense because the table directly above the footnote clearly says the side yard setbacks for corner lots are 10ft or more. Upon investigating this issue we realized that the wording, quoted above, that is in our zoning ordinance is incorrect, and what was submitted to Municode back in 2010 was incorrect. Upon looking through the records it appears the clerk at the time incorrectly sent the wrong text to update the zoning ordinance. This can be verified by the attached 2010 Council minutes shown as page 22 of the minutes, when the original motion was adopted and carried. The actual language that was adopted at the time is “*(f) Lots on the island and on the waterway side of Yacht Drive and lots on the ocean side of Beach Drive and Ocean Drive shall have an 8’ corner side yard setback and no additional flexibility per Section 32-78.*” That is what Council adopted in July 2010, afterwards they directed staff to submit an additional text amendment recommendation back to Council to address the issue even further. These instructions can be verified by reading the August Council minutes that are shown as page 5. I have also read through the August 2010 Planning Board packet and minutes and have found nothing on the topic. It appears nothing further went back before Council for discussion and potential adoption. After finding the missing/incorrect zoning ordinance text error, the town clerk has taken action to correct it and is updating the new language to have it fixed.

Since Council directed staff back in 2010 to look into and propose a text amendment that deals with corner lot setbacks and it was not done; staff is now submitting such a text amendment for clarification. The goal of this staff proposed text amendment is to allow setbacks to be more flexible for lots adjacent to water bodies. At one point in time back when Long Beach and Yaupon were separate, the setbacks for corner lots were actually 8 ft. The specific references to water features that were adopted I believe unnecessarily complicates the ordinance language. The language that is proposed here removes the specific water feature references. Given that many of

the lot widths along water bodies are narrow already, this text amendment provides a bit more flexibility for corner lots only. In order to keep with the original goal of the text amendment, the proposed language states that this is for island side corner lots only. Otherwise, parcels that dead-end into streams, ponds and other water features on the mainland would also apply.

The reference to section 32-78 in footnote (f) is referring to a possible setback exception that exists for situation where the setback can be sometimes adjusted in order to preserve a natural area and/or save a specimen tree. That section does not increase the maximum permitted length and width of the allowable building area. If applied for it must be approved by staff in writing and notated on the survey.

Attachments: Proposed text amendment, past Council minutes

Recommendation/Action Needed: Motion of Approval

Suggested Motion: Recommend approval of text amendment

Funds Needed: \$0.00

Follow-Up Action Needed: Forward Recommendation to Town Council

Attachments

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

Zoning District	Lot Area Per Dwelling Unit (Square Feet)	Lot Width (Feet)	Front Yard Setback (Feet) ^(c)	Side Yard Setback		Rear Yard Setback (Feet) ^(c)	Building Height Limits ^(d)	
				Interior Lot (feet)	Corner Lot (Feet) ^(f)		Outside VE Zone (Feet)	Inside VE Zone (Feet)
R-20	20,000	100	30	10	20	15	35	41
R-9 ^(e)	9,000	75	25	8	10	20	35	41
R-7.5 ^(a)	7,500	75	25	8	15	20	35	41
R-7 ^(e)			25	8	10	20	35	41
One-family	7,500	60 ^(b)						
Two-family	10,000	75						
R-6A ^(e)			25	8	10	20	35	41
One-family	6,600	60 ^(b)						
Two-family								
R-6B	6,600	60 ^(b)	25	8	10	20	35	41
R-6MF ^(e)			25	8	10	20	35	41
One-family	6,600	60 ^(b)						
Two-family	11,000	100						
Three-family	15,000	140						
MH						10		
Triplex	15,000							

(a) 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.

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

(c) 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 television 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.

~~(f) Lots on the island and on the waterway side of Yacht Drive and lots on the ocean side of Beach Drive and Ocean Drive shall have an 8' corner side yard setback and no additional flexibility per Section 32-78. Corner lots on the island off dead-end streets that are contiguous to water bodies shall have an eight-foot corner side yard setback and no additional flexibility per section 32-78.~~

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

2. New elevators, mobility and cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, up to five feet into the required front setback, and may also encroach up to five feet in to the required side yard setback only if approved by the board of adjustment. The board of adjustment shall not be required to use the five findings of facts with the variance/appeal process, and, where peculiar characteristics in the front or rear setback requirements are clearly unrealistic, the board of adjustment is authorized to approve the use in the side setback after application and review.

(Ord. of 6-12-2001, ch. 1, § 5.16; Ord. of 8-14-2001, § 2; Ord. of 1-8-2002, § 5.16; Ord. of 10-10-2006(2) ; Ord. of 7-8-2008(2) § 6; Ord. of 8-12-2008(3); Amend. of 3-9-2010; Amend. of 7-13-2010; Amend. of 4-9-2013; Amend. of 2-11-2014)

Sec. 18-118. - Area and height table; nonresidential districts.

Zoning District	Lot Area (Square Feet)	Lot Width (Feet)	Front Yard Setback (Feet)	Side Yard Setback			Building Height Limits ^(b)		
				Interior Lot (Feet)	Corner Lot (Feet) ^(f)	Rear Yard Setback (Feet)	Outside VE Zone (Feet)	Inside VE Zone (Feet)	
O&I	6,600	60	20	10	15	15	35	41	
CUCB	None	60 ^(d)	20	None ^(e)	8	10	35	41	
CB	None	None	20	None	8	10	35	41	
CR ^(h)	None	None	20	8	10	10	35	41	
C-LD ^{(a), (c)}	7,500	150	40	8	25	15	35	41	
AD	40,000	125	50	15	35	40	35		
OS	None	None	None	None	None	None	35	41	

^(a) Special dimension requirements:

Places of worship: Lot area equals same as requirements for district, plus a requirement for two square feet of open space for each one square foot of building coverage. Area designated for parking may be included as open space.

Nursing homes (domiciliary homes): Lot area equals two acres.

Hospitals, private clubs, mortuaries: Lot width equals 150 feet.

Offices and studios, personal service establishments, vocational schools: No lot area or width established.

Retail stores, sales and display rooms and shops, banks and financial institutions, eating and drinking establishments, hotels and motels, commercial recreational structural uses, clinics and laboratories: No lot area established; lot width equals 75 feet.

- (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 television aerials for residential use, masts, parapet walls not to exceed more than three feet above the roofline of the building, and necessary mechanical appurtenances.
- (e) Mainland height requirements: Offices, motels, hotels, medical facilities, boat storage and multifamily residential buildings and structures up to a maximum of 55 feet in height may be permissible as a conditional use if the following conditions are met:

(1)

For every foot in height in excess of 35 feet, an additional two feet of setback must be provided above those required by this article for front, side, corner side and rear yards in the C-LD district.

(2)

Each building must be separated from other buildings on the same parcel by a distance of 30 feet.

(3)

The planning board and town council may impose such additional conditions as they see fit, such as, but not limited to, fences and walls, street dedications, additional parking, vehicular access points, buffering, and landscaping improvements.

Exceptions to this height limit are listed in (b).

Nothing in this section shall exempt the building or structure from the provisions of the airport height ordinance for the county airport.

(d) Measured along East Oak Island Drive.

(e) Minimum eight feet wherever a CUCB district lot abuts a residential district.

(f) ~~Lots on the island and on the waterway side of Yacht Drive and lots on the ocean side of Beach Drive and Ocean Drive shall have an 8' corner side yard setback and no additional flexibility per Section 32-78.~~ Corner lots on the island off dead-end streets that are contiguous to 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 and cargo lifts on existing residential structures may encroach up to five feet into the required rear setback, up to five feet into the required front setback, and may also encroach up to five feet in to the required side yard setback only if approved by the board of adjustment. The board of adjustment shall not be required to use the five findings of fact as with the variance/appeal process and may where peculiar characteristics in the front or rear set back requirements are clearly unrealistic, the board of adjustments is authorized to approve the use in the side set back after application and review.

(h) The front yard setback for oceanfront properties in zoning district CR when used for a single-family residence shall be 15 feet.

(Ord. of 6-12-2001, ch. 1, § 5.17; Ord. of 1-8-2002, § 6; Ord. of 5-14-2002, § 5.17; Ord. of 7-9-2002, § 4; Ord. of 11-12-2002 § 1; Ord. of 4-8-2008; Amend. of 3-9-2010; Amend. of 7-13-2010; Amend. of 6-12-2012; Amend. of 2-11-2014)

- i. That Pump-out Facilities will be Provided;
- j. That Number of Toilets and Lavatories will be Provided as Required by the Town Ordinance, which appears to be 11 {toilets & lavatories};
- k. That a Favorable Phase 1 Report will be Submitted in the Subdivision Process; and
- l. The Disclosure Statement Regarding the Airport {Brunswick County Airport} will be Signed at Closing on any Future Sale of the Property.

Councilor Mary Snead seconded Mayor Pro Tempore Royal's motion. (Motion Carried 5 – 0)

(Second Action) Dry-stack Storage Facility

Mayor Pro Tempore Royal made a motion to Approve the Request of Building a Dry-stack Storage Constructed at a Height of 47 Feet, that it meets the Four Findings Necessary for issuance of a Conditional Use Permit with the Following Conditions:

- a. That the Project will meet all Local, State, and Federal Regulations; and
- b. That the Initial Tract will be Subdivided in 2 Parcels shown on the Site Plan and be Approved in the Major Subdivision and Final Plat Approval process.

Councilor John Ramsey seconded the motion.

(Motion Carried 5 – 0)

PUBLIC HEARING #3. ZONING ORDINANCE TEXT AMENDMENT – 8' CORNER SIDE YARD SETBACKS

Mayor Wallace called the Public Hearing to order at 7:22 p.m. The purpose of the hearing was to receive Public comments on a Proposed Zoning Amendment to Chapter 18, Sections 117 and 118, Allowing 8' Corner Side Yard Setback for Lots on Waterway Side of Yacht Drive and Lots on Ocean Side of Beach Drive and Ocean Drive.

Public Hearing #3 Comments: (Comments not provided in writing are paraphrased or summarized)

Mr. Greg Potter (East Beach Drive) Mr. Potter commented that setbacks had once been 8 feet, but during the time Ms. Jane Daughtridge was Town Planner it had been revised to 10 feet, with her explaining to him that such was done in Cary and Carolina Beach.

Mr. Potter asked if this justifies taking 2 feet of someone's property, as "a 50 foot lot is tough to begin with and then when you go take an additional 2 feet it really limits what you can do; and if we can do it to the beachfront and Yacht Drive, why can't we do it to, like, 2nd row, 3rd row, like that."

Mr. Potter expressed his hope that the 8 foot is passed, but asked Council to look at other areas per "the concerns of those people." He further explained that it is hard to believe how much 2 feet "means in a home."

Public Hearing #3 Actions:

Councilor Snead made a motion, seconded by Mayor Pro Tempore Royal, to close the Public Hearing at 7:26 p.m. (Motion Carried 5 – 0)

Mayor Pro Tempore Royal commented that Mr. Potter was correct "in that, at least in the former Town of Long Beach the former setbacks were 8 feet everywhere with the exception of, there's some areas back in the wooded area where the lots were turned and there was an additional side setback to not be so out of line with the front setbacks on the lots behind them when they're perpendicular. I believe there's a mixture of 8 and 10 feet in the former Yaupon Beach section and it may very well be worth taking a look at all of that again."

Mayor Pro Tempore Royal made a motion to Approve Amending the Zoning Ordinance for Corner Side Setback Requirements for Lots on the Island and on the Waterway Side of Yacht Drive, and Lots on the Ocean Side of Beach Drive and Ocean Drive to Have an 8 Foot Corner Side Yard Setback and No Additional Flexibility for Vegetation Ordinance Section 32-78 as Proposed on Pages 56, 57, 58, & 59 of the Agenda Packet. Councilor Medlin seconded the motion.

Councilor Ramsey stated his agreement with Mayor Pro Tempore Royal's comments regarding reviewing such approval in other areas of the Town.

Councilor Seidel also stated his agreement, but commented approval should be deferred until all areas have been researched and considered. **(Motion Carried 4 – 1)**

**For: Mayor Pro Tempore Royal; Councilors Snead, Ramsey, and Medlin
Against: Councilor Seidel**

Mayor Pro Tempore Royal said "the issue with corner lots often times when you've got intersecting roadways when you're at the, at a dead-end, so to speak, some of those issues with site distances and so forth are not the same as they are in other areas, which is why I did not have a problem with going ahead and passing this piece of it."

Mayor Pro Tempore Royal made a motion to Direct Planning Board to Also Review Corner Lot Setbacks in other Areas of Town, with Councilor Ramsey seconding. (Motion Carried 5 – 0)

Council recessed from 7:30 to 7:40 p.m.

COUNCIL MEMBER REPORTS:

Mayor Pro Tempore Royal

Rocks on Beach

Mayor Pro Tempore Royal reported that per her recent discussions with Mr. Jim Gregson and representatives of the Corps of Engineers Regulatory Division inclusive of her mention of the Town's operational manual information on the Turtle Project, the Town was advised to begin the CAMA Major Permit application process for the rock picking project this week (week of March 8th, 2010).

Beach Regulations

Further discussion? All those in favor?

(Motion carried, unanimously)

PUBLIC HEARING #2

The purpose of the Public Hearing was to receive public comments on the Oak Island Planning Board's recommendation to amend Zoning Ordinance Sections 18-117 and 18-118 revising the building setback lines on corner lots to 8 feet in all areas of the town.

Mayor Wallace: *I do believe we've had a request to move this Public Hearing to the August Council meeting. Is that correct, Councilor Royal?*

Mayor Pro Tempore Royal said the recommendation should be referred back to the Planning Board and come back to Council in August. Procedurally, the hearing should be opened, closed and action would be to refer it back to the Planning Board.

PUBLIC COMMENTS: (NONE)

Mayor Pro Tempore Royal moved to close the Public Hearing, Councilor Snead, seconding.

(Motion carried, unanimously)

Public Hearing #2 Action

CONSIDERATION OF ORDINANCE AMENDING SECTIONS 18-117 AND 18-118 OF THE TOWN OF OAK ISLAND ZONING ORDINANCE REVISING THE BUILDING SETBACK LINES ON CORNER LOTS TO 8 FEET IN ALL AREAS OF THE TOWN COINSISTENT WITH THE CAMA LAND USE PLAN.

Mayor Pro Tempore Royal moved to refer the item back to Planning Board for further consideration, Councilor Snead seconding.

(Motion carried, unanimously)

PUBLIC HEARING #3

The purpose of the Public Hearing was to receive public comments on the Oak Island Planning Board's recommendation to amend Zoning Ordinance Sections 18-82(H)(3) allowing fences exceeding 4 feet in height to be built to the property line of an alley right of way

Mayor Wallace: We have a correction to the Public Hearing #3 Ordinance Amendment from Assistant Manager Hicks, and it is to add 18-82(H) fences and paragraph (3), no fence exceeding a height of 4 feet will be constructed within 25 feet of any street right of way, excluding alleys.

PUBLIC COMMENTS: (NONE)