

Town of North Topsail Beach

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Mike Benson, Mayor Pro Tem

Aldermen:
Richard Grant
Connie Pletl



Alice Derian, ICMA-CM
Town Manager

Melinda Mier
Town Clerk

Nature's Tranquil Beauty

Planning Board

Program for Public Information (PPI) Committee

Regular Meeting Draft Minutes

Thursday, October 13, 2022, at 5:00 PM

2008 Loggerhead Court, North Topsail Beach NC 28460

Present: Hanna McCloud – Chair, Paul Dorazio – Vice Chair, Pat Stigall, Gunnar Mathews, Lisa Brown, Susan Meyer.

Absent: Stu Harness, Scott Morse.

Present Other: Deborah Hill – Planning Director, Kate Winzler – Clerk to the Planning Board, IT Director Ricky Schwisow.

CALL TO ORDER Mrs. McCloud called the meeting to order at 5:12 p.m.

ADOPTION OF THE AGENDA Ms. Meyer made a motion to amend and adopt the agenda without the approval of minutes. Mr. Dorazio seconded. The motion passed unanimously, 6-0.

PUBLIC COMMENT none.

NEW BUSINESS

CASE #SUP-22-02 Planning Director Hill reviewed the list of exhibits one through thirty-two, including exhibit six-A Onslow County 2022 GIS Aerial Lot twelve-four using "Tools" "measurements" to calculate area. Ms. Hill presented the staff report for the special use permit "Per engineered plans 'Murphy renovation number four Bermuda Landing North Topsail, North Carolina' by Chris Holmes, P.E. #16336 dated April fourteenth two thousand twenty-two to remove existing rear sixteen foot by seven-point-six-foot deck, construct a sixteen foot by seven-point-six-foot addition on the first habitable level with a new deck on the second habitable level and a new ground-floor enclosure." Ms. Hill showed the Planning Board exhibit six-A and asked the applicant, Ms. Laura Murphy who was in attendance, to confirm that her property number four currently has a rear deck with a concrete patio underneath. Ms. Murphy confirmed, then explained that number two is exactly what she wants to do. Ms. Hill explained that the impervious surface of this lot appears to be more than fifty percent, closer to seventy percent. She indicated the need for a site visit by the surveyor to correct the calculations on the preliminary plat of survey.

Vice Chair Dorazio asked the applicant, Anton DeVries if this type of development had already been done, to which Mr. DeVries replied yes, on unit two illustrated on exhibit six-A. Ms. Stigall

asked when the development on lot number two was done. Mr. DeVries replied he did not know. Ms. Murphy stated that it has been there for at least five years. Ms. Murphy explained why she applied for the addition. She stated that she understands that the Planning Board is protecting Topsail and the appearance of the island. Ms. Murphy stated that she loves living here and she respects the covenants and the statutes that the Planning Board has because it is protecting her safety and her home value.

Ms. Stigall asked Ms. Hill if there are other active projects within this HOA. Ms. Hill said this is the only current project there. The State's goal is twenty-five percent maximum impervious surface in the Outstanding Resource Waters (ORW), and the Town's goal is to maintain the CAMA standards within the ORW and thirty percent maximum impervious surface outside of the ORW. Presenting these cases to the Planning Board and to the Board of Aldermen offers the benefit of examining proposed development at this point.

Chair McCloud asked Ms. Murphy what was underneath unit two- a bedroom or a patio. Ms. Murphy replied a patio. She offered that very few owners have modified their garages with the breakaway walls, because in a flooding situation it would be a complete loss. Ms. Murphy uses her garage for parking and her dogs when she leaves.

Planning Director Hill showed the Planning Board pictures of the site as it is, as well as pictures of several neighboring townhouses. Chair McCloud asked Ms. Murphy if this addition would increase her townhouse to four bedrooms. Ms. Murphy explained no, the addition is a personal den. Ms. McCloud asked why Pluris required an upgrade to the existing permit. Mr. DeVries explained that Pluris calculates heated habitable space, rather than bedrooms. Ms. Murphy noted that her ground-level patio has sandbags to prevent stormwater runoff from flooding her garage. If it rains more than three days, she has flooding in her ground level. Ms. Hill asked if Mr. Murphy has a lot of flooding. Ms. Murphy stated yes. Ms. Hill asked if Ms. Murphy would be willing to incorporate an engineered stormwater system into her development plan if it was a condition of approval. Ms. Murphy agreed. Ms. Murphy explained that she wants to add a set of stairs to the back of the addition, but she does not want to add any additional ground-floor enclosure. Ms. Hill noted that those proposed stairs are not indicated on the preliminary plot plan. Ms. Hill asked if the property has flood vents. Mr. DeVries confirmed. Ms. Hill asked Ms. Murphy if there was an HVAC unit in the ground-floor window. Ms. Murphy confirmed. Ms. Murphy also stated that she wants to add a set of stairs off the back deck.

Ms. Hill reviewed the special use permit hearing process.

Chair Dorazio asked if the plot plan showed the stairs. Ms. Hill replied no, and because the stairs were not on the plot plan, she was unable to check the setbacks. Chair McCloud stated the without that information, the Board is unable to check the impact on the lot line and she found the application incomplete. Without the stormwater information, lot size, stairs, and a letter from the HOA approving the whole project, the Planning Board is unable to make a recommendation to the Board of Aldermen. Ms. Hill offered to work with the applicant to present a complete application by the next Planning Board meeting in November, allowing the Planning Board to make a recommendation to the Board of Aldermen for their meeting in December. Vice Chair Dorazio agreed. Ms. Hill stated that this would set the precedent for Bermuda Landing, but not for having townhouse modifications come before the Planning Board and Board of Aldermen. Ms. Stigall asked if there was any precedent for approving an increase in impervious square footage to this extent in a special use permit? Ms. Hill replied that it

requires permitting from the Division of Coastal Management. The CAMA permit was issued based upon a twenty-five percent impervious surface without knowing what the actual impervious surface was. If the Division of Coastal Management issued a variance on the twenty-five percent in the ORW, the Town would accept it. Mr. DeVries had a question about the CAMA regulations and the impervious surface. Planning Director Hill suggested that he ask the Division of Coastal Management that question. Chair McCloud asked Ms. Hill if she would give the applicants the list of missing required items, to which Ms. Hill confirmed.

Ms. Meyer made a motion to table giving the applicants the opportunity to address the deficiencies in the application as indicated in the staff report and to direct the Planning Director to work with the applicants to complete their application to bring back when it's complete. The motion was seconded by Vice Chair Dorazio. Motion passed unanimously, 6-0.

DISCUSSION

WETLAND PROTECTION Planning Director Hill presented the following to the Planning Board. "The Town recently adopted higher standards for dune protection. The Town is now considering higher standards for wetland protection. The current CAMA Land Use Plan states, "North Topsail Beach accepts state and federal law regarding land uses and development in AEC's (Areas of Environmental Concern), including all NCAC 7H standards. By reference, all applicable state and Federal regulations are incorporated into this document. No policies exceed the use standards and permitting requirements found in Subchapter 7H, State Guidelines for Areas of Environmental Concern."

With regards to fill, the Town's Floodplain Regulations regulate, i.e., non-structural, minor grading, site-compatible, limited to 2 feet, greater with an engineer's certification.

I have been requiring bearings and distance descriptions for current wetland delineation with confirmation by the USACE/NCDCM. Some site plans coming in have had lines with no description, while others reference map book and page numbers that are thirty years old. Needless to say, I have not accepted them. I have left the permitting to the appropriate 404/401 authority, consistent with the CAMA Land Use Plan.

Sackett v. EPA Docket Number: 21-454. Date Argued: 10/03/22; expect a decision the beginning of the year. According to Reuters,

Conservative U.S. Supreme Court justices on Monday appeared open to limiting the reach of the U.S. Environmental Protection Agency's authority to protect wetlands from pollution under a landmark environmental law in a case involving Idaho property owners seeking to build a home.

The case gives the conservative justices an opportunity to limit the scope of the Clean Water Act. While they seemed to lean toward favoring the plaintiffs, some conservative justices signaled skepticism toward the notion that the EPA under the Clean Water Act could never police wetlands like swamps, marshes and berms that are near but not connected to regulated waters, as a lawyer for the plaintiffs argued.

They continue to go back and forth, with all bets off on how the court will decide. So, it's best that we continue to leave 404 to USACE for now.

However, this decision will not impact the State's regulation of 401 coastal wetlands by the NC Division of Coastal Management. I will be researching examples of vegetated buffer controls by other regional local governments and bringing them back to the Planning Board for consideration." There was discussion.

ADJOURNMENT Mr. Dorazio made a motion to adjourn. Ms. Stigall seconded. Motion passed unanimously, 6-0.

The Planning Board meeting adjourned at 6:29 p.m.

Chair McCloud thanked Fred Fontana for serving on the Planning Board, specifically appreciating his help and input. Vice Chair Dorazio agreed.

APPROVED

This 10th day of November 2022



Hanna McCloud
Chair

CERTIFIED

This 10th day of November 2022



Kate Winzler
Clerk