



TOWN OF SOUTHERN SHORES PLANNING BOARD REGULAR MEETING

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

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www.southernshores-nc.gov

PITTS CENTER

Monday, April 20, 2026 at 5:00 PM

MINUTES

MEMBERS:

Andy Ward	Chair
Jan Collins	Member
Ed Lawler	Member
Robert McClendon	Member
Natalie Painter	Alternate (Voting)
Charles Ries	Alternate

Minutes prepared by Jody Warner of Minutes Solutions Inc. from a recording.

CALL TO ORDER

There being a quorum present, and adequate and proper notice of the meeting having been given, the meeting was called to order at 5:00 p.m.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited by the Board.

APPROVAL OF AGENDA

On a motion made by Andy Ward, seconded by Jan Collins, it was resolved to approve the agenda, as presented. Motion carried.

APPROVAL OF MINUTES

On a motion made by Jan Collins, seconded by Andy Ward, it was resolved to approve the minutes of the February 18, 2025, Planning Board meeting, as amended. Motion carried.

ACTION – Wes Haskett will amend the minutes of the February 18, 2026, Planning Board meeting to note that Ed Lawler was present.

PUBLIC COMMENT

There were no public comments.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

ZTA-2026-01

The Board considered the Zoning Text Amendment application submitted by Dan Osman (ZTA-2026-01) to request an amendment to Sections 36-202(d)4 and 36-202(d)5 of the Town Code to establish a minimum 10-foot side yard setback requirement and a minimum 20-foot rear yard setback requirement for pool equipment, pool sheds, accessory structures up to 150 square feet, and mechanical equipment (HVAC) in the RS-1 zoning district.

The applicant submitted the amendment request after learning that his recently constructed pool cabana does not meet the 25-rear yard setback requirement.

Wes Haskett reviewed the definition of yard as per Section 36-57 of the Town Code and advised that, currently the yard setback requirements for pool equipment, pool sheds, accessory structures up to 144 square feet, and mechanical equipment (HVAC) in the RS-1 zoning district are a minimum of 15 feet from a side property line and 25 feet from a rear property line. The current rear yard setback of 25 feet has been in place since 1981. The side yard setback for structures (with some exceptions) was increased from 10 feet to 15 feet in May 2000.

Wes Haskett reported that Town Staff has determined that the proposed amendments are consistent with the Town's currently adopted Comprehensive Land Use Plan, and Town Staff recommends approval of the proposed amendments, provided that they are revised so that they only apply to pool equipment, mechanical equipment (HVAC) and accessory structures up to 144 square feet. He added that it is a commonly raised concern from property owners and contractors that pool equipment, mechanical equipment and sheds less than 144 feet have to meet the same setback requirements as a house does. It is not uncommon for other jurisdictions to have different setback requirements for principal structures and smaller accessory structures.

The Board reviewed the intent of Section 36-202 (RS-1 zoning district) of the Town Code, which highlights that the area is zoned with an eye to protecting the local environment by a low-impact development approach. Andy Ward read a statement from a previous land use discussion noting that most residents and seasonal visitors support the vision outlined in Section 36-202.

Dan Osman, who has resided in Southern Shores for 21 years and works as a general contractor, addressed the Planning Board in support of his ZTA application. He stated that he received the Town's approval to build his pool cabana. Once built, he was asked to provide an as-built survey, which he did. After review of the as-built survey, the Town advised that one corner of the pool cabana was eight inches over the rear yard setback line at 24.4 feet. Dan Osman spoke with Town Staff to understand what his options were to seek a pathway to compliance while still retaining the cabana and decided to submit a Zoning Text Amendment request as a first approach.

Dan Osman shared the observation that the current zoning rules make it challenging to build outdoor areas that his construction clients strive to enjoy. Using the example of his lot, he advised that in following the requirements of the current Southern Shores zoning laws, only 15.6% of his half-acre lot was available for the building envelope of his house, which he put forth as restrictive. He commented that the rationale for allowing structures 29.9 inches or less in height to breach setbacks, while structures 30 inches or higher could not be clear.

Dan Osman noted that rebuilding his cabana would cost him approximately \$35,000. He acknowledged the construction error in the placement of his

cabana, but put forth that his proposed Zoning Text Amendment would give all residents a little more space to expand their properties for their enjoyment. He concluded by noting that should his request be denied, he would apply for a Variance and potentially speak to the Town Council about introducing a contractor's errors and admissions by-law, which other jurisdictions have, to account for small errors that are sometimes made during the construction process.

In response to a query, Wes Haskett confirmed that a pool cabana would meet the definition of an accessory structure in the Town Code and stated that water, electricity and HVAC are permitted in such structures. Accessory structures up to 144 feet do not require building permits; however, a zoning permit is required. The Board noted that a 144-square-foot cabana with a TV set closer to the lot line could lead to an increase in noise pollution for neighbors and would contradict the residential intent of zone RS-1. It was noted that the RS-1 district was not envisioned as a recreational property area but as a permanent residential community.

The Board reviewed a series of photos of existing accessory structures in Southern Shores and discussed previous Variance cases involving such structures. The Board noted that ZTA-2026-01 is proposing a 33% reduction in the side setback and 20% reduction in the rear setback, which is a significant change. This could be concerning in the case of HVAC equipment such as heat pumps that produce year-round noise, though the appreciable increase in noise levels would need to be tested to be confirmed, and HVAC equipment is generally placed close to a house for operational reasons.

The Board also noted that changes in zoning over time can be appropriate to reflect societal developments, including an increase in the size of houses and a greater emphasis on outdoor enjoyment. A 5-foot increase to the setbacks for accessory structures may be a small change and a reasonable step to respond to changes in how many residents now live.

The Board highlighted that in the most recent Comprehensive Land Use Plan survey, a large majority of residents supported keeping the current side and rear yard setbacks, site coverage and height restrictions in place. However, it would be beneficial to release a new survey to ascertain if these views remain the same. Regular surveys provide useful community feedback.

The Board put forth that requiring residential HVAC units to be screened, either in all cases or only when placed outside of a setback, could help to minimize noise and visible clutter. Wes Haskett stated he would have to conduct research to explore this option.

Duke Geraghty, Government Affairs Liasson with the Outer Banks Homebuilders Association, addressed the Board. He stated that he was involved during the 2000 discussions to change the side yard setbacks from 10 to 15 feet. He noted that at the time houses were smaller and there were not many pools, and both of these realities have since changed. Lot prices have gone up substantially in the intervening years, and most new homeowners want pools on their lots, which requires extra outdoor space. He stated that he did not believe that shrinking the setback would have the effect of changing the neighborhoods of Southern Shores.

It was noted that one future possibility would be the State introducing legislation that would set the zoning ordinances for all Towns in the State.

The Board engaged in further discussion about ZTA-2026-01, after which a motion was brought forward and voted upon.

As the motion put forward did not resolve Dan Osman's situation, the Board advised him to submit a variance request regarding the matter.

On a motion made by Andy Ward, seconded by Ed Lawler, it was resolved to recommend to Town Council the acceptance of ZTA-2026-01 with amendments, those amendments being to delete 'pool sheds, accessory structures up to 150 square feet' and to insert "Notwithstanding the above, for platforms for pool mechanical equipment and mechanical equipment (HVAC), the minimum side yard setback shall be 10 feet and the minimum rear yard setback shall be 20 feet". Motion carried (5-0).

B: TCA-2026-01

The Board considered Town Code Amendment request (TCA-2026-01) submitted by the Town of Southern Shores to amend the Town's current requirements for wastewater systems in Town Code Chapter 32, Utilities.

Wes Haskett explained that at the May 6, 2025, Council meeting, Town Staff was directed to modernize Chapter 32 of the Town Code and noted that the resulting proposed amendments, along with a staff report, were included in the meeting package. The amendments aim to ensure that Chapter 32 is consistent with the North Carolina General Statutes with respect to the approval of wastewater systems. It was noted that the North Carolina Department of Environmental Quality (NCDEQ) has the authority to regulate and approve permits for wastewater systems.

Wes Haskett highlighted that, should the proposed amendments in TCA-2026-01 be approved, Southern Shores would still have the authority to monitor the existing wastewater treatment plant in the Town by requesting information from the State as needed. The Town would no longer issue wastewater permits, as that is under the authority of the State and County Health Department. The Town would still have the ability to assess civil penalties for those who are in violation of wastewater treatment plants and facilities. The Board would also still be able to review site plans for all new wastewater treatment plants or connections to existing wastewater treatment plants, with the exception of single-family and duplex structures, and to submit comments to the Council about these site plans.

There were Zoning Text Amendments adopted two years ago that require the North Carolina Utilities Commission to certify that the owner of any new wastewater treatment plants or new connections to existing wastewater plants is a public utility franchise holder, and NCDEQ to certify that the facility, including any proposed improvements, complies with all applicable requirements, including adherence to permit conditions. These requirements remain in place.

Joe Anlauf advised that for wastewater treatment plants where discharge is to a drain field, the Dare County Department of Health and Human Services is responsible for issuing permits, whereas plants where the spray will be applied to the surface or a high-rate infiltration pond are under the permit jurisdiction of NCDEQ. The existing language in the Town Code places significant responsibility on Town Staff to collect information, oversee and regulate wastewater treatment plants. However, there are not enough human resources to adequately achieve this level of enforcement, which is a liability. The

amendments shift most of the responsibility to the State and County level, but still give the Town the ability to follow up on wastewater concerns by requesting documentation from plants where necessary to confirm that they comply with their permit requirements. Town Staff can also submit feedback comments during the site plan process if they have concerns that a proposed wastewater system may have a deleterious impact on the environment.

The Board conducted a page-by-page review of the proposed amendments. It was noted that a number of definitions in Section 32, Utilities, were deleted or revised because they were either redundant or inconsistent. As an example, the definition of pollution was updated. Wastewater system, traditional was added as a new definition to denote a common private wastewater system that serves single-family dwellings. It was clarified where a single wastewater system was serving two structures, for example, a commercial and residential structure or two cottages.

The Planning Board's review of site plans will ensure that they still have authority over the design and vegetation requirements around wastewater systems. For low-pressure pipe systems serving a single-family residence up to larger commercial systems, operators are responsible for daily testing and producing a number of monitoring reports, which the Planning Board has the right to review. Should a notice of violation be issued against an operator, they would be directed to take corrective action by a specified deadline, and failure to do so would lead to special orders, and if necessary, emergency management, as well as civil penalties. The Planning Board could recommend to Council additional civil penalties in instances of this kind. However, Joe Anlauf observed that it is not unusual for fines to be waived at times to ensure an operator has funds to remediate the system deficiency.

On a motion made by Jan Collins, seconded by Ed Lawler, it was resolved to recommend to Town Council the acceptance of TCA-2026-01, as presented. Motion carried (5-0).

ACTION – Town staff will seek information on all Town wastewater systems with discharges greater than 3,000 gallons a day from the North Carolina Department of Environmental Quality (NCDEQ)/Dare County Department of Health and Human Services twice a year, in the summer and winter seasons, and advise the Planning Board of any inspections conducted and/or notices of violations that were issued.

PUBLIC COMMENTS

There were no public comments.

PLANNING BOARD MEMBER COMMENTS

Natalie Painter reported on a recent Mayor's chat event in which residents had an opportunity to meet with the Police Department about the license plate cameras in the Town, which are operated by Flock Safety, a private third-party entity that uses cloud-based software. Some citizens stated they were in favor of the license plate cameras while others were opposed. Concerns about how private citizen data is being managed and utilized were brought forward, and further discussion on the topic would be beneficial. The Police Department has added a transparency portal relating to the cameras where some, but not all, information is publicly available.

ANNOUNCEMENTS

275 The date of the next regular meeting is May 18, 2026, at 5:00 p.m.
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278 **ADJOURNMENT**

279 On a motion made by Natalie Painter, seconded by Andy Ward and
280 carried, it was agreed that there was no further business to transact; the
281 meeting closed at 7:15 p.m.
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283

284 ATTEST:

285 
286 5/21/20
287 Andy Ward, Chairperson