

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
October 13, 2010**

The Planning Board for the Town of Duck convened at the Duck Municipal Offices on Wednesday, October 13, 2010.

Present were Chairman Jon Britt, Vice Chair Joe Blakaitis, Ron Forlano, and John Fricker.

Absent: Member Randy Gilbreath.

Also present were Director of Community Development Andy Garman, Council Liaison Chuck Burdick and Permit Coordinator Sandy Cady.

Others Present: Richard McAuliffe and Don Haggerty of the Sanderling Resort and Spa.

Absent: None.

Chairman Britt called to order the Regular Meeting of the Planning Board for October 13, 2010 at 6:33 p.m.

PUBLIC COMMENTS

None.

OLD BUSINESS

Request for Revisions to Ordinance #10-10, an Ordinance to Regulate Solar Energy Systems

Director Garman stated that Ordinance #10-10 was brought before the Town Council to request a public hearing; which they reviewed and sent back to the Planning Board for a minor revision – to address height restrictions for flat roof buildings. He stated that there was a limitation placed in the ordinance that solar panels mounted to a roof should not be more three feet above the surface of the roof. He added that there were some concerns that this would be too limiting for flat roof structures, so Council wanted the Board to address it. He stated that he modified the ordinance to try and deal with the issue and provide some flexibility. He stated that two (2) categories were created for lower slope and flat roof structures so they would have the ability to tilt the solar panels to gain the maximum efficiency. He went on to review the ordinance with the Board and audience.

Council Liaison Burdick thought Director Garman did great research in trying to make the changes to the ordinance fair so that the Town would not be caught with exceptions for the owners with lower pitched roofs. He did suggest rounding the height limit to five feet to avoid the need for any exception requests.

Member Forlano thought the ordinance was great the way it was written. He stated that he did not have any issues with it.

Vice Chair Blakaitis clarified that solar panels were removed from the additional five foot exception that most roofs were allowed. He asked if it was now being put back into the draft ordinance. Director Garman stated that it wasn't as it was above the roof and not the district height limit. Vice Chair Blakaitis stated that he liked it and thought it was a good solution.

Member Fricker stated that he was fine with the ordinance as drafted. Chairman Britt stated that he was fine with the ordinance.

Vice Chair Blakaitis moved to revise Ordinance #10-10 to include Section B, which allows solar panels mounted on a roof with a pitch of less than 4:12 to be not more than five foot above the plane of the finished roof surface. Member Fricker seconded.

Motion carried 4-0.

Discussion/Consideration of Town Ordinances related to Variances/Exceptions to Height Regulations

Director Garman stated that there were only a few major changes that the Board wanted to see with regard to the ordinance. He stated that he changed the section that referred to variances as to height limit to building features and structures permitted as exceptions to district height regulations. He noted that they would be permitted exceptions that would be approved administratively. Director Garman reviewed the revised draft ordinance with the Planning Board.

Vice Chair Blakaitis suggested keeping Section C the way it was written and adding the following language: "...except anything to do with C-PR zone..." He added that it would avoid the sense of impropriety regarding the Town Council hearing its own request for a variance in the Town.

Member Forlano thought the exception idea was the best one.

Member Fricker suggested that it be done across the board; not only for Town Council actions but also for other height variance requests. He felt that the Board of Adjustment should be the body that reviews height if it was going to be in the form of a variance. Vice Chair Blakaitis stated that he didn't necessarily agree with Member Fricker's comments. He stated that he was a little concerned with the Board of Adjustment hearing the requests. Member Fricker noted that the Planning Board had spent a lot of time trying to help the Board of Adjustment by developing sets of criteria so they could find facts.

Chairman Britt agreed with Member Fricker's comments. He stated that many gray areas with regard to height have been clarified since 2004. He added that he was leaning towards all height decisions being handled by the Board of Adjustment. He stated that if Council wanted to change the Planning Board's recommendation and keep it in their pervue, they could make that call.

Member Fricker stated that the Board had tried for many years not to be bound by the whims of what had happened in the past, but tried to look forward to create something that was manageable, easy to understand, uniform and with clear guidelines. He stated that while height was a big issue in 2004, something else could be an issue in the future and just because it may be a sensitive issue, Council would handle it. He noted that there were other mechanisms and bodies in place that were better equipped to deal with the issues. Vice Chair Blakaitis agreed with Member Fricker's comments. He added that height was as big an issue as it was in 2004 because it has been well clarified in the ordinances. He stated that he did not see anyone pushing the issue except the Town Council with regard to the Town Park.

Chairman Britt stated that the Board needed to decide which way they wanted to recommend with regard to exceptions. He asked if it was the Board's desire that the Board of Adjustment make all height variance decisions or just ones in the Conservation-Public Recreation district.

Director Garman stated that he could take the ordinance to Council with the two options. Chairman Britt disagreed and thought the Board should make a recommendation and then let the Council decide from there. Member Fricker stated that he would change Paragraph C in the draft ordinance to read: "...all variances to height regulations shall be considered only by the Board of Adjustment..."

Member Fricker moved that the proposed modification to Section 156.056 of the Code be recommended to the Town Council with the change in Section C to be heard by the Board of Adjustment rather than the Town Council.

Director Garman asked if church spires should be left as is in the ordinance.

Member Fricker amended his motion to have Section A3 concerning church spires be placed in Section B.

Director Garman suggested adding a new section and exempting church spires from the height regulations. Vice Chair Blakaitis noted that they were already exempt. He asked why they should be put in a new section in the ordinance. Director Garman stated that spires were not exempt and with the way the draft ordinance was written, they could only be five feet above the district height limit. It was *consensus* of the Board to add Section C to the ordinance to exclude church spires from the district height regulations.

Member Fricker withdrew his motion.

Member Fricker moved to recommend to Town Council that they approve the modification to Section 156.056 of the Code as now drafted to include a new Section C and modification to Section D placing consideration of variances for height limits before the Board of Adjustment rather than the Town Council. Vice Chair Blakaitis seconded.

Motion carried 4-0.

NEW BUSINESS

Discussion/Consideration of SE 10-003, a Special Exception Application Submitted by Mr. Richard McAuliffe on Behalf of the SI Villas, LLC, Located at 1461 Duck Road, Duck North Carolina to Modify Provisions for Signage for the Sanderling Resort and Spa

Director Garman stated that Dick McAuliffe and Don Haggerty of the Sanderling Resort and Spa had requested a special exception for signage based on the Town's sign amortization program. He stated that the applicants had come to staff looking for a recommendation on how to handle the signs on their property with staff suggesting a special exception given some of the unique circumstances at the Sanderling relative to the other commercial properties in Town. He went on to give an overview of the property and their signage with the Board, noting that the applicant was well under the allowable signage due to their building frontage. He added that they have submitted proposals to modify their signs, but have also requested the ability to keep the additional free standing signs given the unique quality of the property.

Dick McAuliffe was recognized to speak. Mr. McAuliffe stated that they have already removed the "restaurant and swan bar" signs from both sides of the property. Director Garman stated that the applicant would like to keep both of the freestanding signs as is but will change the lighting so they would be down lit. They would also like to keep the Life Saving Station sign which is interior to the development but which is also freestanding. He added that staff felt these were reasonable requests given the unique nature of the property. He stated that the only other signs of issue were the entrance signs as they currently exceed the maximum size limitation for directional signs. He stated that these signs were a substantial departure from three square feet to 16 square feet and could not be supported by staff. He stated that staff believed that they could support 5.5 square feet in lieu of the increased speed limits in this location.

Member Fricker asked if the applicants were agreeable to the changes with regard to the free standing signs. Dick McAuliffe stated that they weren't as the changes to the entrance signs were never brought up in their discussions with staff. Director Garman stated that the staff report was sent to them via email. Mr. McAuliffe stated that he never received the email, but added that they would like to keep the signs. Director Garman apologized for the email issue.

Director Garman stated that the entrance signs were relatively innocuous and met the Town's commercial design standards. He added that it was definitely a discretionary decision.

Chairman Britt asked the Board if they were comfortable with signs A, B and C. It was *consensus* of the Board that they were comfortable with the three signs. Chairman Britt asked the Board for their thoughts on the entrance signs.

Member Fricker stated that he was willing to accept, recommend and approve the application subject to the modification of the reduction in sizes, but since the applicant was unaware of staff's recommendation, the signs may need to go back to the drawing board for resolution. Director Garman stated that he did not have with him a calculation of the total allowable signage on the Sanderling's property relative to the business signage they currently have, but he did know that they have substantially less than what would be permissible. Given the unique nature of the property and the amount of signage actually utilized, staff felt that the Board could make findings to allow the entrance signs to remain as proposed. Chairman Britt stated that he did not

have any issues with the entrance signs as they existed. Vice Chair Blakaitis and Member Forlano agreed.

Member Fricker moved that the Planning Board recommend to the Town Council that it approve Special Exception 10-003 and in so doing, adopt the findings contained in Code Section 156.137(F)(7) and in Section 156-45E. Director Garman noted that the sections of the Code did not have to be referenced in the motion. Vice Chair Blakaitis seconded.

Motion carried 4-0.

APPROVAL OF MINUTES

Planning Board Meeting September 8, 2010

Chairman Britt directed the Board to review the minutes from the September 8, 2010 meeting.

Member Forlano moved to approve the minutes as presented. Member Fricker seconded.

Motion carried 4-0.

OTHER BUSINESS

None.

STAFF COMMENTS

None.

BOARD COMMENTS

Member Fricker thought that the Jazz Festival was great. Chairman Britt and Vice Chair Blakaitis agreed. Member Forlano complimented Coinjock Farms on the fantastic job with the pansies that have been planted along the Duck Trail.

ADJOURNMENT

Chairman Britt moved to adjourn the meeting. There was no second.

Motion carried 4-0.

The time was 7:42 p.m.

Approved: _____
/s/ Jon Britt, Chairman