

**TOWN OF DUCK  
PLANNING BOARD  
REGULAR MEETING  
November 8, 2017**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, November 8, 2017.

Present were: Chair Joe Blakaitis, Vice Chair Marc Murray, Tim McKeithan, James Cofield, and Sandy Whitman.

Absent: None.

Also present were: Director of Community Development Joe Heard, Permit Coordinator Sandy Cross and Council Liaison Chuck Burdick.

Others Present: Travis Costin, Jessica Costin, Rick House, Doug Dorman, and Matt Price.

Others Absent: None.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for November 8, 2017 at 6:32 p.m.

**PUBLIC COMMENTS**

None.

**OLD BUSINESS**

None.

**NEW BUSINESS**

**Conditional Use Permit 17-003: Application for a Conditional Use Permit to Apply the Village Commercial Development Option to a Project involving the Renovation of the Existing Two-Bedroom Residence, Construction of a Two-Car Garage, and Construction of a Mixed-Use Building with Studio/Showroom, Office, and Two-Bedroom Apartment at 102 Scarborough Lane**

Director Heard stated that the application had been properly advertised, the property posted, a notice posted at Town Hall, and notice sent to adjoining property owners. He stated that the Board has before them a proposal to redevelop the property at 102 Scarborough Lane, including renovations to the existing cottage on the property as well as construction of a new two-car garage to the west of the cottage and a new two-story mixed-use building to the east of the cottage.

Director Heard stated that the property is significantly nonconforming. He explained that if a new lot is being created today, it must be a minimum of 20,000 square feet in the Village Commercial (V-C) District. He stated that on this lot, the survey shows the square footage as 8,278 square feet. He noted this is a little over 40% of the minimum lot size for the district. He added that it is a lot that has existed for many, many decades and is considered a legal, nonconforming property (grandfathered). He stated that it is wrapped on three sides by the Scarborough Lane Shops, which is a sizeable property. He added that two properties located across the street are currently owned by the Herron family and being marketed for commercial redevelopment.

Director Heard stated that the existing single-family residence on the property is a nonconforming use. He explained that if someone wants to build a freestanding, single-family residence in the V-C District today, the zoning does not permit it. He added that the use is something that has been there for many, many decades. So, it is a legal, nonconforming use that is allowed to continue. He stated that the other proposed uses are a mixed-use building to the east, which would contain a two-bedroom apartment and small office space on the second floor and a showroom/studio/storage area on the first floor. He noted that all of these uses are permitted in the V-C District and that is not the reason why the application is in front of the Board.

Director Heard pointed out that the staff report states the mixed-use building would be 19 feet in height. He noted that the correct height is 29 feet (19 feet was the garage). He added that all of the buildings – existing and proposed – comply with the Town’s maximum height standard of 35 feet. He stated that a survey was recently completed on the property and it is slightly larger than what was on the site plan in the Board’s staff report. He stated the staff report references it at 8,220 square feet and the survey shows it as 8,278 square feet. He added that none of these changes result in anything becoming conforming or nonconforming, but they slightly change some of the calculations.

Director Heard stated the site plan labels a “proposed entry”, which is actually an addition to the existing residence. He explained that the applicant is proposing to expand the kitchen area that was previously part of the porch. He noted that it does not change the lot coverage. He stated that the total lot coverage ends up being 4,860 square feet. With the lot size, it ends up being 58.7% of the lot coverage for the property.

Director Heard pointed out that two gravel parking spaces that were removed from the calculation of lot coverage. He explained that the Town has a very specific provision in the parking ordinance that residential parking as gravel does not count toward lot coverage. However, the Town does not have a corresponding exemption for commercial use. He stated that with a mixed-use property, the applicant is asking that those two parking spaces be considered residential parking spaces serving the apartment on the property. He added that if the Board is comfortable with that interpretation, then the lot coverage calculation will be under 60%. He stated that if the Board is not comfortable with the interpretation, then the proposal will be at 62.7% lot coverage and the applicant will ask for a consideration of relief from that requirement.

Member Cofield asked how many of the parking spaces for the proposed addition of the apartment and the parking spaces for the existing residence are required. Director Heard stated requirements include two parking spaces for the existing residence, two spaces for the apartment, and four spaces for the office/showroom space. He added that the proposal complies with the minimum number of parking spaces and the applicant is not asking for an exception. He noted that the proposal would not comply with the Town's standards if the parking spaces are reduced by more than one. However, the Board and Town Council can approve that through the Village Commercial Development Option.

Director Heard stated that there are two driveways shown and there two that currently exist – one on each the east and west sides of the house. He added that the proposal has two 20-foot wide driveways with a concrete apron for ingress/egress. He explained that it extends 12 feet into the lot to help keep the gravel on the property. He stated that the issue with the driveways is that the separation between the two is less than the 80 feet standard that the Town has in place. He pointed out that the existing driveways are also less than that and this is an existing nonconformity. He added that the real intent is to have one drive serving the residential part and the other serving the commercial part. He stated that, without the second driveway, the internal traffic won't flow well.

Director Heard pointed out that the only area on the property with a drive aisle is the one to the west of the residence that goes straight in to the new garage. He added that there are five parking spaces in this area – two in the garage and three west of the drive. He explained that the drive is proposed at 19 feet in width, which is smaller than what the Town's ordinance required (20 feet). However, the ordinance has an exception for small parking lots with less than six parking spaces. This exception allows the applicant to go down to 18 feet in width.

Director Heard stated that complications arise due to the relatively small size and very narrow depth of the property. The property has only 20 feet of depth between the front and rear setback requirements. He stated that the ordinance requires a minimum five-foot setback for parking spaces. He stated that the applicant is asking for relief to have parking spaces three, four and five setback two feet from the line. He stated that parking spaces five, six, seven, eight and nine are proposed two feet set back from the front property line. He added that the applicant is also seeking relief from the locational standards for those parking spaces. He stated that the applicant is proposing to have all of the parking spaces, except for the ones in the garage, as gravel to assist with the stormwater management plan.

Director Heard stated that the applicant has placed a designated loading zone on the property, but it is logistically difficult to maneuver into or out of it. He thought the intent is to show that there is room to accommodate a loading/unloading vehicle, but there isn't enough space for the vehicle to get into this space.

Member Cofield asked if it is more likely for a truck to back into the loading zone. Director Heard thought that would be the case. He stated that there is enough depth off of the edge of the road with the concrete apron about 12 feet in depth. He noted that the applicant shows a 12-foot wide loading zone in addition to the area between the loading zone and the building. He thought they should be able to back a truck into the loading zone. Member Cofield thought the loading zone won't work unless the vehicle backs into it. Director Heard explained that the Board and

Town Council can consider whether or not a loading zone is needed as part of the function of the business.

Director Heard noted that the northern side of the rear of the property has several trees that the applicant is looking to save as part of the project. He added that a majority of the existing vegetation will be removed as part of the proposal. He stated that there are a handful of mature trees, but the location of some are problematic. He explained that some are within the proposed parking area and others cause a sight distance issue for vehicles exiting the property. He added that the applicant is aware that he is required to have a total of 10% coverage on the lot and will be submitting a separate landscape plan.

Director Heard stated that the existing and proposed buildings encroach in either the rear, front or both setbacks due to the narrow dimensions of the property. He stated that the Village Commercial Development Option exists as an opportunity for the Planning Board and Town Council to look at the proposal, to see if it fits within the 2027 Vision, Land Use Plan, and character of Duck Village. He added that if it does, then the Planning Board and Council can waive certain development requirements. They can accommodate the proposed development if they feel that it provides more benefits than negatives and fits within the character of Duck Village. He went on to review the pros and cons of the project to the Board and audience.

Chair Blakaitis asked if the three trees in the rear of the property satisfy the requirement for 10% coverage. Director Heard didn't think they would by themselves. Chair Blakaitis asked why removal of the front landscaping is up to the owners. Director Heard stated that the Town does not require that the applicant keep anything as long as they end up with 10% canopy coverage. Chair Blakaitis pointed out that there is not much room to plant anything. Director Heard stated that there are benefits to the developer and Town for maintaining existing, mature trees. He added that the trees at the front of the property create a very limited sight distance. In evaluating the need to remove them, he thought that some will have to come out. Chair Blakaitis stated that his question is whomever is going to be evaluating, the Town's landscaping requirements of 10% must be satisfied before the project moves forward. Director Heard stated noted a condition that the applicant submit a plan for the landscaping.

Member McKeithan stated that he is concerned with the location of the proposed two-car garage, five feet from the property line to the north as well as the proposed mixed-use building, which are near the rear property line. He noted that it is very close to the shops in Scarborough Lane. Director Heard stated that he took some measurements between buildings and the closest single point is 41 feet away. He stated that there are no particular concerns with regard to fire code or other requirements. Member McKeithan stated that the applicant is asking for new construction with both pieces of the new construction well within the offset. He added that there is a nonconformity of the existing building, but now it is being further exacerbated by putting the two-car garage almost on the property line. He stated that he had concerns regarding consideration to the neighbors. Vice Chair Murray clarified that the proposed mixed-use building is less than three feet into the required 20-foot setback.

Director Heard stated that Member McKeithan's points are well taken. He noted that the cottage is not even 600 square feet in size and yet it encroaches into the front and rear setbacks because the property is so narrow. He added that the applicant designed the project on a tight site and the

proposed layout may be necessary to accommodate reasonable development of the site. He stated that if the applicant pulls the garage forward, even a few feet, it will eliminate a parking space. He added that if the applicant pulls it 10 feet forward, it will eliminate two parking spaces.

Member Cofield stated that the project has a lot of density for a very small site. He thought it is causing some of the problems. He added that reducing the number of parking spaces, even by one, can help with some of the other density issues. Chair Blakaitis pointed out that the only four parking spaces are required for residential uses. Member Cofield pointed out that there are five parking spaces proposed in this area. He reiterated that if there are four parking spaces instead of five, it will help a little bit. He stated that if parking spaces one and two are parking spaces as opposed to a garage, it will reduce the encroachment on that area as well as requiring slightly less space than the garage is requiring. He stated that he is still bothered by the loading zone issue. He added that he doesn't understand how vehicle seven will access the parking space. Director Heard stated that stacking vehicles is something that staff can permit in certain circumstances for residential use. Member Cofield stated that vehicle seven will be blocked in.

Chair Blakaitis asked owner/applicant Travis Costin if he designed the project. Travis Costin stated that he did. Member Cofield expressed concerns about maneuvering a truck into the loading area and blocking other parking spaces while loading is ongoing. Chair Blakaitis thought Member Cofield made several good points.

Vice Chair Murray stated that it is a small lot, but 60% lot coverage is allowed, so the density is no different than any other commercial lot. He pointed out that the proposed garage shows windows on the second floor. He asked if there will be finished space where the windows are located. Travis Costin stated that the windows are for aesthetics to match the other building. There is no second floor in the garage

Chair Blakaitis agreed with Vice Chair Murray's comments that 60% of whatever space the applicant has is still 60%. He thought the site looks very crowded and the front will look unattractive as one walks past it. He asked if any consideration was given to removing the septic system from the rear and installing a bed system, as well as putting in some of the parking in the rear of the property by eliminating one of the open wood decks. Travis Costin stated that he spent a lot of time with the Health Department and they are requiring a repair area, which is not what he initially wanted to do. He added that it is required because the existing septic system is not on file. So, the new system requires a repair area. Chair Blakaitis asked if a smaller septic system can be installed. Mr. Costin stated that a small septic system could be installed, but he designed the septic system so that the proposed addition will not encroach further into the rear of the property.

Chair Blakaitis asked why the garage doors are needed. Travis Costin stated that the office will be sharing space with the storage. He added that the storage will be for materials and supplies. Chair Blakaitis asked Mr. Costin if he needs three garage doors. Mr. Costin stated he would like to have the three doors.

Vice Chair Murray asked if the style of the doors makes a difference to the members of the Board. Chair Blakaitis stated that it does not as they cannot be controlled. Vice Chair Murray disagreed. He stated that it is clear that the applicant will be using the proposed garage as a

garage. Travis Costin stated that he will be parking his vehicles there. Vice Chair Murray asked if the garage door openings are large enough to put big items in there for the showroom and studio use. Mr. Costin concurred. Vice Chair Murray asked if anything can be done that will be more aesthetically pleasing than a garage door. Chair Blakaitis asked if it will be something that does not look like a garage door but functions the same way. Vice Chair Murray wondered if it will make Chair Blakaitis more comfortable. Mr. Costin stated that he can eliminate one of the garage doors and put in double French doors. He added that he would like to have a large opening to accommodate the bigger supplies. Council Liaison Burdick asked Mr. Costin if he considered one larger double garage door. He added that it will give him more space to move things in and out instead of having three garage doors. Vice Chair Murray thought the Board is heading in a cottage-type direction.

Member McKeithan stated that he is still stuck on the necessity of the proposed garage. He thought the Board's opinion is that the applicant is trying to put a lot on a small lot. He stated that the proposed garage being put so close to the rear property line is creating an issue with lot coverage. He added that he looks at the garage as a "nice to have" item that is difficult to fit on the small property. In trying to look at all of the different exceptions required to make it work, he isn't comfortable with the proposed garage being so close to the setback line. Chair Blakaitis asked Member McKeithan if he is asking for consideration of an option without a garage. Member McKeithan agreed that he is looking at not having the garage on the property. Mr. Costin asked about moving the garage southward and losing a parking space. Member McKeithan stated that he would leave the parking spaces where they are, but not erect a building that close to the property line. Mr. Costin understood what Member McKeithan is proposing. He stated that he would like to have the garage to park two classic cars. He proposed to move the garage down a little. Member McKeithan pointed out that Mr. Costin is asking for a lot of exceptions to make things fit on the property. He reiterated that the garage is a "nice to have" item, but he doesn't think it is fair to the neighboring property to make that exception just to have a garage. He stated that there isn't enough property to put it there.

Vice Chair Murray stated that the Village Commercial Development option asks for special exceptions to rules and was developed because the Town recognized that there are lots like this one in the Duck Village that may need special consideration. He added that the concern over the garage being too close to the property line and interfering with the neighboring property is not valid. He explained that the neighboring property is a parking lot in a shopping center. He stated that he does not share Member McKeithan's concern, but understands it. He added that if the applicant is willing to move the garage further from the rear line, the Board should entertain the applicant's proposal.

Director Heard pointed out that the development as proposed is only required to have eight parking spaces. The applicant proposed nine spaces. He added that eliminating one parking space under the scenario will not put it out of compliance with minimum parking requirements.

Member Whitman clarified that the applicant is 2% below the maximum lot coverage. Chair Blakaitis stated that the applicant will be if the Board accepts the gravel parking spaces for residential use. Director Heard agreed, adding that if the Board accepts the provision that two of the gravel parking spaces are for residential use and exempting them from the calculation. He added that it will be 3.7% over lot coverage standards otherwise. Member Whitman asked if the

applicant eliminates one parking space, would it put him under the maximum coverage. Director Heard stated that it will only put the applicant under if he is given the residential consideration.

Vice Chair Murray confirmed that the applicant can show three garaged parking spaces in the studio. Director Heard stated that some of the earlier drafts had that shown. He added that the applicant was honest in that even though they can show those parking spaces, it is unlikely that it will be used that way. Vice Chair Murray pointed out that the applicant is being sincere in the way that he is proposing the use of the property once it is developed.

Member Cofield stated that he knows the applicant and is friends with him. He thought the applicant is sincere and hopes that every applicant that comes before the Planning Board is also sincere. He added that he raised the issue about the garage because a lot of the exceptions are being requested. He stated that he would like to see the garage moved forward and have parking space five removed. He stated that he is bothered by having parking space seven as a legitimate parking space. He added that the person will be blocked in and he would not count it as a legitimate space. Mr. Costin noted that two of the parking spaces for the apartment can be stacked since it is associated with the residential use. He added that he can stack parking spaces six and seven or seven and eight. Chair Blakaitis agreed.

Chair Blakaitis asked Member Cofield what he would do if parking space seven is eliminated. Member Cofield stated that he isn't sure. He added that for residential use, parking spaces one through five will work. Chair Blakaitis thought the residential spaces can be put anywhere. He added that Mr. Costin was correct regarding stacking parking spaces. Vice Chair Murray asked if the applicant can indicate on the site plan that parking spaces six through eight be residential with an "R" noted. Member Cofield reiterated his opinion that spaces six through eight are not legitimate. He added that the Planning Board will not look like it is doing its job if they count parking spaces one through five as residential but allow the other spaces to be stacked. Vice Chair Murray asked Member Cofield if he would be satisfied if the applicant put the residential parking spaces in six through eight. Member Cofield stated that if that is what the applicant is proposing, he would be fine with it. Chair Blakaitis pointed out that the parking spaces one through four were presently labelled residential. Member Cofield agreed.

Member Whitman pointed out that if parking spaces three and four are put in seven and eight or six and seven, the rest of the spaces will be for commercial use. Vice Chair Murray agreed. Member Whitman thought it was a fair trade-off. Member Cofield stated that it will solve the problem. Vice Chair Murray stated that he is comfortable with the condition that parking spaces six through eight are designated as residential. Chair Blakaitis thought it will be not be needed for all three spaces, but only two. Vice Chair Murray agreed.

Vice Chair Murray noted that the applicant is asking for relief of the two-foot setback on the west side. He asked if there is any precedent in the Village Commercial District for parking going all the way to the property line. He suggested that it be a condition to make the drive aisle adequate. He added that he is hearing a lot of sensitivity regarding the closeness to the property line. Director Heard stated that Scarborough Faire is a property that has many parking spaces that go right to the southern property line.

Vice Chair Murray asked Travis Costin if it would be helpful to him to make the drive aisle wider and more practical. Mr. Costin stated that it would. He added that he was trying to go with the minimum of 18 feet, which was recommended when he designed the project.

Member Whitman asked if there is a row of shrubs on the west side. Mr. Costin stated that there are some shrubs along the fence line. Member Whitman asked if there is a driveway there. Mr. Costin confirmed that there is. He stated that when he designed the site, there are two existing drive aisles and he is trying to keep them as close to the existing layout as possible. He noted that some of the shrubs are not on his property. He went on to review what vegetation will likely be saved on the property.

Member Cofield stated that the Board discussed some options and possibilities. He added that he would like to see the applicant take those back, work with them and come back before the Planning Board. Chair Blakaitis asked Member Cofield to outline the options and possibilities. Member Cofield stated that there was discussion regarding eliminating the garage and making that area parking spaces; eliminating parking space five; eliminating the three garage doors on the building and making them something else; and stacking of parking space seven. He added that he is still bothered by having a truck pull into the loading zone. Chair Blakaitis stated that the Board can forgive the need for a loading zone. Member Cofield pointed out that the loading zone is on the list of things that were discussed by the Board. Chair Blakaitis agreed, adding that Member Cofield's concern regarding the loading zone is warranted, but it will be eliminated if the Board decides that the applicant does not need the loading zone. Member Cofield stated that if there isn't a loading zone, he isn't sure what the need will be for the large garage doors. Chair Blakaitis stated that the garage doors are needed so the applicant can come and go with large items.

Member Cofield stated that he would like to see some of these items re-worked. Chair Blakaitis stated that it can be solved if the applicant put in a double door. Vice Chair Murray clarified that it is a single, double width garage door. Chair Blakaitis stated he is correct. Council Liaison Burdick explained that it is normally used for a two-car garage. Member Whitman pointed out that it is not 20 feet wide. Vice Chair Murray agreed, adding that requiring a wider garage door is counter-intuitive. Council Liaison Burdick stated that by eliminating a garage door, it will provide a loading zone directly into the garage. Vice Chair Murray stated that the applicant has pointed out that the 10-foot wide doors can be coach-style and less commercial looking, which he thought satisfies the concern he is hearing better than one large door. Member Cofield pointed out that there are different types of garage doors. He added that he does not want to force the decision on the applicant and would like the applicant to hear the concerns that have been raised and look at the trade-offs.

Vice Chair Murray asked if it is the applicant's preference to take the suggestions and redesign the project or have the application be reviewed at this meeting. Travis Costin stated that he is fine with either garage door, but wants to keep the garage. Vice Chair Murray asked Mr. Costin if it is his preference to take the Board's suggestions that were discussed and resubmit or try to work through them as conditions of the permit at this meeting.

Member Whitman asked Mr. Costin asked how often he anticipates receiving deliveries with large items that he will need all three garage doors. Travis Costin stated that he is willing to

remove one garage door as two smaller doors will work for his deliveries. Member McKeithan asked if there are two doors on the back side of the multi-use building. Travis Costin stated that there are, but they are not garage doors.

Member Cofield moved that the application be tabled and the applicant consider the comments and suggestions by the Planning Board and come back at future meeting. Member McKeithan seconded. Vice Chair Murray didn't think the Board should table the application. Chair Blakaitis stated that he wants to settle it at this meeting. Vice Chair Murray agreed. He thought it will be fairer to the applicant and achievable with the issues. He stated that the issue of the garage's presence is one issue. He wasn't sure why the Board is asking the applicant to eliminate parking space five. Chair Blakaitis stated that it will have to be if the garage was moved. Vice Chair Murray agreed, adding that the applicant had stated he would move it down, but he wasn't sure why it should be eliminated when it borders a parking lot with a significant vegetative border, but if it was important to the Board, it should be done. He stated that the stacking could be dealt with by labeling and the loading zone was dealt with. He thought there were only two issues – the movement of the garage or its existence and the effect it has on parking space five. Chair Blakaitis noted that the other item was the elimination of one garage door.

Member Cofield called for the question.

Chair Blakaitis agreed with Vice Chair Murray that it seems easy enough to address the concerns and with the applicant's agreement, it would be better to dispense with it. He added that he would like to try that approach.

The motion failed 2-3 with Chair Blakaitis, Vice Chair Murray and Member Whitman voting against the motion.

Travis Costin proposed to eliminate the westernmost garage door and add a residential style double door in its place. He also proposed to move the garage forward approximately nine feet and eliminate one parking space. Vice Chair Murray stated that he does not have a problem with the garage as he thought it more aesthetically pleasing where it was originally proposed. Member Whitman asked Travis Costin if he has a problem with moving the garage forward. Travis Costin stated that he would like to leave it where it is proposed, but will do what the Board wishes. Member Whitman thought the garage should stay where it is proposed.

Vice Chair Murray asked Member Cofield if the elimination of parking space five is in concert with moving the garage or to get it away from the road. Member Cofield thought there is a lot going on at the property that is requiring a number of exceptions. He thought reducing some of the exceptions will make it a better application. He reiterated that he would prefer for the applicant to come back with a revised plan.

Chair Blakaitis thought the application has more exceptions to the Town's standards than any proposal that has come before the Board. He wasn't sure how the applicant can come up with anything that will significantly mitigate some the concerns. He wasn't sure how it can be done with what the applicant wants to put on the property.

Member Cofield stated that there are a lot of exceptions required and he expressed his concerns so that the applicant can address them. He added that if the concerns are reduced, it will result in a better application.

Vice Chair Murray asked about the number of specific issues requiring consideration of the Village Commercial Development Option. Director Heard stated that there are five issues outlined in the staff report. Vice Chair Murray asked how many were there for the Nor'Banks application. Director Heard stated that Nor'Banks sought relief from two standards – parking setbacks and gravel parking. Vice Chair Murray asked if five is an excessive amount. Director Heard responded that there is not a lot of precedent for it. He pointed out that when the Board is looking at a Village Commercial Development Option, it is not reviewing a special exception or variance, but the Board is being asked to look at the totality of the project and determine if it fits in the Village, whether or not it meets every development standard. Chair Blakaitis clarified that the Board is seeking to be as flexible as they can. He added that staff had outlined the items that the applicant is requesting relief from, but it is a give and take process.

Member McKeithan stated that he was trying to figure what would present the best use of the land. He liked the multi-use building that is further away from the property line. He added that he still sees the garage as a luxury and it is not appropriate so close to the rear property line.

Chair Blakaitis asked if the proposed covered porch is accurate. Director Heard stated that the porch contains an addition and the proposed entry. Chair Blakaitis asked if the proposed covered porch exists. Director Heard stated that it is a new item. Chair Blakaitis asked what the proposed open wood deck was for. Travis Costin stated that the deck already exists, he is just putting a roof over it for the entry to the home. Director Heard noted that the decking is at ground level.

Travis Costin proposed moving the garage forward a half space to provide a 10-foot rear setback and losing one parking space in the westernmost row, which will leave for a five-foot setback for the parking from the front property line. Member McKeithan thought it is a step in the right direction and he will accept it, but he is still in favor of removing the garage entirely. He added that he is not be in favor of it as it is currently proposed. Member Whitman pointed out that the applicant is reducing nearly 100 square feet of lot coverage by moving the garage. Vice Chair Murray is fine with it.

Chair Blakaitis understood where Member Cofield is coming from. However, he doesn't think there is anything that can be removed to make it better. Vice Chair Murray disagreed, pointing out that the fact that the applicant is not demolishing the existing cottage, which is creating many of the challenges being considered by the Town. He added that he personally looked at developing the property and demolishing the building was a part of his plans, which were far denser in the development. He stated that the property feels tight because the existing building is remaining.

Vice Chair Murray moved to approve the permit as applied for with the following conditions: that the proposed garage be moved five feet to the south; parking space five be eliminated; parking spaces three and four be moved to within five feet of the south property line; parking spaces six and seven be relabeled as residential parking spaces – replacing parking spaces three

and four that were currently labeled as residential; and that the westernmost garage door on the proposed multi-use building be converted to a French door, per the applicant's suggestion; and the loading zone be eliminated. Member Whitman seconded.

Motion carried 4-1 with Member Cofield dissenting.

Director Heard asked if the intent was to include staff's recommended conditions in the staff report. It was *consensus* of the Board to have them included.

**Text Amendment Ordinance 17-15: Proposal to Amend Section 156.037(C) of the Zoning Ordinance by Adding Allowances for Construction of Sills and Groins, use of riprap, and Fill in Wetland Areas to Prevent Shoreline Erosion and Re-establish Wetlands in Currituck Sound, with Approval of Applicable State and Federal Agencies**

Director Heard stated that the owners and environmental consultant for the Waterfront Shops have designed a shoreline protection and beautification project to re-establish wetlands along the Currituck Sound shoreline of the development. He stated that to reduce wave action and protect the wetland area as the grasses mature, the project will involve the construction of breakwater sills, a short rock jetty, and riprap along the edge of the shore. He noted that fill will be added, then planted with marsh grasses to create a more natural transition into the sound.

Director Heard stated that, as a first step toward approval of the project, the applicant is requesting approval of a text amendment to allow the types of features necessary to construct a typical living shoreline project.

Director Heard stated that although the text amendment application was initiated by a private business, the Town has expressed an interest in conducting a similar type of living shoreline project along the western edge of the Town Park property in the future. He added that the Town recently obtained a grant in the amount of \$22,500 to study the feasibility and design for such a project.

Director Heard stated that a living shoreline is a constructed marsh that can provide the benefits of erosion control, improved water quality, habitat restoration and a more attractive, natural appearance. He added that as living shorelines have these benefits and seem consistent with the Town's vision, adopting standards to permit many of the features common to wetland restoration projects seems like an appropriate step. He noted that in drafting the ordinance, staff took care that these features only be permitted in association with a living shoreline project approved by all applicable State and Federal agencies.

Director Heard stated that, as the proposed amendment will update the Town's Zoning Ordinance to allow the features necessary to establish living shorelines and encourage wetland restoration in the Ocean and Sound Overlay District, staff is recommending approval of the proposed amendment.

Environmental consultant Doug Dorman was recognized to speak. Mr. Dorman stated that he is working with the Coastal Federation and applying for a grant for the shoreline restoration. Chair Blakaitis asked what will happen if Mr. Dorman does not get the grant. Mr. Dorman stated that

he will likely move forward with the project anyway. Chair Blakaitis asked if Mr. Dorman's plans will comply with coastal rules and regulations. Mr. Dorman replied "Yes.". He added that he will also likely need to obtain a development permit from the Town.

Chair Blakaitis inquired that what is proposed is permission to do the project. Director Heard stated that what is being proposed is a text amendment to change the Town's rules that will allow them to do the project. He added that if the text amendment is adopted as proposed, the improvements will be permitted in that district. So, it will be an administrative approval process with the Town, but will also have to go through different state and Federal agencies.

Vice Chair Murray thought it is a good idea. He asked if the Board should be looking in the future at changing the zoning districts from Ocean Sound Overlay to Ocean District and Sound District. Director Heard stated that it is something that can be looked at. He added that there may be enough differences to warrant a separation of the two. Vice Chair Murray thought it may not be the last text amendment required to the Sound Overlay District.

Chair Blakaitis clarified that the drawings are not specifically requested plans. Director Heard stated he is correct. He added that the intent is to give the Board an idea of how this type of project may look. Doug Dorman went on to review the purpose of sills to the Board and audience. Chair Blakaitis asked if the sills will replace the need for a bulkhead. Mr. Dorman stated that is the idea. He added that the idea is to stop the wave action and not anything else.

Member Cofield stated that, environmentally, he thought it is a good idea. He asked if Director Heard should identify the applicant in the staff report. Director Heard stated that the Board has a copy of the application in their packets, but he can add it if the Board wishes. Member Cofield felt that the applicants should be identified. He asked if the issue will become problematic, assuming the text amendment passes, noting the project that was proposed a few months ago at 1166 Duck Road. Director Heard stated that the previous project was not a living shoreline project, but a bulkhead with eight feet in height, which is the why the "living shoreline" wording is used in the ordinance, so it will not be misused.

Member McKeithan asked if the draft ordinance number is 17-16 or 17-15, noting a discrepancy between the staff report and the draft ordinance. Director Heard stated that he will clarify the correct number prior to the Town Council meeting.

Member Cofield moved to approve the text amendment as presented. Vice Chair Murray seconded.

Motion carried 5-0.

## **APPROVAL OF MINUTES**

### **Minutes from the October 11, 2017, Regular Meeting**

Member Cofield moved to approve the October 11, 2017 minutes as presented. Member McKeithan seconded.

Member Whitman stated that when the representatives from Verizon Wireless were at the October meeting, they mentioned that they use existing telephone poles. He asked what will happen if the Town gets more carriers that would want to be in the same vicinity. He further asked if additional poles will be erected. Director Heard stated that State law allows additional poles, depending on where they are located and the situation. Member Whitman clarified that there could be five to six poles in a 120-foot stretch. Director Heard stated that it is possible in the commercial area. He added that in the residential area, the installation of such poles would be through a conditional use permit.

Motion carried 5-0.

### **OTHER BUSINESS**

None.

### **STAFF COMMENTS**

#### **Summary of November 1, 2017 Town Council Meeting**

Director Heard gave an update on the November 1, 2017 Council meeting to the Board and audience.

#### **Project Updates**

Director Heard updated the Board and audience about several Town projects.

### **BOARD COMMENTS**

None.

### **ADJOURNMENT**

Member Cofield moved to adjourn the meeting. Member McKeithan seconded.

There was no vote.

The time was 8:45 p.m.

Approved: \_\_\_\_\_  
/s/ Joe Blakaitis, Chairman