

**TOWN OF DUCK
PLANNING BOARD
REGULAR MEETING
January 13, 2021**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, January 13, 2021.

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

Absent: None.

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

Absent: None.

Others Present: Jordan Daneker of Evolve Design & Build, John Replogle, Kristin Replogle, and Director of Public Information, Marketing and Events Christian Legner.

Chair Blakaitis called to order the Regular Meeting of the Planning Board for January 13, 2021 at 6:34 p.m. He noted that this was a virtual meeting and that the chat feature was disabled for those watching remotely. He stated that if anyone watching remotely wanted to make a comment, they can indicate by raising their hand and/or submit comments through the chat feature in Zoom.

PUBLIC COMMENTS

None.

ELECTION OF OFFICERS

Chairman

Member Murray moved to have Joe Blakaitis remain as Board Chairman for 2021. Member McKeithan seconded.

Motion carried 5-0 via roll call.

Vice Chairman

Chair Blakaitis moved to have James Cofield continue as Vice-Chairman. There was no second.

Motion carried 5-0 via roll call.

OLD BUSINESS

None.

NEW BUSINESS

Special Exception 20-001: Special Exception Relating to Fill and Grading Activities at 1170 Duck Road to Allow the Use of a Bulkhead to Contain and Stabilize Fill as Part of a Stormwater Management System

Director Heard stated that at the Board's November 18, 2020 meeting, the Board members initiated review of this special exception application. He stated that the Board expressed several questions and concerns, which the applicants agreed to address prior to continuing consideration of the application at a future Planning Board meeting. He listed the concerns as follows:

1. Documenting potential damage or failure of the existing retaining wall and bulkhead as there was discussion concerning the amount and severity of existing erosion.
2. Documenting the height and amount of fill at various locations in the project area to help clarify the scope of the project.
3. Analyzing potential impacts of the project and fill on adjoining properties as required by the special exception standards.
4. Quantifying the effectiveness of the proposed stormwater management system.

Director Heard stated that staff provided this list of concerns to the applicant and requested that information be provided to address these issues. He added that over the past couple of months, the applicant provided a variety of new information for the Board's consideration including the following:

- Site plan prepared by House Engineering.
- Project details and specifications prepared by House Engineering.
- Several revised 3-D views of the proposed project.
- A letter of approval for the proposed project from the Four Seasons in Duck Property Owners Association.
- Written support of the proposal by both adjoining property owners.
- Photographs showing similar situations on other soundfront properties in Duck.

Director Heard noted that the new information will be valuable for the Board as they further consider the proposed project. He added that Community Development staff requested that the applicant provide additional materials specifically addressing the documentation of existing erosion, height/amount of fill, and potential impacts on adjoining properties.

Director Heard stated that the applicant provided the following response with regard to documentation of existing erosion: "...we have been advised by both Mancuso Development and the engineer that the wall would fail over time unless addressed..." He pointed out that no studies or documentation regarding the existing situation have been provided, but added that evidence of an existing hardship is not a necessary criterion for approval of a special exception.

Director Heard stated in regard to the exact height and amount of fill, the applicant's revised proposal shows the proposed stone retaining wall terminating approximately 13 feet from the southern side property line. He explained that this amendment reduces the amount of fill proposed as the natural grade would be maintained in this area as it tapers down toward the sound. He stated that the applicant indicated that no additional fill would be brought onto the site. However, the submitted documents do not show how much fill is being added in different locations. Therefore, staff is working under the assumption that five feet of fill depth will be necessary behind the retaining wall with the understanding that the depth of fill will be less than that amount in other areas.

Director Heard stated that applicant did not provide any data, study, or statements from an engineer regarding the potential impacts of the proposed fill, walls, and other improvements on adjoining properties. He pointed out that the applicant has provided copies of emails submitted by adjoining property owners to the north and south giving their support for the proposed improvements. He added that the applicant also obtained a letter of approval from the Four Seasons in Duck Property Owners Association for the proposed project. He noted that with the revisions to the project's design, there do not appear to be substantial grading activities occurring in the areas immediately abutting the neighboring properties.

Director Heard stated that since all of the required findings are met in staff's opinion, staff is recommending approval of the special exception application. He asked that the Planning Board consider the following conditions if recommending approval of the special exception:

1. The proposed retaining wall must be certified by a North Carolina licensed engineer.
2. The applicant must obtain a CAMA minor permit from the North Carolina Division of Coastal Management prior to the issuance of a land disturbance permit for the fill/grading or building permit for the retaining wall.
3. The applicant must submit required application materials and obtain land disturbance and building permits prior to commencing work.
4. All areas of land disturbance must be stabilized prior to issuance of a Certificate of Completion for the project.

Chair Blakaitis asked for clarification that staff is saying that the Board's concerns have been addressed and all findings have been met. Director Heard stated that staff feels it has. Chair Blakaitis asked how the revised plans address stormwater runoff on the southern part of the property. Director Heard explained that the original proposal included backfill up to the level of the proposed retaining wall, which would be much higher than the adjoining property. He stated that potentially, stormwater could run off that higher area and have greater potential to impact the adjoining property. He stated that the revised plan substantially reduces the height of fill adjoining the neighboring property, moves the location where the wall ties back further from the property, and includes swales to capture some of the stormwater. He added that the flow will generally continue as it is currently, running straight west to the sound as opposed to sloughing off to the side on the south.

Vice Chair Cofield asked what the distance is from the southern edge of the hot tub to where the retaining wall joined the flat area. After reviewing the site plan, Director Heard answered that it appears to be approximately five to six feet. Vice Chair Cofield asked what the distance is from

that to the southern property line. Director Heard stated that he scaled it out to be approximately 13 feet. Vice Chair Cofield thought these changes resolve the problem of possible runoff from the applicant's lawn to the abutting property to the south.

Vice Chair Cofield noted on the third of staff's recommended conditions, the applicant must submit required application materials. He asked what materials are needed. Director Heard stated that the condition is intentionally general to include any information as required in order to obtain a building permit, but would certainly include engineered plans for the retaining wall..

Member McKeithan stated that the applicant is proposing putting in a new storm drain and a mechanism that would add additional retention of the runoff. He thought this will be an improvement from what currently exists.

Chair Blakaitis stated that he wants to be sure about things because, from the comments in their letters of approval, the neighboring properties may be interested in doing similar projects in the future. He stated that the special exception is needed for the height of the fill. He stated that he is not in favor of granting special exceptions except in particular situations where it will work effectively. Director Heard stated that when he sat down with the contractor initially, he found the proposal to be an interesting way to look at a different type of stormwater management system. He expects that it can be a good example for future projects.

Vice Chair Cofield asked if the downspouts at the rear of the house are going to be fixed. Property owner John Replogle pointed out that the downspouts will improved and be tied into the entire stormwater system.

Member McKeithan asked why there are photographs of four other soundfront properties in the packet. John Replogle stated that they are just for reference regarding other, similar projects.

Member Murray felt that the information that has been presented answered the questions he had at the prior meeting.

Jordan Daneker was recognized to speak. Mr. Daneker explained that with regard to the wall on the southern side, a slight swale and depression are proposed to lead the water away from the adjoining property. He added that the reduction in length of the retaining wall and stormwater management improvements on the southern side of the property are based on the request of the Planning Board. He stated that the subsurface stormwater chambers in the center of the project will also capture a large amount of stormwater runoff.

Vice Chair Cofield moved to approve the special exception pursuant to the findings and conditions on Page 8 of the staff report. Member McKeithan seconded.

Motion carried 5-0 via roll call.

Review of 2021 Meeting Calendar

Director Heard and the Planning Board members reviewed the 2021 meeting calendar for Planning Board meeting dates. No action was taken.

APPROVAL OF MINUTES

There were no minutes to approve.

OTHER BUSINESS

None.

STAFF COMMENTS

Project Updates

Director Heard gave a short overview on various projects going on in Town.

BOARD COMMENTS

None.

ADJOURNMENT

Member Murray moved to adjourn the meeting. Chair Blakaitis seconded.

The meeting was adjourned by consensus.

The time was 7:29 p.m.

Approved: _____
/s/ Joe Blakaitis, Chairman