



**TOWN OF CALABASH  
PLANNING AND ZONING BOARD  
REGULAR MEETING  
Monday, April 2, 2012  
6:00 pm-SANBORN HALL**

**AGENDA**

**CALL TO ORDER & PLEDGE TO FLAG:**

**APPROVAL/ADJUSTMENT OF AGENDA:**

**APPROVAL OF MINUTES:**

1. March 5, 2012-Regular Meeting

**PUBLIC COMMENTS:**

**OLD BUSINESS:**

1. **Discussion/Action** to consider making a recommendation to the Board of Commissioners regarding amending setback provisions for corner lots, pie-shaped lots, lots located in cul-de-sacs, and other irregular shaped lots; could affect Articles 10 and 11 of the UDO.
2. **Discussion:** For the Planning & Zoning Board members who attended the PZB training on March 26<sup>th</sup> offered by Cape Fear COG to share highlights with members who were unable to attend.

**NEW BUSINESS:**

1. **Discussion/Action** regarding Planning & Zoning Board's Annual Report to the Board of Commissioners.

**BOARD COMMENTS:**

**ADJOURN:**

**TOWN OF CALABASH  
PLANNING AND ZONING BOARD  
REGULAR MEETING  
Monday, April 2, 2012**

**MINUTES**

The Calabash Planning and Zoning Board (PZB) held a Regular Meeting on Monday, April 2, 2012 at 6:00 p.m. in Sanborn Hall, located at Town Hall, 882 Persimmon Road, Calabash, NC.

**MEMBERS PRESENT:** Chairman Sonia Climer, Charles Daniels, Joshua Truesdale, Commissioner Emily DiStasio and Clare Leary.

**MEMBERS ABSENT:** Vice Chairman John Thomas.

**STAFF PRESENT:** Town Administrator Chuck Nance, Town Clerk Kelley Southward and Building Inspector Stanley W. Dills.

**GUESTS:** The audience was comprised of two individuals, one of whom was Commissioner Charles Walton.

**CALL TO ORDER/PLEDGE OF ALLEGIANCE:** Chairperson Sonia Climer called the meeting to order at 6:00 p.m. and the Pledge of Allegiance was recited.

**APPROVAL/ADJUSTMENT TO THE AGENDA:** *Mr. Truesdale motioned to approve the agenda as presented; seconded by Commissioner DiStasio and unanimously carried.*

**APPROVAL/ADJUSTMENT OF MINUTES:** *Mr. Truesdale motioned to approve the minutes of March 5, 2012; seconded by Mr. Daniels and unanimously carried.*

**PUBLIC COMMENTS:** None were forthcoming.

**OLD BUSINESS:**

1. **Discussion/Action** to consider making a recommendation to the Board of Commissioners regarding amending setback provisions for corner lots, pie-shaped lots, lots located in cul-de-sacs, and other irregular shaped lots; could affect Articles 10 and 11 of the UDO.

Ms. Climer called upon Inspector Stanley Dills to review the information included in their packets (a copy is hereto attached to these minutes). Mr. Dills reiterated that in reviewing current zoning set back regulations, recommendations could be made that offer relief that was equitable for all zoning districts. The review covered the definition of gross parcel area, building setbacks, locations of new and unchanged septic fields, alterations to an existing septic field and non-conforming parcels.

As the review continued, Mr. Dills then reviewed suggested remedies to the situations that he outlined. The remedies could be approved by the Zoning Administrator without requiring approval of the Board of Adjustment. The first situation was the designation of which property boundary line would be the front regardless of the street address. Regarding corner properties, the alignment of the front faces of houses with adjoining structures, the Zoning Administrator could assign two front setbacks and two side set backs in lieu of the front, side street, rear and side adjoining setbacks. Upon a question raised by Mr. Nance, Mr. Dills stated that he would better clarify that designating a front property boundary line would also apply to corner lots.

The third remedy involved providing a two foot building encroachment in any two setbacks for an existing structure provided that the encroachment did not exceed 50% of that building setback face. With this remedy all other building setbacks were in compliance and the allowance did not exceed the buildable area for the parcel. Mr. Dills noted that there have been situations where the corner of a house protruded into the setbacks. His suggestion was to add two feet on average which would make the structure within six feet of the property line. He asked Board members for their feedback on his suggestion as it was possible to have a large lot but little buildable area. Mr. Truesdale suggested an average that did not exceed six feet in any direction. Mr. Dills' suggestion was that a property owner could not be less than the minimum setback or possibly up to 25% of the available setback but not to encroach within fifteen feet. Mr. Dills noted that there were many different avenues that could be selected. Upon a question posed by Mr. Truesdale, it was noted that a percent of the available setback, applied to all sides, might be the best remedy for property owners. Mr. Dills stated that applying the 25 % on an R-15, R-6 and an R-8 all seemed reasonable. Mr. Nance opined that if a property owner was still not satisfied, there was always the option of making application to the Board of Adjustment for a variance. Following discussion it was determined that Mr. Dills would add to a 3A section with such language as, "... 25% building encroachment in varying projections into the setback may occur in any two setbacks for an existing structure or new structure as long as it does not exceed 50% of the building setback face and all other building setbacks are in compliance and this allowance does not exceed the buildable area for the parcel." It was noted that all changes would come back to the Planning and Zoning for another review. Mr. Nance noted that as the subject of irregular lots is a frequent subject of discussion, this approach will allow property owners some leeway without having to make an application to the Board of Adjustment.

Discussion followed regarding cul-de-sac parcels, residential garages and reducing the front setback to 10' providing there is a minimum of 20' car parking area outside the garage door with the buildable area not to be exceeded. Board member comments reflected that the suggested remedy would help ease such situations.

The remedy for stair and ramp landings (covered and uncovered) was that they not exceed 36 square feet or 6' in any length, exclusive of stairs and ramp for the purpose of egress to a residence. Mr. Dills noted this situation was very evident in Bonaparte Retreat. Six feet was set as the older residents get, the greater the likelihood that wheel chairs requiring the need for a ramp will be and the ramp cannot enter into the front setback.

A recess was taken so that Planning and Zoning Board members could step outside to have their photo taken for inclusion in the next Town newsletter. *Mr. Truesdale motioned to recess briefly to the community park; seconded by Mrs. Leary and unanimously carried.*

Upon their return to Sanborn Hall, Ms. Climer called the meeting back to order.

Discussion continued regarding mechanical equipment, such as condensers, which are not enclosed, encroaching up to 4' into side and rear setbacks. Mr. Dills stated that this is frequently seen in Devaun Park and Thistle with their common area, with its impervious value, added to the buildable area for the purpose of allowing more than 25% impervious coverage within the parcel. The trade off was that the builder can build closer to the property line with the result being some structures being built that are only six to eight feet off the property line. The reason for selecting a four foot encroachment was that that is the dimension usually required but it still leaves enough room to walk around the units. The next item, number seven, related to mechanical equipment yards encroaching up to 7' into the side and rear setbacks providing that a 3' clear travel area was available through the area by either two gates or a 3' travel path around the enclosure. He noted that the many enclosures also contain a trash receptacle. Sufficient space needed to be available to roll the receptacle from the rear of a property to the front of the house without using a neighboring yard to bring the container to the front.

Mr. Dills stated that after further thinking on his part, there were two other items to consider. Those items he numbered 8 and 9, and he explained number nine first as it was easier to explain. Regarding patios, that are four to six inches, off the ground, look like a deck but used as a patio. Normally these are not controlled as to their location within the setback. In the past these patios were even with the grade, give or take two to three inches. He stated that patios were usually on a level area so as to facilitate entertaining. However, he noted that in some situations some patios stick up more than two or three inches. He asked the Board at what height did they think a ground patio ceased to be a patio and become considered a deck. He noted that decks are required to meet setbacks requirements. Mr. Truesdale stated that a ground deck is usually two by eight and is basically a step up but is still a patio. A deck would usually have a crawl space. Upon a question posed by Mr. Truesdale, Mr. Dills stated that residential step height was eight and a quarter inches. Mr. Truesdale stated that anything over the step height constituted a deck; i.e. eight inches a patio and ten inches a deck. Following discussion it was determined that twelve inches and below would be considered a patio/ground deck. Above twelve inches would be a deck/raised platform which must meet setback requirements. Mr. Dills, upon a question raised by Mr. Truesdale, replied that a deck can be built over an abandoned septic field.

Mr. Dills raised the next situation, number eight, natural or permanent manmade occurring barriers such as, but not limited to waterways, alley streets and planted buffers. Mr. Dills described a situation where a Landing II property owner to build a 12 x 14 screened in porch in the rear of their house but could not meet the setbacks. He did not think that what they requested was unreasonable but a variance would have been required. He noted that the 25% rule might have worked for this situation. Factors that were in favor of the porch not creating a nuisance were that property backed up to Devaun Park with its eight foot fence, a planted buffer, an alley street and then the next adjoining parcel. Mr. Dills asked the Board if they would entertain allowing some type of setback variance in this type of situation? Mr. Truesdale asked if the

porch could be smaller in size thus allowing it to fit the 25% rule. Mr. Dills stated that the lot was irregularly shaped. Mr. Truesdale noted that the eight foot high fence, acting as a shield, he did not see that having a porch built would be a problem. Ms. Climer noted that this would not be the only case to be considered. Mr. Truesdale noted that situations could be taken on a case by case basis. Mr. Dills noted that situations such as this should be directed to the Board of Adjustment. That Board has to consider multiple conditions during its review and one of those conditions is that the situation cannot be self imposed. Ms. Climer noted that it was possible that such a property owner might be able to meet the 25% rule. Mr. Dills stated that in this specific instance, the rule would be exceeded by 10%. Ms. Climer stated that they had to consider making a recommendation specific for Landing II and/or other areas of Town where similar situations exist or a blanket suggestion for all parcels. Mr. Dills asked if language could be added to the UDO allowing owners of irregular shaped lots to build a porch with a size that would not exceed buildable lot. The language could then be used by the Board of Adjustment to approve the request.

Ms. Southward opined that she did not think the property owner of the situation described by Mr. Dills could go to the Board of Adjustment for a variance. She noted that measures could be approved that granted relief but when reviewed by the Zoning Administrator, that person could determine that the situation did not meet the necessary criteria. An applicant could then go to the Board of Adjustment to appeal the interpretation of the Zoning Administrator. However, with a variance, certain conditions must be met and if there was already a house on the parcel, proving their case for relief would be difficult. Mr. Dills noted that the option for such an owner would be to consider another building design option. Discussion moved to such waterway barriers as ponds. Mr. Dills suggested that the 25% rule could be increased by 10% for a naturally occurring barrier. Ms. Climer and Mr. Dills summed up the language that could be used by stating that natural or man-made occurring barriers, i.e. waterways, alley streets and planted buffers, adjoining parcels seeking relief may be granted an additional 10% of setback encroachment in addition to item 3A. Ms. Southward raised a question regarding man-made barriers asking if the barrier was one that could be removed (for example a fence) or one that was permanent. Mr. Dills stated that his intention was that the man-made barrier was one that was permanent. Following discussion *Mr. Truesdale motioned to the table approval until the May 7th meeting; seconded by Mr. Daniels and unanimously carried.*

2. **Discussion:** For the Planning and Zoning Board members who attended the PZB training on March 26<sup>th</sup> offered by the Cape Fear COG to share highlights with members who were unable to attend.

Ms. Climer noted that she had been unable to attend due to work responsibilities. Commissioner DiStasio noted that she did not have her notes or other material with her. She stated that the training was informative. Ms. Leary noted that it was helpful to listen to PZB members from other municipalities and to listen to the situations they encounter. Commissioner DiStasio mentioned that they learned that a PZB could hold a public hearing for the purpose of feedback from the public before a recommendation was forwarded to the Board of Commissioners. It was determined to put further discussion of the PZB training on the agenda for the May 7<sup>th</sup> meeting.

**NEW BUSINESS:**

1. **Discussion**/Action regarding Planning and Zoning Board’s Annual Report to the Board of Commissioners.

Ms. Climer directed members to the copy of a draft report prepared by the Town Clerk that was included in their packets. Ms. Southward had also included copies of the minutes from the eight meetings held since the submission of the last Annual Report. Ms. Climer stated that they could endorse the draft letter as written, use it and make changes or write one of their own.

Commissioner DiStasio, Ms. Leary and Ms. Climer noted that the draft was ok. Following discussion, Commissioner *DiStasio motioned to that the Annual Report be submitted to the Board of Commissioners as required by law; seconded by Ms. Leary and unanimously carried.*

**BOARD COMMENTS:** While there were no Board comments, Mr. Dills interjected that there were others situations that have arisen recently in Town that would be forwarded to the PZB for possible clarification in the UDO. For example, he mentioned “guest suites” and other structures with separated dwellings for family members to use that have shared utilities. He noted that by tightening up the definitions, the Town can waylay rentals/apartments being established that might not be in line with state law.

**ADJOURN:** *Mr. Truesdale motioned to adjourn; seconded by Mr. Daniels and unanimously carried.*

SEAL

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Sonia Climer, Chairperson

Attest:

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Kelley Southward, Town Clerk