

Public Hearing and Special Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Tuesday, January 21, 2003 in the Town Hall Meeting Chambers.

The meeting was called to order at 5:20 PM by Chair Bruce Gimmy and roll call was answered by the following:

Gerald Goray
Ward Northrup

James Bonfiglio
Peggy Smith

Chairman Bruce Gimmy

III. CONTINUATION OF DISCUSSION PROPOSED ORDINANCE NO. 540; A TOWN-INITIATED REQUEST FOR ADOPTION AND ENACTMENT OF A NEW LAND DEVELOPMENT CODE AND A NEW CODE OF ORDINANCES, FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN AND IN CONFLICT THEREWITH, PROVIDE FOR A PENALTY FOR THE VIOLATION THEREOF, PROVIDE FOR THE MANNER OF AMENDING SUCH CODE, PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE

Town Clerk Hancsak reiterated the board's decision to proceed from Page 75, allow input while an item is being discussed and from 8:30 PM to 9:00 PM allow general public comment.

Mrs. Smith questioned if Page 76(b)(1) should include corner side yard. The board agreed that it should be added.

Mr. Jones, 14 Sailfish Lane, questioned why the verbiage was removed from (c) from Page 76 because this could affect an indoor pool. Atty Spillias stated they would review the language to possibly make it clearer because the intent of a pool was definitely as an accessory use.

On Page 78 Mr. Northrup questioned the inclusion of hedge heights stating that they had been included before. Mr. Jones stated that he still finds the language on Page 78(c) confusing. Chairman Gimmy agreed and suggested the possibility of adding illustrations. Atty Spillias stated that the board could recommend that a landscape architect be hired to provide an illustration to be placed in the code. Mr. Northrup stated that he did not agree with the intent of the code in this section.

Following some discussion regarding chain link fences on Page 79, Mr. Bonfiglio moved to recommend eliminating the exception for chain link fences for enclosure for swimming pools in item (e). Mr. Goray seconded the motion.

Motion carried – Yea (5).

Atty Spillias commented that on Page 80(a) the specifications for driveways was added. Mr. Northrup stated that he is not opposed to other types of driveways. Atty Spillias stated that this was added to the code because the Town Commission wanted to make it clear that a property owner could not just drive up onto their lawn and call it a driveway and added that the board could recommend making the specifications broader.

Comm Willens urged this board to recommend broadening the definition but he also agreed that a definition was necessary.

The board concurred to broaden the definition of allowable material and including some sort of permeating, delineated base.

Mr. Bonfiglio moved to recommend that Page 79 (4) be eliminated and replaced so that it allows for a delineation of a driveway as long as the area is properly engineered. Mr. Northrup seconded the motion.

Motion carried – yea (5).

Regarding Page 85(c)(2) Mr. Northrup stated he felt a lot of residents now have more than one of the described vehicles and that he did feel they presented a problem and moved to strike the limitation of not more than one truck. Mr. Bonfiglio seconded the motion.

Motion failed – Nay (Goray, Bonfiglio, Smith)
Yea (Northrup, Gimmy)

Mr. Jones suggested that any type of satellite dish only be permitted in rear or side yards. Atty Spillias stated that he would need to clarify whether item (c)(1) on Page 89 was supposed to include all satellite dishes being installed in the front yard.

The board all agreed that small satellite dishes should be permitted in the front.

Carol Harris, 127 Marlin Drive, stated that Page 79 (a)(6) permits chimneys to be higher than the maximum height. Mr. Goray suggested that chimney heights and the other items in item (a) be discussed when the other deferred items are addressed.

There was some discussion regarding why on Page 93 guest cottages did not permit cooking facilities. Atty Spillias commented that this item was already in the code and that its intent was to prevent stand alone structures because this would defeat the definition of single-family use. He added that many other towns have this requirement. He also stated that the Town has also accepted the construction of a kitchen as a change to differentiate commercial use from residential use.

Mr. Jones commented that it seemed ridiculous that a home could have two kitchens, which could serve as a multi-family use, but a guest cottage could not have cooking facilities. Mr. Harris questioned whether this included microwaves and coffeemakers and stated that this provision was essentially penalizing the honest person and encouraging them to break the law.

The board agreed that the intent was good, even though enforcement would be tough, and felt it should remain in the code. Mrs. Harris suggested defining a partial kitchen. Atty Spillias cautioned the board that this may make the code actually more confusing and may raise questions on the interpretation.

Chairman Gimmy declared a break from 7:15 PM to 7:25 PM.

Regarding Page 141(c) Mr. Goray clarified that brick pavers were considered pervious to which he was advised they were.

Chairman Gimmy questioned why the title on Page 165 was changed from Xeriscape to Water Efficient Landscape. Town Manager Dailey advised that xeriscape was actually much more restrictive in definition.

Regarding the new provision on Page 172 where it states that removal is the result of Town –initiated action, the landowner shall have up to twelve months to replace the plant material in accordance with this section, Atty Spillias advised that this was implemented to actually assist the property owner.

Comm Schulte questioned if the County was changing their rules regarding the removal of exotic vegetation. Atty Spillias advised that the County has delayed the requirement for removal while they are evaluating the cost to the owner and whether the County may assist with the costs. He added that they approved an extension of time. Mr. Northrup stated that he felt the County’s action came about because of larger developments, such as Quail Ridge and Ballen Isles, putting pressure on the County.

Mr. Northrup questioned whether the Town requires covers on dumpsters to avoid debris being blown around the streets. He was advised that there is currently a requirement for covers on construction and building sites. Mr. Jones raised the point that individuals including the Town were not required to cover a dumpster if it was used for vegetative removal.

The board agreed that the cover requirement for dumpsters should apply to all uses and stated that this was an enforcement issue.

Mr. Jones questioned whether the requirement that sanitary facilities not be placed in any front or side yard setbacks was realistic. He stated that the placement of the facility may actually hinder the removal of the contents and may make matters worse.

Mrs. Harris also questioned who would actually enforce the provision for the emptying each week.

Comm Willens stated that this new provision was placed into the code because the Town has received many complaints from neighboring properties on the location and regarding the emptying he commented that there was never a requirement to remove the contents.

Mr. Northrup moved to recommend that the second sentence on the bottom of Page 176 concerning sanitary facilities be replaced with something such as the placement of a sanitary facility shall be completed as part of the site plan submittal. Mr. Bonfiglio seconded the motion.

Motion carried – Yea (5).

Atty Spillias explained the revisions on Page 181 concerning floor elevations including the deletion of paragraph (5). He also explained that the code now requires that the first floor elevation is defined - as from the structure, which would now include any slabbed area. He stated that this ultimately affects the maximum height because the 36' is measured from the slab.

Mr. Jones commented that if everyone brings in fill to meet the required first floor elevation then it would ultimately affect the drainage in the Town. He mentioned that the properties affected by the Coastal Construction Control Line (CCCL) should have a requirement to building using frangible walls rather than creating a house on the hill. Atty Spillias stated that the difficulty was that this was not just an issue for CCCL lots. He stated as new homes were being built they are required to raise the elevation. He added that they have struggled with this provision and a possible solution would be to create an overlay district for the CCCL lots but reminded the board that this could also be a problem throughout the Town.

Mr. Bonfiglio stated he was concerned with the lots affected by the CCCL and drainage problems associated with them and moved to recommend the hiring of a consultant to examine a possible overlay area for the CCCL lots to determine what types of appropriate development regulations should take place in those areas. Mr. Goray seconded the motion.

Motion carried – Yea (5).

Atty Spillias stated that on Page 184 he would be modifying the section on the definition of construction or commencement of construction to state that commencement means receipt of a permit so as to eliminate getting a permit and then only performing site cleaning.

The board agreed with Atty Spillias' recommendation to modify the section on Page 184.

At 8:40 PM the board opened the meeting to general comments from the public.

Mr. Jones stated the 75% second floor rule which was supposed to be created to eliminate the box appearance and lowering the mass had created nothing but problems. He suggested possibly eliminating this requirement altogether and achieve the goal through the FAR. He mentioned the 300 square foot reduction for ceiling height counting double and suggested that maybe by adding a certain amount of square feet without penalty and then the remainder included the FAR may achieve the goal for areas such as covered porches or porte caches. He stated that he felt measuring a home should be calculated by utilizing the outside perimeter. He also made a comment on whether the Town actually needed the 75% or possibly better manage the FAR.

Mrs. Harris commented that Mr. Jones made an excellent point and it should be taken seriously.

Marilyn Ochs, 132 Island Drive, stated that she agreed but she was also upset that she was not aware of the new rule not allowing the utilization of property separated by a road. She stated that she paid taxes, irrigated and maintains the seawall on approximately 1,200 square feet across the street and was opposed to not being permitted to include that area in her total property calculations. Atty Spillias clarified that this provision was adopted by resolution, not ordinance, and is presently included as part of the Zoning in Progress. Mrs. Ochs concluded by stating some exceptions should be made.

Carl Casio, present on behalf on his client, Mr. McAndrews, reiterated several of the proposed changes. He clarified that there actually two different resolutions adopted regarding the Zoning in Progress. He mentioned that there has been case law that in some instances can be held unenforceable for Zoning in Progress because there can be substantial damages to potential buyers and sellers. He cited a case that Atty Spillias stated he would review.

Mr. Bonfiglio stated that the Zoning in Progress was passed in lieu of a complete moratorium. Atty Spillias stated that he has already done some research and feels the adoption of the resolution is valid and enforceable and added that the Commission wanted this process as short as possible. He also stated that the reason the Commission was planning to meet tonight was to act as expeditiously as possible to adopt a final code.

Atty Casio also stated that the new proposed changes would have an economic impact on property owners and suggested some sort of analysis be done to find out if there would be a negative impact. He added that it may be wise to recommend outside consulting be done to minimize property value lost or taken.

Mr. Goray suggested that Atty Casio outline his concerns regarding the economic impact restrictions that may be placed on the property owners. Atty Casio stated that he would provide an outline to be submitted to all the board members and the Town Commission.

Shields Ferber, 134 Island Drive, stated that as a follow up on the split property issue, the original construction of Harbour Island was manmade and created to split the property of some of the property owners. He questioned if this board actually realized the amount of reduction based on this split of property and the other provisions.

Mr. Jones stated that he understood some of the concerns with owners having 100 x 10 square foot of additional area, however, some lots in the south end of Town would allow for a much larger home and would definitely not be considered minor. Mr. Goray stated Mr. Jones point is a careful one to consider and there should also be considerations on whether to penalize the Town as a whole. He added that he also lives on Island Dr. and would be affected by the provision.

Barry Harris stated that he agreed with the comments made by Mr. Jones and Mr. Goray and felt the issue should be addressed with a regulatory methodology and possibly make a distinction in kind with a possible overlay area. He added that even on a 1,000 square foot area enormous taxes are paid and it is unfair that it could not be used. He concluded by stating that the Town needed to adopt a doctrine of fairness.

Atty Spillias commented that overlay districts should be done sparingly to avoid patchwork, which would ultimately cause more problems. He stated that properties with the same or similar zoning should be treated the same and if they were changed it could have discriminatory effects.

Atty Spillias suggested the board give thought to the impact on the FAR and the sliding scale suggestion, whether it is based on percentage or square footage from a smaller to a larger lot or square feet to square feet. He stated that this board might want to independently look at this before the next meeting. Mr. Harris suggested using the additional land as a credit for a buildable lot.

Mr. Bonfiglio moved to recess and continue this meeting regarding their recommendations on Ordinance 540 until Wednesday, January 29, 2003 at 8:00 AM. Mr. Goray seconded the motion.

Motion carried – Yea (5).

III. ADJOURNMENT

The meeting was adjourned at approximately 9:10 P.M.

Chairman Gimmy

Attest:

Town Clerk