



## ORIENTAL PLANNING BOARD MINUTES

Wednesday, March 17, 2021 3:00PM

Oriental Town Hall – 507 Church Street, Oriental, NC

### CALL MEETING TO ORDER AND ESTABLISH QUORUM

AT 3:00PM, Vice Chairman Rahm called the meeting to order. . Vice Chair Rahm, Member Stone, and Member Willi were present. Chairman Flaherty, Member Allen were absent. The LUA and Commissioner Overcash were also present. There were no members of the Public present.. The meeting was properly noticed.

**Minutes:** Member Stone makes a MOTION to accept the Minutes as presented from January 2021. Member Willi Seconds. 3-0.

**OLD BUSINESS:** February 2021 meeting was cancelled.

### NEW BUSINESS

- Chairman Flaherty asks the Board to consider review of the TPU for missing items, troubled spots, things not addressed. LUA Miller distributed copy of the TPU to members for review. Will email to the group potential sections for review. One recent thing questioned was dog grooming. We have Vet services with and without outside kennels, but none that specifically address groomers. Potential to add- or restrict by Special Use Permit- looking at the possibility of groomer next to restaurant/quiet required space, etc. For discussion. Allows surrounding owners to comment, but must show proof of health/safety issues.
- **Driveway Max width:** There is nothing in our code that gives max driveway width, and that allows a loophole for installing covered ditchwork the entire length of the property. We have ruled out doing this except for under the driveway. Driveway section should- in the LUA's opinion, reflect a max width- suggested two car max width.
- **Roof Pitch Inconsistency within GMO for Mfd homes.**

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**Section 115. Roof Pitch**

115.1 The main roof pitch must be between 4/12 pitch and 12/12 pitch, except that up to 20 percent of the roof footprint may be flat. The minimum 4/12 pitch does not apply to manufactured homes, Class A or Class B which meet or exceed the United States Department of Housing and Urban Development standards. The minimum 4/12 roof pitch requirement also does not apply to commercial buildings in MU and MU-1 that do not contain any residential units and are less than 25 feet in height above the mean adjacent grade. Exemption from the roof pitch requirement will require a Special Use Permit.

**251.113 Manufactured Home:** A dwelling unit transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein. This definition should not be interpreted to include any types of Recreational Vehicles (RVs) which may equal or exceed the body length, width, or area specified herein:

251.113.1 Has a minimum width of sixteen (16) feet;

251.113.2 Has a gable roof having a pitch with a minimum vertical rise of four (4) feet for each twelve (12) feet of horizontal run;

251.113.3 Has a continuous, permanent brick, stone or stucco curtain wall or foundation, or vinyl underpinning, unpierced except for ventilation and access, installed under the home;

251.113.4 Has a roof finished with roofing material with a fire rating of Class C or better and that is commonly used in standard residential construction;

251.113.5 Has a roof structure that provides an eave projection of no less than six (6) inches, which may include a gutter;

251.113.6 Is set up in accordance with the standards set by the North Carolina Department of Insurance;

251.113.7 Has stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home installed or constructed in accordance with the standards set by the North Carolina Department of Insurance and attached firmly to the primary structure and anchored securely to the ground;

251.113.8 The moving hitch, wheels and axles and transporting lights have been removed.

251.113.9 Is rated for Wind II Zone.

- **Permit for ramp replacing steps with ramps- as related to ROW/setback.** Planning Board can allow into setback, not into ROW according to:

113.8 Notwithstanding the foregoing, in the event a building constructed prior to February 1, 1999, is elevated to raise the bottom floor system to, or no more than four (4) feet above, the Pamlico County flood elevation minimum building height, and any of the building's existing steps are extended to comply with the North Carolina Building Code, any such extensions to existing steps shall not be included as a substantial part of the building as described in Section 113.2, provided that such steps do not encroach into any Town right-of-way and the Planning Board approves any encroachment into the required setback. Such step extensions shall not be considered an extension or enlargement of a nonconforming situation as described in Section 193 (Extension or Enlargement of Nonconforming Situations). (for raising buildings)

**EXCEPTIONS ARE MADE FOR RAISING OF STRUCTURE ACCORDING TO NC BUILDING CODE, BUT NOT ACCORDING TO ADA LAW.**

Inconsistent with: 193.5 Any structure used for single-family residential purposes (including manufactured homes) and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 196 (Abandonment and Discontinuance of Nonconforming Situations).

Also inconsistent with:

195.3.2 All of the applicable requirements of this Section that can reasonably be complied with will be complied with. Compliance with a requirement of this Section is not reasonably possible if compliance cannot be achieved without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved

parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this sub-section to construct a building or add to an existing building if additional nonconformities would be created.

192.3 Compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

**From our attorney:**

Recognizing Conflicts Between Your Zoning Ordinance and the Americans With Disabilities Act (mikameyers.com) "A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. "These "policies, practices and procedures" include local zoning ordinances. According to the Title II Technical Assistance Manual published by the Department of Justice includes the following commentary:

> II-3.6100 General. A public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. If the public entity can demonstrate, however, that the modifications would fundamentally alter the nature of its service, program, or activity, it is not required to make the modification.

> In order to qualify for a reasonable modification of the zoning ordinance under the ADA, an applicant need not meet the requirements for a variance. Rather, the applicable test is:

> -Whether the person to be accommodated has a disability.

> -Whether the modification requested is reasonably necessary to accommodate that disability.

> -Whether the modification would fundamentally and unreasonably alter the nature or purposes of the zoning ordinance. The burden is on the municipality to prove this would occur.

> Few zoning ordinances include procedures for evaluating a request for accommodation under the ADA or FFHA. This leaves zoning administrators and zoning bodies in a quandary between following the requirements of federal law, or the provisions of their own zoning ordinance.

> A simple step to cover many situations would be to amend the zoning ordinance to permit the extension of wheelchair ramps and lifts into setback areas. A more comprehensive ordinance could include a procedure for making application for an accommodation under the ADA, assignment of the decision to a zoning official or body such as the Zoning Board of Appeals, and the standards for decision. An ordinance may, in some cases, provide that the accommodation is not transferrable to a new owner, and must be removed if no longer necessary.

> For example, it may be a reasonable modification to grant a variance for zoning requirements and setbacks. In addition, city governments may consider granting exceptions to the enforcement of certain laws as a form of reasonable modification. 28 C.F.R. 35.130 (b) (7) and 35.136.

- **Temp/Mobile Vendors:** We really have only a permit form for temp vendors, no regulatory guidance.

**Compliance forms for review:** Compliance forms for review:

901 South Ave (shed), 910 Midyette St Mfd Home on lot (2), 604 Main (new SFR on previously vacant parcel), 106 Norman Circle (carport), 507 Broad St (shed), 5507 Sandpiper (shed), 101 Pittman Circle (add porch), 101 Pittman Circle (porch).

**ADJOURN:** Member Stone made a MOTION to adjourn. Member Willi seconds. 3-0. **Next Meeting scheduled for April 21, 2020, 3PM**

**Signed:** \_\_\_\_\_

Julie Rahm, Vice Chairman

Attest: \_\_\_\_\_

Diane H. Miller, LUA to Board