

**Town of Nags Head
Planning Board
March 17, 2020
Rescheduled April 1, 2020**

The Planning Board of the Town of Nags Head met on Wednesday April 1, 2020. This meeting was originally scheduled for Tuesday March 17, 2020 but had to be rescheduled due to Covid-19 restrictions. This meeting was held electronically/remotely utilizing the online ZOOM meeting platform. Members of the public were invited to attend the meeting using the ZOOM platform or app, or by calling in using a phone.

Planning Board Chair Megan Vaughan called the meeting to order at 9:15 a.m. as a quorum was present.

Members Present

Megan Vaughan, Kristi Wright, Molly Harrison, Meade Gwinn, Megan Lambert, Gary Ferguson, David Elder

Members Absent

None

Others Present

Via Zoom: Michael Zehner, Andy Garman, David Ryan, Kelly Wyatt, Holly White, Cory Tate, Lily Nieberding, Margaux Kerr, Kate Jones

Continuance of Items from March 17, 2020 Meeting to April 21, 2020 Meeting

Chair Vaughan moved to continue all items (except for the Flood Ordinance Amendments) to the April 21, 2020 Meeting. Chair Vaughan then called for a roll call vote and the motion/vote carried unanimously.

Approval of Agenda

Chair Vaughan moved to approve the agenda. Chair Vaughan then called for a roll call vote and the Board voted unanimously to approve the agenda as presented.

Public Comment/Audience Response

Jay Overton, engineer and builder, member of the Outer Banks Home Builders Association, spoke about the proposed Floor Ordinance. The OBHBA brought together experts including builders, engineers and surveyors to review the proposed maps. While the maps may be good for insurance, they will not good for construction and development standards. The OBHBA appreciates what the Town, as well as other municipalities, has done with regards to this topic. Mr. Overton and OBHBA met with Town Staff several times to discuss the maps and the proposed ordinance. Mr. Overton stated that there needs to be some more consideration given to the Town's proposed building standard element (LES) of 10' vs. 8' which has been proposed by Dare County and all other municipalities except for Duck. Mr. Overton also spoke about the creation of non-conformities and

questioned the Town's requirements related to lateral additions which he feels would unfairly restrict property owners who initially built smaller homes and now want to expand. Mr. Overton suggested allowing zoning regulations to dictate how lateral additions are managed.

Approval of Minutes

Chair Vaughan moved to approve the minutes of the February 18, 2020 meeting. Chair Vaughan then called for a roll call vote and the Board voted unanimously to approve the minutes as submitted.

Action Items

Consideration of Numerous Text Amendments to the Unified Development Ordinance as it pertains to the updated flood maps and update of the flood damage prevention Ordinance.

Planning Director Michael Zehner explained that as the Planning Board is aware, the preliminary flood maps were released in June of 2016 and must be adopted no later than June 19, 2020. The current flood maps were last update and became effective in 2006.

In addition to updating the maps, the Town must update its ordinance which is what before the Board today. The updated ordinance references the new maps and makes the ordinance consisted with the state model requirements.

Mr. Zehner reviewed the timeline and stated that the Town received the letter of Final Determination concerning the updated FEMA Flood Insurance Rate Map (F.I. R. M) as of December 19, 2019, with an effective date of June 19, 2020 so the Town is pursuing adoption of the maps through amendments to the Town's UDO.

Mr. Zehner stated that the Town had received the final comments from the State's review which Planner Holly White will review for the Board. These comments will need to be incorporated into the Draft Ordinance. Mr. Zehner noted that as Mr. Overton referenced, the ordinance proposes a Local Elevation Standard for the east and west sides of the NC12 and NC1243 which is an additional requirement beyond anything established by the flood maps.

Mr. Zehner discussed the 10' LES further and stated in areas west of NC12/1243 the reference level would be measured at the bottom of the structure. For example in a property with an LES of 10' the finished floor would be at 11', 12" higher than the lowest portion of that structure.

Principal Planner Holly White addressed the Board and explained that Staff has been reviewing and discussing how to address the deficiencies in the map since they received the preliminary maps in 2016. For the last three years Staff has not only been discussing internally but through coordinated efforts with other planners on the Outer Banks how to address the deficiencies through development of a local elevation standard as well as outreach and educating the Town's citizens to encourage them to keep their flood insurance even if they are coming out of a flood zone. Staff also received input from local builders, surveyors, insurance and real estate agents.

Ms. White reviewed the major changes to the preliminary FIRMs which include: Fewer VE zone properties and an increase in X zone properties town wide. The FIRM also reduces Base Flood Elevations and includes the addition of a new AO zone.

Ms. White noted that the Town is required to adopt model ordinance language. The proposed ordinance was reviewed by the State and Ms. White presented those comments to the Board which included adding language related to flood-proofing and amending some referenced dates.

Ms. White presented some images to the Board of partial maps of the Town which show a comparison between what is currently effective (2006 FIRM) and what is being proposed (Preliminary FIRM 2016). Ms. White noted that everything shown in White is now in an X-zone. Ms. White also noted the reduction in some flood elevations from 8 to 10 that are now 4 and 5.

Ms. White then discussed the creation of the local elevation standard (LES) in more detail explaining that the LES is a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) to mitigate flood hazards in Shaded X and X, AE, AO or VE flood zones as depicted on the FIRMS for Nags Head. Currently the RFPE is measured as the Base Flood Elevation plus a one-foot freeboard.

Ms. White reviewed the benefits of having an LES noting that it allows property owners to experience a decrease in flood insurance premiums but allows the Town to regulate using an LES based on known flooding risk. It also helps avoid future loss and risk to property owners for new constructions and additions.

Ms. White then explained that for properties east of NC12/1243 the Town would have an LES of 12' and for non-oceanfront areas (west of NC12/1243 and the causeway) 10' would be required for all new construction. The LES would always be higher than the mapped elevations.

Ms. White proceeded to review how the LES would affect properties in the Town and discussed how it applies to lateral additions. Ms. White explained that for existing structures you would be able to expand your existing footprint up to 25% at the same elevation, if you wanted to increase it more than 25% the addition would have to meet the RFPE.

Ms. White reviewed some images showing current ground elevations in the Town.

Ms. White then presented a slide with an analysis showing that currently 19% of structures are FEMA non-compliant. If the LES is adopted this percentage would increase by 3% to 22% proposed LES non-compliance. Mr. Zehner noted that Staff did take reference level into account, so for the 22% LES non-compliant, the data they used provided a first-floor elevation, so they added a foot (12") to that data to determine the new number. Ms. White noted that of the 22% non-compliant properties, 78% of those would be within an X flood zone with an LES of 10'. It is important to note that because these properties would now be in an X zone, they would be allowed to build on grade if the Town did not have an LES.

Ms. White then presented a slide showing an example of how a proposed lateral addition would be handled under the LES. Using that example Ms. White showed why there might be unintended consequences if they were to allow zoning regulations to dictate how lateral additions are managed. Mr. Zehner noted that while they understand the OBHBA perspective, the concern is that the proposed maps are not accurate in terms of reflecting the Town's and property owner's exposure to flooding.

Ms. White reviewed the anticipated schedule of next steps necessary to meet the June 19, 2020 Effective Date.

Mr. Zehner confirmed for Mr. Ferguson that as is currently stands, someone constructing a lateral addition in an AE zone would have to bring it up to base flood elevation. Ms. White confirmed and stated that there is one exemption and that is houses that were built pre-firm (1972). Anything built after that date must meet the RFPE.

Ms. White confirmed for Mr. Ferguson that if someone built a vertical addition that is all above the RFPE that would be allowed.

Mr. Zehner confirmed for Mr. Ferguson that staff fully supports the ordinance as presented.

There being no further discussion Gary Ferguson moved to recommend approval of the ordinance with Staff's recommendations and with noted changes from the State NFIP Coordinator. David Elder seconded the motion. Chair Vaughan called for a roll call vote and the motion carried unanimously.

Planning Board Members' Agenda

Mr. Elder requested that the Planning Board consider revisiting Accessory Dwelling Units (ADUs) in combination with workforce housing issues. Mr. Zehner agreed to put it on a future agenda.

Planning Board Chairman's Agenda

None

Adjournment

There being no further business to discuss, a motion to adjourn was made by Megan Lambert. The time was 10:26 AM.

Respectfully submitted,

Lily Campos Nieberding