



Town of North Topsail Beach
Board of Aldermen

Agenda	Consent
Item:	Agenda
Date:	11 02 2022

Issue: Planning Board Committee Report
Hanna McCloud, Chair
Department: Planning
Prepared by: Deborah J. Hill MPA AICP CFM CZO
Presentation: No

The Planning Board conducted their regular on Thursday, October 13, 2022, at 5:00 p.m. and discussed the following:

Case #SUP-22-02

The Planning Board reviewed a Special Use Permit application submitted by Laura Murphy to renovate 4 Bermuda Landing. Plans include removing the existing rear 16'x7.6' deck; construct a 16'x7.6' den addition on 1st habitable level; adding a new deck on the 2nd habitable level; and adding a ground floor enclosure. Ms. Murphy agreed to resubmit her application with the following corrections:

- CAMA email/letter acceptance of proposed development.
- Documentation from HOA acceptance of proposed development.
- Plat corrections:
 - o Indicate existing and proposed percentage impervious surface on site plan. -DH 08/25/2022
 - o Indicate stairs
 - o Indicate entire lot is within the SPECIAL FLOOD HAZARD AREA DH 08/25/2022
 - o Plat note 1 is incorrect. No structure fill is authorized period; remove note 1.
 - o Plat note 2 is incorrect; lot is not within Ocean Hazard AEC; lot is within Outstanding Resource Waters AEC remove note 2.
 - o Plat note 4 and 5 are the same; remove redundancy.

Discussion: Wetland Protection

The Town recently adopted higher standards for dune protection. The Town is now considering higher standards for wetland protection. The current CAMA Land Use Plan states, "North Topsail Beach accepts state and federal law regarding land uses and development in AEC's (Areas of Environmental Concern), including all NCAC 7H standards. By reference, all applicable state and Federal regulations are incorporated into this document. No policies exceed the use standards and permitting requirements found in Subchapter 7H, State Guidelines for Areas of Environmental Concern." With regards to fill, the Town's Floodplain Regulations regulate, i.e.,

non-structural, minor grading, site-compatible, limited to 2 feet, greater with an engineer's certification.

The Planning Director stated that she required bearings and distance descriptions for current wetland delineation with confirmation by the USACE/NCDCM. Some site plans coming in have had lines with no description, while others reference map book and page numbers that are thirty years old. Needless to say, I have not accepted them. I have left the permitting to the appropriate 404/401 authority, consistent with the CAMA Land Use Plan.

The Planning Director stated that oral arguments for Sackett v. EPA were presented to the Supreme Court on 10/03/22. A decision is expected after the beginning of the year.

According to Reuters,

Conservative U.S. Supreme Court justices on Monday appeared open to limiting the reach of the U.S. Environmental Protection Agency's authority to protect wetlands from pollution under a landmark environmental law in a case involving Idaho property owners seeking to build a home.

The case gives the conservative justices an opportunity to limit the scope of the Clean Water Act. While they seemed to lean toward favoring the plaintiffs, some conservative justices signaled skepticism toward the notion that the EPA under the Clean Water Act could never police wetlands like swamps, marshes and berms that are near but not connected to regulated waters, as a lawyer for the plaintiffs argued.

The Planning Director explained that as the courts continue to go back and forth and advised that the Town continue to leave 404 to USACE for now. She stated that the Supreme Court's decision is not expected to impact NC Division of Coastal Management regulation of 401 coastal wetlands. She will be researching examples of vegetated buffer controls by other regional local governments and bringing them back to the Planning Board for consideration.