

STAFF REPORT

To: Southern Shores Town Council
Date: June 2, 2026
Case: ZTA-2026-03
Prepared By: Wes Haskett, Deputy Town Manager/Planning Director

GENERAL INFORMATION

Applicant: Town of Southern Shores
Requested Action: Amendment of the Town Code by adding Town Code Section 36-103 to establish requirements for the approval of a reduction in minimum yard requirements based on error in building, structure or site feature location.

ANALYSIS

At the May 5, 2026 Town Council meeting, Council directed Town Staff to draft a Zoning Text Amendment that adds administrative relief as an option when errors in building occur. As a result, Town Staff has drafted ZTA-2026-03 to add Town Code Section 36-103 to establish requirements for the approval of a reduction in minimum yard requirements based on error in building, structure or site feature location. Discussion of administrative relief began during consideration of ZTA-2026-01, a Zoning Text Amendment request submitted by Dan Osman to amend Town Code Sections 36-202(d)(4) and 36-202(d)(5) to establish a 10 ft. minimum side yard (setback) requirement and a 20 ft. minimum rear yard (setback) requirement for pool equipment, pool sheds, accessory structures up to 150 square feet, and mechanical equipment (HVAC) in the RS-1 zoning district. Council tabled their decision on ZTA-2026-01 at the May 5, 2026 Town Council meeting prior to directing the proposed amendment.

The proposed amendment, which is similar to the Town of Duck's reduction in minimum yard requirements, would establish that the Zoning Administrator may approve a reduction in the minimum yard requirements where an existing or partially constructed building or structure does not comply with the requirements that were applicable when construction of a building or structure began, provided that

1. The error does not exceed 10% of the minimum yard (setback) requirement;
2. The noncompliance occurred in good faith by the property owner and/or his agent, or was the result of an error in the location of the building or other site feature subsequent to the issuance of a building permit and/or zoning permit, if it was required;
3. The reduction will not be detrimental to the use and enjoyment of other property in the immediate vicinity or result in unsafe conditions;
4. To enforce compliance with the minimum yard or setback requirements would cause unreasonable hardship upon the owner and/or his agent; and
5. The reduction will not result in an increase in density or finished area ratio.

In approving a reduction, the Zoning Administrator shall allow only a reduction necessary to provide the requested relief. Upon the issuance of written approval of a reduction for a particular building or structure in accordance with the provisions of this section, the same shall be deemed to be lawful.

The Town's current Comprehensive Land Use Plan contains the following Policy that is applicable to the proposed ZTA:

- LUC 7: Continue to enforce community design standards such as regulating building height, lot coverage, building size, and capacity, and other standards that preserve local character.

RECOMMENDATION

Town Staff has determined that the proposed amendment is consistent with the Town's currently adopted Comprehensive Land Use Plan and Town Staff recommends approval of the application. The Town Planning Board unanimously (3-0) recommended approval of the application at the May 18, 2026 Planning Board meeting.