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PLANNING & ZONING COMMISSION MINUTES

SPECIAL MEETING

December 1, 2005
7:00 P.M.

ITEM #1 Roll Call: The meeting was called to order by Chairman Johnson at 7:00 p.m. Those present were: Jerry Johnson, Lank Lancaster, Sarah Efird, John Keith, Mike Kopitopoulos, Linda Skipper and Dan Wilcox. Also present was Al Clyburn, Attorney; Steve Harrell, Director of Planning & Development, Ed Parvin, Long-term Planner; Jeremy Hardison, Zoning Administrator; and Renee Fitzpatrick, Administrative Support Specialist.

ITEM #2 Amend Article 18.2, non-conforming lots. Planner Parvin read the November 3, 2005 memo as follows:

The Problem

Planning staff does not feel there is any language remaining in our ordinance that will allow us to hold a permit for nonconforming lot owners. Planning staff presented language to the Planning and Zoning Commission (P&Z) to preserve the integrity of the R-3 zoning district at its October 13, 2005 meeting (attachment 9). P&Z did not feel this would solve the problems that exist under attachment 8. Their recommendation was to have language approved by the Town Attorney to ensure that if the language is adopted its purpose and intent can and will be served.

History Behind the Problem

The attachments give a history of the zoning ordinance in reference to nonconforming lots:

Attachment 1: Section 902.1 and 902.2 of the 1979 zoning ordinance

First zoning ordinance passed with the requirement that if two nonconforming lots are in common ownership they must be combined.

Attachment 2: Section 902.1 and 902.2 of the 1984 zoning ordinance

The sentence "Where the owner of a lot at the time of the adoption of this chapter or the owner in title thereafter of the original lot does not own sufficient land to enable the owner to conform to the dimensional requirements of this chapter, such a lot may be developed as a single family residence in a district in which residences are permitted."

Attachment 3: Section 3.5 and 18.2 of the 2000 zoning ordinance

Section 3.5 was added in 2000 as an additional section addressing nonconforming lots

Attachment 4: Letter from Jane Daughtride stating Planning's interpretation for nonconforming lots

This letter addresses when a nonconforming lot is or is not buildable according to the ordinance as of October 31, 2003.

Attachment 5: Letters from J. Scott Chase outlining sections to be removed from the 2000 zoning ordinance

Two memos are included that give staff proposals to Planning and Zoning. The third memo describes changes as presented to Town Council on July 13, 2004.

Attachment 6: Discussion at the July 13, 2004 Town Council meeting

The minutes from the July 13, 2004 meeting summarize citizen concerns over the existing language.

Attachment 7: Section 3.5 and 18.2 after the July 13, 2004 changes were adopted

The zoning ordinance as it reads as of the date of this memo.

Attachment 8: Letter from Scott Chase to Al Clyburn addressing current issues with nonconforming lots.

This letter describes new issues that have surfaced since the July 13, 2004 amendments.

Attachment 9: Language presented to Planning and Zoning at the October 13, 2005 meeting

Initial language presented to Planning and Zoning to protect the integrity of the R-3 district.

Staff Recommendation

To solve the present problem as listed in attachment 8 staff proposes to reinstate the language that was removed at the July 14, 2004 Town Council meeting. The difference will be instead of our ordinance being effective as of April 24, 1979 it will be effective after the adoption of this language by Town Council.

Staff Interpretation if the language is reinstated

Owners of nonconforming lots as of the adoption of this language by Town Council will be allowed to build on their land. If a nonconforming property owners owns land adjacent to their property after the adoption of this language, they will be required to combine the parcels as stated in the language under 3.5 and 18.2 (c) below. A chain of title will be required to be submitted for all lots that fall under this category to prove they did not exist in common ownership in this timeframe.

Language to be Adopted

Shaded areas represent language to be reinstated into the ordinance. Strike through text will be removed. Areas in bold italics are new language.

3.5. Nonconformities may continue.

(a) Except as restricted in section 3.4(b) above, single-family dwellings may be built on any lot in a district where residences are permitted, which was recorded prior to the enactment of the initial Zoning Ordinance (April 24, 1979) or this ordinance even though it may not meet the lot width and area requirements established by this ordinance. However, owners of two contiguous undersized lots, not built upon, shall be required to combine such lots so as to create a conforming lot prior to development. (See *Article 18, Section 18.2 (c) regarding recombination of non-conforming lots.*)

(b) Any lot or structure being used lawfully before this ordinance was enacted may continue to be used in the same manner after the date of adoption of this ordinance even though such use is not now permitted under the terms of this ordinance. More specific regulations concerning nonconformities are given in Article 18 of this ordinance.

18.2 Non-conforming lots. (Amended 07/13/04, Ordinance No. 04-558)

(a) *Use by right when all setbacks can be met.* When a single, non-conforming lot can be used in conformance with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right.

(b) *Variance required when exceptions to setbacks are requested.* The Board of Adjustment may issue a variance to the setback requirements in accordance with the procedures and "required findings" set forth under Article 21.

(c) Reduction of required lot area when lost to shore erosion. Where lots abut the estuarine tidal waters, as defined in Article 23, and where lot depth has been lost due to the encroachment of such waters, making such lot area non-conforming to the zoning district requirements, the existing lot area may be considered conforming to meet the minimum lot area requirements of the zoning district in which located. However, the front and side yards of the zoning district shall apply.

- For sound-front lots located within the R-1 and R-1B zoning districts, a fifty (50%) percent reduction in the front yard shall apply
- *Where the Carolina Beach Building line creates a reduction in lot area that supersedes the CAMA sixty (60) foot setback line a fifty (50) percent reduction in the front yard may apply where appropriate provisions are made for off-street parking.*

Lots which have lost area due to estuarine tidal waters or Carolina Beach Erosion Control and Hurricane Wave Protection Projects may be developed in accordance with all applicable permitted uses of the zoning district in which located, provided that the actual lot area above the mean high water level shall be utilized when computing the density for multi family dwellings per lot. The Zoning Administrator shall make the determination of actual lot area. Appeals to the decision of the Zoning Administrator shall be made to the Board of Adjustment in accordance with the provisions of Article 21.

(d) *Recombination of lots required when possible.* Where the owner of a lot at the time of the adoption of this chapter (or the owner in title thereafter of the original lot) does not own sufficient land to enable the owner to conform to the dimensional requirements of this chapter, such a lot may be developed as a single-family residence in a district in which residences are permitted as noted in (a) above. Whenever this ordinance creates a non-conforming lot from a lot which was platted prior to current zoning requirements, and the owner of the non-conforming lot also owns land **having continuous frontage adjacent** to it, and a portion of this other land can be combined with the non-conforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the non-conforming lot, or his successor in interest, ~~may not take advantage of the provisions of paragraph 1 [sic] of this subsection~~ **shall recombine the lots in accordance with the Town's subdivision ordinance** to create one or more conforming lots prior to developing the property. **Where original platted lots in common ownership create an area over the minimum lot size, but will not meet the lot size or frontage requirements when subdivided, then the owner may subdivide the platted lots in accordance with the Town's subdivision ordinance to create lots that are no more than 25% less than the minimum lot size for that district.** ~~Owners of non-conforming lots may take advantage of the provisions of paragraph 1 [sic] of this subsection.~~ (repeat of the first sentence) Owners of non-conforming lots may take advantage of these provisions hereinabove stated as April 24, 1979, **December 13, 2005**, but in the event additional non-conforming lots are created by transfer or sales after the above date, the above provisions shall not apply.

Planner Parvin displayed the goals on the screen and the and the current 1997 Land Use Plan along with the future Land Use Plan. Planner Parvin advised that both of these preserve the R-3 area as a 12,000 sq. ft. lots with 3.5 units per acre. Planner Parvin continued that the problem we are facing now is that the planning staff feels the ordinance is vulnerable in that it may allow combined planned lots to be re-subdivided to the original size. Planner Parvin said that the language from 1979, 1984 and 2000 zoning ordinances did not significantly change in the interpretation, it required those non-conforming lots to be combined if they were in common ownership during that time. In 2003 a letter of interpretation was written from the then planning director due to confusion over the language. This confusion led to a case going before the Board of Adjustment for a scenario where a father owned a conforming lot and the non-conforming on the corner was given to a son. Under our ordinance, he could not build because it was in common ownership. We removed that language which allowed that non-conforming lot to be built on and then the problem arose that people were sub-dividing those platted lots of record. Planner Parvin said that what we would like to do is put language back in there to prevent having the R-3 area going back to 6,250 sq. ft. lots. At this time Planner Parvin reviewed the recommended language.

At this time Chairman Johnson referred to example two which showed the hash marks and said that if there was an existing dwelling centered over those two lots, after December 13th would you be able to build on the one single 50' lot? Planner Parvin said that under the presented language if that proper owner wanted to build, he would have to re-subdivide and either remove or move his house in order to conform to the setbacks for all three. Commissioner Wilcox said that under the existing language, he could build on that lot right now. Chairman Johnson referred to example 4 and said that you have three lots there and under the new language (if adopted) they could sub-divide those three lots into two lots which would be over 9,000sq. ft. and Planner Parvin said that would be correct.

At this time Director Harrell said that it sounds as if everybody is satisfied with the number 4 example or number 2. Chairman Johnson said he believes there will be situations where someone will say they want to be able to build two dwellings and, although we would like to have 12,000 sq. ft. lots, we're not going to get that in these particular cases. Chairman Johnson said he would rather see two approximately 75' wide lots than one that's 50' wide beside one that 100' wide. Commissioner Lancaster said if you have a house on the property and you sell the lot beside it and the buyer tears the property down, you should revert to example 4 as that gives you the opportunity to build a nicer unit on each of the lots. Commissioner Lancaster said this whole thing came about when there was a lot of flack because people couldn't build on the lot so the change that took place was designed to address scenario two because we had 30 plus lots out there just like that. You are looking to give people the opportunity to develop their land rather than it sit there idle. Planner Parvin said we should look at some additional language that will address that as well. Director Harrell said it's safe to say that if the Commission wants to give that property that flexibility, we can draft the language as such. Commissioner Wilcox said he has another alternative as follows, however, asked everyone to ignore (d) since what was discussed hear he likes better:

First Draft Example - Non-Conforming Lots, Section 18.2 (Replaces existing'18.2 a & d and adds sections e & 1)

(a) *Use by right when all setbacks can be met.* Where the owner of a lot of record identified as non-conforming by the April 24, 1979 Carolina Beach Ordinance Section 902 (Non-conforming lots) does not own sufficient land to enable the owner to conform to the dimensional requirements established by this zoning ordinance, such lot may be developed as a single-family residence, provided the lot can be used in conformance with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, and such use may be made as of right.

- (b) Maintain existing text
 - (c) Maintain existing text
 - (d) *Odd lots groupings.* Where lots of record having the same street front have been combined in odd-numbered contiguous groups (3,5, 7, etc.) existing conformities within the group (i.e, a minimum of two adjoining lots) shall be maintained and the remaining single lot may be developed as a nonconforming lot as provided in subsection (a) above.
 - (e) *Contiguous lots.* Where the front of adjoining lots face different streets they shall not be required to be combined.
 - (f) *Ownership.* Previous or current common ownership, shall not prevent construction of a single family residence on a non-conforming lot.
- Dan Wilcox, November 17, 2005

Commissioner Wilcox said that he found the language we had very difficult to interpret and the language being proposed right now essentially takes us back to where we were when we attempted to correct this problem. We were trying to give the people with non-conforming lots the ability to build on them; we were trying to prevent people from having their lots re-divided in the 2006 tax map and calling them non-conforming. At the last meeting we discussed addressing the odd lot numbers (i.e. 3, 5,7) so he will leave those alone at this time and address the non-conforming lots. Commissioner Wilcox continued by saying that if we can identify the non-conforming lots, then by default, all other lots would be conforming. Commissioner Wilcox said the language in his proposal is short and to the point and basically it is saying that if by the 2005 tax map you are identified as a non-conforming lot, you have the right to build on it. It also, by default, resolves the problem with the 2006 divisions because there is no exception for that. Commissioner Wilcox said he would like to propose that this language be discussed in combination with the proposed language by staff and Chairman Johnson's comments with regard to the options with odd lot groupings. Chairman Johnson asked if all of the non-conforming situations can be identified and Director Harrell said that if you go to the tax map and identified it by tax I.D. parcel, yes, you would identify the dimensions of the property that somebody owns. Commissioner Wilcox asked if you wouldn't then be able to go and divide a piece of property and obtain two more tax I.D.s and be able to do anything with the separate parcels? Commissioner Lancaster said you could, that if you went and bought a larger piece of property, you should be able to sub-divide this and still conform to the general approach. Commissioner Lancaster said that he is a little concerned that since we struck the language from the ordinance that we can use the April 24, 1979 reference rather than the 2005 tax map which is what is in effect if this should get passed in December. Commissioner Wilcox said he was originally thinking that we had already identified, based on past discussions with Scott Chase, and had some mechanism to identify the non-conforming lots. It seems we really don't other than the tax map. This anchor would need to be the 2005 tax map. Commissioner Lancaster advised that there have been some changes since April or July of 2004 which actually took place in the 2005 calendar year which will not appear until the 2006 tax map comes out. Commissioner Wilcox said that's correct and that's what we're trying to avoid and Commissioner Lancaster said he does not believe we can avoid that. Discussion was held as to the various ways lots are grouped and Chairman Johnson said that if you have five lots and a dwelling is stretched across three of them, it would be a conforming lot. The other two lots would be conforming (combined) but the owner sells the dwelling which is stretched across the three lots, will the new owner be allowed to subdivide that into two lots if he so chooses. Director Harrell said yes, as long as it is no less than 25% of the 12,000 sq. ft. lot. Commissioner Wilcox said that it would apply to them as well as anyone else. Commissioner Wilcox said that what he was addressing was in (d) where it says; "where lots of record having the same street front have been combined in odd number contiguous groups (3,5,7, etc.), existing conformities within the group, i.e. a minimum of two adjoining lots shall be maintained and the remaining single lot may be developed as non-conforming lot as provided in sub-section A. Commissioner Wilcox said that in this case if you have five lots, you have two conforming lots and one buildable lot that is not conforming. At this time, Director Harrell said that in regard to the tax map I.D. parcel number, in talking with the Town Attorney, once you re-combine your piece of property, you get a tax I.D. number then, you

don't have to wait for it to be put on the map on January 1st. Therefore, one alternative is that on December 13th if you have a non-conforming lot with a tax I.D. number, that's the number. Commissioner Wilcox said he doesn't think it matters if we go back to the 2004 map, it would be consistent with what we were dealing with at the time when we came up with the need to fix this problem. Commissioner Lancaster said that what we don't want to do is introduce something that insures that the town will be tied up in litigation with 37 property owners for the next 10 years. As long as we can come up with a reference date that the attorney is comfortable with, we can go forward with that. Commissioner Kopitopoulos said that he likes the idea of making this as simple as possible or the idea of making as many conforming or as close to conforming lots as possible. Commissioner Keith said he likes Commissioner Wilcox's idea. Commissioner Lancaster said he believes we do need to retain the portion of the paragraph that talks about the recombination of lots where possible because we are going to have situations that occur if we have the 3, 5, 7 situation where we are going to have to re-combine them. Commissioner Lancaster said he thinks there has to be some language that generally addresses that situation. Commissioner Skipper said she understands this with the way Commissioner Wilcox presents it. Commissioner Efird said she is fine with what Commissioner Wilcox presented.

At this time, Attorney Al Clyburn asked if the Commissioners are wanting the property owners to have the choice of creating building on combining two 50' parcels and building on them and also building on the remaining 50' parcel or if they so choose, creating two approx. 9,000 sq. ft. parcels. Commissioner Lancaster said you can either build on three parcels or combine it into two and build on either, but you cant' have three separate dwellings. Attorney Clyburn said that the new (d) will then be a combination of Commissioner Wilcox's language and that of staff. At this time, Chairman Johnson suggested we get the revised language done now for review after getting the publics input.

Motion made by Commissioner Keith to open for public hearing; seconded by Commissioner Kopitopoulos; all ayes.

Speakers:

Alan Gilbert, 601 Atlanta Ave. – Mr. Gilbert said that when all this started, he bought his lots and he has three. The owner was trying to sell his house which was on two lots and a third lot separate. This didn't make sense to him and Scott Chase helped him understand it. Mr. Gilbert said our ordinance won't stop people from splitting their lots and selling them individually, but his main question is that in 1979 when this language was introduced, why was it. Commissioner Lancaster said because the Town was after an area in the community where you could expect to have larger parcels of land and larger houses and a little less density in the community. Mr. Gilbert said he did some research and said that probably every municipality has something that is similar to this so he went further into the general statutes, into the environmental protection act, and that language is in that and he was wondering if, in 1979, this was introduced as part of an environmental protection act. Commissioner Lancaster said that much of the property at that time did not have city water and sewer and, in addition to providing more space a lot of the properties west from Lake Park, had their own wells and septic.

Tom Russell, Kure Beach - Mr. Russell said that regarding the common ownership, if two brothers own two individual lots, is that common ownership and was told no. Mr. Russell asked if each can sell their 50' x 125' lot individually and Commissioner Lancaster said yes, unless the lots are owned jointly and Commissioner Wilcox added they could not if both were on the deed. Mr. Russell said he has two sets of deeds showing both brothers each owning an individual one, but the parcel I.D. number is the same. Mr. Russell said they had always thought they owned the two lots individually and just had new deeds issued, but the parcel I.D. is the same. Mr. Russell said he would like to know if he bought both lots, could he build two homes and Commissioner Wilcox said the way the ordinance is right now it doesn't address the parcel I.D. with regard to that, it stipulates ownership. Commissioner Lancaster asked where they got the lot from and Mr. Russell said it was from the family. Commissioner Lancaster said if they were owned

by the family before, then they were probably only one parcel I.D. and were not necessarily combined, but handled as one unit. Commissioner Lancaster asked when they got the deeds and Mr. Russell said that one was from long time ago and the other was in December, 2005 and Commissioner Lancaster said they would then be individual owners and Attorney Clyburn agreed. Mr. Russell asked if he purchased these, could he build two single family homes and Commissioner Lancaster said not after December 13, 2005. Mr. Russell said then if he bought one lot first and built, then bought the other lot and did what he had to do, he could. Commissioner Lancaster said he could also purchase the two and build a nice house.

Jim Reese, 610 Atlanta – Mr. Reese asked if a 50' wide lot has been sold since 2004, is that buildable under this scenario and Commissioner Wilcox said not necessarily. Mr. Reese said that it would be a non-conforming lot and asked if there is anything that can be done. Mr. Reese asked if he purchased three lots after December 13th whether they have a house or not, would he be able to split it into two and Commissioner Wilcox said that according to what we're talking about, yes.

Tom Russell, Kure Beach – Mr. Russell asked if the two brothers who own these lots could sell them individually after December 13th and Commissioner Lancaster said that is correct. Commissioner Lancaster said that if the same person buys them after December 13th, they would have to be re-combined. Commissioner Lancaster said they would be allowed to build on them if it goes on record prior to December 13th.

D.A. Lewis, 604 Clarendon Blvd. Mr. Lewis said that this makes sense assuming this is adopted by Council also.

Becky Eller-Doscher, 311 Hamlet – Ms. Eller-Doscher asked if someone owns four lots and sell three of the four, can they split them up as two and build on it and then can the seller build on the one lot they kept. Commissioner Wilcox said that as he understands it, if they go down to the tax office and have them recorded as four separate parcels, they can sell all four of them before December 13th. Commissioner Lancaster said that after December 13th, if they sell four lots, they would be non-conforming and building permits will not be issued.

Motion made by Commissioner Keith to close public hearing; seconded by Commissioner Lancaster; all ayes.

Chairman Johnson called a recess at 8:22 p.m. and re-opened the meeting at 8:45 p.m.

Planner parvin read the revised language as follows:

Paragraph (a) *Use by right when all setbacks can be met.* “When an owner of a lot of record identified as non-conforming by the New Hanover County tax parcel I.D. numbers as they exist on the December 13, 2005, does not own sufficient land to enable the owner to conform to the dimensional requirements established by the zoning ordinance, if such lot may be developed as a single family residence provided the lot can be used in conformance with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right.”

Paragraph (d) *Recombination of lots required when possible.* “Whenever this ordinance creates a non-conforming lot and the owner of the non-conforming lot also owns land having continuous frontage to it and a portion of this other land can be combined with a non-conforming lot to create a conforming lot without their lot creating other non-conforming use, the owner of the non-conforming lot or his successor in interest shall combine the lots in accordance with the Town's subdivision ordinance to correct one or more conforming lots prior to developing the property.”

Commissioner Wilcox said this puts us right back where we were as it does not distinguish. If there are two 50' buildable lots on continuous frontage and you own one and tomorrow you inherit the other one, you are still required to combine them under this language. Planner Parvin said that's what we want to do and Commissioner Wilcox said no, that's what we've been trying to avoid. If they are buildable now, we want to maintain the buildable rights. Director Harrell said that what we are trying to do is take a snapshot of December 13th and anything that's non-conforming from that point forward regardless of ownership and by default that same date, if your property is already 12,000 sq. ft. it is in compliance. Commissioner Lancaster said no, that is not correct. If you own a lot today and by another lot on December 15th right beside it, then you need to comply with the zoning ordinance if you're going to build. However, in the situation that Commissioner Wilcox is describing, the property was obtained through no act of your own and you should not be penalized because of that. Chairman Johnson said that if we have a person that owns a 50' lot and it's non-conforming meaning they have a right to build on it, after December 13th, if we were to pass this language, the person that owns the three lots adjoining has a dwelling or is planning on building on two of those lots and decides to sell the third lot to the person who has the non-conforming lot. Chairman Johnson asked if he is hearing this right that the person has the right to build on that single lot versus combining it with his lot and making it a conforming lot? Commissioner Wilcox said that's a scenario that hasn't been discussed and Chairman Johnson said that's what it sounds like. Commissioner Wilcox said that's a separate issue and the issue he is trying to address is the 37 non-conforming lots which created the intent of changing this language in the beginning that they would be identified as non-conforming lots and be buildable lots, regardless of ownership. The other scenario is in dealing with the odd lots and maybe in dealing with that, it will conflict with the non-conforming lots which was the core issue. Discussion was held on how to identify the original 37 lots and Director Harrell said he is pretty sure he knows what Commissioner Wilcox is saying and the scenario would be, for example, if you had a property owner right now who has one 50' lot that's a separate parcel number and the same property owner owns two lots right next to it, he is saying that property owner should have in perpetuity for that one lot that's going to be identified on December 13 to be built on without having to re-combine even though he owns the other two next to it. Director Harrell said you are trying to isolate those for the future, correct? Commissioner Wilcox said that was our intent. If we need to maybe we could go back and identify those lots which he believes were verified by address. Chairman Johnson asked if we did that, and it may be more than 37, and we changed this language and it only allowed for those 37, how liable is the Town. Mr. Clyburn responded that that might be a problem because folks who relied on the ordinance as written. Commissioner Wilcox said they would still have the right if they did something during that window of opportunity. Chairman Johnson said we would need to identify what was done as of a certain date and Clyburn said he believes that's what we've been trying to do by making a reference to the parcel I.D. numbers as they existed on December 13, 2005, the day we anticipate adopting this new language. Attorney Clyburn asked if they are wanting subsection b as written to not apply to those folks and Commissioner Wilcox said that is correct. Attorney Clyburn suggested creating an exception such as a sub-paragraph E or add a sentence to sub-paragraph B that says *this sub-section shall not apply to those parcels identified as of December 13, 2005*. Discussion was held and wording was re-written as follows:

- (a) Use by right when all setbacks can be met. Where the owner of a lot of record identified as non-conforming by the New Hanover County Tax Parcel Identification numbers as they exist on December 13, 2005 does not own sufficient land to enable the owner to conform to the dimensional requirements established by this zoning ordinance, such lot may be developed as a single-family residence, provided the lot can be used in conformance with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such use may be made as of right. Nonconforming lots created by transfer on or after December 14, 2005 shall not be developed.

- (b) Recombination of lots required when possible. Whenever this ordinance creates a non-conforming lot, and the owner of the non-conforming lot also owns land having continuous frontage to it, and a portion of this other land can be combined with the non-conforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the non-conforming lot, or his successor in interest, shall combine the lots in accordance with the Town's subdivision ordinance to create one or more conforming lots prior to developing the property.
- (c) Subsection (b) does not apply to those parcels identified as nonconforming lots of record as of July 14, 2004 and any subsequent nonconforming lots of record created between July 14, 2004 and December 14, 2005.
- (d) Odd lots groupings. Where lots of record having the same street front have been combined in odd-numbered contiguous groups (3,5,7, etc.) existing conformities within the group (i.e. a minimum of two adjoining lots) shall be maintained and the remaining single lot may be developed as a nonconforming lot as provided in subsection (a) above.
- (e) Where original platted lots in common ownership create an area over the minimum lot size, but will not meet the lot size or frontage requirements when subdivided, then the owner may subdivide the platted lots in accordance with the Town's subdivision ordinance to create lots that are no more than 25% less than the minimum lot size for that district.
- (f) *Variance required when exceptions to setbacks are requested.* The Board of Adjustment may issue a variance to the setback requirements in accordance with the procedures and "required findings" set forth under Article 21.
- (g) *Reduction of required lot area when lost to shore erosion.* Where lots abut the estuarine tidal waters, as defined in Article 23, and where lot depth has been lost due to the encroachment of such waters, making such lot area non-conforming to the zoning district requirements, the existing lot area may be considered conforming to meet the minimum lot area requirements of the zoning district in which located. However, the front and side yards of the zoning district shall apply.
- For sound-front lots, a fifty (50%) percent reduction in the front yard shall apply where appropriate provisions are made for off-street parking.
 - *Where the Carolina Beach Building line creates a reduction in lot area that supersedes the CAMA sixty (60) foot setback line a fifty (50) percent reduction in the front yard setback may apply* where appropriate provisions are made for off-street parking.

Lots which have lost area due to estuarine tidal waters or Carolina Beach Erosion Control and Hurricane Wave Protection Projects may be developed in accordance with all applicable permitted uses of the zoning district in which located, provided that the actual lot area above the mean high water level shall be utilized when computing the density for multi family dwellings per lot. The Zoning Administrator shall make the determination of actual lot area. Appeals to the decision of the Zoning Administrator shall be made to the Board of Adjustment in accordance with the provisions of Article 21.

Motion made by Commissioner Wilcox to adopt new language under Article 18.2, sections A through G; seconded by Commissioner Lancaster; all ayes.

At this time Mr. Thomas Russell asked the Commission if this means he can buy two non-conforming lots, side by side, and not join them and Commissioner Lancaster said if they were non-conforming lots of record, that is correct.

ITEM #3 Adjournment. Motion made by Commissioner Lancaster to adjourn; seconded by Commissioner Wilcox; all ayes. Meeting adjourned at 9:45 p.m.

Respectfully Submitted,

Renee M. Fitzpatrick, Secretary
Planning & Zoning Commission