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**THE TOWN OF KILL DEVIL HILLS
NORTH CAROLINA**

PLANNING DEPARTMENT

April 14, 2025

Memorandum

To: Debbie Diaz, Town Manager

From: Cameron Ray, Assistant Planning Director 

Subject: Proposed Zoning Amendment – §153.101 Ocean Impact Residential Zone Setbacks –
Add Setback Requirements for Residential Lot(s) not Abutting Atlantic Ocean

Attached is a proposed zoning amendment to Town Code section 153.101 Ocean Impact Residential Zone - Setbacks to add setback requirements for residential lots not abutting the Atlantic Ocean. Currently, the setback requirements for development in the Ocean Impact Residential Zone (OIR) are based off of the lots abutting the Atlantic Ocean and NC12. The setbacks on these lots are graduated based off lot width at the road and CAMA setback in the rear, which is not applicable to lots that are not abutting the Atlantic Ocean or NC12.

As proposed, the applicable setbacks for residential development on these lots will follow the High-Density Residential (RH) Zoning district, which are graduated setbacks based off of lot size. This is consistent with how setbacks are determined on similar residential lots in other zoning districts. Within the OIR zone, there are several lots within originally platted subdivisions and cottage courts that will fall under the proposed amendment and provide appropriate applicable setbacks.

On March 18, 2025 the Planning Board reviewed the attached amendment to 153.101 Ocean Impact Zone Setbacks and recommended approval. Staff recommends setting the required public hearing for May 12, 2025.

**AN ORDINANCE AMENDING THE
KILL DEVIL HILLS CODE OF ORDINANCES,
CHAPTER 153, ZONING**

BE IT ORDAINED by the Kill Devil Hills Board of Commissioners that Chapter 153, Zoning of the Kill Devil Hills Town Code of Ordinances, shall be amended by adding the underlined language and deleting the following ~~stricken~~ language to the sections identified below, as follows:

OCEAN IMPACT RESIDENTIAL ZONE (OIR)

§ 153.101 SETBACKS.

(A) Side yard.

- (1) The minimum side yard setback requirements on a lot less than 75 feet in width shall be 10 feet from each side.
- (2) For all lots 75 feet to 99 feet in width, the minimum side yard widths shall be 12 feet.
- (3) For all lots or aggregate of lots combined for single development 100 feet or greater in width, the minimum side yard setback shall be 12 feet.
- (4) All multi-family dwellings in excess of a duplex, hotels and motels shall install and maintain a vegetative buffer of evergreen, salt-tolerant species along the side yards of useable property in conjunction with development in this zone and such may be located within the area of the required setback lines.
- (5) Single-family and duplex dwellings greater than 6,000 square feet of total gross floor area shall have an additional two feet of side yard setback.

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Chapter 153, Zoning, Ocean Impact Residential Zone (OIR) – 153.101 Setbacks:
Add Setback Requirements for Residential Lot(s) not Abutting Atlantic Ocean

(6) Single-family and duplex dwellings greater than 6,000 square feet of total gross floor area equipped with a fire suppression system reviewed, approved, and inspected annually by the Fire Chief or his or her designee, shall be exempt from division (A)(5) above.

(B) *Front yard.* All oceanfront lots shall front on NC Highway 12 (Virginia Dare Trail) and all structures erected on these lots shall be set back from the front property line a minimum of 30 feet. The minimum front yard setback shall be 30 feet from the front property line. The front yard is considered the opposite yard of the Atlantic Ocean for all oceanfront properties.

(C) *Rear yard.*

(1) Lots that border the Atlantic Ocean shall be designated as having a rear yard on the Atlantic Ocean.

(2) The minimum rear yard setback requirements on any lot shall be 20% of the total depth of the lot but shall not exceed 30 feet from the rear property line.

(3) For each lot developed that has a rear yard on the Atlantic Ocean, the rear yard shall be determined by the setback multiplier established for ocean hazard areas of environmental concern (AEC) as administered by the local permit officer representing the North Carolina Office of Coastal Management as per the North Carolina Coastal Area Management Act of 1974.

(D) *Double frontage.* Not applicable.

(E) *Corner lot.* For lots 50 feet or less in width, the side street setback requirements shall be ten feet on those sides that abut a street or beach access. For lots greater than 50 feet in width, the minimum side street setback requirements shall be 15 feet on those sides that abut a street or beach access.

(F) Lots with buildings erected in the ocean impact residential zone for residential purposes that do not border the Atlantic Ocean shall abide by the setback requirements of the High Density Residential (RH) Zone governing such buildings.

BE IT FURTHER ORDAINED that it is the intent of the Board of Commissioners that the provisions of this ordinance shall be made a part of the Kill Devil Hills Code of Ordinances; the sections of this ordinance may be re-numbered or re-lettered; and the word “ordinance” may be changed to “section,” “article,” “chapter,” or other appropriate designation to accomplish such intention as needed.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the ____ day of _____, 202_. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the ____ day of _____, 202_, by a vote of ____ in favor and ____ opposed.

SEAL

John Windley
Mayor

ATTEST:

James Michael O'Dell
Town Clerk

APPROVED AS TO FORM:

Casey C. Varnell
Town Attorney

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Chapter 153, Zoning, Ocean Impact Residential Zone (OIR) – 153.101 Setbacks:
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TOWN OF KILL DEVIL HILLS

Land Where Flight Began

Planning Board Report

N.C.G.S. 160D-604(b) Zoning Amendments. – Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

N.C.G.S. 160D-604(d) Plan Consistency. – When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive or land-use plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive or land-use plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

Planning Board Recommendations

Proposed Amendment Title:

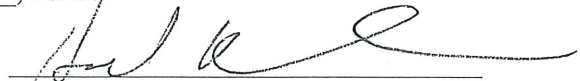
Proposed Zoning Amendment – §153.101 Ocean Impact Residential Zone Setbacks – Add Setback Requirements for Residential Lot(s) not Abutting Atlantic Ocean

Approval / Denial: The Planning Board finds that the Proposed Zoning Amendment is / is not consistent with the Town's adopted Land Use Plan.

Therefore, the Planning Board finds the proposed amendment is consistent / inconsistent with the objectives and policies contained in the Kill Devil Hills Land Use Plan and / or other officially adopted plans of the Town that are applicable.

This report reflects the recommendation of the Planning Board with a vote of 5 to 0, at its regularly called meeting on MARCH 18, 2025.

Attest:


Planning Board Chairperson


Clerk to Planning Board