

**CITY OF ATLANTIC BEACH
CITY COMMISSION
STAFF REPORT**

AGENDA ITEM: Ordinance No. 90-25-257 (Amending the Land Development Code to Section 24-89 to reduce the residential stormwater storage regulations.)

SUBMITTED BY: Amanda L. Askew, Neighborhoods Department Director 

TODAY'S DATE September 10, 2025

MEETING DATE: September 22, 2025

BACKGROUND:

Following the 2024 Land Development Regulations update, ongoing discussions by City Commission, the Community Development Board (CDB), and the community have focused on Section 24-89, Stormwater, Drainage, Storage and Treatment Requirements. The city is planning to update the stormwater master plan in the 2025-2026 fiscal which will help guide long-term revision, however, City Commission has directed staff to initiate a text amendment to provide near-term relief.

Currently, Section 24-89(c) requires property owners to provide onsite storage of stormwater depending on the increase of impervious area associated with a building permit:

Section 24-89(c)(1): "Projects which increase the impervious surface on the development parcel by more than four hundred (400) square feet shall provide onsite storage of stormwater for the increase in the impervious surface area only. The four hundred (400) square feet of impervious surface area shall be calculated cumulatively from the adoption date of this ordinance."

In May 2025, the CDB reviewed the on-site stormwater requirements resulting in a recommendation to Commission to remove the on-site stormwater management for non-commercial properties in its entirety, irrespective of whether the development involves a new house or an expansion exceeding 400 square feet of impervious area. This recommendation was brought to Commission on June 9th, where they directed the City Manager to prepare an ordinance eliminating on-site stormwater requirements in Section 24-89.

When the code revision was presented to Commission on June 23rd, the City Manager expressed his recommendation to wait to make the changes until the Stormwater Master Plan update was complete. Through discussion and consensus, the Commissioners directed the City Manager to propose relief options, such as requiring onsite stormwater storage only for new impervious area that exceed 35% lot coverage.

The following language was proposed at the July 14th Commission meeting:

Section 24-89(c)(1): “Projects which increase the impervious surface on the development parcel ~~to over 35% impervious by more than four hundred (400) square feet~~ shall provide onsite storage of stormwater for the increase in the impervious surface area only. ~~The four hundred (400) square feet of impervious surface area shall be calculated cumulatively from the adoption date of this ordinance. Projects including total reconstruction or major redevelopment (defined as a level 3 alteration in the Florida Building Code) shall provide onsite storage for the entire impervious surface area of the proposed project.”~~

Commission directed the City Manager to bring the proposed language to them through Ordinance format. Section 24-62 requires the Community Development Board to review proposed amendments to the zoning code and provide a recommendation to Commission.

ANALYSIS & REVIEW

Per Section 24-62(f) of the Land Development Code, the Community Development Board shall evaluate applications for a zoning code amendment based on the following factors:

- (1) Consistency with the comprehensive plan;
- (2) Consistency with the intent of the land development regulations;
- (3) Consistency with other professional planning principles, standards, information and more detailed plans and studies considered relevant;
- (4) Whether the proposed amendment and development permitted thereunder is premature or otherwise creates or contributes to an urban sprawl pattern of development;
- (5) Whether the proposed amendment will constitute "spot zoning," that is an isolated zoning district unrelated to adjacent and nearby districts;
- (6) Whether the uses permitted under the proposed rezoning will be consistent or compatible with the existing and proposed land uses and zoning of adjacent and nearby properties or the general area; or will deviate from an established or developing logical and orderly development pattern;
- (7) Whether the uses permitted under the proposed rezoning will deviate from an established or developing development pattern that is logical and orderly;
- (8) Whether the proposed rezoning and development permitted thereunder will result in significant adverse impacts upon property values of adjacent or nearby properties or in the general area more than the types of uses currently permitted; and
- (9) Whether the proposed rezoning and development permitted thereunder will detract from the character and quality of life in the general area or neighborhood by creating excessive traffic, noise, lights, vibration, fumes, odors, dust, physical activities or other detrimental effects or nuisances.

Relevant and applicable language from the City’s Comprehensive Plan is listed below.

Policy A.1.2.4 New development shall be subject to the stormwater regulations as set forth within the Land Development Regulations, and post development conditions shall not discharge any increased level of stormwater run-off into the City's stormwater system.

Policy C.2.1.1 The City shall maintain provisions within the Land Development Regulations, which require development to minimize stormwater runoff and eliminate erosion of areas adjacent to natural drainage features.

Policy C.2.1.2 The City shall maintain Land Development Regulations that require land development projects to submit plans, which demonstrate that drainage design and stormwater management will be in compliance with the City's LOS standards and that additional stormwater generated shall be retained on-site and will not adversely impact existing drainage and stormwater systems.

The Community Development Board reviewed the proposed text change at its August 26th meeting. After discussion and deliberation, a motion to recommend to the City Commission to remove Section 24-89(c)(1) in its entirety was made and passed through a 5-2 vote.

REQUIRED ACTION

The City Commission shall review the Community Development Board's recommendation and hold two public hearings to consider Ordinance 90-25-257. These two hearings are scheduled for September 22nd and October 13th.

Following these public hearings, the city commission, by ordinance, may amend the Land Development Regulations Text, or it may deny the request.

BUDGET: None

RECOMMENDATION: Consideration of Ordinance No. 90-25-257

ATTACHMENTS:
Ordinance No. 90-25-257
Exhibit A
Draft CDB Meeting Minutes

REVIEWED BY CITY MANAGER:



ORDINANCE NO. 90-25-257

AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, COUNTY OF DUVAL, STATE OF FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS; SPECIFICALLY AMENDING SECTION 24-89, STORMWATER, DRAINAGE, STORAGE AND TREATMENT REQUIREMENT TO REDUCE THE REQUIREMENTS RELATED TO RESIDENTIAL STORMWATERS STORAGE, PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Atlantic Beach recognizes that said Chapter 24, Land Development Regulations, requires comprehensive revisions periodically to meet the community's needs to update content, standards, and administrative guidance; and

WHEREAS, Commission desires to reduce the requirement related to the residential stormwater requirements; and

WHEREAS, Section 163.3174(1), Florida Statutes, requires that the governing body of each local government in Florida shall designate and by ordinance establish a "local planning agency;" and

WHEREAS, the City of Atlantic Beach Community Development Board has been duly designated as the Local Planning Agency of the City; and

WHEREAS, Section 163.3174(4)(c), Florida Statutes, provides that the land planning agency shall review all proposed text amendments to land development regulations and make recommendations to the governing body as to the consistency of the proposed revisions with the adopted comprehensive plan; and

WHEREAS, the Community Development Board acting in its capacity as Local Planning Agency, held a duly advertised public hearing on August 26th, to receive public comments on the proposed amendment to Chapter 24, Land Development Regulations and, voted to recommend the complete removal of Section 24-89(c)(1) from Chapter 24 of the Land Development Regulations; and

WHEREAS, after due notice and publication, the City Commission held two (2) public hearings to receive public comments and receive the recommendation of the Community Development Board; and

WHEREAS, the City Commission has found and determined that the proposed update and revisions to Chapter 24, Land Development Regulations will reduce the burden for residential development

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION ON BEHALF OF THE PEOPLE OF THE CITY OF ATLANTIC BEACH, FLORIDA:

SECTION 1. Regulation Amended. Section 24-89 of Chapter 24, Land Development Regulations of the Code of Ordinances of the City of Atlantic Beach, Florida, is hereby revised, as more fully set forth and described in Exhibit A, attached hereto and made part hereof, and hereby adopted to read as shows in said Exhibit A.

SECTION 2. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Community Planning Act, as codified in the applicable portions of Chapter 163, Part II, Florida Statutes.

SECTION 3. Findings. The City Commission hereby finds and determines that:

- (a) The findings set forth in the recitals to this Ordinance are true and correct.
- (b) The Community Development Board, acting in its capacity as the Local Planning Agency for the City held a public hearing on August 26th, to consider the proposed amendment to Chapter 24, Land Development Regulations of the City's Code of Ordinances, and recommended the complete removal of the residential stormwater requirements.

SECTION 4. Conflict. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this Ordinance are repealed to the extent inconsistent herewith.

SECTION 5. Codification and Scrivener's Errors. The publisher of the City of Atlantic Beach's Code of Ordinances, the Municipal Code Corporation, is hereby directed to incorporate the Land Development Regulations Update as Chapter 24 into the City's Code of Ordinances. Sections of the Land Development Regulations Update may be renumbered or re-lettered and scrivener's errors, formatting and typographical errors and other minor, inadvertent graphical errors in Chapter 24 which do not affect the intent may be authorized by the City Manager and City Attorney without the need of public hearing, by filing a corrected or re-codified copy of same with the City Clerk.

SECTION 6. Applicability. The provisions of the Land Development Regulations amendment shall apply to all applications, decisions or controversies pending before the City of Atlantic Beach upon the effective date hereof or filed or initiated thereafter, provided that certain development, land use or construction, if qualified, may have vested rights to continue or be completed under the terms of the repealed ordinances or provisions therein.

SECTION 7. Severability. If any section, sentence, clause, or other provision of this Ordinance, or any provision of the Land Development Regulations amendment shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding of invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance, or of the Land Development Regulations Update.

SECTION 8. Effective Date. This Ordinance shall take effect upon final review and approval.

PASSED by the City Commission on first ____ day of ____, 2025

PASSED by the City Commission on second and final reading this ____ day of ____, 2025.

CITY OF ATLANTIC BEACH

Curtis Ford, Mayor

Attest:

Donna L. Bartle, City Clerk

Approved as to form and correctness:

Jason Gabriel, City Attorney

Exhibit A

Sec. 24-89. Stormwater, drainage, storage and treatment requirements.

- (a) Except as required to meet coastal construction codes as set forth within a valid permit from the Florida Department of Environmental Protection; or as required to meet applicable flood zone or stormwater regulations as set forth herein, the elevation or topography of a development or redevelopment site shall not be altered.
- (b) Topography and grading. All lots and development sites shall be constructed and graded in such a manner so that the stormwater drains to the adjacent street, an existing natural element used to convey stormwater, or a city drainage structure after meeting onsite storage requirements, as set forth within this section. The city shall be provided with a pre-construction topographical survey prior to the issuance of a development permit and a post-construction topographical survey prior to the issuance of a certificate of occupancy. Elevations in all topographic surveys will be referenced to NAVD 1988. Said surveys shall be signed and sealed by a licensed Florida surveyor. All new developments and redevelopments shall provide assurance that adjacent or nearby properties not owned or controlled by the applicant will not be adversely affected by drainage or flooding.
- (c) Onsite storage. Except as provided for herein, an applicant shall be required to provide onsite storage of stormwater in accordance with this section as follows:
 - (1) Projects which increase the impervious surface on the development parcel ~~to over 35% impervious by more than four hundred (400) square feet~~ shall provide onsite storage of stormwater for the increase in the impervious surface area only. ~~The four hundred (400) square feet of impervious surface area shall be calculated cumulatively from the adoption date of this ordinance. Projects including total reconstruction or major redevelopment (defined as a level 3 alteration in the Florida Building Code) shall provide onsite storage for the entire impervious surface area of the proposed project.~~
 - (2) Any modification or replacement of driveway and sidewalk areas only on a developed lot shall not be required to provide onsite storage improvements provided the modification or replacement does not alter the footprint of the existing driveway or sidewalk area.
 - (3) Applicants shall provide documentations and calculations to demonstrate compliance with submittal of applications for construction.
 - (4) Projects permitted by the St. Johns River Water Management District (SJRWMD), which have an in-compliance existing retention or detention areas that collect and control stormwater are exempt for further onsite storage requirements; provided, however, a copy of the engineer's certification of as-built construction to the SJRWMD must be submitted to the city before building permits for individual lot construction may be issued.
 - (5) When onsite storage is required, an as-built survey, signed and sealed by a licensed Florida surveyor, documenting proper construction and required volume of the storage system, must be submitted to and approved by the director of public works prior to permit closeout or issuance of a certificate of occupancy. For an under-ground system, a notarized letter from the general contractor, along with as-built plans and construction photographs will be sufficient to document proper construction.
 - (6) In addition, a declaration of restrictive covenant, in recordable form and approved by the city, identifying and describing the required on-site storage improvements to be maintained, shall be executed and recorded in the public records of Duval County, Florida, by the owner of the development parcel and shall be binding on successors and assigns, prior to permit closeouts or issuance of a certificate of occupancy.

Exhibit A

- (7) Volume calculations for any projects that require onsite storage shall be based on the following calculation:

$V = CAR/12$, where

V = volume of storage in cubic feet,

A = total impervious area,

R = 25-year and 24-hour rainfall depth (9.3 inches) over the lot area, and

C = runoff coefficient, which is the difference between impervious area (C=1.0) and undeveloped conditions (C=0.08).

This volume must be stored at least one (1) foot above the wet season water table and below the overflow point to offsite (in many cases this may be the adjacent road elevation). As an option, and as approved by the director of public works, an applicant may implement, at the applicant's cost, offsite storage and necessary conveyance to control existing flood stages offsite, provided documentation showing appropriate authorization for the off-site use and meeting the requirements of this section is submitted and approved by the city.

- (d) Floodplain storage. There shall be no net loss of storage for areas in a special flood hazard area (100-year floodplain), where a base flood elevation has been defined by the Federal Emergency Management Agency (FEMA) on flood insurance rate maps (FIRMs). Site grading shall create storage onsite to mitigate for filling of volume onsite. This storage is in addition to the storage required for the increase in impervious surface area. The applicant shall provide signed and sealed engineering plans and calculations documenting that this "no net loss" requirement is met.
- (e) Stormwater treatment. For all new development or redevelopment of existing properties, excluding single- and two-family uses, where construction meets limits for requiring building code upgrades, stormwater treatment shall be provided for a volume equivalent to either retention or detention with filtration, of the runoff from the first one (1) inch of rainfall; or as an option, for facilities with a drainage area of less than one hundred (100) acres, the first one-half (½) inch of runoff pursuant to Chapter 62-330, Florida Administrative Code (FAC). No discharge from any stormwater facility shall cause or contribute to a violation of water quality standards as provided in Section 62-302, FAC. This treatment volume can be included as part of the onsite storage requirement in subsection (b) of this section.
- (f) NPDES requirements. All construction activities shall be in conformance with the city's National Pollutant Discharge Elimination Systems (NPDES) permit, in addition to the requirements of the St. Johns River Water Management District and the Florida Department of Environmental Protection. NPDES requirements include use of best management practices (BMPs) prior to discharge into natural or artificial drainage systems. All construction projects of one (1) acre or more require a stand-alone NPDES permit. Site clearing, demolition and construction on any size site may not commence until site inspection and approval of the proper installation of a required best management practices erosion and sediment control plan is completed.
- (g) Enforcement. Subsequent to approval of a property owner's final grading, including onsite and/or floodplain storage and stormwater treatment and closeout of the applicable permit or issuance of certificates of occupancy, the improvements shall be maintained by the property owner. In order to ensure compliance with the provisions of this section and the requirements to maintain onsite stormwater improvements over time, the city is authorized to conduct inspections of property, upon reasonable notice and at reasonable times, for the purpose of inspecting said property and/or onsite storage improvements for compliance with this section and with any applicable conditions of previously issued permits. Failure to maintain the improvements will require restoration upon notification by the director of public works, within a stipulated time frame. If restoration is not

Exhibit A

timely completed, the city shall have the right to complete the restoration, and the city's actual cost incurred, together with a charge of one hundred (100) percent of said costs to cover the city's administrative expenses, shall be charged to the then owner of the property.

- (h) Variances to impervious surface area limits. Variances to impervious surface limits shall be subject to the provisions in section 24-65. Impervious surface requirements shall not be eligible for relief via waivers from the city commission.

(Ord. No. 90-24-253, § 3(Exh. A), 10-14-24)



MINUTES
Community Development Board (CDB) Meeting
Tuesday, August 26, 2025 - 6:00 PM
City Hall, Commission Chamber
800 Seminole Road, Atlantic Beach, FL 32233

Present:

Kirk Hansen, Chair
Ellen Golombek, Vice Chair
Angela Farford, Member
Harold Gear, Member
Richard Arthur, Member
Jeff Haynie, Member
Gregory (Greg) Beliles, Alternate Member

Absent:

Jennifer Lagner, Member

Also Present:

Amanda Askew, Neighborhoods Department Dir. (NDD)
Abrielle Genest, Principal Planner (PP)
Valerie Jones, Recording Clerk
Rob Graham, City Attorney (CA)

1. CALL TO ORDER AND ROLL CALL

Chair Hansen called the meeting to order at 6:00 p.m.

2. APPROVAL OF MINUTES

A. Approve minutes of the July 15, 2025 regular meeting of the Community Development Board.

The minutes were approved.

3. OLD BUSINESS

There was no new business.

4. NEW BUSINESS

A. 2127 Beach Avenue ZVAR25-0015 (Stephanie Gallagher and Kevin Partel)
Request for a variance to Section 24-151(a) to build an accessory use prior to having a principal use and Section 24-157(b)(5) to exceed the maximum height for a retaining wall and the minimum 40 feet separation between retaining walls at 2127 Beach Avenue.

Principal Planner Abrielle Genest presented the request for a variance from Section 24-151(a) to build an accessory use prior to having a principal use and Section 24-157(b)(5) to exceed the maximum height for a retaining wall and the minimum 40 feet separation between retaining walls at 2127 Beach Avenue.

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Genest explained that the property is located on the north end of Beach Avenue in the residential multifamily general zoning district. It is oceanfront, 75 feet wide and 182 feet deep. She noted "the previous home was demolished in 2018. It has since sat vacant." The applicant is proposing to reconstruct the existing bulkhead and build a new wood deck cantilevered over the bulkhead before constructing the single-family home.

The existing bulkhead was built in the early 2000s and permitted through DEP, though a variance was not obtained at that time. Genest explained the first request relates to Section 24-151(a), which states "accessory uses and structures are permitted within any zoning district where the accessory uses or structures are clearly ancillary in connection with and incidental to the principal use allowed within that zoning district." Since the deck would be constructed before the single-family home, a variance is required.

The second request involves the bulkhead height. The code limits retaining walls to 4 feet with a minimum 40-foot separation between walls. The existing bulkhead is 7 feet high, and there's a buried seawall 9 feet away from it. Genest stated: "So the applicant is requesting to reduce that separation from 40 feet to 9 feet."

Richard Arthur inquired about what it would look like to meet code requirements. Genest responded that "if they had to come into compliance with the code, we would only allow maximum retaining wall height of 4 feet, so that would require some additional grading of the lot."

When asked if replacement calls for sheet pile metal, Genest indicated she believed the engineering plans in the application would show those details.

The Chair declared no ex parte communications from board members.

Applicant representative Stephanie Gallagher, a planner representing the Fergusons, explained that the homeowners purchased the property at the end of last year with plans to build a new home. She stated: "First thing they thought they should do is replace that wall and deck. It's a little dilapidated."

Gallagher argued that starting with the bulkhead made logical sense from a building standpoint, noting "the rules were there. It was interpreted differently." She explained that when municipalities "lump walls and fences together with bulkheads and retaining walls, you're almost always going to have a huge drop off on the other side or at least some sort of grade variation."

Regarding the deck, Gallagher said: "I mean, we don't have to do the deck now. It kinda made sense to do it with the wall, so that's something we could, you know, do later. I think we were surprised that a deck is seen as an accessory use." She emphasized that the lots in the area "slope up to about 20 feet" and they're trying to maintain the existing grade.

When asked why build the deck before the principal structure, Gallagher explained: "From the builder's perspective, starting at the back of the lot and getting this replaced

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first and then building the house farther back made sense." She also noted concerns about knowing the site layout and grading before planning the home.

On the height variance, a board member asked why not grade down when excavating. Gallagher responded that there's a code requirement not to significantly change the grade, and that lowering would make this property lower than adjacent properties which are also at about 20 feet elevation. She emphasized that Atlantic Beach stormwater regulations would require them to "retain all the runoff on-site, likely in some sort of underground containment."

During the courtesy of the floor, several neighbors spoke in opposition:

Brent Swindle stated: "I'm not trying to shut anybody down. Someone just paid \$6 million for a lot. Like, I get it. You wanna build your house by all means. All I'm asking is can there's a reason for the code. Can we bring it to code?" He expressed concerns about the property already sitting "significantly higher than ours" with existing runoff issues, asking "if there's a code and I know Atlantic Beach is very stringent on code. If there's a code, why aren't we sticking to it?"

Jennifer Moreno, who lives directly behind the property, described having to spend "over 6 figures in our backyard" due to drainage issues from the higher elevation. She stated: "that property that is all the same height dropped right down into our property, which is 6 feet lower. And so we're just sitting there waiting to drown." She noted ongoing erosion issues because the property "was left unkempt. Everything's overgrown, and it's constantly blowing and damaging our backyard."

Megan Timke of Seminole Road raised concerns about precedent, stormwater runoff, erosion to the beach, and habitat for gopher tortoises. She stated: "We have our rules in place for a reason, and we need our citizens to follow those rules. We grant the severity, what's next? Who else is gonna come for what reason?"

Andrew Thomas from Ocean Village condos stated: "Building codes exist so that all residents can enjoy Atlantic Beach equally. Granting variances to those codes restricts others' rights to that mutual enjoyment." He described his small 10x30 foot backyard immediately adjacent to the property, noting the overgrown foliage has caused his fence to nearly fall. He asked the city to "postpone the approval of variances until a study can be done to look at the consequences of the requested changes."

Board discussion was extensive. One member struggled with the fact that the bulkhead was previously approved in 2002 and 2006, asking "how can you physically meet that code?" Another member expressed similar concerns about conflicting evidence regarding property elevations and potential impacts to neighbors.

A board member noted: "If they're sitting up with it, effectively, a 7 foot wall today, and the variance is not granted and they have to drop it to 4, and then the DEP says you can't do that, then the homeowner's stuck."

Angela Farford stated: "I have no problem with those variances. I understand these

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concerns, but those are not concerns for us today."

Ellen Golombek suggested the applicant withdraw and resolve outstanding issues, saying: "Stormwater retention doesn't resolve all the issues. There's still runoff that goes into neighbors' yards no matter how much retention what kind of a retention pond you put in."

Chair Hansen weighed in: "There's a 7 foot wall there right now, and they're what they wanna do is retain that wall. So they're not changing topographically anything." He noted seeing a berm between properties and stated: "I feel like if we say they can't do that, it's a little bit ex post facto here. You're changing the law and saying you can't do this because we changed the law on you."

MOTION: After extensive debate, the board voted on the requests separately:

For the retaining wall variance:

To **approve ZVAR 25-0015** with regards to the retaining walls based on "onerous effects of regulations enacted after platting or after development of the property or after construction of improvements upon the property."

Motion: *Richard Arthur*

Second: *Harold Gear*

Kirk Hansen

For

Ellen Golombek

Against

Angela Farford

For

Harold Gear (Seconded By)

For

Richard Arthur (Moved By)

For

Jeff Haynie

For

Gregory (Greg) Beliles

For

Motion passed 6 to 1.

MOTION: For the accessory use (deck) variance:

To **deny ZVAR25-0015** for the request for variance of 24-151(a) to build an accessory use prior to having a principal use.

Motion: *Harold Gear*

Second: *Richard Arthur*

Kirk Hansen

Against

Ellen Golombek

For

Angela Farford

For

Harold Gear (Moved By)

For

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Richard Arthur (Seconded By)
Jeff Haynie
Gregory (Greg) Beliles

For
Against
For

Motion passed 5 to 2.

B. 644 Beach Avenue ZVAR25-0014 (Michael Sittner)

Request for a variance from Section 24-108(e)(1) to exceed the front yard setback and Section 24-82(b)(1) to exceed the maximum front yard projection to build a new single-family home at 644 Beach Avenue.

Principal Planner Abrielle Genest presented a request for a variance from Section 24-82(b)(1) to exceed the maximum front yard projection to build an open porch at 644 Beach Avenue.

Genest explained the property is located on the west side of Beach Avenue in the residential general two-family zoning district with a single-family home currently on the property. The lot is 50 feet wide by 78 feet deep. She noted: "This property was developed in 1923, and this was prior to the adoption of the land development regulations." The current first floor setback is 5 feet from the front property line, and the second-floor setback is 0 feet with an enclosed sunroom projection. The required front yard setback is currently 20 feet.

Originally, the applicant proposed to completely demolish the structure, but Genest explained: "They have since revised their scope of work, and now they're planning to preserve the first floor, take it down to the framing, demolish the second floor, and do additions." Since they're keeping the first floor, they're not abandoning the nonconformity and remain legal nonconforming with their setbacks.

The request is to construct a second-story porch that projects beyond the maximum allowable 4-foot projection. The applicant is requesting to build this second story projection to the front of the first story, 5 feet from the front property line. Genest showed graphics indicating the existing second story in red, proposed additions in blue (meeting the 20-foot setback), and the variance area in green where they want the open balcony at 5 feet instead of the allowed 16 feet.

Board member Richard disclosed ex parte communication: "The agent reached out to me before the packet went out and just asked if I was aware of this. I hadn't seen it yet, and we just discussed the year built and the size of the lot."

Applicant Michael Sittner explained they decided to keep the main framing for the first floor "because we wanted a stronger application, really trying to abide by the zoning code as best as we can." He emphasized the property was built in 1923 on a 0.09-acre lot that's only 80 feet deep and 50 feet wide. He argued they meet criteria 4 and 5 for the variance: "onerous effect of regulations adopted after platting or development" and "substandard size of a lot of record." He noted: "The 20-foot setback as in current code is based on a minimum hundred foot depth lot. We're at 80 feet."

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When asked about expanding the first floor, Sittner clarified: "We're not expanding the first-floor footprint." Regarding the pool, he confirmed it would be removed but they would abide by rear setback requirements.

During public comment, Jamie Buckland of 327 Fifth Street spoke in favor, sharing memories of sitting on front porches in his hometown in Virginia. He stated: "It appears to me that what the applicant is simply trying to do is take an enclosed, albeit not compliant in today's standards with the setbacks, but take an enclosed room and turning it into a front porch, which is, I think, lovely and exactly what we need to be promoting in this neighborhood."

Matthew Bruce of 525 Beach Avenue, who lived next door to the property for 4 years, also spoke in favor: "It's really been a bunker. So we closed in the ugly, never been taken care of." He explained they're trying to "get rid of the ugly porch in the front, get rid of the parking that you see right now where the car can park out over the actually, the driveway and the walkway areas, and then to make it look like a better place."

Board discussion was brief and supportive. One member noted: "I think it's a less intense use ask. I think if you look at trying to tear down a 50 by 80 or try to build new on a 50 by 80, there'd be a lot more variance requests to meet setbacks." Another agreed it was "making it better, not worse. It's open air. It's not enclosed."

MOTION: To approve ZVAR25-0014 on the grounds of substandard size of lot of record warranting a variance in order to provide for the reasonable use of property.

Motion: Harold Gear

Second: Jeff Haynie

| | |
|---|-------------------|
| <i>Kirk Hansen</i> | <i>For</i> |
| <i>Ellen Golombek</i> | <i>For</i> |
| <i>Angela Farford</i> | <i>For</i> |
| <i>Harold Gear (Moved By)</i> | <i>For</i> |
| <i>Richard Arthur</i> | <i>For</i> |
| <i>Jeff Haynie (Seconded By)</i> | <i>For</i> |
| <i>Gregory (Greg) Beliles</i> | <i>For</i> |

Motion passed 7 to 0.

C. 1804 Selva Grande Drive ZVAR25-0017 (Katherine Cole)

Request for a variance to Section 23-51 and 23-52 to reduce the required tree mitigation for an after the fact permit at 1804 Selva Grande Drive based on an inaccurate arborist letter.

Principal Planner Abrielle Genest presented a request for variance from Sections 23-51 and 23-52 to reduce the required tree mitigation for an after-the-fact permit at 1804 Selva Grande Drive based on an inaccurate arborist letter.

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The property is located on the corner of Saturiba Drive and Selva Grande Drive in the residential Selva Marina zoning district. The lot is 110 feet wide by 130 feet deep. Genest explained that Chapter 23 was created "with the purpose of enhancing, conserving, restoring, protecting, and preserving the natural environment."

The code requires a permit for removal of any tree 8 inches or greater in diameter at breast height. The property owner hired a company in 2024 that produced two letters stating trees were diseased and removed them without a permit - one 25-inch water oak and one 9-inch hickory. Genest explained: "When we looked at the letters that were provided by the tree company, we did find that it did not meet the state statute exempting it from a permit. Additionally, we did reach out to the arborist named on the report, and he did confirm with staff that he did not write the letter."

Because regulated trees removed in violation require double mitigation, the 25-inch water oak requires 59 inches of mitigation and the 9-inch hickory requires 9 inches, totaling 68 inches or \$10,200. The applicant is requesting to reduce this to the standard ratio of 29.5 inches or \$4,425.

Jeff Haynie asked about the timeline and process. Genest confirmed staff was on the property the day trees were being removed after likely receiving a neighbor complaint about an out-of-town tree service.

Another member asked: "Do you know when that letter was produced, this RP Arbor reports that were found to be fraudulent?" Genest indicated it was produced within the same week of removal, with dates around March 29, 2024.

Applicant representative Stella, who owns a pool company hired by the Coles to build a pool, explained Mrs. Cole couldn't attend with her three young children and Mr. Cole is a pilot out of town. She stated: "They assumed that their arborist letter was accepted." She noted the original issue came back to light when filing for permits to remove trees for the pool project.

Stella emphasized: "The Coles were not trying to pull a fast one. Someone came out and gave them an arborist letter and told them that if you had an arborist letter, a permit wasn't required." She described the tree company as fraudulent, noting they "totally disappeared" when the Coles tried to contact them. With the pool project requiring removal of 8 cabbage palms, the total mitigation would be \$21,000. She argued: "To plant more trees on their yard is a little bit of the hardship because if you notice the picture of their yard, they have 62 trees on their property."

Board discussion focused on the limited grounds for granting tree variances. One member stated: "None of the criteria meet. They want to get their money back. They need to go talk to the politicians."

Jeff Haynie expressed sympathy but noted: "I don't think there are grounds to grant this. I also think this is not the result that the commission intended or that the code, you know, is there for. I don't think it's the goal to punish somebody like this." He wished the commission would consider adding broader variance grounds, noting these grounds "are very, very limited and are not gonna apply to people like this and probably

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others."

Ellen Golombek suggested: "I would recommend the applicant withdraw the application and go back and resolve some of these outstanding issues."

Chair Hansen offered a different perspective: "These people aren't trying to get out of paying any mitigation. They're prepared to pay the mitigation for the trees... somebody did them wrong... When somebody comes up from South Daytona and starts preying on our citizens here, I wanna protect them."

MOTION: To deny ZVAR 25-0017 as there are no criteria met.

Motion: *Harold Gear*

Second: *Jeff Haynie*

Kirk Hansen

Against

Ellen Golombek

For

Angela Farford

For

Harold Gear (Moved By)

For

Richard Arthur

Against

Jeff Haynie (Seconded By)

For

Gregory (Greg) Beliles

For

Motion passed 5 to 2.

D. Stormwater Text Amendment Change

ORDINANCE NO. 90-25-257: An Ordinance of the City of Atlantic Beach, County of Duval, State of Florida, Hereby amending the Land Development Regulations as adopted by Ordinance Number 90-24-253, including all amendments thereto; this ordinance specifically amending Section 24-89, Stormwater, Drainage, Storage and Treatment requirements, providing recordation and providing an effective date.

Director Amanda Askew presented proposed changes to stormwater regulations. She explained the Community Development Board had previously recommended different language, but the Commission felt removing on-site stormwater requirements entirely before the stormwater study was completed was premature. The proposed compromise would delete the 400 square foot trigger and add a trigger for anything over 35% impervious requiring on-site stormwater for the difference between 35% and 45%.

Askew noted a potential issue: "If you come in and you have you're wanting to add a shed and the shed is a hundred square feet, you technically would have to have storm water requirements for that hundred square feet."

Board discussion was critical of the proposed language. Richard Arthur asked about the level 3 alteration definition, concerned it could trigger stormwater requirements for interior renovations. One member worried: "If you put in new flooring in the house,

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would that be a hundred percent of the house?"

Jeff Haynie stated: "I mean, I would say 3 times this board has recommended removal of the entire ordinance and, you know, 2 from this board and 1 from a completely different board makeup." He noted staff wanted to keep requirements while acknowledging the 35% came from "legend and folklore" of original city maximums. He emphasized: "You know, as the planner set out here, we're the only city, which I think there's 7 out of 411 that have this for residential."

Chair Hansen expressed frustration: "Do we have to say this at all? We've got 45 percent impervious surface ratio. As long as we're 45 percent, why don't we just get on with life?" He added: "All we're doing is making it more difficult and saying, if you wanna add on, we're not even gonna let you have 45 percent. We're not even gonna let you have 35 percent. It's like, come on. That's just silly."

Jeff Haynie warned: "I'm afraid it's becoming kind of a Frankenstein if we just keep on adding." Another member agreed: "Basically, you've got a trigger at 35 now where before you could have been at 35. And you added 400, and it put it into 40. But now all of a sudden, with this one, it's making it more over."

MOTION: To recommend to the City Commission that they remove Section (c)1 in its entirety.

Motion: *Harold Gear*
Second: *Jeff Haynie*

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| <i>Kirk Hansen</i> | <i>For</i> |
| <i>Ellen Golombek</i> | <i>Against</i> |
| <i>Angela Farford</i> | <i>Against</i> |
| <i>Harold Gear (Moved By)</i> | <i>For</i> |
| <i>Richard Arthur</i> | <i>For</i> |
| <i>Jeff Haynie (Seconded By)</i> | <i>For</i> |
| <i>Gregory (Greg) Beliles</i> | <i>For</i> |

Motion passed 5 to 2.

E. Shared Parking Text Amendment Change

ORDINANCE NO. 90-25-258: An Ordinance of the City of Atlantic Beach, County of Duval, State of Florida, Hereby amending the Land Development Regulations as adopted by Ordinance Number 90-24-253, including all amendments thereto; this ordinance specifically amending Section 24-161, Off-street Parking and Loading, providing recordation and providing an effective date.

Director Amanda Askew presented proposed language to allow on-site shared parking, noting this arose from the 42 East Coast variance request. The proposed text would establish procedures for on-site shared parking when two or more uses on the same

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parcel would utilize spaces at different times.

Chair Hansen questioned why not simply add "on-site" to the existing off-site shared parking provisions. Discussion revealed the off-site provisions were minimal - just stating parking may be permitted on property other than where the use is located.

Board members debated whether to combine on-site and off-site provisions. Richard noted the language refers to "the same parcel" which wouldn't work for off-site. The attorney explained: "The whole purpose of this language is to allow for on-site shared parking, and this is what this accomplishes."

One member expressed concern about the provision that businesses must stop operating if shared parking is lost, asking "What about a 30 day grace period?" Askew suggested most agreements would have termination clauses built in.

Another member worried: "This says that they could also use those spaces. Am I reading that incorrectly?" regarding multiple businesses sharing the same spaces. She suggested limiting on-site shared parking to just two businesses rather than multiple.

Director Askew warned: "Staff has grave concerns, and that would be tracking this over time. And as businesses ebb and flow, I mean, it would be difficult to track." She noted it would be challenging to monitor when businesses change or new tenants arrive.

After extensive debate about enforcement challenges and potential for abuse, one member stated: "As much as I hate to have resources wasted, which I think our resources are wasted when you have an opportunity for temporally sharing things, I see the Pandora's box of trying to manage this."

MOTION: To recommend adoption of the suggested language for Section 24-161(g)(3) as presented.

Motion: Jeff Haynie
Second: Richard Arthur

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| <i>Kirk Hansen</i> | <i>For</i> |
| <i>Ellen Golombek</i> | <i>For</i> |
| <i>Angela Farford</i> | <i>For</i> |
| <i>Harold Gear</i> | <i>Against</i> |
| <i>Richard Arthur (Seconded By)</i> | <i>For</i> |
| <i>Jeff Haynie (Moved By)</i> | <i>For</i> |
| <i>Gregory (Greg) Beliles</i> | <i>For</i> |

Motion passed 6 to 1.

5. REPORTS

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A. Backyard Hen Discussion

Director Amanda Askew explained that Commissioner Ring asked the city manager to look at potentially allowing backyard hens on duplexes and townhomes. Currently, code only allows them on single-family homes. Research showed most municipalities require single-family homes and/or minimum lot sizes.

When asked about current permits, Director Askew confirmed there are 5 permits for hens in the city. There is no lot size minimum currently, though other cities like Neptune Beach and Jacksonville Beach require 5,000 square feet minimum.

Richard Arthur disclosed he has permit number 3. Board consensus was to keep regulations as-is. One member stated: "I don't think multifamily dwellings or duplexes or townhomes, that's infringing on... There's no setbacks with those homes." Another agreed about West Atlantic Beach having "small lots, duplexes."

The board reached consensus to report back to the City Commission that they don't think the regulations should be extended to townhouses and that the code should remain as is, restricting hens to single-family homes, due to concerns about space limitations and potential conflicts with neighbors on smaller lots and in multi-family settings.

6. PUBLIC COMMENT

There was no public comment.

7. ADJOURNMENT

There being no further discussion, Chair Hansen declared the meeting adjourned at 7:53 p.m.

Attest:

Amanda Askew

Kirk Hansen, Chair

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