



**BOARD OF ADJUSTMENT
ORGANIZATIONAL MEETING
AUGUST 21, 2006**

MINUTES

An organizational meeting of the Kure Beach Board of Adjustment was held August 21, 2006 at 7:30pm. A quorum was present. Notice of the meeting was posted at Town Hall on August 10th.

MEMBERS IN ATTENDANCE:

Betty Swann
Harry Humphries
John Gordon
Charles Allo
Norm Collins

MEMBERS ABSENT:

Mark Galizio
Anne Brodsky

STAFF IN ATTENDANCE:

Town Clerk Nancy Avery

OTHERS IN ATTENDANCE:

Commissioner Lambeth – liason
Town Attorney – Andy Canoutas
Penny Tysinger – Council of Government

CALL TO ORDER

Acting Chair Swann called the meeting to order at 7:30 pm.

ELECTION OF CHAIR AND VICE CHAIR

Member Humphries MADE THE MOTION to elect Member Swann as chair. Member Collins seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Member Gordon MADE THE MOTION to elect Member Humphries as vice chair. Member Collins seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Approved by BOA 10/11/06



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APPROVAL OF MINUTES

Consensus of the members was to table approval of the April 6, 2006 minutes to the next meeting to give everyone a chance to review.

OLD BUSINESS

Sea Filly (Myrtle-Trout) - update on appeal of last case heard in April 2006
Attorney Canoutas explained that the judge overturned the decision of the Board of Adjustment ruling stating there were no findings submitted by the Board of Adjustment in the Myrtle –Trout hearing. The judge’s decision allows the builder the right to continue building and re-instated the permits. Attorney Canoutas said the recommendation by the Board of Adjustments that the matter be returned to council to interpret mean lot width may be made as an independent ruling but should not have been used as part of the hearing.

Commissioner Lambeth stated that the Town Council had directed Attorney Canoutas to serve as advisor to the Board of Adjustments.

NEW BUSINESS

Penny Tysinger with Council of Government (COG) introduced herself and stated that the town had contracted with COG to provide training for board members. Ms. Tysinger stated that a hearing by the Board of Adjustment is quasi-judicial which gives one shot at hearing a case and is “like a court”. Ms. Tysinger emphasized that the transcript is important as that is what the judge looks at.

Ms. Tysinger asked members for specifics they would like addressed in training.

Responses were:

- Rules of Procedure
- How to handle hearing – who can speak and when

Both Ms. Tysinger and Attorney Canoutas stated that:

- The job of the board members is to come in like a judge and listen to testimony (not research in advance)
- Applicant has responsibility to prove case to the board members
- Make a decision based on what’s been presented at hearing

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- Board members should listen to arguments presented at hearing and decide whether in agreement if town official interpreted ordinance correctly – yes or no – and once interpreted, it becomes law
- Board members should make literal interpretation- if ordinance is hazy, the board’s job is to decide how to interpret
- Deliberations by board members must be done in public
- Board needs to swear in witnesses, accept testimony but don’t make the hearing a “community affair”. Hearsay may be accepted but not considered.

Discussion followed on Board of Adjustment’s jurisdiction. Ms. Tysinger explained that it is up to staff and the attorney to determine if the case should come before the Board of Adjustment.

Consensus of board – training session to be held on Monday, September 11, 2006 from 7 – 9 pm at Town Hall. Ms. Tysinger is to draft a Rules of Procedure to be discussed at the training session.

Chair Swann reviewed a form to track the terms of members and asked all to review, update and return to her.

ADJOURNMENT

Member Humphries MADE THE MOTION to adjourn the meeting at 9:05 pm. Member Allo seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Betty Swann, Chair

ATTEST: _____
Nancy Avery, Clerk

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