



**KURE BEACH PLANNING & ZONING COMMISSION
REGULAR MEETING
FEBRUARY 7, 2018**

The Kure Beach Planning and Zoning Commission held their regular meeting on **Wednesday, February 7, 2018**. A quorum of commission members was present.

P&Z MEMBERS PRESENT

Chair Craig Galbraith
Vice Chair Bill Moore
Member Kenneth Richardson
Member Retha Deaton

P&Z MEMBERS ABSENT

Member John Cawthorne

STAFF PRESENT

John Batson – Building Inspections
Nancy Avery – Town Clerk
Kathleen Zielinski – Secretary

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Councilman Joseph Whitley, Liaison  
Attorney James E. Eldridge

**1. CALL TO ORDER**

Chairman Galbraith called the meeting to order at 7:00 p.m.

**2. SWEARING IN OF NEW MEMBER**

Retha Deaton took the Oath of Office, sworn in by Clerk Avery as the newest member of the commission.

**3. APPROVAL OF AGENDA**

**MOTION** – Ken Richardson moved to approve the meeting agenda as presented

**SECOND** – Bill Moore

**VOTE** – Unanimous

#### 4. APPROVAL OF MEETING MINUTES

**MOTION** –Bill Moore moved to approve the minutes from the regular meeting, held January 10, 2018

**SECOND** – Retha Deaton

**VOTE** – Unanimous

**MOTION** – Ken Richardson moved to approve the minutes from the closed session, held January 10, 2018

**SECOND** – Bill Moore

**VOTE** – Unanimous

#### 5. PUBLIC COMMENTS

None

#### 6. OLD BUSINESS

Town Council has scheduled a public hearing February 20, 2018 for the purpose of hearing public comments on the proposed text amendments and consistency statement approved by P & Z at the November 1, 2017 meeting.

No action required

#### 7. NEW BUSINESS

##### a. Election of Officers

Craig Galbraith volunteered to serve as Chairperson for the coming year.

**MOTION** – Ken Richardson moved to appoint Craig Galbraith P & Z Chairman

**SECOND** – Bill Moore

**VOTE** - Unanimous

**MOTION** – Ken Richardson moved to appoint Bill Moore as P & Z Vice Chairman

**SECOND** – Craig Galbraith

**VOTE** - Unanimous

##### b. Request for text amendment regarding rear yard setbacks for accessory buildings

Inspector Batson presented to the commission that he noticed a shed being erected at 434 S. Fourth Ave. He informed the gentleman performing the work that he needed to apply for a permit and that the shed under construction was non-compliant. No permit was applied for and no final inspection was performed. Inspector Batson notified the owner of the shed by certified mail that its location was in violation of town ordinances. Subsequently, Linda Brett-Kell, the owner of the property in question, submitted an application for a text amendment, requesting that rear setbacks for accessory buildings be changed from ten feet to five feet.

Ms. Brett-Kell rose to address the commission. She explained of her need for a storage shed due to the small size of her house and the lack of a garage. When she first contracted to have the shed built, she was unaware of the 10-foot setback requirement and chose the current location to accommodate her small yard. She said that the setback for accessory buildings used to be five feet and asked if

someone could explain why that was changed. Ms. Brett-Kell distributed a packet of pictures illustrating several neighbors' sheds that are also located in setbacks, some as close as two feet from the property line.

Chairman Galbraith inquired about so many instances of accessory buildings in setbacks to which Inspector Batson replied that many people do not request a permit and he, therefore, in many cases is unaware of the installation until after the shed construction is complete. He said there are such examples in every district of the town and informed the commission that he gets many requests to have the ordinance changed.

In response to Member Richardson's question regarding the required space between buildings for emergency vehicles, Inspector Batson read the definition of a setback from the Code of Ordinances. Ms. Brett-Kell pointed out that a fire truck could not get to many buildings in the old part of town, that water runoff is not an issue and that property values are affected in a negative way when such a restriction is applied.

The discussion turned to determining what was built prior to and after the adoption of the ordinance, what is in violation versus legally non-conforming and when a variance request is more appropriate than a text amendment request.

Attorney Eldridge then suggested the commission bring the focus to the current application and consider the implications in the event the text is amended and how that would apply to the entire district. He also pointed out that fences are permitted on the property line and not restricted by the setback and suggested that the location of accessory buildings could be applied in the same manner. But the broad definition of a building, according to the code, must be considered.

Several commissioners expressed concern about changing the ordinance if doing so would restrict emergency vehicles. They would like to know the reasoning behind changing the rear setback from five feet to ten feet before making a determination about the current request. Furthermore, Chairman Galbraith mentioned the problem with selective enforcement, positing that if we enforce for one should we not enforce for all. He said there would be a lot of cost associated with doing so and admitted that this is a conundrum. He also suggested that a variance request might be a possible solution.

Ms. Brett-Kell pointed out that the setback requirement for emergency vehicles and water flow is discounted by the non-conforming properties since they would still be causing the same problem. She also described the enormous expense and effort that would be required if she were to move the shed in order to conform with the current ordinance.

Attorney Eldridge then reviewed the application for the text amendment with the commission in which Ms. Brett-Kell was requesting a change to sections 19-153 and 19-326, referencing setbacks in the RA-2 district and setback requirements for accessory buildings respectively.

Member Richardson expressed concern about approving a text amendment to an entire district. He also stated that the reason for the change from five feet to ten feet should be determined before moving forward, noting that there may be good reason that the ordinance is written as is. Attorney Eldridge explained further that the commission provides an advisory function and their recommendation to council is not binding.

Chairman Galbraith stated that he was concerned about selective enforcement in allowing some code violations and not others. He is of the opinion that all violations should be pursued. He recommended not approving the request and explained to the applicant that she would have the right to appeal to council because they make the final decision.

**MOTION** – Chairman Galbraith moved to recommend to council to deny the request for a text amendment

**SECOND** – Member Deaton

**VOTE** – Unanimous

Attorney Eldridge invited the members to read through the proposed consistency statement denying the request to change 19-153 and 19-326 in the Code of Ordinances that he had prepared. Chairman Galbraith asked that the statement be revised to accurately reflect the exact wording in the current code. He also would like to draw attention to the fact that similar conditions occur throughout all districts and many property owners are in violation of the ordinance as written.

**MOTION** – Chairman Galbraith moved to accept the consistency statement subject to his recommended amendments

**SECOND** – Member Richardson

**VOTE** - Unanimous

Chairman Galbraith will present the revised consistency statement to council with an explanation of the commission's recommendation.

## 8. MEMBER ITEMS

Chairman Galbraith and Councilman Whitley will be unavailable for the next regularly scheduled meeting.

**MOTION** – Member Richardson moved to reschedule the next meeting for March 15, 2018

**SECOND** – Vice Chairman Moore

**VOTE** - Unanimous

## 9. ADJOURNMENT

**MOTION** – Member Deaton moved to adjourn the meeting.

**SECOND** – Vice Chair Moore

**VOTE** - Unanimous

The meeting was adjourned at 7:57 p.m.

  
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Chairman  
Planning and Zoning Commission

  
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Kathleen Zielinski, Secretary

NOTE: These are minutes reflecting items considered and actions taken by the Planning & Zoning Committee and should not be considered a transcript of the meeting.