



## **KURE BEACH PLANNING & ZONING COMMISSION REGULAR MEETING**

A regular meeting of the Kure Beach Planning & Zoning (P&Z) Commission was held on Wednesday, June 3, 2015. A quorum of the Commission was present.

### **P&Z MEMBERS IN ATTENDANCE**

Chairman Craig Galbraith

Vice Chair Joe Whitley

Member Alan Votta

Member John Ellen

Member Bill Moore

Alternate Member Ken Richardson

Council Liaison Craig Bloszinsky

P&Z Attorney James E. Eldridge

Town Attorney Andy Canoutas

### **STAFF PRESENT**

John Batson, Building Inspector

Joe Miljenovic, Police Officer

Nancy Hewitt, Deputy Town Clerk

### **I. CALL TO ORDER**

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

### **II. APPROVAL OF THE AGENDA**

MOTION: Chairman Galbraith moved to approve the meeting agenda, as presented.

SECOND: Member Moore

VOTE: Unanimous

### **III. APPROVAL OF THE MINUTES**

MOTION: Member Moore moved to approve the minutes of the May 6, 2015 P&Z meeting.

SECOND: Vice Chair Whitley

VOTE: Unanimous

### **IV. PUBLIC COMMENTS**

MOTION: Chairman Galbraith moved to amend the meeting agenda to move the item listed under Public Comments, for the Lawings to present their request for a text amendment to the Code, to New Business.

SECOND: Member Moore

VOTE: Unanimous

## V. OLD BUSINESS

### A. Vacation Rentals – Data Collection

Chairman Galbraith gave the Commission handouts with information on how the cities of Asheville and Fayetteville handle their rentals, and he made the following points:

- Both communities are very concerned about permitting rental properties.
- Asheville's focus is on short-term property rentals and room rentals within residential areas. A study they had performed concluded that many municipalities are upset over 2011 changes to NC Statutes which limit the ability to permit things. They formed a Short-term Rental Community committee and held public meetings where strong arguments for both sides were heard.
- Fayetteville's focus is more aggressive on permitting all types of property rentals, including their large rental market to military personnel. They already had a rental permitting process prior to 2011 but, in 2012, they put together a Rental Action Management Program, working within the 2011 statutes. The program allows them to fine rental property owners that have a minimum of three code violations in a year, or those in the top ten percent for police calls/crimes. Poor and unsafe conditions of rental properties are also considered violations. Properties under the program must be free of violations for one year before the owner is allowed to rent the property again.

Member Ellen said that Raleigh, Charlotte and Durham had a permitting process before the 2011 statute (Vacation Rental Act) then did away with it. He said that Durham is the most aggressive of the three municipalities and follows the three-minimum code violation statute. He read the definition of private and public nuisances and stated that the only NC Statute he could find on nuisances is in Chapter 19 outlining offenses against public morals.

Chairman Galbraith said the Commission has done a lot of research on the issue and unless the members want to pursue it further suggested tabling it.

Member Ellen said that Town Council wanted the Commission to report their findings to them.

Attorney Eldridge said the Town's Code regulates "nuisances." He said that the ideal way the Commission could track nuisances is through Code Enforcement and the Police Department (PD), the findings of which could help the Commission make a recommendation to Council.

Town Attorney Canoutas said that large municipalities initiate these types of regulations because they often have slums and sexual misconduct issues that he feels Kure Beach doesn't have. He said that the only thing Council is interested in is catching the people who are renting their properties without paying ROT.

Chairman Galbraith said that was one of the two things he presented to Council and Council is acting upon that.

Council Liaison Bloszinsky asked how the three violations statute would work: would three violations from one renter be enough to warrant closing down a rental, or would it only be for three separate renter violations? He said it could be a mess if not handled properly.

Chairman Galbraith replied that the Town would have to have an ordinance that specifies what constitutes a violation first before working under the state statute on the option of using the three violations or the ten percent violation guideline.

Member Votta suggested having Code Enforcement and the PD track violations for rental properties and report their information back to the Commission in October. He said this could help them identify problem rental properties and identify how many properties are involved.

Vice Chair Whitley wasn't sure if the PD could pull the report unless they knew which properties are short-term rental properties, as opposed to long term rental properties.

Chairman Galbraith said that's exactly why the Commission made a recommendation to Council that each rental property should have a separate file with the County so it could be cross-referenced with a police report, using addresses.

Building Inspector Batson said he keeps track of code violations that can be sorted by the types of violations associated with vacation rentals.

**MOTION: Member Votta moved to have the Police Chief and Building Inspector compile a list of violations occurring at rental properties by October which the Commission will analyze as part of the vacation rental permitting process under the state statutes.**

**SECOND: Vice Chair Whitley**

Discussion ensued with Member Ellen stating it wouldn't be right to ask for data in October without giving a heads-up and instructions to Code Enforcement and the PD on how the Commission wants the information compiled.

**MOTION: Member Ellen MOVED TO AMEND the motion to ask the Council to request that a list of violations be collected for July, August and September, to report to the Commission in October.**

After further discussion, the Motion to Amend was REMOVED by Member Ellen.

**MOTION: Vice Chair Whitley MOVED TO AMEND the original motion to have the Police Chief and Building Inspector compile a list of violations occurring at rental properties by November which the Commission will analyze as part of the vacation rental permitting process under the state statutes.**

**SECOND: Chairman Galbraith**

**VOTE: Unanimous**

#### B. Duplexes – Parking Space Issue

Inspector Batson said that he and Member Votta are going to get together to come up with different ways that the parking regulations for duplexes could be changed, possibly using the square footage of the units to govern how many parking spaces they would need. He asked that this item be tabled until the next meeting.

**MOTION:** Member Moore moved to table this item until the next P&Z meeting.  
**SECOND:** Member Votta  
**VOTE:** Unanimous

C. Planting in the Right-of-Way – Section 14.7(d)  
The Commission agreed that this item was taken care of at last month's P&Z meeting.

## VI. NEW BUSINESS

Kure Beach homeowners, Richard and Ann Lawing, residing at 704 Sea Castle Court, requested through application for the Commission to recommend a text amendment to the Code of Ordinances, Section 19-329 to Council.

Inspector Batson explained that his memo to the Commission dated May 6, 2015, recommends revising the text amendment proposed by the Lawings. He said he revised it so it would be more rounded and applicable to Town ordinances. He said it still accomplishes what the Lawings asked to be amended. He read his recommendation, as follows (*changes in italics*):

Section 19-329. Modification of required yards

Architectural features such as fire escapes, *fireplaces*, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but no carports or porches, may project not more than eighteen (18) inches into any required yard. *On corner lots, architectural features may extend twenty-four (24) inches into the required ten 10' side setback.*

Ann Lawing, stated that she and her husband haven't been able to occupy their home at 242 N. 3<sup>rd</sup> Avenue in Kure Beach because their fireplace is cantilevered out by six inches too much into the setback for their property. She said the extension is located on the second floor and doesn't impede the health and safety of the Town, nor obstruct views. She said they are asking for this text amendment to get their situation resolved so they can move into the house or sell it.

Chairman Galbraith asked for comments from the two attending attorneys:

- Town Attorney Canoutas suggested approving it.
- P&Z Attorney Eldridge said the text seems consistent with what the applicants want.

Member Votta said the amendment would only affect corner lots, but all architectural features described would be allowed. He said that one of the reasons for setbacks on a corner lot is for sight lines but, in the Lawings' case, the fireplace is up high enough that it doesn't obstruct them. He said that, if there are buildings that are built on crawl spaces or raised slabs, one could physically fill up the sides of a house with the architectural features listed.

Inspector Batson said he understands what Member Votta is saying, and he will look at the intent of the ordinance and make a judgment call based on that when reviewing building plans.

Chairman Galbraith said the draft amendment is only adding six inches into the setback and adding fireplaces to the list.

Inspector Batons said third floor balconies cantilevered over on the side yard are more likely to be seen in Kure Beach, if the draft ordinance passes, as opposed to someone putting several of the approved items in the additional six inches of space.

**MOTION:** Member Moore moved to approve the draft text amendment to Section 19-329 of the Code of Ordinances, as read by the Building Inspector, and to bring it before Council at the regular June Council meeting.

**SECOND:** Member Ellen

**VOTE:** Unanimous

**MOTION:** Member Ellen moved to approve the Consistency Statement to be presented to Council at the regular June Council meeting.

**SECOND:** Member Moore

**VOTE:** Unanimous

#### **VII. MEMBER ITEMS**

Chairman Galbraith said that the Commission has usually canceled its July meeting each year and asked if anyone had an objection to that.

Inspector Batson said that Sea View subdivision builders will be coming to the July P&Z meeting for their final plat recommendation, but he told them the Commission may push their monthly meeting to another date in July.

Chairman Galbraith said that the Commission would go ahead and meet as usual, on the first Wednesday in July at 7:00 p.m.

#### **VIII. ADJOURNMENT**

**MOTION:** Member Ellen moved to adjourn the meeting.

**SECOND:** Member Votta

**VOTE:** Unanimous

The P&Z meeting adjourned at 8:47 p.m.

  
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Craig Galbraith, P&Z Chairman

  
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Nancy Hewitt, Deputy Town Clerk