



KURE BEACH PLANNING & ZONING COMMISSION REGULAR MEETING

A regular meeting of the Kure Beach Planning & Zoning (P&Z) Commission was held on Wednesday, February 3, 2016. A quorum of the Commission was present.

P&Z MEMBERS IN ATTENDANCE

Chairman Craig Galbraith
Member John Ellen (via electronic device)
Member Bill Moore
Member Kenneth Richardson
Member Alan Votta

ABSENT

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Councilman Joseph Whitley, Liaison  
P&Z Attorney James E. Eldridge

### **STAFF PRESENT**

John Batson, Building Inspector  
Josie Fitzgerald, Secretary

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

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

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

**MOTION:** Member Moore moved to approve the Agenda

**SECOND:** Member Richardson

**VOTE:** Unanimous

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

**MOTION:** Member Moore moved to approve the minutes of January 6, 2016

**SECOND:** Member Richardson

**VOTE:** Unanimous

### **IV. PUBLIC COMMENTS**

**Manufactured/Shipping Container Homes**

Chairman Galbraith presented a summary and background of the issue.

- The subject came up and P&Z sought guidance from Council who directed P&Z to hold a public hearing to obtain feedback and input from residents.
- Our zoning and definitions in the Code does not currently address these particular containers.
- It is the opinion of the attorney that currently these containers could be put anywhere and there are other viewpoints.
- The mission of P&Z is to clarify the issue and view all options

1. We can do nothing and the building inspector would have opinion whether they would be allowed or not; This could result in a lawsuit.
2. We could define these containers and put the definitions in our zoning ordinance and say they are allowed anywhere;
3. We could define these containers and allow them only in certain areas where mobile homes and trailers are allowed;
4. We could provide clear definition and say they are not allowed in Kure Beach.

The Commission received several emails and your input is very helpful in order to come up with a recommendation to Council of one or a combination of those options.

SPEAKERS:

1. David Garceau - 409 S. 5<sup>th</sup> Ave

Has another option. He travels in his business and sees container homes in other parts of the country. He sees extremes, some are single container homes and two containers together. There needs to be a definition, using either construction or certain square footage. He has seen four to six containers together to form a larger custom home. Not sure if there is a way to separate or define these, but “container homes” is too broad a definition.

Member discussion:

- Important issue: The State Legislature has recently passed a law that states that local government cannot restrict aesthetics of residential housing. By law now in North Carolina, we can no longer regulate aesthetics of any residential housing.
- There are two areas where mobile homes are currently allowed, they are not grandfathered in ( as such) they are non-conforming, and no more are allowed.
- We have one area which is required by State Law which says every community should have at least one area hat allows mobile homes. RA2T which is at the northern part of town, on the northern boundary of Alabama then goes south and further west.
- Some other towns have been contacted regarding these containers. Carolina Beach says that any lot for a single family home they will allow a container home.
- Topsail has not addressed the issue as yet.
- Wilmington has a few but they are making sure they are put in certain areas and they fit in.
- This issue is relatively new and P&Z is taking a proactive approach.

Attorney Eldridge stated that the law does not specifically state what you can do, but rather says what you cannot do, i.e. cannot say what type of exterior siding is required. The containers can remain metal and painted.

- About 70% container homes do not have siding.
- We can deal with container homes in our zoning ordinance and regulate them. The question is how.
- The Town wants to get a feel as to what the residents want.

2. Steve Williamson -301 N. Ft. Fisher Blvd. He and his wife do not want them. He sent an email

Member Discussion:

12 out of 16 emails were against container homes

3 had questions or conditions

1 was in favor

3. Lisa Heglar – Real estate broker with Coldwell Banker - She has a client that is not in favor of container homes.

Ms. Heglar would like to hear answers to some questions. For example, will they be insurable and who will finance them? It may take special underwriting for insurance.

In the process, what can the town require from an engineer?

Will they be as cost effective as people may think?

Not sure if there is protection for residents when a container will be placed next door to them

Member Discussion:

- It was noted that a 440 square foot container costs approximately \$1,500 and an additional \$10,000 to \$20,000 to upfit. Financing may not be an issue since they may be paid by cash and guessing they will be used for rental homes.
- Inspector Batson stated that from structural point of view, they would have to meet NC Building Code, be engineer certified that the walls are sufficient for residential use, utilize energy requirements, then they could be acceptable.
- The Town Ordinance does not have a definition for these, only areas where they could be located
- There is a minimum roof pitch of 4/12 and 3/12 on the ocean, and commercial can have flat roof.
- A property right is a bundle of rights, if something comes in and lowers property values of neighbors it creates negative values. Protecting property rights of neighbors is a fundamental issue.

4. Resident of 812 Settlers Lane does not approve and thinks they would bring values down.

5. Chris Holmes - 218 N. 4<sup>th</sup> Ave. - Does not approve of containers in Kure Beach

**Closed public session at 7:30**

Member discussion:

- Size is not the issue, they have to comply with the laws
- We cannot regulate style
- The intent of the design an issue as containers were not designated to be a home
- Containers are a way to address affordable housing, but does not seem to have a place at Kure Beach
- A concern is what our ordinance would allow
- We have ample opportunity to build tiny houses
- We want to protect everyone within the community and build on the image of what our plan states
- The concern is about potential litigation
- These can be put in with mobile homes using the same criteria and regulations; permanent foundation, wind regulations, roof pitch, set backs, water and sewer, etc.
- These will probably not be affordable after they meet NC Building Code.

Based on the responses at the public hearing and e-mails received, we can make a decision.

Attorney Eldridge noted that the concern of an outright prohibition will be challenged in court, but regulating them may limit the risk of litigation.

**MOTION: Member Moore moved to ban container homes from the Town of Kure Beach; Chairman Galbraith amended the motion to also direct Attorney Eldridge and Inspector Batson to work together to develop appropriate language to recommend to Council prohibiting container houses.**

**Member Moore accepted the amendment**

*Attorney checked to determine if Member Ellen was eligible to vote during this meeting via electronic audio device. It was confirmed that Member Ellen was eligible to vote.*

**SECOND: Member Richardson**

**VOTE: 4 yeas, 1 nay**

**Motion passed and will be placed on next month agenda to review language**

## **V. OLD BUSINESS**

A. Chapter 19-373(7) political signs – Ordinance Amendment

There is a Public Hearing set for February 16, 2016

B. Vacation rental nuisance violation data collection per Chief Cooper:

- Rentals are not identified
- The feeling is that realtors have taken care of individual issues that existed previously
- Chief Cooper will come to the next meeting for a discussion

This item will be put on agenda with invitation to Chief Cooper to attend

**VI. NEW BUSINESS**  
**none**

**VII. MEMBER ITEMS**  
**Election of Officers for 2016**

Chairman Galbraith has been Chairman for six years and will not be putting his hat in.  
Member Votta nominated Member Ellen to serve as Chairman

**MOTION:** Chairman Galbraith moved to have Member John Ellen to serve as  
Chairman and Member Alan Votta to serve as Vice Chair  
**SECOND:** Member Richardson  
**VOTE:** Unanimous

**VIII. ADJOURNMENT**

**MOTION:** Member Richardson moved to adjourn the meeting.  
**SECOND:** Member Moore  
**VOTE:** Unanimous

**The P&Z meeting adjourned at 8:03 p.m.**

  
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Craig Galbraith, P&Z Chairman

  
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Josie Fitzgerald, Secretary