



# PLANNING & ZONING COMMISSION MINUTES

**REGULAR MEETING**

**Tuesday, January 14, 2020 @ 7:00 pm**

The Kure Beach Planning and Zoning Commission (P&Z) held its regular meeting on Tuesday, January 14, 2019. A quorum of members was present, and Attorney Jim Eldridge attended.

## **P&Z MEMBERS PRESENT**

Chairman Craig Galbraith  
Member Bill Moore  
Member David Garceau  
Member Kenneth Richardson  
Member Robert Young

## **P&Z MEMBERS ABSENT**

## **STAFF PRESENT**

Mandy Sanders, Town Clerk  
Beth Chase, Deputy Town Clerk

## **CALL TO ORDER**

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

## **APPROVAL OF AGENDA**

MOTION – Member Moore made a motion to add discussion of prohibited uses under new business to the agenda and approve the agenda as amended

SECOND – Member Richardson

VOTE - Unanimous

## **APPROVAL OF MEETING MINUTES:**

- December 4<sup>th</sup>, 2019 Regular Meeting

MOTION – Member Richardson made a motion to approve the meeting minutes for December 4, 2019

SECOND – Member Gareacu

VOTE- Unanimous

## **OLD BUSINESS**

### 1. Graffiti Ordinance

Chairman Galbraith commented he presented a model example of an Graffiti Ordinance several months ago. This isn't currently a pressing issue for the Town but he will bring a recommendation for a graffiti ordinance forward in the future.

MOTION- Member Moore made a motion to table this until the next P&Z meeting

SECOND- Member Gareacu

VOTE- Unanimous



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## 2. Legislative update and recommendations

Attorney Eldridge stated:

- Been a local government attorney for 20 years and legislative updates are partial to what he does
- This presentation tonight doesn't include Chapter 160D
- Presentation tonight only concerns those amendments that are currently effective
- Chapter 160D is the recodified County and City land development statutes that won't be effective till next January
- The current amendments fall into 4 groups which are Zoning Land Development, Subdivision Reuglations, Building and Inspections and Quasi-judicial
- Bringing forth tonight the changes to the Zoning and Land Development and Subdivision Regulations
- He will cover the changes to the quasi-judicial statutes in a memoranda to the Board of Adjustment as the Board has a training scheduled for later this month
- Also will prepare a very simple memoranda for the Building Inspections Department if it is needed
- A few items that require text amendments
- Third Party Down-Zoning- GS 160A-384(a) amended to prohibit 3d party down-zoning without owners' consent; town can down-zone without owners' consent; owner can petition for down-zoning property.
- Recommends amending the code for the Third Party Down-Zoning and plug in the clear changes the session law requires
- Conditions Imposed on Special Use Permits- GS 160A-381(c) amended to prohibit conditions imposing taxes, impact fees, building design elements (except for commercial and multi-family housing), and driveway-related improvements exceeding those in GS 160A-307 for approved special use permits.
- The second item doesn't concern the Commission as much but is a recommended text amendment to Chapter 15 as the General assembly has amended the statute to provide a clear listing of items which are prohibited as conditions
- Recommendation to the Commission since the code currently references conditions for special use permit in a generalized fashion to include a text amendment and include the listing of what is prohibited as conditions
- Small Houses- Amends GS 160A-382 to prohibit zoning regs from including a minimum square footage requirement for one- and two-family residential dwellings.
- Recommendation that Small Houses doesn't require a text amendment, as he found nothing that is pertaining to it in the code of ordinances
- Now the next two Permit Choice and Vested Rights are complicated and it is easy to state what the legislative consist of but it is the application that makes it interesting, its two areas which interact with each other but neither are listed in the code
- Permit Choice- GS 160A-360.1 amended to expand the scope of the permit choice rule (once a complete application for a "development permit" is submitted,



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if the applicable rules change before the permit is issued, then the applicant may choose whether the application is reviewed under the old or new rules). Vested rights impact expanded scope of the permit choice rule.

- Vested Rights- GS 160A-385 amended to broaden and clarify types of statutory vested rights. Duration periods for such rights also clarified.
- If PZC text amends the code to reflect these changes the Town will carry the substance of the statutes into these changes
- One school of thought is don't need to include in the code because its controlled by statutes but on the other hand if the Town paraphrases these changes and inputs text amendments into the code to address permit choice and vested rights on how it works it may be useful to staff and the public
- Need input from PZC and Building Inspector Batson does the Commission wants to text amend the code to cover these two topics or leave it out of the code
- Land Development- Town Code cannot use definitions of building, dwelling, dwelling unit, bedroom, or sleeping unit inconsistent with those in State Building Code
- Recommendation to the PZC is to amend the code to confirm to the state building code definitions for Land Development
- Performance Guarantees- GS 160A-372 amended to clarify and limit scope of performance guarantees.
- Town has a good provision regarding Performance Guarantees but doesn't match these changes. Recommendation to PZC is to delete the current provision and reword it in accordance with these particular set of revisions

CONSENSUS- The Commission agreed with the recommendations Attorney Eldridge has suggested.

Building Inspector stated regarding Permit Choice and Vested Rights he would like it to be included in the Code of Ordinances so there is no surprise to the developers or the residents. He agrees with the recommendations Attorney Eldridge has brought forward tonight.

3. Consideration of text amendments to Chapter 10, Section 10 (Generally), Chapter 10, Section 20 (Parking Rules), and Chapter 13, Section 60 (Removal of Obstructions and Encroachments) regarding Public Right-of-Ways

Attorney Eldridge stated:

- Member Richardson brought this item forward to the PZC Commission at the December meeting
- Building Inspector Batson had comments that were made in red included in the December agenda packet
- Used Building Inspector Batson comments to rewrite the recommended text amendments
- Needed clarification on where the right of way ended with respect to the property line



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- Building Inspector Batson and Member Richardson were concerned about encroachments into the right away
- Property Owners are roping off and barricading sections of the right of way
- Discussed last month didn't need to many changes to the text amendments but the recommended changes are included in the agenda packet

Building Inspector Batson commented the recommended text amendments are exactly what he was looking to include in the code.

MOTION – Member Garceau made a motion to recommend the changes to the Town Council to Chapter 10, Section 10 (Generally), Chapter 10, Section 20 (Parking Rules), and Chapter 13, Section 60 (Removal of Obstructions and Encroachments) regarding Public Right-of-Ways

SECOND – Member Richardson

VOTE- Unanimous

Chairman Galbraith commented he couldn't find a list from another Town regarding Prohibited Uses that have been specified. He is going to pick the B1 district and come up with a list of items to bring forth at the next month's meeting.

Attorney Eldridge commented the commission is talking about uses but make sure that distingue is made clear and keep in mind the use of the property. Do not drill down to deep and keep the first amendment in mind. If the Town is regulating content the Town could have a first amendment issue.

MOTION- Member Richardson made a motion to table Prohibited Uses to the February agenda

SECOND- Member Moore

VOTE-Unanimous

## NEW BUSINESS

1. Light Pollution ordinance and Dark Sky regulations

Member Garceau gave a presentation on Light Pollution and Dark Sky regulations which is hereby incorporated into the minutes.

Member Moore stated to include this on the February meeting agenda for follow up discussion.

## MEMBER ITEMS

MOTION- Member Moore made a motion to reschedule the February meeting from February 4, 2020 to February 11, 2020

SECOND- Member Richardson

VOTE- Unanimous



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MOTION- Member Moore made a motion to move the P&Z Commission meetings from 7:00 p.m. to 6:30 p.m. or soon thereafter

SECOND- Member Richardson

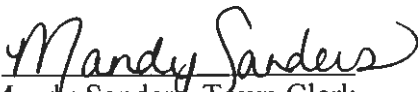
VOTE- Unanimous

## ADJOURNMENT

MOTION – Member made a motion to adjourn the meeting at 8:32 p.m.

SECOND – Member

VOTE- Unanimous

ATTEST:   
Mandy Sanders, Town Clerk

  
William Moore, Vice Chairman

NOTE: These are action minutes reflecting items considered and actions taken by Planning and Zoning Commission. These minutes are not a transcript of the meeting. A recording of the meeting is available on the town's website under government>agendas&minutes.