



# PLANNING & ZONING COMMISSION MINUTES

**REGULAR MEETING**

**Wednesday, July 1, 2020 @ 6:30 p.m.**

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday, July 1, 2020. 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 Tony Garibay (Via Conference Phone)  
Alternate Member Kathleen Zielinski

## **P&Z MEMBERS ABSENT**

None.

## **STAFF PRESENT**

Mandy Sanders, Town Clerk  
Beth Chase, Deputy Town Clerk  
John Batson, Building Inspector

## **CALL TO ORDER**

Chairman Galbraith called the meeting to order at 6:45 p.m.

## **ADOPTION OF AGENDA**

MOTION- Chairman Galbraith made a motion to amend the agenda to add the Discussion of Temporary Structures in the Setbacks/Town Right of Way and Resignation of William Moore from the PZC under Old Business

SECOND- Member Richardson

VOTE- Unanimous

## **APPROVAL OF MEETING MINUTES:**

- June 3, 2020 Regular Meeting

MOTION- Member Garceau made a motion to approve the minutes as presented

SECOND- Member Garibay

VOTE- Unanimous

## **PUBLIC COMMENTS**

None.



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## OLD BUSINESS

1. Proposed text amendment to Chapter 1 (General Provisions) Article 04 (Code Construction and General Provisions) Section 10 (Definitions and Rules of Construction)  
Proposed text amendment to Chapter 9 (Animal Services and Control) Article 06 (Livestock and Exotic Animals) Section 15 (Definitions)  
Proposed text amendment to Chapter 9 (Animal Services and Control) Article 06 (Livestock and Exotic Animals) Section 100 (Violations, Enforcement and Penalties)

Attorney Eldridge stated during last month's meeting the PZC Chairman relayed a discussion he had with a property owner regarding the livestock text amendments the PZC had drafted in 2017 and Town Council had adopted. The definition for exotic animals could not be found anywhere in the KBC Code and the PZC determined the definition needed to be included. After the meeting Attorney Eldridge went through his files and found the definition for exotic animals that was adopted by the Town Council in 2017. Since this text amendment was not input into the code before it was renumbered he is proposing amending the text amendments by moving them to the correct Chapter to make the text amendments more user friendly.

MOTION- Member Moore made a motion to recommend to Town Council to approve the proposed text amendment to Chapter 1 (General Provisions) Article 04 (Code Construction and General Provisions) Section 10 (Definitions and Rules of Construction) proposed text amendment to Chapter 9 (Animal Services and Control) Article 06 (Livestock and Exotic Animals) Section 15 (Definitions) proposed text amendment to Chapter 9 (Animal Services and Control) Article 06 (Livestock and Exotic Animals) Section 100 (Violations, Enforcement and Penalties)

SECOND- Member Richardson

VOTE- Unanimous

2. Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02 (Graffiti Nuisance) Section 16 (Light Trespass Nuisance) (Eldridge)  
Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02 (Graffiti Nuisance) Section 20 (Complaint Investigation)  
Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02 (Graffiti Nuisance) Section 30 (Notice to Abate)  
Proposed text amendments to Chapter 8 (Public Health & Safety) Article 02 (Graffiti Nuisance) Section 40 (Abatement By Town - Upon Failure of Owner)

Attorney Eldridge stated:

- The Light Trespass Nuisance proposed text amendments are included in the agenda for PZC to review tonight
- Exemptions:
  - Lighting within public ways for the principal purpose of illuminating public way





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- Lighting for public parks
- Lighting for signs as regulated under KBC Sec. 15.40.080
- Lighting for Town-approved theatrical or television productions or performance areas, lighting for work areas at construction sites
- Underwater lighting in swimming pools
- Seasonal lighting
- Lighting used in emergency situations or conditions, lighting required under federal, state, or local laws, ordinances, rules, and/or regulations, lighting as otherwise required by the Town for public health, safety, and welfare
- Kure Beach Pier.
- The following types of lighting are specifically prohibited:
  - Any lighting that does not comply with the applicable General and Special Standards set forth below in, respectively, sub-sections E and F.
  - Up-lighting except as otherwise provided for in this Section.
  - Lighting that could be confused for a traffic control device.
  - Searchlights, beacons, and laser source luminaires.
  - Lights which blink, flash, move, revolve, flicker, change intensity, or change color.
  - Illuminating, by any light source, any portion of the beach within the Town's corporate limits between the hours of sunset and sunrise from May 1<sup>st</sup> through October 31<sup>st</sup> except by such frequencies of red light as to not disturb nesting or hatchling sea turtles.
  - Any lamp or bulb when not within a luminaire that is visible from the property boundary line of the lot or parcel on which it is located.
  - Lighting inside of an awning when the awning material is translucent.
- General Standards:
  - *Illumination level at the property line.* Lighting shall be designed and installed so that the illumination attributable to the subject lot does not exceed 0.5 foot-candles at the property boundary line of an abutting residentially zoned lot.
  - *Pole-mounted luminaires.* Pole-mounted luminaires shall not be taller than 15 feet in residentially zoned lots or when placed within 50 feet of a residential zoning district. In all other zoning districts, luminaires shall not be taller than 50 feet.
  - *Building-mounted luminaires.* Building-mounted luminaires shall not be attached to a sloped roof and shall not be taller than 30 feet or the height of the principal building, whichever is less. The use of wall-pack luminaires is discouraged.
  - *Material for light poles.* Light poles shall be anodized, painted, or otherwise coated to minimize glare from the light source.
  - *Overhead electrical lines prohibited.* For new installations, electrical lines for pole-mounted luminaires shall be placed underground between poles.
  - *Types of luminaires.* Full-cutoff luminaires shall be used in parking lots. Except as otherwise provided in this Section, all other pole or building-mounted



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luminaires shall be directed downward and the light source shielded so that it is not visible from adjacent property.

- *New Development lighting.* No new development, as that term is defined in KBC 15.02.010, within the Town involving exterior lighting, including without limitation, façade, canopy, landscaping, and/or flag pole lighting, shall be undertaken without the written approval by the Building Inspector of a lighting plan showing conformity with the requirements of this Section.
- Special Standards for Specific Applications:
  - *Flag poles.* A flag pole bearing a flag may be illuminated by fully shielded upward directed luminaires mounted as close to the base of the flag pole as possible.
  - *Building façade lighting.* The exterior of a building may be lighted provided the following standards are met:
    - The lighting shall only accentuate an architectural or aesthetic element of the building.
    - The light shall only be directed onto the building's façade and not spillover beyond the plane of the building.
    - Façade lighting shall: not exceed 4000 mean lumens per feature; be aimed directly upward or downward; be fully shielded, and mounted as flush to the wall as possible.
  - *Canopy lighting for vehicular shelters.* Lighting associated with a canopy used for vehicular shelter shall meet the following standards:
    - Full-cutoff luminaires shall be used, mounted beneath the canopy, and pointed downward so that the light is confined to the ground surface directly beneath the canopy.
    - The sides and top of the canopy shall not be illuminated except as permitted for associated signage, if any, under KBC Sec. 15.40.080.
    - Where applicable, lighting beyond the perimeter of the canopy shall be consistent with the lighting standards for parking areas.
- *Applicability.* Except as provided for in this Section, all exterior lighting installed after the effective date of this Section shall comply with the requirements set forth herein. This applicability includes, but is not limited to, new lighting equipment, light fixtures, replacement lighting, or any other lighting whether attached to structures, poles, the earth, or any other location. Except as otherwise provided for in this Section, all exterior lighting installed prior to the effective date of this Section shall be altered and made to conform to these requirements within 2 years after the effective date of this Section.
- *Nonconforming lighting.* Notwithstanding the provisions of sub-section G above, nonconforming lighting shall be made to conform to the requirements of this Section when:
  - Upon the effective date of this Section, property owners shall make, where reasonable and feasible to do so, minor modifications and corrective measures to their lighting installations, such as, for example, re-aiming or shielding the





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- lighting, to achieve conformity with the applicable requirements set forth in this Section.
- Nonconforming lighting deemed by the Town, following a complaint-based investigation as provided for in KBC 8.02.020, to constitute a public nuisance.
- There is a change in the use of the subject property.
- Abatement. Any person or entity responsible for causing or maintaining nonconforming lighting that constitutes a public nuisance shall be subject to the civil penalties and remedies set forth in this article in the event said person or entity fails to abate the public nuisance within 15 days after the date on which the written notice to abate provided under KBC 8.02.030 is received.

Chairman Galbraith stated his only issue with the proposed text amendment is the is .5 illumination as he cannot picture or measure what that would be.

Member Garceau stated when he was reviewing light ordinances in other Towns .5 illumination was a common measurement to use.

Attorney Eldridge stated this is an issue he struggled with while drafting the proposed text amendment. He recommends the Town order a light meter to better understand what .5 illumination would be throughout Town.

Member Richardson stated his concern is the difficulty of understanding the proposed text amendment.

Building Inspector Batson commented he will order a light meter before the August PZC meeting.

MOTION- Chairman Galbraith made a motion to continue the item to the August meeting

SECOND- Member Richardson

VOTE- Unanimous

### 3. Discussion of Temporary Structures in the Setbacks/Town Right of Way

Building Inspector Batson stated this issue was brought forward by the Town Code Enforcement Officer when she noticed the pool placed across the Town right of way and within the front setback of the property. He also found a pool in the backyard setback in a different area of Town around the same time. The code does not currently address issues of these natures so informed the property owners to reach out to PZC.

Property Owner April Agrilto stated the pool has been on the property for the past 7 years and this is the first year they have heard from the Town. The pool is only put up mid-June through the beginning of August. There is no permanent structure surrounding the pool.



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Chairman Galbraith commented is there any way for the property owner to have the structure without infringing on the Town right of way or the setback.

Property Owner April Agrilto answered there is no room for the pool to fit as if it was pushed up closer to the house, they wouldn't be able to use the garage on the property.

Building Inspector Batson commented this is the first year he has noticed the pool totally on the Town property and is concerned about the liability for the Town for allowing the pool to be on Town property.

Property Owner April Agrilto stated the pool was smaller in the beginning but for the last 3 years this pool has been used.

Property Owner Michael stated he has a very similar issue. They have a pool that is in the setback that they put up and remove each year. He thought since it was a temporary structure it was allowed such as trampoline or swing set.

Building Inspector Batson stated if the structure can be moved quickly, he believes it is an allowable use in the setback.

Member Garibay stated having a pool exposed there is a liability not only for the homeowner but also for the Town. He is struggling with entertaining anything on this issue.

Building Inspector Batson stated he agrees with the property owner that it would be a good idea for the Town to clarify the KBC code regarding temporary structures.

Member Richardson stated the Town needs to address temporary structures and need to better define it in the KBC Code.

Attorney Eldridge stated the Commission currently has two issues brought before them tonight. The first is the encroachment into the Town right of way which sounds like the PZC seems to have a consensus not to allow under any circumstances and second the encroachment into the setbacks. Any property owner can apply for a text amendment which the PZC would review before it was submitted to the Town Council for reviewal.

Chairman Galbraith stated PZC needs to include on the August agenda continued Discussion of Temporary Structures in the Town right of way and setbacks.

## 4. Prohibited Uses



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MOTION- Member Moore made a motion to table Prohibited Uses to the August agenda

SECOND- Member Richardson

VOTE- Unanimous

### 5. Underground Utilities

Member Richardson stated Building Inspector Batson is going to create a work number with Duke Energy Progress before the next meeting.

### 6. Resignation of William Moore from the P&Z Commission

Chairman Galbraith stated William Moore has served for 6 years on the PZC and his resignation is effective July 15, 2020.

## NEW BUSINESS

None.

## MEMBER ITEMS


None.

## ADJOURNMENT

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

SECOND- Member Moore

VOTE- Unanimous

ATTEST:   
Mandy Sanders, Town Clerk

  
Craig Galbraith, Chairman

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