



AGENDA

Town of Kure Beach Planning and Zoning Commission

Wednesday, October 7, 2020

A meeting of the Planning and Zoning Commission will be held Wednesday, October 7, 2020 in the Council Chambers commencing at **6:30 PM**.

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1. CALL TO ORDER

2. ADOPTION OF THE AGENDA

3. ADOPTION OF MINUTES

- 3 - 8 3.1. September 16, 2020 Regular Meeting
[PZC Minutes-09-16-2020](#)

4. PUBLIC COMMENT

5. OLD BUSINESS

- 9 - 10 5.1. Continued discussion of proposed text amendment to 15.36.010 (Control of Yard/Setbacks) (Galbraith)
[Attorney Memo Encroachment](#)
- 5.2. Update on Utility Conversion with Duke Energy Progress (Richardson)
- 11 5.3. Prohibited Uses (Galbraith)
[Prohibited Uses List](#)

6. NEW BUSINESS

- 12 6.1. Oath of Office for James Dugan
[James Dugan 10.7.2020](#)

7. ADJOURNMENT



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, September 16, 2020 @ 6:30 p.m.

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday, September 16, 2020. A quorum of members was present and Attorney Jim Eldridge attended.

P&Z MEMBERS PRESENT

Chairman Craig Galbraith
Member David Garceau
Member Kenneth Richardson
Member Tony Garibay
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 6:30 p.m.

ADOPTION OF AGENDA

MOTION- Chairman Galbraith made a motion to add appointment of the Vice-Chairman to the agenda and adopt as amended

SECOND- Member Richardson

VOTE- Unanimous

APPROVAL OF MEETING MINUTES:

- July 1, 2020 Regular Meeting

MOTION- Member Garceau made a motion to approve the minutes

SECOND- Member Garibay

VOTE- Unanimous

PUBLIC COMMENTS

None.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, September 16, 2020 @ 6:30 p.m.

OLD BUSINESS

1. Appoint a Vice-Chairman for the Planning & Zoning Commission

MOTION- Member Garceau made a motion to appoint Member Kenneth Richardson as the Vice-Chair of the P&Z Commission

SECOND- Chairman Galbraith

VOTE- Unanimous

2. Utility Conversion with Duke Energy Progress, Alex Winslow

Vice-Chairman Richardson stated:

- PZC is looking into installing utilities underground throughout the Town
- Spoke with a few contractors that do the underground utilities and was told to have Duke Energy provide the specifications before an estimate could be provided

Alex Winslow stated:

- The Town would need to determine what areas the Town has interest in burying and send the information to Duke Energy
- Once they receive the areas to be buried then would create an estimate
- The rough estimate is enough information for the Town to start the grant process for the Town
- Once the Town has secured the funding then Duke Energy would be able to draft up an agreement and the Town would be required to pay 5% of the total cost to complete the detail engineering study

Vice-Chairman Richardson commented he would like to set up a meeting with himself and Member Garibay to meet in person with Alex Winslow to review the process.

Chairman Galbraith asked once the town defines the areas, is there any cost to getting the original estimate?

Alex Winslow answered no, for the first broad estimate there wouldn't be a cost to the Town.

3. Interview applicants for P&Z alternate position:

Questions from the Commission for James Dugan:

- How long ago were you on Town Council?
- What do you see has changed in the past 5 years for Planning and Zoning?
- Do you support the height limit for the Town?
- What do you see as a major issue in the future for the Town?



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Applicant James Dugan stated he has been off of Town Council for 5 years. When he was on Town Council the Historic District and Parking were two topics that were addressed from day one. The community has stayed the same except for lower income individuals not being able to afford housing on the Island. He does support the height limit and thinks a major issue for the Town will be tear downs and rebuilds.

Questions from the Commission for Applicant Beth Burns:

- What do you see as a major issue in the future for the Town?
- Do you support the height limit for the Town?
- What was a challenging issue that you ran into with Public Policy?
- What is one item the Town does well and one thing the Town does not do well?

Applicant Beth Burns stated she sees a major issue the Town will face in the future is the need for improvement evaluations and revitalization. She does not have an opinion either way on the height limit. The biggest challenge was the diverse interest that was represented in their stake holders. One item the Town does very well is Hurricane preparedness and communication to residents. An item the Town could work on is a few neighbors have complained that when they call Town Hall it takes several conversations before the citizens reaches the correct department.

Questions from the Commission for Applicant Jerry Clark:

- Do you support the height limit for the Town?
- What is one item the Town does well and one thing the Town does not do well?

Applicant Jerry Clark stated he does support the height limit in Town. He moved here for the small sense of community and he appreciates all the activities the Town has to offer.

Chairman Galbraith stated he recommends James Dugan for the alternate position.

MOTION- Chairman Galbraith made a motion to recommend James Dugan to Town Council for the alternate Planning and Zoning Commission

SECOND- Member Zielinski

VOTE- Unanimous

4. Review resident text amendment application received for proposed text amendment to 15.36.010 (Control of Yard/Setbacks)

Building Inspector Batson:

- Several months ago, Code Enforcement Officer White noticed two pools that were located in the setback areas of single-family residences
- One was in the Town Right of Way and both pools were in the front and rear setbacks
- Property owners applied for a text amendment on July 10, 2020



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- The proposal for the text amendment is included in the agenda packet

Chairman Galbraith commented he has neighbors who have trampolines in the setbacks. Why does the Town allow trampolines vs a pool? He is a big fan of consistent enforcement.

Building Inspector Batson stated he agrees, and this is an item he has struggled with in the past few years. He looked at the situation that two firemen could pick up a trampoline and move it out of the way a lot quicker than a 1,000-gallon pool.

Member Garibay stated the backyard setback and the front yard setback are two different conversations to be held.

Member Garceau stated he agrees the Commission has two different conversations needed to be held regarding the backyard setback vs the front yard setback. He has a strong opinion on no items in the front setback. He thinks the Commission should disapprove the text amendment at this time and bring forward a recommendation at a future meeting regarding the backyard setback.

Text Amendment Applicant Kure Hern 2020 5th Avenue stated:

She is the resident that had the pool in the front yard setback and she fully understands moving forward that she will not be allowed to put her pool in the front yard setback due to safety reasons. She brought forward this text amendment with assistance from Code Enforcement Officer White and may have written the text amendment incorrectly. She would like to be able to put her pool in the side or backyard setback so will still need approval in the future.

Chairman Galbraith asked Building Inspector Batson does an above ground pool require a permit and does he have a major issue with the pool being allowed in the backyard setback?

Building Inspector Batson stated above ground pools do require a permit. The proposed text amendments are normally never written correctly the first time, so Kure Hern did not write it incorrectly. He does not have an opinion on the text amendment but needs better clarification for his Code Enforcement Officer to be able to enforce.

Text Amendment Applicant Michael Agrillo stated:

He agrees with only allowing the pool in the backyard setback but still has concern regarding the permit process. His above ground pool would still currently be declined due to the pool being in the backyard setback. If the PZC decides to review further a new set of text amendments he asks that the penalties received continue to be on hold till a decision is made.

Building Inspector Batson stated changing this text amendment in the future could allow pools in the backyard setback.



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Chairman Galbraith stated he supports declining the text amendment, but the PZC needs to review in the future the backyard setback.

Member Zielinski commented she has issues with citizens having pools in the rear setback. She does not support changing the text amendment.

MOTION- Member Richardson made a motion to decline the proposed text amendment for 15.36.010 (Control of Yard/Setbacks)

SECOND- Member Garceau

VOTE- Unanimous

MOTION- Chairman Galbraith made a motion to continue the discussion of the text amendment on the next meeting agenda

SECOND- Member Richardson

VOTE- Unanimous

MOTION- Member Richardson made a motion to approve the Consistency statement for declining the text amendment application received for KBC 15.36.010

SECOND- Member Garceau

VOTE- Unanimous

5. Proposed text amendments to Chapter 8 (Public Health and Safety):

- Section 16 (Light Trespass Nuisance)
- Section 20 (Complaint Investigation)
- Section 30 (Notice to Abate)
- Section 40 (Abatement By Town - Upon Failure of Owner)

Attorney Eldridge stated:

- Spoke with Chairman Galbraith and after the last PZC meeting agreed to simplify the ordinance
- Included in the agenda packet is an abbreviated and non-abbreviated version
- Removed several definitions and added an exemption for porch lights
- Rewrote the General Standards in the abbreviated version so it is simplified
- Changed the name of Chapter 8 in the KBC Code of Ordinances to Nuisances

Chairman Galbraith stated he has reviewed several different lighting ordinances to compare the General Standards in other residential family communities and the abbreviated version is more comparable.

Member Garceau stated he still prefers the detail that is included in the non-abbreviated version of the proposed text amendment, but he supports either version.



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Building Inspector Batson asked under the Exemptions section of the proposed text amendment does the PZC really want to make an exception for one local business?

Member Garceau stated the original intent was the lights on the actual pier. It may need to be cleaned up as there was no intention to include the pier building.

MOTION- Chairman Galbraith made a motion to recommend to the Town Council the abbreviated version of the proposed text amendment to Chapter 8 with the removal of the Kure Beach Pier under Exemptions

SECOND- Member Richardson

VOTE- Unanimous

NEW BUSINESS

None.

MEMBER ITEMS

None.

ADJOURNMENT

MOTION- Member Richardson made a motion to adjourn the meeting at 8:17 p.m.

SECOND- Member Garibay

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.

ELDRIDGE LAW FIRM, P.C.

ATTORNEY AND COUNSELOR AT LAW

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MEMORANDUM

TO: KURE BEACH PZC
FROM: JAMES E. ELDRIDGE, ATTORNEY
DATE: SEPTEMBER 9, 2020
RE: SETBACKS AND ENCROACHMENTS UNDER THE CODE

The Agrillo/Hern application to amend KBC 15.36.010 *Control of Yards/Setbacks* seeks to add a new sub-section F allowing “temporary structures that can be easily removed within a day, including above-ground pools, trampolines, and playground equipment,” within (any) setback. In considering the application, it may be useful for PZC to review those Town Code provisions which, while not necessarily on point or applicable to the instant matter, nonetheless impart some sense as to how the Code presently regulates encroachments into the setbacks.

15.03.010 Definitions:

Setback shall mean the distance between the minimum building line and the street right-of-way line required to obtain the front side, or rear yard open space provisions of this chapter in order to provide for runoff control, health, safety, firefighting, free flow of air and adequate off-street parking. In the event there is not a street right-of-way involved, then the property line shall be used in establishing the setback.

15.36.010 Control of Yards/Setbacks:

Any building or other structure requiring a building permit shall not be permitted in the setback area with the exception of the following items:

- A. Fence.
- B. Beach walkovers that are at least ten (10) feet to the rear of the building, and meet the 1996 Hurricane Replacement Standards.
- C. Ground level walkways.
- D. Ground level aprons for pools.
- E. Disability ramps for individuals with verifiable disabilities provided that: i) a plan showing the design of the disability ramp is submitted to and approved by the Building Inspector prior to the construction thereof; ii) the ramp is removed by the property owner when providing access for a disability is no longer needed or in the event

the property is sold and iii) said approval and removal obligation is set forth in a written agreement entered into between the Town and the property owner at the time the plan is approved.

15.36.070 *Location of Accessory Buildings on Residential Lots:*

Accessory buildings shall be in the rear yard and shall not exceed one (1) story with a height limit of fifteen (15) feet. Accessory buildings shall meet the setback requirements of a residence, and shall be erected, reconstructed or structurally altered in accordance with the building code.

15.38.020 *Continuance of Nonconforming Situation:*

B. *Extension in yard/setback space.* A structure that is nonconforming as to yard/setback requirements but conforms to the permissible use within the district in which it is located shall not be enlarged or extended in any direction (horizontally or vertically) into the required open space of the yard/setback area, except for energy conservation enclosures in subparagraph I below, and changes in roof design in subparagraph J below, and ramps, lifting devices and hand rails or a combination of these for the handicapped in subparagraph K below.

Business Zoning	Residential Zoning
Tattoo Parlor	Barber Shops
Vaping Stores	Hair Saloon
Adult Entertainment/Publications/Escorts	Beach Chair and Umbrella Rentals
Fast Food Restaurants/Drive Throughs	Surfboard Sales
Billboards	Restaurants/Coffee Shops
Weapons/ammunitions	Grocery/Quickly Mart Stores
Selling of Fireworks	Realtor Offices
Gambling/OTB/Sport	Financial Advisory Offices (Accounting/CPA/Planing)
Pawn Shops	For Profit: Auto Detailing Auto Repair Golf Cart Repair Surfboard Repair/Maintenance
Flea Markets	Sell of Fireworks
	Gambling
	FLea Markets (Periodic short term yard sales are OK)
Piercing studio	Surfboard repair
Tanning salon	skateboard shop
	fast food restuarant
	parking lot
	marina / boat repairs
	bicycle sales / repair
	tarot card reading
	nail salon
	massage parlor
	daycare
	assisted living
	vetinarian / dog care
	pet store
	tow trucks
	hotel / motel / B&B
	Restuarant / Bar / Night club
	video arcade
	Medical facility
	bait and tackle shop
	gas station
	beach goods store
	storage faciltiy
	Rv/ Campgrounds



*O*ATH OF OFFICE

Planning and Zoning Commission

I, James Dugan, swear that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of the State of North Carolina not inconsistent therewith, and that I will faithfully discharge my duties as an alternate Member of the Planning and Zoning Commission for the Town of Kure Beach, so help me God.

James Dugan, Member

Date: _____

Mandy Sanders, Town Clerk