



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 6, 2023 @ 6:00 pm

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday December 6, 2023. A quorum of members was present and Attorney Jim Eldridge attended.

P&Z MEMBERS PRESENT

Chairman Byron Ashbridge
Vice-Chair Joe Barlok
Member Jim Dugan
Member Craig Galbraith
Alternate Member Connie Mearkle

P&Z MEMBERS ABSENT

STAFF PRESENT

Beth Chase, Town Clerk
Mandy Sanders, Director of Administration
John Batson, Director of Compliance and Development
Bethany White, Code Enforcement Officer

COUNCIL LIAISON PRESENT

Commissioner Dennis Panicali

CALL TO ORDER

Chair Ashbridge called the meeting to order at 6:00 p.m.

ADOPTION OF AGENDA

MOTION- Member Galbraith made a motion to adopt the agenda as presented
SECOND- Member Barlok
VOTE- Unanimous

APPROVAL OF MEETING MINUTES:

- November 1, 2023 Regular Meeting

MOTION- Member Barlok made a motion to approve the minutes
SECOND- Member Dugan
VOTE- Unanimous

PUBLIC COMMENTS

None



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 6, 2023 @ 6:00 pm

OLD BUSINESS

1. Continued Discussion of Zones RA-1 and RA-3 (15.10.040 and 15.20.040)

Member Barlok stated he met with Director of Compliance and Development Batson and worked out the wording. The handout in front of PZC members tonight is just for members to review. The handout is hereby incorporated into the minutes. He will bring forward next month the proposed text amendments and Attorney Eldridge will handle the consistency statement for the PZC to take action.

2. Review and Recommendation on Proposed Syntactical Text Amendments Part Two: KBC Preface Through Chapter 4

Attorney Eldridge stated Member Barlok did a wonderful job on Syntactical Part 2. He made very few changes to the document. Attorney Eldridge reviewed the proposed text amendments hereby incorporated into the minutes.

Member Galbraith commented on page 3 the definition of gender, being a university professor, this is a hot topic, and he is wondering if there are any issues with this definition. He does not know of a place in the code that talks about gender. It is a sensitive issue and he thinks if you can remove the he/she.

Member Barlok commented as he is reviewing the chapters, he has been changing out he/she with they/their/them. That doesn't answer the question on the definition though.

Attorney Eldridge commented it can be removed if PZC would like it to be changed. There are probably throughout the code numerous references currently to he/she.

Director of Administration Sanders commented it could be addressed as it is found in the code.

Member Barlok commented on page 5 there are a few syntactical changes. On the second line under 1.04.060 section need to capitalize "Town". Under 1.04.070 A.2 need to remove his/her under "Town Clerk or his/her designee".

Member Galbraith stated he would review amendments and acts on identity and bring forward information.

MOTION- Member Galbraith made a motion to table this item to the January agenda

SECOND- Member Barlok

VOTE- Unanimous



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 6, 2023 @ 6:00 pm

3. Discussion on use of Ipads

Chairperson Ashbridge commented there is interest of wanting to use Ipads and get away from using so much paper. Town Clerk Chase has set me up on the Agenda Notes app and put the bookmarks on his personal iPad which has been useful.

Director of Administration Sanders stated she spoke with the Finance Officer to see if there were any funds to purchase Ipads. The Ipads would be different from the Town Council Ipads and may be a little smaller and she would need to go to Town Council for approval as it is not a budgeted item. The Ipads will only work on wifi and not have cellular data.

Chairman Ashbridge stated PZC does not need to spend if this is something that is not desired by the Commission.

Member Galbraith commented he understands going electronic but does not see the need for the Town to purchase as he already has some at home. The Town does not need to have one bought.

Chairman Ashbridge commented he does not need one bought either as he has one.

Member Dugan stated he owns an Ipad as well.

Director of Administration Sanders commented the Commission has two vacancies so need to see if those members have electronics or the Town would need to purchase.

CONSENSUS- PZC agreed to wait for the vacancies to be filled and then will have further discussion on the Commission going electronically

NEW BUSINESS

CLOSED SESSION

None.

ADJOURNMENT

MOTION- Member Galbraith made a motion to adjourn the meeting at 6:48 p.m.

SECOND- Member Dugan

VOTE- Unanimous



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, December 6, 2023 @ 6:00 pm

ATTEST: Beth Chase
Beth Chase, Town Clerk

Byron Ashbridge
Byron Ashbridge, 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>planning and zoning.

December 6, 2023 PZC Meeting

Discussion of "Modification to required lot area and required yards/setbacks".

[Example Sketch From Zoning Map]

1. For RA-1, it is recommended that 15.10.040 be deleted completely.
 - a. A, B, C, D are not modifications. They are requirements of 15.10.030.
 - b. E, 15.10.030.C requires a 20 ft front yard setback & 20 ft corner lot side yard setback for roadway visibility purposes.

~~15.10.040 Modification To Required Lot Area And Required Yards/Setbacks~~

~~A dwelling may be erected on a lot or plot having less than the minimum area and width in KBC 15.10.030, provided the same existed under one (1) ownership, to include heirs at law or legislators, by virtue of a recorded plat or deed recorded in the office of the register of deeds of New Hanover County prior to the original passage of this requirement. The following modification to required lot area and required yards/setbacks shall apply in this case:~~

- ~~A. Required lot area shall be five thousand (5,000) square feet.~~
- ~~B. No modification shall be allowed in front yards/setbacks.~~
- ~~C. Side yards/setbacks shall not be reduced to less than five (5) feet on each side and the total width of the two (2) side yards/setbacks shall not be less than ten (10) feet.~~
- ~~D. Rear yards/setbacks shall not be reduced to less than ten (10) feet.~~
- ~~E. Corner lot side yard/setback shall not be allowed to reduce the buildable width of the main building to less than twenty (20) feet.~~

(Ord. of 2-20-18)

2. For RA-2, this Section was previously deleted for RA-2.

15.14.040 Reserved

HISTORY

Amended by Ord. Chapter 11 and 15 on 1/18/2023

3. For RA-2T, this Section was previously deleted for RA-2T.

15.18.040 Reserved

HISTORY

Amended by Ord. Chapter 11 and 15 on 1/18/2023

4. For RA-3, this wording will be modified as shown below and moved to Article 15.38, "Nonconforming Uses". The text below shows the changes. The text in 15.38 is the new wording.

15.20.040 Modification To Required Lot Area And Required Yards/Setbacks

The following requirements are for lots having less than the required minimum area located in the Residential Districts only (RA-1, RA-1A, RA-2, RA-2A, RA-2T, RA-3, RA-3A, RA-4):

- A. A dwelling may be erected on a lot or plot having less than the required minimum area and width provided the same existed under one (1) ownership, this to include heirs at law or legators, by virtue of a recorded plot or deed recorded in the office of the register of deeds of New Hanover County prior to the original passage of this requirement.
- B. The following modification to required yards/setbacks shall apply in this case:
 1. Front **and Rear** yards/setbacks shall not be modified.
 2. The required side yard/setback on every lot having less than thirty-eight (38) feet **frontage Mean Lot Width** may be reduced by one half foot for each foot said lot is less than forty (40) feet in width, provided further, however, that no side yard/setback in this case shall be less than three (3) feet in width.
 3. ~~The side yard/setback on the street side of a reversed corner lot shall have a width not less than fifty (50) percent of the front yard/setback required on lots in the rear of such a reversed corner lot. The modifications provided for in this subparagraph shall not have the effect of reducing the buildable width of the main building, to less than twenty six (26) feet or for accessory buildings to less than twenty (20) feet on any lot of record at the time of the adoption of this modification in January, 1961.~~

(Ord. of 2-20-18)

5. The entire 15.38 is shown below for clarity. The new Section is 15.38.030.

15.38 NONCONFORMING USES

15.38.010 Nonconforming Situation

15.38.020 Continuance Of Nonconforming Situation

15.38.030 Modification To Required Lot Area and Required Yards/Setbacks

15.38.010 Nonconforming Situation

A situation that occurs when, on the effective date of the ordinance from which this section was derived or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located, the lot, structure or use shall be considered nonconforming.

15.38.020 Continuance Of Nonconforming Situation

The lawful use of a structure, land, or use of structure and land existing at the time of the passage of this ordinance from which this section was derived may be continued although such does not conform with the provisions of this chapter provided they conform to the following provisions:

- A. *Minimum single lot requirements.* Where the owner of a lot, or his successor in title thereto does not own sufficient land to enable him to conform to the area requirements of this chapter, the lot may be used as a building site, provided that the minimum back, front, and side yard/setback requirements for the district in which the lot is located are met.
- 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.
- C. *Change of use.* A nonconforming use shall be changed to only those uses that are permitted in this chapter for the district in which such nonconforming use is located.
- D. *Extension in use.* There shall be no extension in a nonconforming use that would increase the building's occupancy, square footage, production, servicing or utility demands except that any structure used for single-family residential purposes and maintained as a nonconforming use or structure may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard/setback requirements which at a minimum should comply with the RA-1A residential requirements.
- E. *Repairs and alterations.* Normal maintenance, repairs, and improvements of nonconforming buildings shall be permitted provided that it does not violate subparagraphs B—D above.
- F. *Damage or destruction.* Any nonconforming structure or any building containing a nonconforming use which has been damaged, destroyed, demolished, or removed either by accident or by natural causes may be reconstructed and used as before if a building permit is applied for within one (1) year from the date of destruction, provided, it does not violate subparagraphs B—D above.
- G. *Cessation.* If active operation of a nonconforming use is discontinued for a period of twelve (12) consecutive months, such nonconforming use shall thereafter be used only for a conforming use. A cessation will also occur when a structure is willfully removed. Once a nonconforming situation has been changed to a conforming situation, it shall not revert back to a nonconforming situation.
- H. *Transfer of nonconforming property.* Nonconforming situations cannot be transferred with a lot if it is vacant at the time of transfer, except as noted in subparagraph A above.

- I. *Energy conservation.* A covered entranceway already in existence within the setback area, which has a permanent foundation and floor and is covered by an existing roof, may be enclosed for energy conservation purposes. The inside dimensions of the enclosure shall be less than seventy (70) square feet in area.
- J. *Change of roof design.* A flat roof may be changed to a pitched roof provided that such roof shall not exceed a four (4) to twelve (12) ratio. The pitched roof shall not extend horizontally any further than existing nonconforming the situation, nor shall it exceed the current building height limitation. Gutters and downspouts shall be provided to control runoff when adjoining property would be affected as a result of this modification. Where gutters are required, they shall not encroach on the adjoining property.
- K. *Facilities for handicapped persons.* A ramp, lifting device and hand rails or a combination of these may be constructed in the setback area, provided that no other suitable conforming alternative exists, for the use of persons who are unable to enter or leave their place of dwelling without the assistance of other persons or a self-propelled method of travel. The facilities listed in this section may not encroach upon the adjoining property. Application for the facility will be made to the building inspector who will investigate and make recommendation to the planning and zoning commission. After their review, planning and zoning will make recommendations to Kure Beach Town Council. After council's review of the case, and upon approval, they will instruct the building inspector to issue a permit and monitor the construction.

15.38.030 Modification To Required Lot Area and Required Yards/Setbacks

The following requirements are for lots having less than the required minimum area located in the Residential Districts only (RA-1, RA-1A, RA-2, RA-2A, RA-2T, RA-3, RA-3A, RA-4):

- A. A dwelling may be erected on a lot or plot having less than the required minimum area and width provided the same existed under one (1) ownership, this to include heirs at law or legators, by virtue of a recorded plot or deed recorded in the office of the register of deeds of New Hanover County prior to the original passage of this requirement.
- B. The following modification to required yards/setbacks shall apply in this case:
 - 1. Front and Rear yards/setbacks shall not be modified.
 - 2. The required side yard/setback on every lot having less than thirty-eight (38) feet Mean Lot Width may be reduced by one half foot for each foot said lot is less than forty (40) feet in width, provided further, however, that no side yard/setback in this case shall be less than three (3) feet in width.

(Ord. of 3-18-08(8); Ord. of 2-20-18)

HISTORY

Amended by Ord. [Chapter 15](#) on 6/19/2023