



TOWN COUNCIL AGENDA

PUBLIC HEARING

JULY 7, 2015 @ 6:00 PM

**PROPOSED AMENDMENT TO CODE OF ORDINANCES, SECTION 19-329,
TO ADD FIREPLACES TO ARCHITECTURAL FEATURES AND
TO MODIFY SETBACK REQUIREMENTS FOR CORNER LOTS**

CALL TO ORDER – Mayor Lambeth

OPENING AND PURPOSE OF HEARING

The purpose of the public hearing is to receive comments on the draft proposal to amend Chapter 19 Zoning, Article IV Supplemental District Regulations, Section 19-329 Modification of required yard, to add clarification to the term “architectural features” to include fireplaces, and to add the following text to the end of the current ordinance: “On corner lots, architectural features may extend twenty-four (24) inches into the 10’ side setback.”

Notice of the public hearing was posted at Town Hall and on the Town’s website on June 17, 2015, and was published in the Island Gazette on June 24 and July 1, 2015.

PUBLIC COMMENTS

(sign in at podium, if you wish to make comments)

CLOSING OF PUBLIC HEARING – Mayor Lambeth

COUNCIL DISCUSSION AND CONSIDERATION

ADJOURNMENT



KURE BEACH
PLANNING & ZONING COMMISSION

Meeting Date: June 3

Agenda Item# VI

Present to Town Council on:

Date: June 16, 2015

PLANNING AND ZONING COMMISSION
CONSISTENCY STATEMENT
N.C. Gen. Stat. 160A-383

(To be read into the record as a motion, seconded, and voted upon)

_____ This recommendation is consistent with the objectives and policies of the Town of Kure Beach Land Use Plan adopted by Town Council September 27, 2006 (Adopted and Certified by Coastal Resources Commission November 17, 2006)

_____ This recommendation applies to Section _____ Part _____ of the Town of Kure Beach Land Use Plan

X Consideration of recommended text amendment to The Town of Kure Beach Code , Chapter 19 Zoning, Art. IV Supplemental District Regulations Sec. 19-329

_____ This recommendation applies to the John Sawyer Architects B1 District Study (HPA 2007)

The Planning and Zoning Commission considers its recommendation to be reasonable and in the public interest based on the following:

1. To add clarification to the term “architectural features” to include fireplaces.
2. To allow flexibility and tolerance of side yard setbacks for corner lots.

CURRENT ORDINANCE:

Sec. 19-329 – Modification of required yard.

Architectural features such as fire escapes, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but not carports or porches, may project not more than eighteen (18) inches into any required yard.

PROPOSED ORDINANCE:

Sec. 19-329 – Modification of required yard.

Architectural features such as fire escapes, **fireplaces**, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but not carports or porches, may project not more than eighteen (18) inches into any required yard. **On corner lots, architectural features may extend twenty-four (24) inches into the 10' side setback.**

Therefore, the Planning and Zoning Commission requests Town Council's consideration of the above recommendation.

Attest:



Craig Galbraith, Chairman
Planning and Zoning Commission



Kure Beach Inspections Department

117 Settlers Lane • Kure Beach, NC 28449
Office (910) 458-6535 • Fax (910) 458-4269
John Batson, Inspector

To: Planning and Zoning Commission

From: John Batson

Re: Requested Text Amendment to 19-329

Date: May 6, 2015

Commissioners,

We haven't had a text amendment request in quite sometime. It is protocol that you receive a staff recommendation.

Section 19-329 is a part of the ordinance that comes up during Board of Adjustment proceedings routinely. Most cases presented have to do with setback encroachments.

The requested amendment is reasonable because it would only apply to corner lots. However, I ask the commission to look at the following changes to the request:

1. Add fireplace to the list of architectural features.
2. New wording to include *all* architectural features may be allowed to extend 24" into the 10' side setback of a corner lot.

Current ordinance:

Sec. 19-329. - Modification of required yards.

Architectural features such as fire escapes, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but not carports or porches, may project not more than eighteen (18) inches into any required yard.

(Ord. of 8-19-03)

Proposed ordinance: **Changes/additions in red.**

Sec. 19-329. - Modification of required yards.

Architectural features such as fire escapes, **fireplaces**, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but not carports or porches, may project not more than eighteen (18) inches into any required yard. **On corner lots, architectural features may extend twenty-four (24) inches into the required 10' side setback.**

(Ord. of 8-19-03)

There are no foreseeable issues with these changes other than potential view obstructions of other properties.



Received
 We want to be heard before 5/4/15
 p+2 at June 3, 2015 meeting
 Scheduled for June
 3rd meeting
 of P+2

**TOWN OF KURE BEACH
 APPLICATION FORM**
 Requesting text amendment to Code of Ordinances

PLEASE READ THOROUGHLY BEFORE COMPLETING
 TYPE OR PRINT ONLY PLEASE

<u>Name of Applicant</u> Richard & Ann Lawing	<u>Application No.</u>	<u>Zoning Area</u>
<u>Applicant's Phone No.</u> <u>Date</u> 910-617-4618 4/29/15	<u>Address of Applicant</u> 704 sea castle ct wilmington, NC	<u>Zip Code</u> 28412
<u>Name of Text to be changed</u> Modification of required yards	<u>Section of Text to be changed</u> Sec. 19-329	

APPLICATION FOR A TEXT AMENDMENT

CONTENT OF THE APPLICATION; FEES

Application must be received and reviewed by the Town Clerk for completeness prior to acceptance. A \$100 fee payable to Town of Kure Beach MUST accompany the application. Should the text amendment be for Chapters 15 "Subdivision" or 19 "Zoning" the petition must be reviewed by the Planning and Zoning Commission and a recommendation made by them to Town Council before Town Council may act. The Planning and Zoning Commission and/or the Town Council reserve the right to require additional information, if needed, to assure that the proposed text amendment is in accordance with all of the Town's plans and policies. The Town Council gives final approval for all text amendments to the Code of Ordinances.

GUIDE TO REVIEW PROCEDURES

Applications for a text amendment are first referred to all departments for review and comment. Should the request be for an amendment to Chapters 15 or 19, the Kure Beach Planning and Zoning Commission must also review and make a recommendation before being acted upon by the Kure Beach Town Council. Applications must be received in the office of the Town Clerk twenty (20) working days before the Planning and Zoning Commission meeting or the Town Council meeting (should Planning & Zoning involvement not be required) to allow adequate time for processing and review.

Planning and Zoning Commission meetings are held at 7:00pm in the Kure Beach Town Hall, 117 Settlers Lane, North Carolina, on the first Wednesday of each month. The Planning and Zoning Commission's recommendation regarding this application will automatically be referred to the Kure Beach Town Council. Town Council meetings are held on the third Tuesday of each month at 6:30pm at Town Hall as referenced above.

EXISTING TEXT

Sec. 19-329 - Modification of required yards.

Architectural features such as fire escapes, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but not carports or porches, may project not more than eighteen (18) inches into any required yard.

PROPOSED TEXT CHANGE

Sec. 19-329 - Modification of required yards.

Architectural features such as fire escapes, cornices, eaves, steps, gutters, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features, but not carports or porches, may project not more than eighteen (18) inches into any required yard. For corner lots on two intersecting streets a single cantilevered fireplace may project not more than twenty four (24) inches into the required yard setback.

Purpose of requested amendment:

To allow for common architectural features to be utilized on the exterior of structures which do not impact public, health, safety, and welfare. And would be on corner side of house in 10 ft. setbacks.

SEE ATTACHED EXPLANATION FOR REASON WE HAVE ASKED FOR THIS AMENDMENT

242 N. 3rd Ave, Kure Beach

You need some background as to why we are requesting a change to Amendment Sec. 19-329.

In April of 2012 we applied for a building permit, gave John Batson plans and specifications and the plans showed a cantilevered fireplace on the second level which Richard pointed out to John. We had a foundation plan for a 35 ft. side house on a 50 ft. lot. John kept the plans for 3 days to be sure we were following all codes and zoning. He issued us a permit, made multiple inspections during construction, even a final inspection which passed and was called in for power. See attached letter from power company saying they do not issue power until a final inspection has passed. We have permanent power in our name which no one can change. We do not get permanent power unless a final has been issued.

A picture of the house and a final survey will show you what a very, very small area we are talking about. Approximately 30 sq. ft. on the side of approximately 1600 sq. ft. flat wall on the corner lot in a 10 ft. setback 10 ft. in the air on the second level only (does not go to ground or to third level) and does not impact public health, safety, and welfare in any way whatsoever.

Richard has been in construction since he was a teenager and been the building contractor in over 200 houses and never had problems in the past with any inspector or zoning officer. They always told us before construction what we could or could not do. Whether this was a true mistake or oversight on John's part OR because we billed the town for a window John broke "testing to see if it was impact glass" (it was inscribed on the window and the inside glass broke) John or the town needs to be accountable for us being in this situation.

We did not know John was saying he did not sign off the house for 3 months after we got power and a third party told us at that time. We would have been living in the house if our house had been sold. We are now keeping up two houses. We are paying taxes, upkeep, utilities, maintenance and lost all our warranties on this house. The house is on the tax books for almost \$500,000.00. John told us not to put furniture in this house which means we can't live in it, sell it, or rent, condemning the house which even John says is a well built house.

We are 82 and 77 years of age and want to resolve this matter. We are not trying to be confrontational but are stating indisputable facts.





Progress Energy Carolinas, Inc.
Customer Service Center
PO Box 1771
Raleigh NC 27602-1771

April 11, 2013

Ann Lawing
704 Sea Castle Ct
Wilmington, NC 28482-0000

RE: Account # 089-717-5949

Dear Valued Customer:

In response to your request, the inspection for permanent service located at 242 N. 3rd Ave. Kure Beach, NC 28449 was received on 11/06/2012. Signed by Denise McVicker the permit number was 124130 and stated for 200 amp service, which is normally considered permanent service. Prior to that we had received an inspection approval on 04/11/2012 for temporary service, which was then removed on 11/07/2012 when the permanent service was connected.

If you have questions, or if we can be of assistance in meeting your energy needs, please contact our Customer Service Center at err or err during the hours of 7:00 a.m. to 9:00 p.m., Monday through Friday.

Sincerely,

Mercedes Sierra
Bilingual Customer Service Representative

www.progress-energy.com *Check out Progress Energy's customer-focused Web site for services and information about your account. Progress Energy. People. Performance. Excellence.*

I talked to Josie and papers she gave me. Let me know if I need anything else. We want to appear before P+2 June 3, 2015.

We will be out of town at our granddaughters Optometry School graduation from May 6 to 10. Will have cell phone with me.

Please call and let me know you received this package. Please see that this gets to right place

Thanks

Ann Lawing
910-617-4618
4618

Richard M. Lawing Ncdl 557287
Ann B. Lawing Ncdl 1756078
704 Sea Castle Ct.
Wilmington, NC 28412

66-30/531
353

15988

4-29-15

DATE

PAY TO THE
ORDER OF

Town of Kure Beach

\$100.⁰⁰

One hundred and 00/100

DOLLARS



Security Features
Details on
Back

Look for: Micro Print signature line, gray type and line work, First Citizens Bank logo on back. If not present, do not cash.

First Citizens Bank

Premier

FOR Fee for P+2 June 3, 2015 Ann B Lawing MP

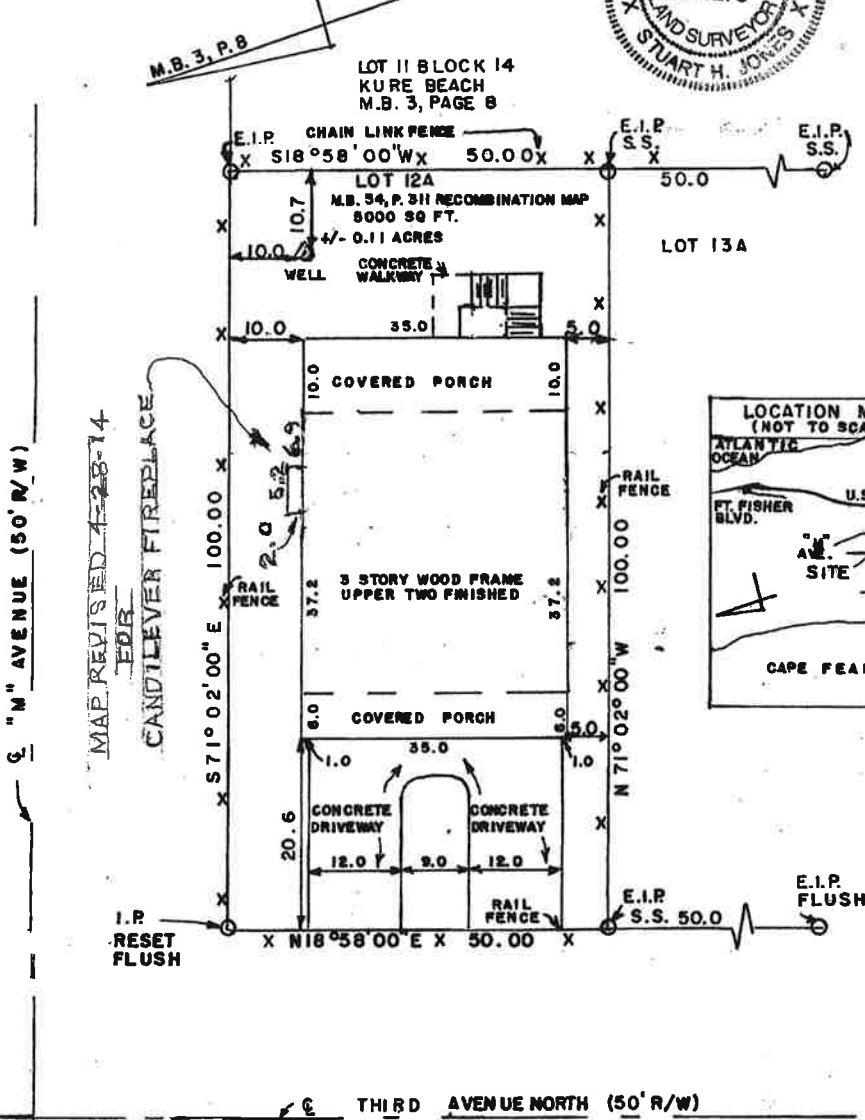
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Sec 19-329 zoning

I, STUART H. JONES PROFESSIONAL LAND SURVEYOR NO. L-1275 CERTIFY THAT THIS SURVEY IS A RECONCILIATION OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE



NOTE NO. 1 - FOR REFERENCE TO "1" WITHIN PLATTED PROPERTY SEE A DEED RECORDED IN DEED BOOK 5575, PAGE 2722, ALSO SEE A MAP ENTITLED "RECONCILIATION OF PREVIOUSLY DIVIDED LOTS KURE BEACH INVESTMENTS, LLC RECORDED IN MAP BOOK 54, PAGE 311 IN THE NEW HANOVER COUNTY REGISTRY.
 NOTE NO. 2 - THIS LOT IS NOT LOCATED IN A FLOOD HAZARDOUS AREA AS SHOWN ON FIRM MAP FOR NEW HANOVER COUNTY NO. 370170 3039 00J EFFECTIVE 4-3-2006
 NOTE NO. 3 - HEIGHT OF HOUSE IS 34 FEET ABOVE NORMAL GROUND.



MAP REVISED 4-28-14
 FOR
 CANDLESTICK FIREPLACE

SURVEY FOR
 RICHARD M. LAWING AND WIFE
 ANN B. LAWING
 TOWN OF KURE BEACH
 NEW HANOVER COUNTY
 NORTH CAROLINA
 DATE OF SURVEY - 10-30-2012
 SCALE - 1 INCH = 20 FEET



Dean Lambeth
Mayor

Emilie Swearingen
Commissioner

Steve Pagley
Commissioner



Craig Bloszinsky
Mayor Pro Tem

David Heglar
Commissioner

Nancy Avery
Town Clerk

Town of Kure Beach

117 Settlers Lane • Kure Beach, NC 28449

(910) 458-8216 • (910) 458-7421 Fax

www.townofkurebeach.org

May 5, 2015

Richard and Ann Lawing
704 Sea Castle Court
Wilmington, NC 28412

Re: Application for Text Amendment to the Code of Ordinances

Mr. and Mrs. Lawing,

I received your application and fee for a text amendment to the Code of Ordinances on May 4, 2015. This meets the required 20 days to be on the June 3rd agenda of the Planning and Zoning Commission. The meeting will be at 7 pm in the Council Room of Town Hall, located at 117 Settlers Lane in Kure Beach.

The Planning and Zoning Commission will address and decide whether to recommend adoption or not to the Town Council.

If the Planning and Zoning Commission recommends adoption, the Town Council must, by law, first hold a public hearing.

Timeline involved in the process is:

June 3rd – Planning & Zoning meeting

June 16th - Town Council meeting – public hearing scheduled for July meeting

July 21st – Town Council holds public hearing and votes whether to adopt or not

Please plan to attend the June 3rd meeting of the Planning and Zoning Commission.

Sincerely,


Nancy Avery
Town Clerk