



BOARD OF ADJUSTMENT
ANNUAL MEETING ♦ JANUARY 27, 2009

MINUTES

An Annual Meeting of the Kure Beach Board of Adjustment was held January 27, 2009 beginning at 7:30 pm at Kure Beach Town Hall, located at 117 Settlers Lane, Kure Beach, NC. A quorum was present.

MEMBERS IN ATTENDANCE:

Harry Humphries, Chair
Anne Brodsky
Norm Collins
Charles Allo
Peter Boulter, Alternate
Linda Cheshire, Alternate

MEMBERS ABSENT

NONE

STAFF IN ATTENDANCE:

Building Inspector John Batson
Town Attorney Holt Moore
Secretary Aimee Zimmerman

CALL TO ORDER

Vice Chair Humphries called the meeting to order at 7:29 p.m.

ELECTION OF CHAIR AND VICE CHAIR

ACTION: Member Allo made a motion to appoint Harry Humphries as Chair. Member Brodsky seconded the motion. The motion carried unanimously.

Member Brodsky made a motion to elect John Gordon as Vice-Chair. Member Boulter seconded the motion. The motion carried unanimously.

ANNUAL REPORT:

The members reviewed the annual report.

ACTION: Member Brodsky made a motion to approve the annual report as written. Chair Humphries seconded the motion. The motion carried unanimously.

RULES OF PROCEDURE:

- Member Allo questioned the role of alternate members.
- He stated that there had been times in the past when he, as an alternate, was asked to appear in the place of a regular member but that, after preparing for the hearing, was told the regular member could attend.
- He stated that it should be written that once an alternate is asked to attend, has received the agenda packet, that the alternate is entitled to be at the hearing even if the regular member is able to attend.
- Chair Humphries does not believe this needs to be in the Rules of Procedure but rather a rule among the current board.

ACTION: Chair Humphries made a motion that when regular member notifies the secretary that they cannot attend a meeting and an alternate has been chosen to attend that meeting in that person's place, and accepted the packet, the regular member cannot change his/her mind and attend the meeting and bump the alternate. Member Gordon seconded the motion. The motion carried unanimously.

- Member Allo encouraged the alternates to attend any hearings although they cannot have any input during the hearing.
- Chair Humphries concurred and stated that if an alternate attends, that would allow the alternate to fill in a spot should something suddenly come up.
- Chair Humphries stated that council requested him to inquire whether the Board desired any additional training.
- Member Allo suggested that the Board should get together periodically to discuss the goings-on in hearings.
- The chairman is entitled to call a special meeting at any time. However, meetings must be published.
- Member Boulter suggested that the Board meet yearly with Planning and Zoning.
- Member Allo stated that the Board is only to hear matters coming from Planning and Zoning.
- Some of the issues that the Building Inspector denies get passed to the Board even though they did not fall under P&Z or Chapter 19.
- Member Allo stated that that was the case in a matter regarding fencing, which has own ordinance.

- In order for the Board to hear anything, it must be something that has followed the correct procedures.
- The Town Attorney can also review cases to make sure that Board of Adjustment is an appropriate forum.
- In the most recent case, the Board felt the appellant was confused on the role of the Board. He requested that the Board reverse the order of the Building Inspector when he actually wanted the ordinance changed to fit his situation.
- Chairman Humphries recommended that the Board request that Council provide more training for the Board as there is an issue as to whether certain cases should be before the Board.
- Member Allo stated that any questions can be addressed to the Board's attorney.

ACTION: Chair Humphries advised the secretary to draft a letter to Attorney Holt Moore requesting clarification that if a case comes before the Board that does not fall under Chapter 19 and has not gone through a public hearing, does the Board has jurisdiction to hear the case? For example the fence ordinance does not fall under chapter 19 and since there was no public hearing on it, do they have jurisdiction?

- Member Gordon questioned the last sentence of Section V, Subsection (d) pertaining to recessed and adjourned sessions. He stated it is confusing.
- Chair Humphries stated that if a meeting is recessed or adjourned, and if something is not legal in the regular meeting, then it cannot be addressed in the continued meeting.

ACTION: Chair Humphries advised the secretary to draft a letter to Attorney Moore requesting clarification of the last sentence of Section V, subsection (d).

- As to Section VI, Subsection (e), the Board questioned cross examination of witnesses. Although it does not come up often, witnesses can be cross examined. That cross examination must only relate to prior testimony. Otherwise, the Chair must intervene.
- Member Brodsky stated that the copy of the newly adopted Ordinance 1-16 is dated December of 2009.
- The secretary stated that the Town Clerk was notified and the ordinance has been corrected.

It was the consensus of the Board to table approval of the Rules of Procedure until next meeting and after they have received a response from the Attorney.

Chair Humphries stated that Planning and Zoning had made a recommendation to council regarding the terms the Board previously requested that they define. Those proposed definitions will be heard by Council on February 2nd.

After further discussion, the Board decided they would not request additional training at this time.

MEMBERS TERMS:

- Betty Swann recently resigned. Her term was due to expire in May of 2011.
- Member Boulter has applied to become a full member.

ACTION: Member Gordon made a motion to recommend to Town Council that Peter Boulter be elected as a full member. Member Brodsky seconded the motion. The motion carried unanimously. The secretary was directed to prepare the recommendation to Council and to advertise for an alternate.

APPROVAL OF MINUTES

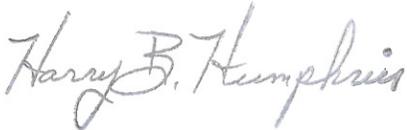
- Member Gordon stated that the minutes should reflect his name and not that of Norm Collins.
- Member Gordon also stated that Member Allo should be listed as absent.

ACTION: Member Brodsky made a motion to approve the minutes as amended. Member Gordon seconded the motion. The motion carried unanimously.

As a note, Commissioner Nelder stated that Town Council travelled to Raleigh earlier today to address the new insurance increases. He stated that they spoke with Carolyn Justice, the new Insurance Commissioner and his attorney. Kure Beach is the only beach community to have done this. Kure Beach is currently not involved the pending lawsuit. A motion will be filed tomorrow to request a stay of all the rate increases.

ADJOURNMENT:

ACTION: Member Brodsky made a motion to adjourn the hearing at 8:37 pm. Member Allo seconded the motion. The motion carried unanimously.



Harry Humphries, Chair

ATTEST: 
Aimee Zimmerman, Secretary