



**BOARD OF ADJUSTMENT**  
MEETING MINUTES ♦ November 29, 2011

**MINUTES**

A meeting of the Kure Beach Board of Adjustment was held November 29, 2011, at Kure Beach Town Hall, located at 117 Settlers Lane, Kure Beach, NC for the purpose of training. A quorum was present.

**MEMBERS IN ATTENDANCE:**

Peter Boulter, Chair  
Tony Garibay  
Harry Humphries  
Dolores Coe

Holt Moore, Esq.

**MEMBERS ABSENT:**

Charles Allo  
Sandra Whaley, Alternate

**STAFF IN ATTENDANCE:**

John Batson, Code Enforcement Officer  
Secretary, Josie Fitzgerald

**CALL TO ORDER:**

Chairman Boulter called the meeting to Order at 7:00 pm

**APPROVAL OF AGENDA (Nov. 29, 2011):**

**MOTION:** Member Humphries  
**SECOND:** Member Garibay  
**VOTE:** Unanimous

**APPROVAL OF THE MINUTES (Meeting Sept. 27, 2011):**

**MOTION:** Member Humphries  
**SECOND:** Member Garibay  
**VOTE:** Unanimous

## **OLD BUSINESS:**

### **Training Session presented by John Batson, Code Enforcement Officer:**

#### **“How does a Case Come Before the Board of Adjustment”**

Mr. Batson received a request to explain the process that is followed before a case is brought to the Board of Adjustment.

Following the outline provided, Mr. Batson explained three different ways a project is brought to his attention and what steps he follows to have the project brought into compliance or ultimately the case is presented to the Board of Adjustment.

1. Someone comes in for a permit
  - The job is started
  - Sometimes an inspection is not requested and that is a warning sign that something may not have been done right.
  - An inspection is made and there may be something on the job that was not disclosed in the permit application and is not compliant.
  - At that point they are given two options if the project is not compliant; file for a variance or comply. They are given a timeline to take action, usually 30 days to comply or file the appropriate paperwork for a BOA hearing. If nothing is submitted, then the fine process will begin.
  - Most of the time, they will not to apply for a variance.
  - Public relations is usually pretty good and most people comply.
  - Very few people have been fined.
2. A application is submitted for something against the ordinance and a permit is denied.
  - Options are offered as to an appeal of the Code Enforcement Officer decision
  - Usually people want to know how many decisions are reversed and what their chances are to get a reversal.
  - The public is offered a review of the records to see the past history of decisions which not a common practice and only one person actually reviewed the records
  - Mr. Batson explained that he follows the Town Ordinances and sometimes people don't like the answer they receive
3. Application is made and is Approved - A permit is issued
  - A neighbor just doesn't like the project and may complain and files for a BOA hearing.
  - Sometimes a project is started then paper work is submitted and the project is started before a permit is issued. This is observed by Mr. Batson by a drive-by
  - Mr. Batson would then issue a “stop order”
  - Usually in this case there are hard feelings because they knew they should have gotten permit.
  - At this point the offender is given a timeline to either get the proper permit or be assessed a fine.
  - If a “Stop Order” is issued there is an automatic fine of \$200
  - A subsequent permit will be issued at double the regular fee.

- At this point, it does not go to BOA unless what they have done is not in compliance with the Ordinance.

Some complaints come in by telephone which are not always a violation.

A Sample letter outlining the violation process was attached for the BOA members to review. The specific violation is cited and the letter states that the violation must be removed within 7 days to avoid a civil citation.

The existing fine process has some flaws

- Civil citation is hand written and sent registered mail to the property owner.
- Several citations are accumulated before submitted to the town attorney for processing.
- A Small claim is filed and a lien is entered on the property (Small claims hearing gives the owner a day in court)
- Owner has no recourse after this point
- Everything is documented along with taking pictures, a time line is kept showing how many contacts were made.

There was discussion regarding how to deal with tenants/boarders.

If someone wishes to file for a variance, then Mr. Batson will walk the applicant through the process. It is explained that to qualify for a variance a hardship must exist which cannot be for the amount of money spent. Usually it scares people off since no hardship usually exists.

There was discussion regarding regulating contractors. It was explained that they are licensed by the State and the Town requires proof of a privilege license when issuing permits.

Mr. Batson stresses when there is doubt, to give him a call and he will educate the public as to what projects need a permit and the process to follow.

There was discussion regarding County involvement in building permits. The Town does not perform mechanical/trade inspections. The County coordinates mechanical inspections and advises the Town upon completion. Mr. Batson keeps in constant contact with County inspectors.

There was discussion regarding work hours permitted in the Ordinance which prohibits work on Sundays and presumed on holidays as well.

There was discussion on future handling of solar panels. It was explained that the Planning and Zoning Commission is considering criteria for alternative energy sources, keeping “green construction” in mind.

Mr. Batson stated that he has no control if the public wants to file a hearing with the BOA. He tries to run interference to get compliance and avoid BOA hearings.

There was discussion on the comparison between Carolina Beach and Kure Beach Boards of Adjustment. It was agreed that the towns are very comparable although Carolina Beach seem to be more liberal. Carolina Beach struggles with the same issues, i.e. what is considered a hardship and more training is needed.

The Board of Adjustment is doing a good job in being fair. Decisions have been upheld in Appeals Court.

Mr. Batson offered an observation he thought was a problem for the Board. He believes keeping a focus on facts and not being swayed by public opinion is a challenge for them. The agenda needs to be followed along with the hearing process. He suggested that although some cases are extreme and complex, the members need to avoid unrelated issues and focus on the facts provided in the case. BOA Members should take a logical approach, look at it in different ways, and if all guidelines are followed and the property is better than before, then it should be okay.

The members concluded by agreeing that the training session was found to be very interesting and they had a better understanding on how the process works before it comes to the Board.

It was discussed that the next meeting will be in January as usual for the annual organizational meeting. An email will be forwarded with the date and agenda.

**NEW BUSINESS**

None


**AJOURNMENT:**

**MOTION: Member Humphries**

**SECOND: Member Garibay**

**VOTE: Unanimous**

Meeting adjourned at 8:00 p.m.

  
\_\_\_\_\_  
PETER BOULTER, Chair

ATTEST   
\_\_\_\_\_  
JOSIE FITZGERALD, Secretary