



KURE BEACH PLANNING & ZONING COMMISSION REGULAR MEETING

A regular meeting of the Kure Beach Planning and Zoning Commission was held on Wednesday, December 7, 2016. A quorum of commission members was present.

P&Z MEMBERS PRESENT

Chairman John Ellen
Member Craig Galbraith
Member Kenneth Richardson

P&Z MEMBERS ABSENT

Vice Chairman Alan Votta
Member Bill Moore

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Councilman Joseph Whitley, Liaison  
Attorney James E. Eldridge  
Alternate Member John Cawthorne

### **STAFF PRESENT**

John Batson – Building Inspections  
Nancy Hewitt – Deputy Clerk

### **1. CALL TO ORDER**

Chairman Ellen called the meeting to order at 7:00 p.m.

### **2. APPROVAL OF AGENDA**

Member Galbraith added “Livestock and Exotic Animals” as Item D under Old Business.

**MOTION – Member Galbraith moved to approve the meeting agenda, as amended.**

**SECOND – Member Richardson**

**VOTE – Unanimous**

### **3. APPROVAL OF MEETING MINUTES**

**MOTION – Member Galbraith moved to approve the October 5, 2016 P&Z meeting minutes, as presented.**

**SECOND – Member Richardson**

**VOTE – Unanimous**

### **4. OLD BUSINESS**

#### **a. Fences and fence heights**

Member Galbraith said he supports a fence height of no more than five feet. He said he Googled the top 25 small towns and, out of the top 7, 3 of them allowed 4-foot fences, 4 of them allowed 5-foot fences and none of them allowed 6-foot fences. He feels that 6-foot fencing lowers property values and distracts from the sense of community.

Chairman Ellen said that Inspector Batson had stated that a 6-foot fence is a reasonable request. He asked him if it seemed like a burning desire among residents to have that fence height.

Inspector Batson said he thinks it's a reasonable request, especially for the back property lines. He said he told some property owners who had asked him about it that it would be a topic on P&Z's agenda and invited them to attend, but he hasn't talked to them since then.

Member Galbraith said he doesn't see it as a big issue unless a big crowd shows up to talk about it.

**MOTION – Member Galbraith moved to table the topic of fencing until their next meeting.**

**SECOND – Member Richardson**

**VOTE – Unanimous**

Inspector Batson asked the members if they had definitely decided to take out chain link fences and make them completely illegal to which the consensus of the members was to make them illegal.

**b. Town Development Line**

Inspector Batson reviewed the information he gave to the commission regarding this topic during their October meeting. His comments on the Development Line were, as follows:

- The Development Line could be most beneficial to Ocean Dunes, as far as rebuilding.
- It would give each lot more room to build on the ocean front.
- If larger houses are built, it may not leave room on the property to build other things like swimming pools.
- He will take the map that he received from the surveyor to the next council meeting and see if council will approve him moving forward with requesting a Development Line.
- If approved by council, he will meet with the Coastal Resources Commission (CRC) representative to put together the other information he needs.
- If all goes as planned, he will go to the CRC in February to, hopefully, receive approval for the Development Line.

The following comments were made about using the Development Line:

- Member Richardson said he thinks the commission should support it as it seems like it will be of overall benefit to the town.
- Member Galbraith said allowing people to build bigger structures closer to the waterline could create a public relations problem and council needs to be prepared to explain why they approved it. He said he can see both sides of the argument, but he is nervous about allowing it, especially since half of the houses already built on the waterfront are like unregulated mini-hotels, half of which don't pay Room Occupancy Tax.
- Inspector Batson said he doesn't see a down-side to it and it will help some properties, including some in the business district. He said that council can always instruct him to request that the CRC let the town go back to using the Static Line. He said it looks like houses could be built between 20-25 feet closer to the water line with the Development Line, but in some ways, the properties will be governed under stricter guidelines.

Chairman Ellen noted that, if someone rebuilds a bigger house, the value of the property would increase as well as the property taxes. He asked Inspector Batson if council was waiting on a statement from the commission on the subject.

Inspector Batson said that the mayor had asked him to bring the information to the commission, but he doesn't think council wants them to provide a statement, although they would welcome knowing whether or not P&Z supports it.

Chairman Ellen said, if asked by council, he will tell them that the commission members were briefed on the issue.

**c. Update on ordinance recommendation to council for hens**

Chairman Ellen told the members that council adopted their recommended ordinance for Sec. 4-5: Specific Regulations for Hens, during their regular November council meeting.

**d. Livestock and Exotic Animals**

Chairman Ellen said he gave council the draft of the livestock and exotic animal ordinance and asked them if they were interested in P&Z continuing to work on it, to which council replied they'd like P&Z to move forward with creating a recommendation.

Attorney Eldridge said he drafted a definition for "exotic animal" and "livestock" to go under Section 4 of the town's code, and he tweaked the wording of the draft ordinance, too. He reviewed a few corrections that needed to be made to the draft which Ms. Hewitt will make and forward to him.

Suggested changes to the draft ordinance are, as follows:

- Member Galbraith said "Minimum" should be added to the title of the third and fourth columns in Table 4.1, to read "Minimum Area per Animal," for acres and square feet. He doesn't agree that rabbits should be listed as livestock since they are usually considered pets.
- Inspector Batson said there's no need to have the column for "acres" at all. He said the required square footage in the table for each animal would allow 45 rabbits, or 1 goat, or 15 ducks, or 11 turkeys.
- Consensus was to list a maximum number of the type of animal allowed and stipulate that the "area" be the available backyard space, not front or side yard space.

Attorney Eldridge reviewed the changes he will make to Table 4.1 Animal Units, as follows:

- Get rid of "Units" in the table's title
- Get rid of the "Area per Animal (acre)" column
- Rename the "Area per Animal (sq ft)" column to read as "Minimum Area of Open Area in Backyard (sq ft)"
- Replace the "Weight (lbs)" column with "Maximum Number of Animals"

Further comments on livestock were, as follows:

- Inspector Batson asked if it was wise to even consider allowing certain livestock in Kure Beach, other than chickens, rabbits and ducks. He estimated that, with a 50' wide by 20' deep backyard measurement, one could have three ducks, ten rabbits or two turkeys.
- Attorney Eldridge said he doesn't see listing the other livestock in the ordinance as a problem since, currently, no one has the backyard space to have the larger livestock anyway.
- Member Galbraith said it would be good to state whether or not certain animals are allowed in the draft ordinance in case anyone was to ever buy up enough property to have backyard space big enough to house a cow, horse, etc.

- Chairman Ellen said the only three livestock animals he would personally allow would be ducks, turkeys and rabbits; no cows, sheep, swine, horses or goats.

Comments about exotic animals were, as follows:

- Chairman Ellen said he's not in favor of creating an ordinance that will cause someone to be breaking the law if it is adopted. He said, if council approves the ordinance banning those types of animals, the resident who already has one will be automatically breaking the law.
- Attorney Eldridge said that the draft ordinance allows for a 30-day window to get rid of the animal. He said, if Kure Beach doesn't have any ordinances regarding this subject, someone could bring a pet wolf into town and there would be no regulations against it.
- Member Richardson said that snakes are considered service animals for people who have agoraphobia. He said he once worked for transit, and they couldn't kick a woman off the bus who had a snake because she needed it to make her feel safe to travel outside her home. He said it gets complicated dealing with Americans with Disabilities Act issues and asked if the members wanted to even touch on that issue.
- Member Galbraith said the town needs some sort of ordinance against regulating the types of animals allowed, since it doesn't have anything now except that they can't run wild in the street.

Discussion turned back to livestock, with the following suggestions made:

- Member Galbraith said there should be a stipulation that the permit can be withdrawn if there are noise, waste or smell issues/complaints.
- Chairman Ellen said turkeys create a lot of noise, so they shouldn't be allowed.
- Members agreed that six rabbits and four ducks could be allowed in the draft ordinance.
- Attorney Eldridge said the table could show a zero (0) for the livestock not allowed. He said P&Z needs to keep in mind that the definition of livestock in the draft ordinance is "an animal that is generally kept primarily for productive or useful purposes, rather than as pets."

Chairman Ellen said some animals that haven't been addressed are those that are raised for their fur like fox, sable, etc.

Member Galbraith said residents would be restricted from this activity on a residential property under the town's zoning ordinances because that would be considered a business.

Inspector Batson agreed and said that activity isn't considered a home occupation.

**MOTION – Member Galbraith motioned to table the topic of Livestock and Exotic Animals until the January meeting.**

**SECOND – Member Richardson**

**VOTE – Unanimous**

## **5. NEW BUSINESS**

### **Nuisance Reporting**

Member Richardson said that he talked to Police Chief Bowden who told him they had only one or two nuisance reports since Chief Cooper retired in June. He said he thinks the word is out to short-term rental owners that the town is keeping track of nuisance reports coming from their properties. He said that P&Z may want to instruct the chief, before the next tourist season, how they'd like the

Police Department (PD) to keep track of this going forward. He said that the main nuisance issues had to do with noise and parking.

Chairman Ellen said that there may be a nuisances reported to the PD that aren't logged in because, by the time the officer gets to the scene to investigate, the nuisance has ceased.

Member Galbraith said that the whole purpose of tracking nuisances was to try and develop a draft ordinance for short-term rental properties and asked if anyone had heard of any problems with those ocean front properties.

Alternate Member Cawthorne said that, about two weeks ago at a short-term rental property, there was an incident reported to the PD of illegal fireworks, partying, throwing kegs into the pool and pulling palm fronds off a tree.

Member Richardson said he will check with the PD to see how they recorded the incident.

Attorney Eldridge recommended the police send an email to Inspector Batson whenever they respond to a nuisance call.

Inspector Batson said that the problem is that the police go to the call at the rental property and warn the renters, then it's quiet for a while before, a few weeks later, there's another incident from new renters at the property.

Member Galbraith said that the commission needs to provide the PD with an explanation of why they need the information: that it is required now under state law to be able to develop an ordinance for short-term rental properties.

Member Richardson said he will invite the chief to P&Z's February meeting to discuss the topic.

## **6. MEMBER ITEMS**

Chairman Ellen reported that council approved a five-year P&Z term renewal for Ken Richardson.

Inspector Batson introduced Kathleen Zielinski, who will take Josie Fitzgerald's place as the new secretary to the commission.

## **7. ADJOURNMENT**

**MOTION – Member Richardson moved to adjourn the meeting.**

**SECOND – Chairman Ellen**

**VOTE – Unanimous**

The meeting adjourned at 7:59 p.m.

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John Ellen, Chairman  
Planning and Zoning Commission

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Nancy Hewitt, CMC, NCCMC  
Deputy Clerk