

Kitty Hawk Planning Board Meeting  
August 15, 2024 – 6 p.m.  
Kitty Hawk Municipal Building, Smith Room

Minutes

The Town of Kitty Hawk Planning Board held its regularly scheduled meeting on Thursday, August 15, 2024. This meeting was held in the Smith Room at the Kitty Hawk Municipal Building, 101 Veterans Memorial Drive, Kitty Hawk, NC.

**1.) Call to Order/** 6:00 p.m.  
**Attendance:**

**Members Present:** John Richeson, Chairman      Chuck Heath, Member  
Blair Meads, Alternate      Matt Spencer, Member  
Bryan Parker, Vice Chairman

**Members Absent:** Jim Geraghty, Member

**Others Present:** Rob Testerman, Planning Director  
Jessica Everett, Administrative Zoning Technician

**Voting:** Due to Jim Geraghty's absence, Alternate Blair Meads will vote at this meeting.

**Announcement:**  
Rob Testerman announced that Alternate Craig Merrill has moved out of the area and resigned from the Planning Board. We should have someone new at the next meeting.

**2.) Approval of Agenda:**

**MOTION**

Chairman Richeson moved to approve the agenda as presented.

**3.) Approval of Minutes:**

**MOTION**

Hearing no objections/additions/changes to the June 27, 2024, Planning Board meeting minutes, Mr. Meads motioned to approve the Minutes as submitted.

Chairman Richeson seconded the motion.

**Vote: YEAS – unanimous**

**4.) Administrative Report:**

Mr. Testerman stated that at the July 1st Town Council Meeting, they held public hearings on four text amendments. We had accessory workforce housing, minimum lot size, maximum dwelling size, and accessory dwelling units for short-term rentals. The first three got approved, the ADU language got tabled, and we picked that back up at the August 5<sup>th</sup> Council Meeting. It was approved that night, along with the text amendment we reviewed on the lot coverage permeable materials. The text amendment for the mini-warehouse storage facility square footage was denied.

**5.) Public Comment:**

Chairman Richeson stated that this portion is dedicated to those in the audience who want to speak to the Board about any issues. Those speaking should come to the podium and state their name for the record. He also noted that the Board is an 'advisory' board to the Town Council, and the Council can approve or deny what the Board puts forward.

- **John Stone and Jack Stone, residents of Windgrass Circle** – First, I would like to say I appreciate y'all serving. I served on the school board for eight years in another town, and I know what it's like to give your time back, and I appreciate you serving. I want to thank the board for taking up Item 7, the text amendment about the pier length. We live on Windgrass Circle and are one of many Kitty Hawk residents who live on the bay. We have this beautiful waterfront, and the restriction on the 100-foot pier length makes it difficult to use and access the water. We are fortunate to have a pier at our home, which is longer than 100 feet, and there are a lot of times when we still cannot access our boat. If we have an east or northeast wind, the water is dry or very shallow below us. In the worst-case scenario, we go out for the day, and you try to come back home, but you cannot get to the pier. I ask that you consider aligning the Town of Kitty Hawks pier rules with those existing with CAMA. It would make it helpful for many of us who live on the water. My son Jack is here for two reasons - first, he studies political science in college and is interested in all things government and how it works. The second reason is that he is responsible for pushing his mother up to the dock when there is not enough water for the boat. So, he has a double vested reason for being here this evening. With that, I thank you for considering this text amendment this evening.

Chairman Richeson: Thank you very much, and congratulations on your studies, Jack.  
Anyone else?

- **Jessica Wilson resident of Parker Street-** I would like to discuss the Roosters. We have chickens at our house, and I have had chickens for over 8 years and roosters in the last 3 or 4 years. Roosters are really helpful with the flock to defend against predators and protect the chickens. Besides that, we have taken measures to be courteous to the neighbors. We keep them shut in at night and let them out after the 7 am noise ordinances. So, I think as long as people are conscious and courteous, I would hope that there is a way that we can continue to allow roosters in Kitty Hawk. Besides protecting the flock, I am a preschool teacher. I work at Nags Head Elementary School. I use my fertilized eggs as a teaching unit and share them with other schools in the area. So, having those fertilized eggs lets us do a whole life cycle unit. It is a really good teaching opportunity that students might not get otherwise. So I understand the noise and keeping the neighbors happy. Still, as long as people try to do the courteous neighborly things, I hope the board will continue allowing roosters.

**Chairman Richerson:** If there is no further responses, I will close the public comment section of our meeting this evening. This brings us to Item 6 Subdivision—800 W Kitty Hawk Road.

#### **6.) Subdivision**

- a.) 800 W. Kitty Hawk Road – proposed 2-lot subdivision from 2.41 acre parent parcel. (Agenda Item 6a)

**Mr. Testerman-** As mentioned, this is for a subdivision at 800 W Kitty Hawk Road. It's a fairly minor subdivision, with two proposed lots on 2.4 acres. Again, this is one of those ones for which we don't have provisions in our subdivision ordinance for a minor subdivision, so it doesn't qualify as an exempt subdivision. It has to go to the planning board and council. Just as a note, subdivision reviews are administrative decisions. If all requirements are met in 42 & 48 Subdivisions and Zoning Ordinance, they are entitled to approval. You can see that the two lots would be 36,112 sq ft, with 29,211 of that being contiguous uplands area and the second lot being 68,659 with 68,210 sq ft of contiguous uplands. As you can see in the staff report, the other zoning requirements have been met, such as road frontage and lot width. I will turn it over to the board. Through my review and analysis, I do not see any inconsistencies with chapters 38 or 42. The engineer for the plat is on hand and can answer any questions, or Brian if you would like to say anything.

**Brian:** I don't have anything to add.

**Chairman Richerson:** Did anyone have any questions for Rob or the engineer?

**Discussion:**

- Vice Chairman Parker: Just going to mention that no further changes are proposed, and they are just subdividing what is already there.
- Mr. Testerman: Right, there are two dwellings on site already; this division is just putting them on two separate lots. Since there are no road improvements or anything, this is being treated as both the preliminary and final plat, so they don't have to come before us again.
- Chairman Richeson: Does anyone else have any comments or questions? Would anyone like to make a motion?

**MOTION**

Mr. Spencer made a motion to recommend approval of the preliminary plat at 800 W. Kitty Hawk Road.

Chairman Richeson seconded the motion. Any discussion on the motion? None

**Vote: YEAS – unanimous**

Chairman Richeson: This brings us to Item 7 on the agenda.

**7.) Text Amendment**

- a.) 42-360 – Sound Waters District. Proposal to reclassify piers as permitted use and amend maximum pier length. (Agenda Item 7a)

Mr. Testerman: The proposal here is kind of 2 parts. The 1<sup>st</sup> part moves the language that is in the Sound Waters District for private community commercial piers relocating from special uses to permitted use. The reason for that suggestion is that a Special Use permit is a quasi-judicial decision that goes to the Planning Board and Town Council and is an evidentiary-based hearing to my knowledge and practice since before I got here, I don't think any of these have been done that way. It's a use that I don't think is necessary to go through the quasi-judicial process. The second part of it deals with the maximum length. Currently, we allow a maximum of 100 ft for a private residential pier, 200 ft for a community pier, and 200 ft for a commercial. The number I put in there is 400 ft for each of them. That is not necessarily pulled out of nowhere. You can see in the attached regulations from CAMA that they will approve 200 ft in their general permit process with no other requirements. Up to 400 ft, if you can show that for every 100 ft of length, you get an additional foot of depth in water. So that is where I got the 400 ft. CAMA permits piers to be longer than 400 feet, but it has that same threshold of 100 feet per foot of water, which goes over to a CAMA Major permit. My thinking was if there is ever a need for one more than 400 ft they can go through the Board of Adjustment process. As I noted in the staff report, our Board of Adjustment has granted one variance for a pier longer than 100 ft in the

past year. We had an application for a second that was withdrawn due to timeframe reasons, and I have had at least three different conversations with different property owners that have said with sediment moving to the east, an additional 100 ft might get them a few inches of water in some cases, and it's just not viable. In the staff report, I included some photos with measurements overlaid. I was going to show them on the screen, but it's not showing on this side. Just showing where the 200 ft is. This first one is an existing pier that is 237ft it was most likely built prior to our 100 ft limit. The back page you can see over in the Landing what a 400 ft pier would look like. That is the background on it, and I will turn it over to the board for any questions.

**Discussion:**

- Mr. Spencer: I have to say I agree with Mr. Stone. In fact, I was one of the people who went to Rob about this because I would like to put in a pier where I live; it's the same scenario. I want to say this so they know I am interested in this like many of us, but also because I agree. It's important for a lot of areas where there is no water.
- Chairman Richeson: Some of the piers have water so shallow that you can't even fish off it, especially if there is a northeast wind. It seems counterintuitive because they say the water is rising, but the sound is getting shallower.
- Mr. Testerman: I will just add that the Board of Adjustment has a handful of items it has to find in order to grant a variance. Part of it is a situation peculiar to a property owner in a certain circumstance. My thinking in bringing this forward is that if we are running into situations where we have to issue variance after variance after variance, then we should probably align our town code with the needs for these property owners.
- Chairman Richeson: That makes sense.
- Vice Chairman Parker: And this would only apply for open water for 400 ft? I think canals and stuff have CAMA, and CAMA sets the length.
- Mr. Testerman: I believe in the canals; CAMA only allows 50% of the width. Also, in one of the CAMA Regulations in the 2<sup>nd</sup> page of the 1<sup>st</sup> attachment under G3, it states, "Notwithstanding Subparts (i) and (ii) of this Part, the proposed pier or docking facility shall not be longer than the pier head line established by the piers of docking facilities along the same contiguous shoreline having the same land use. This restriction does not apply to pier less than 100 ft long." So if you have a line of property where the longest one is 250 ft, according to what CAMA has told me, they will not approve a 400ft one right next to it. They are going to cap it.
- Vice Chairman Parker: A man once told me we have a lot of water around here; it's just spread really thin. If you have ever run aground, it makes a lot of sense.
- Chairman Richeson: Does anyone have any questions or care to make a motion?

## **MOTION**

Vice Chairman Parker made a motion to recommend approval of the proposed text amendment section 42-360. The Board has found it to be consistent with the town's adopted land use plan.

Mr. Heath seconded the motion.

Chairman Richerson: Is there any discussion? Hearing none, we will vote.

**Vote: YEAS – unanimous**

## **8.) New Business**

- a.) Keeping roosters in Kitty Hawk. The Planning Board is asked to recommend to the Council whether staff should draft a proposed ordinance regulating the keeping of roosters. (Agenda Item 8a)

Mr. Testerman: This one is slightly different from what I usually bring you. I would normally have some language already prepared, but we are not yet at that stage. It started with the Council when the town received a handful of complaints about the noise of roosters. Rather than directing us or me to draft language, the Council wanted to start the discussion with the Planning Board. The town manager and some other staff compiled the survey referenced and copied in your staff report. You can see all of the responses there. I am not going to read them all. If there are any questions you want me to go over, I am happy to. It seems that most of the responses are that most people agree. We currently have a noise ordinance referencing loud animals, including birds, that we could fall back on. The Council did ask that the Planning Board make a recommendation, which I will make at the next Council Meeting. Whether the board feels the staff should draft additional regulations on keeping roosters or we should keep it as is.

## **Discussion:**

- Chairman Richeson: I looked up the noise ordinance in the code section 18-2 under noise control and under section D prohibited acts part 2, specific prohibitions of owning, possessing, or harboring animals and birds frequently or continued durations that howls, barks, meows, squawks, and other sounds that creates a noise disturbance across a residence real property or within noise sensitive zone. That pretty much covers any kind of animal there is. I think we already have something.
- Mr. Spencer: I agree. If noise is the only concern and we have a noise ordinance, don't draft it.
- Chairman Richerson: Right. It would be repetitive.

## **MOTION**

Chairman Richeson moved that staff be directed to not draft language regulating keeping roosters in town, referencing town code section 18-2, subsection d prohibited acts. Mr. Meads seconded the motion.

Chairman Richeson: Any discussion? Let's vote.

**Vote: YEAS – unanimous**

**9.) Comments:**

- a. Chairman Richeson – Just glad that summer is almost over.
- b. Planning Board Members - none
- c. Town Attorney - none
- d. Planning Director- none

**10.) Adjourn:**

Hearing no further comments, Mr. Richeson adjourned the August 15, 2024, Kitty Hawk Planning Board meeting at 6:22 p.m.

Respectfully Submitted,

Jessica M. Everett  
Administrative Zoning Technician