

Kitty Hawk Planning Board Meeting
November 13, 2025 – 6 p.m.
Kitty Hawk Municipal Building, Smith Room

Minutes

The Town of Kitty Hawk Planning Board held its regularly scheduled meeting on Thursday, November 13, 2025. The 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, Bryan Parker, Vice Chairman
Matt Spencer, Member Dave Morton, Alternate
Chuck Heath, Member Blair Meads, Alternate

Members Absent: Jim Geraghty, Member

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

Voting: Dave Morton will vote this evening in place of absent member, Jim Geraghty.

2.) Approval of Agenda:

Chairman Richeson: Does anybody have any changes, deletions, additions, or last-minute changes? Okay, seeing none, we'll declare the agenda approved.

3.) Approval of Minutes:

Chairman Richeson: Minutes from the October 30, 2025 meeting will be available for approval at the December meeting.

4.) Administrative Report:

a. Town Council Action

At the November council meeting, they approved the text amendment for the variance language that the planning board heard a couple months ago and scheduled public hearings for the Royal Farms for their December meeting, and the RV park expansion for their January meeting.

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. Having no one approach, Chairman Richeson declared Public Comment Closed.

6.) Text Amendments

- a. **42-528 – Accessory Dwelling Units – maximum size**
- b. **42-528 – Accessory Dwelling Units – setback calculation**

Mr. Testerman: Both of these items are being brought tonight are staff generated, and just meant to clean up some of the language on our ordinance, because right now, neither of these items are expressly mentioned, defined in the ordinance, so it's kind of left up to judgment, and just making sure that, you know, a year down the road, when another application comes over, we're not trying to kind of look back and remember how we treated another one, and what interpretation we had, so just getting some clear, defined guidelines in the regulations, that way, moving forward, it's right there for us to turn to.

a. **42-528 – Accessory Dwelling Units – maximum size**

Mr. Testerman: The first one, as you can see, deals with the size limitations for the accessory dwelling units. The ordinance that we have adopted, and on this staff report, on the back page, there's a typo. It says 42-529. It should be 528. This is the language that we currently have on the books for accessory dwelling units. It says, accessory dwelling units shall not be larger than 50% of the living area of the primary residence, or 800 square feet, whichever is lesser. The regulations for the ADU does not mention, in any way, shape, or form, unheated space. That could be, you know, unheated storage area, ground floor storage area, or attic space. One thing that did not really occur to me as I was writing this, but after talking with Mr. Meads and Chairman Richeson, is, you know, some folks do tend to do a detached garage with the living space above that, for the ADU. So, and that's another possibility. So some of the options that I kind of laid out for the planning board, and I guess the intent and my plan for this going forward to council is, you know, laid out the options, or if the planning board comes up with another option that, you know, I feel like you like better, I'll make a recommendation on whatever we choose, and then when I get to council, I'll provide them with the same information that the planning board has, let them know what the planning board recommended, and, you know, why you came to that decision, and let them take it from there, so they're the deciding body. One option I have listed in the staff report is limiting the unheated space in ADUs, or I guess limiting the overall square footage of the ADU by doing something as simple as saying that the gross floor area of the accessory dwelling unit shall not be larger than 50% of the living area of the primary residence, or 800 square feet, whichever is less. You can see I do have a line in there excluding attic space that would be less than six feet, eight inches high, so it couldn't be converted later on to living space. The current interpretation is we don't have a limit on it, so, you know, somebody could do an 800 square foot ADU elevated on pilings, enclose the entire 800 square foot ground floor and call it unheated space, but I think we have a couple that have done that already. And then as I was talking with Chairman Richardson and Mr.

Meads about the detached garage, another thought that kind of developed from those conversations is, you know, if we don't want to limit the people from doing a garage space underneath it, currently in our flood damage prevention ordinance, if somebody has a ground floor enclosure that's below base flood elevation, they have to do what's called a non-conversion agreement, where they're essentially acknowledging that that space can only be parking, storage, or dry access, and that's FEMA regulations, flood damage prevention ordinance regulations, and that document gets recorded at the Register of Deeds office, so it goes with the property. If it ever gets sold, the future buyers, during their due diligence, will have a copy of it knowing that it can't be converted to living space, so that's something that if the board wanted to go that route, and then another conversation I had with Mr. Morton yesterday, where we don't have a limit on the unheated square footage, it hasn't happened, so it's kind of a hypothetical, but somebody could potentially come in and say, here's my ground floor, 1,800 square feet, unheated storage space with my 800 square feet of living space above it, so if we wanted to put some kind of limit, like the unheated storage or parking area cannot exceed the living area of the ADU, or exceed a certain percentage of the living area, that would be an option too, and I guess I should have mentioned too, with this being staff generated, there's no pressing issues on these, this is just, we're trying to get it cleaned up, so if some of these ideas that come up, if you want me to go back and rewrite, rather than trying to come up with new language on the fly, I'm more than happy to table it, and get it nailed down so we do it right, and don't have to revise the ADU language for the 18th time. So that's kind of where we're at with that one, I guess at this point I'll turn it over to the board for any questions.

Chairman Richeson: Does anybody have any discussion on that?

Mr. Spencer: I really wish Blair were voting on this one, because your perspective is a lot different from mine. I mean, I don't have the experience of all the options that people want in building an ADU, and y'all do, but the CAMA requirement, making somebody sign on the dotted line, if they understand that they're not to do that, seems like a good way to handle the possibility of somebody breaking the law. But other than that, I recognize the issue, I'm not sure, I don't, the idea of a giant garage and a tiny little living space is a little bit weird, I totally agree, but I'd love to hear from you guys.

Mr. Testerman: Blair, just because you're not voting doesn't mean you can't say anything.

Chairman Richeson: Yeah, you can participate.

Mr. Morton: Okay, yeah. Yeah, I think I have an issue with being able to build a 1200 square foot, non-heated, non-living in an 800 square foot above it, it just looks, I think we're opening up the door to allow too many things to happen illegally, especially if it's above base flood.

We're protected, as you said, if it's below base flood, but we're not protected if it's, it becomes a planning nightmare, it doesn't become my nightmare, it becomes you guys' nightmare, and your building inspectors, and your zone administrators, etc., because they've got to worry about the neighbor that's going to complain, and they have to go do all the other things that go with that, so am I for some sort of limit? Yes, but do I have an idea of what that limit may be? I do not, but I think there needs to be some discussion over the limit, only because of so many things, I don't ever like to tell some guy what he can do with his property, nor do I want to be told, but if we don't do something about limiting the unheated space, we've just opened up a can of worms that the Board of Adjustments is going to have to listen to for every day, you know what I'm saying, from now on they're going to be extra busy, let alone the planning department, so just a thought. I have no problem with the 800, meaning the 50% rule with the 800, unless somebody else wants to decrease or increase that, but that unheated area, we have to be extremely careful, without thinking like we're stepping on people's toes, I just, I worry about that, I worry about that around my own home, if that were to happen.

Chairman Richeson: I'll start with the simplest thing, I think the easiest and simplest thing would be, require, if they want to enclose storage space, whether it's base floor or whatever or not, just require the non-conversion agreement.

Mr. Testerman: As part of the zoning requirement?

Chairman Richeson: Right, and then you don't have to worry about it. If they do it, and they get told, hey, you got to take all that out, you know, you should have looked it up or checked first.

Vice-Chair Parker: They're not going to have to deal with it, if they weren't, if you're not selling your house, you're going to live in it for 30 years, you know.

Chairman Richeson: Well, no, it gets transferred with the house.

Vice-Chair Parker: Right but say you're not transferring the house. You say, well, my kids will deal with that in 40 years, you know what I mean, so it can be there, but no.

Mr. Testerman: There, I mean, there is a possibility, too, like, like Dave was saying, like the neighbors see you, you know, the ground floor has been converted.

Mr. Spencer: Oh, you will have a little tattle in there.

Mr. Morton: The person that turns you in is the person you had over for dinner. You know, that, I mean, it's just, it's just the way things work in this world.

Mr. Testerman: Technically, even without that non-disclosure agreement, and even currently, if like, you know, they've got 800 square feet of living space, and they converted additional, you know, storage space into more living space, and we got a complaint and went and investigated, we would have the enforcement ability to tell them they have to tear it all out. The non-conversion agreement, I think, just is another way to make them aware, and, you know, when they try to argue with us and say, here's where you signed agreeing that you're never going to convert this, even though when they sign that zoning permit, that's doing the same thing.

Mr. Spencer: And it's in the permit file, so somebody, a lot of agents would look for that, you know, and they'll see that.

Mr. Meads: I think it's hard to govern about what somebody might do, because we could go down a rabbit hole where we make so many rules that we wouldn't even know what rules we made, and I do agree that we don't want some huge monstrosity, so it might be a good idea to come up with something, but we also need to remember that our lot coverage rules helps a lot of what this could turn into, because if you can only go to a certain percentage, our lots, most of them, aren't but so big. So, that limits a lot of development to a certain extent. So, that's one control that's already in place that goes across the board, no matter where we are. You know, I can't think of every single scenario but in my mind, when I think about an ADU, and I know this hasn't happened across the town, but if you had a house and you wanted to build a nice two-car garage and have a mother-in-law suite above it, you know, for whatever, for your kids or for your parents or for your doghouse, but you know, that's my idea of an ADU. So, I would hate to take away the ability to have a two-car garage underneath that space. In my mind, I think that would be the perfect scenario for an ADU and try to have it match the house that you, and I know not everybody's going to do that, but that's kind of the way I see it.

Mr. Testerman: And then, I guess another approach to that may take some tweaking, but you know, in that first option where I've got listed that the gross floor area cannot be larger than 50% of the living area or 800 square feet, that second line unfinished attic space with a space between the ceiling beams and roof rafters less than six foot eight shall not count towards gross floor area calculation. It could be added on saying that, you know, garage space underneath the living area should not be counted towards that calculation and then require that non-conversion agreement as well. That way, you're not limiting the garage. They can still have their 800 square foot living space and then they still got that.

Mr. Richeson: And they could still have storage too. They just can't put couches and beds and carpet in it.

Vice-Chair Parker: You could also build an 800 square foot and put 10 foot porches all the way around and not be considered, and that kind of goes counter to what we were

trying to say that the house and then the subordinate structure would be subordinate still, but if you know, if you're, so you could make them look like two homes on one zoning area that's supposed to have one house.

Mr. Testerman: We have a couple of examples in town that, you know, if you didn't, if you didn't know any better, you think it was two dwellings the same size sitting next to each other because of the deck space and the ground floor enclosure that is being used as storage. So, it does happen.

Vice-Chair Parker: Seems like if you build a better mouse trap, the mice get smarter. You know what I mean? It's like we're always chasing them. I mean, I'm sure you have an idea or a list of how many ADUs we have, but do you feel like that number is extremely accurate?

Mr. Testerman: Well, there's probably a number of living spaces that now would fall under the ADU definition that did not when they were built.

Vice-Chair Parker: That's what I'm saying. Like you said, we've been to this multiple times. No matter what you say, hypotheticals, you can't predict what. Somebody, you give them a set of rules, they can kind of work around or work through.

Mr. Meads: I do feel like though that this idea has really helped. You know, I follow the long-term housing market very closely and granted in 21' through 23', we had some very crazy amount of visitors that were here. So, you could put a window unit in a garage and rent it out for \$250 a night. I mean, that was just an unusual time, but I'm seeing a lot more long-term rentals being advertised and the prices, are beginning to lower. So, I think that these types of situations are helping our problem. So, you know, I think that they're a good thing, you know, if we can figure out a way to be in harmony with what the town is doing. So, I don't think it's a good idea to limit it so that you can't use it anywhere, you know, because I think it serves its purpose and I think it has served its purpose for our community to a certain degree, to a large degree actually.

Chairman Richeson: And that non-conversion agreement that solved doing a lot of math saying, well, you can have storage, it has to be X percent of the total floor space, and it makes the ordinance a little simpler. I'm not trying to be too simplistic.

Vice-Chair Parker: Yeah, I think in Kill Devil Hills when we had it, Michael maybe or may have started with Irene, but Kill Devil Hills found out they had a lot of downstairs in floodplain areas that they did not know about until they woke up in the morning and splash and, you know, feet on the water. Yeah, I don't know. I'm with Dave too. You know, you think about the neighbors that live in a place and then next thing you know they have either whether it be a short or long-term rental that comes in because either permitted or allowed I guess, they have to deal with the adjusted amount of people coming and going and noise and, you know, I guess. But again, I can't tell people what

they can't. I believe in property rights. You should be able to do, you know, with your property as you see as long as it meets all the rules.

Mr. Spencer: How big is 800 square feet, Blair, like in relation to where we're sitting right here? We'll just ballpark it. Is it 40 from that wall to that wall? I'm just trying to get an idea. What would be the problem if we just said, look, the footprint of your ADU can't exceed 800 square feet per two levels and the first level can only. Is that going too far?

Vice-Chair Parker: I think that was what the intent was to start with and then, like Blair was saying, that, you know, you could have a nice garage and then a living space above it that didn't have to be that low, you know, so that kind of did.

Mr. Spencer: And that can't be heated square footage or living space and we're doing the disclosure form and we're changing the setbacks to 15 feet period. We're done. Good night.

Mr. Testerman: The only tweak to that is, you know, the 800 square foot is the maximum, so it's 50 percent of the primary dwelling or 800 square feet, whichever is less. So, if somebody's got a 1,200 square foot house, the max ADU they can do is 600 square feet.

Mr. Spencer: If it's only 800 square foot, then how could you have a two-car garage under it? I guess that's still enough room. 400 square feet is enough.

Mr. Morton: Those decks, I mean, you know, the 800 can come up through the middle and deck can be on each side and then the garage could be.

Mr. Spencer: But what we're talking about is if you have a garage under living space, it's 400 and over 400 square feet.

Mr. Meads: Yeah, double garage, you can do a nice garage 24 foot wide. You know, you could make it 20 foot, you know, 24 by 24 is a nice two-car garage, I would say.

Mr. Testerman: Ok, so getting that the idea that you were kind of putting out there, maybe we can say that the unheated storage slash parking area shall not exceed the square footage of the conditioned living space and then require a non-conversion agreement that way.

Mr. Spencer: Let's not, you know, mess with what we've already got is what I'm thinking. Let's put something simple in there that you don't have to interpret and it's easy.

Chairman Richeson: And it's enforceable.

Mr. Testerman: Okay, so if you want, I think I've got the general idea of, if everybody's in agreement with that, if we want to table that one until December, I can go back to the

recording and listen to it again tomorrow to make sure I remember it right. But kind of draft that into some language and bring it back and then move forward with it. We all think. I don't know, I would love to talk to Blair some more about it because it's 800 square feet or 50 percent, whatever was less. We got that in here already. And Dave and anybody else. But 800 square feet or 50 percent, whatever is less. The scenario you talked about that a lot of people want is going to require you to have, based on this, 400 square feet of living space over 400 square feet of garage under this interpretation. Or would it not? Or could you have a larger 800 square foot heated living space over a smaller garage or just an open carport or something like that?

Mr. Testerman: Yeah, I mean you wouldn't be required to have the matching unheated space.

Mr. Meads: I mean that's the perfect candidate for an ADU in my opinion. Now I know that not everybody does that, but that's just my opinion. I mean somebody else's view of an ADU might be totally different.

Chairman Richeson: If it's 600 square feet or 800 square feet, if it's raised up, the problem is using this space that's under it.

Mr. Spencer: That's one problem. The other problem is making a giant garage under a little tiny living space. So that's one issue, yeah. But I'm okay with just having them sign the form and understanding it's against the law and Rob's going to bust their butts if they do. I mean that's where I come down on what you're saying, John. What I'm struggling now is how you kind of just make it clear what the intent of this whole thing was. Without the extremes we're talking about right now.

Chairman Richeson: The storage can't exceed the square footage of the ADU living space. And then you don't have it, you don't have the big waste and storage and three-car garage and all that.

Mr. Morton: Yeah, but you're hurting that guy that's got that 1,200 square foot home. You're making him not have anything over 600 square foot. I have a 2,000 square foot home and I have room on my lot to build whatever the heck I want. I'm blessed. But that doesn't mean that the guy next door to me that has a 1,200 square foot home should be limited to only 600 square foot of unheated space. I don't see that being fair. I don't like the idea that you can build 2,000 square foot of unheated space as long as you stay with the 800. But it goes both ways, I think. You can't have one without hurting the guy in the other. It's just it would be unfair to that person as well. I didn't do your math correctly and when you said about the 1,200 being 600, I had to reread that thing because I didn't understand it. That guy gets hurt. He might have as much land as anybody does. He gets hurt though from being able to build 600 square foot of heated space and then potentially only 600 square foot of unheated space.

Chairman Richeson: We already have the ordinance for the first one that's already in the ordinance. It states it has to be 800 square feet or 50 percent of the heated limited space and I believe that's the primary residence, right?

Mr. Morton: I get that.

Mr. Meads: I guess the intent of that was to keep from having a structure, the ADU, looking as big as the main.

Chairman Richeson: That has been a historical concern.

Mr. Spencer: Rob, could I have 800 square foot mother-in-law suite over an 800 square foot unheated garage under the way you're interpreting it right now?

Mr. Testerman: As long as your primary dwelling is 1,600 square feet of living space. There are at least 1,600 square feet. Anybody have a problem with that?

Mr. Morton: Yeah, I just want people to understand that because there's no limit on the storage area right now. So, if we do limit that, that guy with that 1,200 square foot who might have more land than any of us do gets hurt. He's the guy, that's all I'm trying to say.

Mr. Spencer: We've got to go back and change the standard in the underlying ordinance.

Mr. Morton: Well, we don't have to as far as the 800 square foot because I get that. I get the heated square foot. I can't help that. I can't help his house is only 1,200 square feet, build a bigger house, build an addition to it and then be able to go someplace else. I have a problem with him being limited to the 600. I'm not saying that it can't be presented. I'm just saying that I got a little problem with that guy being limited that way. Although he could build a 24 by 24 foot garage because that's still under 600 square feet.

Chairman Richeson: If he has that much property, Rob, correct me if I'm wrong, he can have an accessory dwelling unit.

Chairman Richeson: He can still have an accessory dwelling as long as it's not heated.

Mr. Testerman: Accessory structure.

Chairman Richeson: Accessory structure, right? That's what I was looking for. I mean, if he wants extra storage, he can build an accessory structure if he has that much property. But as far as being attached to the ADU, it would have to.

Mr. Morton: So you're saying you could build a 600 plus 600 plus go build a two-car garage? I mean, I'm so sorry, not a two-car garage, a separate storage unit that was 24 by whatever. Is that what we're saying?

Mr. Testerman: We don't have any limits on how many structures he can have on. We just have limits on ADUs. Right. As long as he meets his lot coverage.

Mr. Morton: Yeah. I get that.

Chairman Richeson: So that doesn't really cut somebody off from doing that. I mean, they're going to have construction costs either way.

Mr. Morton: Well, it still hampers them because it costs him more to do that. But yeah, I get where you're going. I get what you're saying.

Chairman Richeson: That might be something to look at. Just throwing that out. Yeah, I'm not against that. When I was talking about that 2,000 square foot unheated with the 800, it was just an example that I don't know that I want to put a square footage on it. Not that I wouldn't vote for it, but I'm saying that's really tough. The simple thing to do is just do what you say, 50%. You get 800, you get 800 for the ADU.

Chairman Richeson: And then if you wanted to build something more you can close the bottom.

Mr. Morton: Yeah, you could do that then too, I guess.

Chairman Richeson: Do a non-conversion, yeah.

Mr. Spencer: So the non-conversion agreement would be for whether or not it was below base flood, which that's already part of the rules too. If it's an X zone even, you'd have that. Right.

Mr. Testerman: We would just put that into the accessory dwelling unit language that unheated storage space. I'll figure out the wording, but yeah, we would try to.

Mr. Spencer: It would be for the ADU only, not taking into consideration the existing single family dwelling. Correct. Okay.

Chairman Richeson: So we want to make a motion to table it, let Rob come up with the language and revisit it in December?

Mr. Spencer: It sounds good to me. I'm on board with what everybody's saying. We're trying to come up with something.

Vice-Chair Parker: I think we should not have any more. Whoever has one can have one. Then we don't have to do any of this ever again. That's the rules, done. We have them. They got lucky. Whoever else doesn't, because we're going to be back here in another three months with something that's wrong.

Mr. Spencer: You can't think of all the hypotheticals.

Vice-Chair Parker: It's just going to continue and continue. I think we could table it and need better language and then kind of make it more informative.

Mr. Heath: I don't care what we do. We're not going to make everybody happy.

Chairman Richeson: Is that a motion? It can be.

MOTION

Mr. Heath made a motion to table Accessory Dwelling Unit Size.

Seconded by Chairman Richeson.

Vote: Aye – unanimous

Chairman Richeson: Which brings us to item B, accessory dwelling unit setback calculation.

b. 42-528 – Accessory Dwelling Units – setback calculation

Mr. Testerman: All right. And this is, again, like I said, we don't have any guidance or regulations in the ordinance right now. So trying to reduce the amount of interpretations that are needed and just have it clear cut. So right now, our side yard setbacks, as you can see on the table, they increase as dwelling size increases. You can see under 3,000 square feet, 10 foot setback, 3,001 to 3,500, 12 and a half and so on. There's no language one way or the other on whether accessory dwelling unit living space should count towards that setback calculation. I believe we've only had one built that would have tripped it to that next one over. And as we were talking about it, we decided that since we didn't have any language that dictated that, we weren't going to hold it to the next higher up standard. So, it was permitted, I think, the 10 foot side yard setback. But this is just another one that I think just for the future, it would be good to have it clear in the ordinance. You can see the three options I've put forward. One would be including the ADU square footage in the total. So, if you've got a 2,800 square foot primary dwelling and you want to do a 400 square foot accessory dwelling unit, you're now at 3,200 square feet total. Your setbacks go to 12 and a half feet. Or we could not do it, kind of keep it the way we've been interpreting it, that your setbacks are determined on your primary dwelling size and that's it. The 800 square feet for your ADU doesn't matter, they still fall under whatever setback your house is at. And then another option is just setting a separate standard setback for ADUs. It could be 10 feet, 12 and a half feet, 15 feet, whatever. I think I put 15 feet in the report. One issue that I guess when

Mr. Morton and I were talking about this one, would be the idea that if you've got that 2,800 square foot house, if we include the ADU square footage into the setback calculation and somebody's got a 2,800 square foot house that's built right at that 10 foot setback and they come in and want to do a 400 square foot ADU that trips them up to 12 and a half feet, do we apply that 12 and a half feet just to the ADU or do we deny the permit because the setback has changed and the house doesn't meet the new setback? Because it would put the house in non-compliance. Right, I mean it could be written in that that increased setback only applies to the ADU and that solves that issue.

Vice-Chair Parker: What would you do if the house was already built 10 foot off and then they increased the square footage with an addition, so it trips it over the amount?

Mr. Testerman: They can't.

Mr. Spencer: What's wrong with just doing 15 feet? I mean I'm really asking that question because I like simple. So much of my work is not clear or simple. Seriously. So, when you have an opportunity to do it, okay. I go into okay what's wrong with that?

Mr. Testerman: And that is in line with the CAMA Land Use Plan? You can see in policy 3.4 incurred residential development that fits Kitty Hawk's character. One of the subsections for it said for accessory dwelling units consider modifying design requirements including additional setbacks or buffering in the VR districts especially if the ADU is accessed via separate driveway. So, it was kind of talking about limiting impacts that ADUs might have on adjacent property owners. One way of doing that is getting that additional setback.

Mr. Spencer: Plus the whole point of the setback, well there's not one point. The fire safety issue, the airflow, light, all that stuff. I mean these are the reasons we have it. The more people that are living there it seems to me that ought to be have probably have a tighter setback. I don't know how y'all feel about it. You got to build these things Blair.

Mr. Meads: I think the setback is a good idea. I wonder, I just wonder how many, if we've made it such a big setback that it doesn't work on with 10% of the lots then I think we, I just don't know how restrictive it would be on, I mean it may not be restrictive at all. I don't know because the small lots you may not have enough room to do it anyway. So it may not matter at all. The 15 might be good. I mean that might be perfect.

Mr. Testerman: Probably the biggest impact would be lots between the highways where I think they're typically 50 feet wide. So, if you're talking about 15 feet on each side and you're saying you got a 20 foot wide ADU. I don't know if that's feasible for construction, if that makes it worthwhile or not.

Mr. Meads: I mean on the ADU the 20 foot wouldn't be so bad.

I just, I don't know. It's probably not going to work on many of the small lots anyway. So, I doubt that there would even be an option on those. It would have to be a 15,000 square foot or more I would guess to even come close to making it work.

Chairman Richeson: To clarify, if you had a house that's already there on a 50 foot lot and you do the ADU and you make it 15 feet, that's not going to affect the setback that's already there on the other house right?

Mr. Testerman: Right, right. This is talking about if we just establish a new side yard setback just for ADUs.

It's not going to have any impact on those.

Chairman Richeson: So the house would have 10 foot on your lot, you'd have 10 foot on one side, a 15 foot setback on the other and then 25 and 25. Or

Mr. Testerman: I mean it would be dictated by the square footage of the living space of the house what the side yard setback is.

But doing it this way, just establishing a new standard setback for ADUs only.

Chairman Richeson: Right, I forgot to grab the chart for the square footage of the house. But it's not going to change what the original house was?

Mr. Testerman: Correct.

Vice-Chair Parker: If I had a house that's 3,000 square feet, no ADU, and I wanted to do an addition to it and it tripped me up into the 12 and a half, I wouldn't be able to get a permit for it.

Vice-Chair Parker: Right.

Vice-Chair Parker: Okay. I just wanted to clarify.

Chairman Richeson: What does everybody think about the 15 foot?

Mr. Morton: So let me ask, let me re-ask that question. Are you telling me if I have a 3,000 square foot house and I want to put an addition on it and I make the new addition meet the 12.5, I can't build that house? I can't build that addition?

Mr. Testerman: I think before I got here, the interpretation that the setback, it's established along that property line.

I think the definition of it talks about whatever measurement from the property line off. So, it's not, it wouldn't be like a staggered setback like 10 feet for your primary residence and then when your addition kicks in, it jumps out here to 12 and a half. I suppose it could be something.

Mr. Meads: It has been interpreted that way for a long time. Yeah. If your addition takes you over that setback, then you can't do it because if you're only 10 feet off and you go over the limit, then you can't do it.

Chairman Richeson: And for definition purposes, ADU and addition are two different things, right?

Mr. Testerman: Yes, and I just wanted to leap back on something that Matt brought up a minute ago with like the purpose of setbacks being the fire department being fire safety. I did reach out to the fire department as we were putting this together to see if they had any preference on if there should be any kind of setback or separation from the primary residence to the ADU and feedback was no. There's nothing in the fire code and they didn't have any preference.

Mr. Spencer: Can we take this off Rob's list and recommend standard setback for ADUs at 15 feet?

Chairman Richeson: I'm good with it.

Mr. Spencer: Because I'll make that motion.

Mr. Meads: So, it'll just be a standalone 15 feet setback for ADUs only. And the square footage between the primary and ADU will not come into play. That'll be irrelevant.

Mr. Heath: What are you saying Matt? 10 feet all the way around?

Mr. Spencer: No sir. What we're talking about is just saying okay you have an ADU that's got its own separate side yard setback. It's going to be 15 feet no matter what. You still got to meet the size limitations but you're not going to have to do a calculation or anything about a setback for your ADU. It'll be 15 feet period from the side.

Mr. Testerman: Procedurally since you're making a recommendation on one and tabling the other I'm not going to put this one forward to council until we have them both ready because I don't want to do back-to-back public hearings on the same section. So, once we get it all squared away then I'll push it forward to council.

Chairman Richeson: Okay so we have a motion on the floor.

MOTION

Mr. Spencer made a motion to approve 15-foot side yard setbacks for ADUs.

Seconded by Chairman Richeson

Vote: Aye – unanimous

Chairman Richeson: And so that concludes the text amendment item six and now we're at item seven comments.

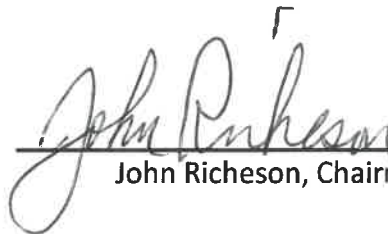
7.) Comments

Mr. Morton: Yeah, just one more question. The thing that we just voted on once we decide in December what's going to happen it's got no effect on what we're going to do in December except it must meet 15 feet on the side yard setbacks. Whatever you decide plus or minus 800 1200 this whatever nothing matters except the only time that the thing we just voted on comes into play is for the side yard setback only for just the ADU.

Mr. Testerman: Yes

8.) Adjourn:

Hearing no further comments, Chairman Richeson adjourned the November 13, 2025, Kitty Hawk Planning Board meeting at 6:43: p.m.



John Richeson, Chairman

Respectfully Submitted,



Jessica M. Everett

Administrative Zoning Technician