



# TOWN OF KILL DEVIL HILLS

*Land Where Flight Began*

## NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that on Tuesday, September 17, 2024, at 5:30 p.m., the Kill Devil Hills Planning Board will hold its regular meeting of the month in the Town Hall Meeting Room located at 102 Town Hall Drive, Kill Devil Hills.

A printed packet is available for public inspection in the Office of the Town Clerk, 102 Town Hall Drive. To schedule an inspection time, contact the Department at 252-449-5300. Packet materials can be viewed on the Town's website at <https://www.kdhnc.com/743/Meetings-Agendas-Packets-Minutes>.

Written public comments for the Planning Board can be emailed to [info@kdhnc.com](mailto:info@kdhnc.com). Comments must include your name and address and are limited to three minutes for individuals, and five minutes when speaking for a group.

## AGENDA

Call to Order

Agenda Approval

Approval of the Minutes of the July 16, 2024, meeting

Public Comment

Response to Public Comment

Ongoing Business

New Business

1. Zoning Amendment Request — §153.315(B)(4) Accessory Dwelling Units (ADU) — Modify (ADU) Site Requirements

Public Comment

Response to Public Comment

Board Member Comment

Adjournment

Posted this 12<sup>th</sup> day of September 2024.

Jennifer Stecher

Administrative Assistant/Deputy Town Clerk

Copies to: Mayor and Board of Commissioners, Planning Board members in their packet materials; Town Manager; Town bulletin boards; Town Sunshine List, including all local news media; Electronic Distribution List; Town website and social media; file

**Minutes of the Tuesday, July 16, 2024, meeting of the Kill Devil Hills Planning Board held at 5:30 p.m. in the Town Hall Meeting Room, 102 Town Hall Drive, Kill Devil Hills, North Carolina.**

**Members Present:** Becky Breiholz, Sandie Markland, Natalie Painter, Ron Seidman, II, and Phillip Wayland

**Members Absent:** Chairperson Howard Buchanan and Jennifer Albanese

**Others Present:** Cameron Ray, Assistant Planning Director; and Jennifer R. Stecher, Deputy Town Clerk

**Call to Order**

At 5:30 p.m., Vice Chairperson Ron Seidman called the Tuesday, July 16, 2024, meeting of the Kill Devil Hills Planning Board to order and welcomed everyone present, and welcomed Phillip Wayland as a member to the Planning Board.

**Agenda Approval**

Sandie Markland moved to approve the agenda for this meeting. Becky Breiholz seconded the motion, which was approved by a unanimous, 4-0, vote.

**Approval of the Minutes of the May 21, 2024 meeting**

Ms. Markland moved to approve the May 21, 2024, meeting minutes, as presented. Phillip Wayland seconded the motion, which was approved by a unanimous, 4-0, vote.

**Public Comment**

**Response to Public Comment**

**Ongoing Business**

**New Business**

- 1. Zoning Amendment Request — §153.120(E)(4)(c) Low Density Residential Zone Site Requirements — Amend Requirements for Permeable Pavement Lot Coverage Calculations for Lot(s) Greater than One Acre**

The zoning amendment request submitted by Eddie Goodrich is to amend Town Code section 153.120(E)(4)(c) to modify the requirements for permeable pavement lot coverage calculations for lot(s) greater than one acre in the Low Density Residential Zone.

Town Code section 153.120(E)(4)(c) was amended in 2018 to allow for lot coverage reductions in this zoning district. Per the Planning Board recommendations, several additional requirements were added including limiting the minimum eligible lot size of 7,500 square feet and 50% of the required parking had to be outside the footprint of the structure. These recommendations were incorporated into the new regulations to address the concern of additional lot coverage on smaller lots and the regulations resulting in larger structures.

The proposed amendment request is to eliminate the requirement for the 50% of required parking being outside the footprint on all lots greater than one acre. When the original amendment was being reviewed, cluster homes and cottage courts were not allowed uses in the (RL) zone, which require a minimum of one acre.

Staff recommended that the Planning Board forward the zoning amendment request to amend Town Code section §153.120(E)(4)(c) Low Density Residential Zone Site Requirements, specifically to amend requirements for permeable pavement lot coverage calculations for lot(s) greater than one acre as presented with attached consistency statement to the Board of Commissioners with a favorable recommendation.

Members discussed what the potential outcomes would be with this zoning amendment. Staff verified that this zoning amendment will only apply to the Residential Low zone on parcels greater than one acre, which predominantly applies to cluster homes and cottage courts.

Ms. Markland moved to forward the zoning amendment request to modify Town Code section §153.120(E)(4)(c) Low Density Residential Zone Site Requirements to amend requirements for permeable pavement lot coverage calculations for lot(s) greater than one acre as presented with consistency statement to the Board of Commissioners with a favorable recommendation. Ms. Breiholz seconded the motion, which passed with a unanimous 4-0 vote.

## **Public Comment**

## **Response to Public Comment**

## **Board Member Comment**

The group discussed permeable pavement and the upkeep necessary to maintain its benefits. The Planning Board had previously approved an amendment to the Town's stormwater management ordinance that gave some local enforcement of stormwater management with best management practices for maintenance, Staff has used this enforcement to the benefit of property owners.

## **Adjournment**

There being no further business before the Planning Board at this time, Ms. Breiholz moved to adjourn the meeting. Ms. Markland seconded the motion, which was approved by a unanimous, 4-0, vote.

It was 5:45 p.m.

Submitted by:

Jennifer R. Stecher  
Administrative Assistant/Deputy Town Clerk

Director of  
Planning and Inspections  
MEREDITH GUNS

Building Inspector  
MARTY SHAW  
CHARLES THUMAN

Code Enforcement Officer  
JORDAN BLYTHE



Assistant Director of  
Planning and Inspections  
CAMERON RAY

Senior Planner  
RYAN LANG

Zoning Administrator  
DONNA ELLIOTT

**THE TOWN OF KILL DEVIL HILLS**  
NORTH CAROLINA

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**PLANNING DEPARTMENT**

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September 17, 2024

Memorandum

To: Planning Board

From: Cameron Ray, Assistant Planning Director 

Subject: Zoning Amendment Request – §153.315(B)(4) Accessory Dwelling Units (ADU) —  
Modify (ADU) Site Requirements

Attached is a Zoning Amendment request from David Snow to amend Town Code sections 153.315(B)(4) Accessory Dwelling Units (ADU) to modify (ADU) site requirements. The amendment request is to remove the requirement for detached ADU's to be located behind the primary dwelling. This requirement was included in the original Town code amendment for ADU's, which was a common regulation for ADU's in neighboring jurisdictions. Since that time, several other jurisdictions have removed this requirement.

Staff supports the change to remove the requirement as requested, however Staff recommends that the Town include a height restriction for the ADU not to exceed the height of the primary dwelling. This is consistent with the original intent of this section, which was for the ADU to not be the focal point of the site, but be an accessory to the primary structure. The applicant has agreed to the proposed language addition per staff's recommendation and is attached with the packet material.

Staff recommends forwarding the attached amendment to 153.315(B)(4) Accessory Dwelling with attached consistency statement to the Board of Commissioners with a favorable recommendation.

**AN ORDINANCE AMENDING THE  
KILL DEVIL HILLS CODE OF ORDINANCES,  
CHAPTER 153, ZONING**

**BE IT ORDAINED** by the Kill Devil Hills Board of Commissioners that Chapter 153, Zoning of the Kill Devil Hills Town Code of Ordinances, shall be amended by adding the underlined language and deleting the following ~~stricken~~ language to the sections identified below, as follows:

**SPECIAL REGULATIONS**

**§ 153.315 ACCESSORY DWELLING UNITS.**

(A) Purpose. The purpose of these provisions for all accessory dwelling units (ADUs) is to allow the efficient use of existing housing stock, parcels of land, and community infrastructure, and to increase the number and variety of residential units while respecting the scale and character of existing neighborhoods.

(B) General provisions. Accessory dwelling units (ADUs) are allowed as permitted uses in Low Density Residential, High Density Residential, Commercial, Light Industrial 1 and Light Industrial 2 Zoning Districts, subject to the following standards:

(1) An ADU can only be located on a property containing one single-family detached dwelling. The property may contain other accessory structures and uses as permitted in this section.

(2) No more than one ADU shall be permitted per residential lot.

(3) ADUs shall not be larger than 50% of the living area of the primary residence, or 800 square feet, whichever is lesser.

PROPOSED Amendment  
Chapter 153, Zoning

**§ 153.315 Accessory Dwelling Units** – to eliminate the requirement for detached ADUs to be located behind the primary dwelling

(4) An ADU must comply with all applicable minimum building setback requirements and a detached ADU ~~cannot extend beyond the front~~ exceed the height of the primary residence.

(5) An ADU must be properly permitted, inspected, and comply with all applicable standards of the State Building Code and Kill Devil Hills Town Code.

(6) The owner must obtain a permit from the County Environmental Health Department that the existing wastewater system can accommodate or be improved to accommodate the establishment of an ADU.

(7) ADUs shall be parked in accordance with § 153.076 Off Street Parking and Loading.

(8) Recreational vehicles, travel trailers and/or manufactured homes shall not be used or approved as an ADU.

(9) An ADU shall not be subdivided or segregated in ownership from the principal dwelling unit.

(10) An ADU in Low Density Residential and High Density Residential Zoning Districts shall only be occupied for long-term occupancy as defined in § 153.002. Property owners shall be required to execute and record, with the Dare County Register of Deeds, a long-term use agreement declaring that the dwelling unit shall be used only for long-term occupancy in perpetuity prior to issuance of a building permit.

**BE IT FURTHER ORDAINED** that it is the intent of the Board of Commissioners that the provisions of this ordinance shall be made a part of the Kill Devil Hills Code of Ordinances; the sections of this ordinance may be re-numbered or re-lettered; and the word “ordinance” may be changed to “section,” “article,” “chapter,” or other appropriate designation to accomplish such intention as needed.

This amendment to Chapter 153, Zoning, shall be in full force and effect from and after the \_\_\_\_ day of \_\_\_\_\_, 2024. Adopted and approved by the Board of Commissioners of the Town of Kill Devil Hills at a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2024, by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

## Ray, Cameron

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**From:** davidhsnow <davidhsnow@gmail.com>  
**Sent:** Thursday, September 12, 2024 3:09 PM  
**To:** Ray, Cameron  
**Subject:** RE: Zoning Amendment Request - 153.315(B)(4): Staff Requested Language Addition

To whom it may concern,

I agree to all terms.

Sincerely,  
David H. Snow

Sent from my Galaxy

----- Original message -----

From: "Ray, Cameron" <Cameron@kdhnc.com>  
Date: 9/12/24 12:12 PM (GMT-05:00)  
To: davidhsnow@gmail.com  
Subject: Zoning Amendment Request - 153.315(B)(4): Staff Requested Language Addition

Good morning David,

Staff has reviewed your zoning amendment request and is prepared to recommend approval of the language you presented, however Staff does have additional language that is recommended to add. Staff would like to restrict the height of the ADU to not exceed the height of the primary structure as to not be the focal point of these developments. Below is the proposed language with Staff's proposed additional language in **BLUE**:

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### § 153.315 ACCESSORY DWELLING UNITS.

(B) *General provisions.* Accessory dwelling units (ADUs) are allowed as permitted uses in Low Density Residential, High Density Residential, Commercial, Light Industrial 1 and Light Industrial 2 Zoning Districts, subject to the following standards:

(4) An ADU must comply with all applicable minimum building setback requirements and a detached ADU cannot extend beyond the front **exceed the height** of the primary residence.

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If you agree or disagree to the language additions above, please respond letting me know at your earliest convenience.

As discussed, this item will be reviewed by the Planning Board at their upcoming September 17, 2024 meeting at 5:30pm at KDH Town Hall. Please let me know if you have any questions.

Sincerely,

Cameron Ray, CFM, CZO

Assistant Planning Director

PO Box 1719

Kill Devil Hills, NC 27948

252-449-5311 phone

252-441-4102 fax

[www.kdhnc.com](http://www.kdhnc.com)



**PLANNING BOARD REPORT**

Per NCGS 160D-604(b), Zoning Amendments. – Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

Per NCGS 160D-604(d), Plan Consistency – When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

**PLANNING BOARD RECOMMENDATIONS**

**Proposed Amendment Title:** Proposed Zoning Amendment—§153.315(B)(4) Accessory Dwelling Units (ADU) — Modify (ADU) Site Requirements

**Approval/Denial:** Planning Board finds that the Proposed Zoning Amendment §153.315(B)(4) Accessory Dwelling Units (ADU) — Modify (ADU) Site Requirements is/is not consistent with the adopted Land Use Plan.

**Therefore,** the Planning Board finds the proposed amendment is consistent/inconsistent with the objectives and policies contained in the Kill Devil Hills Land Use Plan and/ or other officially adopted plans of the Town that are applicable.

This report reflects the recommendation of the Planning Board with a vote of \_\_\_to\_\_\_, this the Seventeenth day of September, 2024.

Attest:

\_\_\_\_\_  
Planning Board Chairman

\_\_\_\_\_  
Secretary of Planning Board



# Kill Devil Hills

North Carolina

## CODE AMENDMENT APPLICATION

Planning and Inspections Department

(252) 449 – 5318

102 Town Hall Drive

Kill Devil Hills, NC 27948

**FEE: \$500.00**

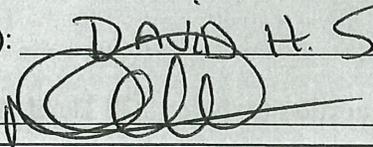
The purpose of this application is to *request* a code amendment, or a permanent alteration, to the Kill Devil Hills Town Code.

### Required attachments/submittals for an application for a code amendment:

- 1.) A completed application
- 2.) One copy of the code in question (existing Kill Devil Hills Town Code)
- 3.) One copy of your proposed code amendment, with the proposed changes highlighted
- 4.) Application Fee, *which is nonrefundable*

**\*\*\*Important: If any of the above requirements are not present at the time of submittal, the application will be deemed incomplete and will not be accepted.\*\*\***

Town of Kill Devil Hills

<b>Certification:</b>	AUG 15 2024
I (we) hereby acknowledge and say that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the Town of Kill Devil Hills Planning and Inspections Department.	
Petitioner's Name (Please Print):	DAVID H. SNOW
Petitioner's Signature:	 Date: 8/13/2024

For Staff Use Only:

Fee Received by: Cameron Ray Date: 8/15/2024



Town of Kill Devil Hills  
North Carolina

Application for a Code Amendment

(Please Type or Print)

**Petitioner**

Name:

DAVID A. SNOW

Address:

2018 BAY DRIVE  
Kill Devil Hills  
NC, 27948

Telephone Number:

252-489-6149

Email:

chudhsnow@gmail.com

**Agent for Petitioner (If Applicable)**

Name:

Address:

Telephone Number:

Email:

I hereby request an amendment to the following specific section of the Town Code:

Chapter: 153.315 Code: ACCESSORY DWELLING UNIT  
(B) (4)

Title:

To this application, attach:

- One copy of the code in question (existing Kill Devil Hills Town Code)
- One copy of your proposed code amendment, with the proposed changes highlighted



Town of Kill Devil Hills  
North Carolina

**Application for a Code Amendment**

1. Please provide a **detailed** justification for the proposed amendment (*attach additional pages as needed*):

IM ASKING TO KEEP THE ADU UNIT ON THE ROAD SIDE OF BAY DRIVE AND BUILD THE MAIN HOUSE ON THE SOUND SIDE. THIS SHOULD BE CONSIDERED FOR SOUND FRONT AND OCEAN FRONT PROPERTIES

2. How does this proposed amendment help to promote the public health, safety, and general welfare? (*attach additional pages as needed*)

THIS WILL PROVIDE A PERMANENT HOUSING FOR WORKERS, STAFF FOR THE RETAILERS IN KILL DEVIL HILLS.

## § 153.315 ACCESSORY DWELLING UNITS.

(A) *Purpose.* The purpose of these provisions for all accessory dwelling units (ADUs) is to allow the efficient use of existing housing stock, parcels of land, and community infrastructure, and to increase the number and variety of residential units while respecting the scale and character of existing neighborhoods.

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(1) An ADU can only be located on a property containing one single-family detached dwelling. The property may contain other accessory structures and uses as permitted in this section.

(2) No more than one ADU shall be permitted per residential lot.

(3) ADUs shall not be larger than 50% of the living area of the primary residence, or 800 square feet, whichever is lesser.

(4) An ADU must comply with all applicable minimum building setback requirements and a detached ADU cannot extend beyond the front of the primary residence.

(5) An ADU must be properly permitted, inspected, and comply with all applicable standards of the State Building Code and Kill Devil Hills Town Code.

(6) The owner must obtain a permit from the County Environmental Health Department that the existing wastewater system can accommodate or be improved to accommodate the establishment of an ADU.

(7) ADUs shall be parked in accordance with § [153.076](#) Off Street Parking and Loading.

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(9) An ADU shall not be subdivided or segregated in ownership from the principal dwelling unit.

(10) An ADU in Low Density Residential and High Density Residential Zoning Districts shall only be occupied for long-term occupancy as defined in § [153.002](#). Property owners shall be required to execute and record, with the Dare County Register of Deeds, a long-term use agreement declaring that the dwelling unit shall be used only for long-term occupancy in perpetuity prior to issuance of a building permit.

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(3) ADUs shall not be larger than 50% of the living area of the primary residence, or 800 square feet, whichever is lesser.

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Town of Kill Devil Hills Planning and Inspections  
252-449-5318

### NON-REFUNDABLE FEES

Date: 8/15/24

- |  |   |
|--|---|
| <input type="checkbox"/> Board of Adjustments      | <input type="checkbox"/> Exempt plat/Subdivision        |
| <input type="checkbox"/> CAMA                      | <input type="checkbox"/> Fines and/or Re-Inspection Fee |
| <input type="checkbox"/> Copies                    | <input type="checkbox"/> Site Plan Review               |
| <input checked="" type="checkbox"/> Text Amendment | <input type="checkbox"/> Permit Re-instatement          |
| <input type="checkbox"/> Other: _____              |   |

Amount: \$500.00

Received From: David Snow

Description: Town code amendment - 153.315(A)(4)

Received by: Cameron Ray

PAID

AUG 15 2024

TOWN OF  
KILL DEVIL HILLS