

PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: September 17, 2014
Applicant: Jerry Jacobs
Property Owner: Hawes Chapel Missionary Baptist Church
Case Number: 11233

Property Location and Description: The subject property, Tract 3, Map Book 48, Page 117, (Exhibit 1) is located near the intersection of Slocum Trail (SR 1100) and Newtown Loop Road (SR 1203) Caswell Township. There is one (1) tract associated with this request totaling ± 10.17 acres and the property may be identified by Pender County PIN 2248-13-2578-0000.

Zoning District of Property: The property is zoned O&I, Office and Institutional.

Variance Requested: Jerry Jacobs, applicant, on behalf of Hawes Chapel Missionary Baptist Church, owner, is requesting a variance for relief from Pender County Unified Development Ordinance standards outlined in Section 7.10.5.B (1); Non-Residential Uses in all other Zoning Districts: Required Parking Spaces - All required off-street parking spaces shall be sealed by an appropriate licensed professional and paved in accordance with NCDOT base course and pavement surface standards as prescribed by the “Secondary Road Manual”.

BACKGROUND AND DESCRIPTION OF VARIANCE:

Staff met with the applicant on two (2) separate occasions to discuss the potential siting of church on the subject property. On June 6, 2014 the applicant was issued a Zoning Determination (Exhibit 1) in order to apply for an Environmental Health septic approval. On July 18, 2014 the applicant then brought a Major Site Submittal to Staff for the church siting.

Subsequent discussions with Staff included concerns over specific pavement requirements per the Pender County Unified Development Ordinance Section 7.10.5.B (1). On July 31, 2014 the applicant met with staff to discuss the potential for a rezoning or a variance on the subject property to circumvent the Ordinance requirement in Section 7.10.5.B (1). At present the applicant requests relief from parking surface requirement;

7.10.5 Surfacing

- B. Non-Residential Uses in all other Zoning Districts
 - 1. Required Parking Spaces - All required off-street parking spaces shall be sealed by an appropriate licensed professional and paved in accordance with NCDOT base course and pavement surface standards as prescribed by the “Secondary Road Manual”.

Parking minimum requirements can be found in Section 7.10.1, where this proposal (place of worship) will require thirty-seven (37) parking spaces total. Calculations are based on the preliminary site submittal (Exhibit 3). This calculation is preliminary and subject to review at the time of Major Site Development Plan approval.

Places of Worship	All places of worship	1 per 28 SF available seating in the assembly area(s)
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The submitted site plan (Exhibit 2) has not been reviewed for all requirements in the Major Site Development Plan Section 6.3 of the Pender County Unified Development Ordinance. Meaning, that if a variance is granted by the Board of Adjustment; the applicant must still submit and meet all criteria outlined in the Major Site

Development Plan for approval. All applicable state and federal agency permits including a Stormwater Management Permit, and Erosion Control Plan, wetlands impact permits, and NCDOT Driveway Permit will be required prior to the approval of the Major Site Development Plan. At current the applicant is seeking relief from solely the surfacing requirements in Section 7.10.5.B (1).

ZONING ADMINISTRATOR’S CONCLUSION:

Jerry Jacobs, applicant on behalf of Hawes Chapel Missionary Baptist Church, owner, is requesting a variance for relief from Pender County Unified Development Ordinance standards outlined in Section 7.10.5.B (1); Required Parking Spaces – All required off-street parking spaces shall be sealed by an appropriate licensed professional and paved in accordance with NCDOT base course and pavement surface standards as prescribed by the “Secondary Road Manual”.

3.14 VARIANCE

3.14.1 Applicability

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner’s own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated in Section 3.14.7 of this Ordinance.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
 - 1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - 2) The hardship results from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - 3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship.

4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

Board of Adjustment: Finding of Facts

1. It is the Board’s CONCLUSION that the hardship of which the applicant complains (**results/does not result**) from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:
2. It is the Board’s CONCLUSION that, the hardship (**results/does not result**) from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:
3. It is the Board’s CONCLUSION that the hardship (**results/did not result**) from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:
4. It is the Board’s CONCLUSION that, the requested variance is (**consistent/ not consistent**) with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. This conclusion is based on all of the FINDINGS OF FACT:

Board Action:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

Ferrante: _____ **Pullen:** _____ **Newton:** _____ **Thompson:** _____ **Walton:** _____

Alternates:

Godridge: _____ **Peters:** _____

7.10.5 Surfacing

A. Non-Residential Uses in the RA District

- A. All required off-street parking spaces shall be covered with an all-weather surface designed to support anticipated loads. Loose material surfaces shall be contained with a permanent edging. The surface shall be maintained so that traffic may move safely in and out of the parking area. Parking blocks that help designate individual parking spaces and keep vehicles within the surfaced area shall be required in lots with greater than 10 parking spaces.

B. Non-Residential Uses in all other Zoning Districts

- A. Required Parking Spaces - All required off-street parking spaces shall be sealed by an appropriate licensed professional and paved in accordance with NCDOT base course and pavement surface standards as prescribed by the "Secondary Road Manual".
- B. Historic Preservation - Site(s) recognized by the National Register of Historic Places (NHRP) may be exempted from the surfacing requirements of the Unified Development Ordinance (UDO).
 - a) Developments attempting to qualify for the Historic Preservation exemption must provide a copy of the National Parks Service listing, along with a narrative briefly requesting the aforementioned relief and how the surfacing standards would conflict with the historic significance of the property.
 - b) A site plan shall be provided designating a parking area meeting the minimum parking and access requirements of the UDO.
 - c) The Administrator must determine that the relaxation of standards will be consistent with the promotion of the health, safety, and general welfare of the residents of Pender County.
- C. Parking spaces provided in excess of the minimum required shall be constructed to use low impact design of excess parking facilities. Additional low impact design may be provided, if not otherwise prohibited by other provisions of the UDO, in the following areas:
- D. Adjacent to parking lot landscape islands to allow for the percolation of water and the exchange of oxygen for the tree roots.
- E. Grass paving or turf block areas may be utilized in low impact areas or infrequent use areas such as churches or the outlying parking areas of malls or other shopping areas.

6.3 MAJOR SITE DEVELOPMENT PLAN CONTENTS

The site plan shall be clearly legible and shall be drawn at a scale acceptable to the Administrator no less than 1:50 scale on a paper size no less than 24"X36". The major site plan shall include three general sections, the project information section, the calculations section, and the site plan and details section. The information required for each section is listed below:

A. Project information section

- 1) A title that includes the name of the proposed or existing business and a subtitle which describes the proposed development.
- 2) The name, address, and phone number of the landowner, developer, and designer.
- 3) The Pender County Property Identification Number (PIN) of all lots included on the site plan.
- 4) The number and type of dwelling units included on the site plan for residential uses.
- 5) The total land area and total developed land area of all lots included on the site plan.
- 6) A detailed description of the proposed use or uses of the development, as well as a description of the existing use or uses.
- 7) A reference to any other site plan or Master Development Plan approved by the County for the site.
- 8) The date the site plan was prepared and a list of all revisions made, including the date and a description of why the site plan was revised.
- 9) A table of contents including all pages of the site plan.
- 10) A list of all proposed utility providers, with their address, name and phone number.
- 11) An inset map showing the location of the site, along with the location of streets, roads and land uses within 500 feet of the property.
- 12) A statement listing all requirements and conditions placed on the land included in the site plan resulting from approval of conditional zoning or a special use permit.
- 13) A description of setbacks or conditions placed on the site as a result of an approved variance.

B. Calculations section.

- 1) Calculations showing the total number of required and proposed parking spaces, including the total number of existing and proposed spaces.

C. Site plan and details section.

- 1) The location of all adjoining lots with the owner's name, specific use, zoning, and zoning boundaries shown.
- 2) The location of all existing or planned rights-of-way and easements that adjoin the property, with street names, widths, and speed limits shown.
- 3) All nearby entrances that are within 200 feet of any existing or proposed entrances to the site. Existing or proposed interconnections to adjoining sites as applicable.
- 4) All existing and proposed driveways, parking and loading spaces, parking lots and a description of surfacing material and construction details to be used. The size and angle of parking spaces, aisles, maneuvering areas, and loading spaces shall be shown.
- 5) Estimated AM and PM Peak Hour Trips per the Institute of Transportation Engineers Trip Generation Manual.
- 6) Estimated Average Daily Trips created by the development at build-out per the Institute of Transportation Engineers Trip Generation Manual.
- 7) Based on estimated traffic counts, a Traffic Impact Analysis may be required stating the dates and times counts were conducted for the proposed development.
- 8) A North arrow.
- 9) A graphic scale and statement of scale.
- 10) A legend describing all symbols and other features that need description.
- 11) The present zoning of all portions of the site, with the location of zoning boundaries.
- 12) The location of all existing and proposed structures, with the height, specific use, ground floor area, and total floor area labeled.
- 13) The location of all existing and proposed outdoor uses, with the height, specific use, and land area labeled.

- 14) Existing topographic contour lines at intervals acceptable to the Administrator. Proposed finished grades shall be shown by contour.
- 15) The location of the front, side, and rear yard setback lines required by the applicable zoning district.
- 16) The location and boundaries of existing environmental features, including streams, floodplains, lakes and ponds, wetlands, natural stormwater retention areas, steep slopes, and woodlands.
- 17) The location of outdoor trash receptacles.
- 18) The location of all outdoor lighting fixtures.
- 19) Signage requirements per Article 10.
- 20) Landscaping and Buffer requirements per Article 8.
- 21) The location of sidewalks and walkways.
- 22) The location and width of proposed easements and dedications.
- 23) A stormwater management plan describing the location of all stormwater management facilities with design calculations and details.
- 24) A soil erosion and sedimentation plan describing methods to be used.
- 25) The location and size of sewage disposal and water supply systems.
- 26) A signed seal of the certified design professional who prepared the plan.
- 27) A space labeled "Approved by the Pender County Unified Development Administrator" for the signature of the Administrator, approval date, and a statement that reads "site plan valid for two (2) years from approval date."
- 28) Other information or statements may be required on the site plan by the Administrator to ensure that all requirements of the Pender County Code and Land Use Plans are met.