

Pender County Planning and Community Development

Planning Division

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MINUTES

Pender County Board of Adjustment Meeting September 24, 2014 9:00 a.m. Pender County Public Meeting Room 805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Ferrante called the meeting to order at 9:00 a.m.

Invocation: Administered by Chairman Ferrante.

Roll Call: Chairman Ferrante

Pender County Board of Adjustment Members:

Ferrante: Pullen: Newton: Thompson: Walton: recused

Alternates:

Godridge: Peters:

Alternate members Godridge and Peters served as full Board members

- 1. Adoption of the Agenda:** Motion to adopt the agenda was made by Board member Godridge; seconded by Vice-Chairman Pullen. Vote unanimously approved.
- 2. Adoption of the Minutes: August 20, 2014:** Motion to adopt the minutes was made by Vice-Chairman Pullen; seconded by Board member Peters. Vote unanimously passed.
- 3. Public Comment:** None

** Public Hearings Opened**

Director Breuer swore in witnesses who wished to speak during the Hearing.

4. Variance:

Jerry Jacobs, applicant, on behalf of Hawes Chapel Missionary Baptist Church, owner, requested a variance for relief from the 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". The subject property, Tract 3, Map Book 48, Page 117, 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. Planner O'Hare presented and gave background information for agenda 4. Chairman Ferrante asked if the Board was being asked to grant a variance for the surface material; Planner O'Hare answered yes, the request was for relief from the surfacing requirements. Vice-Chairman Pullen asked how the required amount of parking spaces was established; Planner O'Hare explained that they were calculated based off of the requirements of the Pender County Unified Development Ordinance; which uses the amount of seating offered. Mark Walton, Project Engineer, stated to the Board that since he was a Board member he consulted with

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the County Attorney and staff concerning his ability to handle the case prior to him accepting the job. Mr. Walton further explained the applicant's request, stated that the plan was to use gravel instead of pavement, provided the Board with a GIS map showing the surrounding properties were zoned Rural Agricultural which gravel is an approved surface material in that zone, and presented the applicant's Findings of Facts. Chairman Ferrante asked what the applicant's hardship was; Mr. Walton answered that the time it would take waiting for storm water permits. Board member Thompson asked when and why was the property zoned Office and Institutional; Director Breuer answered in 2010 when the Ordinance was adopted and the property was listed as a church. George Armstrong, Deacon of the Church, stated that the church had 100 members, the property was bought 5 years ago for the purpose of a new church, their current church had bad floors, bad wiring, and the church needed to be built out of need not wants. Mr. Armstrong asked the Board to please consider granting the requested Variance so that they may begin to build. The Board held their discussion and reviewed the Finding of Facts as follows:

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **results** 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: ***The application of the specific Office & Institutional Zoning District standards as outlined in Section 7.10.5.B (1) of the Ordinance would be a hardship for the applicant based on the perceived amount of time needed to obtain for Stormwater Permit through the State of North Carolina.***

2. It is the Board's CONCLUSION that the hardship **results** from conditions that are peculiar to the property, such as location, size, and 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: ***The subject property is considered to share the same rural qualities with the nearby properties. The surrounding area consists of parcels that would not be required to surface parking areas in accordance with NCDOT base course and pavement surface standards as prescribed by the "Secondary Road Manual" per Section 7.10.5.B (1), as the subject property is required.***

3. It is the Board's CONCLUSION that 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. This conclusion is based on the following FINDINGS OF FACT: ***The property owner did not take any action which would create the identified hardship for surfacing requirements per the Ordinance.***

4. It is the Board's CONCLUSION that 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. This conclusion is based on the following FINDINGS OF FACT: ***This request is consistent with the intent of the Ordinance, as the site shares rural characteristics with other adjacent parcels and would provide consistency for surfacing requirements.***

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED** with the following condition: The applicant is to use pervious pavement per applicable NCDENR standards for surfacing, to be approved administratively at the time of a Site Development Application per Section 6.3 of the Unified Development Ordinance. Motion to approve the requested Variance was made by Board member Thompson, seconded by Board member Godridge. The vote was unanimous.

5. Discussion Items:

- a. **BOA Members:** Director Breuer announced that Board members Thompson and Walton would be meeting with staff after the Board of Adjustment meeting, in regards to the Subdivisions' standards and welcomed any member to join if they wished. Director Breuer

advised the Board that the County would be adopting new flood maps and would send the Board the website for further information.

b. Planning Staff:

- 6. Next meeting:** October 15, 2014
- 7. Adjournment:** Meeting adjourned at 9:50 a.m.