

**PLANNING STAFF REPORT
VARIANCE REQUEST**

SUMMARY:

Hearing Date: May 18, 2016
Continued July 20, 2016
Applicant: Sarah Woodard
Property Owner: Sarah Woodard
Case Number: VAR 209-2016

Property Location and Description: The subject property is located at 218 Doral Drive, Hampstead, NC 28443. There is one (1) tract associated with this request totaling \pm 0.46 acres and may be further identified by Pender County PIN 4214-12-2190-0000.

Zoning District of Property: The property is zoned PD, Planned Development zoning district.

Variance Requested: Sarah Woodard, applicant and owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A setback for accessory structure, specifically requesting a variance from both the side yard setback and structure separation requirement of ten (10) feet for an accessory structure. The variance request is for ten feet (10') from the side yard setback and seven feet six inches (7' 6") from the required structure separation.

BACKGROUND AND DESCRIPTION OF VARIANCE:

The subject property is located in Section D of the Greenway Plantation residential subdivision, recorded on MB 12 PG 64 in the Pender County Register of Deeds. The residential subdivision is currently zoned PD, Planned Development zoning district.

According to Section 5.3.3.A of the Pender County Unified Development Ordinance, the setback requirement for accessory structures in all zoning districts is ten (10) feet from all property lines. All accessory structures are also required to have a ten (10) feet structure separation from any other structure on the property. The existing carport (Exhibit 1) for which this variance is requested is considered an accessory structure per Appendix A of the Pender County Unified Development Ordinance an accessory structure is defined as:

ACCESSORY STRUCTURE (Appurtenant Structure): a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

The measurement for the setback to the side lot line has been taken from the southwestern corner of the carport. The side yard setback as defined in Appendix A of the Pender County Unified Development Ordinance states:

SETBACK, SIDE YARD: The required distance between a building or structure and the side lot line of the lot containing the building or structure.

In the submitted site plan the 30' x 19' (570 sq. ft.) structure is located directly adjacent to the side property line and two feet six inches from the residential structure, necessitating a variance for a total of ten feet (10') from the side property line and seven feet six inches (7' 6") from the structure separation requirements (Exhibit 2).

If a variance is granted by the Board of Adjustment; the applicant must still meet all other building setbacks and requirements in Pender County's Unified Development Ordinance, including acquiring necessary building

permits and zoning approvals. At current, the applicant is seeking relief solely from the standards outlined in Section 5.3.3.A; which necessitates a ten (10) feet setback from any property line and from any other structure. The variance request is for ten feet (10') from the side yard setback and seven feet six inches (7' 6") from the required structure separation.

ZONING ADMINISTRATOR'S CONCLUSION:

Sarah Woodard, applicant and owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A setback for accessory structure, specifically requesting a variance from both the side yard setback requirement of ten (10) feet for an accessory structure and the ten (10) feet structure separation requirement.

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/does 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 FOR VARIANCE:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Ferrante ___ Pullen ___ Newton ___

Alternates:

Godridge: _____ Peters: _____

5.3.3 Accessory Uses and Structures

A. Accessory Building Setbacks and Separation Requirements

- 1) Accessory Buildings 50-599 Square Feet In Area:
 - a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
- 2) Accessory Buildings 600-1,199 Square Feet In Area:
 - a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
- 3) Accessory Buildings 1,200 Square Feet in Area or Greater:
 - a) Same setback and separation requirements as principal buildings per zoning district regulations

ACCESSORY STRUCTURE (Appurtenant Structure): a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

4.8 Mixed Use Districts

4.8.1.2.b: PD tracts that were recorded under previously adopted development regulations and are part of a platted subdivision or master planned development but lack specific standards, shall be subject to the following dimensional requirements: minimum lot width of fifty (50) feet, minimum front yard setback of twenty-five (25) feet, side yard setback of ten (10) feet, rear yard setback of fifteen (15) feet, maximum structure height of thirty-five (35) feet, and minimum required principle structure separation of twenty (20) feet. Requested changes to the dimensional standards outlined above will require submission of a Master Development Plan in accordance with Section 4.8.1.B.2.e.