



PENDER COUNTY BOARD OF ADJUSTMENT

Walter Hansley, Chairman
 Jeremy Strong, Vice-Chairman
 Larry Johanson
 Ken Just
 Erwin Kane
 Horace Thompson
 Charles Wilson

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Minutes
 March 21, 2007

1. Call to Order by Chairman Walter Hansley.
2. Prayer by Board Member Erwin Kane.
3. Introduction of Board Members by Chairman Walter Hansley
4. Approval of the November 15, 2006 and January 17, 2007 Board of Adjustment Minutes motion by Larry Johansen; seconded by Ken Just. Vote was unanimous 7-0.

Member Name	Vote	Member Type	Member Name	Vote	Member Type
Walter Hansley	For	Regular	Horace Thompson	For	Regular
Jeremy Strong	For	Alternate	Ken Just	For	Regular
Larry Johansen	For	Alternate	Erwin Kane	For	Regular
			Charles Wilson	For	Regular

5. Public Hearing

A. Swearing in of Witnesses by Attorney Trey Thurman.

Chairman Walter Hansley introduced the case to the board and public.

Planner Andrew Collins presented the Staff Review to the board and public.

A. Variance – Lot Size and Lot Width Requirements– Mike F. Wells, applicant and owner, is requesting the following variance:

- a. Variance of 180 sq. ft. from the 5000 sq. ft. minimum buildable lot size requirement for nonconforming lots.
- b. Variance of 1.8 ft. from 50 ft. minimum buildable lot width requirement for nonconforming lots.

The property is zoned R-20, Residential, and is located on an access road off of Shepard’s Road, approximately 500 ft. west of Geranium Lane, north of Surf City, NC.

Stephen Carpenter, consultant for Mike F. Wells, stated that he(Mike Wells) could not attend. He is looking for the minimum variance for Mr. Wells to be able to utilize his property.

Ken Just stated that he had toured the lot, and the appearance of the area was that most of the trailers are there in a weekend capacity.

Chairman Hansley asked if there had been any opposition to the variance for the trailer.

Planner Collins stated that no opposition had been received.

Jeremy Strong made the motion to approve the variance as long as it meets the required setbacks based on the hardship of the property. Ken Just seconded the motion and the vote was unanimous 7-0.

Member Name	Vote	Member Type	Member Name	Vote	Member Type
Walter Hansley	For	Regular	Horace Thompson	For	Regular
Jeremy Strong	For	Alternate	Ken Just	For	Regular
Larry Johansen	For	Alternate	Erwin Kane	For	Regular
			Charles Wilson	For	Regular

The next case was for Anne Hayler, on behalf of James F. Lankford, owner.

Planner Kenneth Vafier reviewed the Case Review with the board and public.

B. Variance – Side Yard Setback Requirements – Anne Hayler, applicant, on behalf of James F. Lankford, owner, is requesting the following variance:

- a. Variance of 8.8 ft. from the 10 ft. minimum setback requirement for an accessory structure less than 600 square feet in area.

The property is zoned R-20C, Residential Conventional Housing District, and is located at 861 Corcus Ferry Road in Hampstead, NC.

Chairman Hansley asked if the applicant had done any research to see if they could place the building there or what the sideyard setbacks would be?

Kenneth Vafier stated that he would have to defer this question to the applicant or Code Enforcement Officer, because he was not here two years ago when this began.

Ken Just asked Attorney Thurman about the signature on the application.

Ms. Haler had a letter stating she had the power of attorney for her father so this was not a problem.

Ms. Anne Haler stating that she is requesting the variance because of a hardship request. Her father is sick and they are trying to prepare the residence here to bring him from a nursing home in Florida. It is a necessity to have a generator and that's what the utility building is for. She knows that they are not in compliance but it would be a hardship to move the building. A new slab would have to be poured, electrical lines moved, and this is very expensive. She was not aware the building needed to be ten feet when obtaining a permit. She is stating that there is no other place on the property to put the generator after showing the board pictures of the property in question and where the generator and accessory shelter is on the property.

Charles Wilson asked Ms. Haler why she purchased a generator of commercial size.

She stated that the generator has to be so it can be utilized in the event of a storm. The entire house has to be able to function. This is the same size generator that is being used in Florida for her father.

Ken Just asked Ms. Haler what the 20'x27' building with an addition on the front of it was on the property.

She replied that it was a bird and fish house.

Greg Demetrious, adjacent neighbor, stated that the generator was of a large industrial size and when it is started weekly it makes a very loud noise. He has clear cut the trees on his property to erect a garage. He has obtained signatures opposing the variance from the surrounding neighbors.

Attorney Thurman reminded the board that if the people were there to testify it would be okay, but they could not accept a petition.

Jeremy Strong asked eventhough the petition can't be taken, could ity be taken into consideration?

Attorney Thurman stated that the petition could not be received into evidence but the witness is here and can testify that the neighbors are in opposition. There maybe contrary evidence but at this point the uncontradicted evidence is that the neighbors support the petition. You don't need a petition if there is a live witness to testify.

Mr. Demetrious has a total of twenty-four signatures.

Jim Sevilla, President of Homeowners Association, read into the record that the association objected to the granting of a variance for Ms. Haler for the accessory structure covering and large generator. The structure is located approximately 1.2 feet from the adjacent property line. He stated that he nor any of the board of directors had signed the petition that Mr. Demetrious made reference to.

Ray Teachey, R & K Generators, stated that it could be relocated but it would be very costly to move the generator which would involve cutting down trees, moving electrical lines and gas lines.

Ken Just made the motion to deny the request for the variance due to lack of hardship. Larry Johansen seconded the motion. The vote was unanimous 7-0.

Member Name	Vote	Member Type	Member Name	Vote	Member Type
Walter Hansley	Against	Regular	Horace Thompson	Against	Regular
Jeremy Strong	Against	Alternate	Ken Just	Against	Regular
Larry Johansen	Against	Alternate	Erwin Kane	Against	Regular
			Charles Wilson	Against	Regular

Chairman Hansley introduced the next case to the board and public.

Planner Andrew Collins reviewed the case with the board and public.

C. Variance – Structure Separation Requirements – Wayne Stevens, applicant and owner, is requesting the following variance:

- a. Variance of 11 ft. 8 in. from the 30 ft. minimum structure separation requirement for an accessory structure greater than 1200 square feet in area.

The property is zoned R-20, Residential District, and is located at 103 Gold Coast Drive in Hampstead, NC.

Chairman Hansley asked if the structure was already built and did anyone check to see if he had permits?

Planner Collins answered yes; Inspections issued a stop work order after determining there were no permits. He also stated that there was no permit issued for the garage or the addition.

Wayne Stevens, applicant, stated that he was closing in the lean-to on the garage. He didn't check to see what the rules were as far as setbacks. The garage has been there for a year.

Ralph Kays, Code Enforcement, went to the site of the building after being informed by Mike Harrison, Inspector, he had placed a stop work order on an addition being added to the building erected on the property without a permit.

Mr. Stevens asked if he had to have a permit for adding to an existing building.

Ken Just stated that it would be harsh for the board to make the applicant move the building but he has a problem with people who build things without permits. Everyone should know you need a permit to build any structure on property. He made a motion to grant the variance with the condition that the applicant pay the fines that have accrued from the time the stop work order went onto the building until the session is over today.

Charles Wilson stated that he had toured the area and the hardship would be to remove the garage. Removing the lean-to portion would bring his request into compliance. Removing this would send a signal that the applicant would understand that there is compliance in Pender County.

Ken Just withdrew his motion.

Charles Wilson made the motion to deny the variance request and the only thing required is bringing the building into compliance is the removal of the addition portion of the garage. Larry Johansen seconded the motion. The vote was 6-1

Member Name	Vote	Member Type	Member Name	Vote	Member Type
Walter Hansley	Against	Regular	Horace Thompson	For	Regular
Jeremy Strong	Against	Alternate	Ken Just	Against	Regular
Larry Johansen	Against	Alternate	Erwin Kane	Against	Regular
			Charles Wilson	against	Regular

Planner Kenneth Vafier presented the next case for Palm Harbor Homes to the board and public.

- D. Variance – Side Yard Setback Requirements** – Palm Harbor Homes, applicant, on behalf of Alice Textor, owner, is requesting the following variance:
 - a. Variance of 4 ft. from the 20 ft. minimum side yard setback requirement.
 The property is zoned RA, Rural Agricultural District and is located at 388 North Chubb Road in Willard, NC.

BOA Member Horace Thompson asked Kenneth Vafier what happened to the proposed plot plan.

Mr. Just asked what the procedure was for getting approval for a structure to be placed correctly on property.

Mr. Thompson explained the procedure which involved having a foundation survey done.

Russell Anderson, general manager for Palm Harbor Homes, stated that he was not the general manager when this took place. His customer staked the structure where she wanted it. Palm Harbor Homes picked up the permit that stated it was for the modular home because the garage was to be built at a later date. The garage which was to be built as an accessory structure on the back of the lot, therefore adding the garage first made for the error in encroachment. He also stated that all the inspections had been passed. The variance is to obtain a CEO.

Jeremy Strong asked if there had been any objections for neighbors.

Kenneth Vafier stated a neighbor had called voicing his concerns. He indicated that he would be willing to sell the client a portion of property to make up for the shortfall.

Erwin Kane made the motion to approve the variance request for four feet.

There was a lengthy discussion concerning the fact that there was no permit for the garage, who was at fault for putting the garage up and was it was not checked. This motion died for a lack of a second.

Attorney Thurman reminded the board that there needed some type of action taken. It has to be a 4/5's vote.

Erwin Kane made the motion to approve the variance request due to a hardship; Horace Thompson seconded the motion and the vote was 7-0. The variance was granted.

Member Name	Vote	Member Type	Member Name	Vote	Member Type
Walter Hansley	For	Regular	Horace Thompson	For	Regular
Jeremy Strong	For	Alternate	Ken Just	For	Regular
Larry Johansen	For	Alternate	Erwin Kane	For	Regular
			Charles Wilson	For	Regular

The final variance was introduced by Planner Kenneth Vafier.

E. Variance – Setback Requirements - Rocky Point/Topsail Water & Sewer District, applicant and owner, is requesting the following variance:

- a. Variance of 6 ft. 8 in. from the 25 ft. minimum front yard setback requirement.
- b. Variance of 1 ft. 5 in. from the 10 ft. minimum side yard setback requirement.

The property is zoned PD, Planned Development District, and is located at 19488 US Highway 17, behind the Sloop Point Fire Department.

In addition to the mentioned request, the applicant is also requesting a variance from the landscaping and buffer requirements from the Pender County Zoning Ordinance.

There were no questions from the Board members or public.

Attorney Thurman explained the reasoning for a variance being needed to put in the pump-station.

Charles Wilson made a motion to approve the variance request; seconded by Jeremy Strong. The vote was 7-0. The vote was granted.

Member Name	Vote	Member Type	Member Name	Vote	Member Type
Walter Hansley	For	Regular	Horace Thompson	For	Regular
Jeremy Strong	For	Alternate	Ken Just	For	Regular
Larry Johansen	For	Alternate	Erwin Kane	For	Regular
			Charles Wilson	For	Regular

G. Items for Discussion

- 1. Ken Just had concerns that there are not enough signs being posted to advertise the meeting. He suggested that the BOA send a resolution to the BOCC. He then made a motion to send a resolution to the BOCC requesting that all BOA variances have signs posted on properties that are coming before the board. The signs could be a little larger in size; seconded by Larry Johansen. The vote was 7-0.

6. Adjournment

VOTING BOA MINUTES BLOCK:

MOTION_____SECONDED_____UNANIMOUS_____

AMENDMENT: