



PENDER COUNTY BOARD OF ADJUSTMENT

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Minutes
August 16, 2006

1. Call to Order by Chairman Walter Hansley
2. Prayer by Jeff Morris
3. Introduction of Board Members: Horace Thompson, Larry Johansen, Walter Hansley, Jeff Morris, Jeremy Strong, Ken Just, Erwin King
4. Approval of June 21, 2006 Board of Adjustment Minutes.
5. Public Hearing

A. Swearing in of Witnesses by Attorney Trey Thurman

Chairman Walter Hansley introduced the first case to the board.

Kenneth Vafier, Planner II, reviewed the case with the board and public.

B. Public Hearing - Variance – Building Separation Requirements – Bernie & Karon Frazier, applicant and owner, are requesting the following variance:

- a. Variance of 3 ft. from the 10 ft. minimum building separation for an accessory structure of 600 square feet or less.

The property is zoned RT, Rural Transition and is located at 196 Arlington Avenue, Rocky Point, NC.

Ken Just asked if the 10' is required from both the residence and the existing shop.

Kenneth Vafier stated that this was correct.

Jeff Morris stated that he had visited the site and saw two singlewides and they appear to be much closer than ten feet. He knows this is not consistent with the zoning ordinance laws. How did they have two singlewides on the site which are not connected but are relatively close?

Kenneth Vafier replied that they were connected with a breezeway. The Code Enforcement Officer has brought this to the attention of the Planning Director. His interpretation was to treat it as a grandfathered situation.

Ken Just asked how long had the second singlewide been on the property.

The applicant replied eight years.

Ken Just replied that it fell under the zoning ordinance of 1988. How can it be grandfathered?

Kenneth Vafier stated that it was the interpretation of Mr. Palmer.

Horace Thompson stated that if its connected by a breezeway its considered one structure if the breezeway is enclosed.

Foster Henry, adjacent property owner, stated he would like to know what the building is going to be used for. He is speaking for himself as well as the church.

Barnie Frazier, applicant and owner stated that his wife had several crafts and they wanted to move items from one trailer into a storage building and this would become a storage room.

Jeff Morris asked what was in the metal building in the back.

The applicant stated that this was his workshop. He stores his tractor, lawnmowers and woodworking. It is not being used for a commercial building. The building needs to be close because it would be too far for his wife to walk.

Ken Just stated that he could possibly put an 18' by 32' building in there and not have to come before the board for a variance.

Attorney Thurman explained to the board that unless the board put a specific restriction on it the variance is given for the building. The building can be used for anything that is lawful to use a structure for in the zoning designation. They could sell the property and someone else could put something else in the building. If a variance is granted unless there is an express restriction placed on it. It could be used for any lawful purpose for this zoning designation.

Foster Henry, adjacent property owner, stated he would like to have stipulation put on the variance. For the main fact that the church gave Mr. Frazier permission to use the church's easement to get to his lot and do not want any unnecessary traffic.

Ken Just made the motion to deny because there is adequate space for Mr. Frazier to build his building in the space between the house and the shop. Jeremy Strong seconded the motion and the motion carried.

Chairman Hansley introduced the next public hearing to the board.

Kenneth Vafier reviewed the case with the board members and citizens.

- C. **Public Hearing - Variance – Side and Rear Yard Setback Requirements – David & Dawn Hertzog**, applicant and owner, are requesting the following variance:
 - a. Variance of 5 ft. from the 20 ft. minimum side yard setback requirement for an accessory structure greater than 600 square ft. in area.
 - b. Variance of 5 ft. from the 25 ft. minimum rear yard setback requirement for an accessory structure greater than 600 square ft. in area.

The property is zoned R-20C, Residential, and is located at 120 Scottsdale Drive, Wilmington, NC.

Jeff Morris stated that without a repair area site plan it might not be advisable to issue the variance. The applicant stated that he had no information from Environmental Health showing the repair area.

Ken Just stated without knowing where the repair area is it close to impossible to do anything because it could jeopardize there he wants to put his garage.

Dawn Hertzog, applicant and owner stated that Environmental Health told them that with the house being thirty-two (32) years old they could not find the original.

Erwin Kane made the motion that if the applicants move the structure forward 5' they will only need the 5' on the side. Horace Thompson seconded.

Jeff Morris asked Attorney Thurman if a hardship needed to be mentioned.

Attorney Thurman stated that it would be helpful if the hardship was identified.

Ken Just wanted to know if a variance was granted and the applicants build the building, would there be any recourse for the applicants to come back to the county because a variance was issued to build in a repair area.

Attorney stated they could not come back to the county.

Jeremy Strong amended the motion; if it does pass this is subject to the proposed structure not being in a future repair area in order to cover the BOA.

The amendment died for a lack of a second. So the properly made motion was on the floor six in favor and one against. The motion carried.

Kenneth Vafier presented the case to the board.

- D. Public Hearing – Variance – Front and Side Yard Setback Requirements** – Diana Howard Askins, applicant and owner, is requesting the following variance:
- a. Variance of 15 ft. from the 40 ft. minimum front yard setback requirement.
 - b. Variance of 5 ft. from the 20 ft. minimum side yard setback requirement.

The property is zoned FA, Flood Hazard District, and is located on Lot 7 of the Lena Howard Subdivision at the end of Howards Landing Road in Hampstead, NC.

Diana Howard Askins, applicant and owner stated that their main objective was to stay back from the 75' CAMA setback.

Jeremy Strong what would be the hardship if the house would run parallel to the CAMA line?

After a lengthy discussion on why the applicants wanted this particular site and the board stating that it could be down sided or turned a little to the side without losing the view. The motion was made.

Jeff Morris made the motion to deny because of a lack of a hardship. Larry Johansen seconded the motion and the vote was Hansley, Strong, Morris, Just, and Kane for. Thompson and Johansen voted against.

F. No Items for Discussion

6. Adjournment