

MINUTES
Pender County Board of Adjustment
June 17, 2009
9:00 a.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Erwin Kane

Prayer: Donald Luther

Roll Call: Chairman Erwin Kane
Pender County Board of Adjustment Members:

Kane: ___ Thompson: ___ Ferrante: X Loughlin: ___ Pullen: ___ James: X Luther: ___

Approval of Minutes: May 20, 2009

Motion to approve: Ed Pullen; **Seconded** by: Horace Thompson; and the **Vote:** 5-0

Swearing in of witnesses was done in the absence of the County Attorney by Director Patrick Davenport.

Planner Kyle Breuer presented the case to the Board of Adjustment. The applicant is requesting an eight foot variance after being found to be in violation of erecting an accessory building without permits that extended over the setback requirements. The property is a nonconforming lot of record and was recorded before the adoption of the zoning ordinance.

Public Hearing

1. Franklin Brown, applicant and owner, is requesting a variance from the Pender County Zoning Ordinance, § 9.2, Accessory Building, Setbacks and Separation Requirements. The property is zoned R-20, Residential District, and is located at 4210 US Hwy 117 N., Burgaw, NC (PIN: 237-23-6059-0000).

Mr. Thompson asked who owned the property.

Mr. Brown answered that he was the owner.

Mr. Pullen asked if the church was active and Horace Thompson asked who the pastor was.

Mr. Brown replied that the church was active but he didn't know the pastor's name.

Mr. Pullen asked how the infraction was discovered.

Planner Breuer stated that it was an anonymous call.

Franklin Brown, applicant, stated that in October 2008 he contacted Pender County Inspections department and stated some gentlemen he spoke to told it should not be a problem to add the addition on.

Director Davenport stated that he probably spoke with an inspector and he told him since he had a building permit it was okay to add onto the existing building without mentioning zoning and setbacks.

Mr. Thompson asked him when he torn down the old building.

He didn't remember and he was unable to purchase property from the neighbor.

Monica Loughlin asked the board to go through the six conditions.

- 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
Explanation: The shape of the lot being 50' wide is an extraordinary condition.
- 2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located.
Explanation: It would not give any special privileges because the church is already on the property line. He is inside the foundation of the old torn down structure.
- 3) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located.
Explanation: There is not enough information about the people in the neighborhood or the adjoining properties. The lines on the GIS show that the lines are not consistent.
- 4) The requested variance will be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
Explanation: This is met because the zoning took place after the plat was recorded after the original church was there. It meets this requirement.
- 5) The special circumstances are not the result of the actions of the applicant.
Explanation: The applicant (Franklin Brown) called the Inspections Department and received what he thought was valet information. There were no witnesses to refute that this didn't happen. He made an attempt so Number 5 is met.
- 6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
Explanation: There was an old building there and it has been corrected. There are not enough dimensions to make a decision on minimum variance.

With the board deciding that the applicant has met five of the six requirements; Ed Pullen made the motion to approve the request. This was seconded by Horace Thompson. The vote was 5-0.

**End of Public Hearing*

2. Items for Discussion

Director Davenport reminded the Board of Adjustment that the Haler case would be heard in its entirety at the next board meeting in July.

3. Adjournment

Board Action for June 17, 2009 Minutes:

Motion: _____ Seconded: _____

Approved: _____ Denied: _____ Unanimous: _____

Kane _____ Thompson _____ Ferrante Loughlin _____ Pullen _____ James Luther _____

ORIGINAL