

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



MINUTES

Pender County Board of Adjustment

November 18, 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: X Thompson: X Ferrante: X Loughlin: _ Pullen: _ James: _ Luther: X

1. **Approval of Minutes:** October 21, 2009
Motion to approve: **Ed Pullen**; **Seconded** by: **Monica Loughlin**; **Vote:** 5-0

Swearing in of witnesses for was done by the County Attorney.

2. **Administrative Appeal- (TABLED, Please bring packet)** Glen Lewis, applicant and owner, is requesting an Appeal of Administrative Review, as prescribed under Sections 3.5 C and 6.2 C of the Pender County Zoning Ordinance. The applicant is appealing a Notice of Violation for Inoperable Motor Vehicles and Junk/Salvage issued on July 20, 2009 by the Pender County Code Enforcement Officer. The property is zoned R-20, Residential District and is located at 153 Lewis Road in Hampstead, NC. The property consists of 15.03 acres and may be identified as PIN 4214-83-8898-0000

*** Public Hearing***

3. **Variance –Presented by Planner, Ashley Frank**
Side Yard Setback– Mark Ather, applicant and owner, is requesting a 15’ side yard variance from the required 20 foot side yard setback as prescribed in the Pender County Zoning Ordinance, § 8.9 Table of Permitted Uses. The property is zoned R-20, Residential District, and is located at 1073 Factory Road, Hampstead, NC. The property contains 0.48 acres and is identified as PIN # 3292-45-4370-0000.
Ms. Frank advised the board Mr. Ather has created a non-conforming structure by constructing a breezeway connecting the roof between the house and an existing legally non-conforming accessory building (garage). The existing building is located approximately five (5) feet from the property line. The structure does not meet the required side yard setback. By connecting the roof lines, the entire structure became non-conforming. Mr. ‘Ather did not see permits for the accessory building prior to the work being performed.

Mr. Ferante wanted to know if the building was grandfathered.

Ms. Frank advised the original accessory building is a legal non-conforming structure which was constructed prior to the current zoning ordinance.

Mr. Luther questioned if the building was enclosed for heated space.

Ms. Ashley replied, yes.

Mr. Ather denied that the building would be heated.

Mr. Luther asked if the heated space was a factor with the variance sought. Ms. Ashley said it was not.

Mr. Luther was concerned the next step might be turning the building into a heated space. Mr. Ather reaffirmed the building was enclosed, but would not be heated.

Mr. Ather stated he was trying to improve the property, distributed photos to the board saying the roof connection was made for accessing the garage during inclement weather.

Attorney Thurman explained the setback requirements stating an argument could probably be made that the property owner is not increasing a non conforming structure due to the accessory building being on the property since before the implementation of the zoning ordinance.

Ms. Ashley stated the original accessory structure will remain legally non-conforming regardless of the decision of the board.

Mr. Luther inquired if work had continued or been completed on the project.

Ms. Frank said all work had stopped until a decision could be reached by the board.

Mr. Kane requested if there were any comments or remarks from the board. None were offered.

Mr. Kane asked for a motion: Mr. Ferrante made a motion to grant a variance based on the fact that the non-conformity has not changed due to the location of the existing building.

Mr. Thompson seconded the motion. Motion passed 5-0; unanimously

4. Items for Discussion – None.

5. Adjournment - Mr. Kane entertained a motion to adjourn.

Motion was made by Mr. Thompson to adjourn.

Motion was seconded by Mr. Luther with all assenting.

Motion passed unanimously 5-0.

Board Action October 21, 2009 Minutes:

Motion: _____ **Mr. Ferrante** _____ **Seconded:** _____ **Mr. Luther** _____

Approved: _____ **X** _____ **Denied:** _____ **Unanimous:** _____ **X** _____

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