

Pender County Planning and Community Development

Planning Division

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MINUTES

**Pender County Board of Adjustment Meeting
September 21, 2011 9:00 a.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina**

Call to Order: Chairman Kane called meeting to order at 9:00 am.

Prayer: Administered by Board member Luther.

Roll Call: Chairman Kane

Pender County Board of Adjustment Members:

Kane: Thompson: Ferrante: Newton: Pullen:

Alternates:

Luther: Peters:

Adoption of the Agenda: Motion to approve agenda made by Board member Newton; seconded by Board member Ferrante. Vote unanimously passed.

1. Approval of Minutes (February 16, 2011): Motion to approve minutes by Board member Ferrante; seconded by Board member Newton. Vote unanimously passed.

2. Public Comment: None

** Public Hearing**

3. Variance: Whitlow Callis, applicant and owner, is requesting a six (6) foot variance from the minimum front yard setback requirements of the RA, Rural Agricultural District, as prescribed by the Pender County Unified Development Ordinance, Section 4.14, Zoning District Dimensional Requirements. The property is located at 2098 Willard Road, Willard, NC, and may be identified by Pender County PIN 2394-27-2634-0000. Planner Frank presented agenda item 3; Planner Frank stated that in July of 2011 the Pender County Inspection Department became aware that the applicant was constructing an addition to an existing structure without zoning approval or building permits, the applicant was advised to contact the Pender County Planning and Community Development Department to apply for all applicable permits. Planner Frank stated that while applying for permits, staff informed the applicant that the property consisted of two separate parcels and if the applicant did a recombination of the parcels the dimensional requirements would be met. Planner Frank stated that on August 8, 2011, the applicant did recombined the property which allowed the structure to meet the dimensional requirements for the side and rear, however, the map showed a six feet encroachment in the front of the property so the applicant was advised that a variance would need to be applied for. Planner Frank asked the Board if there were any questions for staff and the applicant was available. Chairman Kane asked if the Board had any questions. Director Breuer stated that he would swear in anyone who wished to speak; Chairman Kane

requested that the witnesses be sworn in, applicant declined stating he had nothing to say. Board member Newton asked staff, if the staff member that had discussion with the applicant was present; Planner Frank responded that the Building Inspector that discovered the addition being built was not but Jaki Pace, Senior Permit Technician was. Board member Newton stated she was referring only to the staff member who had the conversations with the applicant regarding the recombination and variance; Planner Frank stated that they were not; Board member Newton asked was there any dispute in what was stated to the homeowner prior to the recombination; Planner Frank stated that she would have to defer that to Jaki Pace, Senior Permit Technician. Jaki Pace, Senior Permit Technician was sworn in by Director Breuer; Ms. Pace stated that she told the applicant that due to the addition of the structure he would need a recombination to satisfy the rear yard setback; Board member Newton referenced the staff report regarding the conversation that staff advised the applicant to recombine the property to meet the dimensional requirements and asked Ms. Pace did she have that conversation with the homeowner; Ms. Pace responded that no she did not have that conversation. Board member Newton asked Ms. Pace if she had personal knowledge of the subject area; Ms. Pace responded yes. Board member Newton asked Ms. Pace if she would confirm that looking at the provided map the property located on the third parcel to the left of the subject parcel had more of an encroachment on the required setback than the subject property Ms. Pace deferred the question to Planner Frank. Planner Frank answered that based on the county's GIS it did appear that there was an increased encroachment. Planner Frank stated that staff was not aware of the front encroachment until after the recombination was done and a formal land survey was submitted. Chairman Kane asked how long the trailer had been on the property; Whitlow Callis, applicant, was sworn in by Director Breuer, and responded that he purchased the trailer in 2002 or 2003. Board member Ferrante asked the applicant if he purchased the trailer and moved it onto the property or was the trailer already on the land when he purchased it; Mr. Callis answered that the trailer was already on the property. Chairman Kane asked the applicant if he purchased the land in 2002 or 2003 and if he knew for a fact that the trailer had been on the property since that time; Mr. Callis stated that he purchased the property in 2007 and that he was not sure when the trailer was put on the property; Jaki Pace, Senior Permit Technician stated that according to tax records the trailer had been on the property since 1999. Board members had some discussions with staff regarding the case.

Board members discussed the case and determined that based on the Finding of Facts it was the Board's conclusion that, the hardship of which the applicant complains does result from 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; and it was the Board's conclusion that, 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; and it was the Board's conclusion that, a literal interpretation of the provisions of this ordinance would not deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located; and it was the Board's conclusion that, 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; and it was the Board's conclusion that, the special circumstances are the result of the actions of the applicant. This conclusion was based on all of the finding of facts listed above, as well as the following: Nearby properties are encroaching.

Board member Newton made the motion to approve the requested Variance; seconded by Board member Thompson. Vote unanimously passed.

4. Discussion Items

a. Planning Staff: None

b. BOA Members: Chairman Kane stated that his term will expire January 4, 2012; Director Breuer stated that he would review the bylaws regarding Board member terms and follow up with the Board.

5. Adjournment: Motion to adjourn by Board member Pullen; seconded by Board member Thompson
Meeting adjourned at 9:36 am.