

# Pender County Planning and Community Development

## Planning Division

805 S. Walker Street  
PO Box 1519  
Burgaw, NC 28425



Phone: 910-259-1202  
Fax: 910-259-1295  
[www.pendercountync.gov](http://www.pendercountync.gov)

## MINUTES

Pender County Board of Adjustment Meeting  
March 21, 2012 9:00 a.m.  
Pender County Public Meeting Room  
805 S. Walker Street, Burgaw, North Carolina

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

**Prayer:** Administered by Board member Pullen.

**Roll Call:** Chairman Ferrante

Pender County Board of Adjustment Members:

Ferrante:  Pullen:  Kane:  Newton:  Thompson:

Alternates:

Luther:  Peters:

- 1. Adoption of the Agenda:** Motion to approve agenda was made by Board member Peters; seconded by Board member Pullen. Vote unanimously passed.
- 2. Approval of Minutes (January 18, 2012):** Motion to approve minutes was made by Board member Pullen; seconded by Board member Peters. Vote unanimously passed.
- 3. Public Comment:** None

*\* Public Hearing Opened\**

*Attorney Thurman swore in witnesses who wished to speak during the Hearing.*

- 4. Variance:** Jeffery D. Johnson, applicant and owner, is requesting a variance to allow the subdivision of a previously recorded tract pursuant to § 6.8.1 A – B of the Pender County Unified Development Ordinance. The subject property, Lot 116B, is zoned RP, Residential Performance District, and is located off Corcus Ferry Road in Hampstead, NC. There is one (1) tract associated with this request totaling ±6.359 acres and may be identified by Pender County PIN 3292-48-3571-0000. Planner Frank presented and gave background information for agenda item four. Board member Thompson read the printed definition of Three Lot Subdivision Limitations and stated that when the plat was approved by the Director of the ordinance, Johnny Sutton, it initiated the right for another three lot subdivision to be created, which was the intent and for that reason he felt there was no reason for a Variance case; Planner Frank responded that our Director's interpretation was that you could use the three lot subdivision limitation one time for lots created prior to 2004; since the lot was created in 2006 staff's interpretation was the three lot subdivision limitation had already been used; the applicant was advised that he could appeal staff's interpretation or apply for a variance and the applicant decided to apply for the variance. Board member Thompson responded that he did not interpret it that way nor did the man who wrote the ordinance. For clarification Board members

reviewed the definitions and wording of the ordinance. Attorney Thurman asked Board member Thompson what the interpretation had to do with the variance. Chairman Ferrante stated he could see where this case could have been presented as an interpretation appeal or variance and since it was brought to the Board as a variance than the Board would have to hear the case as such. Planner Frank reviewed the Pender County Subdivision Ordinance for the Board. Jeff Johnson, applicant and owner, addressed the Board and reminded the Board that if the 2004 rule was not in place there would be no issue with him subdividing. Chairman Ferrante asked the applicant to go through the timeline he presented to the Board via a letter; Mr. Johnson referenced his letter and gave the background on the property and what lead him to request a variance. Board members held a brief discussion of the presented case and went through the finding of facts.

*\*Public Hearing Closed\**

### **Board of Adjustment: Finding of Facts**

1. It is 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. This conclusion is based on the following FINDINGS OF FACT: *The lot size was larger than the Forest Sound covenants and restrictions required.*
2. It is the Board's CONCLUSION that, granting the variance requested **will/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. This conclusion is based on the following FINDINGS OF FACT: *N/A*
3. It is the Board's CONCLUSION that a literal interpretation of the provisions of this ordinance **would/ would not** deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located. This conclusion is based on the following FINDINGS OF FACT: *N/A*
4. It is the Board's CONCLUSION that the requested variance **will/will not** be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. This conclusion is based on the following FINDINGS OF FACT: *N/A*
5. It is the Board's CONCLUSION that, the special circumstances **are not** the result of the actions of the applicant. This conclusion is based on all of the FINDINGS OF FACT listed above, as well as the following: *The intent was to subdivide the tracts into three lots based on the title of the map located in Map Book 41 Page 062 at the Pender County Register of Deeds.*

Motion to approve the variance based on the intent of the 2006 map for a three lot subdivision was made by Board member Newton; seconded by Board member Thompson. Vote unanimously passed.

### **5. Discussion Items**

**a. Planning Staff:** None

**b. BOA Members:** None

**6. Adjournment:** Meeting was adjourned by Chairman Ferrante at 10:20 am.