

Pender County Planning and Community Development

Planning Division

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MINUTES

**Pender County Board of Adjustment Meeting
August 15, 2012 9:00 a.m.
Pender County Agricultural Building, Auditorium
801 S. Walker Street, Burgaw, North Carolina**

Call to Order: Chairman Ferrante called the meeting to order at 9:05 am.

Prayer: Administered by Vice-Chairman 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 the agenda was made by Board member Thompson; seconded by Board member Pullen. Vote unanimously passed.
- 2. Approval of Minutes (April 25, 2012):** Motion to approve minutes was made by Board member Pullen; seconded by Board member Kane. Vote unanimously passed.
- 3. Public Comment:** None

** Public Hearing Opened**

Attorney Thurman affirmed all witnesses who wished to speak during the Hearing.

- 4. Variance:** Adam Knierim, applicant and owner, is requesting a five (5') foot variance from the minimum side yard setback requirement of ten (10') feet in the RP, Residential Performance District, as prescribed by the Pender County Unified Development Ordinance, Section 4.14, Zoning District Dimensional Requirements. The property is located at 108 Circle Drive, Hampstead, and may be identified by Pender County PIN 3281-98-9923-0000. Director Breuer presented and gave background information for agenda item 4. Director Breuer stated that if the Board had any questions he would like to defer them to the applicant. Chairman Ferrante called the applicant up to discuss his reasons for requesting a variance. Adam Knierim, applicant, stated to the Board his request was based on the fact that due to the layout of his property which consisted of the septic field in the front yard and a drop off that led to a canal in his backyard, he had no other option but to request a variance from the side setbacks for an addition of a garage to his home. Board member Peters asked that since there was a home next to the applicant's property where he was hoping to add the garage, had there been any discussion with that homeowner regarding the request; Mr. Knierim answered that he had discussed his plans with his neighbor prior to submitting an application and his neighbor had no issue with the request. Board member Pullen asked the applicant how long

he had owned the property; Mr. Knierim answered since August 2003. Board member Kane asked the applicant if the garage would be a single car garage; Mr. Kierim answered yes, the plan was to make the garage door as wide as possible. Board member Luther asked the applicant if he had determined that the land behind his home was unstable; Mr. Knierim answered that he was concerned with building the garage on property that once had drainage gullies and had such a vertical drop off. Chairman Ferrante asked if there were any other questions from the Board or comments from the applicant; Mr. Knierim thanked the Board for their time and that a variance would be greatly appreciated since he was expecting a new child and really needed the additional space. Chairman Ferrante stated to Director Breuer that according to the provided ariel pictures, some of the neighboring houses appeared to be on the property line and asked if those house were in compliance with the 10 foot side yard setback; Director Breuer responded that a previous variance case had been before the Board from the same subdivision, Washington Acres, that the subdivision's covenants required a 10 foot setback as well and to his knowledge the homes met that requirement. Board members began their discussion and reviewed over the findings of fact.

Motion to approve the variance as requested was made by Board member Newton; seconded by Board member Kane. Vote unanimously passed.

- 5. Variance:** Anthony Leuci, applicant, on behalf of John Wasterval, owner, is requesting a variance from Sections 5.3.11.F.5; 5.3.11.F.6; and 5.3.11.F.9 of the Pender County Unified Development Ordinance for size limitations and the permanent placement of a portable storage container. The property is located at 14830 US Highway 17, Hampstead, NC, and may be identified by Pender County PIN 3282-97-6579-0000. The property is approximately 2.2 acres and is zoned GB, General Business District. Planner Frank presented and gave background information for agenda item 5. Chairman Ferrante asked if the storage units that were already located on the property were completely illegal; Planner Frank responded that staff had researched the storage units and could not find any approvals for them, so they were classified as Illegal Non-conforming, which meant the storage units were placed on the property without permits and proper approvals. Board member Newton asked if it would be a correct statement to say that staff did not know when the existing storage units were placed on the property, but they were placed there within a time period that was covered by the Ordinance; Planner Frank answered that the statement would be correct. Board member Newton and Planner Frank had a brief discussion regarding the storage unit's measurements. Board member Peters asked if the illegal storage units were being used or were they abandoned; Planner Frank answered that staff did not confirm if they were being used, but they did appear to be in use for some type of storage. Chairman Ferrante asked the applicant if he wished to address the Board. Anthony Leuci, applicant, stated that he would just like to reiterate what Planner Frank had said, that the existing storage units did belong to the landlord and the purpose of the variance was because he needed more freezer storage temporarily, until he could build a new freezer for his bread distributing business. Board member Newton asked the applicant if he could get a commercial freezer; Mr. Leuci answered yes, but the cost factor is unreasonable at this time. Chairman Ferrante asked if there were any other questions or anyone who would like to speak on the issue. Ken Just, 403 Headwaters Drive, Hampstead, addressed the Board and stated that over 15 years ago he worked with the Planning Director at the time and others to create a solution for storage containers that started popping up everywhere, eventually an Ordinance was created to prevent storage containers from being allowed without following the guidelines. Mr. Just concluded by reviewing over the finding of facts for the case and saying if the Board approved the variance they would be approving something that simply was not allowed under our current Ordinance, the storage units were very oversized and were not temporary.

Motion to deny the presented variance was made by Board member Newton; seconded by Board member Pullen. Vote was 4 in favor of the motion, with 1 Board member not voting.

Public Hearing Closed

6. Discussion Items

a. Planning Staff: Next meeting is scheduled for September 19, 2012.

b. BOA Members: Chairman Ferrante stated that he felt the UDO was not clear in the area regarding storage containers and recommended that the section be reviewed from a business perspective and make amendments if necessary.

7. Adjournment: Meeting was adjourned by Chairman Ferrante at 10:15 am.