

Pender County Planning and Community Development

Planning Division

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MINUTES

**Pender County Board of Adjustment Meeting
November 14, 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 9:05 am.

Invocation: Administered by Chairman Ferrante.

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 adopt the agenda was made by Board member Kane; seconded by Board member Newton. Vote unanimously passed.
- 2. Adoption of Minutes (September 19, 2012):** Motion to adopt minutes was made by Board member Newton; seconded by Board member Kane. Vote unanimously passed.
- 3. Public Comment:** None

** Public Hearing Opened**

Director Breuer swore in witnesses who wished to speak during the Hearing.

- 4. Variance:** Shannon Wells, applicant, on behalf of Earl Wells owner, is requesting a ± 0.60 acre or 26,078.11 ft² variance from the minimum lot size requirement of one (1) acre in the RA, Rural Agricultural District as prescribed by the Pender County Unified Development Ordinance, Section 5.3.2.A .1, Residential Uses; specifically addressed in the Zoning District Dimensional Requirements, Section 4.14. The property is located at 3728 Murray Town Road, Burgaw NC, and may be identified by Pender County PIN: # 3322-83-4905-0000. The property is zoned RA, Rural Agricultural District. Planner Frank presented and gave background information for Agenda item 4. Chairman Ferrante asked if acreage was the only issue within the Variance request; Planner Frank answered yes, that if the applicant had enough acreage to meet the requirement there would be no need for a Variance. Board member Newton asked if the information regarding the amount of acreage on the applicant's application was obtained from the Planning Department? Planner Frank answered no, according to the Pender County Tax office, the applicant only has 2.4 acres and that staff only had a plot plan so without a survey staff has to use the amount of acreage on record with the tax office. Chairman Ferrante asked where the plot plan came from; Planner Frank answered that it was originally submitted when the unit was placed on the property in September of 1997. Chairman Ferrante

stated that if there were no further questions for staff at this time the Board would like to hear from the applicant. Shannon Wells, applicant, addressed the Board and stated that the original tenant had moved and another tenant, a cousin, had approached her asking if he could set up a mobile home for his elderly parents, so that he could keep an eye on them, but at the same time they could maintain some independence. Chairman Ferrante asked when was the original structure removed and why; Mrs. Wells answered that the mobile home belonged to the tenants that were renting the lot from her and in 2009 the tenants had out grown their home so they sold the mobile home and moved to a larger home. Board member Kane asked if the septic tank was still located on the property; Mrs. Wells answered yes along with the electrical hook up, driveway and mailbox. Board member Newton asked if the mobile home that appeared in the 2010 picture was still located on the adjacent property; Mrs. Wells answered no that the pictured mobile home was stored on that property until she could set it up on another parcel she owns, which she has done. Board member Newton asked Mrs. Wells how many rental units did she own; Mrs. Wells answered she owned the three shown in the picture. Chairman Ferrante asked Mrs. Wells if this would be another rental property for her; Mrs. Wells answered yes, but she wasn't looking for a tenant her current tenant (cousin) came to her and asked if he could place a home on the lot for his parents. With no further questions for the applicant and no other sign ups, Chairman Ferrante opened the floor for the Board's discussion.

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 subject property met the Schedule of District Requirements as outlined in Section 8.10. of Pender County Zoning Ordinance prior to the amendment to that section in November of 2003.*
2. It is 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. This conclusion is based on the following FINDINGS OF FACT: *The applicant was unaware of the ordinance change in 2003 that increase the minimum lot of the RA District creating a special circumstance for the lot.*
3. It is 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. This conclusion is based on the following FINDINGS OF FACT: *All residents are eligible to apply for a variance from the Pender County Unified Development Ordinance.*
4. It is 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. This conclusion is based on the following FINDINGS OF FACT: *The ordinance change in November 2003 created unknown circumstances due to the lack of knowledge of this change along with the familial relationship of the tenant.*
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 applicant placed the third primary structure (manufactured home) on the property in 1997 and removed the structure in 2009. Unaware of the changes in the RA, Rural Agricultural District requirements the applicant allowed the non-conformity to expire. In 2003 Pender County amended the district requirements of the RA, Rural Agricultural District from a half acre lot size to an acre lot size.*

Motion to deny the requested Variance based on the fact that the property was rental and would provide the applicant with monetary gain was made by Board member Newton; Motion died due to lack of second. Motion to approve the Variance based on the fact that the applicant was unaware that the County ordinance had changed was made by Board member Thompson; seconded by Board member Kane. The vote was 4 in favor and 1 opposed.

5. Discussion Items:

a. BOA Members: N/A

b. Planning Staff:

i. Next meeting: No meeting for December.

6. Adjournment: Meeting adjourned at 9:50 am.