

Pender County Planning and Community Development

Planning Division

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MINUTES

Pender County Board of Adjustment Meeting May 7, 9:00 a.m. Pender County Public Meeting Room 805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Pullen called the meeting to order at 9:10 a.m.
Due to the absence of Chairman Ferrante, Vice-Chairman Pullen acted as Chairman

Invocation: Administered by Chairman Pullen.

Roll Call: Chairman Pullen

Pender County Board of Adjustment Members:

Ferrante: Pullen: Newton: Thompson: Walton:

Alternates:

Godridge: Peters:

Alternate member Peters served as a full Board member

- 1. Adoption of the Agenda:** Motion to adopt the agenda was made by Board member Walton; seconded by Board member Peters. Vote unanimously approved.
- 2. Adoption of the Minutes: February 19, 2014:** Motion to adopt minutes was made by Board member Peters; seconded by Board member Thompson. Vote unanimously passed.
- 3. Public Comment:** None

** Public Hearings Opened**

Chairman Pullen swore in witnesses who wished to speak during the Hearing.

4. Variance:

Baseline Development, LLC applicant, on behalf of TCB Rocky Point, LLC, owner, requested a variance for the property located approximately 460' West of the intersection of US Highway 117 and Porters Lane Road in Rocky Point. The applicant requested relief from Section 7.4.4 Cross Access Corridors, of the Pender County Development Ordinance, which is a service drive between two or more contiguous sites providing direct access to properties and limiting travel on the public street system. Specifically, the applicant requested a variance to waive the requirement that their development install a cross access corridor linking to either of the two adjacent eastern commercial parcels. The subject property is zoned GB, General Business District and may be identified by Pender County PIN: 3235-63-9839-0000. Director Breuer presented and gave background information for agenda item 4. Chairman Pullen asked to hear from the applicant. Attorney Rick Biberstein, representing the applicant, stated that Bill Ronalter, Ralph Ronalter, and Mike Nadeau were also present. Attorney Biberstein explained that the main purpose before the Board deals with the question of trying to comply with the purpose of the Pender County Unified Development Ordinance, which is to avoid excessive traffic on the main thoroughfare, which is US Hwy 117. Attorney

Biberstein gave an overview of the property, further explained the reason for the variance request, which included the resistance from Food Lion in allowing access from their property to the proposed Family Dollar property. Attorney Biberstein discussed the ingress and egress of the Tractor Supply plans, explained the request to have a pedestrian walkway connecting Tractor Supply and Family Dollar, instead of a vehicle access, which met the ordinance requirements for inner connectivity and a new access road would be built by the Tractor Supply developer to relocate the dirt road known as Arlington Ave., which would allow access to the church property, Bernie Frazier's property, and inner connectivity from the Food Lion parking lot to the Tractor Supply property. Board member Newton asked for clarification, that Tractor Supply would be paying for the paving of Arlington Ave., but Food Lion would not allow an easement from Arlington Ave. to the Family Dollar property; Attorney Biberstein confirmed that Board member Newton's statement was correct and stated that Arlington Ave. was located on Food Lion's property. Board member Newton commented that basically Tractor Supply was trying to appease Food Lion for the ability to have a direct easement from the Food Lion parking lot to theirs; Attorney Biberstein responded yes, that the easement from Arlington Lane would be the deal breaker for Tractor Supply building at that location. Board member Newton commented that the proposal would direct traffic from Tractor Supply onto Porters Lane, a two lane rural road, to turn back into the proposed pharmacy; Attorney Biberstein answered, if that was the way people wished to travel and explained that the thought was traffic only going to Tractor Supply would use Porters Lane. Ralph Ronalter, Developer for Tractor Supply, explained their view of how they envisioned traffic would flow. Board member Newton and Mr. Ronalter had a brief discussion regarding the ingress and egress onto Porters Lane road. Mr. Ronalter explained the layout of the proposed development of Tractor Supply and stated that they were willing to build the pedestrian walkway wherever the Board requested it to be. Board member Peters asked if Food Lion's stance on what they want trumps the Pender County Unified Development Ordinance; Director Breuer answered no and explained that the private agreement between the companies bare no weight on what the Ordinance requires. Chairman Pullen asked if there were any signups for comments; Bernie Frazier, property owner, stated that he agreed with the proposed pedestrian walkway verses a vehicle easement, due to the amount of traffic and safety issues. Chairman Pullen stated that if there were no further questions the Board would move forward with their discussion and the review of the Finding of Facts. The Board held a brief discussion and determined the Findings of Facts as follows:

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does** result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT: **Strict compliance would result in the elimination of parking spaces, thus resulting in non-compliance with Pender County's minimum parking requirements.**
2. It is the Board's CONCLUSION that the hardship **does** result from conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT: **The property is situated between multiple roadways, as well as access to Food Lion's parking lot. The additional access would result in surplus.**
3. It is the Board's CONCLUSION that the hardship **did not** result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT: **The hardship results from the layout of the property and the location relative to the streets and US Highway 117.**

4. It is the Board's CONCLUSION that the requested variance **is** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT: **The intent of the ordinance is being met through a combination of vehicular access to Food Lion and through a pedestrian route connecting through Tract A-R2.**

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED. Motion to approve the requested Variance as presented with the condition that the pedestrian walk way must be clearly identified was made by Board member Walton, seconded by Board member Thompson. The vote was 4 in favor of approval and 1 opposed.

5. Discussion Items:

a. BOA Members: None

b. Planning Staff: Director Breuer commented that staff would send Chairman Ferrante a get well card on behalf of the Board and staff. Director Breuer commented that he would provide an update regarding subdivision issues at the next meeting.

6. Next meeting: June 18, 2014; Due to no cases there will be no meeting on June 18, 2014.

7. Adjournment: Meeting adjourned at 10:30 a.m.