

Pender County Planning and Community Development

Planning Division

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MINUTES

Pender County Board of Adjustment Meeting August 20, 2014 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: X Newton: ___ Thompson: X Walton: X

Alternates:
Godridge: X Peters: X
Alternate members Godridge and Peters served as full Board members

- 1. Adoption of the Agenda:** Motion to adopt the agenda was made by Board member Peters; seconded by Board member Thompson. Vote unanimously approved.
- 2. Adoption of the Minutes: July 16, 2014:** Motion to adopt the minutes was made by Board member Godridge; 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:**
J.C. Hearne, II, applicant, on behalf of Hampstead Community Building, Inc, owner, is requesting four (4) separate variances for relief from the requirement of Section 5.3.3.A of the Pender County Unified Development Ordinance. Specifically, the applicant is requesting a variance from the required ten (10) foot building separation and setback requirements as outlined in the Pender County UDO 5.3.3.A for accessory buildings of 50-599 square feet in area. The subject property is located at 14335 US HWY 17 in Hampstead, NC, and is zoned GB, General Business District, and may be identified by Pender County PIN 3282-86-0228-0000. Planner Christy presented and gave background information for agenda item 4. Board member Walton asked if the applicant moved the structure labeled as building number 5 in order to move the other buildings would the required setback from the property line be met; Planner Christy answered yes. Chairman Pullen asked for clarification that the separation of the buildings was the issue; Planner Christy answered correct. Board member Walton asked if the applicant would meet all setback and separation requirements if they moved the buildings; Planner Christy answered yes; Director Breuer commented that the issue is the condition of the buildings and would ask the Board to defer to the applicant for explanation of the steps and

measures that they have taken to comply with the Ordinance requirements. J.C. Hearne, II, applicant clarified that the name he listed on the application was incorrect, in 2001 there was a merge and Hampstead Community Building, Inc. became Hampstead Women's Club Inc.; Attorney Hearne explained that moving the buildings would be costly, could possibly damage the buildings since they are old and if damaged the owners would endure more cost for replacement buildings; Attorney Hearne reviewed the evidence that they felt supported the requirements for the requested Variance; Attorney Hearne concluded that the current owners did not cause the issue. Patricia Truscello, President of the Hampstead Women's Club, provided the Board with a brochure that gave the history of Women's Club Inc. and what they offer to the community. Ms. Truscello echoed what Attorney Hearne had explained to the Board and stressed that if the buildings had to be moved it would be costly and take away from scholarships and other assistance the club offers to the community. Board member Peters asked if there was an idea of what it would cost to move the buildings; Dennis Yancey, maintenance volunteer, answered no they didn't have the actual cost, they would have to rent a Bobcat, would possibly have to repair damage caused by moving the buildings or replace the buildings. Planner Christy stated that the ruling on the Variance would be for zoning purposes only, that the buildings would still have to meet building code for the proper permits. Joyce Greene, First Vice-President, stated that the buildings labeled as 1 and 2 have been on the property since 2001, building 3 has been there for 10 years and building 4 has been there for 8 years; the buildings are not on permanent foundations, that they are moveable, but they are old and may not survive being move. Chairman Pullen opened the floor for the Board's discussion and review of the finding of facts.

Motion to approve the requested Variance as presented was made by Board member Godidge, seconded by Board member Peters. The Finding of Facts and vote for each Variance was as follows:

Board of Adjustment: Finding of Facts – Variance 1

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: **The existing accessory structure, which was placed on the property prior to the current owner's purchase of the property, cannot be moved any further away from the principle structure due to the condition and age of the accessory structure.**
2. It is the Board's CONCLUSION that the hardship **does** result from conditions that are peculiar to the property, such as location, size, and 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: **Moving the existing accessory structure would interfere with parking lot drainage as well as circulation of trucks to and away from accessory structures on site.**
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 current property owner did not own the property out-right when the subject accessory structure was placed on the property. The property owner did not know that the accessory structure was out of compliance with the separation requirement.**
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, as accessory structures are allowed in the GB, General Business zoning district.**

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED**. The vote was 4 to 1.

Board of Adjustment: Finding of Facts – Variance 2

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: **The existing accessory structure, which was placed on the property prior to the current owner's purchase of the property, cannot be moved any further away from the principle structure due to separation requirements on the other side of the structure.**
2. It is the Board's CONCLUSION that the hardship **does** result from conditions that are peculiar to the property, such as location, size, and 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: **Moving the existing accessory structure would interfere with parking lot drainage as well as circulation of trucks to and away from accessory structures on site.**
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 current property owner did not own the property out-right when the subject accessory structure was placed on the property. The property owner did not know that the accessory structure was out of compliance with the separation requirement.**
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, as accessory structures are allowed in the GB, General Business zoning district.**

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED**. The vote was 4 to 1.

Board of Adjustment: Finding of Facts – Variance 3

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does not** 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: **The separation requirement for accessory structures of 50-599 square feet in area is ten feet. The owner of the subject property has placed accessory structure "3" closer than ten feet to accessory structure "2".**
2. It is the Board's CONCLUSION that the hardship **does not** result from conditions that are peculiar to the property, such as location, size, and 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: **There is adequate space on the subject property to provide the required ten foot separation. Existing accessory structure "3" can be moved so that there is a ten foot separation.**
3. It is the Board's CONCLUSION that the hardship **did** 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 current property owner placed existing accessory structure "3" on-site without meeting the ten foot separation requirement. There is adequate space for the separation requirement to have been met.**

4. It is the Board's CONCLUSION that the requested variance **is not** 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 applicant can choose to move the accessory structure and meet the separation requirement. Therefore, the requested variance is not consistent with the spirit, purpose, and intent of the ordinance.**

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **DENIED**. The vote was 3 in favor of approval and 2 opposed of approval.

Board of Adjustment: Finding of Facts – Variance 4

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **does not** 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: **The separation requirement for accessory structures of 50-599 square feet in area is ten feet. The owner of the subject property has placed accessory structure "4" closer than ten feet to accessory structure "3".**
2. It is the Board's CONCLUSION that the hardship **does not** result from conditions that are peculiar to the property, such as location, size, and 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: **There is adequate space on the subject property to provide the required ten foot separation. Existing accessory structure "4" can be moved so that there is a ten foot separation.**
3. It is the Board's CONCLUSION that the hardship **did** 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 current property owner placed existing accessory structure "4" on-site without meeting the ten foot separation requirement. There is adequate space for the separation requirement to have been met.**
4. It is the Board's CONCLUSION that the requested variance **is not** 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 applicant can choose to move the accessory structure and meet the separation requirement. Therefore, the requested variance is not consistent with the spirit, purpose, and intent of the ordinance.**

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **DENIED**. The vote was 3 in favor of approval and 2 opposed of approval.

5. Discussion Items:

a. **BOA Members:** Chairman Pullen excused himself for an appointment he needed to attend.

b. Planning Staff:

- i. Limited Subdivisions: (Continued Discussion from July 16, 2014 meeting) – Planner O'Hare reviewed and discussed the memorandum provided to the Board and asked for feedback. Board member Thompson stated that he believed road maintenance agreements should be considered and that the required 45 foot is a bit much. Director Breuer suggested having Board member Thompson and Walton serve as a subcommittee to work with Planning Staff to create standards for the limited subdivisions. The Board agreed with suggestion and recommended that staff move forward with presenting the subject as a discussion item at the next Planning Board meeting.

6. Next meeting: September 17, 2014

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