

Pender County Planning and Community Development

Planning Division

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MINUTES Pender County Board of Adjustment Meeting July 20, 2016 9:00 a.m. Pender County Public Meeting Room 805 S. Walker Street, Burgaw, North Carolina

Call to Order: Chairman Ferrante called the meeting to order at 9:03 a.m.

Invocation: Administered by Chairman Ferrante.

Roll Call: Chairman Ferrante

Pender County Board of Adjustment Members:

Ferrante: Pullen: Newton: Rhodes:

Alternates:

Godridge: Peters:

Alternate Board members Godridge and Peters served as full Board Members

Chairman Ferrante welcomed all, explained the type of meeting being held, the process of the meeting, and the process of voting.

- 1. Adoption of the Agenda:** Motion to adopt the agenda was made by Vice-Chairman Pullen; seconded by Board member Peters. The vote was unanimous.
- 2. Adoption of the Minutes: (April 20, 2016)** Motion to adopt the April 20, 2016 minutes was made by Board member Godridge; seconded by Vice-Chairman Pullen. The vote was unanimous.
- 3. Election of Officers: (Chairman/Vice-Chairman)** Chairman Ferrante opened the floor for nominations for Chairman of the Board. Board member Godridge nominated Board member Ferrante as Chairman of the Pender County Board of Adjustment; seconded by Board member Peters. There were no other nominations. The vote was unanimous for Board member Ferrante to serve as Chairman. Chairman Ferrante opened the floor for nominations for Vice-Chairman of the Board. Board member Peters nominated Board member Pullen as Vice-Chairman of the Pender County Board of Adjustment; seconded by Board member Godridge. There were no other nominations. The vote was unanimous for Board member Pullen to serve as Vice-Chairman.
- 4. Public Comment:** None

** (Public Hearings Open) **

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

5. Variance: (Tabled from 4/20/16)

Frederick W. Mahnken et al, applicant and owners, requested a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A setback for accessory structure, specifically requesting a variance from the rear yard setback requirement of ten (10) feet for an accessory structure. The subject property is located at 15 Preswick Drive Rocky Point, NC 28457. There is one (1) tract associated with this request totaling ± 0.31 acres and the property may be further identified by Pender County PIN 3273-15-5438-0000. Director Breuer welcomed Ms. Rhodes to the Board and stated that agenda item five (5) was tabled from the April 20, 2016 meeting; that he believed the applicant wished to request that the Board table the item since they were still working with the HOA. Director Breuer asked that the applicant address the Board and explain the current situation. Frederick Mahnken, applicant, explained that the HOA had agreed to give him an easement, but that would not work according to staff; had another meeting with the HOA in regards to purchasing the property, but in order to do that they have to have eighty (80) percent of the HOA members' approval. Mr. Mahnken further explained that the HOA is in the process of notifying members and holding a vote.

Motion to table agenda item five (5) in order to allow the applicant time to receive the voting results from the HOA was made by Vice-Chairman Pullen; seconded by Board member Rhodes. The vote was unanimous.

Attorney Thurman advised the Board and all present that Board member Rhodes was sworn in as a Board member prior to the meeting.

6. Variance:

Sarah Woodard, applicant and owner, requested a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A setback for an accessory structure, specifically requesting a variance from the side yard setback and structure separation requirement of ten (10) feet for an accessory structure. The subject property is located at 218 Doral Drive, Hampstead, NC 28443. There is one (1) tract associated with this request totaling ± 0.46 acres and the property may be further identified by Pender County PIN 4214-12-2190-0000. Planner O'Mahony presented and gave background information for agenda item six (6).

Board member Rhodes – How long has the structure been in its location?

Planner O'Mahony – Referred the question to the applicant to answer.

Sarah Woodard, applicant, explained to the Board how the structure came to be in the current location, stated that she didn't know she needed a permit, explained how sturdy and secure the structure was, and stated that there was nowhere else on her property to locate the structure.

Board member Rhodes – How was the structure anchored?

Ms. Woodard – The metal beams are in the ground with concrete.

Vice-Chairman Pullen – How long has the structure been in its location?

Ms. Woodard – Since September or October of 2015 and no neighbors had complained, one neighbor even sent an email in favor of the requested Variance.

Board member Godridge – Is the structure hidden from the neighbor's view?

Ms. Woodard - Yes, they haven't complained.

Board member Peters – If the structure was attached to the home, would it still be an accessory structure and if it was attached would it meet the setbacks?

Director Breuer – If it was attached to the principle structure it would have to maintain a continuous roof line and meet the setbacks of the zoning district, but in this case the structure would not be allowed to be attached to the principle structure.

Ms. Woodard – Asked the Board for mercy and requested approval of her request.

Board member Rhodes – Could the structure be moved to the back?

Ms. Woodard – There would still not be enough room to meet the separation requirements.

The Board held their discussion based on the four (4) standards that must be shown for a Variance approval. Each standard was discussed in detailed as it related to the request.

Motion to deny the request due to all standards not being shown was made by Board member Peters; seconded by Chairman Ferrante. The vote was unanimous.

7. Variance:

Harrison Cove, LLC., applicant, on behalf of Parks Family Forestry LLC., owner, requested a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 7.5.1.A.1; specifically the request is to seek relief from the provision of street design as for layout of streets as to arrangement, width, grade, character, and location which shall conform to the Pender County Collector Street Plan. There are two tracts included in this variance request that total approximately ± 112.7 acres and are located to the south of NC 210 and to the east of Harrison Creek Road (SR 1573) in the Topsail Township. The properties may be further identified by Pender County PINs: 3273-10-0849-0000 and 3273-33-1459-0000. Director Breuer explained that there were some changes in legislation, portion of the case relied on some facts surrounding the reserved corridor of the Hampstead Bypass project, on July 11, 2016 the governor of the State signed House Bill 959, which rescinds all corridor maps that were put on record, so the reserved Hampstead Bypass Corridor does not exist, any reference to that corridor should not be taken into consideration for the outcome of the case being heard. Director Breuer presented and gave background information for agenda item seven (7).

Chairman Ferrante - Asked for clarification of the development and purpose of the Pender County Collector Street Plan.

Director Breuer explained the development and purpose of the plan and also explained that there could be situations where a Collector Street is shown on a map but, due to wetlands, etc. existing on the property the Collector Street would have to be shifted in order to conform to plan.

Board member Rhodes - This type of plan is standard all over the country; it is a critical safety issue when there is only one way in and out of subdivisions and that is eliminated with plans such as the Pender County Collector Street Plan.

Board member Godridge – Was the applicant aware of the Pender County Collector Street Plan when they submitted their project plans?

Director Breuer - There were conversations held in regards to the plan during the initial meetings.

Board member Godridge – Did the applicant just disregard the plan and submit their project plan showing their proposed development?

Director Breuer - Would have to defer that question to the applicant.

Tim Clinkscales and Clay Matthews, Paramounte Engineering, applicants, thanked the Board for their time and stated that they had two (2) hardships for which they were requesting the variance; one (1) being environmental concerns, the impact of wetlands located where they would have to build a road; two (2) being the North Carolina Department of Transportation's plan for the Hampstead By-pass; Mr. Matthews stated that he would not elaborate on this hardship since it was already stated that House Bill 959 had been signed, but it had not been when the request was submitted.

Board member Rhodes – Could the plan be redesigned to bring the road out at another point?

Mr. Matthews – No, the proposed location was the only section of the property that touched Harrison Creek Road.

Coleman Parks, property owner, - Had no problem having connectivity, but argued what the plan defines as a collector road.

Mr. Matthews - Gave a presentation to the Board of their lot layout with access to demonstrate the impact a collector street would have on the wetlands.

Chairman Ferrante - It seemed that the signing of House Bill 959 affected the proposed plan, there were options for the applicant to design their development to meet the requirements, and there would not be a great concern of environmental impact if they were not trying to put a lot of houses on property that had wetlands; suggested that the applicants work with the Planning staff and redesign their development to meet the requirements of the ordinance and plans; he did not think that the Board of Adjustment had the authority to change the design standards stated in the Pender County Collector Street

Plan or the requirements of the Pender County Unified Development Ordinance to meet those designs.

Coleman Parks - They have no problem with connectivity, but it was not a good collector street plan.

Board member Rhodes – Could the Board send the applicants back to the Planning staff to work with the options available to design a new plan?

Director Breuer - Plans are not written based on current conditions, they are written to plan for the future, that if the applicant considered developing their project with shared driveways then they would meet the Collector Street standards.

Janet Whitehead, 3421 HWY 210, Hampstead, - Two of her questions were already answered during the discussion between the applicants and Board members. Would the natural woodline buffer be left?

Chairman Ferrante – Have valid concerns, but do not apply to the variance that is being requested.

Coleman Parks – Every plan is not perfect, will pursue Pender County to relook at the plan, because it is not perfect. Mr. Parks requested to have his variance request continued, in order to work with staff with the hopes of resolving the matter without the need of a variance.

Motion to table the request was made by Board member Godridge; seconded by Vice-Chairman Pullen. Chairman Ferrante clarified that the motion to table the request was not until the next meeting, that the request could come back before the Board when it was deemed necessary. The vote was unanimous.

(Public Hearing Closed*)*

8. Discussion Items:

- i. Planning Staff: None
- ii. BOA Members: Welcomed Mrs. Rhodes to the Board

9. Next Meeting: August 17, 2016

10. Adjournment: 11:05 am

The entire recording of the Board of Adjustment Meeting and the signed Board Order including the Findings of Facts are on file with the permanent records in the Planning Department office.