



Pender County

Agenda

Board of Adjustment Meeting

Wednesday, May 19, 2021 @ 9:00 AM
Pender County Public Assembly Room

		Presenter	Page
1.	CALL TO ORDER		
2.	ROLL CALL		
3.	ADOPTION OF AGENDA		
4.	PUBLIC COMMENT		
5.	VARIANCE		
5.1.	VAR-2021-04 VAR 2021-04 - Pdf		3 - 11
6.	DISCUSSION ITEMS		
7.	NEXT MEETING DATE TBD		
8.	ADJOURNMENT		



**Pender County
VAR-2021-04**

TO: Board of Adjustment
FROM: Travis Henley
DATE: May 19, 2021
SUBJECT: VAR-2021-04

SUMMARY:

Jeff Parker, applicant, on behalf of Karum Parker, owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A 'Accessory Building Setbacks and Separation Requirements.' Specifically, the request is to seek relief from standards setting a minimum rear yard setback of 25 feet from the property line for accessory structures larger than 600 square feet in the RP, Residential Performance zoning district as referenced by Section 4.14 'Zoning District Dimensional Requirements.' The applicant instead requests a minimum rear yard setback of 10 feet, which is the required rear yard setback for residential accessory structures less than 600 square feet in size in all residential zoning districts. The subject property is located at 207 Skipper Road (SR 1718), approximately ±440 feet south of the intersection of Skipper Road and Raeford Road (SR 1717) in the Topsail Township. There is one (1) parcel associated with this request totaling ±0.47 acres and may be further identified by Pender County PIN 4202-59-7610-0000.

ACTION REQUESTED:

Approval of Variance

ATTACHMENTS:

VAR-2021-04 Staff Report
VAR-2021-04 Application
VAR 2021-04 Narrative
VAR 2021-04 Site Plan

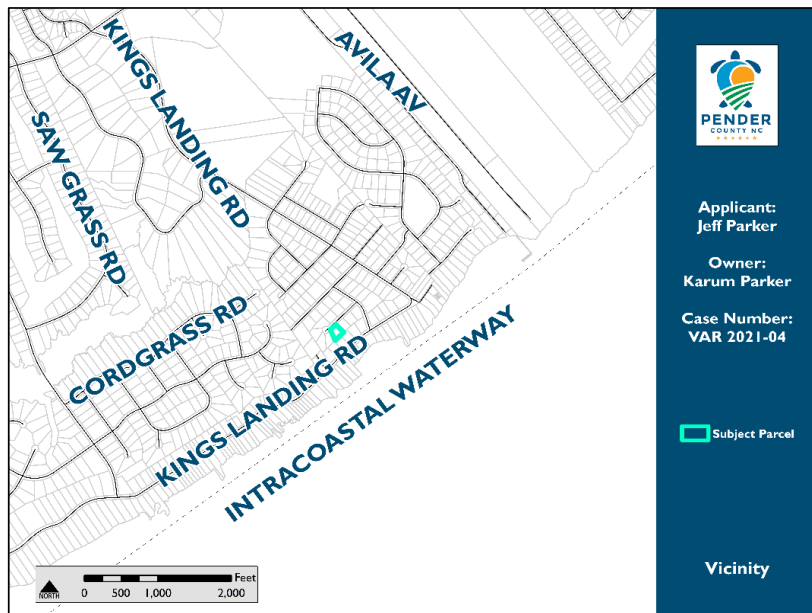
PLANNING STAFF REPORT VARIANCE REQUEST

SUMMARY:

Hearing Date: May 19, 2021
Applicant: Jeff Parker
Property Owner: Karum Parker
Case Number: VAR 2021-04

Property Location and Description: The subject property is located at 207 Skipper Road (SR 1718), approximately ±440 feet south of the intersection of Skipper Road and Raeford Road (SR 1717) in the Topsail Township. There is one (1) parcel associated with this request totaling ±0.47 acres and may be further identified by Pender County PIN 4202-59-7610-0000.

Zoning District of Property: The subject property is zoned RP, Residential Performance zoning district.



Variance Requested: Jeff Parker, applicant, on behalf of Karum Parker, owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A 'Accessory Building Setbacks and Separation Requirements.' Specifically, the request is to seek relief from standards setting a minimum rear yard setback of 25 feet from the property line for accessory structures larger than 600 square feet in the RP, Residential Performance zoning district as referenced by Section 4.14 'Zoning District Dimensional Requirements.' The applicant instead requests a minimum rear yard setback of 10 feet, which is the required rear yard setback for residential accessory structures less than 600 square feet in size in all residential zoning districts.

BACKGROUND AND DESCRIPTION OF VARIANCE:

The subject property is Lot 46 of the Topsail Heights subdivision as platted at Map Book 15, Page 72 of the Pender County Register of Deeds. The lot currently has a single-family detached residential home (207 Skipper Road) as well as an accessory building to the south of the home. Per the applicant's submitted narrative, the existing accessory structure is approximately ±594 square feet in size and has a setback of 10 feet from the rear and side property lines, setbacks that are in conformance with the Pender County Unified Development Ordinance.

Per the applicant's submitted narrative and preliminary site plan, the applicant desires to replace the existing

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accessory structure with a new, larger accessory structure approximately $\pm 1,200$ feet in size. In general, accessory structure setbacks from property lines and other structures are dependent upon the size of that structure. Because the applicant desires to completely remove the existing structure and replace it with a brand new one, the following standards of the Unified Development Ordinance become applicable:

5.3.3 Accessory Uses and Structures

A. Accessory Building Setbacks and Separation Requirements

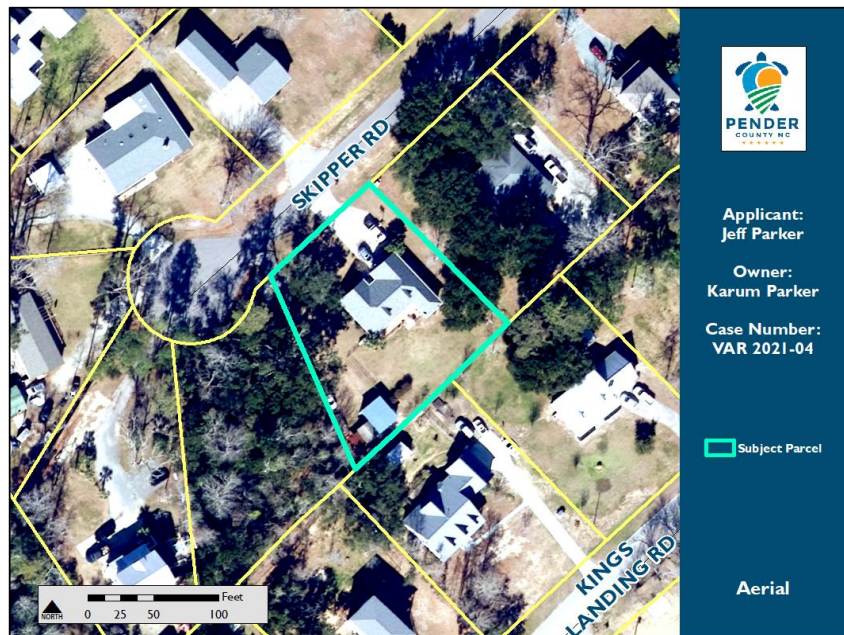
- 1) Accessory Buildings 50-599 Square Feet In Area:
 - a) Setback of ten (10) feet from all property lines, access easements, and any other structures located on the property.
- 2) Accessory Buildings 600-1,199 Square Feet In Area:
 - a) Setbacks shall adhere to zoning district requirements and separation must be ten (10) feet from any other structure and access easements located on the property.
- 3) Accessory Buildings 1,200 Square Feet in Area or Greater:
 - a) Same setback and separation requirements as principal buildings per zoning district regulations

As shown above, once a proposed accessory structure exceeds 600 square feet in size, the setback requirements change from a setback of 10 feet from any property line to the same setback requirements that apply to principle structures within the respective zoning district within which the property is located. In the case of the RP, Residential Performance zoning district in which the subject property is located, accessory structures larger than 600 square feet are held to the following minimum setbacks from property lines:

Front: 30 feet
Sides: 10 feet
Rear: 25 feet
Corner: 15 feet

Furthermore, when an accessory structure exceeds 1,200 square feet in size, the above setbacks continue to apply, but required structure separation increases to 30 feet as well.

The applicant is requesting a variance from the rear yard setback of 25 feet for accessory structures larger than 600 square feet in the RP, Residential Performance zoning district, instead requesting a 10 foot minimum rear yard setback as is applicable to smaller accessory structures. Per the applicant's submitted narrative and preliminary site plan, all other dimensional standards applicable to a 1,200 square foot accessory building could be met with approval of the rear-yard setback variance request.



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If a variance is granted by the Board of Adjustment; the applicant must still meet all requirements in Pender County's Unified Development Ordinance, including submitting all necessary permits prior to any administrative approval. Any neighborhood covenants or restrictions are private agreements not enforced by the County.

ZONING ADMINISTRATOR'S CONCLUSION:

Jeff Parker, applicant, on behalf of Karum Parker, owner, is requesting a variance for relief from the Pender County Unified Development Ordinance standards outlined in Section 5.3.3.A 'Accessory Building Setbacks and Separation Requirements.' Specifically, the request is to seek relief from standards setting a minimum rear yard setback of 25 feet from the property line for accessory structures larger than 600 square feet in the RP, Residential Performance zoning district as referenced by Section 4.14 'Zoning District Dimensional Requirements.' The applicant instead requests a minimum rear yard setback of 10 feet, which is the required rear yard setback for residential accessory structures less than 600 square feet in size in all residential zoning districts.

3.14 VARIANCE**3.14.1 Applicability**

- A. The Board of Adjustment may vary certain requirements of this Ordinance, in harmony with the general purpose of these regulations, where special conditions applicable to the property in question would make the strict enforcement of the regulations impractical or result in a hardship in making reasonable use of the property.
- B. The Board of Adjustment may waive certain requirements when authorized to do so by provisions adopted as a part of this Ordinance.
- C. No variance shall be permitted that would have the effect of allowing a use not permitted in the use table of Section 5.2.3.
- D. No variance shall be permitted that would allow a project to exceed the maximum density as to number of dwelling units to the acre in a Zoning District. This maximum density shall be inclusive of any density bonus allowance or additional units in a planned unit development.
- E. The need for the variance cannot be a result of the owner's own actions and cannot be for strictly economic reasons.
- F. The Board of Adjustment may grant variances in the following special circumstances, as indicated in Section 3.14.7 of this Ordinance.

3.14.6 Burden of Proof

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues.

3.14.7 Findings

In granting any variance, the Board of Adjustment shall make the following findings:

- A. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts;
 - 1) Unnecessary hardship would 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.
 - 2) The hardship results 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.

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- 3) 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.
 - 4) 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.
- B. In making the findings above, the Board of Adjustment may give special weight to the number and percentage of nearby properties that share characteristics for which the variance is requested by the applicant. The Board of Adjustment may grant a variance to expand an existing structure, including the expansion of a nonconforming structure if the findings listed above can be made.

Board of Adjustment: Finding of Facts

1. It is the Board's CONCLUSION that the hardship of which the applicant complains **results/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:
2. It is the Board's CONCLUSION that, the hardship **results/does not 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:
3. It is the Board's CONCLUSION that the hardship **results/does 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:
4. It is the Board's CONCLUSION that, the requested variance is **consistent/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 all of the FINDINGS OF FACT:

BOARD ACTION FOR VARIANCE:

MOVED _____ SECONDED _____

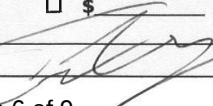
APPROVED _____ DENIED _____ UNANIMOUS _____

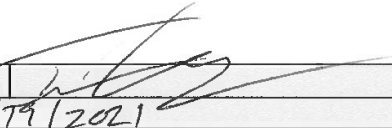
YEA VOTES: Kipfer _____ Breuer _____ Nelson _____ Rivenbark _____

ALTERNATES: Olsen _____ Snider _____

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APPLICATION FOR VARIANCE

THIS SECTION FOR OFFICE USE			
Application No.	VA 2021-04	Date	4/11/2021
Application Fee	\$ 250	Invoice Number:	17779
SECTION 1: APPLICANT INFORMATION			
Applicant's Name:	Jeff Parker	Owner's Name:	Karum Parker
Applicant's Address:	207 Skipper Rd	Owner's Address:	207 Skipper Rd
City, State, & Zip	Hampstead NC 28443	City, State, & Zip	Hampstead NC 28443
Phone Number:	9102626162	Phone Number:	9105207362
Email Address:	blondestranger2@gmail.com	Email Address:	karump17@gmail.com
Legal relationship of applicant to landowner: Husband			
SECTION 2: PROJECT INFORMATION			
Property Identification Number (PIN):	4202-59-7610-0000	Total property acreage:	.6
Zoning Classification:	RP	Variance Size:	10' From rear and south property lines
Variance Location & Address	207 Skipper Rd Hampstead NC 28443		
Describe Variance and amount or type requested:	Erect a detached metal garage approx 41'Lx28'Wx18'H to house RV, Boat, Truck, Trailer, and misc items 10' from rear and south property lines. Rt front corner of garage 10' from side line, distance increases to back of garage. Rear constant 10' from line. Current structure would be removed.		
SECTION 3: SIGNATURES			
Applicant's Signature		Date:	3-25-21
Applicant's Name Printed	Jeff Parker	Date:	
Owner's Signature		Date:	3-25-21
Owner's Name Printed	Karum Parker	Date:	
NOTICE TO APPLICANT:			
1. The Board of Adjustment shall review applications for a variance and shall be the approving authority for all requirements. 2. All applicants seeking a variance shall schedule a pre-application conference with the administrator to discuss the procedures, standards, and regulations required for variance approval. 3. An application for a variance shall be submitted in accordance with application requirements. 4. Once the application has been determined complete, the Administrator shall schedule a public hearing and give notice to adjoining/abutting property owners and aggrieved parties in the form of applicant supplied #10 envelopes with paid first class postage. 5. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below (Findings), as well as the burden of persuasion on those issues. 6. Applicant must also submit the information described in the Variance Checklist provided below. 7. Applicant or agent authorized in writing must attend the public hearing. 8. Once the public hearing has been advertised, the case will be heard unless the applicant withdraws the application or unless the Board of Adjustment agrees to table or delay the hearing.			
OFFICE USE ONLY			
☒ VA Fees \$250		Total Fee Calculation \$	
Payment Method :	Cash : ☐ \$	Credit Card: ☐ Master Card ☐ Visa	Check: ☒ Check # 2185
Application received by: 		Date: 4/11/2021	

Application completeness approved by:		Date: 4/1/2021
Date scheduled for public hearing:	5/19/2021	

Jeff & Karum Parker
207 Skipper Rd
Hampstead, NC 28443
(910)262-6162

Narrative required with Application for Variance of Article 4.14- ZONING DISTRICT DIMENSIONAL REQUIREMENTS, RP/Minimum Rear Yard 25' setback.

Jeff and Karum Parker ask for a variance to the above requirement of 25' rear yard setback to be reduced to 10' for the purpose of constructing a building approximately 40'LX30'WX18'H. This new structure would replace the existing structure built in 2003, 22'LX27'WX12'H, that is currently setback 10' from both the rear and southern property lines.

The current structure is constructed of shed and pole-barn material and used to cover the boat, golf cart, mower, and other personal maintenance equipment. The new structure will be an enclosed garage style building to house the items above along with our RV, truck and utility trailer. This garage will provide protection for those items from the environment along with making the property more visually appealing.

Due to the shape of the lot, specifically the angled southern property line, we cannot maintain the minimum 30' of structure separation from our dwelling or the 10' setback from the side (southern) property line if a setback of 25' from the rear property line is maintained.

There are many other properties within our neighborhood that have large accessory buildings constructed 10' from the rear property line, and several others within 25' of the rear property line as well. Those examples will be presented via powerpoint.

We appreciate your consideration in this variance application process. At the end of the day we want to improve the property and protect our investments from the environment.

