



MINUTES
Board of Adjustment Meeting
Wednesday, April 20, 2022 Pender County Public Assembly Room 9:00 AM

MEMBERS PRESENT: Max Kipfer
Kyle Breuer
Andrew Olsen
Jeffrey Snider

MEMBERS ABSENT: Samantha Nelson

OTHERS PRESENT: Travis Henley, Planning Director
Trey Thurman, County Attorney
Donna Sayre, Administrative Assistant
Other Staff and Members of the Public.

1 CALL TO ORDER
Chairman called the meeting to order at 9:01 AM

2 ROLL CALL

3 PLEDGE OF ALLEGIANCE

4 MOMENT OF SILENCE

5 ADOPTION OF AGENDA

a) Motion to adopt the agenda as is.

Moved by Kyle Breuer, seconded by Jeffrey Snider

Motion approved

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer	x			
Samantha Nelson				x
Andrew Olsen	x			
Jeffrey Snider	x			

Douglas Scott Rivenbark	x			
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CARRIED.

6 ADOPTION OF MINUTES

- a) Adoption of January 19, 2022 Meeting Minutes

Moved by Andrew Olsen, seconded by Jeffrey Snider

Motion approved

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer	x			
Samantha Nelson				x
Andrew Olsen	x			
Jeffrey Snider	x			
Douglas Scott Rivenbark	x			
	5	0	0	1

CARRIED.

7 PUBLIC COMMENT

8 VARIANCE

- a) The Chairman swore in and/or affirmed Travis Henley, Greg Feldman, Jennifer Roper, and Jason Roper as to their testimony being truthful and relevant to the respective case.

VARIANCE CASE 2022-10 – Applicants Jason Roper and Jennifer Roper

Mr. Greg Feldman, Planning Director, presented the Staff Report. Mr. Feldman provided that Jason and Jennifer Roper, applicants and owners, are 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.' The applicant is requesting relief from side yard setback requirements for accessory structures within the RA, Rural Agricultural zoning district, along with structure separation requirements for a 30' x 49' (1,470-SF) accessory structure. Specifically, the request is to seek a 7' relief from

the required 15' side yard setback, and a 19' relief from the required 30' structure separation requirement within the RA, Rural Agricultural zoning district.

Mr. Kipfer asked for clarification on the case history and the applicant's narrative provided in the staff report. Mr. Kipfer stated that the narrative provides that the contractor did not make the applicant aware that permits were required and that the staff report provides that the applicant informed County staff that they made a different decision based on cost. Mr. Feldman stated that he was made aware by the applicants that there was an option with permitting through the contractor and added that he would defer to the applicant for clarification.

Mr. Kipfer asked what the cost of a building permit application would be for this structure. Mr. Henley estimated that the permit cost would be around \$250 or \$300.

Mr. Snider asked for clarification on rear setbacks with a pond occupying a portion of the rear of the property. Mr. Feldman provided that the rear setback would be measured from the property line and not from the shoreline of the pond. Mr. Feldman stated that staff observed significant grade changes in the rear of the property.

Mr. Kipfer asked if the aerial image provided shows the building in question. Mr. Feldman stated that the aerial does not show the building and he clarified the location of the structure.

Mr. Breuer asked how long the pre-existing accessory structure has been located on the property. Mr. Feldman provided there was no record of approval available. Mr. Henley provided that based on aerial images over time it appears that it was placed on-site between 2010 and 2012. Mr. Henley added that between 2012 and 2016 the structure was moved further away from the home towards the rear of the property.

Mr. Kipfer asked when the newer structure was placed on the property. Mr. Feldman answered in October 2021. Mr. Kipfer asked how the County was made aware of this structure. Mr. Feldman provided that a Pender County building inspector lives nearby and that they informed the County as well as the property owner.

Mr. Snider asked if a distance has been measured from the rear parcel line to the edge of the pond. Mr. Feldman provided that this measurement has not been taken and added that an estimate of the distance can be provided using GIS. Mr. Henley stated that he estimates that the rear property line is around 115' to the bank of the pond.

Mr. Jason Roper and Mrs. Jennifer Roper addressed the Board. Mrs. Roper provided that it was never intended to not do what was required in terms of required permits. Mrs. Roper explained that they hired a company with the expectation that they would do what was necessary. She added that they were given an option by the contractor to receive building plans for the structure at a greater cost. Mrs. Roper stated that the contractor provided that the structure would meet code requirements. She stated that they went with the cheaper option due to their ignorance and lack of understanding. Mrs. Roper stated that they have been working with the County to rectify the situation.

Mr. Roper explained that the difference between the two options provided by the contractor was that there would be a set of building plans provided. Mr. Roper stated that he assumed that if the building would be built to code, then building plans would not be necessary.

Mr. Kipfer stated that either way permits were required for the project. Mr. Roper stated that they opted for the basic certified package. Mr. Roper added that the construction was completed around October and then they were made aware of the fact that permits were not acquired for the structure. Mr. Roper stated that numerous attempts were made to contact the company and eventually were able to acquire the building plans at an additional cost.

Mrs. Roper stated that the contractor placed the building on the property in the only location that would work based on the slope in the rear of the property.

Mr. Kipfer asked if it would have been possible to place the structure in the middle of the rear yard rather than closer to the side property line. Mr. Roper explained that this was the best location for the building on the property based on the slope in the rear yard and the guidance of the contractor.

Mr. Olsen asked how much grading would have been required if the building was moved closer to the center of the property. Mr. Roper estimated that 20' would have to be taken out and filled to make it work. Ms. Roper added that septic lines are located in this area. Mr. Roper clarified the location of the existing septic field.

Mr. Kipfer stated that trees were moved to accommodate the building and asked if trees in the other area of the property could have been removed instead for a better location. Mr. Roper provided that it could have potentially been located more central to the rear yard. Mr. Roper

added that there was a communication barrier with the workers who constructed the building. Mr. Roper continued to describe the slope and conditions in the rear of the property.

Mr. Kipfer asked Staff to clarify the fines for the violation. Mr. Feldman provided that the fines would begin if the Variance is not approved. Mr. Henley added that the applicants have been working to get the appropriate permits since they were made aware of the discrepancy. Mrs. Roper stated that financially they do not know if they can afford to lose what they have put into this building.

Mr. Kipfer asked if any of the neighbors in attendance were interested in testifying. No testimony was provided. Mr. Roper stated that they did provide a letter of support from one of the adjacent property owners which have been included in the Board's packet.

Mr. Breuer stated that the Board is tasked with strictly following state statutes in order to grant a Variance. Mr. Breuer provided that it would be helpful for the decision of the Board to be provided a copy of the existing septic permit as well as photographic evidence showing the existing topographical conditions in the rear of the property. Mr. Breuer explained that this information could be submitted to the record as evidence to help the Board make its decision.

Ms. Roper provided that she provided staff with photographs taken in the rear of the site. Mr. Roper stated he has a copy of the preliminary septic plan for when the neighborhood was built as well as a document prepared by a private septic consultant that shows where the drain lines are located. Mr. Breuer provided that it would be helpful to see where the building could be placed to comply with County regulations with supporting documents showing why the building could not be placed in this location.

Mr. Roper submitted the documents related to the existing septic system into evidence. The preliminary plat illustrating the proposed septic field will be considered **Exhibit A** and the Alfred Septic Solutions document will be considered **Exhibit B**.

Mr. Kipfer asked Mr. Feldman to show the site plan provided in the packet. Mr. Kipfer provided that the Board needs to see the additional evidence to make an informed decision. Mr. Breuer stated that Exhibit A is inconsistent with Exhibit B and provided that it appears that Exhibit A was a preliminary septic plan. Mr. Breuer added that the actual authorization to construct from Environmental Health would be helpful to see.

Mr. Feldman displayed photographs provided by the applicant. These photographs will be considered **Exhibit C**.

Mr. Olsen stated that the septic information provided has raised more questions than provides clarification. Mr. Kipfer agreed and added that the accessory building appears to be placed on top of the drain lines based on the preliminary septic plan.

Mr. Breuer provided that he is willing to accept additional evidence to inform a decision by the Board. He added that there is not enough evidence provided at this time to support a decision. Mr. Kipfer requested that Staff work with the applicants to get more supporting documents to better inform a decision by the Board.

Mr. Olsen stated that he is not certain that more information would allow the Variance based on the record at this time. Mr. Breuer provided that he would leave it up to the applicant whether or not they wish to seek additional supporting documentation. Mr. Olsen added that a detailed topographical map of the site would also be helpful.

Mr. Kipfer asked if Environmental Health should be engaged prior to the next meeting. Mr. Henley stated that Planning Staff will work with Environmental Health to better inform the Board's decision.

Mr. Roper stated that he would like to accrue more expenses on something that may not be approved. Mr. Breuer recommended acquiring a topographical map which will be readily available as well as working with County staff to gather additional information that may help the case.

Mr. Feldman stated that the staff did take some of the photographs provided in Exhibit 3 and added that the staff did observe a grade change in the rear of the property.

Moved by Kyle Breuer, seconded by Andrew Olsen

Motion to table Variance case 2022-10 until May 18, 2022

	For	Against	Abstained	Absent
Max Kipfer	x			
Kyle Breuer	x			
Samantha Nelson				x

Andrew Olsen	x			
Jeffrey Snider	x			
Douglas Scott Rivenbark	x			
	5	0	0	1

CARRIED.

9 DISCUSSION ITEMS

10 NEXT MEETING DATE

- a) May 18th, 2022
805 S. Walker Street
Burgaw, NC 28425

11 ADJOURNMENT

Meeting adjourned at 9:49 am