

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, JULY 30, 2018 AT 6:00 P.M.  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING – THIRD FLOOR  
FREDERICK B. COOPER COMMISSIONERS ROOM**

**MEMBERS PRESENT**

James McDonald "Mac" Tilley, Chairman  
Cindy Joyner, Vice-Chairman  
Tommy Bass, Regular Member  
William Parker, Regular Member  
Charles Johnson, Regular Member  
Dennis Cobb, Alternate Member #1  
Kenneth Mullen, Alternate Member #2

**MEMBERS ABSENT**

None

**PLANNING STAFF PRESENT**

Nancy Nixon, Planning Director  
Adam Tyson, Senior Planner  
Windy Braswell, Planning Technician  
Jessica Flores, Planning Technician

**ATTORNEY TO THE BOARD**

Richard J. Rose

**OTHERS PRESENT**

Michael Wise  
Michael Kerry Turnbull  
Kathy Nelson  
Chris Nelson  
Mark A. Bieber  
Pamela P. Bieber

**1. Call to Order.**

Chairman Tilley called the meeting to order at 6:00 p.m.

**2. Determination of a Quorum.**

Chairman Tilley recognized a quorum.

**3. Recognition of the Voting Members.**

Chairman Tilley recognized the voting members for this meeting as himself, Ms. Joyner, Mr. Parker, Mr. Bass and Mr. Johnson.

**4. Announcement of Board Member Reappointments.**

Chairman Tilley recognized Ms. Nixon who announced that, effective May 1, 2018 Ms. Cindy Joyner had been appointed to her third term as a regular member of the Board of Adjustment which will extend to April 30, 2021; Mr. William Parker had been appointed to his second term as a regular member of the Board of Adjustment which will extend to April 30, 2021; and Mr. Charles Johnson had been appointed to his first term as a regular member to the Board of Adjustment which will extend to April 30, 2021; Mr. Dennis Cobb has moved to Alternate Member # 1 and Mr. Kenneth Mullen has moved to Alternate Member #2.

**5. Approval of the December 19, 2017 Regular Meeting.**

The minutes of the December 19, 2017 meeting of the Board of Adjustment were mailed to each member for review. Chairman Tilley asked for any corrections or revisions. None were offered.

**BOARD ACTION: Mr. Johnson offered a motion which was duly seconded by Mr. Parker to approve the minutes of the December 19, 2017 meeting as submitted. The motion was unanimously carried.**

**6. Election of Board Officers for 2018-2019 (Chairman & Vice-Chairman).**

Chairman Tilley opened the floor for nominations for the Office of Chairman of the Board of Adjustment.

**BOARD ACTION: Mr. Bass nominated Mr. Tilley to serve as Chairman. The nomination was duly seconded by Mr. Parker. There were no other nominations. Chairman Tilley offered a motion that the nominations be closed and that Mr. Tilley be elected as Chairman by acclamation. The motion was duly seconded by Mr. Johnson. The motion was unanimously carried.**

Chairman Tilley opened the floor for nominations for the Office of Vice-Chairman of the Board of Adjustment.

**BOARD ACTION: Mr. Bass nominated Ms. Joyner to serve as Vice-Chairman. The nomination was duly seconded by Mr. Parker. There were no other nominations. Chairman Tilley offered a motion that the nominations be closed and that Ms.**

**Joyner be elected as Vice-Chairman by acclamation. The motion was duly seconded by Mr. Johnson. The motion was unanimously carried.**

**7. Oath of Witnesses.**

All persons wishing to give testimony during the public hearing were sworn in by Chairman Tilley.

**8. Public Hearing (Quasi-Judicial) on Special Use Permit Request S-180701 made by Kathy L. Nelson, the Property Owner, to Authorize the Addition of a Temporary Hardship Manufactured Home Beside the Existing Principal Dwelling Located at 2674 Tanbark Drive, Nashville, NC 27856 on an Approximately 0.72 Acre Lot in the R-40 Single-Family Residential Zoning District.**

Chairman Tilley introduced this agenda item to the Board and recognized Mr. Tyson to present the staff report.

Mr. Tyson stated that in accordance with the requirements of the Nash County Unified Development Ordinance and the North Carolina General Statutes, a written notice of this public hearing was mailed on July 18, 2018 to the owner of the subject property as well as to neighboring property owners who own property any portion of which is located within 600 feet of the lot that is the subject of the permit request. A notice of this public hearing was published in the legal ad section of the Rocky Mount Telegram on July 19, 2018 and a notice of the public hearing was also posted on the subject site itself on July 19, 2018.

Mr. Tyson stated that Special Use Permit Request S-180701 has been submitted by Kathy L. Nelson, the property owner, in order to authorize the addition of a temporary hardship manufactured home beside the existing principal dwelling located at 2674 Tanbark Drive, Nashville, NC 27856 on the approximately 0.72 acre lot in the R-40 Single-Family Residential Zoning District.

He noted that the subject property is located southeast of the Town of Nashville within Section Two of the Benbrook Subdivision off E Old Spring Hope Road. The site is also located in the Tar-Pamlico River Basin and the WS-IV-PA Watershed Protection Overlay District, however, it is not located within a regulated floodplain and it does not appear to be impacted by any riparian stream buffers. The principal dwelling is served by an existing private on-site well and on-site septic/wastewater disposal system.

A temporary hardship manufactured home is defined as "a Class B manufactured home, providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person" (UDO Article II, Sect. 2-4, Subsection 2-4.173). Mr. Tyson noted that the proposed manufactured home would be a singlewide without a permanent brick or masonry foundation.

Mr. Tyson explained that Mrs. Nelson, the applicant, resides in the existing home at 2674 Tanbark Drive and desires to locate a single-wide two bedroom manufactured home on the east side of the same lot in order to house her mother, Mrs. Daisy Griffin, nearby due to her current medical condition.

He noted that a Class B single-wide manufactured home is not a land use normally permitted in the R-40 Single-Family Residential Zoning District and the subject property does not include sufficient lot width or lot area to allow the permanent establishment of a second dwelling. Therefore, the issuance of the requested special use permit for a temporary hardship manufactured home would be required. A

temporary hardship manufactured home is considered an accessory use to the principal dwelling, meaning that it does not require a minimum designated portion of lot width or lot area in order to be permitted on a property.

Mr. Tyson reviewed the following development standards established by UDO Article XI, Section 11-4, Subsection 11-4.77 as required for temporary hardship manufactured homes.

**(A) Where Required**

*A1, all Residential, OI, and all Commercial Zoning Districts.*

The subject property is located in the R-40 Single-Family Residential Zoning District and, therefore, a temporary hardship manufactured home would be permitted with the issuance of the requested special use permit and subject to these specific development standards.

**(B) Type**

*A temporary hardship manufactured home shall be a Class B manufactured home, facilitating a caregiver's provision of care for a mentally or physically impaired person. Hardships shall be considered for qualified impairments only and not for financial reasons.*

- The proposed temporary hardship manufactured home shall be a Class B single-wide manufactured home, facilitating Mrs. Nelson's (the caregiver's) provision of care for her mother, Mrs. Griffin (a physically impaired person).

**(C) Location**

*(1) A temporary hardship manufactured home shall be permitted as an accessory use on property owned or occupied by either the caregiver or the mentally or physically impaired person as their primary residence.*

- The proposed temporary hardship manufactured home shall be permitted as an accessory use to the existing principal dwelling on the property owned and occupied by Mrs. Nelson, the caregiver, as her primary residence.

*(2) Only one temporary hardship manufactured home shall be allowed on a lot or parcel of land.*

- The proposed temporary hardship manufactured home shall be the only temporary hardship manufactured home located on the subject property.

*(3) A temporary hardship manufactured home shall not be permitted on a property prior to the occupancy of the primary residence.*

- The primary residence located on the subject property is already currently occupied by Mrs. Nelson, the caregiver.

*(4) A temporary hardship manufactured home shall comply with all setback requirements applicable to principal dwellings in the zoning district in which it is located.*

- The submitted site plan demonstrates that the proposed location of the temporary hardship manufactured home shall comply with all the following minimum building setback requirements applicable to principal dwellings in the R-40 Single-Family Residential Zoning District in which the subject property is located:

Front Setback: Fifty Feet (50') from the Road Right-of-Way

Side Setback: Fifteen Feet (15') from the Side Property Lines

Rear Setback: Thirty Feet (30') from the Rear Property Line

**(D) Occupant**

*Either a mentally or physically impaired person receiving care and/or supervision from a caregiver residing in the principal dwelling, or a caregiver providing care and/or supervision for a mentally or physically impaired person residing in the principal dwelling may occupy the temporary unit.*

- The proposed temporary hardship manufactured home will be occupied by Mrs. Griffin, a physically impaired person, receiving care and/or supervision from Mrs. Nelson, the caregiver, residing in the principal dwelling.

**(1)** *A mentally or physically impaired person shall require assistance with two or more activities of daily living (bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating) as certified in writing by a physician licensed to practice in North Carolina.*

- Mrs. Griffin is a physically impaired person who requires assistance with the activities of daily living including bathing, dressing, ambulation, transferring, toileting, and meal preparation as certified in writing by Dr. Robert Bala, M.D. with the Rocky Mount Family Medical Center, a physician licensed to practice in North Carolina.

**(2)** *A caregiver shall be an individual 18 years of age or older.*

- Mrs. Nelson, the caregiver, is an individual older than 18 years of age.

**(E) Evidence of Compliance**

*The permit applicant may be required to provide evidence of compliance with these requirements on an annual basis as long as the temporary hardship manufactured home remains on the property. The evidence may involve the inspection of the home by the County at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.*

- The permit applicant has been advised of her continuing responsibility to provide evidence of compliance with the applicable requirements as long as the temporary hardship manufactured home remains on the subject property.

**(F) Removal**

*Any temporary hardship manufactured home shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary hardship manufactured home is needed for another mentally or physically impaired person in the same location, the applicant may submit a doctor's certification for that individual within the 60 day period for review and approval by the Zoning Administrator.*

- The permit applicant has been advised of the requirement that the temporary hardship manufactured home shall be removed from the subject property within 60 days after the physically impaired person is no longer receiving care or is no longer in need of assistance at this location.

Mr. Tyson stated that the Nash County Land Development Plan (LDP) designates the subject property as Suburban Growth Area, just as it does the majority of the County's planning jurisdiction, and which it defines as "those areas of the County where significant residential growth is expected to occur within the 10-year planning horizon." The plan states that development within the Suburban Growth Area "should be

limited to only those types of land uses and development intensities that can be accommodated by services typical in non-urban areas, e.g., private on-site water supply (or public water, as available) and on-site septic systems.”

Mr. Tyson explained that the proposed temporary hardship manufactured home is considered to be in general conformity with the recommendations of the LDP for this Suburban Growth Area because it would be a temporary residential land use that could be accommodated by the existing private on-site well and on-site septic/wastewater disposal system on the subject property. The applicant has already requested a Certificate of Compliance from the Nash County Environmental Health Division to determine whether the existing on-site septic/wastewater disposal system may need to be expanded or relocated in order to accommodate the proposed temporary hardship manufactured home.

Mr. Tyson continued, saying prior to the issuance of a special use permit, the Board of Adjustment must conclude, based upon the evidence and testimony presented at the public hearing, that:

- (1) The submitted permit application is complete;
- (2) The proposed development complies with all of the applicable requirements of the Nash County Unified Development Ordinance;
- (3) The proposed development will not materially endanger the public health or safety;
- (4) The proposed development will not substantially injure the value of adjoining or abutting property;
- (5) The proposed development will be in harmony with the area in which it is to be located; and
- (6) The proposed development will be in general conformity with the Nash County Land Development Plan.

He stated that if the Board concludes that the proposed development will not comply with any one of the above requirements, then it may either deny the permit request or attach additional reasonable conditions to the permit in order to ensure its compliance.

Mr. Tyson concluded the staff report by introducing Ms. Nelson, the applicant, and offering to answer questions from the Board.

Mr. Bass asked if there had been any questions or comments from neighbors.

Mr. Tyson responded that the staff had received a visit from the property owner to the rear of the subject property who requested additional information regarding the notice they had received in the mail.

Chairman Tilley opened the floor to the public requesting that anyone who would like to ask questions or speak to come forward. There were no speakers.

**BOARD ACTION:** Mr. Bass offered a motion which was duly seconded by Mr. Mullen to adopt the following findings of fact and conclusions in relation to Special Use Permit Request S-180701, based on the evidence and testimony presented at the public hearing:

**FINDINGS OF FACT:**

- (1) The subject property includes an existing principal dwelling and is an

approximately 0.72 acre parcel further identified as Lot #4, Block C, Section Two of the Benbrook Subdivision; Nash County Tax Map PIN # 381015631509 and Parcel ID # 019687; located at 2674 Tanbark Drive, Nashville, NC 27856 within the planning and zoning jurisdiction of Nash County, North Carolina.

- (2) The application for Special Use Permit Request S-180701 was submitted by Kathy L. Nelson, the current owner of the subject property, in order to authorize the addition of a temporary hardship manufactured home as defined by Article II, Section 2-4, Subsection 2-4.173 of the Nash County Unified Development Ordinance to be occupied by her mother, Daisy Griffin.
- (3) The subject property is located in the R-40 Single-Family Residential Zoning District and a temporary hardship manufactured home is permitted as a residential accessory land use by the Nash County Unified Development Ordinance with the issuance of a special use permit and subject to the required development standards of Article XI, Section 11-4, Subsection 11- 4.77.
- (4) The Nash County Board of Adjustment conducted a quasi-judicial public hearing on Special Use Permit Request S-180701 on July 30, 2018.
- (5) Notice of the public hearing was sent by first class mail on July 18, 2018 to the permit applicant and owner of the subject property as well as to the owners of record for tax purposes of all properties located within 600 feet of the subject property; published in the Rocky Mount Telegram on July 19, 2018; and posted prominently on the subject property itself on July 19, 2018.
- (6) The proposed temporary hardship manufactured home shall be occupied by Daisy Griffin, a physically impaired person, and shall be located on the subject property in order to facilitate the provision of her care and/or supervision by Kathy L. Nelson, the caregiver.
- (7) Daisy Griffin is a physically impaired person requiring assistance with some activities of daily living including bathing, dressing, ambulation, transferring, toileting, and meal preparation as certified in writing by Dr. Robert Bala, M.D. with the Rocky Mount Family Medical Center, a physician licensed to practice in North Carolina.
- (8) The existing principal dwelling located on the subject property is currently occupied by Kathy L. Nelson, the caregiver, as her primary residence.
- (9) Kathy L. Nelson, the caregiver, is an individual older than 18 years of age.
- (10) The proposed temporary hardship manufactured home shall be a Class B single-wide manufactured home.
- (11) The proposed temporary hardship manufactured home shall be the only temporary hardship manufactured home located on the subject property.
- (12) The submitted site plan demonstrates that the proposed location of the temporary hardship manufactured home shall comply with all the building setback requirements applicable to principal dwellings in the R-40 Single-Family Residential Zoning District.
- (13) The subject property is designated by the Nash County Land Development Plan as Suburban Growth Area and the proposed temporary hardship manufactured home shall be in general conformity with the recommendations of the plan because it is a temporary residential land use that may be accommodated by the existing private on-site well and on-site septic/wastewater disposal system already located on the subject property.

**CONCLUSIONS:**

- (1) The application submitted for Special Use Permit Request S-180701 is complete.
- (2) The proposed temporary hardship manufactured home complies with all of the applicable requirements of the Nash County Unified Development Ordinance.
- (3) The proposed temporary hardship manufactured home will not materially endanger the public health or safety.

- (4) The proposed temporary hardship manufactured home will not substantially injure the value of adjoining or abutting property.**
- (5) The proposed temporary hardship manufactured home will be in harmony with the area in which it is to be located.**
- (6) The proposed temporary hardship manufactured home will be in general conformity with the Nash County Land Development Plan.**
- (7) The applicant is entitled to the issuance of Special Use Permit S-180701 authorizing the addition of a temporary hardship manufactured home on the subject property located at 2674 Tanbark Drive, Nashville, NC 27856.**

**The motion was unanimously carried.**

**BOARD ACTION: Mr. Bass offered a motion which was duly seconded by Mr. Johnson to approve Special Use Permit Request S-180701 to authorize the addition of a temporary hardship manufactured home on the subject property located at 2674 Tanbark Drive, Nashville, NC 27856 subject to the following conditions:**

- (1) The proposed temporary hardship manufactured home shall be developed on the subject property in accordance with the approved site plan and in compliance with all of the applicable requirements of the Nash County Unified Development Ordinance.**
- (2) The permit applicant may be required to provide evidence of compliance with the applicable requirements on an annual basis as long as the temporary hardship manufactured home remains on the subject property. The evidence may involve the inspection of the temporary hardship manufactured home by the County at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification.**
- (3) The temporary hardship manufactured home shall be removed from the subject property within 60 days after the physically impaired person is no longer receiving care or is no longer in need of assistance at this location. If the temporary hardship manufactured home is needed for another mentally or physically impaired person in the same location, the applicant may submit a doctor's certification for that individual within the 60 day period for review and approval by the Zoning Administrator.**
- (4) This special use permit is issued subject to the subsequent approval and issuance of the following additional permits, as applicable:**
  - (a) Nash County Zoning Permit**
  - (b) Nash County Environmental Health Certificate of Compliance**
  - (c) Nash County On-Site Wastewater Permit (Required if an expansion or relocation of the existing on-site septic/wastewater disposal system is determined to be necessary.)**
  - (d) Nash County Manufactured Home Permit**
  - (e) Nash County Residential Trade Permits (Electrical, Mechanical, & Plumbing).**

**The motion was unanimously carried.**



**9. Other Business.**

Chairman Tilley asked for any other business.

There was no other business.

**10. Adjournment.**

There being no further business, Chairman Tilley adjourned the meeting at 6:25 p.m.