

**MINUTES OF THE
NASH COUNTY BOARD OF ADJUSTMENT
REGULAR MEETING
HELD MONDAY, JUNE 26, 2023 AT 6:00 P.M.
COMMISSIONERS ROOM – THIRD FLOOR
NASH COUNTY ADMINISTRATION BUILDING
120 WEST WASHINGTON STREET
NASHVILLE, NC 27856**

BOARD MEMBERS PRESENT

Dennis Cobb, Regular Member, Chairman
Brandon Moore, Regular Member, Vice-Chairman
William Parker, Regular Member
Rodney Hough, Regular Member
Oscar Bruce, Regular Member
Emanuel Shell, Alternate Member #1
Charles Rose Jr., Alternate Member #2
Benton Moss, Alternate Member #3

BOARD MEMBERS ABSENT

None

ATTORNEY TO THE BOARD

Dylan Castellino

STAFF MEMBERS PRESENT

Adam Tyson, Planning Director
Aaron Chalker, Senior Planner
Windy Braswell, Planning Technician

OTHERS PRESENT

Shane Brantley
William Clifton Futrell, Jr.

1. Call to Order.

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

2. Determination of a Quorum.

Chairman Cobb recognized the presence of a quorum.

3. Recognition of the Voting Board Members for the Meeting.

Mr. Tyson recognized the voting Board members for the meeting to be Chairman Cobb, Vice-Chairman Moore, Mr. Parker, Mr. Hough, and Mr. Bruce.

4. Approval of the Minutes of the May 22, 2023 Regular Meeting.

Chairman Cobb asked for any revisions or corrections to the draft minutes of the May 22, 2023 regular meeting. None were offered.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Parker, to approve the minutes of the May 22, 2023 regular meeting as submitted.

The motion was unanimously carried.

5. Quasi-Judicial Public Hearing on Variance Request V-230601 made by William C. Futrell Jr., the property owner, to reduce the fifteen-foot (15') side minimum building setback requirement to approximately eleven feet (11') in order to permit the construction of a proposed detached garage at 6427 Venice Ct, Rocky Mount, NC 27803.

Mr. Tyson presented the staff report and supplemental materials related to Variance Request V-230601 as submitted to the Board in the June 26, 2023 Nash County Board of Adjustment agenda packet including a review of the standard for the issuance of a variance, the findings of fact proposed by the Zoning Administrator, and the supporting conclusions proposed by the applicant.

The Board had no questions on the staff report.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Hough, to open the public hearing on Variance Request V-230601.

The motion was unanimously carried.

Mr. Tyson was sworn in by Chairman Cobb to provide testimony under oath during the public hearing.

At the request of Mr. Tyson, Chairman Cobb acknowledged the acceptance by the Board of the staff report and the contents of the case file as evidence into the record for Variance Request V-230601.

Mr. William Clifton Futrell Jr., the request applicant, was sworn in by Chairman Cobb to provide testimony under oath during the public hearing.

Mr. Futrell addressed the Board in support of the request. He presented photographs of the subject property as well as the existing home, he discussed proposed changes to the existing fence, presented a photographic representation of the proposed two-car garage, noted that the subdivision's homeowners' association had already approved the proposed design, and listed the construction materials, which were intended to match those of the existing home.

Vice-Chairman Moore stated that the applicant's presentation clarified why the proposed garage could not be moved back and over to satisfy the standard setback requirement.

Mr. Futrell noted that the existing septic system had been located on the property and further described the six-foot tall fence around the back yard of the subject property.

Mr. Bruce asked if the proposed garage could be moved up toward the front of the subject property.

Mr. Futrell replied that would not be feasible because of the five-foot separation requirement between the structure and the existing septic system.

Mr. Tyson clarified the proposed angle and location of the garage site on the subject property.

Chairman Cobb asked if there were any members of the public present to address the Board with regard to this request. There were none.

Mr. Futrell noted that his neighbor who shares the adjacent property line in question was not opposed to the requested setback variance.

There was no further Board discussion.

BOARD ACTION: Mr. Hough offered a motion, which was duly seconded by Mr. Parker, to adopt the following findings of fact and conclusions to support approval of Variance Request V-230601:

Findings of Fact:

- (1) The subject property is the 0.94-acre Lot 20 of the Waterstone Subdivision Section 3 located at 6427 Venice Ct, Rocky Mount, NC 27803 and further identified as Nash County Tax Map PIN 372700251936 and Parcel ID # 310340 per the Nash County Tax Map.
- (2) The subject property is located within the RA-40 (Single-Family Residential) Zoning District per the Nash County Zoning Map.
- (3) The dimensional standards that currently apply within this RA-40 Zoning District include a fifteen-foot (15') minimum building setback distance required between a residential accessory structure with a gross floor area of six hundred (600) square feet or greater and the side property line per the Nash County Unified Development Ordinance (UDO) Art. IX, Sec. 9-4.1 (A), Table 9-4-1 and Sec. 9-5.1 (B).
- (4) The installation of the existing onsite septic system serving the subject property was completed on January 6, 2017 per Nash County Wastewater Permit #E15-001208 and the construction of the existing single-family dwelling located on the subject property was completed on January 20, 2017 per Nash County Residential Building Permit #P16-000887.
- (5) The subject property was acquired by William C. Futrell, Jr. and Karen G. Futrell, the current owners, on August 26, 2021 per the General Warranty Deed recorded in Deed Book 3154 Pages 576-578 of the Nash County Registry.
- (6) The current property owner desires to construct a proposed 24-foot wide by 30-foot deep detached two-car garage on the west side of and at the same angle as the existing dwelling located on the subject property in order to align the residential accessory structure with the existing concrete driveway.

- (7) The structure must be located a minimum of five feet (5') from the existing onsite septic system per the requirements of the Nash County Health Department.
- (8) Per the submitted site plan, the construction of the proposed garage on the west side of the existing dwelling would locate the rear left corner of the structure only approximately eleven feet (11') from the side property line, resulting in an approximately four-foot (4') encroachment into the required fifteen-foot (15') minimum building setback distance.
- (9) The property owner submitted an application for Variance Request V-230601, seeking to reduce the fifteen-foot (15') side minimum building setback requirement to approximately eleven feet (11') in order to permit the construction of the proposed garage on the subject property on the west side of the existing dwelling in alignment with the existing concrete driveway between the side property line and the existing onsite septic system.
- (10) On June 26, 2023, the Nash County Board of Adjustment held a quasi-judicial public hearing on Variance Request V-230601.
- (11) Notice of the public hearing was sent by first class mail on June 14, 2023 to the variance applicant and owner of the subject property and to the owners of record for tax purposes of all properties located within 600 feet of the subject property; and posted prominently on the subject property itself on June 15, 2023.
- (12) All persons who provided testimony during the public hearing were sworn in by the Board Chairman. There were no objections to the competency of such persons to testify on the matters presented, and the Board is satisfied that such persons are so competent.

Supporting Conclusions:

- (1) The applicant has demonstrated that an unnecessary hardship would result from the strict application of the fifteen-foot (15') side minimum building setback requirement because it would prevent the proposed garage from being located in alignment with the existing concrete driveway and from matching the angle of the existing dwelling's placement on the subject property. Furthermore, while reducing the gross floor area of the proposed garage to less than six hundred (600) square feet would also reduce the applicable side minimum building setback to just five feet (5'), the smaller structure would not include sufficient area to accommodate the owner's vehicles plus the interior staircase required to provide access to the developable space upstairs.
- (2) The applicant has demonstrated that the hardship results from conditions that are peculiar to the property, specifically the location of the existing concrete driveway and the location of the existing onsite septic system as well as the location and angle of the existing dwelling.
- (3) The applicant has demonstrated that the hardship did not result from actions taken by the applicant/property owner because the existing driveway, septic system, and dwelling were established in their current locations prior to the applicant/property owner's acquisition of the subject property.
- (4) The applicant has demonstrated that the requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved because the proposed variance of the side minimum building setback requirement remains consistent with the purpose of the building setback regulations "to facilitate the safe movement of vehicular and pedestrian traffic, provide adequate fire lanes and ensure adequate distance from dust, noise and fumes created by vehicular traffic" as established in UDO Art. I, Sec. 1-3.2 (I).

The motion was unanimously carried.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Shell, to approve Variance Request V-230601 to reduce the fifteen-foot (15') side minimum building setback requirement to approximately eleven feet (11') in order to permit the

construction of the proposed detached garage on the subject property and to close the public hearing on this request.

The motion was unanimously carried.

6. Quasi-Judicial Public Hearing on Variance Request V-230602 made by Good News Baptist Church, the property owner, to reduce the thirty-foot (30') rear minimum building setback requirement to approximately twenty-eight feet (28') in order to permit the construction of a proposed addition to the existing church building at 13184 NC Highway 98, Spring Hope, NC 27882.

Mr. Tyson presented the staff report and supplemental materials related to Variance Request V-230602 as submitted to the Board in the June 26, 2023 Nash County Board of Adjustment agenda packet including a review of the standard for the issuance of a variance, the findings of fact proposed by the Zoning Administrator, and the supporting conclusions proposed by the applicant.

Vice-Chairman Moore asked Mr. Tyson to clarify that the proposed addition would only encroach approximately one foot into the required rear minimum building setback.

Mr. Tyson replied that it would encroach perhaps slightly more than one foot.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Hough, to open the public hearing on Variance Request V-230602.

The motion was unanimously carried.

Mr. Tyson was sworn in by Chairman Cobb to provide testimony under oath during the public hearing.

At the request of Mr. Tyson, Chairman Cobb acknowledged the acceptance by the Board of the staff report and the contents of the case file as evidence into the record for Variance Request V-230602.

Mr. Shane Brantley, pastor of Good News Baptist Church – the request applicant, was sworn in by Chairman Cobb to provide testimony under oath during the public hearing.

Mr. Brantley addressed the Board in support of the request. He explained some past confusion regarding the rear property line of the subject property and noted the church's unsuccessful previous attempts to purchase land from the adjacent landowner. He also noted that the proposed addition was intended to add Sunday School rooms and a larger nursery for the church's growing membership.

Mr. Hough asked Mr. Brantley how the proposed depth of the twelve-foot (12') rear building addition was decided upon.

Mr. Brantley replied that a sixteen-foot (16') addition was initially proposed, but it was reduced in order to accommodate the church's existing roofline and to increase the likelihood of the approval of the variance request.

There were no members of the public present to address the Board with regard to this request.

There was no further Board discussion.

BOARD ACTION: Vice-Chairman Moore offered a motion, which was duly seconded by Mr. Hough, to adopt the following findings of fact and conclusions to support approval of Variance Request V-230602:

Findings of Fact:

- (1) The subject property is the 0.64-acre lot located at 13184 NC Highway 98, Spring Hope, NC 27882 per the Survey of the Property of Good News Independent Baptist Church recorded in Plat Book 29 Page 312 of the Nash County Registry and further identified as Nash County Tax Map PIN 274900211297 and Parcel ID # 032763 per the Nash County Tax Map.
- (2) The subject property is located within the A1 (Agricultural) Zoning District per the Nash County Zoning Map.
- (3) The dimensional standards that currently apply within this A1 Zoning District include a thirty-foot (30') minimum building setback distance required between a principal structure and the rear property line per the Nash County Unified Development Ordinance (UDO) Art. IX, Sec. 9-4.1 (A), Table 9-4-1.
- (4) Per the applicant, the existing church building was constructed in its current location on the subject property in the 1960s.
- (5) The subject property was acquired by Good News Independent Baptist Church, the current owner, on December 12, 2001 per the Deed of Gift recorded in Deed Book 1830 Pages 539-540 of the Nash County Registry.
- (6) The church desires to construct fifty-foot (50') by fifteen-foot (15') additions on either side of the existing church building and a sixty-foot (60') by twelve-foot (12') addition on the rear of the building.
- (7) Per the submitted site plan, the construction of the proposed addition to the rear of the existing church building would locate the rear right corner of the structure only approximately twenty-eight feet (28') to twenty-nine feet (29') from the rear property line, resulting in an approximately one-foot (1') to two-foot (2') encroachment into the required thirty-foot (30') minimum building setback distance.
- (8) The property owner submitted an application for Variance Request V-230602, seeking to reduce the thirty-foot (30') rear minimum building setback requirement to approximately twenty-eight feet (28') in order to permit the construction of the proposed addition to the rear of the existing church building on the subject property.
- (9) On June 26, 2023, the Nash County Board of Adjustment held a quasi-judicial public hearing on Variance Request V-230602.
- (10) Notice of the public hearing was sent by first class mail on June 14, 2023 to the variance applicant and owner of the subject property and to the owners of record for tax purposes of all properties located within 600 feet of the subject property; and posted prominently on the subject property itself on June 15, 2023.
- (11) All persons who provided testimony during the public hearing were sworn in by the Board Chairman. There were no objections to the competency of such persons to testify on the matters presented, and the Board is satisfied that such persons are so competent.

Supporting Conclusions:

- (1) The applicant has demonstrated that an unnecessary hardship would result from the strict application of the thirty-foot (30') rear minimum building setback requirement because it would prevent the construction of the sixty-foot (60') by twelve-foot (12') addition on the rear of the existing church building as currently proposed.

- (2) The applicant has demonstrated that the hardship results from conditions that are peculiar to the property, specifically the location of the existing church building relative to the rear property line of the lot. Additionally, the applicant reports that they have thus far been unsuccessful in acquiring additional property from the immediately adjacent landowner.
- (3) The applicant has demonstrated that the hardship did not result from actions taken by the applicant/property owner because the existing church building was constructed in its current location prior to the applicant/property owner's acquisition of the subject property.
- (4) The applicant has demonstrated that the requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved because the requested two-foot (2') reduction in the rear minimum building setback requirement is a relatively modest adjustment that is unlikely to have any practical impact on the immediately adjacent large, undeveloped, wooded property and permitting the proposed expansion will allow the church to better serve the community.

The motion was unanimously carried.

BOARD ACTION: Mr. Hough offered a motion, which was duly seconded by Mr. Shell, to approve Variance Request V-230602 to reduce the thirty-foot (30') rear minimum building setback requirement to approximately twenty-eight feet (28') in order to permit the construction of the proposed addition to the rear of the existing church building on the subject property and to close the public hearing on this request.

The motion was unanimously carried.

7. Adjournment.

There being no further business, Chairman Cobb adjourned the meeting at 6:48 p.m.