

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT  
REGULAR MEETING  
HELD MONDAY, JULY 24, 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  
William Parker, Regular Member  
Rodney Hough, Regular Member  
Oscar Bruce, Regular Member  
Emanuel Shell, Alternate Member #1

**BOARD MEMBERS ABSENT**

Brandon Moore, Regular Member, Vice-Chairman  
Charles Rose Jr., Alternate Member #2  
Benton Moss, Alternate Member #3

**ATTORNEY TO THE BOARD**

Dylan Castellino

**STAFF MEMBERS PRESENT**

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

**OTHERS PRESENT**

Frank Wayne Brown  
Barthell Columbus Joyner  
Malory Woodard Joyner  
John Alfred Tyson

**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, Mr. Parker, Mr. Hough, Mr. Bruce, and Mr. Shell.

**4. Approval of the Minutes of the June 26, 2023 Regular Meeting.**

Chairman Cobb asked for any revisions or corrections to the draft minutes of the June 26, 2023 regular meeting. None were offered.

**BOARD ACTION: Mr. Hough offered a motion, which was duly seconded by Mr. Parker, to approve the minutes of the June 26, 2023 regular meeting as submitted.**

**The motion was unanimously carried.**

**5. Quasi-Judicial Public Hearing on Variance Request V-230701 made by Cornelius H. Joyner, the property owner, to reduce the front and rear property line minimum building setback requirements of the R-40 Single-Family Residential Zoning District from fifty feet (50') to forty-six feet (46') and from thirty feet (30') to twenty-six feet (26') respectively in order to permit the set-up of a Class B single-wide manufactured home located at 2649 Barnes Hill Church Rd, Nashville, NC 27856.**

Mr. Tyson presented the staff report and supplemental materials related to Variance Request V-230701 as submitted to the Board in the July 24, 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: Mr. Hough offered a motion, which was duly seconded by Mr. Shell, to open the public hearing on Variance Request V-230701.**

**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-230701.

Mr. Hough asked why the new septic system needed to be located where it was installed.

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

Mr. Alfred Tyson replied that the previous septic system was inadequate and required replacement. He further explained that the location of the new septic system was determined by the specific soil conditions of the property as well as the capacity requirement for the system to accommodate a two-bedroom home.

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

There was no further Board discussion.

**BOARD ACTION: Mr. Hough offered a motion, which was duly seconded by Mr. Shell, to adopt the following findings of fact and conclusions to support approval of Variance Request V-230701:**

**Findings of Fact:**

- (1) The subject property is the approximately 0.47-acre lot located at 2607 & 2649 Barnes Hill Church Rd, Nashville, NC 27856 at the intersection of Barnes Hill Church Rd and Cordiality Church Rd and further identified as Nash County Tax Map PIN 372900160476 and Parcel ID # 021851 per the Nash County Tax Map.
- (2) Located on the subject property are a dilapidated structure at 2607 Barnes Hill Church Rd and, until its demolition and removal approximately two months ago, a Class B single-wide manufactured home at 2649 Barnes Hill Church Rd.
- (3) The subject property is located within the R-40 (Single-Family Residential) Zoning District per the Nash County Zoning Map.
- (4) The subject property is considered a legal, nonconforming lot in accordance with the Nash County Unified Development Ordinance (UDO) Art. VI, Sec. 6-2, because although the lot does not include sufficient land to satisfy the 40,000 square foot minimum lot area requirement of the R-40 Zoning District, it was lawfully subdivided prior to the effective date of that requirement.
- (5) The Class B single-wide manufactured home formerly located at 2649 Barnes Hill Church Rd was considered a legal, nonconforming use of land in accordance with UDO Art. VI, Sec. 6-3 because although a Class B manufactured home is not a land use currently permitted for development in the R-40 Zoning District, it was lawfully established in this location prior to the effective date of that requirement.
- (6) The dimensional standards that currently apply to the subject property located in the R-40 Zoning District include a fifty-foot (50') front minimum building setback distance required between the Cordiality Church Rd right-of-way and a principal structure as well as a thirty-foot (30') rear minimum building setback distance required between the southern property line and a principal structure per UDO Art. IX, Sec. 9-4.1 (A), Table 9-4-1.
- (7) The subject property was acquired by Cornelius H. Joyner and Malory W. Joyner, the current owners, on April 28, 1998 per the General Warranty Deed recorded in Deed Book 1613 Pages 386-387 of the Nash County Registry.
- (8) The property owner desired to replace the recently demolished and removed Class B single-wide manufactured home at 2649 Barnes Hill Church Rd with a new single-wide manufactured home in approximately the same location, but determined that the existing onsite septic/wastewater system was inadequate to serve a new home due to its age and condition.
- (9) On May 10, 2023, the Nash County Planning & Inspections Department issued Zoning Permit #PZ23-000543 to the property owner, authorizing the replacement of the previous home with a new single-wide manufactured home in accordance with UDO Art. VI, Sec. 6-3.3 (B) and in a

proposed location on the subject property that would satisfy all the applicable minimum building setback distances.

- (10) On May 16, 2023, Nash County Environmental Health issued a construction authorization to the property owner under Wastewater Permit #E23-000606, authorizing the installation of a new, two-bedroom onsite septic/wastewater system on the subject property to serve the replacement home.
- (11) On May 22, 2023, the Nash County Planning & Inspections Department issued Manufactured Home Permit #P23-002139 to Jackie Waddell Mobile Home Movers, Inc. and Frank's Home Place, Inc. authorizing the set-up of the replacement home on the subject property.
- (12) On or about May 30, 2023, the new onsite septic/wastewater system was installed on the subject property by Septic Contractor Alfred Tyson.
- (13) The replacement home was subsequently set-up on the subject property, however, in order to accommodate the new onsite septic/wastewater system, the home's final location had to be adjusted from that of the previous home and from that which was previously depicted on the proposed site plan submitted to Nash County for the issuance of the Zoning Permit.
- (14) On June 21, 2023, the Nash County Planning & Inspections Department performed an inspection of the replacement home and determined that its location did not appear to satisfy the applicable minimum building setback requirements.
- (15) On June 22, 2023, Licensed Land Surveyor Donald S. Hilhorst surveyed the location of the replacement home on the subject property and determined that the home encroaches three and one-half feet (3.5') into the fifty-foot (50') front minimum building setback distance required from the Cordiality Church Rd right-of-way as well as three and one-half feet (3.5') into the thirty-foot (30') rear minimum building setback distance required from the lot's southern property line.
- (16) The property owner subsequently submitted an application for Variance Request V-230701, seeking to reduce the required front minimum building setback distance from fifty feet (50') to forty-six feet (46') and to reduce the required rear minimum building setback distance from thirty feet (30') to twenty-six feet (26') in order to allow the replacement home to remain in its current location on the subject property.
- (17) On July 24, 2023, the Nash County Board of Adjustment held a quasi-judicial public hearing on Variance Request V-230701.
- (18) Notice of the public hearing was sent by first class mail on July 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 July 14, 2023.
- (19) 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 fifty-foot (50') front minimum building setback requirement and the thirty-foot (30') rear minimum building setback requirement because it would prevent the replacement home from being located on the subject property.
- (2) The applicant has demonstrated that the hardship results from conditions that are peculiar to the property, specifically:
  - (a) The property's status as a nonconforming lot, which means that it includes less land area than a typical lot located in this zoning district on which to accommodate the replacement home;

- (b) The property's status as a corner lot, which means that it is subject to larger minimum building setback distances required from the two adjacent road rights-of-way than a typical lot with only one adjacent road right-of-way; and
  - (c) The limited available area on the property to accommodate the replacement home due to the locations of the existing dilapidated structure at 2607 Barnes Hill Church Rd, the old inadequate onsite septic/wastewater system, the newly installed onsite septic/wastewater system, and the designated repair area for the newly installed onsite septic/wastewater system.
- (3) The applicant has demonstrated that the hardship did not result from actions taken by the applicant/property owner because the property was subdivided in its current configuration and both the existing dilapidated structure and the old inadequate onsite septic/wastewater system were established on the property in their current locations prior to its acquisition by the applicant.
  - (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 relatively modest four-foot (4') reductions requested for the front and rear minimum building setback distances will allow the replacement home to remain on the subject property, while still providing safe and sufficient separation between the home and the adjacent road right-of-way and property line.

**The motion was unanimously carried.**

**BOARD ACTION: Mr. Parker offered a motion, which was duly seconded by Mr. Hough, to approve Variance Request V-230701 to reduce the fifty-foot (50') front minimum building setback requirement to forty-six feet (46') and to reduce the thirty-foot (30') rear minimum building setback requirement to twenty-six feet (26') in order to allow the replacement manufactured home to remain in its current location on the subject property.**

**The motion was unanimously carried.**

**BOARD ACTION: Mr. Hough offered a motion, which was duly seconded by Mr. Bruce, to close the public hearing on Variance Request V-230701.**

**The motion was unanimously carried.**

## **6. Adjournment.**

There being no further business, Chairman Cobb adjourned the meeting at 6:29 p.m.