

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, MAY 22, 2017 AT 7:00 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  
C. A. Gardner, Regular Member  
Tommy Bass, Regular Member  
Charles Johnson, Alternate Member #1  
Dennis Cobb, Alternate Member #2  
Kenneth Mullen, Alternate Member #3

**MEMBERS ABSENT**

William Parker, Regular Member

**PLANNING STAFF PRESENT**

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

**ATTORNEY TO THE BOARD**

Richard J. Rose

**OTHERS PRESENT**

Charles A. Stoddard  
Jowyanne Stoddard

**1. Call to Order.**

Vice-Chairman Joyner called the meeting to order at 7:00 p.m.

**2. Determination of a Quorum.**

Vice-Chairman Joyner recognized a quorum.

**3. Announcement of Board Member Appointments.**

Vice-Chairman Joyner announced that Mr. Mac Tilley had been appointed effective May 1, 2017 to his first term as a regular member of the Board of Adjustment which will extend to April 30, 2020.

Mr. Tilley stated that he had served on the Board of Adjustment for seven years as an alternate member and that he served on the Planning Board for 12 years prior to that.

Vice-Chairman Joyner then introduced Mr. Kenneth Mullen who had been appointed as Alternate Member #3 with his first term to be from May 1, 2017 to April 30, 2020. She noted that Mr. Mullen had previously or was currently serving as a UNC Nash Patient Advisory Committee Member, a UNC Burn Center Advisory Board Member, a North Carolina Code Qualification Board Member, a member of Englewood Baptist Church, an American Red Cross member and he was also the retired Chief of the Rocky Mount Fire Department. Vice-Chairman Joyner welcomed Mr. Mullen to the Board.

**4. Election of Board Officers for 2017-2018 (Chairman & Vice-Chairman).**

Vice-Chairman Joyner relinquished the floor to Board Attorney Richard J. Rose for the election of board officers to serve for 2017-2018.

Mr. Rose opened the floor for nominations for the Office of Chairman of the Board of Adjustment.

**BOARD ACTION: Mr. Gardner nominated Mr. Tilley to serve as Chairman. The nomination was duly seconded by Mr. Bass. There were no other nominations. Vice-Chairman Joyner 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. Gardner nominated Ms. Joyner to serve as Vice-Chairman. The nomination was duly seconded by Mr. Bass. There were no other nominations. Mr. Gardner 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. Bass. The motion was unanimously carried.**

**5. Approval of the April 3, 2017 Meeting Minutes.**

The minutes of the April 3, 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. Bass offered a motion which was duly seconded by Mr. Gardner to approve the minutes of the April 3, 2017 meeting as submitted. The motion was unanimously carried.**

## **6. Oath of Witnesses.**

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

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

## **7. Public Hearing – Special Use Permit Request S-170501 Made by Charles A. Stoddard, Jr. and Jowyanne Stoddard, the Property Owners, for the Addition of a Temporary Hardship Manufactured Home to be Located in Front of the Principal Dwelling at 1964 Tyson Loop Road, Spring Hope, NC 27882 in the A1 Agricultural Zoning District.**

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

Mr. Tyson began by reviewing the notice provided for the public hearing, stating that in accordance with the requirements of the Nash County Unified Development Ordinance and the North Carolina State Statutes, a written notice of this public hearing was mailed on May 10, 2017 to the owner of the subject property as well as to any 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 May 11, 2017 and a notice of the public hearing was also posted on the subject site itself on May 11, 2017.

Mr. Tyson stated that Charles A. Stoddard, Jr. and Jowyanne Stoddard, the property owners, have requested a Special Use Permit (S-170501) for the addition of a temporary hardship manufactured home to be located in front of the existing principal dwelling at 1964 Tyson Loop Road, Spring Hope, NC 27882 on a 2.66 acre lot in the A1 Agricultural Zoning District. He referred to the maps included in the Board's agenda packet, indicating the locations of both the existing home and the proposed temporary dwelling. He explained that 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" according to UDO Article II, Section 2-4.173.

Mr. Tyson continued, stating that Mr. and Mrs. Stoddard currently reside in the existing home at 1964 Tyson Loop Road. Due to Mr. Stoddard's current medical condition, they desire to relocate to a double-wide manufactured home to be set-up on the front portion of the lot in order to allow their nephew, who will provide additional care and assistance, to reside in the older, principal dwelling. He noted that Class B double-wide manufactured homes are a permitted land use in the A1 Agricultural Zoning District, however, the subject property has insufficient lot width to allow a second dwelling on a permanent basis. Mr. Tyson clarified that in the A1 Agricultural Zoning District, a minimum of 100 feet of lot width is required per home and the subject property is only 150 feet wide. Therefore, the issuance of the requested Special Use Permit 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 reported that the Nash County Land Development Plan (LDP) designates the subject tract as Suburban Growth Area which includes "those areas of the County where significant residential growth is expected to occur within the 10-year planning horizon." The proposed temporary hardship manufactured home would be in general conformity with the LDP because it is a residential land use that can be accommodated by the public water service already available at this location and an on-site septic/wastewater disposal system. Nash County Environmental Health has already issued an

Improvements Permit for the proposed new wastewater disposal system that would serve the temporary hardship manufactured home.

Mr. Tyson reviewed the specific development standards established for temporary hardship manufactured homes by UDO Article XI, Section 11-4.77 in relation to the request as follows:

(A) *Where Required*

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

The subject site is located in the A1 Agricultural Zoning District.

(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 applicants propose the addition of a Class B double-wide manufactured home for reasons of physical impairment. Mr. Tyson defined a Class B manufactured home to be a single-wide or double-wide manufactured home that does not require a permanent brick or masonry foundation.

(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 subject property is owned and occupied by the physically impaired person as his primary residence.

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

If approved, the requested Class B double-wide manufactured home would be the only temporary hardship manufactured home present on the subject lot.

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

The primary residence on the property is currently occupied by the applicants.

(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 indicates that the proposed location of the temporary hardship manufactured home would comply with the setback requirements applicable to principal dwellings in the A1 Agricultural Zoning District.

(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 temporary unit will be occupied by the physically impaired person receiving care and/or supervision from 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.*

The applicants have submitted documentation included in the Board's agenda packet dated April 24, 2017 and signed by Dr. Tim D. Treanor, a licensed chiropractic physician, stating that due to his medical condition, Mr. Stoddard, the physically impaired person, requires assistance with the activities of daily living, specifically including bathing, dressing, and ambulation.

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

According to the applicants, the caregiver and intended new occupant of the principal dwelling will be their nephew, Mr. Stephen Walker, who is an adult over the age of 18.

*(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 applicants have been advised of their continuing responsibility to provide evidence of compliance with these requirements as long as the temporary hardship manufactured home remains on the 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 applicants have been advised of the requirement to remove the temporary hardship manufactured home from the property at such time that there is no longer someone meeting the definition of a mentally or physically impaired person residing in one of the residential structures and requiring the care and/or supervision of a caregiver residing in the other residential structure. Mr. Tyson further explained that once Mr. Stoddard is no longer present on the property or his current medical situation has been resolved, if there is someone else residing on the property who would meet the criteria for a temporary hardship manufactured home, then the home could stay in place for that individual with no further action required by the Board.

Mr. Tyson reminded the Board that in addition to the standard ordinance requirements, it must also conclude, in accordance with UDO Article IV, Section 4-7, based upon the information submitted at the hearing, that if completed as proposed, the development, more probably than not:

- (1) Will not materially endanger the public health or safety;
- (2) Will not substantially injure the value of adjoining or abutting property;
- (3) Will be in harmony with the area in which it is to be located; and
- (4) Will be in general conformity with the land development plan or other plans officially adopted by the Board of Commissioners.

He stated that if the Board of Adjustment concludes that the proposed development will not comply with the above criteria, it may deny the permit or attach to the permit any reasonable requirements in addition to those specified by the ordinance that will ensure its compliance.

Mr. Tyson explained that the Board would first need to adopt findings relevant to the case before voting to approve or deny the request. He also noted for the Board that the Planning Staff had not been made aware of any opposition to the request as a result of the public notification process.

Mr. Tyson stated that the applicants, Mr. and Mrs. Stoddard, were present at the hearing to answer any relevant questions, however, they had no prepared statement to deliver.

Chairman Tilley asked if the Board had any questions for the applicants or the staff.

Vice-Chairman Joyner noted that the subject property had 150 feet of road frontage and asked how much frontage would be required in order to add a permanent second dwelling.

Mr. Tyson replied that a total of 200 feet of lot width would be required in order to add a permanent second dwelling. He stated that the property owners had more than enough road frontage for the existing home but not enough for a second home.

There were no further questions from the Board.

**BOARD ACTION:** Mr. Johnson offered a motion which was duly seconded by Vice-Chairman Joyner to adopt the following findings with regard to Special Use Permit Request S-170501 based on the evidence and testimony presented at the public hearing:

The proposed temporary hardship manufactured home:

- (1) Will satisfy the applicable development standards required by the Nash County Unified Development Ordinance Article XI, Section 11-4.77;
- (2) Will not materially endanger the public health or safety;
- (3) Will not substantially injure the value of adjoining or abutting property;
- (4) Will be in harmony with the area in which it is to be located; and
- (5) Will be in general conformity with the Nash County Land Development Plan's recommendations for the Suburban Growth Area because it is a residential land use that can be accommodated by the available public water service and an on-site septic/wastewater disposal system.

The motion was unanimously carried.

**BOARD ACTION:** Mr. Gardner offered a motion which was duly seconded by Mr. Johnson to approve and issue Special Use Permit S-170501 for the addition of a temporary hardship manufactured home to be located in front of the existing principal dwelling at 1964 Tyson Loop Road, Spring Hope, NC 27882, subject to the following required conditions:

- (1) The property shall be developed in accordance with the submitted and approved site plan as well as in compliance with all applicable development regulations including the specific development standards for temporary hardship manufactured homes as set forth in the Nash County Unified Development Ordinance Article XI, Section 11-4.77; and
- (2) 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 Wastewater Permit
  - (c) Nash County Manufactured Home Permit
  - (d) Nash County Trade Permits (Electrical, Mechanical, & Plumbing)

The motion was unanimously carried.

## **8. Other Business.**

Chairman Tilley asked for any other business.

Ms. Nixon reminded the Board of the upcoming opportunity for board member training on quasi-judicial hearing procedures to be facilitated by the UNC School of Government at the 2017 Spring Regional

Board Workshop for Planning & Development Regulation to be held on May 31, 2017 from 1:00 p.m. to 4:30 p.m. at the Upper Coastal Plain Council of Governments located at 121 Nash St W, Wilson, NC 27893. Any interested members of the Board were asked to contact the Planning Staff to register to attend.

**9. Adjournment.**

There being no further business, Chairman Tilley adjourned the meeting at 7:30 p.m.