



**NASH COUNTY BOARD OF ADJUSTMENT  
REGULAR MEETING**

**MONDAY, JUNE 28, 2021 AT 6:00 P.M.**

**FREDERICK B. COOPER COMMISSIONERS ROOM  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING - THIRD FLOOR  
120 WEST WASHINGTON STREET  
NASHVILLE, NC 27856**

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**MEETING AGENDA**

- 1. Call to Order.**
- 2. Determination of a Quorum.**
- 3. Review of Board Membership Changes.**
- 4. Election of Board Officers (Chairman & Vice-Chairman) for 2021 – 2022 Year.**
- 5. Recognition of the Voting Members for the Meeting.**
- 6. Approval of the Minutes of the April 27, 2020 Regular Meeting.**
- 7. Quasi-Judicial Public Hearing on Special Use Permit Request S-210601.**  
Made by White Oak Hill Free Will Baptist Church to authorize the operation of a child day care center within the existing church facility located at 3967 W Hornes Church Rd, Bailey, NC 27807 in the R-40 (Single-Family Residential) Zoning District.  
  
Staff Report.  
  
Oath of Witnesses.  
  
Public Hearing.  
  
Board Discussion & Vote.
- 8. Adjournment.**

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, APRIL 27, 2020 AT 6:00 P.M.  
FREDERICK B. COOPER COMMISSIONERS ROOM  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING – THIRD FLOOR  
120 WEST WASHINGTON STREET  
NASHVILLE, NC 27856**

**BOARD MEMBERS PRESENT**

James "Mac" Tilley, Regular Member, Chairman  
Cindy Joyner, Regular Member, Vice-Chairman  
Tommy Bass, Regular Member  
Dennis Cobb, Alternate Member #1  
Kenneth Mullen, Alternate Member #2  
Brandon Moore, Alternate Member #3

**BOARD MEMBERS ABSENT**

William Parker, Regular Member  
Charles Johnson, Regular Member

**STAFF MEMBERS PRESENT**

Adam Tyson, Planning Director  
Adam Culpepper, Senior Planner

**ATTORNEY TO THE BOARD**

Dylan Castellino

**OTHERS PRESENT**

Michael Glover, Vice-President of Coopers Ruritan Club Inc.

**1. Call to Order.**

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

**2. Determination of a Quorum.**

Chairman Tilley recognized the presence of a quorum.

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

Chairman Tilley recognized the voting members for the meeting as being himself, Vice-Chairman Joyner, Mr. Bass, Mr. Cobb, and Mr. Mullen.

**4. Approval of the Minutes of the April 22, 2019 Regular Meeting.**

The minutes of the April 22, 2019 regular meeting were sent to each member of the Board for review. Chairman Tilley asked for any revisions or corrections. None were offered.

**BOARD ACTION: Mr. Bass offered a motion, which was duly seconded by Ms. Joyner, to approve the minutes of the April 22, 2019 regular meeting as submitted. The motion was unanimously carried.**

**5. Quasi-Judicial Public Hearing on Special Use Permit Request S-200401 made by Coopers Ruritan Club Inc., the property owner, to authorize the construction and operation of a new clubhouse on a five-acre tract of land located on the west side of Volunteer Road in the R-40 (Single-Family Residential) Zoning District.**

Planning Director Adam Tyson and Vice-President Michael Glover of the Coopers Ruritan Club, Inc. were sworn in by Chairman Tilley in order to provide testimony under oath during the public hearing.

Mr. Tyson presented the staff report on Special Use Permit Request S-200401.

He summarized the role of the Board of Adjustment in the consideration of a special use permit request by defining the term "special use permit" and reminding the Board of the requirement to follow quasi-judicial procedures and to adopt conclusions with supporting findings of fact that explain how the request satisfies all of the applicable requirements of the Unified Development Ordinance (UDO.) He noted that the Board may attach reasonable and appropriate conditions to the special use permit.

Mr. Tyson described the subject property as a five-acre undeveloped tract of land owned by the Coopers Ruritan Club, Inc. since February 2009 and located on the west side of Volunteer Road off S NC Highway 58 in the R-40 (Single-Family Residential) Zoning District.

He noted that the property is immediately adjacent to both the Coopers Volunteer Fire Department at 3628 Volunteer Road to the south and the existing Bones Acres Subdivision along Bones Acres Court to the west. A small, existing cemetery known as the "Manning Cemetery" is located on a separate special purpose lot previously subdivided along the property's road frontage. The site is not located in a regulated floodplain and does not appear to include any riparian stream buffers, but it is located in the Tar-Pamlico River Basin and the WS-IV-PA Watershed Protection Overlay District for stormwater management purposes.

Mr. Tyson explained that the Coopers Ruritan Club intends to construct a new clubhouse on this property in order to relocate from its existing site to the north near Sandy Cross at 6084 S NC Highway 58. The UDO specifies that the development of a club (civic, social, or fraternal association) is a

permitted land use in this R-40 (Single-Family Residential) Zoning District with the required issuance of a special use permit by the Board of Adjustment. Therefore, Special Use Permit Request S-200401 has been submitted by Mr. Michael Glover on behalf of the property owner, the Coopers Ruritan Club Inc., in order to authorize the construction and operation of a new clubhouse on the subject property.

He explained that the submitted site plan depicts a proposed new 2,400 square foot (40' x 60') clubhouse with a covered front entrance, a semi-circular gravel access drive with paved aprons from the road right-of-way, ten gravel parking spaces, two concrete handicap-accessible parking spaces, and an identification sign. The building is proposed to be served by a connection to the Nash County public water service, which is available along the Volunteer Road right-of-way, and a new private on-site septic system.

Mr. Tyson referenced the two development standards specifically required for clubs developed within agricultural or residential zoning districts as established by UDO Article XI, Section 11-4, Subsection 11-4.19:

- (1) Clubs shall have direct access to a collector or higher capacity road; and
- (2) All off-street parking lots shall be screened from all adjoining single-family residential uses by a buffer yard. The required buffer yard shall comply with the requirements of Section 11-3.1(B).

In conclusion, Mr. Tyson reviewed the motions necessary to approve or deny the special use permit request as well as the suggested conclusions with supporting findings of fact and the recommended permit conditions. He noted that they may be revised prior to adoption as necessary to reflect the arguments, evidence, and/or testimony presented during the public hearing held on the request.

Chairman Tilley asked if the staff was aware of any public opposition to the permit request.

Mr. Tyson answered that public notice letters were mailed to all property owners within 600 feet of the subject property on April 14, 2020, a notice was published in The Rocky Mount Telegram on April 16, 2020 and a notice sign was also posted on the subject property on April 16, 2020. He reported that since then, the staff had received a single inquiry regarding the request from a resident of Volunteer Road who expressed no objection.

Mr. Michael Glover, Vice-President of Coopers Ruritan Club Inc., addressed the Board in support of the permit request. He stated that the club currently had several more years left on the lease of their current clubhouse location, but the age and condition of the building combined with the ongoing cost of the lease led to the decision to pursue a new facility.

He described the proposed clubhouse as the first phase of a two-phase project for the property. He noted that the clubhouse will include a full kitchen with a grease trap and that the facility was intended to be able to assist the adjacent Coopers Volunteer Fire Department in the event of an emergency situation or natural disaster as well as the nearby Coopers Elementary School, which serves as an emergency shelter. He added that the club plans to install a full facility generator and, in the second phase of the project, a commercial freezer.

**BOARD ACTION: Vice-Chairman Joyner offered a motion, which was duly seconded by Mr. Cobb, to adopt the following conclusions with supporting findings of fact related to Special Use Permit Request S-200401:**

## **Conclusions with Supporting Findings of Fact**

**(1) The proposed development satisfies all the standards required by the Nash County Unified Development Ordinance (UDO) for the development of a club (civic, social, or fraternal association) because:**

- (a) The subject property is located in the R-40 (Single-Family Residential) Zoning District and the development of a club (civic, social, or fraternal association) within this district requires the issuance of a special use permit per UDO Article IX, Section 9-3, Subsection 9-3.1, Table 9-3-1.
- (b) The submitted site plan satisfies all the applicable general dimensional requirements of UDO Articles IX and XI, including the minimum building setback, sidewalk, access drive, parking, and signage requirements.
- (c) The club shall have direct access to Volunteer Road (State Road #1815) which is a collector or higher capacity road as specifically required by UDO Article XI, Section 11-4, Subsection 11-4.19 (B).
- (d) The club's off-street parking lot shall be screened from the adjoining single-family residential uses of the Bones Acres Subdivision to the west by the existing natural wooded vegetation indicated to remain undisturbed on the rear of the property by the submitted site plan, which satisfies the buffer yard standards specifically required by UDO Article XI, Section 11-4, Subsection 11-4.19 (C).
- (e) The site is exempt from any additional mandatory screening requirements to the north due to the lack of any immediately adjacent existing residential development per the requirements of UDO Article XI, Section 11-4, Subsection 11-4.19 (C), to the east due to the club's status as a nonprofit organization per the requirements of UDO Article XI, Section 11-3, Subsection 11-3.1 (A)(1), and to the south due to the immediately adjacent Coopers Volunteer Fire Department, which is an existing, nonresidential land use.

**(2) The proposed development will not materially endanger the public health or safety because:**

- (a) The club shall be constructed to meet all applicable design, construction, and safety codes.

**(3) The proposed development will not substantially injure the value of adjoining or abutting property and will be in harmony with the area in which it is to be located because:**

- (a) A club is a recreational land use that is permitted for development in residential zoning districts.
- (b) The club is a private, nonprofit organization used on an irregular (nondaily) basis by its members.
- (c) The subject property is immediately adjacent to the Coopers Volunteer Fire Department to the south, which is an already existing, nonresidential land use.

**(4) The proposed development will be in general conformity with the Nash County Land Development Plan because:**

- (a) The Nash County Land Development Plan designates the subject property as a Suburban Growth Area.
- (b) The club is a limited nonresidential land use and its development within the Suburban Growth Area is consistent with the recommendations of the plan because:
  - i) The club may be accommodated by services typical in non-urban areas such as public water service and a private on-site septic system.

- ii) The subject property has frontage along and direct access to Volunteer Road, a state-maintained secondary road.
- iii) The subject property is located near the intersection of Volunteer Road and S NC Highway 58, a major state highway.
- iv) The subject property is located in proximity to the Coopers Volunteer Fire Department, a similar already existing, nonresidential land use.
- v) The subject property has spatial separation from other potentially non-compatible land uses such as existing residential development.

**The motion was unanimously carried.**

**BOARD ACTION: Mr. Bass offered a motion, which was duly seconded by Mr. Cobb, to approve Special Use Permit Request S-200401, subject to the following permit conditions:**

**Permit Conditions**

- (1) This special use permit specifically authorizes the development of a club (civic, social, or fraternal association) on the subject property.
- (2) The club shall be developed in accordance with the site plan submitted and approved for the subject property.
- (3) The club shall be developed in compliance with all the applicable requirements of the Nash County Unified Development Ordinance, including, but not limited to, those requirements established specifically for clubs by Article XI, Section 11-4, Subsection 11-4.19.
- (4) The development of the club shall be subject to the approval and/or issuance of the following additional permits and documents, as applicable:
  - (a) Driveway Permit(s) issued by the N.C. Department of Transportation;
  - (b) On-site Wastewater Permit Construction Authorization issued by the Nash County Environmental Health Division (Improvement Permit issued 2/26/2020);
  - (c) Tar-Pamlico River Basin Overlay District Stormwater Permit issued by the Nash County Planning & Inspections Department;
  - (d) Zoning, Building, and Trade Permits issued by the Nash County Planning & Inspections Department.

**The motion was unanimously carried.**

**6. Other Business.**

**Announcement of Board Member Term Expirations, Reappointments, and Promotions.**

Mr. Tyson notified the Board that the current terms of both Chairman Tilley and Mr. Mullen would expire on April 30, 2020.

Although eligible for reappointment, Chairman Tilley declined to serve an additional term. He noted that Chairman Tilley had served as a Board member since May 2010 and as Chairman since May 2017. He thanked Chairman Tilley for his service, not only on the Board of Adjustment, but also for his previous service on the Planning Board as well.

Mr. Tyson announced that the Board of Commissioners had reappointed Kenneth Mullen on April 6, 2020 to a second term on the Board to expire on April 30, 2023.

Mr. Tyson announced the following promotions to be effective May 1, 2020: Dennis Cobb was promoted from an alternate member to a regular member (replacing Mr. Tilley.) Kenneth Mullen was promoted from Alternate Member #2 to Alternate Member #1 (replacing Mr. Cobb.) Brandon Moore was promoted from Alternate Member #3 to Alternate Member #2 (replacing Mr. Mullen) and leaving the Alternate Member #3 position vacant for now.

He further noted that the terms of Vice-Chairman Cindy Joyner, William Parker, and Brandon Moore would expire on April 30, 2021. Mr. Parker and Mr. Moore would be eligible for reappointment, but Vice-Chairman Joyner would not be eligible for reappointment.

He announced that the terms of Tommy Bass, Charles Johnson, and Dennis Cobb would expire on April 30, 2022. Mr. Johnson and Mr. Cobb would be eligible for reappointment, but Mr. Bass would not be eligible for reappointment.

**Election of Board Officers (Chairman & Vice-Chairman) for the 2020-2021 Year.**

Mr. Tyson reminded the Board that at the next meeting they would be asked to elect a Chairman and Vice-Chairman to serve for the upcoming 2020-2021 year.

**7. Adjournment.**

There being no further business, Chairman Tilley adjourned the meeting at 6:26 p.m.

**NASH COUNTY BOARD OF ADJUSTMENT  
SPECIAL USE PERMIT REQUEST  
STAFF REPORT**

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**File Number:** S-210601 (Special Use Permit Request)  
**Applicant / Owner:** White Oak Hill Free Will Baptist Church (Hal W. Jones, III)  
**Location:** 3967 West Hornes Church Rd, Bailey, NC 27807  
**Tax ID #:** PIN # 277500830950 / Parcel ID # 002299 (Portion)  
**Total Lot Area:** Approximately 3.65 Acres  
**Zoning District:** R-40 (Single-Family Residential)  
**Proposed Land Use:** Day Care Center, Child (SIC 8320)  
**LDP Classification:** Suburban Growth Area  
**Notice of Public Hearing:** Mailed Notice: June 10, 2021 (To Property Owners Within 600 Feet)  
Published Notice: June 17, 2021 (The Rocky Mount Telegram)  
Posted Notice: June 17, 2021 (On the Subject Property)

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**Consideration of a Special Use Permit:**

The Nash County Unified Development Ordinance (UDO) defines a special use permit as “a permit issued by the Board of Adjustment that authorizes the recipient to make use of property in accordance with the requirements of this Ordinance or as well as any additional requirements imposed by the Board of Adjustment” (UDO Article II, Section 2-4, Subsection 2-4.160.)

The North Carolina General Statutes require that the Board follow **quasi-judicial procedures** when hearing and deciding requests for special use permits. The Board’s decision must be based upon **competent, material, and substantial facts and evidence** submitted for the record and not upon personal opinions, preferences, speculation, assumptions, or generalized fears related to the case.

Prior to granting a special use permit, the Board shall adopt **conclusions with supporting findings of fact** which explain how the request satisfies **ALL** of the requirements established by the UDO. A special use permit request **shall be denied** if the Board determines that the application is incomplete or that it does not satisfy any one or more of the established requirements.

Also, prior to granting a special use permit, the Board must determine, based upon the information submitted at the public hearing that, if completed as proposed, the development:

- (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.

The Board may also impose **reasonable and appropriate conditions** upon the special use permit in addition to the standard requirements established by the UDO, including a condition limiting the specific duration of the time period for which the permit shall remain in effect.

The granting of a special use permit requires a **simple majority vote** of the Board members present.

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***Description of the Subject Property:***

The subject property is the approximately 3.65-acre site of the existing White Oak Hill Free Will Baptist Church located at 3967 West Hornes Church Road, Bailey, NC 27807 at the southwest corner of the intersection of Needham Road and West Hornes Church Road northeast of the Town of Bailey in the R-40 (Single-Family Residential) Zoning District.

The subject property is located in the Neuse River Basin and the WS-III-PA Watershed Protection Overlay District. It is not located in a regulated floodplain.

The existing church facility is served by a connection to Nash County public water and a private onsite septic system.

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***Description of the Special Use Permit Request:***

White Oak Hill Free Will Baptist Church, the property owner, has submitted Special Use Permit Request S-210601 in order to authorize the operation of a child day care center on the subject property within the existing church facility. No additional expansion of the facility is proposed or anticipated at this time.

UDO Article IX, Section 9-3.1, Table 9-3-1 permits the establishment of a day care center within the R-40 (Single-Family Residential) Zoning District subject to the required issuance of a special use permit by the Board of Adjustment.

UDO Article XI, Section 11-4.27 requires that day care centers satisfy the following development standards:

**Security Fencing:** Outdoor activity area(s) for children shall be enclosed by a security fence at least 4 feet in height and located outside the road setback.

**Location:** Centers on a site greater than three (3) acres shall have access to a collector or thoroughfare road.

Additionally, UDO Article XI, Section 11-2.3, Table 11-2-1 requires a day care center to provide one (1) onsite parking space per employee plus one (1) onsite parking space per every ten (10) clients served. Because the operation of the day care center and the typical church activities would occur at different times of the week, the church's existing parking should be more than adequate to accommodate the operation of the day care center.

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***Suggested Motions:***

**MOTION #1 – ADOPT CONCLUSIONS WITH SUPPORTING FINDINGS OF FACT:**

*I move that the Nash County Board of Adjustment adopts **OPTION 'A' or 'B' (choose one from below)** related to Special Use Permit Request S-210601.*

**NOTE:** The suggested findings of fact below may be **revised** prior to adoption as necessary to reflect the arguments, evidence, and/or testimony presented during the public hearing held on this request.

**OPTION 'A': Conclusions with Supporting Findings of Fact for PERMIT APPROVAL:**

- (1) The proposed development satisfies the development standards required by the Nash County Unified Development Ordinance (UDO) for the development of a day care center because:**
  - (a) The subject property is located in the R-40 (Single-Family Residential) Zoning District and the development of a day care center is a permitted land use within this district subject to the required issuance of a special use permit by the Board of Adjustment per UDO Article IX, Section 9-3.1, Table 9-3-1.
  - (b) The proposed outdoor children's activity area shall be approximately 50-feet by 60-feet in dimension, enclosed by a security fence at least four feet (4') in height, and shall be located outside the fifty foot (50') road setback required along Needham Road and the twenty-five foot (25') corner-side setback required along West Hornes Church Road per the security fencing requirements of UDO Article XI, Section 11-4.27 (B).
  - (c) The subject property is greater than three (3) acres in area (approximately 3.65 acres) and has direct access to two (2) state-maintained secondary roads, Needham Road and West Hornes Church Road per the location requirements of UDO Article XI, Section 11-4.27 (C).

- (d) Because the operation of the day care center and the typical church activities would occur at different times of the week, the church's existing parking should be more than adequate to accommodate the operation of the day care center, which requires one (1) onsite parking space per employee plus one (1) onsite parking space per every ten (10) clients served per the parking requirements of UDO Article XI, Section 11-2.3, Table 11-2-1.
- (2) The proposed development will not materially endanger the public health or safety,** because a child day care center poses no inherent danger provided that it is operated in accordance with the applicable design and safety standards.
- (3) The proposed development will not substantially injure the value of adjoining or abutting property and will be in harmony with the area in which it is to be located because:**
- (a) A day care center is an educational / institutional land use that is permitted for development in residential zoning districts.
  - (b) The subject property is already developed as an existing church facility.
  - (c) The operation of the day care center is not anticipated to require any additional expansion of the existing church facility.
- (4) The proposed development will be in general conformity with the Nash County Land Development Plan because:**
- (a) The Nash County Land Development Plan designates the subject property as a Suburban Growth Area.
  - (b) The development of the day care center is consistent with the recommendations of the plan for the Suburban Growth Area because:
    - (i) A day care center is a non-residential educational / institutional land use that is compatible with the low-density residential development that typically characterizes the Suburban Growth Area.
    - (ii) A day care center may be accommodated by utility services typically available in non-urban areas such as public water service and a private onsite septic system.
    - (iii) The subject property is located at the intersection of two (2) state-maintained secondary roads, Needham Road and West Hornes Church Road, and it has frontage along and direct access to both.

- (iv) The subject property is already established as an existing church facility and the operation of the day care center is not anticipated to require any additional expansion of the existing facility.

--- OR ---

**OPTION 'B': Conclusions with Supporting Findings of Fact for PERMIT DENIAL:**

In order to deny the special use permit request, the Board needs only to determine that the application is incomplete or to identify any one or more of the applicable standards listed above that the proposed development would fail to satisfy and then adopt findings of fact to support that conclusion based upon the evidence and testimony presented at the public hearing.

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**MOTION #2 – APPROVE OR DENY THE SPECIAL USE PERMIT REQUEST:**

*I move that the Nash County Board of Adjustment **APPROVES** or **DENIES** (choose one) Special Use Permit Request S-210601, subject to the following attached permit **CONDITIONS**:*

- (1) This special use permit specifically authorizes the operation of a child day care center within the existing facility of White Oak Hill Free Will Baptist Church located at 3967 West Hornes Church Rd, Bailey, NC 27807.
  - (2) Any future expansion of the existing facility proposed to accommodate the operation of the child day care center shall require prior review and approval of the Nash County Board of Adjustment as well as a related amendment to this special use permit.
  - (3) Any outdoor children's activity area shall be enclosed by a security fence at least four feet (4') in height and shall be located outside the fifty-foot (50') road setback required along Needham Road and the twenty-five-foot (25') corner-side setback required along West Hornes Church Road.
  - (4) The child day care center shall also satisfy any applicable licensing requirements of Nash County Building Inspections, Nash County Environmental Health, and the North Carolina Department of Health & Human Services.
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**Special Use Permit Request S-210601  
White Oak Hill Free Will Baptist Church  
Aerial Photograph**



**Proposed Child  
Day Care Center  
Within Existing  
Church Facility**

