

**MINUTES OF THE
NASH COUNTY BOARD OF ADJUSTMENT
RECESSED MEETING
HELD TUESDAY, JULY 6, 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**

BOARD MEMBERS PRESENT

Tommy Bass, Regular Member, Chairman
Dennis Cobb, Regular Member, Vice-Chairman
William Parker, Regular Member
Kenneth Mullen, Regular Member
Brandon Moore, Regular Member
Gwen Wilkins, Alternate Member #1
Rodney Hough, Alternate Member #2

BOARD MEMBERS ABSENT

None

ATTORNEY TO THE BOARD

Dylan Castellino

STAFF MEMBERS PRESENT

Adam Tyson, Planning Director
Adam Culpepper, Senior Planner
Windy Braswell, Planning Technician

OTHERS PRESENT

Nancy E. Hazelwood
Linda Hollis
Hal W. Jones III, Pastor, White Oak Hill Free Will Baptist Church
Bethany Nicklow
Scott Nicklow
Dee Whitley

1. Call to Order.

Acting Chairman William Parker called the meeting to order at 6:00 p.m.

2. Determination of a Quorum.

Acting Chairman Parker recognized the presence of a quorum.

3. Review of Board Membership Changes.

Mr. Tyson reviewed the changes to the Board membership that had occurred since April 2020, including the promotion of Mr. Cobb, Mr. Mullen, and Mr. Moore to regular members and the appointment of Ms. Wilkins and Mr. Hough as alternate members. He noted that the Alternate Member #3 position remained vacant pending a further appointment by the Nash County Board of Commissioners.

4. Election of Board Officers for 2021 – 2022 Year.

Acting Chairman Parker asked Mr. Castellino, Attorney to the Board, to preside over the election of officers. Mr. Castellino asked for nominations for the position of Chairman.

BOARD ACTION: Mr. Parker offered a motion, which was duly seconded by Mr. Moore, to nominate Tommy Bass to serve as Chairman of the Nash County Board of Adjustment. The motion was unanimously carried.

Mr. Castellino asked for nominations for the position of Vice-Chairman.

BOARD ACTION: Mr. Mullen offered a motion, which was duly seconded by Chairman Bass, to nominate Dennis Cobb to serve as Vice-Chairman of the Nash County Board of Adjustment. The motion was unanimously carried.

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

Chairman Bass recognized the voting board members for the meeting to be himself, Vice-Chairman Cobb, Mr. Parker, Mr. Mullen, and Mr. Moore.

6. Approval of the Minutes of the April 27, 2020 Regular Meeting.

7. Approval of the Minutes of the June 28, 2021 Regular Meeting.

The minutes of the April 27, 2020 and June 28, 2021 regular meetings were sent to each member of the Board for review. Chairman Bass asked for any revisions or corrections. None were offered.

BOARD ACTION: Mr. Mullen offered a motion, which was duly seconded by Mr. Moore, to approve the minutes of the April 27, 2020 and June 28, 2021 regular meetings as submitted. The motion was unanimously carried.

8. 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.

Mr. Tyson presented the staff report and supplemental materials related to Special Use Permit Request S-210601 as submitted to the Board in the July 6, 2021 Nash County Board of Adjustment

agenda packet including a review of the general requirements for the consideration of a special use permit, a description of the subject property, a description of the specific special use permit request to authorize the operation of a child day care center, and recommended findings of fact and permit conditions.

Mr. Parker inquired about the applicable public notice requirements and whether the Planning Staff had received any response from the public regarding this request.

Mr. Tyson responded that public hearing notices had been mailed to all property owners located within 600 feet of the subject property, a legal advertisement had been published in the local newspaper, and a sign advertising the public hearing was posted on the subject property itself. He noted that the Planning Staff had received no comments from any members of the public regarding the permit request.

Chairman Bass asked how many children the day care center intended to serve.

Mr. Tyson deferred that question to the permit applicant.

Chairman Bass opened the public hearing on Special Use Permit Request S-210601.

Both Mr. Tyson and Pastor Hal W. Jones, III of White Oak Hill Free Will Baptist Church were sworn in by Chairman Bass in order to provide testimony under oath during the public hearing.

Pastor Jones addressed the Board in support of the application. He explained that the increasing residential development in the community around the church as well as the lack of existing day care facilities in the local area were the reasons for the request. He noted that he had previously retired from a school in Virginia that had offered infant care through grade 12.

He further explained that the church desired to start a preschool program for initially no more than twenty-five students ranging in age from 2 ½ to 5 years old.

Vice-Chairman Cobb asked whether the program could potentially exceed twenty-five students.

Pastor Jones answered that the program could include more or less than twenty-five students, depending upon the needs of the community. He referenced the large number of homes being planned or developed within a two-mile radius of the church and the fact that this would be the only child day care facility operating in the Bailey area.

Mr. Castellino asked if increasing the student capacity would also necessitate a modification of the existing structures themselves.

Pastor Jones responded that some modifications to the existing buildings were already underway, including improvements to the septic system and kitchen, an expansion of the fire alarm system, and the potential expansion of interior cameras. He noted that if the day care ministry were to grow, then additional structural modifications would be addressed at that time.

Mr. Tyson noted that recommended permit condition #2 from the staff report stated, "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.” He explained that this condition would require the applicant to appear before the Board again in the future prior to any expansion of the footprint of the existing building.

Pastor Jones explained that the initial day care program would be housed in classrooms found within the already-existing building.

Vice-Chairman Cobb asked what would happen if the church received more than twenty-five applications for the initial program.

Pastor Jones answered that it was his understanding from both the N.C. Department of Health & Human Services and the Nash County Environmental Health Department that the church’s current capacity was limited to no more than twenty-five students without revising the current applications.

Mr. Mullen asked how the number of twenty-five students was determined.

Pastor Jones answered that it was based on the limitation of the existing classroom size.

Chairman Bass asked whether the church had consulted the state authorities regarding the operation of this day care facility.

Pastor Jones answered that they had and that the church was pursuing the required building and fire inspections.

Mr. Moore asked if the church’s existing septic system would accommodate the initially planned number of students.

Pastor Jones answered that the existing septic tank would be adequate, however he was in discussions with the Environmental Health Department regarding the necessary installation of a grease trap and additional septic drainage lines.

Mr. Parker asked whether all the discussed building modifications were subject to the Board of Adjustment’s zoning approval.

Pastor Jones acknowledged that the day care center project could not move forward without the Board’s approval as well as the State’s approval.

Mr. Tyson clarified that the Board was being asked to consider a zoning approval, which was just one component of the overall review process required for the day care center project. He noted that recommended permit condition #4 from the staff report stated, “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.”

Pastor Jones noted that without a zoning approval, the church’s project could not proceed.

Chairman Bass asked about the number of teachers anticipated for the day care center facility.

Pastor Jones answered that the number of teachers needed would be determined by the number and ages of the children to be served by the facility.

Chairman Bass asked if there was a specifically-required teacher to student ratio.

Pastor Jones responded that there was, however there is a different ratio depending upon the specific age group of the children.

Chairman Bass asked whether the teachers would come from the community.

Pastor Jones stated that the teacher positions would be filled by a church committee and that he had already received about six inquiries from interested individuals.

Mr. Castellino inquired about the outdoor activity area.

Pastor Jones discussed several potential areas on the church property for the outdoor activity area.

Mr. Moore asked if the church property were to be reconfigured because it acquired additional adjacent land, then would the Board need to re-review the site plan at that point.

Mr. Tyson stated that would most likely not be necessary as long as the outdoor activity area was located somewhere outside of the road and corner-side setback zones designated on the site plan.

Chairman Bass asked how many members belonged to the church.

Pastor Jones responded that there were between 250 and 300 church members of record.

As there were no additional questions or speakers, Chairman Bass closed the public hearing on Special Use Permit Request S-210601.

BOARD ACTION: Mr. Moore offered a motion, which was duly seconded by Vice-Chairman Cobb, to adopt the following conclusions with supporting findings of fact related to Special Use Permit Request S-210601:

- (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.

The motion was unanimously carried.

BOARD ACTION: Mr. Mullen offered a motion, which was duly seconded by Vice-Chairman Cobb, to approve Special Use Permit S-210601, subject to the following 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.

The motion was unanimously carried.

9. Other Business.

Mr. Tyson reminded the Board of its next regularly scheduled meeting on Monday, July 26, 2021.

The Board discussed a potential change to its regular meeting time, but ultimately decided to continue to meet at 6:00 p.m.

Mr. Tyson asked that the Board members update their contact information with the Planning Staff as necessary.

10. Adjournment.

There being no further business, Chairman Bass adjourned the meeting at 6:43 p.m.