

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT MEETING  
HELD MONDAY, MARCH 6, 2017  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING - THIRD FLOOR  
FREDERICK B. COOPER COMMISSIONERS ROOM  
7:00 P.M.**

**MEMBERS PRESENT**

Lynn Ward, Chairman  
C.A. Gardner  
William Parker  
Tommy Bass  
Mac Tilley (Alternate)  
Dennis Cobb (Alternate)

**MEMBERS ABSENT**

Cindy Joyner, Vice-Chairman  
Charles Johnson (Alternate)

**PLANNING STAFF PRESENT**

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

**ATTORNEY TO THE BOARD**

Richard J. Rose

**OTHERS PRESENT**

Chris May  
Robin Ann Trigg

**1. Call to Order.**

Chairman Ward called the meeting to order at 7:00 p.m.

**2. Determination of a Quorum.**

Chairman Ward recognized a quorum.

**3. Approval of the July 25, 2016 Meeting Minutes.**

The minutes of the July 25, 2016 meeting of the Board of Adjustment were mailed to each Board member for review. Chairman Ward asked for any corrections or revisions. None were offered.

**BOARD ACTION: Mr. Tilly offered a motion which was duly seconded by Mr. Parker to approve the July 25, 2016 meeting minutes as submitted. The motion was unanimously carried.**

**4. Oath of Witnesses.**

All persons wishing to give testimony during the public hearing were sworn in by Chairman Ward. Chairman Ward recognized the voting members for this meeting as himself, Mr. Gardner, Mr. Parker, Mr. Bass, and Mr. Tilley with Mr. Cobb serving as an alternate.

**5. Public Hearing on Variance Request V-170301 Made by Robert Tracy Trigg & Robin Ann Trigg, the Property Owners, to Reduce the Applicable Minimum Building Setbacks and to Increase the Permitted Setback Encroachment Distance for Steps & Landings as Required in the R-30 Single and Two-Family Residential Zoning District to Allow the Set-Up of a Double-Wide Manufactured Home at 5611 NC Highway 48, Battleboro, NC 27809.**

Chairman Ward introduced this agenda item to the Board.

Mr. Tyson began by 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 February 22, 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 variance request. A notice of this public hearing was published in the legal ad section of the Rocky Mount Telegram on February 23, 2017 and a notice of the public hearing was also posted on the subject site on February 22, 2017.

Mr. Tyson reviewed the requirements related to the consideration and issuance of a variance by stating that the Nash County Unified Development Ordinance defines a variance as "official permission to depart from the requirements of this ordinance" (UDO Article II, Section 2-4.198). General variance requests are heard and decided by the Board of Adjustment. The North Carolina General Statutes require that when unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Mr. Tyson noted that prior to granting a variance, the Board of Adjustment must adopt a set of specific reasons or findings which explain how the request satisfies the requirements detailed above. A variance request shall be denied if any one or more of the above criteria are not satisfied or if the application is determined to be incomplete.

He explained that variances may not authorize a change in the types of land uses permitted on a particular property by the zoning ordinance. He clarified this by providing the example that if manufactured homes were not permitted within a particular zoning district, then a variance would not be an acceptable means of allowing a manufactured home in that district. An approved zoning map amendment or text amendment to the ordinance would be required to change the permitted use of the property.

He also noted that the Board of Adjustment may impose appropriate conditions on a variance, provided that the conditions are reasonably related to the variance itself or the related requirements of the ordinance. Whereas any other action taken by the Board of Adjustment only requires a simple majority vote, the issuance of a variance requires a four-fifths majority vote.

Mr. Tyson stated that Mr. Robert Tracy Trigg and Mrs. Robin Ann Trigg, the property owners, have submitted a request for a variance in order to replace the existing single-family dwelling located on the 0.14 acre lot at 5611 NC Highway 48, Battleboro, NC 27809 with a larger double-wide manufactured home. He referenced the survey plat included in the agenda packet and noted the location of the existing home on the lot.

He continued, stating that the property is considered a "nonconforming lot," meaning that it does not satisfy the dimensional standards for the R-30 Single and Two-Family Residential Zoning District including the required minimum lot area (30,000 square feet) or the required minimum lot width (100 feet). However, because the lot was lawfully created prior to the adoption of those regulations it remains eligible for the permitting of a single-family residential land use. The proposed home would be served by public water and sewer utilities provided by the City of Rocky Mount, meaning that the lot would not need to include area for an onsite septic system or well.

Mr. Tyson referred to the aerial photograph of the subject property which was included in the agenda packet and again noted the location of the existing home and that of a small, existing storage shed on the rear of the lot.

He then referenced the proposed site plan included in the agenda packet and explained that while the proposed home would comply with the minimum front and right side property line building setbacks as required in the R-30 Zoning District, it would not comply with the minimum left side or rear property line building setbacks. Additionally, the proposed steps and landing on the right side of the home would extend beyond the standard 2.5 foot setback encroachment that is allowed for these structural features. Therefore, the property owners have requested the approval of a variance to adjust the specific dimensional standards of the Nash County Unified Development Ordinance that apply in the R-30 Single and Two-Family Residential Zoning District as follows:

UDO Article IX, Section 9-4, Subsection 9-4.1 (A), Table 9-4-1:

- To reduce the minimum left side property line building setback from 15 feet to 5 feet.
- To reduce the minimum rear property line building setback from 30 feet to 20 feet.

UDO Article IX, Section 9-6, Subsection 9-6.3 (B):

- To increase the distance that steps and required landings are permitted to encroach into the minimum right side property line building setback from 2.5 feet to 5 feet.

Mr. Tyson noted that since the existing home is currently located directly on the left side property line, even the adjusted 5 foot setback on that side would be an improvement upon the current situation. He stated that the applicants have offered the following justifications for the request's compliance with the four requirements related to the issuance of a variance:

- (1) Unnecessary hardship would result from the strict application of the ordinance because the enforcement of the standard minimum building setbacks on the subject lot would limit the developable area for a proposed residence to only approximately 916 square feet.
- (2) The hardship results from conditions that are peculiar to the property, specifically the size and width of the subject lot. The area of the lot – 0.14 acres – accounts for only approximately 20% of the standard minimum lot size currently required in the R-30 Zoning District and the width of the lot – approximately 50 feet – accounts for only 50% of the standard minimum required lot width.
- (3) The hardship did not result from actions taken by the applicant or the property owner because the subject lot was acquired by the applicants in 2006 in its current configuration.
- (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved because the proposed home location will still comply with the standard minimum front side building setback required from the NC Highway 48 road right-of-way which is consistent with the intent of the Nash County Unified Development Ordinance to “require appropriate setbacks for buildings and other structures 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” (UDO Article I, Section 1-3.2 I). Additionally, the proposed new home will be located five feet further from the left side property line than the current home which is located directly on the lot boundary.

Mr. Tyson concluded his presentation by offering to answer any questions the Board may have and noting that the applicant, Mrs. Trigg, as well as her representative, Mr. May, were also present and willing to answer questions as necessary.

Mr. Tilley asked if the Planning Department had received any responses from the neighboring property owners regarding the mailed public notices.

Mr. Tyson stated that the Planning Department had not received any responses or inquiries related to the request.

Chairman Ward asked for any other questions. There were none.

**BOARD ACTION: Mr. Tilley offered a motion which was duly seconded by Mr. Bass to adopt the following findings related to the requested variance: (1) Unnecessary hardship would result from the strict application of the ordinance because the**

enforcement of the standard minimum building setbacks on the subject lot would limit the developable area for a proposed residence to only approximately 916 square feet. (2) The hardship results from conditions that are peculiar to the property, specifically the size and width of the subject lot. The area of the lot – 0.14 acres – accounts for only approximately 20% of the standard minimum lot size currently required in the R-30 Zoning District and the width of the lot – approximately 50 feet – accounts for only 50% of the standard minimum required lot width. (3) The hardship did not result from actions taken by the applicant or the property owner because the subject lot was acquired by the applicants in 2006 in its current configuration. (4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved because the proposed home location will still comply with the standard minimum front side building setback required from the NC Highway 48 road right-of-way which is consistent with the intent of the Nash County Unified Development Ordinance to “require appropriate setbacks for buildings and other structures 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” (UDO Article I, Section 1-3.2 I). Additionally, the proposed new home will be located five feet further from the left side property line than the current home which is located directly on the lot boundary. The motion was unanimously carried.

**BOARD ACTION:** Mr. Gardner offered a motion which was duly seconded by Mr. Tilly to approve Variance Request V-170301 in relation to the proposed double-wide manufactured home to be located at 5611 NC Highway 48, Battleboro, NC 27809 in order to reduce the minimum building setbacks and increase the permitted setback encroachment distance for steps and landings as detailed in the staff report, subject to the following conditions: (1) The property shall be developed in accordance with the submitted site plan depicting the adjusted dimensional requirements; and (2) If the proposed home will not be located a minimum of 5 feet from the existing storage building on the right rear corner of the lot, then prior to the home’s final approval, the storage building shall either be removed, demolished, or permitted and relocated to a site on the lot meeting the following minimum setbacks: 40 feet from the front property line; 5 feet from the side or rear property lines; and 5 feet from the proposed new home. The motion was unanimously carried.

#### **6. Other Business.**

Chairman Ward asked for any other business.

Mr. Tyson reminded the Board that this meeting had been postponed from the regular February 27, 2017 meeting date and that the next regular meeting was scheduled for March 27, 2017. He noted that the submittal of a Special Use Permit Request for the construction and operation of a new wireless telecommunications tower was anticipated for that meeting.

#### **7. Adjournment.**

There being no further business, Chairman Ward adjourned the meeting at 7:39 p.m.