

Amy H. Cannon
County Manager

Tracy Jackson
Assistant County Manager



CUMBERLAND COUNTY

NORTH CAROLINA

Board of Adjustment

Rawls Howard
Director

David Moon
Deputy Director

MINUTES
April 15, 2021
6:00 PM

Members Present

George Turner
Gregory Parks
Marva Lucas-Moore
Stacy Michael Long - Alternate
Linda Amos - Alternate

Alternate Members in Attendance

Robert Davis
Vickie Mullins

Absent Members

Alfonso Ferguson

Staff/Others Present

Aristotle (Telly) Shinas
David Moon
Laverne Howard
Rob Hasty
(Asst County Attorney)

Chair Turner called the meeting to order at 6:05 p.m. in Public Hearing Room #3 of the Historic Courthouse.

Chair Turner stated the procedural matters are to turn off all cell phones and other electronic devices, other than the camera, are fine and if asked to speak at the podium to please speak clearly into the microphone as the meeting is being recorded. Although there are no set time limits for any speaker addressing the board, the board asks speakers to not repeat what has been previously stated. If there is no new evidence to offer, please make the board aware of your agreement with the previous speakers. If any board member wishes to speak or ask any questions, please ask to be recognized by the Chairman before speaking.

1. INVOCATION

Stacy Long

PLEDGE OF ALLEGIANCE

Recited by all.

2. ROLL CALL

Mr. Moon called the roll. For the audience, Mr. Moon stated a quorum was present.

3. SWEAR IN STAFF

Chairman Turner swore in staff.

4. ADJUSTMENTS TO THE AGENDA

There were none.

5. APPROVAL OF THE December 17, 2020 MINUTES

Mr. Stacy Long made a motion to approve the minutes from the December 17, 2020 meeting with any necessary corrections, seconded by Mr. Gregory Parks. The motion passed unanimously.

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	IN FAVOR
TURNER	YES
PARKS	YES
LUCAS-MOORE	YES
LONG	YES
AMOS	YES

6. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS

Mr. Moon read the policy statement.

MR. MOON: Chairman before we start, I would like to introduce Laverne Howard as being present this evening because she is attending the meeting temporarily because Dena Barner left the County. Yolanda Bennett is out tonight but she will be replacing Dena Barner for the next meeting. Also in our presence is Telly Shinas, he is sitting in the back of the room, he is the new Current Planning Manager replacing Betty Lynd. He started this week so we welcome Telly.

CHAIR TURNER: Welcome, glad you're here Sir.

MR. MOON: In attendance from the attorney's office is Attorney Rob Hasty. I am pointing him out to distinguish him for the Board members.

CHAIR TURNER: Thank you.

9. PUBLIC HEARING(S)

Chairman Turner read the case heading for Case No. P21-01-C.

P21-01-C: CONSIDERATION OF A SPECIAL USE PERMIT TO ALLOW A CAMPGROUND IN AN A1 AGRICULTURAL DISTRICT ON 40.58+/- ACRES, LOCATED ON THE NORTH SIDE OF SR 2026 (7715 CONCORD CHURCH ROAD), EAST OF CASHWELL ROAD, SUBMITTED BY MICHEAL AND MARIE JOYAL AND JUDITH MURACH (OWNER)

CHAIR TURNER: Let's hear from staff.

Mr. Moon reviewed the zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material. Mr. Moon stated findings of facts is being requested by staff and is included in the packet.

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MR. LONG: All those conditions that you mentioned are included in that site plan, correct? Or will we have to include them?

MR. MOON: In the special use conditions, correct. So, if you make a motion to approve and adopt it, then those conditions and special use becomes permanently attached to the property.

MR. TURNER: Your condition about the removal or replotting of the mobile home in there?

MR. MOON: Yes

MR. PARKS: Is the owner going to live in the house and be the caretaker of this campground?

MR. MOON: The owner is the applicant, and they are present, so that could be a question you could ask the applicant. They may have further information about the campground and its operation that they would like to share as well.

CHAIR TURNER: Okay. Any other questions? There were none so Chair Turner opened the public hearing and swore in Mr. Michael Joyal, the first speaker.

MR. JOYAL: My address is 7715 Concord Church Rd, Autryville 28318. The address of the campground is 7711, this is actually currently one giant piece of property the entire forty point five seven whatever. It might not remain that way, now I don't think that this was part of the presentation, and none of this is set in concrete a lot of this depends on what you guys want us to do, ladies and gentlemen, but we're thinking now we will divide this property into three sections, and we will have it deeded and platted, all those things. The center section will be dedicated to the campground, and the sections on either side will be buffers between us and all the neighbors and the neighboring properties.

MR. TURNER: Let me stop you a minute, will that cure his problem with the mobile home? You are going to end up with three pin numbers, three separate deeds, will that not eliminate that mobile home issue?

MR. MOON: I did not have discussions with Mr. Joyal, but with his wife regarding the trailer which is at that south east side of the property and if that is the residence that will not be used as the caretaker's unit just as a traditional market housing, then that would need to be subdivided from the property to a plat. So, in terms of subdividing the parcel into three parcels that would propose t be a subdivision plat, I cannot respond to that because I have not seen a whole subdivision plan at this time.

MR. TURNER: Would that alter the special use permit if it were divided afterwards?

MR. MOON: It may because it could reduce the amount of land assigned to the campground.

MR. TURNER: So, I am not sure that would work. It is the County's understanding that the house that is located there is going to be the campground manager, is that how we are looking at this? You had a house there and a mobile home, you don't want the mobile home.

MR. MOON: You can point out the house and explain what you want to do pertaining to the camp operations.

MR. JOYAL: Mr. Joyal pointed out the buildings on the property.

MR. TURNER: The question is, the house that is out by the road, is that where you intend to have a property manager?

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MR. JOYAL: We don't intend to have a property manager.

MR. TURNER: Isn't that required?

MR. MOON: Yes

MR. JOYAL: That would be me.

MR. TURNER: I think one of the County's requirements was on-site property manager, is that your intent?

MR. JOYAL: Yes, I live there now.

MR. PARKS: So, you live in that particular house that is there now?

MR. JOYAL: I do.

MR. PARKS: We are trying to get the answers to that.

MR. JOYAL: I live in the mobile home that is here (pointed out on map) I live at 7715, I do not know if that matters as far as 7711 goes, because it's wide open and it's all one giant piece.

MR. TURNER: It is one now, but if you divided it and take part of it, you would change everything so the question at hand is, you've got the mobile home that you intend to use and you are going to be the property manager for this which is covering the forty acres more or less and you have no problem with removing the mobile home at the back that is out of compliance, did you understand what he said?

MR. JOYAL: There is only one mobile home there.

MR. MOON: The one on the far right (Mr. Moon pointed out the mobile home on the map). The wood frame home, from my discussions with Mrs. Joyal, there is a family member living in that home at the current time.

MR. JOYAL: There was, that person has since moved out.

MR. MOON: Is your intent to use that house as the campground office?

MR. JOYAL: Yes.

MR. MOON: How about the structure to the rear which is the game room?

MR. JOYAL: The game room also can be utilized as part of the campground, I do not know if anyone will want to use it or not, it is currently part, it is in the application there somewhere.

MR. TURNER: Is the County agreeing with that or not? Depends on the terminology and what you call it, I think.

MR. MOON: Correct, under the campground guidelines, the campground owner/operator can have accessory uses like swimming pools, recreation facilities, an office, and there can also be a residence that a caretaker would reside. The owner is apparently going to serve as the caretaker, manager of the park. If I understand correctly what was just

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explained to us, he, the manager plans on living in the trailer and then converting the other residential unit as a office. Would that be correct?

MR. JOYAL: That's correct sir.

MR. PARK: So, you are going to stay in the trailer and turn the house into the office for the recreational park, correct?

MR. JOYAL: Correct.

MR. LONG: So, in that case you would not need to move the trailer?

MR. MOON: He never had to move the trailer but if there were two permanent residences the trailer would need to be platted, his description that case we would not have to plat the trailer into a separate lot.

MR. LONG: So, do we have to make one of the conditions that nobody live in that front house and that it remains an office?

MR. MOON: Yes, it's already conditioned that there can be only one caretaker unit, so it is addressed under that requirement, there is also part of the condition sheet, we asked them to revise this plan and identify which of the residential units will be the caretaker home. They will have to resubmit the plan to denote where that caretaker residence will be.

MR. TURNER: Swore in Marie Joyal

MARIE JOYAL: 7715 Concord Church Rd, Autryville 28318. Like Mike said, I have already contacted the surveyor who did our original survey so the property where the yellow, is will be split out as the campground so, where our house is, will be a separate piece and then this side will have a separate piece too. So, there will be three different pieces.

MR. TURNER: I think that's part of what is causing trouble, correct me if I am wrong, you have applied for forty acres and now you are making three separate tracts, you are changing everything. Maybe we need to not do this and come back.

MR. PARKS: You split it into three different parcels and then it is no good. Then you have to go back and do it again.

MR. JOYAL: At the time that we submitted for this we did not have this in mind, but since talking to various people including an estate attorney, that was recommended to us. This application should be resubmitted exactly as you stated, reflecting the new plan in detail along with no one is going to live in the little cottage, it is going to be the campground office it will be stipulated, all this information that I have verbally given you, and my apologies for this, we have never done this. We do not know what we are doing here.

MRS. JOYAL: Well, we are doing this to take off the condition and make one residence.

MR. TURNER: Why don't we table this until they clarify, and they can come back at another meeting.

MR. JOYAL: That is perfectly fine.

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Ms. Lucas-Moore made a motion to defer P21-01-C for thirty days, Mr. Parks seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
PARKS	YES
LUCAS-MOORE	YES
LONG	YES
AMOS	YES

MR. PARKS: I just want to ask a couple of questions, your retention pond or this piece of water that is there, are you planning on putting something around the pond to keep people from falling in the pond?

MR. MOON: Based on the slopes of the storm water pond, whether it's wet or dry retention pond the state laws likely require them to put a safety fence around the pond if the engineers at the Department of Environmental Quality would make that determination, the ones that are reviewing the stormwater for the site.

MR. PARKS: Just thought I would bring that up, another thing you need to think about in that situation.

MR. JOYAL: If it ends up not being required, but we do it any way, would that be wrong?

MR. HASTY: You would not be breaking the law you would be making it safer.

MR. PARKS: So, you are going to live on this property and have a campground in the backyard?

MR. JOYAL: Yes, if you want to put it that bluntly, my complete intention is this campground is going to be behind the tree line, you will not see it when you drive by.

MR. TURNER: His concern is with a child drowning.

Chairman Turner read the case heading for Case No. P21-02-C.

P21-02-C: CONSIDERATION OF A VARIANCE TO ALLOW A LARGER STORAGE BUILDING/BARN THAN AN EXISTING RESIDENTIAL DWELLING UNIT IN AN RR RESIDENTIAL DISTRICT ON 2.0+/- ACRES, LOCATED AT 120 ST. JUDE ROAD AND SOUTH OF SR 2026 (CLINTON ROAD), SUBMITTED BY BRANDON M. BLACKMAN (OWNER)

Mr. Moon presented and reviewed the zoning, sketch map, and land use of the area surrounding subject property. He briefly reviewed board packet material.

MR. TURNER: Just to clarify what you said, we always have this question, each of these findings of fact must be made in and of themselves as a group and one does not circumvent the others, we have to make a finding of fact for all of them?

MR. HASTY: Correct

Mr. Moon continued presenting the case information.

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MR. TURNER: So, the building is under construction now, and it's three times the size of the house?

MR. MOON: Yes, and there are pictures that you will see here shortly, and the applicant of course will have an opportunity to speak.

Mr. Moon continued presenting the case information.

MR. TURNER: Are there any questions? There were none so Chair Turner opened the public hearing and swore in Mr. Brandon Blackman.

MR. BLACKMAN: The house is actually nine hundred and eighty-eight square feet.

MR. TURNER: So, your home is nine hundred and eighty-eight feet and the building your building is two thousand square feet?

MR. BLACKMAN: I put a letter in there stating why we needed it, we have farm equipment, and we have a lot of theft going on, and our house doesn't have room for any storage. It's kind of a storage and equipment need.

MR. PARKS: I don't understand, first thing why did you build the building without a permit?

MR. BLACKMAN: I didn't know, I was misinformed.

MR. PARKS: You work for the City?

MR. BLACKMAN: I didn't know about the permit, honestly.

MR. PARKS: You didn't know you needed to have a permit?

MR. TURNER: Are you building it yourself?

MR. BLACKMAN: Yes sir.

MR. TURNER: Have you ever considered adding on to your house? I was trying to find a way to save this, only way I could see is if you add twelve hundred square feet to your house. I'm trying to help.

MR. PARKS: Let me ask about that, because I have another situation, so the garage or anything cannot be bigger than the residence?

MR. MOON: Yes, based on staff's interpretation of the code, it states that the accessory structure must be subordinate to the residential unit.

MR. PARKS: Why?

MR. MOON: That is the code that was established and why is so that the site would maintain a residential character as opposed to a storage or other use. The intents was likely to maintain the appearance and character of a residential use.

MR. TURNER: Well, he and I see the same thing, if it was me, I would have a five hundred square foot house and a five thousand square foot garage that would be a guy's heaven.

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MR. BLACKMAN: I also have an old carport there if I'm allowed to finish, I'm doing away with it.

MR. TURNER: Is it possible if this structure was connected to his house by a breezeway would that help?

MR. MOON: I'm not qualified to answer that, because I am not a building official, a building inspector as to what happens if it is connected, or by building code if he would be able to connect it.

MR. PARKS: So who could answer that question for us?

MR. MOON: Probably the County's building official.

MR. PARKS: Could you get an answer to that question and let us know in the future if that would be applicable.

MR. MOON: I could address it to him, but circumstances could vary from site to site, at this point since a building permit has not been submitted, I don't even know if the accessory structure, complies with North Carolina Building Codes.

MR. BLACKMAN: I did submit engineered drawings of the trusses and all of that with my application, so there are engineered drawings, and went through the Health Department and got that approved.

MR. TURNER: Here's our problem, this is a very common problem that this board has we have to make findings of fact and everyone here understands what the situation is, but the third finding of fact is the one that really throws us off every time, and that says that the special circumstances are not the result of the actions of the applicant. But you did it, that's the problem. How do we overcome that? You follow me.

MR. BLACKMAN: I'm trying to make it right.

MR. PARKS: We want to help you, don't get me wrong, we want to help you if there is any way we can.

MR. TURNER: I think if you had done the permit, they would have told you that you can't build it this big and we wouldn't be here. You would have had some guidance. That's after the fact, we can't fix that now, but we are in a position to have to make these four findings of facts and number three is the one that stops us from being able to do anything. (Mr. Turner read number three again). Unfortunately, it is the action of the applicant, you are the applicant, and you went out and built the building that's too big. That's the problem and we can't overcome that from our side, I'm not speaking for the whole board, but I'm saying that's the problem and we have this fairly regularly. That's why were trying to find some way to make this work. Would it be feasible for us to table this one also and research some of those? What does the Board think?

MR. PARKS: The only way I can see he can handle this is take the back part of that building off and move it maybe to the side of the other building each one of those buildings is not bigger than the house.

MR. TURNER: He can't have two can he, can he have two?

MR. MOON: Two sheds, the intent of the code would be to try and split the two and still have a use that was really needs to be clearly incidental to and subordinate area and purpose to the primary use.

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MR. TURNER: I think we had that once before, that sounds like a good plan but that didn't work, you still had twice as many. Would you want to research maybe tying it together

MR. BLACKMAN: Everyone around us is all family and helped me build the place.

MR. TURNER: The only things that I can see right now is we can do one or two things table this and try and find a way for you to make this work, which may or may not be likely or deny it based on the fact that you created the problem and the way things are written special circumstances are not the result of the actions of the applicant, and they clearly are, you're the applicant, you built the building, you didn't get a permit. I don't want to chastise you, I'm not trying to do that. We are trying to find a way to make it work and either twelve hundred square feet added onto the house or tie it together. Someway to make it work. I'm with you, I'd rather have a big garage.

MR. BLACKMAN: The main reason I built that size was because it fit different vehicles and tractors.

MR. PARK: We are on your side okay there is nothing we can do, we can table it and you go and try to figure out a way with the people, with the County to make it work.

MR. HASTY: Before you vote, remember a variance is when they are doing something that is contrary to the law and there are also other findings where there has to be some peculiarity with the property so that you would have to find.

MR. HASTY: I just don't want to see you give him false hope and you don't want to subvert the permitting process either or your going to have people coming in to request variances and then go get a permit.

MR. PARKS: There might be some outside chance that, I'm just trying to help the young man.

MR. HASTY: I understand, I'm just trying to point out that there are other factors.

MR. LONG: I think we've denied everyone else right off the bat.

MR. TURNER: If you read what the book says, it's extremely difficult to get a variance to do this, but to give you the opportunity to talk to the County to see if there is anything you can do, if you don't want that, that's okay. It's your call.

MR. BLACKMAN: With the size thing, are you allowed to have more than one structure?

MR. PARK: That we don't know, we can't answer that.

MR. TURNER: There is a motion on the floor.

Mr. Parks made a motion to defer P21-02-C for thirty days to the next Board meeting, Mr. Parks seconded. The motion passed unanimously.

	IN FAVOR
TURNER	YES
PARKS	YES
LUCAS-MOORE	YES
LONG	YES
AMOS	YES

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10. DISCUSSION/UPDATES(S)

Mr. Hasty updated the Board on the American Legion case.

11. ADJOURNMENT

Mr. Long made a motion to adjourn, seconded by Mr. Parks. The motion passed unanimously. Meeting adjourned at 7:58 pm.

	IN FAVOR
TURNER	YES
PARKS	YES
LUCAS-MOORE	YES
LONG	YES
AMOS	YES

Laverne Howard, Clerk to the Board

George Turner, Chairman