

Cabarrus County Government – Planning and Development



**Planning and Zoning Commission Minutes
February 10, 2026**

Mr. Michael Bywaletz, Chair, called the meeting to order at 6:30 p.m. Members present, in addition to the Chair, were Mr. Adam Dagenhart, Mr. Charles Paxton, Mr. Stephen Wise, Ms. Holly Edwards, Ms. Ingrid Nurse, Mr. Mohammed Idlibi, Mr. Keith Conrade and Ms. Heather James. Attending from the Planning Department were, Mr. Phil Collins, Planning Supervisor, Ms. Susie Morris, Planning & Development Director, and Ms. Lisa Johnson, Clerk to the Commission. Also, in attendance was Mr. Douglas Hall, County Attorney. Absent from the meeting was Mr. Chris Pinto.

Call to Order

Mr. Michael Bywaletz, Chair, called the meeting to order at 6:30 p.m.

Roll Call

The Chair called on Ms. Lisa Johnson to call the roll.

The Chair reminded the audience that anyone wishing to speak would need to fill out a blue card.

The Chair proceeded to read the Rules of Procedure:

Rules of Procedure

1. The Cabarrus County planning staff person(s) shall first present the Staff Report and answer questions from the Commission. There will be no time limit on this presentation.
2. The Applicant or Appellant may make a presentation to the Board (optional) and will then answer questions from the Commission. There will be a 15-minute time limit on the presentation if the Applicant or Appellant chooses to make a formal presentation. There will be no time limit on questions from the Board following the presentation.

3. When the Board is ready to proceed, the proponents (those speaking generally in favor of the case) will have a total of 15 minutes to speak or present evidence in support of their position. The 15-minute time limit does not include questions directed to the proponents by the Commission.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 15 minutes to speak or present evidence in support of their position. The 15-minute time limit does not include questions directed to the opponents by the Commission.
5. Each side will then have 3 minutes for rebuttal, with the proponents going first. Again, questions directed to the speaker will not count against the time limit. This will conclude the public hearing portion of the meeting, and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.
7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Mohammed Idlibi to **APPROVE** the Rules of Procedure. The vote was unanimous to **APPROVE**.

Mr. Michael Bywaletz proceeded to swear in members of the audience wishing to speak.

The Chair asked if there were any board members that had any conflicts of interest with the upcoming case. There being none, the Chair proceeded.

Old Business Board of Adjustment

Petition VARN2025-00005-Variance request for relief from the setback requirements from County Line and the dimensional requirements of the AO district. Gary and Kathy Almond are the applicants/owners. The address associated with the subject property is 3077 Pickens Road (PIN: 5589-95-0742).

The Chair reminded the board members that this case was continued from the October 14, 2025 and January 13, 2025 meetings.

Mr. Michael Bywaletz said, the applicant is seeking relief from the Cabarrus County Development Ordinance for:

- The setback requirements from County Line and
- Dimensional requirements of the AO district and
- To allow the proposed home to be constructed two feet from the County line, which is a 28-foot encroachment into the required 30-foot setback

At the last meeting, the Board requested additional information be provided as to:

1. Whether or not the house could be moved away from the County line and
2. Whether or not other areas of the site were explored for siting the house.

Additionally, it is my understanding that the Soil Scientist is here this evening to answer questions about those documents from the Board if needed.

Since this case was continued, we will move into discussion with the applicant and Soil Scientist about the updated information that was provided.

The Chair then reminded the Board of the Application of the Variance Power:

A variance may only be allowed by the Commission in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all of the following findings:

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 created 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.

All of these findings of fact shall be made in the indicated order by the Commission, which is not empowered to grant variance without an affirmative finding of fact on all four categories above, each finding of fact shall be supported by substantial, material, and competent evidence in the record of the proceeding before the Commission.

The Commission may impose reasonable conditions upon the granting of any variance to ensure that public health, safety and general welfare shall be protected and substantial justice done. Violation of such conditions shall be a violation of this Ordinance.

Mr. Michael Bywaletz called on Mr. Wendell Overby to speak.

Mr. Wendell Overby said, I am a North Carolina licensed Soil Scientist. My address is 372 Dellwood Court, Concord, NC 28025.

Mr. Michael Bywaletz said, you provided a memo in regard to the proceedings in how you determined your Soil Scientist evaluation. I had questions if regard to some of those findings.

I've read a lot about the desired house location and the preferred house location. Was the location that was close to the County line provided to you first and then you did your soil evaluation? Did you have to work around that or was it known that the

house needed to be 30 feet and you said it can't be 30 feet; it has to be closer to the line?

Mr. Wendell Overby said, no, it was provided like that.

Mr. Michael Bywaletz said, okay, then that was the Almonds' preferred location?

Mr. Adam Dagenhart said, you mentioned there was another suitable area. Where is that in relation to the proposed house?

Mr. Wendell Overby said, the closest was about 400 feet away. To give you an idea of what is involved in the septic permitting process, we need to have suitable soil to a certain degree and also in the horizontal, so we need to have an area. That closest boring was about 400 feet. The area that would be required was not worked out. A couple of other borings in proximity to that specific boring were only suitable to an engineered type of system. There is either a creek and/or drain that would be in the path of the house to the other area.

Mr. Michael Bywaletz said, you had stated in your memo that the 60-foot trench could be added to the repair field allowing that the house has to be shifted 10 feet further west, away from the County line. Could that same trenching and modification of the repair field happen if you push the house to the actual 30-foot limit?

Mr. Wendell Overby said, I think what you're talking about is the repair area. State rules require a property to have the initial septic system installed and then the repair field. In the drawings on the sketch, the solid lines are the initial system. The dash lines represent the repair.

Mrs. Morris sent an email to me on January 15th asking if there was any room or adjustment to get the house further away from the County line. In looking at the data that we had, we found that there was room for where we had the new 60-foot proposed trench for the repair. That was going to allow the house to move over 10 feet.

The orientation of those lines is set by contour. The State rules require that you can't have a trench running downhill. The issue with getting close to the drive is that there is a cut there; there's a bank. If it's two feet or more, we have to be 15 feet away from that bank.

Mr. Charles Paxton said, in your professional opinion, you stated that if you moved it 12 feet, then you could do what they wanted. Is that correct?

Mr. Wendell Overby said, I was asked in the correspondence if there could be an adjustment to the repair field so that the house could be shifted. Adding the 60-foot line did allow us to trim those lines. I need to maintain 10 feet from the house to the start of the septic trenches. That's a setback, much like the property line, I can't get within 10 feet of that. By adding the 60-foot line, we could move it further to be 12 feet off the County line.

Mr. Michael Bywaletz said, how far does it need to be between the primary and the secondary?

Mr. Wendell Overby said, those are dependent on the type of system. Those are 3-foot-wide trenches but they're on 9-foot centers. I can't get that particular trench closer than 9 feet.

Mr. Michael Bywaletz said, was there any additional reconnaissance west of P7?

Mr. Wendell Overby said, there was a soil boring to the west of P7 that was 18-24 inches. It was for an engineered system, so it would not be for the same type of system that's being proposed. The "uns" stand for unsuitable system where an engineered system would not work.

Mr. Charles Paxton said, we asked the applicant to go to the Soil Scientist to see what he could do and he has come back to us and this is what it is.

Mr. Adam Dagenhart said, based upon the state of regulations, there are constraints on what he can do based on topography. I would also add that he took our questions and was able to modify the plan. We have 10 more feet; it's just a matter of if that is acceptable. There is another area but it's 400 feet away, which is additional cost for testing, etc.

Mr. Brent Rockett said, and that may not be a sure thing.

Mr. Michael Bywaletz said, based on some of the evidence, it would definitely cause unnecessary hardship and not even knowing if moving it would work in that particular location.

Mr. Brent Rockett said, with the evidence provided by Mr. Overby today, I feel comfortable that they have looked into every option to mitigate. While the plan is not exactly what we would want from the County perspective, it seems that they have exhausted their options in the placement of the home.

Mr. Michael Bywaletz said, I believe it is in the spirit of the purpose and intent of the Ordinance, especially since we now have 10 more feet away from the property line. Based on the topography and other conditions of the site, we have met what we needed to.

VOTE #1

Mr. Brent Rockett **MOTIONED, SECOND** by Mr. Charles Paxton to **APPROVE** an **18-Foot Encroachment into the Required Setback for the AO Zoning District and for the Home to be Constructed 12 Feet from the County Line**. The vote was unanimous to **APPROVE**.

VOTE #2

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Mohammed Idlibi to **APPROVE** the **Conditions of Approval as Provided in the Staff Report**. The vote was unanimous to **APPROVE**.

- *The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.*
- *The applicant shall build the residence entirely on the Cabarrus County side of the subject property.*
- *County line must be delineated in the field and clearly marked before and during construction of the new home.*

LEGAL UPDATE

Mr. Douglas Hall, County Attorney, did not have any legal updates at this time.

DIRECTOR'S REPORT

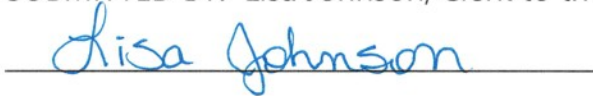
Ms. Susie Morris, Planning & Development Director, did not have any updates at this time.

Mr. Adam Dagenhart **MOTIONED, SECOND** by Mr. Mohammed Idlibi to **ADJOURN** the meeting at 6:54 p.m. The vote was unanimous to **ADJOURN**.

APPROVED BY: Michael Bywaletz, Chair



SUBMITTED BY: Lisa Johnson, Clerk to the Planning & Zoning Commission



ATTEST BY: Susie Morris, Planning & Development Director