ORDER FOLLOWING APPEAL FROM ORDER TO VACATE
8123 GEORGE HILDEBRAN SCHOOL ROAD
MARSHALLESE NEW BEGINNINGS CHURCH

FINDINGS OF FACTS:

Background:

1. The Marshallese New Beginnings Church ("church") operates at 8123 George Hildebran Church Road in Connelly Springs.

2. On March 3, 2025, Burke County Chief Building Inspector Steve Holden conducted an inspection, after reviewing minimum requirements of the North Carolina Building Code and pursuant to NCGS Chapter 160D-1119, where he found individuals residing in the former school facility currently being used as a church.

3. Chief Holden determined that both the annex classroom building (the Annex) and the main church structure posed significant safety concerns, including deteriorating walls, overloaded floors, defective construction, decay, unsafe electrical wiring, and inadequate means of egress, more thoroughly referenced with photographs in Exhibit 1, all in violation of the North Carolina Building Code.

4. On March 11, 2025, Chief Holden, pursuant to NCGS Chapter 160D-1119(c) officially, posted the buildings as "unsafe".

5. The former classroom areas were being used as both individual and shared living spaces.

6. A notice of hearing pursuant to NCGS 160D-1121 was hand-delivered on March 11, 2025, to Pastor Laibwij, the appropriate individual to be noticed on behalf of the church. The notice was also sent to Pastor Laibwij at his address via first-class and certified mail on March 11, 2025.

7. A condemnation hearing was held on March 21, 2025, at 8:00 a.m. at the Community Development offices, where Deputy Chief Building Inspector Kenneth Greene presented the Order to Vacate the structures and discussed the lack of progress to address deficiencies in electrical, heating, structural, plumbing, sanitation, and the associated electrical, building, plumbing, and heating sections of the North Carolina Building Code, as reflected in Exhibit 1 page 10. Photographs and diagrams of the buildings were also introduced and are contained in Exhibit 1, pages 1-9, 11-15. Pastor Laibwij was present and spoke on behalf of the church.

8. During the hearing, an order was hand delivered pursuant to NCGS 160D-1122 requiring all occupants to vacate the property by May 20, 2025, citing the structures as fire and safety hazards and dangerous to life, health, or surrounding property.

9. A copy of the order was hand-delivered and sent by both certified mail and first-class mail to Pastor Laibwij.

10. While the main church building may still be used for religious purposes, neither it nor the Annex may be used for residential occupancy.

11. Pastor Laibwij, on behalf of the church, appealed the condemnation order on the same day it was issued, and Community Development staff submitted the appeal form to the Clerk to the Board on March 21, 2025.

12. Pursuant to the applicable provisions of NCGS Chapter 160D, the hearing was noticed, and the record was compiled by county staff and delivered to the parties.

The Hearing:

13. The quasi-judicial hearing was held on April 10, 2025, at the Burke Services Building (County Board Room) after being duly noticed. Pastor Laibwij was present to speak on behalf of the church. Numerous church members and members of the community were present at the hearing. The Burke County Staff, represented by Attorney Dylan Laws, including Building Code Inspector, Chief Steve Holden, and Fire Marshal Robert Bishop were present. A quorum of the Burke County Commissioners (Board) was present, sitting as the quasi-judicial body. No one objected to the Notice or hearing.

14. The following witnesses presented sworn testimony: Chief Holden, Chief Bishop, and Pastor Laibwij through his interpreter Bethany Fisher.

15. Chief Holden testified about his inspection of the property and discussed the building code violations at the property, which included the deficiencies in electrical, heating, structural, plumbing, sanitation, and the associated electrical, building, plumbing, and heating sections of the North Carolina Building Code. He created and presented a list of violations by code (Exhibit 1, page 10). Photographs and diagrams of the buildings were taken and presented (Exhibit 1, pages 1-9, 11-15). Exhibit 1, pages 16-17 contain code and safety concerns room by room. Exhibit 1 was admitted into evidence.

16. The Burke County Fire Marshal testified that he made numerous trips to the property from 2022 – 2024, he presented detailed findings and deficiencies, and presented his compiled notes, which are contained in Exhibit 1, pages 18-25.

17. Exhibits 1-5 were accepted into evidence.

18. Pastor Laibwij was present and spoke on behalf of the church.

19. Pastor Laibwij testified and presented evidence, including answering questions from the Board. He discussed some of the history of the church, acquiring the building and cooperating with staff. He testified that they did not have the funds to make repairs but thought if they had another 12 months, they could work to raise the funds and accomplish the work necessary to bring the building up to code.

20. Exhibit 6 was admitted – photographs of some repairs undertaken since 2022. Exhibit 7 was not admitted as it was determined that the photographs were of other properties in Burke County and not relevant to the matter at hand.

21. Other evidence presented at the hearing included the following background: The original complaints regarding residential use of the property were received by Community Development on September 13, 2022. Following the complaints, staff made contact with Pastor Laibwij and engaged in multiple communications regarding the use of the church and its numerous building code deficiencies. A previous condemnation hearing resulted in an order of remedy for the property to either comply with the intended occupancy or obtain all proper permits and plans to change the occupancy. The church, through Pastor Laibwij, appealed that decision as well and submitted architectural plans for renovation, which were sealed by a licensed architect. A building permit to renovate the structures was subsequently issued on December 19, 2022, but later expired after one year without any renovations having been started. Community Development staff reached out to a local nonprofit funding agency in the Spring of 2024 to explore grant support for renovations. A local architect provided a rough estimate for restoring the Annex, which came to approximately $500,000. The nonprofit ultimately declined to fund the project.

Procedural Matters:

22. At the outset of the hearing, legal counsel for staff objected to Pastor Laibwij speaking for the Church. After hearing arguments and seeking advice of counsel to the Board, the Board overruled the objection and permitted Pastor Laibwij to speak for the church at the hearing.

23. During the presentation of evidence by County staff, Pastor Laibwij asked for more time and for an interpreter.

24. The Board immediately provided an interpreter.

25. The Board, after hearing from both sides, considering the history of this matter and consulting with legal counsel, voted 3-1 to deny the request for more time.

26. After the interpreter was engaged, the Board gave Pastor Laibwij another opportunity to question staff's witnesses.

CONCLUSIONS:

1. The church timely appealed the Order to Vacate due to building code violations;

2. The hearing was properly noticed before the Board of County Commissioners in its capacity as the appellate board sitting in quasi-judicial review of the issuance of the Order to Vacate;

3. The parties were present through representation;

4. The parties had the opportunity to present testimony and evidence, to call witnesses and conduct cross-examination;

5. Upon request, the spokesman for the church was provided with an interpreter;

6. There was no dispute of material facts;

7. The evidence presented revealed competent and substantial evidence that the structures at issue were in violation of the required building and fire codes to present significant safety hazards for residential use of the property;

8. The church has failed to carry its burden of proof that there was any error or mistake in the code violations and Order to Vacate issued on or about March 21, 2025.

9. The Board finds, by a vote of 4-0, that the Marshallese New Beginnings Church properties at 8123 George Hildebran School Road - consisting of the Annex and those portions of the main building used for residential purposes, is in violation of the North Carolina Building and Fire Code, as delineated on Exhibit 1, page 10, and that the Order to Vacate should be affirmed and modified as set forth below.

IT IS THEREFORE ORDERED that
The Order to Vacate is affirmed and modified as follows: on or before May 12, 2025, by 5:00 P.M., the church may deliver to Burke County, through its Clerk to the Board,

1. Written evidence from a licensed building contractor of an estimate of the cost to make the required repairs/modifications; and
2. Written evidence of a line of credit or other proof of financial means demonstrating the church's ability to fund the necessary improvements, or written documentation of grants secured by the church that are sufficient to cover the cost of the repairs.

Should the church provide the above written evidence by 5:00 P.M. on May 12, 2025, the Board will set a date to reconvene to determine what additional time, if any, will be provided to the church to bring its premises into compliance with North Carolina Building and Fire Codes. The Board will provide appropriate notice of the hearing.

Conversely, should the church fail to provide the documents required under this Order, then the Order to Vacate by May 20, 2025, shall be in full force and effect.

The structures may continue to be used for assembly.

The Board authorizes counsel to the Board to prepare the Order and its Chairman to enter the Order and directs staff to serve this Order on the church.

For the Burke County Board of Commissioners: Date: April 16, 2025

Jeffrey C. Brittain, Chairman
Burke Co. Board of Commissioners

Attest:

Kay Honeycutt Draughn, CMC, NCMCC
Clerk to the Board