

IN THE MATTER OF THE APPEAL OF Donna Stanberry,
Appellant,

To the

HENDERSON COUNTY BOARD OF ADJUSTMENT,
Review Authority

ORDER DENYING APPEAL A-13-01

The HENDERSON COUNTY BOARD OF ADJUSTMENT having held a quasi-judicial public hearing on October 27, 2010 to consider the appeal by Appellant Donna Stanberry makes the following FINDINGS OF FACTS and draws the following CONCLUSIONS:

FINDINGS OF FACT

1. A quasi-judicial public hearing was held by the Henderson County Board of Adjustment on Appeal request A-13-01. A quorum of Board Members was present at the meeting.
2. This Denial Order was moved by Mike Earle and seconded by Tony Engel. The appeal was denied by a unanimous vote.
3. Donna Stanberry is the appellant and Marie Stanberry is the property owner. Donna was made a party with Marie as the witness.
4. Toby Linville is the Zoning Administrator and Jenny Maybin is the Enforcement staff and both were witnesses for the County.
5. All were sworn in to testify and the staff report, pictures, notice of violation, and appeal letter were entered into evidence.
6. The Nuisance Ordinance states that no Recreational Vehicle can be used as a primary residence without being permitted for electric, water and sewage (Henderson County Code 126-2.03).
7. The subject property has a PIN of 9597386983, is .5 acres, and is zoned Residential 2 Rural (R2R).
8. Ms. Maybin wrote a notice of violation because an RV was being used as a permanent residence.
9. There is no proof from aerial photography that the RV existed prior to the Land Development Code in 2007.
10. There is no proof in the permit system that any permits were granted for use of the RV since 2004.
11. Donna Stanberry testified that she and her husband lived in the RV temporarily but moved in permanently in the last month.
12. The RV is connected to power via an extension cord and utilizes a 12-volt battery. The RV has no water but has access to a water hose and the Stanberry's have access to water in Mrs. Marie Stanberry's house on the property. The RV is connected to septic.
13. Donna and Marie Stanberry state that the RV has been on the property since 2006.
14. According to Donna Stanberry, the RV has never been registered in North Carolina and is currently registered in South Carolina.

CONCLUSIONS

1. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.
2. The Henderson County Board of Adjustment is authorized to hear these appeals under Henderson County Land Development Code, section 200A-379.

3. The subject property is under the regulation of the Land Development Code and Nuisance Ordinance.
4. The Board of Adjustment found there to be credible, substantial proof of violations of Land Development Code and Nuisance Ordinance:
 - a. There is no evidence of permits for the RV since 2004.
 - b. The RV is registered in South Carolina.
 - c. Donna Stanberry said they were using the RV as their primary residence.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appearing to the HENDERSON COUNTY BOARD OF ADJUSTMENT that the **Appeal is DENIED.**

IT IS THEREFORE ORDERED by the HENDERSON COUNTY BOARD OF ADJUSTMENT as follows:

The Appellant's appeal is DENIED. The Board upholds the Zoning Administrator's decision.

ORDERED this the ___ day of June, 2013.

THE HENDERSON COUNTY BOARD OF ADJUSTMENT

By: _____
Jim Clayton, Chairman

ATTEST:

Jenny Maybin
Secretary to the Zoning Board of Adjustment