

IN THE MATTER OF THE APPLICATION OF
ANDREA OWENSBY, Applicant,
to the
HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT,
Permit Authority,
Regarding
PLACE OF ASSEMBLY, SMALL

The Henderson County Zoning Board of Adjustment held a quasi-judicial hearing August 30, 2017, to consider the application SUP-17-02, seeking a special use permit to allow use of certain property for the use “place of assembly, small” under the Chapter 42 of the Henderson County Code (“the Code”). The application was submitted by owners of the property in question. Having heard all of the evidence and arguments presented at the hearing, the Zoning Board of Adjustment makes the following findings of fact:

1. A quasi-judicial hearing was held by the Henderson County Zoning Board of Adjustment on the special use permit application SP-17-02. A quorum of members of the Zoning Board of Adjustment was present. The members present and participating were:

Ronald S. Kauffman, Chair
Anthony Engel
Ann Livingston Pouch
David Sandler
Hilliard Staton

2. All members of the Zoning Board of Adjustment affirmed their ability to make an impartial decision in this matter, and no party or member objected to any other member’s participation in this hearing.

3. Notice of the quasi-judicial hearing, pursuant to the Code was duly and timely given in accord with the provisions of §42-371. This included first-class mailing to the applicants and all adjacent property owners to the boundary of the subject property and the posting of notice on the subject property.

4. This application was filed by Andrea Owensby (the “Applicant”). Applicant is owner of the property to be included in the special use, which property consists of Henderson County PIN 0621266177. This property is currently zoned residential (R3). “Place of Assembly, Small” is a permitted use in this district with a special use permit.

5. At the commencement of this hearing, the Chair stated that the Board recognized the Applicants and the Henderson County Planning Department as parties to this hearing, and inquired whether any person or entity sought to become a party to this action. No such person responded.

6. In order to grant any special use, the Board must find that the proposed use will:

- a. Not materially endanger the public health, safety or welfare;
- b. Not substantially injure the value of property or improvements in the area; and
- c. Be in harmony with the surrounding area.

In the Matter of the Application of Owensby Small Place of Assembly
Order on Special Use Permit Hearing
File Number SUP-17-02

7. The information contained in the Request for Board Action and staff report, consisting of 10 pages, was received by the Board without objection. The statements found therein are found to be fact by this Board.

8. The Board must find that the proposed use meets the specific standards for each specific special use set out in the Henderson County Land Development Ordinance, Chapter 42 of the Henderson County Code. The use proposed here is "Place of Assembly, Small". The specific standards for the proposed use are set out in Supplemental Regulation SR 5.17 of the Land Development Ordinance, found at Section 42-63 thereof. The standards are as follows:

- a. A major Site Plan is required in accordance with §42-331 (Major Site Plan Review).
- b. Lighting mitigation is required.
- c. A structure must be constructed designed to accommodate a minimum of 40 and maximum of 499 persons.
- d. The perimeter setback is fifty (50) feet.

9. The Applicant testified that the property is subject to a conservation easement, and that she limits gatherings to 150 guests, and wishes to hold 30-35 events, May through December.

10. Pursuant to §42-356H, "[t]he concurring vote of four-fifths (4/5) of the members" of the Board is required to grant the special use permit, pursuant to Code Section 42-356. H(2). The requisite majority of the Board found that the proposed use would not materially endanger the public health, safety or welfare, would not substantially injure the value of property or improvements in the area; and would be in harmony with the surrounding area.

11. A motion was made by David Sandler to grant the special use, all standards having been met, and was unanimously approved.

From the foregoing, the Zoning Board of Adjustment concludes as follows:

1. All parties were properly before the Board, and all evidence presented herein was under oath, and was not objected to by any party. All evidence relied upon in this Order was credible and reliable.

2. The Zoning Board of Adjustment has jurisdiction to hear this matter.

3. All parties, and all persons entitled to notice, have been given proper notice of this hearing and afforded the right to be heard.

4. The application for the special use permit must be granted.

IT IS THEREFORE ORDERED by the Henderson County Zoning Board of Adjustment that Henderson County special use permit amendment application number SP-17-02 is hereby granted.

Announced 30 August 2017, and approved in final form, this the _____ day of September, 2017.

HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By: _____
RONALD S. KAUFFMAN, Acting as Chair

Attest: _____
TOBY LINVILLE, Secretary to the Zoning Board of Adjustment