

IN THE MATTER OF THE APPLICATION OF Fletcher Congregation of Jehovah's Witness
Applicant,

To the

HENDERSON COUNTY BOARD OF ADJUSTMENT,
Permit Authority

ORDER GRANTING SPECIAL USE PERMIT SUP-14-01

The HENDERSON COUNTY BOARD OF ADJUSTMENT having held a quasi-judicial public hearing on January 29, 2014 to consider the application submitted by Fletcher Congregation of Jehovah's Witness, to request a Special Use Permit, 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 special use permit request SUP-14-01. A quorum of Board Members was present at the meeting.
2. This Order and the approval herein, was moved by Hunter Marks and seconded by Tony Engle. The request for a special use permit was approved by a vote of 4-0.
3. The subject property is located at Howard Gap Road, 500ft off Massey Road and has a PIN of 9660-86-6497.
4. The Applicant is Fletcher Congregation of Jehovah's Witness, represented by owner Tom Kellen, and as such they were made parties to this action. He called Mike Anderson, project engineer, as a witness.
5. Toby Linville is the Zoning Administrator with Henderson County. As an agent of Henderson County, Mr. Linville was made a party to this hearing.
6. Notice of a quasi-judicial public hearing, pursuant to the Ordinance, the Henderson County Code 42-338 was duly and timely given. This notice was posted on the property notice sent by first class mail to the Applicants and the adjacent property owners.
7. The Applicant's special use permit request is not inconsistent with the Notice of Public Hearing produced, published, and posted for the quasi-judicial proceeding in that the notice contemplated the size and scope of the special use permit request.
8. Upon inquiry by the Chairman of the Zoning Board of Adjustment, no party objected to any other persons or entities made parties to this action being a party to this action.
9. All parties and all witnesses presented by any party were sworn as witnesses in this proceeding.
10. Without objection from any party, the Board of Adjustment received into evidence a memorandum, maps, pictures and a power-point presentation from Toby Linville. No party disputed any of the information contained in this evidence and the Zoning Board of Adjustment finds all the information contained in the memorandum and its attachments to be credible and to be fact for the purpose of this hearing. The Applicant's application and site plan were also entered into evidence.
11. The subject property is 2.92 acres off Howard Gap Road. The property is zoned Industrial (I).
12. The Applicant would like a Special Use Permit for a Religious Institution (SR 5.19).
13. The application went to the Technical Review Committee at their January 7, 2013 meeting and was approved.
14. **SR 5.19 Religious Institution**
 - (1) Site Plan. Major Site Plan required in accordance with §42-331 (Major Site Plan Review).
 - (2) Lighting. Lighting mitigation required.

(3) Operations. A religious institution shall be permitted accessory uses provided the requested accessory use is permitted as a principal/accessory use in the district in which the religious institution is located.

15. The subject property is surrounded by Residential 2 Rural (R2R) and Industrial (I). The surrounding uses are residential/industrial and undeveloped property.
16. The property is not in the Water Supply Watershed district or in the special flood hazard area.
17. The property currently has private water and private septic.
18. The property is currently vacant and has no existing structures.
19. Applicant is proposing the construction of a sanctuary and classroom building.
20. The Applicant is proposing off-street parking.
21. Ingress and egress are provided through an existing gravel drive that has been approved by NCDOT.
22. The structure is planned to be in the center of the property so as not to disturb the surrounding residences.
23. The maximum congregation size is 200 participants and the average service has 90-100 participants.
24. Mr. Linville testified that staff supports this application in an Industrial district because the surrounding area is residential, agriculture, and vacant land.
25. The 2020 County Comprehensive Plan (2020 CCP) designates the property in the Industrial Area.
26. Mr. Anderson stated that there will be on average approximately 30 trips per day and is below the NCDOT threshold for a traffic study.
27. The applicant has already started working with the soil erosion department to acquire the correct permits for construction.

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. All parties were properly before the Board of Adjustment 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.
3. Henderson County Code 42-323 grants the Board of Adjustment the jurisdiction to hear and make special use permit decisions.
4. The special use permit does meet all the standards of the Ordinance and the special use permit should be GRANTED based on the reasons established below:
 - a. The project does not materially endanger the public health, safety or welfare because the structure will be located in the middle of the property away from residences and there only approximately 90-100 attendees on average to the services.
 - b. The project will not substantially injure the value of property or improvements in the area because much the surrounding property is residential, agricultural, or vacant property.
 - c. The project is in harmony with the surrounding area because the surrounding properties are residential, industrial or undeveloped and the property is in the Industrial area under the 2020 CCP.
 - d. The project complies with all applicable local, state and federal statutes, ordinances and regulations because it meets the Special Requirements of the Land Development Code, and will meet the requirements by NCDOT and the Soil Erosion Ordinance.
 - e. The project is in accordance with the Comprehensive Plan, long-range transportation plans and comprehensive transportation plans of the County and/or long-range transportation plans and comprehensive transportation plans of any municipality of the County because it meets the Land Development Code with the Special Use Permit and is consistent with the Comprehensive Plan.
 - f. The project minimizes the effects of noise, glare, dust, solar access and odor on those person residing or working in the neighborhood of the proposed use because there will be minimal land

disturbance and the structure will be located in the middle of the parcel to buffer it from the nearby residences.

- g. The project minimizes the environmental impacts on the neighborhood, including the following groundwater, surface water, wetlands, endangered/threatened species, archeological sites, historic preservation sites and unique natural areas because it will meet the requirements of the Soil Erosion Ordinance, utilizing the existing gravel driveway, off-street parking and will not disturb much earth besides for the construction of the building.
- h. Ingress and Egress are properly met through an existing gravel driveway.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS drawn, and it appearing to the HENDERSON COUNTY BOARD OF ADJUSTMENT that the Special Use Permit must be **GRANTED**.

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

The Applicant's Special Use Permit has been GRANTED. The Applicant must adhere to the conditions established in this Order:

- 1. Property Owner must agree to in writing the provisions of this order.
- 2. Property Owner must comply with all the requirements in Supplemental Requirement 5.19.

ORDERED this the ___ day of February 2014.

THE HENDERSON COUNTY BOARD OF AJUSTMENT

By: _____
Michael Earle, Vice-Chairman

ATTEST:

Jenny Maybin
Secretary to the Zoning Board of Adjustment

ACCEPTANCE BY APPLICANT

I, _____, Applicant, do hereby acknowledge receipt of this order which is the subject of this special use permit request. I further acknowledge that no work may be done pursuant to this permit except in accordance with all of its conditions and requirements and that this restriction shall be binding on the owner and his successors in interest.

This the _____ day of _____, 2014.

_____, Applicant

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON COUNTY

I, _____, a Notary Public for said County and State, do hereby certify that
_____ personally appeared before me this day and acknowledged the due execution of the foregoing
instrument.

Witness my hand and official seal, this the _____ of _____, 2013.

(Official Seal) _____
Notary Public

My Commission expires