

**IN THE MATTER OF THE APPLICATION OF William and Tamra Crane  
Applicant,**

**To the**

**HENDERSON COUNTY BOARD OF ADJUSTMENT,  
Permit Authority**

**ORDER GRANTING SPECIAL USE PERMIT SUP-15-04**

\*\*\*\*\*

The **HENDERSON COUNTY BOARD OF ADJUSTMENT** having held a quasi-judicial public hearing on September 30, 2015 to consider the application submitted by **William and Tamra Crane**, 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-15-04. 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 Hilliard Staton. The request for a special use permit was approved by a unanimous vote of 5-0.
3. The subject property is located at 3420 Haywood Road and has a PIN of 9650-34-3953.
4. The Applicants are William and Tamra Crane and as such they were made parties to this action.
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. The following nearby property owners were also made parties to this action as adjacent or nearby property owners as determined by the Board: Russ Clemmer, President of Traditional Home Owners Association; Mary Stepp; Steve Bagwell; Bob and Connie Johns; Keith Grove; Sarah Massagee, an attorney representing Stanley and Elizabeth Shelley; Alan Windham; Guo Dehu; and Melanie Ellis.
7. The following people were called as witnesses by one of the parties: Mark White, Appraiser, by Ms. Massagee.
8. All parties and all witnesses presented by any party were sworn as witnesses in this proceeding.
9. Two letters were submitted by people who were not present at the hearing. The County objected to these letters being entered into evidence because the writers were not present to determine if they were parties and because the letters were hearsay. The Board upheld the objection and the letters were not entered into evidence.
10. Notice of a quasi-judicial public hearing, pursuant to the Ordinance, the Henderson County Code 42-371 was duly and timely given. The property was posted with notice on 9-8-15 and notice was sent by first class mail to the Applicants and the adjacent property owners.
11. 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.
12. Upon inquiry by the Vice-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.
13. Without objection from any party, the Board of Adjustment received into evidence a staff memorandum, maps, pictures, application and site plan 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 application and site plan were also entered into evidence.

14. The subject property is 14.12 acres.
15. The property is zoned Residential 2 (R2). All the surrounding property is Residential 2 (R2).
16. The Applicant would like a Small Place of Assembly (SR 5.17).
17. The application was reviewed by the Technical Review Committee at their September 1, 2015 meeting. TRC recommended approval of the site plan and recommended the Board of Adjustment approve the Special Use Permit with conditions that the applicant obtain a NCDOT Driveway Permit and apply for Public Water Supply Permit or connect to Municipal Water.
18. **SR 5.17. Small Place of Assembly**
  - (1) Site Plan. Major Site Plan required in accordance with §42-331 (Major Site Plan Review).
  - (2) Lighting. Lighting mitigation required.
  - (3) Structure. A structure shall be designed to accommodate a minimum of 40 and a maximum of 499 persons.
  - (4) Perimeter Setback. Fifty (50) feet.
19. The surrounding uses are mixed residential and educational uses. Rugby Middle School, West Henderson High School and Johnson Farm are in the area of the subject property.
20. The property is currently used for residential and agricultural uses.
21. There is currently a house, two garages and an existing barn on the property.
22. This proposed use will be conducted in a new barn that will be constructed on the property. The barn will be approximately 3000 square feet.
23. The event space will be used for weddings, receptions, and birthday parties with a maximum occupancy of 150 people. Applicants will be onsite during all events.
24. The Applicants have a residence on the subject property and will continue to reside there.
25. The application stated events will not go past 10:00 pm. Applicant agreed that they would accept that as a condition if the Board determined it was appropriate.
26. NCDOT will approve the driveway permit.
27. Property lines are buffered by a wooden fence on the southern boundary and the northern boundary has a buffer of mature pine trees.
28. The property is in the Upper French Broad River WS-IV Water Supply Watershed district.
29. The property is not in the Special Flood Hazard Area.
30. The property currently has private water and private septic. Public water is available to the subject property but is not connected.
31. The 2020 County Comprehensive Plan (2020 CCP) designates the property as Urban Service Area.
32. The main entrance for the small place of assembly is proposed off Bradley Road.
33. Impervious surfaces on the property will be increased for the new barn construction and the proposed parking lots.
34. Events most likely will take place in the evenings, on the weekends, and primarily from May to October.
35. Events may have alcohol (with permits), music and there may be outdoor events.
36. Mr. Russ Clemmer raised concerns about parking lot lighting on the surrounding residences because of the elevation of the subject property.
37. Mary Stepp has viewed numerous accidents on Country Road and was worried about the increase in traffic due to these events. She also raised concerns about music and alcohol from the events and the effect on property values.
38. Steve Bagwell stated that he can see the subject property through the row of pine trees and is worried about event attendees walking through his property, litter, security concerns to his property and that these events will prevent him from using his backyard.
39. Ms. Massagee presented photos showing the wooded perimeter and the Shelley's property.
40. Witness Mark White, property appraiser, testified that an event venue in the neighborhood would have a significant negative effect on property values and make it harder to find potential buyers but did not prepare any data to present to the Board on the actual effect on property values.
41. Connie Johns testified that she was concerned about traffic on Bradley Road.

42. Keith Grove stated that he had concerns about his daughter traveling to and from school with the increase in traffic.
43. Alan Windham testified about the negative effect this would have on the quality of life for his two small children and on his property value.
44. Mr. Dehu stated that his wife had a heart condition requiring a quiet neighborhood to maintain her health.
45. Melanie Ellis stated that she moved to that neighborhood about a year ago and thought an event space would interrupt the peace and quiet that attracted her to the neighborhood.

### 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 sworn 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 42-371 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 driveway on Haywood Rd will be personal use only and no vehicles will back up into the roadway from the entrance on Bradley Road.
  - b. The project will not substantially injure the value of property or improvements in the area because it is zoned Residential 2 and surrounding uses include a shopping center, middle school, high school and educational farm. The property will remain the owner's home with the addition of the barn used for assemblies.
  - c. The project is in harmony with the surrounding area because it is zoned Residential 2 and in the Urban Service Area of the Comprehensive Plan.
  - 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 the requirements of the NC Department of Transportation driveway permit.
  - 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 persons residing or working in the neighborhood of the proposed use because it will require light mitigation and dust reduction of parking areas.
  - 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 the additional building will not substantially increase impervious surfaces.
  - h. Ingress and Egress are properly met through an existing driveway off Bradley Road and approved by NCDOT.

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. Applicant must agree to in writing the provisions of this order.
2. Applicant must comply with all the requirements in Supplemental Requirement 5.17.
3. Applicants are bound to the site plan as presented except for the conditions in this Order.
4. There must be a 50 foot setback from the property line. There can be no parking in this setback. The only things permitted in the setback are the existing barn and any vegetative buffer, trees, or fence.
5. All designated parking needs to be physically buffered by vegetation or fencing.
6. No events can take place outside the hours of 10 am to 10 pm.
7. No event may have more than 150 people.
8. Any Amendments, changes or modifications of this Order must be approved by this Board.
9. Failure to comply with the conditions in this order may result in the revocation of this Permit.

ORDERED this the \_\_\_\_ day of October 2015.

THE HENDERSON COUNTY BOARD OF AJUSTMENT

By: \_\_\_\_\_  
Mike 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 \_\_\_\_\_, 2015.

\_\_\_\_\_, Applicant