

IN THE MATTERS OF THE APPLICATIONS OF

JOSHUA SMARTT, Applicants,

to the

HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT,
Permit Authority,

Regarding

“OFFICE”

The Henderson County Zoning Board of Adjustment held a quasi-judicial hearing October 26, 2016, to consider the application SUP-16-05, seeking a special use permit to allow use of certain property for office space and storage. The application was submitted by property owner. 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-16-05. A quorum of members of the Zoning Board of Adjustment was present. The members present and participating were:

Ronald S. Kauffman, Chair
Jim Clayton
Morton Lazarus
Anne Pouch
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 Henderson County Code (“the Code”) was duly and timely given in accord with the provisions of §42-371. This included mailing all adjacent property owners to the boundary of the subject property, published notice, and the posting of notice on the subject property.

4. This application was filed by Joshua Smartt (the “Applicant”). Applicant is the owner of the property to be included in the special use, which property consists of Henderson County PIN 9528624876. This property is currently zoned Residential Two Rural.

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 other people were made parties to this action.

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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.

7. In addition, 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 "Office". The use proposed is a potential special use in Residential Two Rural zones. The specific standards for the proposed use are set out in Supplemental Regulation SR 6.9 of the Land Development Ordinance, found at Section 42-63 thereof. The standards are as follows:

- a. Site Plan. Major Site Plan required in accordance with §42-331 (Major Site Plan Review)
- b. Lighting. Adequate lighting shall be placed in areas used for vehicular/pedestrian access including, but not limited to: stairs, sidewalks, crosswalks, intersections, or changes in grade. Lighting mitigation is required.

8. 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.

9. A motion was made by Jim Clayton to grant the special use, all standards having been met, subject to certain conditions. All members voted aye.

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 should be granted.

IT IS THEREFORE ORDERED by the Henderson County Zoning Board of Adjustment that Henderson County special use permit amendment application number SP-16-05 is hereby 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:

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1. Applicant must agree to in writing the provisions of this order.
2. Applicant must comply with all the requirements in Supplemental Requirement 6.9.
3. Applicants are bound to the site plan as presented except for the conditions in this Order.
4. Approval is contingent on a NCDOT driveway permit, approval by Environmental Health for the well and the septic systems and the requirements placed by the Technical Review Committee.
5. Any Amendments, changes or modifications of this Order must be approved by this Board.
6. Failure to comply with the conditions in this order may result in the revocation of this Permit.

Announced October 26, 2016, and approved in final form, this the ____ day of _____,
2016.

THE HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By: _____
RON KAUFMAN, Acting as Chair

Attest:

TOBY LINVILLE, Secretary to the Zoning Board of Adjustment