

REQUEST FOR COMMITTEE ACTION

HENDERSON COUNTY

Zoning Board of Adjustment

MEETING: September 26, 2018

SUBJECT: Bowers Appeal

PRESENTER: Toby Linville

ATTACHMENTS: Staff Report

SUMMARY OF REQUEST: Appeal of Chapter 41 Property Addressing

Suggested Motion: I move to uphold (overturn) the decision of the Property Addressing Coordinator in assigning new addresses for Briarwood Ln.

§41-14. Appeals

Action taken by the Property Address Coordinator or under guidelines set forth in this chapter may be appealed by the property owner(s) to the Zoning Board of Adjustment (ZBA). Such an appeal must be filed in writing within 30 days of written notification of required owner action with the Property Addressing Coordinator.

§42-379. Appeals

Questions arising in connection with the enforcement of this Chapter shall be presented first to the approving official or agency and shall be presented to the appellate agency only on *appeal* from the approving official or agency (See Table 12.1). *Appeals* must be filed 30 days from the date of the decision with the approving official or agency. Where the appellate agency is the Zoning Board of Adjustment (ZBA), the ZBA shall hold a public hearing on the *appeal* in accordance with §42-371 (Quasi-Judicial Process Standards).



Henderson County, North Carolina Code Enforcement Services

1. Committee Request

- 1.1. **Applicant:** William Bowers
- 1.2. **Request:** Appeal Chapter 41 decision
- 1.3. **PIN:** 9569345546
- 1.4. **Size:** .41 acres +/-
- 1.5. **Location:** 82 Briarwood Ln
- 1.6. **Timeline:**
 - 6/20/18 Accessory dwelling permitted. No available address between 108 and 110.
 - New addresses assigned to Briarwood Ln 7/13/18.
 - Appeal Letter received 8/17/18.

HENDERSON COUNTY
CODE ENFORCEMENT DEPARTMENT
ZONING ADMINISTRATION

APPEAL NOTIFICATION FORM

Name: William Theo Bowers
Address: 108 Briarwood Lane
City: H'ville State: NC Zip: 28791

Under what Ordinance are you requesting an appeal:

- Flood Damage Prevention Ordinance- Board of Adjustment*
 - Zoning Ordinance* *Property Addressing Chpt 41*
 - Erosion and Sedimentation Control Ordinance*
 - Watershed Ordinance *
 - Nuisance Ordinance [HCC §126-9]
 - Animal Control Ordinance [H.C.C. §66A-10D]
 - Manufactured Home Park Ordinance*
 - Solid Waste Ordinance- Board of Commissioners [H.C.C. §165-33]
 - Communication Facility Permit*
 - Map Amendment*
 - Text Amendment*
 - Technical Review Committee*
 - Planning Board*
- * Under 200A-273 and 200A-346 Henderson County ZBA will hear these appeals

Date of Violation or Order you are appealing if applicable: 7/13/18 Change in Address Notification

What are the reasons for your appeal?
I am a native of Hendersonville and also a Navy and Marine Veteran. I am living in my second generation home of over 70 years and my neighbor is building a tiny house in his back yard. Also he wants a address too. That will be a hardship for a least 10 people on that street.

PLEASE NOTE: Please Attach the Notice of Violation or Order being appealed when applicable.
There is no fee to appeal these ordinances

FOR DEPARTMENT USE ONLY:
Date Appeal Received: 8-17-18

Which Board hears the appeal? Board of Adjustment; Planning Board;
 Board of Commissioners; Animal Services Appellate Board

Date of Meeting Appeal will be heard: _____

Signature of Authorized Personnel _____

Date Aug 17, 2018 Cont..

Not only will we have to change our address of over 70 years, we have to change our drivers license too. A simple A or 1/2 would be simple to affix for the address instead of having 10 people changing everything for 1 person because he wants a tiny house for his mother in Poland. ???
Please look at this and review with respect so I ~~can~~ can live in some place and quiet at 108 Briarwood Lane.

William T. Bowers
U.S. NAVY 1979-1987
17 Aug 2018

Chapter 41 - Property Addressing

41-1. Title

Expand

This chapter shall be known and may be cited as the "Property Address Ordinance for the County of Henderson, North Carolina."

41-2. Purpose

Expand

- A. The purpose of this chapter is to provide a uniform property numbering system along streets in Henderson County in order to facilitate provision of adequate public safety and emergency response services.
- B. This chapter is further designed to eliminate duplicate or phonetically similar street names, to provide for the uniform marking of streets and to provide for the assignment of physical addresses for all addressable structures throughout the County.
- C. It is further designed to establish an official map and listing of all streets in Henderson County and to establish the procedures by which a street may be named or by which an existing name may be changed.

41-3. Statutory Authority

Expand

This Chapter is adopted under the authority and provisions of N.C.G.S.153A-239.1 and local modifications thereto.

41-4. Jurisdiction

Expand

This Chapter and the regulations and the procedures contained herein shall apply to and govern each and every lot, parcel or tract of land and improvement thereon within the County of Henderson outside of the jurisdiction of any incorporated municipality. This Chapter shall also apply to any municipality upon specific request of the governing body of the municipality and consent of the Henderson County Board of Commissioners through an interlocal agreement pursuant to N.C.G.S. Chapter 160A, Article 20

41-5. Definitions and Word Usage

Expand

- A. The following terms are defined for purposes of this Chapter:
 1. Addressable Structure - Any structure that has electrical power and telephone service to it. This includes but is not limited to single family dwellings, apartments, condominiums, businesses, Automatic Teller Machines (ATM), cellular telephone transmission towers, public pay telephones, telephone switch boxes, and utility service locations.
 2. House Number - Number assigned to any addressable structure in a sequential manner.
 3. Mailing Address - The address used by the United States Postal Service for the purpose of delivery of the United States Mail. The mailing address may or may not be identical to the property address.
 4. Property Address - The property number and street name shall serve as the property address.
 5. Property Address Coordinator - The person charged with the administration and enforcement of this chapter.
 6. Property Number- E911 number assigned to any addressable structure.
 7. Secondary Address - An approved postal secondary address (apt, unit, etc.) that can be found in Postal Addressing Standards, Publication 28, Appendix C2.
 8. State Road Number - A number assigned by the North Carolina Department of Transportation, also known as the "SR number" for secondary state-maintained roads.
 9. Street- Any public or private road, street, drive, lane, cartway, tramway, easement, right- of-way, access area, thoroughfare, highway, boulevard or any other corridor accessible by emergency vehicles.
 10. Street Name - The official name of any street, designated by the Board of Commissioners.
- B. Suffix - Any street type suffix that is listed in the Postal Addressing Standards, Publication 28, Appendix C1 may be used as a street suffix.

41-6. List of Official Street Names

Expand

- A. The Henderson County Property Address Coordinator shall maintain a listing of all street names in Henderson County as well as maintain an official map thereof as a data layer on the County's Geographic Information System (GIS) exhibiting the approved names and location of all streets in Henderson County and shall serve as a clearinghouse for all information regarding the names and location of streets in Henderson County.
- B. Any additions to such list are made through the procedure for approval of new subdivisions, planned unit developments, manufactured home parks or through other land development regulations.
- C. Amendments to the list of official street names shall be made pursuant to §41-7.1.

§ 41-6.1. Signage

Expand

- A. All steets in the areas of the County's jurisdiction pursuant to § 41-4 of this chapter shall be identified by a sign showing the official name and state road number (if applicable). Henderson County will only erect signs in the state right-of-way.
- B. All street signs shall have a green background with white lettering.
- C. All street signs shall have lettering size and reflectivity values that meet the Manual on Uniform Traffic Control Devices for Streets and Highways specifications.

41-7. Initial Street Naming and Numbering Procedures

Expand

- A. Under the authority and provisions of N.C.G.S. 153A-239.1 and local modifications thereto, a County may by ordinance name any street within the County and not within a city and may assign or reassign street numbers for use on such a street. In naming a street, the County may not:
 - 1. Change the name, if any, given to the street by the North Carolina Board of Transportation without its concurrence.
 - 2. Change the identification number assigned to the street by the Board of Transportation.
 - 3. Give the street a name that is deceptively similar to the name of any other street in the County.
- B. The County shall not name a street or assign or reassign street numbers on a street until it has held a public hearing on the matter, except as provided in §41-11. At least 10 days before the day of the hearing, the Board of Commissioners shall cause notice of the time, place and subject matter of the hearing to be prominently posted at the County Courthouse, in at least two public places in the township or townships where the street is located, and shall publish a notice of such hearing in at least one newspaper of general circulation published in the County.
- C. After naming a street, or assigning or reassigning street numbers on a street, the Henderson County office of the Property Address Coordinator shall cause notice of the Board's action to be given to the local postmaster with jurisdiction over the street, to the Board of Transportation, to any city within five miles of the street and to the following agencies: the Henderson County Sheriff's Department, Emergency Medical Services, and Volunteer Fire Department (including mutual aid departments) that is responsible for responding to the new street.
- D. The Henderson County Property Address Coordinator is authorized to determine the need for street names and name changes and to recommend such additions or changes to the County Commissioners for streets outside the corporate limits of any municipality within the County. If the Property Address Coordinator determines that a street not previously named under this Ordinance needs a street name, a suggested street name will be proposed to the property owners giving them the opportunity to accept the proposed name or to select a different street name to be presented to the Board of Commissioners. If either no response or a response representing less than a one hundred percent (100%) of the property owners is received within 30 days, the Property Address Coordinator has the authority to post that street and present the street name proposed by the Property Address Coordinator to the Board of Commissioners for the public hearing. If there is a favorable response by the property owners representing a one hundred percent (100%) for any particular street name, whether suggested by the Property Addressing Coordinator or by a property owner(s), then the Property Addressing Coordinator will post that street and present that proposed street name to the Board of Commissioners for the public hearing.
- E. A street name shall be assigned to any street which provides primary access to three or more addressable structures, regardless of the length of such street.
- F. As a matter of general policy, even numbers shall be assigned to properties on the right side of a street and odd numbers shall be assigned on the left side of a street.
- G. In order to allow for future development, the following general policy shall apply: one property address shall be assigned at an interval of 5.28 feet (the equivalent of 1,000 addresses for each mile of street).
- H. Property addresses for corner lot properties normally shall be determined by where the driveway entrance meets the street. Property owners may request an address based on how their structure faces. These request will be dealt with on a case by case basis. Property addresses for driveways that begin on one street and end on another street will be assigned by whatever street the front of the house faces.
- I. One physical address will be assigned to each addressable structure. Addressable structures that have multiple residences or multiple businesses contained in one building will be assigned one physical address per building with the secondary address will be assigned to the property owner. Town homes normally will be given a physical address to each unit. Assignment of addresses to structures not covered above will be assigned on a case by case basis.
- J. All assigned physical addresses will be assigned in accordance with standards that have been set forth by the National Emergency Number Association (NENA).

41-7.1. Renaming Streets Previously Named Under the Ordinance.

Expand

- A. The County may rename a street previously named under this Ordinance upon the showing of any one of the following numbered options:
 - 1. A majority of the Board of Commissioners finds such renaming to be in the interest of the County;
 - 2. At least one year has passed since the initial naming of the street or any hearing of a request to rename the street before the Board of Commissioners, and all of the owners of parcels for which the property address would or could (if an addressable structure was located on such parcel) have executed an application for renaming and
 - a. all agree on the new name to be assigned to the street; and,
 - b. the new name is otherwise acceptable under this Ordinance, and a majority of the Board of Commissioners finds that such renaming is not contrary to the County's interest. A fee of in an amount set by the Board in its fee schedules will be collected at the time such a petition is submitted to the Property Addressing Coordinator.
- B. The County shall not name or rename a street or assign or reassign street numbers on a street until it has given notice and held a public hearing on the matter in the manner as stated in §41-7, above.

41-8. Prohibited Street Names

Expand

The Henderson County Property Address Coordinator may not recommend to the Board of Commissioners proposed street names which fall under the following categories:

- A. Street names which have numbers as part of the name.
- B. Street names which are difficult to pronounce, utilize unconventional spelling, or offensive in nature, as determined by the Property Address Coordinator.
- C. Street names which are over 18 characters in total length, including spaces, but not including suffixes.

- D. Street names should not closely approximate phonetically the name of any street within the County, irrespective of a differing suffix. Street names that are deceptively similar to the name of any other street in the County. Unless in common or widespread use, these names may not include the prefix "New" or "Old" before street names which are already in use in the County.

41-9. Posting Of Numbers; Interior Spaces Excluded

Expand

- A. This chapter requires that the property owner of any residence, industry, business or other structure post property address numbers for the health, safety and general welfare of the citizens of Henderson County.
- B. Property addressing includes the assignment of street numbers to residences, businesses and other addressable structures within the areas of the County's jurisdiction pursuant to § 41-4 of this chapter. It shall not include the assignment of numbers to interior offices and rooms in houses, buildings and other structures.

41-10. Authority of Board of Commissioners

Expand

The Henderson County Board of Commissioners is hereby authorized to assign property addresses on streets which are not presently numbered and to readdress streets which are not numbered in accordance with §41-7, after a public hearing with the proper notices required by §41-7 being posted and published. The Property Address Coordinator shall have the discretion to determine the property addresses to be posted, published and submitted to the Board of Commissioners for a public hearing.

41-11. Subdivisions and Manufactured Home Parks with Proposed New Streets

Expand

Subdivisions and Manufactured Home Parks with Proposed New Streets.

- A. For all subdivisions and manufactured home parks which are developed in conformance with the Henderson County Land Development Code, and in which new streets are proposed, the following items must be submitted to the Property Address Coordinator for approval before any property can be subdivided and recorded:
1. Utilizing current Geographic Information System (GIS) technology, provide a compatible electronic file of the overall tract illustrating street layout.
 2. The name proposed for each street identified on the map.
 3. If an electronic version is unavailable, provide a scaled map of the overall tract illustrating street layout and names.
- B. The Property Address Coordinator will review the proposed street names for duplication and for overall compliance with the street naming policy.
- C. The approved street names shall be included in the final plat submitted for recordation.

41-12. Display of Numbers

Expand

All property address numbers shall be clearly displayed on the structure and be a contrasting color from their background so that the location can be easily identified from the street.

- A. It shall be the duty of the property owner to properly display the number which has been assigned by the Board of Commissioners.
- B. The property address number must be displayed by the main entrance to the building or on the street end of the building nearest the street so that it is most clearly visible from the street.
- C. If an addressable structure is more than 75 feet from the center line of the street to which the addressable structure fronts or if the addressable structure is not visible from the street, the property address number shall also be displayed at the end of the driveway nearest the street which provides access to the building. Such display should be at least six inches above driveway level with the numbers facing the street.
- D. All property address numbers shall be displayed numerically. Numbers may be displayed in script as long as numeric numbers are also properly mounted. When two or more numbers are displayed, each successive number may be either adjacent or offset. If offset, successive numbers shall not exceed 1/2 the height of the previous numeral. Numbers shall not be positioned vertically.
- E. Single family dwelling numerals shall be at least four inches in height and shall be posted and maintained so as to be legible from the street.
- F. Numerals for multiple dwelling units (ie apartment buildings, condominiums) and nonresidential buildings (factory's, business's) shall be at least six inches in height and shall be placed on the front of the building facing the street or on the end of the building nearest the street.
- G. All designated lots within a Manufactured Home Park, whether vacant or occupied, shall be clearly marked with the assigned property address.
- H. Numerals placed on mailboxes for United States Postal Service identification shall not be a substitute for the property address.

41-13. Enforcement

Expand

- A. Owners of buildings and Manufactured Home Parks which do not comply with this chapter will be notified and requested to meet these requirements within 30 days from the date of the notification. A second warning notice will be issued by registered or certified mail after 30 days if the requirements have not been met. If the owner or manufactured home park owner does not comply voluntarily with this chapter within 30 days, a third warning shall be sent by registered or certified mail stating enforcement action pursuant to N.C.G.S. 153A-123 and Henderson County Code 1-14 may be initiated.
- B. No building permit for any purpose shall be issued until an official property address number has been assigned. No permit, however, shall be denied pending appeal under §41-14 of this chapter.
- C. Officials of the following Henderson County departments may issue warning notices: Fire Marshal, Emergency Management, Property Addressing office, Enforcement Department and the Sheriff's Department.

41-14. Appeals

Expand

Action taken by the Property Address Coordinator or under guidelines set forth in this chapter may be appealed by the property owner(s) to the Zoning Board of Adjustment (ZBA). Such an appeal must be filed in writing within 30 days of written notification of required owner action with the Property Addressing Coordinator.

41-15. Prohibited Acts

Expand

It shall be unlawful for any person(s) to:

- A. Name or designate the name of any street in the areas of the County's jurisdiction pursuant to §41-4 of this chapter without compliance with this chapter.
- B. Erect any street sign on any street in the areas of the County's jurisdiction pursuant to §41-4 of this chapter without compliance with this chapter.
- C. Erect any street sign on any street in the areas of the County's jurisdiction pursuant to §41-4 of this chapter, which does not meet the current County sign specifications.
- D. Remove, deface, damage or obscure a street sign in the jurisdiction of this chapter.
- E. Number or assign a number to any addressable structure without compliance with this chapter.

41-16. Violations and Penalties

Expand

Any person violating the provisions of this chapter shall be subject to the penalty set forth in Chapter 1, General Provisions, Article II.

41-17. Amendments

Expand

This chapter may be amended from time to time by the Henderson County Board of Commissioners, as specified under Board policy for amending County ordinances.

41-18. Conflict with Other Provisions

Expand

Insofar as the provisions of this chapter are inconsistent with the provisions or any other local laws, the provisions of this chapter shall control. Insofar as the provisions of this chapter are inconsistent with the provisions of any state or federal law, the state or federal law shall control.

41-19 Through 41-28. (Reserved)

Expand

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