

IN THE MATTER OF THE APPLICATION OF

DANIE’L FLORES, Applicant,
to the
HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT,
Permit Authority,

Regarding

RECREATIONAL VEHICLE PARK

The Henderson County Zoning Board of Adjustment held a quasi-judicial hearing June 24, 2020 to consider the application SUP-20-04, seeking a special use permit to allow use of certain property for the use “recreational vehicle park” under the Chapter 42 of the Henderson County Code (“the Code”), and the related issue of a variance from one provision of Supplemental Requirement 4.15 of the Code for such use. The application was submitted by the owners of the property in question. Having heard all 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 SUP-20-04. A quorum of members of the Zoning Board of Adjustment was present. The members present and participating were:

Ronald S. Kauffman, Chair
Robert Pierce
Hilliard Staton
Jim Hysong
Bill Fishburne
Alternate: Louise St.Romain

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 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 Danie’l Flores (the “Applicant”), as applicant and property owner. The property to be included in the special use consists of Henderson County PIN 9598897496. This property is currently zoned Residential Three (R3). “Recreational Vehicle Park” 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 Henderson County staff as parties to this hearing and inquired whether any person or entity sought to become a party to this action. There was no one else in attendance sworn in as parties.

6. In order to grant any special use, the Board must find that the proposed use will:
- Not materially endanger the public health, safety or welfare;
 - Not substantially injure the value of property or improvements in the area; and

c. Be in harmony with the surrounding area.

7. The information contained in the Request for Board Action and staff report 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 Code, Chapter 42 of the Henderson County Code. The use proposed here is “recreational vehicle park”. The specific standards for the proposed use are set out in Supplemental Regulation SR 4.15 of the Land Development Code, 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. The perimeter setback is fifty (50) feet.
- d. Recreational vehicle spaces shall be a minimum of 2,000 square feet and shall have dimensions no less than 40 feet by 50 feet. A recreational vehicle space may contain up to four (4) campsites for tent set-up. No recreational vehicle space is permitted in the 100-year floodplain.
- e. Common Area. A common area shall be provided, that is equivalent in square footage to 25 percent the total square footage in: recreational vehicle/park model home spaces, structures on site, parking areas and driveways. Common area shall be accessible for the use and enjoyment of recreational vehicle park occupants, located as to be free of traffic hazards and maintained in good condition by the applicant.
- f. The recreational vehicle park:
 - i. Shall provide rental spaces:
 1. For the location of recreational vehicles, park model homes and/or tent set-up,
 2. Which may contain an open or covered porch not exceeding 15 feet in height and not to exceed 400 square feet in area, and
 3. Which have no point of direct access not indicated on the site plan;
 - ii. May contain structures ancillary to the use;
 - iii. Shall be permitted one (1) store, exclusively for the sale of incidental gifts and foodstuffs; and
 - iv. Shall provide, at the time of application, an evacuation plan for a natural disaster event.
- g. The facility shall provide a suitable method of solid waste disposal and collection consisting of either private collection from individual uses or the use of dumpsters (installed and/or operated to meet all local and state statutes, ordinances and regulations (including Chapter 95 of the Henderson County Code, Solid Waste) and thereafter certified by the Department of Public Health). Where dumpsters are used, Screen Class One (1), Two (2) or Three (3) shall be provided consistent with the requirements of §42-182 (Screen Classification).
- h. Recreational vehicle/park model home spaces shall not be provided individual hookups to a septic tank, approved public or community sewage disposal system or municipal sewage disposal system; instead, a central dump station shall be provided for the use of all occupants. A recreational vehicle park shall connect to a municipal sewage disposal system when the system is located within a distance equal to the product of 50 feet multiplied by the number of spaces proposed for the recreational vehicle park. If a park is located more than 2,500 feet from an existing municipal sewage disposal system, such connection shall not be required.
- i. Those facilities within the recreational vehicle park shall be for the sole purpose of serving the overnight guests in the park and shall adhere to the development standards established in SR 4.6 (Common Area Recreation and Service Facilities).

9. The Applicant’s plans follow the provisions of S.R. 4.15, except:

- a. The Applicant’s plans would have the recreational vehicles connected to individual hookups to private septic systems.

10. The Board determined to accept the application for this special use to include an application for a variance regarding the issue of individual hookups to a private septic system V-20-01.

11. As to the variance request regarding the provisions of S.R. 4.15(8), paragraph 8.h. regarding sewage disposal:

- a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of Chapter 42 of the County Code, as demonstrated by:
 - i. The fact that, if the Applicant complies with the literal terms of this Chapter, the Applicant cannot make a reasonable use of the property, in that the “park model” units are not intended to remain mobile, so could not comply with the requirement for a single “central dump station” as required by S.R. 4.15(8).
 - ii. This hardship of which the applicant complains is not the result of the applicant’s own action.
 - b. The Variance is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.
 - c. The Variance will secure the public safety and welfare and will do substantial justice.
 - d. The Variance is not based on the existence of a nonconforming use of neighboring land or structures in the same district, or permitted nonconforming uses in other districts.
 - e. The Variance does not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or subdivision regulations.

12. Chairman Kauffman moved to approve the special use permit with the following conditions: units placed so they cannot be moved, add a sight mirror in the curve, road will be maintained by applicant, enclose dumpsters so they are bear-proof, add roadside trees and noise/light mitigation between 8pm and 8am. Hilliard Staton seconded the motion. All members voted in favor.

13. Bob Pierce moved to approve V-20-01. Jim Hysong seconded the motion. All members voted to approve.

14. 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 and the variance must be granted, and the special use permit is subject to the express condition stated above.

IT IS THEREFORE ORDERED by the Henderson County Zoning Board of Adjustment that Henderson County special use permit application number SUP-20-04 is hereby granted on the condition stated above. V-20-01 is also approved to allow individual connection to septic systems.

Approved the 24th day of June, 2020 and approved in final form, this the 29th day of July, 2020.

HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By: _____
RONALD S. KAUFFMAN, Chairman

Attest:

TOBY LINVILLE, Zoning Administrator