

REQUEST FOR BOARD ACTION

HENDERSON COUNTY

BOARD OF COMMISSIONERS

MEETING DATE: 6 February 2006

SUBJECT: Order on Feldman addressing appeal

ATTACHMENT(S): Draft Order

SUMMARY OF REQUEST:

Attached is a draft order from this Board's 18 January 2006 hearing on the Feldman addressing appeal.

COUNTY MANAGER RECOMMENDATION/BOARD ACTION REQUESTED:

The County manager supports this proposal.

County staff will be present and prepared if requested to give further information on this matter.

In the Matter of the Appeal of
CLEMENT FELDMAN,
Appellant,

DRAFT

To the
HENDERSON COUNTY BOARD OF COMMISSIONERS

Pursuant to the Henderson County Property Addressing Ordinance

ORDER DENYING APPEAL

The Henderson County Board of Commissioners held a quasi-judicial hearing on 18 January 2006 on the appeal of Clement Feldman of his property address pursuant to the Henderson County Property Addressing Ordinance, Chapter 142 of the Henderson County Code. The only parties to the hearing before the Board of Commissioners were the appellant/petitioner, Clement Feldman, and the County's staff. Following the presentation of evidence by the parties and the arguments of the appellant, based on the evidence heard by the Board, the Board makes the following findings of fact:

1. Clement Feldman ("Feldman") brought this appeal pursuant to Chapter 142 of the Henderson County Code.
2. Pursuant to Section 142-17 of the Henderson County Code, an "[a]ction taken by the Property Address Coordinator or under guidelines set forth in this chapter may be appealed by the property owner(s) to the Henderson County Board of Commissioners. Such an appeal must be filed in writing within 30 working days of written notification of required owner action with the Clerk to the Board of Commissioners."
3. It is not clear from the record or the evidence presented to the Board that this appeal was taken within thirty working days of written notification of required owner action, but for the purpose of this hearing before this Board only, and for no other purpose (including future hearings), the Board presumes that it was.
4. Under Section 142-12 of the Henderson County Code, this Board is "authorized to assign property addresses on streets which are not presently numbered and to readdress streets which are not numbered in accordance with § 142-13, after a public hearing with the proper notices required by § 142-7 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."

5. Chapter 142 of the Henderson County Code is adopted pursuant to the authority of N.C. Gen. Stat. §153A-239, which allows North Carolina counties to adopt road naming statutes.

6. Pursuant to N.C. Gen. Stat. §153A-239.1, "the word 'road' means both private roads and public roads." Under Section 142-7E of the Henderson County Code, a "street name shall be assigned to any public or private road which provides access to three or more residences, businesses, industries or combinations thereof, regardless of the length of such road."

7. Feldman contends that he should not have been assigned an address on "Spring Blossom Lane", which is a private road that Feldman contends is his driveway.

8. The Henderson County Property Address Coordinator has in the past named the private road on Feldman's property "Spring Blossom Lane", asserting that it provides access for three residences, and assigned Feldman's property an address on "Spring Blossom Lane", namely 33 Spring Blossom Lane.

9. It is not contradicted that two residences beyond the Feldman house are provided access via a right-of-way over "Spring Blossom Lane".

10. Feldman contends that his driveway accesses Forge Crest Drive, and not "Spring Blossom Lane", and that he should be assigned a Forge Crest Drive address.

11. Exhibit C-1, attached, is a photograph offered by Feldman of the intersection of "Spring Blossom Lane" with Forge Crest Drive, with such intersection at the extreme left of the photograph, and Feldman's house in the background in the upper right-hand corner of the photograph.

12. Feldman's driveway accesses "Spring Blossom Lane", rather than Forge Crest Drive.

13. Pursuant to Section 142-13C of the Henderson County Code, "[p]roperty addresses for corner lot properties shall be determined by where the driveway entrance meets the street."

From the foregoing, the Henderson County Board of Commissioners concludes as a matter of law as follows:

1. That it has jurisdiction over this matter, and that, for the purposes of this hearing only, the appeal of Feldman was timely filed.

2. That Feldman's property should have been assigned an address of Spring Blossom Lane, as it was.

3. That Feldman's appeal should be denied.

WHEREFORE, IT IS ORDERED AND DECREED that Feldman's appeal pursuant to Chapter 142 of the Henderson County Code is hereby denied.

Announced by the Board 18 January 2006, and approved in final form, this the 6th day of February, 2006.

THE HENDERSON COUNTY BOARD OF COMMISSIONERS

DRAFT

By: _____
WILLIAM L. MOYER, Chairman

Attest:

DRAFT

Elizabeth W. Corn, Clerk to the Board of Commissioners

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that a copy of this Order was served upon the Appellant by depositing a copy of the same in a postage prepaid wrapper in the sole custody and control of the United States Postal Services, properly addressed to:

Mr. Clement Feldman
33 Spring Blossom Lane
Horse Shoe, North Carolina 28742

This the _____ day of February, 2006.

DRAFT

Elizabeth W. Corn, Clerk to the Board of Commissioners

EXHIBIT
C-1

