

MINUTES OF THE HENDERSON COUNTY
ZONING BOARD OF ADJUSTMENT

The Henderson County Zoning Board of Adjustment held a regularly scheduled meeting on Wednesday, October 30, 2002, at 4:00 PM in the Meeting Room of the Henderson County Land Development Building, 101 East Allen Street, Hendersonville, North Carolina. Those present were: Chairman Diane Grant, Tamra Crane, Anthony Engel, Ann Pouch, Zoning Administrator Daniel Gurley, Planning Director Karen Smith, and Acting Secretary Amy Brantley. Robert Fleming arrived late.

Chairman Grant called the meeting to order at 4:05 PM and introduced the members of the Board. Chairman Grant presented the minutes of the meeting held on July 28, 2002. There were no corrections or changes. The Chairman said that the minutes stand approved as presented.

Because only four (4) members of the Board were present, Chairman Grant said that the applicants have the option of continuing their cases until there is a five (5) member Board. Chairman Grant explained the votes necessary for approval of their applications. Both petitioners chose to have their cases heard tonight.

Chairman Grant called forward people who would testify in cases today. Sworn in were: Maxine Staton, Ken Fitch, Ken Stubbs, Dan Gurley, and Karen Smith. Robert Fleming arrived.

Case CU-02-13, Maxine Staton

Chairman Grant called Case CU-02-13, Maxine Staton, requesting a Conditional Use Permit to use property in a R-20 district for a Customary Home Occupation (Beauty Shop). The property is located on Loop Road. She opened the hearing.

Daniel Gurley gave a summary of the issues. The applicant is seeking a Conditional Use Permit to operate a Beauty Salon as a customary incidental home occupation. The approximate size of the property in question is 1.11 acres. The parcel is zoned R-20. Section 200-7.B defines a customary incidental home occupation, which he would read if the Board requested. The applicant wishes to operate a beauty salon inside a portion of her residence. The applicant is proposing to use 683 square feet of the entire 6,677 square feet (on the applicant's plan) (3,216 sq. ft. per Tax Assessors Office). This is under the 25% regulation (ref. HCZO Section 200-7.B). R-20 allows for customary incidental home occupations with a Conditional Use Permit (ref. HCZO Section 200-15.C (2)). Section 200-40.A requires one (1) off-street parking space per two hundred (200) square feet of gross floor space. The applicant's proposed 683 square feet for the salon area requires 3 spaces. The applicant has proposed a 6 ¼ square foot sign made from wood that will be five feet high. Mr. Gurley will let the applicant describe the sign. Mr. Gurley presented and described maps and photographs of the property.

Chairman Grant asked where parking would be. Mr. Gurley said it was not on the plan, so the Board would have to ask Ms. Staton. Mr. Gurley said Ms. Staton said that she would be the only employee at the Beauty Salon, so there would just be one person coming to the Salon at a time.

Chairman Grant asked about visibility from the driveway into the street. Mr. Gurley said that it was very good because of the curve in the road.

Mrs. Pouch asked where the sign would be. Mrs. Crane said there was a sign indicated on the site plan.

Chairman Grant called Ms. Staton to come forward. Chairman Grant asked Ms. Staton to explain Minutes – Oct. 2002

the sign, where it would be placed, how high, etc. Ms. Staton said that it would be about 5 feet from her mailbox. It would be 2 ½ ft. x 2 ½ ft. and made of wood. She said that it was on her business in Flat Rock now. There would be no lighting. Chairman Grant asked where Ms. Staton would park once the garage was eliminated and used for the Beauty Salon. Ms. Staton said there was a driveway, a garage and some carports in the back of the house.

Ms. Crane asked about the discrepancy in the square footage of the house. Ms. Staton said that she was told she would be able to count the basement in the square footage. Ms. Crane asked if it was finished and heated and Ms. Staton said yes. The plan submitted did not add up to the 6000 sq. ft. stated and Ms. Staton could not justify the 6000 sq. ft. Mr. Gurley said that the Tax Office is taxing her on 3216 sq. ft. The Board discussed the size of the building and what is used to arrive at the 25% usage. Ms. Crane stated that for the record the decision would be based on the house size of 3216 square feet, if that is all right with the Board. The Board said that was quite reasonable.

Ms. Staton that she would be working alone and has no plans for expansion. Ms. Staton said that there was plenty of room for parking and turning around in the driveway. Mr. Gurley said that while he was there, there was hardly any traffic. Ms. Staton said that the visibility was good from the driveway.

Chairman Grant asked about the sewer and water. Ms. Staton said that she had a septic system and city water. Chairman Grant asked about room for an additional drain line if necessary because of the additional water usage. Ms. Staton said that there was room.

Chairman Grant asked if there were any other questions. There were none. Chairman Grant asked if there was anyone to speak in favor of the application. Ken Fitch came forward to speak in favor of Ms. Staton for her positive effect on the community. Mrs. Crane asked if Mr. Fitch lived in the area of the property. Mr. Fitch said no. Chairman Grant asked if there was anyone to speak in opposition to the application. There was no one. The Chairman closed the public hearing.

Chairman Grant asked for discussion from the Board. Mrs. Crane said that ingress and egress were addressed with 2 driveways and a turnaround. She said that provisions for off street loading and unloading were not applicable. The Chairman addressed utilities. There is no sign or light problem and the septic system, Ms. Staton says, is adequate. Mrs. Crane said that there is nice buffering around that will maintain the residential area. Mrs. Crane said that she felt that the provisions under the permit were met. Chairman Grant said that the testimony given indicates that there would be no adverse effect on the health or safety of persons working or residing in the neighborhood based on the proposed use and it would not be detrimental to the public welfare or injurious to the property or public improvements in the area.

Chairman Grant asked for a motion. Mrs. Crane said that with regard to the application of CU-02-13, Maxine Staton, for a conditional use permit authorizing operation of a hair salon on the property in question, I move the Board to make the following findings of facts: the proposed use will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use; the proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. Accordingly, I further move the Board to grant the requested Conditional Use Permit with and only to the extent represented in the application and with the following conditions: the Board considers the structure to be 3216 sq. ft. in size, the 25% usage of the structure is met, the 3 parking spaces are provided, the signage is appropriate. Mr. Engel seconded the motion. There was no further discussion.

The Chairman called for the vote on the application with the conditions. The following vote was taken by a show of hands:

Mr. Engel	Yes
Mrs. Crane	Yes

Mrs. Grant	Yes
Mrs. Pouch	Yes
Mr. Fleming	Yes

Motion carried and the conditional use permit was approved with conditions.

Case CU-02-14, Ernest E. Williams

Chairman Grant called Case CU-02-14, Ernest E. Williams, requesting a Conditional Use Permit to use property in a C-4 district for a Shopping Center. The property is located on the corner of US Hwy 176 and Mill Street.

Mr. Gurley gave a summary of the issues. The applicant is seeking a Conditional Use Permit in order to construct a shopping center in a C-4 district. The approximate size of the property in question is 2.43 acres. The parcel is zoned C-4. Section 200-22.B(1) allows for shopping centers with a Conditional Use Permit. Section 200-55 dictates the procedure that must be followed in granting a Conditional Use Permit. Section 200-69.C dictates the finding that the Board must have certified before granting a Conditional Use Permit. Section 200-22.C states the dimensional requirements of the district. Section 200-40 state that shopping centers are required to have 1 space per each 300 square feet of gross floor space. The building area of the proposed project (3 new buildings) is 15,600 square feet requiring a minimum of 52 spaces (25 spaces are required for the existing building per CU-00-18 [the minutes and permit are in your packets and the folder is here]). The applicant has indicated 68 spaces on the proposed site plan for new buildings; existing building has no exact parking indicated. With the new site plan, Mr. Gurley believes the parking requirement is being met to the conditions of the Planning Board. Existing building currently operates under a Conditional Use Permit (#CU-00-18 file available at meeting) that requires 25 spaces for the current building. Section 200-41 requires one off street loading and unloading space for each 10,000 square feet of gross floor area for retail use. The applicant is showing a total of 23,100 square feet of gross floor space (including existing building). The applicant will need to address signage issues, type, placement, lighting, size, etc (ref. HCZO Section 200-69.C(6)(f)). Applicant will need to address lighting and how they will intend to control glare, if proposed, from Hwy 176, Mill Street, and adjoining properties (ref. HCZO Section 200-69.C(6)(b)). Upon the request of this Board, the Planning Board reviewed the application on October 15, 2002 and voted unanimously to send forth a favorable recommendation to the Zoning Board of Adjustment. Mr. Gurley read the Planning Board's motion and conditions and a new site plan meeting the conditions for parking and off street loading and unloading. There is also a schematic of the proposed sign with a 20-foot maximum size and called Mills Central Complex. Chairman Grant asked where the sign would be placed and Mr. Gurley pointed it out on the site plan. Mr. Gurley described all the paperwork included in the Board's packets. Mr. Gurley presented photographs of the property and described them.

Chairman Grant said that the proposal looks like there will be 4 buildings on the property. Mr. Gurley said yes including the existing building, which will remain. Mr. Gurley clarified which building will be built first, with the remaining 2 buildings to be built in the future. Chairman Grant asked about the utilities. Mr. Gurley said city water and sewer is available.

Mrs. Pouch asked if all the buildings will be similar. Mr. Gurley suggested asking the applicant, but he believed they would be using the schematic included in the packet.

Chairman Grant called the applicant forward and Mr. Williams said he would represent his father. Mr. Williams said that the buildings would be similar to the existing one – blue metal siding with blue metal roofs. Mr. Williams pointed out which building would be built first, then when it was rented build future buildings. Mrs. Crane asked if the existing building would remain as is. Mr. Williams said yes. Chairman Grant asked about present tenants. Mr. Williams said there were a lawn mower repair and a blacktop office in the present building.

Mrs. Crane asked if the proposed parking spaces cover all three new buildings and the existing building. Mr. Williams said yes. Mr. Engels asked if the existing house would be removed. Mr. Williams said they would remove it eventually, with the third or fourth building.

Chairman Grant asked about the loading and unloading areas that are proposed. Mr. Williams said they are proposing that each building have garage doors with the loading place in the back of the buildings. Mr. Williams pointed out a slab pad next to the existing building used for truck unloading and he pointed out the garage doors on the building. Chairman Grant asked if there was room between the buildings for trucks and Mr. Williams said yes. Chairman Grant asked about the trucks access to Hwy 176 and Mr. Williams said it would not be a problem. The Board discussed the access for trucks.

Mrs. Crane asked where the property ended. Mr. Williams pointed it out. She asked why he removed the buffering from the bank. Mr. Williams said that they removed dirt to level the area and cleaned up the property. Mrs. Crane said that the previous conditional use permit was granted with the property having sufficient buffering and then it was gone.

Chairman Grant asked about the proposed sign and lighting. Mr. Williams pointed out where the sign would be, with no plans for lighting the sign. Chairman Grant asked about outdoor lighting for the parking lot. Mr. Williams said all the lighting would be attached to the building. Chairman Grant was concerned about glare on Hwy 176. Mr. Williams said if there were any concerns, they would take care of them.

Chairman Grant asked how many units would be in the new building. Mr. Williams said there would be 2, but someone could rent the whole building. They would all be constructed the same way. One of the buildings could have up to 4 tenants. Mrs. Pouch asked if the buildings were industrial or business or storage. Mr. Williams said the future buildings would be retail and/or service oriented. Mrs. Crane asked about the height of the building was about the same height as the existing building. Mr. Williams said yes. Chairman Grant said the height maximum was 20 feet. Mr. Williams said yes.

Mrs. Crane asked where the end of the property was and if the trees were on his property. Mr. Williams said that there was a fence and the owner of the property was planning on building a building on his property. Mr. Williams described the property around the house. Mrs. Crane asked if someone lived in the house. Mr. Williams said yes, it is rented and has recently been connected to city sewer.

Mrs. Crane asked about access off Hwy 176 with 2 trucks at the same time. Mr. Williams said there was no dimension on the site plan but it will be wide enough. Right now he guessed it was 30 – 40 feet. Chairman Grant about DOT regulations of the size. Mr. Gurley said they do, but this would probably be existing and grandfathered. Mrs. Crane questioned how easy it would be to see but Mr. Williams said it is practically level and they would level the parking lot.

Chairman Grant asked the use of the property adjoining Mr. Williams's property. Mr. Williams said there is an old house there and the owner has plans to build a building – that the use he believes is commercial. Chairman Grant asked about buffering along the line. Mr. Williams said there is a fence and the trees weren't very large along the fence line. Chairman Grant said that if the adjoining property is commercial, there is no need for a buffer.

Chairman Grant asked if there were any more questions or concerns. There was none. Chairman Grant asked if there was anyone to speak in favor of the application. There was no one. Chairman Grant asked if there was anyone to speak in opposition. There was no one. The Chairman closed the public hearing.

Chairman Grant asked for discussion and findings of facts. Mr. Fleming suggested that, due to increased traffic on Hwy 176, the ingress and egress be made 60 feet wide off Hwy 176. Mr.

Stubbs said that trailer trucks currently do turn in on the existing road. Chairman Grant asked if there was curbing. Mr. Stubbs said there is curbing and the old mill had more tractor-trailers using the turn than there would be now. Mr. Stubbs said he thinks it is a 40-foot cut, which is standard and adequate. Mr. Stubbs said that it is better than at the intersection.

Mrs. Crane asked if all the surrounding property was commercial and therefore no need for buffering. Mr. Gurley said there was a map in the packets and said there was O & I behind Mill Street and R-15 across Spartanburg Hwy. The adjoining property is C-4. Chairman Grant said that the testimony given indicates that the surrounding property is commercial and so no need for buffering and the proposed use of the property would not adversely affect the health or safety of persons working or residing in the neighborhood based on the proposed use. Ingress and egress has been addressed by the applicant. The site plan indicates sufficient parking and off street loading areas. Utilities are public and immediately available. Chairman Grant asked about landscaping. Mr. Gurley said the Board could address landscaping and the site plan does show some landscaping. If the Board is satisfied with the landscaping shown, they can go from there. Chairman Grant said if something is on the plan, it is a requirement. Mrs. Smith said it is a requirement, but the Board could specify when certain things should occur. Mr. Fleming asked if a condition should be placed to keep all the buildings in harmony with each other, such as color. Mr. Stubbs pointed out other buildings built by the Williams that are exceptionally nice. He described how they renovated the mill building to keep it attractive for the tenants and customers. Mr. Engel questioned a porch and parking on one of the buildings. Mr. Stubbs gave a history of their application and that the buildings may have to vary in placement to meet zoning requirements. There was discussion about placement of the buildings and setbacks. Mr. Stubbs said they are using less than 40% of the property. Mr. Gurley clarified the zoning setbacks versus other setbacks.

Chairman Grant said that she would like to see as conditions on the permit – the sign be unlighted and no outside lighting other than attached to the building. Mr. Williams and Mrs. Smith discussed the sign and the possibility of lighting it. The condition was changed to if the sign was to be lighted, the lighting be indirect and meet the sign ordinance and any outside lighting have non-glare shielding.

Chairman Grant asked for a motion on the variance. Mr. Engel said that with regard to the application of CU-02-14, Ernest E. William, for a conditional use permit authorizing operation of a shopping center on the property in question, I move the Board to make the following findings of facts: the proposed use will not adversely affect the health and safety of persons residing or working in the neighborhood of the proposed use; the proposed use will not be detrimental to the public welfare or injurious to property or public improvements in the neighborhood. Accordingly, I further move the Board to grant the requested Conditional Use Permit with and only to the extent represented in the application and with the following conditions: as previously stated. Mrs. Pouch seconded the motion. There was no further discussion.

The following vote was taken by a show of hands:

Mr. Engel	Yes
Mrs. Crane	Yes
Mrs. Grant	Yes
Mrs. Pouch	Yes
Mr. Fleming	Yes

Motion carried and the Conditional Use Permit was approved with conditions.

This concluded the hearing of cases.

COMMITTEE AND STAFF REPORTS:

Mrs. Smith said that each member has in front of them current Zoning Ordinance with recent amendments incorporated into the text. The other is the latest draft of the Zoning Ordinance rewrite. Mrs. Smith spoke about the change in philosophy of the Board of Commissioners with regard to leaving the residential districts alone. She spoke about the changes in districts, changes in general, and temporary uses.

OLD BUSINESS: None

NEW BUSINESS:

Mr. Gurley spoke to the Board about the holiday season and the usual changes in the meeting schedule. The November meeting is scheduled for the day before Thanksgiving. The Board discussed alternatives, also for the December meeting. Chairman Grant suggested the November meeting be moved to December 4th and the December meeting be moved to January 8th (if needed) with the application deadlines remaining the same. Mrs. Crane made a motion to accept those dates and Mr. Engel seconded. All voted in favor.

There being no further business, Tamra Crane made a motion to adjourn, Robert Fleming seconded the motion, and all members voted in favor. The meeting was adjourned at 5:40 PM.

Diane Grant, Chairman

Joyce Karpowski, Secretary