

**MEETING SUMMARY OF THE HENDERSON COUNTY  
BOARD OF ADJUSTMENT MEETING  
July 29, 2020**

The Henderson County Board of Adjustment held its regularly scheduled meeting at 4:00 p.m. at 100 N King St Hendersonville, North Carolina.

Board Members Present:

Louise St.Romain  
Hilliard Staton  
Ron Kauffman  
Jim Hysong  
Bill Fishburne

Staff Members Present:

Toby Linville  
Russ Burrell

**Call to Order / Introduction of the Board:** Chairman Kauffman called the meeting to order at 4:00 pm.

**Review and Approve June 24, 2020 Meeting Summary:** Chairman Kauffman asked for approval of the June meeting summary. Hilliard Staton moved to approve the meeting summary. Louse St. Romain seconded the motion and all members voted in favor.

**Order SUP-20-04 Lane Rd RV**

Chairman Kauffman asked if there were any changes to the order. Hilliard Staton moved to approve the order. All members voted in favor of the order.

**Order A-20-01 & A-20-02**

Chairman Kauffman asked if there were any changes to the order for continuance. The order was approved by acclamation.

**A-20-01 Barnwell Appeal**

Chairman Kauffman read the quasi-judicial script. Chairman Kauffman administered the oath to Toby Linville as staff, Cindy and Gary Barnwell as applicants, Richard Tanker as Attorney and Lois Greene Brown and Nancy Snowden as witnesses.

Richard Tanker opened the appeal by requesting a continuance for the Barnwell's to allow their attorney J. Michael Edney and their accountant to testify and to complete their applications for a bona fide farm. Toby Linville read the staff report into the record. Lois Greene Brown and Nancy Snowden spoke in opposition to the storage containers on the property.

Louise St.Romain asked why they were placed in the front. Gary Barnwell answered that they intended to build pole sheds and roofs around the containers to enclose them when they were placed there in September 2019. Chairman Kauffman asked why Mr. Barnwell had not checked the rules before placing the containers? Mr. Barnwell said he did not know it was not allowed. Bill Fishburne said the question was whether to grant a continuance or rule on the rules as they apply today. Russ Burrell stated that if it is a farm, whether it's certified or not zoning doesn't apply. Richard Tanker stated that the Land Development Code exempts farms and bona fide farms from the regulations of the Code and that it is a farm even without the bona fide status. Chairman Kauffman asked if Mr. Barnwell raises livestock. Mr. Barnwell answered that they raise horses. Chairman Kauffman asked how many acres of hay. Mr. Barnwell answered that they had roughly 25 acres in separate tracts and 5 acres of hay. Chairman Kauffman asked what makes Mr. Barnwell a farm. He stated that he has been unable to qualify for present use value with Henderson County but may get a forest management plan at the first of the year. Cindy Barnwell stated that they have applied for a NC Department of Revenue Sales Tax Exemption and will complete a Schedule F from their tax return. Richard Tanker said he wasn't sure if 30 days would be enough time to complete the bona fide farm process. Chairman Kauffman asked for more detail about the pole shed around the containers. Mr. Barnwell explained that there will be shed built around and over the containers. Chairman Kauffman asked Ms. Snowden if the containers in the front yard were an issue for the neighborhood. Ms. Snowden said that the buildings are unsightly. Mr. Tanker said that building the structure to be aesthetically pleasing to the neighbors is a slippery slope. Toby Linville recommended deciding on the appeal then stay any enforcement for 60 days to apply to become a bona

fide farm. Russ Burrell said that if the board considers the property to be a farm, they could make that determination today.

Hilliard Staton moved to close the public hearing. Louise St.Romain seconded the motion. All members voted in favor. Louise St.Romain said that the Schedule F should be a simple exemption to prove. She said that Turbo Tax specifically asks if there is any agriculture income. Hilliard Staton said that if this considered a farm that this should not be an issue. Chairman Kauffman said the issue was whether it was a farm and exempt from the rules or must meet the requirements and remove all but one building. Jim Hysong said the property has been R-40 all along and can't just become a farm. He further asked if a farm can go in a R-40 district. Russ Burrell answered that farms are allowed Toby Linville said that we can't just make the property a farm without it meeting one of the statutory obligations to become a farm. Ron Kauffman said Bill Fishburne said that he would like to discuss grandfathering. He said that when zoning came in, within four years all the County Commissioners who had approved it were voted out. He said he would like to hear the legal argument why it wasn't grandfathered. Chairman Kauffman said the simplest process if for the owners to complete the process to become a bona fide farm. Mr. Fishburne said if its grandfathered then the board rules in favor of the Barnwells. Russ Burrell said it doesn't matter if it is grandfathered if it is considered a farm. He said if you want it to be a farm in North Carolina it can always be if the owner wants it to be. Ron Kauffman recommended two motions, call it a farm and exempt or allow continuance to become bona fide farm.

Bill Fishburne moved to find in favor of the Barnwells. Hilliard Staton seconded the motion. Kauffman, St.Romain and Hysong voted against the motion.

Louise St.Romain moved to continue A-20-03 until 9/30/20 for time to complete bona fide farm status. Hilliard Staton seconded the motion. All members voted to continue the appeal.

**Adjournment:** The meeting was adjourned at 4:57 upon motion by Bill Fishburne.

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Ronald Kauffman, Chairman

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Toby Linville, Zoning Administrator