

In the Matter of the Application of Oliver Burns for Office/Outdoor Storage  
*Order on Special Use Permit Hearing*

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

BEFORE THE ZONING BOARD OF ADJUSTMENT  
FILE NUMBER: SUP-20-05

IN THE MATTER OF THE APPLICATION OF

OLIVER BURNS, Applicant,  
to the  
HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT,  
Permit Authority,

Regarding

Office/Outdoor Storage

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The Henderson County Zoning Board of Adjustment held a quasi-judicial hearing August 26, 2020 to consider the application SUP-20-05, seeking a special use permit to allow certain property for the use of “office” under Chapter 42 of the Henderson County Code (“the Code”). The application was submitted by the owner 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-20-05. A quorum of members of the Zoning Board of Adjustment was present. The members present and participating were:

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

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 Oliver Burns (the “Applicant”), as applicant and property owner. The property to be included in the special use consists of Henderson County PIN 9681616775. This property is currently zoned Residential Two Rural (R2R). “Office” 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 applicant and Henderson County staff as parties to this hearing and inquired whether any person or entity sought to become a party to this action. Several in attendance were sworn in as parties: Scott Gross, Ryan Stepp, Steve Gibbs, Lance Haney, Elizabeth Gross, Fred Pittillo, Lisa Rethi, Frank Roviello, Mary Lance and Jennifer McCarson spoke in opposition to the project.

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
  - Be in harmony with the surrounding area.

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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 "small place of assembly". The specific standards for the proposed use are set out in Supplemental Requirement 5.16 of the Land Development Code, found at Section 42-63 thereof. The standards are as follows:

**SR 6.9. Office: Business, Professional and Public**

- (1) Site Plan. Major *Site Plan* required in accordance with §42-331 (Major Site Plan Review).
- (2) Lighting. *Adequate lighting* shall be placed in areas used for vehicular/pedestrian access including, but not limited to stairs, sidewalks, crosswalks, intersections, or changes in grade. *Lighting mitigation* required.

**SR 2.10. Outdoor Storage > 5,000sf**

- (1) Locational Requirement. Storage area shall not be placed in a *front yard*.
- (2) Screening. Screen Class Three (3) or Four (4) shall be provided consistent with the requirements of §42-182 (Screen Classification).

9. Those in opposition expressed Concerns included traffic on a one-lane gravel road, truck weight on bridge, effect on nearby cemetery, outdoor storage, outdoor burning, erosion and pine beetles.

10. The Zoning Board of Adjustment asked questions about harmony, traffic, accessibility, road maintenance, and property values. Hilliard Staton moved to deny the application with second from Louise St.Romain. All members voted to deny the application.

11. 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.

**IT IS THEREFORE ORDERED** by the Henderson County Zoning Board of Adjustment that Henderson County special use permit application number SUP-20-05 is hereby **DENIED** on the conditions stated above.

Announced 26 August 2020, and approved in final form, this the 30<sup>th</sup> day of September 2020.

HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By: \_\_\_\_\_  
RONALD S. KAUFFMAN, Chairman

Attest: \_\_\_\_\_  
TOBY LINVILLE, Secretary to the Zoning Board of Adjustment