

In the Matter of the Application
for a Special Use Permit by

T. DALE EPPERSON,
Applicant

to the

HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT,
Permit Authority

ORDER

The Henderson County Zoning Board of Adjustment held a quasi-judicial hearing April 28, 2021, to consider the application SUP-21-01, seeking a special use permit to allow use of certain property for office and outdoor storage. The application was submitted by owners of the property in question. Having heard all of 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 (the "Board") on the special use permit application SP-21-01. A quorum of members of the Board was present. The members present and participating were:

Ronald S. Kauffman, Chair
Tony Engel
Bob Pierce
Jim Hysong
Bill Fishburne

2. All members of the Board 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 Henderson County Code (the "Code") was duly and timely given in accord with the provisions of §42-371. This included certified mailing to the applicants and all adjacent property owners to the boundary of the subject property, published notice, and the posting of notice on the subject property.

4. This application was filed by Dale Epperson ("Applicant"). Julie and T. Dale Epperson are owners of the property to be included in the special use (the "subject property"), which consists of Henderson County PIN 9690940589. The subject property is currently zoned Residential Two-Rural.

5. At the commencement of this hearing, the Chair stated that the Board recognized the Applicants and the Henderson County Planning Department as parties to this hearing and inquired whether any person or entity sought to become a party to this action. The following additional persons, who were the only other persons who sought to become parties, were recognized as parties for the purpose of this Board of Adjustment hearing:

John Searcy (“Searcy”)
Carolyn Blanton (“Blanton”)
Mellany Jones (“Jones”)
Chris Kilpatrick (“Kilpatrick”)

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

7. In addition, 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 Ordinance, Chapter 42 of the Henderson County Code. The uses proposed here are “Office, Business, Professional and Public” and “Outdoor Storage greater than 5,000 square feet”. The uses proposed are potential special uses in Residential Two-Rural zones. The specific standards for the proposed use are set out in Supplemental Regulations (“S.R.”) 6.9 and 2.10 of the Land Development Ordinance, found at §42-63 thereof. The standards are as follows:

S.R. 6.9

- a. A major site plan required in accordance with §42-331 (Major Site Plan Review).
- b. 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 is required.

S.R. 2.10

- a. Storage areas shall not be placed in a front yard.
- b. Screen Class Three (3) or Four (4) shall be provided consistent with the requirements of §42-182 (Screen Classification).

8. Pursuant to Code §42-356H, the vote of a majority of the Board is required to grant the special use permit.

9. The request is for a special use permit for office and outdoor storage for Epperson Tree Services. Dale Epperson and Stanley Byers presented this application.

10. The proponents repeated the asserts regarding the requirements of the Code for special uses in general, and for conformity with S.R. 6.9 and 2.10 in particular, as appear in their application, which is incorporated herein by reference.

11. Searcy, Blanton, Jones, and Kilpatrick stated that the development of this property would cause large vehicles on the site, infringe on the privacy of nearby residents, lead to a loss of safety for the nearby residents, and cause light and sound pollution. No other evidence on these points was presented, but these witnesses all discussed the matter in the presence of the Board, and apparently reached an agreement.

12. At the close of the evidence, Board member Fishburne stated that in his opinion with the following conclusions, the application would satisfy all the requirements for the grant of a special use permit, and therefore moved, and the Board approved by a 5-0 vote, that the Board approve the application with the following conditions:

- a. Exterior security lighting to be motion activated only.
- b. Exterior site lighting shall be designed to prevent the shedding of any direct light upon any adjoining residential property.
- c. Screen Class Three (3) or Screen Class Four (4), as defined by the Code, shall be installed around outdoor storage area as shown on the major site plan for the subject property.
- d. A valid North Carolina Department of Transportation driveway permit shall be obtained and complied with.
- e. A paved ADA accessible parking space per North Carolina Building Code
- f. A valid Henderson County Erosion Control permit shall be obtained and complied with if required.
- g. A valid Henderson County Stormwater permit shall be obtained and complied with if required.

From the foregoing, the Zoning Board of Adjustment concludes as follows:

1. All parties were properly before the Board, and all admissible 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 should be granted, on the conditions contained herein, so long as the Applicant agrees to all the conditions stated herein.

IT IS THEREFORE ORDERED by the Henderson County Zoning Board of Adjustment that Henderson County special use permit amendment application number SUP-21-01 is hereby granted, on the following conditions:

1. Exterior security lighting to be motion activated only.
2. Exterior site lighting shall be designed to prevent the shedding of any direct light upon any adjoining residential property.
3. Screen Class Three (3) or Screen Class Four (4), as defined by the Code, shall be installed around outdoor storage area as shown on the major site plan for the subject property.
4. A valid North Carolina Department of Transportation driveway permit shall be obtained and complied with.
5. A paved ADA accessible parking space per North Carolina Building Code
6. A valid Henderson County Erosion Control permit shall be obtained and complied with if required.
7. A valid Henderson County Stormwater permit shall be obtained and complied with if required.

Announced 28 April 2021, and approved in final form, after first having been approved by the applicants, this the 26th day of May, 2021.

THE HENDERSON COUNTY ZONING BOARD OF ADJUSTMENT

By: _____
RON KAUFFMAN, Chair

Attest:

MATT CHAMPION, Secretary to the Zoning Board of Adjustment

AGREEMENT OF APPLICANT

We agree to all the conditions stated above as conditions for the grant of the special use permit:

T. DALE EPPERSON

JULIE MILLER EPPERSON