

State of North Carolina

County of Madison

Minutes

The Madison County Board of Adjustment met in special session on Monday, December 18, 2023, at 6:30 p.m. at the Madison County Public Library Marshall Branch, 1335 N. Main Street, Marshall, North Carolina.

In attendance were Chair, Karen Kiehna, Vice-Chair Richard Molland, member Hart Barnhill, County Planning and Zoning Attorney John Noor, Development Services Director Brad Guth, and Clerk Mandy Bradley. Members Darlyne Rhinehart, Ernest Ramsey, and Robert Briggs were not in attendance.

The meeting was called to order at 6:30 p.m. by Chair Kiehna.

Welcome

Chair Kiehna welcomed those in attendance to the meeting.

Upon motion by member Barnhill and second by Vice-Chair Molland, the Board voted unanimously to accept the agenda as presented.

Approval of the Minutes

The minutes draft of the September 25, 2023, meeting was reviewed by members of the Board.

Upon motion by Vice-Chair Molland and second by member Barnhill, the Board voted unanimously to approve.

Special Use Permit Applications (Quasi-Judicial Evidentiary Hearing)

Special Use Application from Scott Greene, Owner, Proposed Recreation Center (Indoor Batting Facility) at 72 Old Murray Road, Mars Hill, NC 28754

Development Services Director Brad Guth presented and discussed the special use application for consideration of a proposed recreation center that would house an indoor batting facility. Mr. Guth noted that the facility would be required to conform to Environmental Health and Building Code requirements and that it is in compliance with the County Comprehensive Plan and as such, the staff recommendation would be to approve the facility with the following conditions:

- Environmental Compliance
- Building Code Compliance
- Watershed Ordinance Compliance
- Parking Compliance

Chair Kiehna opened the public hearing and called for the presentation of any witness with standing in attendance. Scott Greene, applicant and Brad Guth, Development Services Director were administered the oath by Chair Kiehna with no other witness with standing presenting to the Board. Counsel was provided by Attorney Noor.

Scott Greene, applicant discussed the proposed facility with the Board and answered questions from members of the Board. Information discussed included parking requirements, building square footage, proposed site plan, area map, capacity and usage, business signage, road access including turnaround access for patrons, and environmental health septic requirements.

Discussion was had by the Board and Mr. Green regarding safety lighting and the facility providing a sufficient turnaround area so that patrons do not back into Old Murray Road when exiting the facility.

Counsel was provided by Attorney Noor.

Upon motion by Vice-Chair Molland and second by member Barnhill, the Board voted unanimously to approve the request based on the applicant conforming to the requirements as laid out in the building code, environmental health, parking, and turnaround capacity. (Attachment 1.1)

Home Occupation Land Use Permit Application from Timothy Denton Request for Gun Sales at 400 Tweed Road, Marshall, NC 28753

Mr. Guth presented and discussed the Home Occupation Land Use Permit for consideration of gun sales at 400 Tweed Road in Marshall.

Discussion was had by Mr. Guth and the Board regarding the application, permit requirements, and applicant's absence at the hearing with counsel being provided by Attorney Noor.

Upon motion by Vice-Chair Molland and second by member Barnhill, the Board voted unanimously to continue the hearing until the regular scheduled January 22, 2024, meeting. (Attachment 1.2)

Other Announcements/Updates

Consider and Adopt the 2024 Board of Adjustment Meeting Schedule

Mr. Guth discussed the Resolution to adopt the proposed 2024 regular meeting schedule of the Board. Counsel was provided by Attorney Noor and discussion was had by the Board.

Upon motion by member Barnhill and second by Vice-Chair Molland, the Board voted unanimously to keep meetings on the fourth Monday of the month. (Attachment 2.1)

January Meeting: Consider Application for Special Use Permit Amendment Mulberry Farms

An update regarding a special use permit request on behalf of Mulberry Farms was provided by Mr. Guth.

Planning Board Recommendation Land Use Ordinance Changes for Board of Adjustment to be Considered by Board of Commissioners in January

Proposed changes to the Madison County Land Use Ordinance-Chapter 11, Board of Adjustment was discussed with the Board by Mr. Guth with comment being received from a member of the audience and counsel being provided by Attorney Noor.

Adjournment

Upon motion by Vice-Chair Molland and second by member Barnhill, the Board voted unanimously to adjourn at 7:26 p.m.

This the 18th day of December 2023.

MADISON COUNTY



Madison County Board of Adjustment

Staff Findings Report

Special Use Permit Application: Recreation Center

Location: 72 Old Murray Road PIN# 9769-27-1665

Applicant: Scott Greene

Representative: Scott Greene

Date: 12.15.2023

Prepared by: Brad J. Guth

Staff Recommendation: Approve with Conditions

Introduction

This report presents the findings of the staff evaluation regarding the application for a Special Use Permit for a proposed Recreation Center project located at 72 Old Murray Road, Mars Hill, NC. The evaluation is based on the criteria outlined in the Madison County Land Use Ordinance and relevant local ordinances.

Evaluation

1. Public Health and Safety:

- Ensures safe access and egress routes: **Compliant**
- Adequate emergency services access: **Compliant**
- No significant hazards to public health: **Compliant**
- Building Code Compliance: **Non-Compliant**
- Environmental Health compliance: **Non-Compliant**

2. Compliance with Local Ordinances:

- Meets zoning requirements in R-A Residential-Agriculture Land Use District: **Compliant**
- Complies with parking requirements (1 space for each 100sf of floor area = 21 spaces): **Non-Compliant**
- Adheres to noise ordinance: **Compliant**
- Signage conforms to Chapter 5 regulations: **To Be Determined** (No Information Provided)
- Traffic does not exceed normal residential volume: **Compliant**
(The Board may request a traffic study)
- Adheres to Mountain Ridge, Watershed, and Floodplain Protection Ordinances: Watershed Compliance **To Be Determined** Mountain Ridge and Floodplain N/A

3. Impact on Property Value and Public Necessity:

- No substantial injury to the value of adjoining properties: **Compliant**
(The Board may request a Comparative Market Analysis, Appraisal or Impact Study)
- Serves a public necessity: **Not Evaluated**

4. Harmony with Surrounding Area:

- Architectural compatibility: **Compliant**
(The Board may request elevation drawings)
- Does not create a nuisance: **Compliant**
(The Board may request impact assessment studies ie noise, light, traffic, etc.)
- Maintains neighborhood character and aesthetics: **Compliant**
(The Board may request a landscape plan, renderings or photos)

5. Compliance with the Comprehensive Plan:

- Conforms to Madison County comprehensive plan: **Compliant**

Conclusion

In summary, **staff recommends the Madison County Board of Adjustment approve the Special Use Permit** for the Recreation Center at 72 Old Murray Road with the following conditions.

1. Public Health and Safety:

- **Environmental Health Compliance:** Complete necessary environmental health assessments to demonstrate local compliance.
- **Building Code Compliance:** Complete necessary Building Inspections to demonstrate local compliance

2. Local Ordinance Compliance:

- **Watershed Ordinance Compliance:** Complete necessary Watershed assessments to demonstrate local compliance.
- **Parking Requirements Compliance:** Complete necessary site improvements to add 16 parking spaces

These conditions are designed to ensure that the recreation center project adheres to the necessary safety, environmental, and community standards as set forth by the Madison County Land Use Ordinance. Meeting these conditions is essential for addressing the "Non-Compliant" and "To Be Determined" aspects in the staff evaluation report and for the successful granting of the Special Use Permit.

Suggested Motion

Based on the staff's comprehensive evaluation and the fulfillment of all outlined conditions, I move to approve the Special Use Permit for the recreation center project located at 72 Old Murray Road, Mars Hill, NC 28754

*This approval is contingent upon the applicant's strict adherence to the recommended **conditions** concerning public health and safety and local ordinance compliance as specified in our staff report.*



PAID
12/4/23



RECEIVED
DEC 01 2023
BY: Sylvia Shelton

Land Use Permit Application

Property Information:

Property Address: 72 Old Murray Rd Mars Hill NC 28754

Parcel/Tax ID Number: _____

Land Use Classification: A-O RA R-1 R-2 NC CMU RB C I

Lot Size: .5 acres Lot Width: 30x70 Lot Coverage Percentage 9.63%

Current Use: Personal facility

Proposed Use: recreation facility

Accessory Buildings: _____

Site Plan: The attached site plan should include property boundaries, setbacks, dimensions, and the placement of any buildings or structures. Including the following:

Flood Plain: Yes No WFO

Watershed: Yes No Ivy Creek

Protected Ridge: Yes No WFO

Elevation: 2920'

Building Height: 18 ft

Applicant Information:

Full Name of Applicant: Brandon Scott Greene Date 12-1-2023

Phone Number: 828-380-1638 Email Address: Scottgreene12@yahoo.com

Mailing Address: 72 Old Murray Rd Mars Hill NC 28754

Is the applicant the owner Yes No

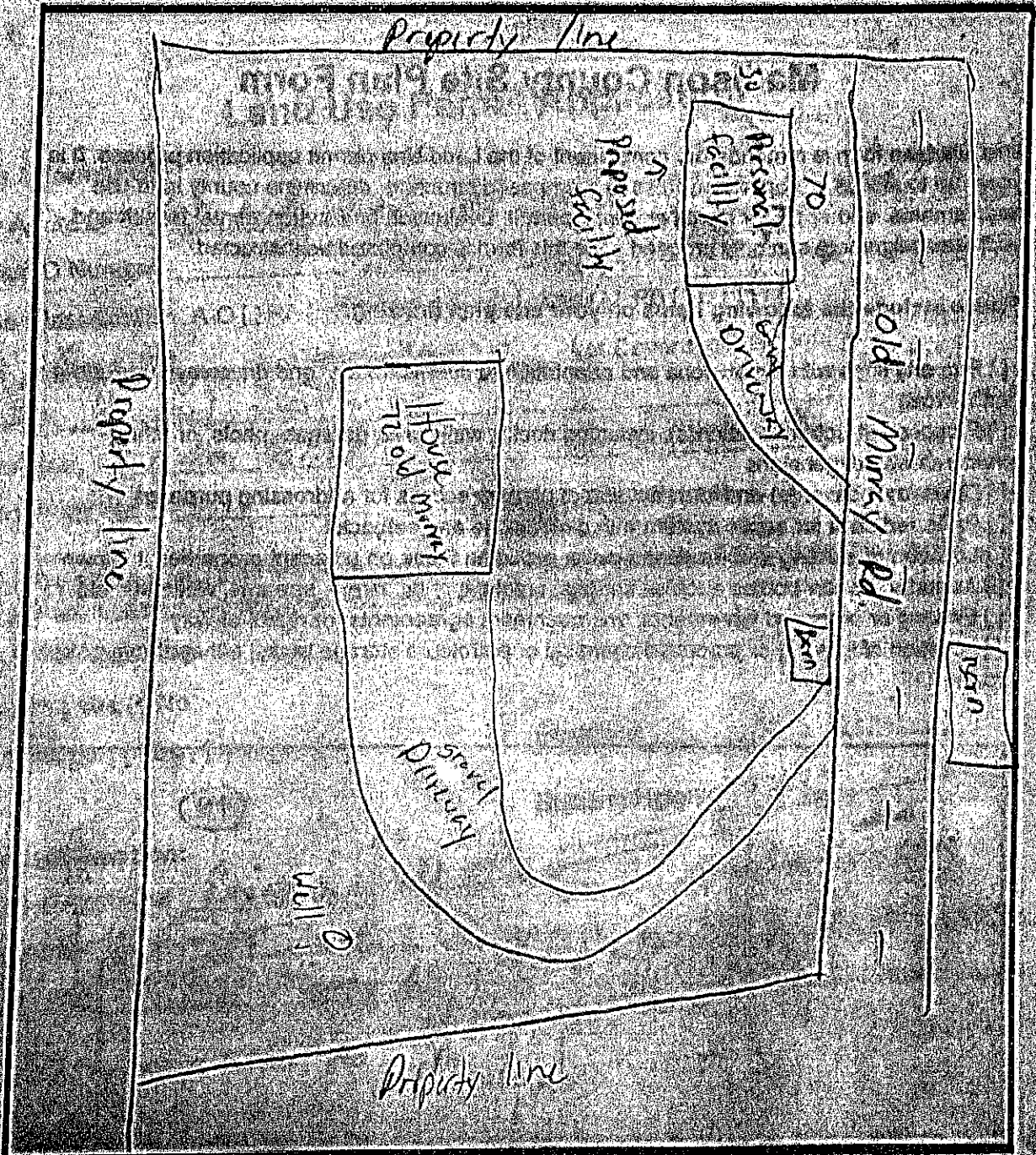
Certifications:

If a permit is granted, I/We, the undersigned, agree to conform to all county ordinances and codes. Furthermore, we agree to meet all state-mandated standards such as health, building safety, and fire. I hereby swear that the above information is truthful and accurate to the best of my understanding.

Signature of Applicant: Brandon Greene Date: 12-1-2023

#OVER#

Site Plan Not Shown to Scale



Certification

I, the undersigned applicant/property owner, certify that the information provided is accurate and that I have included all the required items in the site plan. I understand that any changes may void this site plan.

Signature of Authorized Agent/Owner

Barb Mae

Date

12-1-2013

PAID
12/4/23

RECEIVED

DEC 01 2023

BY: Sylvia Shelton



P.O. Box 873
Marshall, N.C. 28753

**COUNTY OF MADISON
ZONING APPLICATION**

Check Appropriate Item(s):

- *AMENDMENT TO ZONING MAP -- ZONING CHANGE REQUEST
- *CONDITIONAL USE or SPECIAL USE
- *APPEAL OF ADMINISTRATIVE DECISION
- *VARIANCE

To be completed by staff
Date Received: 12/1/23
Fees Rec'd \$540.00

PART 1 - To be completed by ALL Applicants

I-A IDENTIFICATION OF PROPERTY

- 1) Number and Street: 72 Old Murray Rd Marshall NC 28754
- 2) Present Zoning: RA 3) Acres: 2 4) Pin Number: 9769-27-1665
- 5) Legal Description of Property (Omit for zoning text amendment) - Attach if necessary.
2 acres of land with lower portion dedicated to the recreation facility

I-B PROPERTY

- 1) The deed restrictions, covenants, trust indentures, etc. on said property are as follows (or copy attached): if NONE so state:
None
- 2) (a) Has this property or any part thereof ever been considered for Variance, Special Use, Appeal of Administrative Decision or Amendment to the Zoning Map before? *YES NO
- (b) Date: _____ (c) What was the disposition of the case? _____
- (d) Former Applicant Name: _____
Former Applicant Address: _____
Former Phone: _____

I-C IDENTIFICATION OF APPLICANT – All applicants must have standing (an interest in property that will be directly affected by requested action)

1) Applicant:

Name: Brandon Scott Green
Address: 72 Old Murray Rd Mars Hill NC 28754
Phone: 828-380-1638

Agent (if any):

Name: _____
Address: _____
Phone: _____

2) Owners of all property included in this application:

Name: Brandon Scott Green
Address: 72 Old Murray Rd Mars Hill NC 28754
Phone: 828-380-1638

3) If the applicant is a Land Trust, Partnership, Corporation, or LLC, etc.. or if the subject property is owned or controlled by a Land Trust, Partnership, Corporation or LLC. List name and interest of all Land Trust Beneficiaries or Partners and attach evidence that the person submitting the application on behalf of the Land Trust or Partnership is authorized to do so.

NAME/ADDRESS	PHONE	INTEREST
Trustee/Partner: _____		
Beneficiary/Partner: _____		
Beneficiary/Partner: _____		
Beneficiary/Partner: _____		

5) Does the applicant have a proprietary interest in the land or land improvements? *YES *NO

If YES, state interest and attach documentation:
If NO, state what interest otherwise qualifies the applicant to apply:

6) Names of the owners of the improvement(s) on the property in this applicant if different from above:

NAME	Address
_____	_____
_____	_____

7) If the applicant is a corporation or LLC etc., attach evidence that the person submitting the application on behalf of the corporation is authorized to do so.

Part 2 - Request Type

2-A REZONING - (AMENDMENT TO THE ZONING MAP) - Application for amendments to the Zoning District Map are heard by the Planning Board which makes a recommendation to the County Commissioners. Only the County Commissioners has authority to grant or deny amendments to the Zoning District Map.

- 1) (a) Existing Zoning: _____
- (b) Proposed Zoning: _____
- (c) Existing Use: Peranal Facility
- (d) Proposed Use: Recreation Facility

Zoning Designations:

AO	Agriculture Open-Space District	RA	Residential Agriculture
R-1	Residential District	R-2	Residential-Resort District
I-D	Industrial District	C	Commercial
N-C	Neighborhood Commercial	CMU	Commercial Mixed Use

2) The following must be submitted with this application:

- *Preliminary Site Plan - prepared by a register design professional
- *Rendering or Perspective - depicting possible uses
- *Other - please describe

3) Please list names, addresses, and phone numbers of the adjoining property owners.

Paula and Eric Hilliard 828-779-6864

2-B SPECIAL USE REQUEST or CONDITIONAL USE- Conditional Use requests are heard by the Board of Adjustment which will make a decision. Special Use requests are heard by the Planning Board.

1) Are development plans submitted with this application? YES NO

2) Parking requirements:

a) Proposed number of parking spaces to be provided: 5

b) Number of parking spaces required of Zoning Ordinance: 21 (1 space for each 1000 sq ft floor space)
30 x 70 = 2100 = 21 spaces

Other

a) Attach tabulation of total land area and percentage thereof designated for various uses

b) Are there any land use intensity requirements? YES NO If yes, attach data.

watershed

2-C

VARIANCE

To the Madison County Board of Adjustment

I, hereby petition the Board of Adjustment for a Variance from the provisions of the Madison County Ordinance because, under the interpretation given to me by the Zoning Administrator, I am Prohibited from using the parcel of land described in the application in a manner shown by the plot plan attached. I request a variance from the following provision(s) of the ordinance:

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The board must find there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit, and that in granting of the variance the public safety and welfare have been assured and substantial justice has been done. Please attach any proof, evidence or other documentation to show why this variance is being applied for.

2-D Appeal of an Administrators Decision

An appeal must be taken within 30 days after the date of the decision or order appealed from.

I, the undersigned, do hereby respectfully make application and petition the Board of Adjustment of Madison County as hereinafter requested, and in support of this application, the following facts are shown:

1. Reasons for appeal.
2. Decision rendered by Zoning Office

PART 3 - TO BE COMPLETED BY ALL APPLICANTS

To the best of my knowledge, I hereby affirm that all information in this application and any attached material and documents are true and accurate:

- a) Signature of Applicant: Brandi Jett Greene
- b) Signature of Agent (if any): _____
- c) Date 12-1-2023

INVOICE

Madison County Inspections & Zoning

5707 US Hwy 25-70

Suite 5

PO Box 579, 28753, Marshall

Phone: (828) 649-3766

Email: inspections@madisoncountync.gov



Bill to
Brandon Scott Greene
72 Old Murray Road, 28754 Mars Hill

Invoice No.: 23-200-000972
Date: 12/4/2023
Due date: 12/4/2023
Payment status: Paid

#	Item	Quantity	Unit price	Tax	Discount	Total
1	Application for Special Use	1	500.00	---	0.00%	500.00
2	Zoning Permit	1	40.00	---	0.00%	40.00

Total	\$540.00
--------------	-----------------

Payment method:

Credit Card: \$540.00
Paid amount: \$540.00
Amount due: \$0.00

Request for Recreation Facility



1.2

Madison County Board of Adjustment

Staff Findings Report

Administrative Determination: Home Occupation Determination Request

Location: 400 Tweed Road PIN# 9717-51-3392

Applicant: Timothy Denton

Representative: Timothy Denton

Date: 12.18.2023

Prepared by: Brad J. Guth

Staff Recommendation: Approve

Introduction

This report is intended to aid the Board of Adjustment in their review of the application and to provide an assessment of its compliance with existing zoning regulations and the spirit of home occupation uses in a residence.

Description of Home Occupation:

Mr. Denton seeks a Home Occupation Land Use Permit to engage in the business of gun sales from his residence located at 400 Tweed Road. The applicant has provided the necessary documentation and information required for this application.

The Madison County Land Use Ordinance defines Home Occupation as:

Home Occupation- Customary home occupations, including dressmaking, cooking and baking, hairdressing, music instruction, the renting of not more than one room, and the practice of such professions as insurance and accounting shall be permitted as accessory uses in a residence. ***The Board of Adjustment shall decide whether other home occupations not listed here are within the spirit of this category of accessory uses.***

Zoning and Compliance Assessment:

The property at 400 Tweed Road is in the RA Residential-Agriculture Land Use District, and the home occupation land uses are permitted in the RA Land Use District. A review of the application suggests the following:

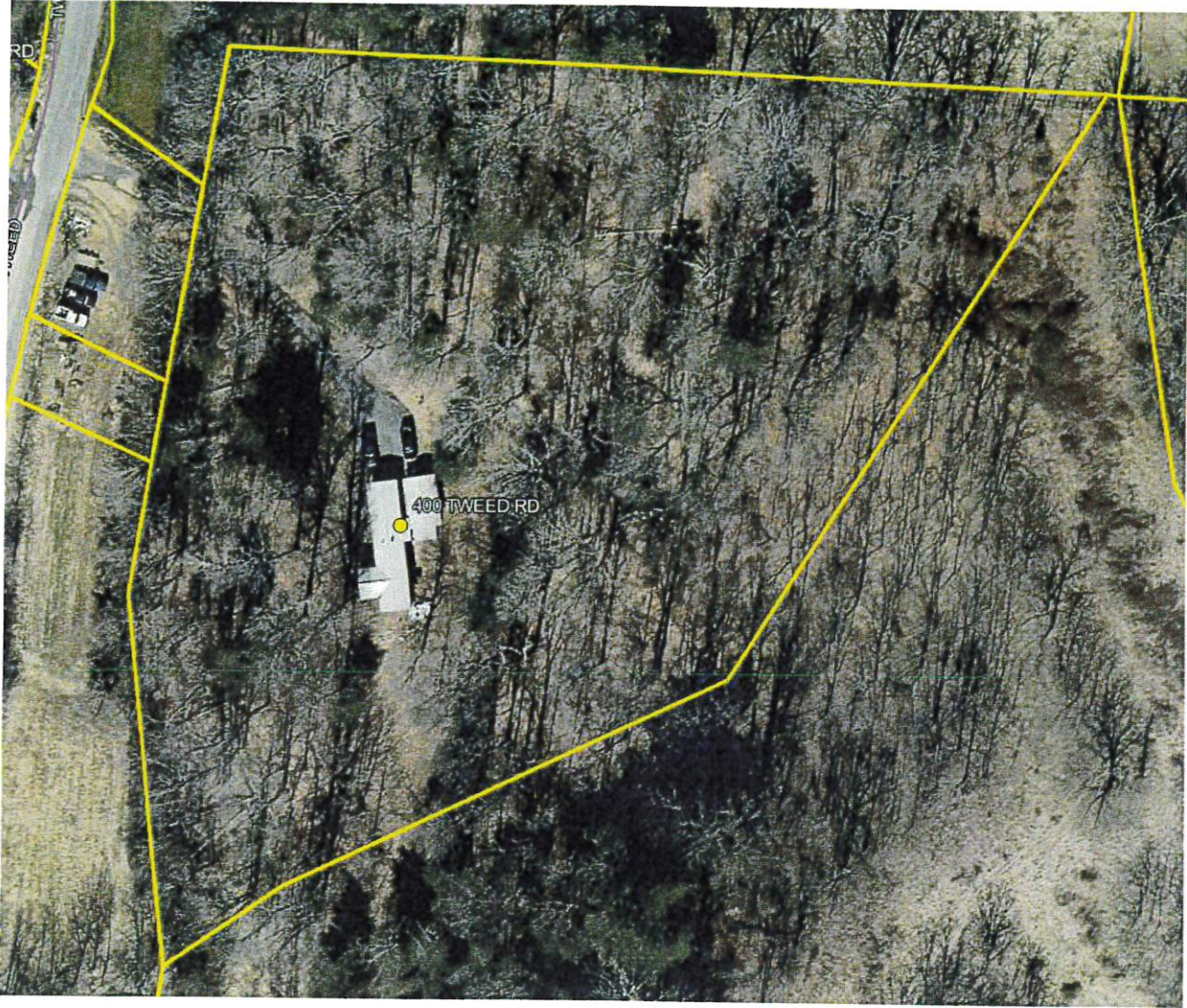
- The proposed use appears to align with the requirements outlined in the Madison County Land Use Ordinance for Home Occupation Land Uses
- The applicant is currently operating a home occupation land use for gun sales, demonstrating that the use will not result in increased traffic, noise, or other disruptions to the neighborhood.

Recommendation:

Based on the information provided in the application and the preliminary assessment of zoning compliance, it is recommended that the Board of Adjustment consider the approval of the Home Occupation Land Use.

Suggested Motion

I move that gun sales are within the spirit of the Home Occupation Land Use Definition and approve the Land Use Permit for the Gun Sales located at 400 Tweed Road, Marshall, NC 28753.



PAID
\$40.00

RECEIVED

NOV 29 2023

BY: *Sylvia Shelton*



Land Use Permit Application

Property Information:

Property Address: 400 Tweed Rd

Parcel/Tax ID Number: 9717 - 51 - 3392

Land Use Classification: A-O RA R-1 R-2 NC CMU RB C I

Lot Size: 3.53 Lot Width: 486 ft Lot Coverage Percentage _____

Current Use: Residential

Proposed Use: Gun Sales

Accessory Buildings: N/A

Site Plan: The attached site plan should include property boundaries, setbacks, dimensions, and the placement of any buildings or structures. **Including the following:**

Flood Plain: Yes No *SPB*

Watershed: Yes No *SPB*

Protected Ridge: Yes No *SPB*

Elevation: 2060

Building Height: Single story

Applicant Information:

Full Name of Applicant: Timothy Denton Date 11/22/2023

Phone Number: 828-206-9099 Email Address: jdgun3@yahoo.com

Mailing Address: 400 Tweed Rd

Is the applicant the owner Yes No

Certifications:

If a permit is granted, I/We, the undersigned, agree to conform to all county ordinances and codes. Furthermore, we agree to meet all state-mandated standards such as health, building safety, and fire. I hereby swear that the above information is truthful and accurate to the best of my understanding.

Signature of Applicant: *Timothy Denton* Date: 11/29/2023

INVOICE

Madison County Inspections & Zoning

5707 US Hwy 25-70

Suite 5

PO Box 579, 28753, Marshall

Phone: (828) 649-3766

Email: inspections@madisoncountync.gov



Bill to
Timothy Denton
400 Tweed Road , 28753 Marshall

Invoice No.: 23-200-000949
Date: 11/29/2023
Due date: 11/29/2023
Payment status: Paid

#	Item	Quantity	Unit price	Tax	Discount	Total
1	Zoning Permit	1	40.00	---	0.00%	40.00

Total	\$40.00
--------------	----------------

Payment method:

Credit Card: \$40.00

Paid amount: \$40.00

Amount due: \$0.00

Zoning Request for Gun Sales

**RESOLUTION OF THE MADISON COUNTY BOARD OF ADJUSTMENT
ESTABLISHING THE 2024 REGULAR MEETING SCHEDULE**

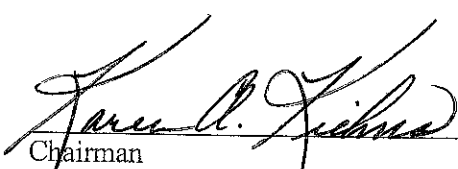
WHEREAS, N.C.G.S. 143-318.12 provides for a resolution establishing regular meeting dates of the Board of Adjustment.

NOW, THEREFORE, BE IT RESOLVED that the Madison County Board of Adjustment hereby establishes the 2024 regular meeting schedule, which is incorporated herein by reference, and that Board meetings will be held on the fourth Monday of each month at 6:30 p.m. except as noted below; and that the meetings will be held in the Madison County Public Library-Marshall Branch located at 1335 N. Main Street, Marshall, North Carolina; and the Board directs the Clerk to the Board to provide such notice of the Meeting Schedule as set forth hereinabove. All regular meetings of the Board after calendar year 2024 will be held on the fourth Monday of each month at 6:30 p.m. at the Madison County Public Library-Marshall Branch located at 1335 N. Main Street, Marshall, North Carolina until subsequently modified by board resolution. Special meetings will be scheduled as needed.

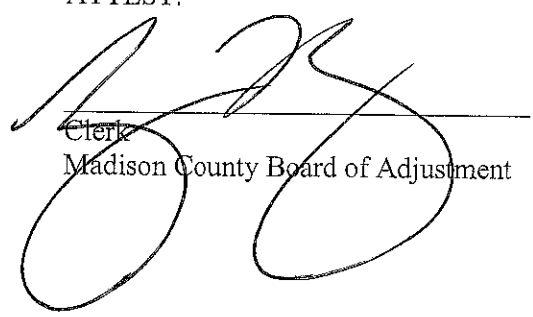
REGULAR MEETING SCHEDULE

- JANUARY 22, 2024 at 6:30 p.m.
- FEBRUARY 26, 2024 at 6:30 p.m.
- MARCH 25, 2024 at 6:30 p.m.
- APRIL 22, 2024 at 6:30 p.m.
- MAY 28, 2024 at 6:30 p.m.
- JUNE 24, 2024 at 6:30 p.m.
- JULY 22, 2024 at 6:30 p.m.
- AUGUST 26, 2024 at 6:30 p.m.
- SEPTEMBER 23, 2024 at 6:30 p.m.
- OCTOBER 28, 2024 at 6:30 p.m.
- NOVEMBER 25, 2024 at 6:30 p.m.
- DECEMBER 23, 2024 at 6:30 p.m.

Adopted this the 18th day of December 2023.


 Chairman
 Madison County Board of Adjustment

ATTEST:


 Clerk
 Madison County Board of Adjustment