

STATE OF NORTH CAROLINA

CATAWBA COUNTY

COUNTY OF CATAWBA

BOARD OF ELECTIONS

In Re: Hearing for Challenge of)
Candidacy of Mary Colleen Anderson)
Candidate for Catawba Town Council)

ORDER

The five members of the Catawba County Board of Elections, including Chair Barry Cheney, Secretary David Abernethy, Jason White, Geniey Yang and David Hood held a hearing on August 1, 2019 to consider the challenge to the candidacy of Mary Colleen Anderson filed by fellow candidate Donald J. Allen. Both Ms. Anderson and Mr. Allen represented themselves. Having heard all of the evidence and arguments presented at the hearing, the Board makes the following FINDINGS OF FACT:

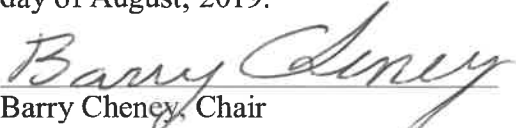
1. The candidate and challenger were given the opportunity to present evidence in the form of documents and testimony, as well as to cross examine witnesses or provide any rebuttal testimony.
2. For a period of years ending April 30, 2019, the candidate physically resided within the town limits of Catawba at 100 S. Main Street. Her lease on that space at 100 S. Main Street expired April 30, 2019, and she moved out on that date.
3. In March 2019, the candidate began discussions with the then-owner to acquire property at 101 E. Central Avenue, also within the Town of Catawba. She made an offer to purchase the property at that address, which was accepted by the seller before the candidate filed for election to the Catawba Town Council on July 15, 2019. As of that filing date, the candidate had some possessions stored at the home located at 101 E. Central Avenue, but had not yet begun to spend the night at that address since the closing on the property was scheduled for August 2, 2019.
4. On April 30, 2019, the candidate moved to a temporary residence which is about 100 yards outside of the town limits of the Town of Catawba. Her intention was to move to those temporary quarters while she awaited the opportunity to move in to the home for which she had contracted at 101 E. Central Avenue.
5. The challenger testified that he had no further information except what was in his original written challenge, which was that the candidate did not live within the town limits at the time she filed on July 15, 2019.
6. The Town of Catawba lies wholly within the boundaries of Catawba County, North Carolina.

Based on these FINDINGS, the Board makes the following CONCLUSIONS OF LAW:

1. The matter is properly before the Board, and the Board has jurisdiction to hear the matter.
2. Legally, a person may have only one residence for purposes of filing as a candidate, and that residence is defined by statute as that place where the person's habitation is fixed and to which, whenever that person is absent, that person has the intent of returning N.C.G.S. §163A-842(1).
3. Further, a person shall not be considered to have lost a residence if the person goes into another election district of this state for temporary purposes only. Similarly, a person shall not be considered to have gained residence in any election district into which that person comes for temporary purposes only, without the intention of making that election district a permanent place of abode. N.C.G.S. §163A-842(2)(3).
4. It is undisputed that the current location of the candidate, in an election district outside the Town limits, is only temporary, without any intention on behalf of the candidate to reside there as a permanent place of abode.
5. As such, the candidate had not yet established a new residence as of the date she filed to run for office, and thus for voting and candidacy purposes, her residence is still at 100 S. Main Street, within the Town limits of Catawba.

Therefore, by a Motion made by David Hood, the Board voted by a vote of 4 to 1 that candidate Anderson has shown by a preponderance of the evidence that, based upon the residency requirements, she was qualified to file as a candidate for election to the office sought. Under the law, her residence is deemed to be 100 S. Main Street, within the Town limits. Voting against the motion was Secretary David Abernethy.

This Order was announced at the conclusion of the hearing, and is signed and filed this the 19th day of August, 2019.


Barry Cheney, Chair
Catawba County Board of Elections