

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC



TEL (864) 638-4218 FAX (864) 638-4168

Minutes

6:00 PM – May 24, 2021

Members in Attendance

Jim Codner
John Eagar
Bill Gilster
Bill Decker
Gwen Fowler
Marty McKee

Staff

Vivian Kompier, Secretary

Media

None

ITEM 1- Call to Order

Mr. Codner called the meeting to order.

ITEM 2- Approval of minutes of April 26, 2021 meeting – Mr. Eagar made a motion to accept the minutes, seconded by Mr. Mr. Gilster. Approved 6/0.

ITEM 3- Brief statement about rules and procedures

Mr. Codner outlined the proceedings of the meeting going forward.

- Applicant will provide a presentation about the needs for the variance for 5-minutes with the chairman having the unilateral ability to grant more time as needed.
- Staff will address any additional issues
- Citizen comment- 5-minutes each – People speaking in favor of the development first, then people speaking against.
- Unsworn public comment (3 minutes)
- Applicant rebuttal
- Board member questions
- Voting

ITEM 4- Variance request application #VA 21-007: Spectrum Builders - Ken Palmer -Contractor is requesting 9' variance from the required 10' setback line to permit a deck for a home at 241 Inlet Point Road, Fair Play 29643 (Tax ID# 341-01-01-017).

Applicant's opening statement and provision of evidence:

Mr. Palmer stated that he is the second builder on this project. The new site plan was presented to the Board. The new proposed variance is 4'7". The original plan that the other builder gave them only had a 3-foot walkway between the two decks on the rear. When the other builder told the property owner that he couldn't do it and bowed out. This is when Mr. Palmer was hired to do the job. Mr. Palmer then realized that there was only a 3-foot deck and told the property owners that it isn't going to work. Mr. Palmer wasn't aware of the 10' setback and he continued building into the setback.

Mr. Codner questioned the placement of the deck as of his inspection on Saturday. Mr. Palmer explained that he continued to build the deck in case the Board approves the variance, if not he can just cut it off.

Mr. Gilster questioned the math.

Mr. McKee questioned where the US Army Corp of Engineers. line is. Mr. Codner clarified that the US Army Corp of Engineers. line is the same as the property line. Mr. Codner also asked how big of a deck will there be if they didn't do into the setback. Mr. Palmer said 3 feet because the house was pushed back as far as it could go. Mr. Eagar pointed out that there would be a walkway between the two decks, and Mr. Palmer agreed. Mr. Codner questioned staff about the County setback. Ms Kompier said that there is 10' setback on this property. Mr. Codner mentioned that they were not concerned about the covenants and restrictions just the county setback.

Public comment-time:

Mr. Codner then opened up the public comment portion of the meeting.

Mr. Brabender got up and spoke. Mr. Brabender said that he is the property owner next to this property. Mr. Brabender thank Ms. Kompier for making the phone call to the builder to ask them to stop building in the setback. Mr. Babender just wants to preserve the value of his home along with sight lines and the livability of their property. Mr. Brabender was given the first right of refusal to purchase this property, but when he researched County and DHEC regulations he chose only to purchase 6', which has been resurveyed and deed over to him. Mr. Brabender spoke with the previous builder, Tommy Hood, to be sure that he is keeping within the setback lines and Mr. Hood assured him he was. Mr. Brabender believes that this variance would not be fair to them. Mr. Brabender said that his home is on the US Army Corp of Engineers. line, it was build 30+ years ago and has no idea what the rules were back then he was told that if his house burns down he would have to rebuild with the setbacks. Mr. Brabender is concerned about the stairs from the garage coming onto his property.

Mr. Eagar asked what is their specific objection to the applicant's request?

Mr. Brabender said that the home doesn't match up with the community and that he did not buy the lot because he was told that there would be nothing built in the setback.

Applicant rebuttal: Mr. & Mrs. Bristow (property owners) said that they moved here from Maryland about 2 years ago and wanted to build their dream/forever home Mr. Bristow said that they found their builder through their Realtor. Mr. Bristow mentioned that they know nothing about building a home and put all their faith into the builder and it was a mistake. They had many issues with the builder and got a new builder. The property owners state that they just didn't know that they were not building according to the ordinance.

Mr. McKee questioned the septic tank. Mr. Palmer said that the septic tank was installed before the new builder was hired. Discussion followed in regards to the SCDHEC permit in regards to the septic system.

Mr. Gilster asked what your primary argument for wanting the Board to grant the variance. Mr. Bristow was hoping that they would grant it because it would make it a more usable deck. Mrs. Bristow mentioned that they were told they could do it and were trying to work it out to make it happen and they don't understand how things work here.

There **are** extraordinary and exceptional conditions pertaining to the particular piece of property;

- a) Motion – Mr. Eagar made a motion, seconded by Mr. Decker.
- b) Vote

In-favor	Opposed
0	6

Mr. Codner noted that the criterion failed.

1. These conditions **do not** generally apply to other property in the vicinity;

- a) Motion - Mr. Eagar made a motion, seconded by Mr. Decker.
- b) Vote

In-favor	Opposed
0	6

Mr. Codner noted that the criterion failed.

2. Because of these conditions, the application of this chapter to the particular piece of property **would** effectively prohibit or unreasonably restrict the utilization of the property; and

- a) Motion - Mr. Eagar made a motion, seconded by Mr. Decker.
Discussion regarding the criterion continued.

- b) Vote

In-favor	Opposed
0	6

Mr. Codner noted that the criterion failed.

3. The authorization of a variance **will not** be of substantial detriment to adjacent uses or to the public good, and the character of the district will not be harmed by the granting of the variance.

- a) Motion - Mr. Eagar made a motion, seconded by Mr. Decker.
- b) Vote

In-favor	Opposed
0	6

Mr. Codner noted that the criterion failed.

Mr. Codner asked - Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Denied**.

- a. Motion - Mr. Eagar made a motion, seconded by Mr. Decker.
- b. Vote

In-favor	Opposed
0	6

Mr. Codner noted that the criterion was denied.

ITEM 10- Adjourn – The meeting was adjourned by a unanimous vote at 6:43pm.