

# OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC



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

## Minutes

6:00 PM – March 25, 2024

### Members in Attendance

Gwen Fowler-District 2

Will Decker – At Large

John Eagar – At Large

Bill Gilster – District 3

Jim Henderson – District 1

### Members Absent

Thomas James – District 4

Tim Mays – District 5

### Staff

James Coley

Logan Gibbons

**ITEM 1 – Call to Order** – Mr. Eagar called the meeting to order at 6:00 PM.

**ITEM 2 – Motion to approve the minutes from February 26, 2024** – Mr. Gilster made a **motion** to approve the minutes; seconded by Mr. Decker. Mr. Eagar called for a vote. The motion passed 5/0.

**ITEM 3 – Brief statement about rules and procedures** – Mr. Eagar outlined the proceedings of the meeting going forward:

- Applicant will provide a presentation to state their request (5 minutes).
- Staff will be asked to make any comments regarding the request.
- The public is allowed to voice their approval or opposition to the proposed. Please do not repeat opinions that have already been stated into the record (3-5 minutes).
- Applicant rebuttal
- Board members will discuss in detail.
- Voting

**ITEM 4. Variance application ##VA24-000004 Cliff Kaiser is requesting relief from the density requirements of the Lake Overlay District. TMS 162-06-01-014 with an address of 355 McAlister Road West Union SC 29696**

**Applicant Comments:**

Stated Name: Cliff Kaiser

Mr. Kaiser explained that he has already been given approval to build a garage on site, which includes electrical and plumbing to the building. Mr. Kaiser states that the basis of the variance is his desire to build out the upper level into guest housing. Mr. Kaiser's lot is 8/10ths of an acre and does not meet the required 1 dwelling per ½ acre. Mr. Kaiser states that his desire to build a residential addition will in no way be used as rental housing and will not be a burden on surrounding housing or lake traffic.

**Staff comments:**

Mr. Coley confirmed the need for the variance as the property has a lot size of .8 acres and is within the Keowee Lake Overlay, which has a density requirement of 1 dwelling per ½ acre. Mr. Coley restates that the Mr. Kaiser does have the approval to build the garage.

**Public comment:**

1. Kevin Minton: Addressed concerns that allowing this variance will create a precedent that future variances may be approved. Mr. Minton explains it will be difficult to enforce that new buildings with livable space do not become rentals.
2. Letter from James Codner: Mr. Eagar read the letter stating Mr. Codner's desire not approve the variance application on the grounds it is a serious violation of the lake overlay. Codner claims that boat traffic will increase and water quality will suffer. Codner also expressed his concern for the possibility of rental housing.
3. Letter from HOA: Mr. Eagar read the letter stating that they have no objection to the subject property's proposed increased density.

**Applicant rebuttal:**

NA.

**Board Questions/ Discussion:**

1. Mr. Gilster questioned the consistency of lot sizes in the surrounding area. Mr. Coley showed the surrounding lots were consistent with the intent of the lake overlay zoning.
2. Mr. Decker: expressed concerns with the difficulty to ensure the new residential edition won't become a rental in the future. Mr. Coley clarified that the original application included the full buildout including both the garage and the living space. That application was denied and a garage only plan was approved.
3. Bill Gilster: expressed concerns with setting a precedent for future and surrounding owners to apply for similar variances. This was second by Mr. Eagar.
4. Mr. Henderson questioned if the garage was going to be the same size if it included the residential or not. Mr. Kaiser clarified that if the variance is not approved the space would still occupy the same footprint but will be used as storage.

5. Ms. Fowler questioned Mr. Kaiser if septic was approved for the garage in its current approved status. Mr. Kaiser explained that the septic was approved, however is in the process of getting approval for a different location.
6. Ms. Fowler expressed agreement to density concerns and setting a precedent for unwanted future variance applications similar in nature.

**Consideration of VA24-000004:**

1. There **are** extraordinary and exceptional conditions pertaining to the particular piece of property:

- a. Motion – Mr. Henderson made a motion in the affirmative, seconded by Mr. Decker. No discussion
- b. Vote

In-favor	Opposed
0	5

Mr. Eagar noted that the criterion **did not pass**.

2. These conditions **do not** generally apply to other property in the vicinity:

- a. Motion – Mr. James made a motion in the affirmative, seconded by Mr. Henderson. No Discussion
- b. Vote

In-favor	Opposed
0	5

Mr. Eagar noted that the criterion **did not pass**.

3. 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.

- a. Motion – Mr. Henderson made a motion in the affirmative, seconded by Mr. Decker. No discussion.
- b. Vote

In-favor	Opposed
0	5

Mr. Eagar noted that the criterion **did not pass**.

4. 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. Henderson made a motion in the affirmative, seconded by Mr. Decker. No Discussion
- b. Vote

In-favor	Opposed
0	5

Mr. Eagar noted that the criterion **did not pass**.

5. Mr. Eagar asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved**.
  - a. Motion – Mr. Gilster made a motion; seconded by Mr. Decker. No Discussion.
  - b. Vote

In-favor	Opposed
0	5

Mr. Eagar noted that variance request was **not approved**

**ITEM 5- Variance application #VA24-00005 Dennis Francis is requesting a 9-foot variance to the front setback. TMS 241-04-01-005 with an address of 502 Windy Oaks Lane Seneca SC 29678**

**Applicant Comments:**

Stated Name: Dennis Francis

Mr. Francis explains his request for a 9 foot variance into the front setback facing Logan’s Way rd. This property is unique given that it has 3 front setbacks and 1 side setback. Mr. Francis further explains the need for this variance given the steep embankment separating his front yard and Logan’s way. During heavy rains his front yard is flooded and over a period of 7 years has caused soil to be deposited into the yard. Mr. Francis states that his intent is to push back the front yard to its original location, erect a retaining wall no taller than 4 feet, and install a drainage system to divert water around the wall.

**Staff comments:**

Mr. Coley confirmed the 3 front setbacks and one rear setback, and steep topography. He further explains that retaining walls under 4 feet do not require engineering or permitting.

**Public comment:**

NA

**Applicant rebuttal:**

NA.

**Board Questions:**

1. Mr. Eagar questioned if Mr. Francis has consulted with an engineer if the retaining wall would be sufficient to solve the problem.
  - Mr. Francis responded that he discussed solutions with landscaping companies who conveyed to him that their work would suffice.
2. Mr. Decker questioned Mr. Francis asking where the water would be pushed by installing the retaining wall.
  - Mr. Francis responded the water will be pushed to the west side where a collector drain currently stands.
3. Mr. Eagar questioned Mr. Francis if the water will stagnate behind the retaining wall.
  - Mr. Francis responded that the reason he is asking for 9 feet is to install a drainage system in front of the wall to prevent stagnation in front of the wall.
4. Mr. Gilster asked Mr. Francis what he would have to do if the variance was not approved.
  - Mr. Francis responded he would likely have to continuously grade the property every few years.
5. Ms. Fowler questioned Mr. Francis if he has planted any vegetation to stabilize the soil and prevent erosion.
  - Mr. Francis explained that in the past he has attempted to plant jasmine in addition to the natural growing vegetation.

**Board discussion:** NA

**Consideration of VA24-000005**

1. There **are** extraordinary and exceptional conditions pertaining to the particular piece of property:
  - a. Motion – Mr. Gilster made a motion in the affirmative, seconded by Mr. Decker. No Discussion.
  - b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

2. These conditions **do not** generally apply to other property in the vicinity:
  - a. Motion – Mr. Gilster made a motion in the affirmative, seconded by Mr. Decker. No Discussion
  - b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

3. 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.

- a. Motion – Mr. Decker made a motion in the affirmative, seconded by Mr. Henderson. No discussion.
- b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

4. 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. Henderson made a motion in the affirmative, seconded by Ms. Fowler. No discussion
- b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

5. Mr. Eagar asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved**.

- a. Motion – Mr. Decker made a motion; seconded by Mr. Henderson. No Discussion.
- b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that variance request was approved.

**ITEM 6- Variance application #VA24-000006 Amy Koranda is requesting a variance to combine a portion of the Right-Of-Way on Third Mate Ct into their parcel and a front setback variance for a retaining wall. TMS 111-02-03-015, with an address of 5 Third Mate Ct Salem SC 29676**

**Applicant Comments:**

Stated Name: Don Chapman (architect presenting on behalf of Amy Koranda)

Mr. Chapman explains that the owner is seeking to improve an unfinished cul de sac by developing the land where the cul de sac was original proposed to be. The owner has purchased a small portion of land in the cul de sac's original right of way. They are seeking to upgrade drainage, add a retaining wall, and install a garage for the home.

Board requested Mr. Chapman point on the site plan where the current drainage systems are and. Mr. Chapman further explained the locations of all proposed new structures.

Mr. Chapman further explained that the retaining wall will begin at 6 feet and gradually decrease in height to same grade as the land.

**Staff comments:**

Mr. Coley explained that this variance had originally started as a plat review. The neighborhood agreed to sell the portion of the property to the owner for the construction of the garage. He explained that the variance is needed to reduce the right of way of the cul de sac to allow for the construction of the garage and retaining wall.

Mr. Coley brought attention to a supporting document from the Keowee fire district chief stating that he is okay with the reduction in the right of way.

**Public comment:**

Mary Belcher: stated that she represented the committee for architectural review and environment. Ms. Belcher further stated that the committee has approved the variance for the front setback.

Mr. Eagar read a letter from their neighbor Adrienne Brandecker:

- The letter is in support for the approval of the variances specifically addressing drainage concerns being met.

**Applicant rebuttal:**

NA.

**Board Questions/ Discussion:**

1. Ms. Fowler expressed concerns with soil erosion and water drainage concerns.
  - Mr. Chapman explained that the upgraded drainage system will dissipate water gradually and evenly to ensure erosion is mitigated.

**Consideration of VA24-000006:**

1. There **are** extraordinary and exceptional conditions pertaining to the particular piece of property:

a. Motion – Mr. Decker made a motion in the affirmative, seconded by Mr. Gilster. No Discussion.

b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

2. These conditions **do not** generally apply to other property in the vicinity:

a. Motion – Mr. Gilster made a motion in the affirmative, seconded by Mr. Henderson. No Discussion.

b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

3. 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.

a. Motion – Mr. Decker made a motion in the affirmative, seconded by Mr. Henderson. No discussion.

b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

4. 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. Gilster made a motion in the affirmative, seconded by Mr. Henderson. No Discussion.

b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that the criterion passed.

5. Mr. Eagar asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **Approved**.
  - a. Motion – Mr. Decker made a motion; seconded by Mr. Henderson. No Discussion.
  - b. Vote

In-favor	Opposed
5	0

Mr. Eagar noted that variance requests were approved.

**ITEM 7- Variance application #VA24-000007 George Kelly of Fowler Outdoor Living LLC is requesting a variance to the rear property setback for a retaining wall. TMS 302-00-01-102 with an address of 604 Keswick Point Salem SC 29678**

**Applicant Comments:**

Stated Name: Daniel Fowler

Mr. Fowler explained that he is the retaining wall contractor and is seeking a variance for a client who wishes to maximize their backyard space by installing this retaining wall as close to the Army Core line as possible. Mr. Fowler explained that normally most lots around this one are much larger and he has been able to build up to the line without issue. Mr. Fowler presented engineered plans that were already developed for the wall.

Mr. Fowler showed where the wall would stand on the topography map as well as the new construction home.

**Staff comments:**

Mr. Coley presented the property lines and existing topography to the board.

Mr. Coley explained that the decision of the variance needs to include the conditional approval of distance granted by the variance.

**Public comment:**

Mr. Eagar read a letter from Cynthia White:

- The letter is in support for approval of the application stating that it doesn't impact community standards.

Mr. Eagar read a letter from Jim Catoe

- The letter is in support for approval of the application stating that it doesn't impact community standards.

**Applicant rebuttal:**

NA.

**Board Questions/ Discussion:**

1. Mr. Eagar questioned how tall the proposed wall would be.
  - Mr. Fowler explained at its peak the wall would be 12ft.
2. Mr. Decker expressed drainage concerns.
  - Mr. Fowler explained the drainage system the wall employs.
3. Ms. Fowler questioned why it is necessary to build the retaining wall into the setback and not construct outside of the setback.
  - Mr. Fowler stated that the need to develop in the setback is to maximize an extremely limited backyard space.
4. Mr. Eagar questioned how the water discharge system would prevent water erosion.
  - Mr. Fowler explained that the water drainage system would prevent water erosion by distributing the water using a lid distribution system.
5. Ms. Fowler expressed concerns about construction soil erosion and requiring the space needed to put in protection and silt fences.
  - Mr. Fowler explained that there is already a silt fence on the property line.
6. The board expressed concerns with the velocity of water flowing from the drains at the bottom of the retaining wall.
  - Mr. Fowler explained that the pipes have very little flow, even during heavy rains.
7. Ms. Fowler expressed concerns for lawn vegetation and chemicals draining into the lake from construction.
  - Mr. Fowler explained that in either case the lawn will be constructed, and by having the wall it would provide an additional barrier, and would likely reduce the impact of chemicals.

**Consideration of VA24-000007:**

1. There **are** extraordinary and exceptional conditions pertaining to the particular piece of property:
  - a. Motion – Mr. Gilster made a motion in the affirmative, seconded by Mr. Henderson. No Discussion.
  - b. Vote

In-favor	Opposed
4	1

Ms. Fowler opposed  
 Mr. Eagar noted that the criterion passed.

2. These conditions **do not** generally apply to other property in the vicinity:
  - a. Motion – Mr. Decker made a motion in the affirmative, seconded by Mr. Henderson. No Discussion.
  - b. Vote

In-favor	Opposed
4	1

Ms. Fowler Opposed

Mr. Eagar noted that the criterion passed.

3. 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.

a. Motion – Mr. Henderson made a motion in the affirmative, seconded by Mr. Decker. No discussion.

b. Vote

In-favor	Opposed
4	1

Ms. Fowler Opposed

Mr. Eagar noted that the criterion passed.

4. 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. Decker made a motion in the affirmative, seconded by Mr. Henderson. No Discussion.

b. Vote

In-favor	Opposed
4	1

Ms. Fowler Opposed

Mr. Eagar noted that the criterion passed.

5. Mr. Eagar asked – Based on the evidence presented to the Board, do I hear a motion that the proposed variance be **approved with the following stipulation- the setback of the wall will be 8 feet into the property setback.**

a. Motion – Mr. Henderson made a motion; seconded by Will Decker. No Discussion.

b. Vote

In-favor	Opposed
4	1

Ms. Fowler Opposed

Mr. Eagar noted that variance requests were approved.

**ITEM 8- Adjourn** – Mr. Gilster made a motion to adjourn, seconded by Mr. Henderson. Mr. Eagar called for a vote. Motion passed unanimously 5/0.