

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC



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

Minutes

6:00 PM – June 24, 2024

Members in Attendance

Will Decker – At Large
Tim Mays – District 5
John Eagar – At Large

Bill Gilster – District 3
Thomas James – District 4

Members Absent

Jim Henderson – District 1
Gwen Fowler - District 2

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. James. Mr. Eagar called for a vote. The motion passed 5/0/0

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 ##VA24-000009 Louise McKirgan is requesting a 10-foot variance to the front setback for an existing garage. TMS 286-00-01-046 with an address of 308 Knox Cove Rd. Westminster SC 29693.

***During Presentation the Variance application was amended to be increased to 24ft. Details below.**

Applicant Comments:

Stated Name: Louise and Charles McKirgan.

Ms. McKirgan explained that when they had just moved to the property they had hired professional contractors to build the pole barn. They had trusted that the contractors would pull the necessary permits required and adhere to local ordinances correctly.

Ms. McKirgan stated that the pole barn was 14ft from the road.

Mr. McKirgan explained that he believed he couldn't do that and staked out his property line and moved the structure just inside the line, without knowledge of setback requirements.

Ms. McKirgan explained that the structure surroundings are neat and clean, and do not interfere with the road.

Staff comments:

Mr. Coley pointed out that the reason for this variance is that someone had made a complaint against this property and that the code enforcement officers had confirmed that a violation had been committed. The need for the variance was to remedy that violation. A building permit would still be required to be applied for after the variance ruling if granted.

Public comment:

1. Stated Name: Michelle Pointer
 - a. Ms. Pointer first stated that the garage referenced by Mr. Eagar is actually just a carport
 - b. Ms. Pointer explained that the neighborhood road is a low use, low speed road that would not pose an increased danger by having the McKirgan's garage there.
 - c. Ms. Pointer stated she agrees the variance should be given.
2. Stated Name: Jonathan Nation
 - a. Mr. Nation stated that he believed the lot lines were incorrect on the GIS software which may cause issue with the variance.
 - b. Mr. Coley explained that the lot lines used on GIS are approximate and not used to determine setback lengths.
 - c. Mr. Nation stated that he is for the variance.
3. Stated Name: Kandi O'Shields
 - a. Agreed with previous comments.
4. Public Letter: Jim Spearman, opposed
 - a. Read by Mr. Eagar
 - i. Mr. Spearman explained issue with the variance for two reasons.

- ii. The first was a safety concern. He claimed that parking the truck obstructed view of Knox Rd.
 - iii. The Second was that if approved, this variance was unfair to surrounding citizens who followed setback requirements.
- 5. Michelle Pointer:
 - a. Responded to the email and stated that the complaints made about the property are untrue. She stated that the garage was not a safety concern.

Applicant rebuttal:

NA.

Board Questions/ Discussion:

1. Mr. Decker asked what the issue was with going back further.
 - a. Mr. McKirgan explained that the property is a pie shape and going back any further would extend the structure beyond his property line. He didn't choose to put the barn on the other side because he stated that water would have drained into it.
2. Mr. Eagar questioned if it would have made more sense to build the pole barn parallel with the existing garage.
 - a. Mr. McKirgan explained that he was about 5 feet from the existing garage, however placing it as Mr. Eagar suggested would not have worked because of the increased elevation of the yard.
 - b. Mr. Eagar suggested that it appeared to have worked based on the property lines shown in GIS.
 - c. Ms. McKirgan stated that the pole barn is already parallel with the garage on the backside of each.
 - d. Mr. Eagar reaffirmed that the two are parallel with each other on the backside.
 - e. Mr. McKirgan explains that indeed it is, on one corner of the pole barn.
3. Mr. Gilster questioned if this variance isn't approved what options are available to Mr. and Ms. McKirgan.
 - a. Mr. McKirgan stated the he would then have to tear it down, as there is nothing he could do to move it or otherwise remedy the violation.
 - b. Mr. Eagar asked Mr. McKirgan to clarify that it couldn't be physically moved from its current location.
 - c. Mr. Mays pointed out that the structure is on a poured concrete slab, and is unlikely to be able to be moved.
 - d. Ms. McKirgan reaffirmed that the reason they trusted the contractors because of the complexity of the finished pole barn.
4. Mr. Gilster asked if they had a building permit.
 - a. Ms. McKirgan explained they did not and had paperwork provided by the contractors that said they didn't need one.
 - b. Mr. Gilster questioned if the Mr. and Ms. McKirgan were aware that they needed a building permit.

- c. Mr. McKirgan stated that for a concrete slab with a metal building on top, he didn't know he needed one.
- d. Ms. McKirgan reaffirmed the contractors told them they didn't need one.
- 5. Mr. Gilster asked who was telling them they didn't need a building permit.
 - a. Ms. McKirgan stated the contractors.
 - b. Mr. Coley presented to the board a page from the backup material which shows the approved purchase order and handwritten on the middle of the page is a note stating "permit – no." Mr. Coley then questioned if this note was what Ms. McKirgan was referencing.
 - c. Ms. McKirgan said it was.
- 6. Mr. Coley made a point that the applicant stated they were 11ft from the edge of the road, and because of this, they needed to amend the 10ft variance to a 24 ft variance.
 - a. Mr. Eagar asked if there was a motion to amend the application.
 - i. Motion – Mr. Decker made a motion in the affirmative, seconded by Mr. Mays. No Discussion
 - ii. Vote

| In-favor | Opposed |
|----------|---------|
| 5 | 0 |

- 7. Mr. Mays questioned if the person who made the complaint was impacted by the violation.
 - a. Complainant information cannot be disclosed.
- 8. Mr. Gilster asked if this property is the only one that is close to the road.
 - a. Mr. Nation and Ms. Pointer claimed there were.
- 9. Mr. James stated he drove through the neighborhood and confirmed the road characteristics explained by Ms. Pointer.
- 10. Mr. Decker stated that it was hard to believe someone would build a structure this significant
- 11. Mr. Gilster pointed out that BZA shouldn't accept reason for variances to be that they did not know about the permitting process.
 - a. Mr. Mays disagreed stating that people trust professionals and shouldn't be held liable for contractor's wrongdoings.

Consideration of VA24-000009:

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

| In-favor | Opposed |
|----------|---------|
| 5 | 0 |

Mr. Eagar noted that the criterion **did pass**.

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

| In-favor | Opposed |
|----------|------------------|
| 4 | 1 Mr. Gilster |

Mr. Eagar noted that the criterion **did 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. Mays made a motion in the affirmative, seconded by Mr. Decker. No discussion.
 - b. Vote

| In-favor | Opposed |
|----------|------------------|
| 4 | 1 Mr. Gilster |

Mr. Eagar noted that the criterion **did 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. Mays made a motion in the affirmative, seconded by Mr. James. No Discussion
 - b. Vote

| In-favor | Opposed |
|----------|---------|
| 5 | 0 |

Mr. Eagar noted that the criterion **did 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. Mays made a motion; seconded by Mr. James. No Discussion.
 - b. Vote

| In-favor | Opposed |
|----------|------------------|
| 4 | 1 Mr. Gilster |

Mr. Eagar noted that variance request was **approved**

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