

# OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC



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

## Minutes

6:00 PM – July 22, 2024

### Members in Attendance

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

Bill Gilster – District 3  
Jim Henderson – District 1  
Gwen Fowler-District 2

### Members Absent

Thomas James – District 4

### 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 June 24, 2024** – Mr. Mays made a **motion** to approve the minutes; seconded by Mr. Decker. Mr. Eagar called for a vote. The motion passed 4/0/2. Ms. Fowler and Mr. Henderson abstained

**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 #SE24-000001 for new communications tower. Variance application: #VA24-000010 Duke Power Co. is requesting a 60-foot increase to the 250-foot Industrial/agricultural height restriction for cell towers.**

**TMS 137-00-01-001 with an address of 7805 Rochester Hwy Seneca SC 29672. Ref. Sec. 32-136**

**Applicant Comments:**

Stated Name: Sarah Spruill from Haynsworth Sinkler Boyd, representing Duke Energy.

Ms. Spruill confirmed that the board had received the application prepared by Duke Energy.

Ms. Spruill stated that Duke Energy is sought to build a 310 ft tower next to the Oconee nuclear site, therefore needed a 60ft variance. She stated the parcel is zoned CFD. She further stated that the parcel is over 110 acres and that the fall zone for the tower is wholly contained within the parcel.

Ms. Spruill stated that the tower is needed for Duke Operation and point to point communication. The height is required because of the limitations in the surrounding topography.

Ms. Spruill explained that Duke Energy had looked for alternatives including co-location, stealth design, and others but would not adequately satisfy their need.

Ms. Spruill explained that with board approval of the application the county would be able to use the tower for emergency services.

Ms. Spruill further stated that this tower is consistent with the comprehensive plan and is in the best interest of the county. No traffic or access issues because the tower is contained fully within the property.

**Staff comments:**

Mr. Coley explained that the application is complete and that the county has no objections to the application.

**Public comment:**

**Applicant rebuttal:**

NA.

**Board Questions/ Discussion:**

Mr. Gilster questioned about the safety of the tower.

- Ms. Spruill called up Patrick Bernier, senior project manager with Duke Energy.

- Mr. Bernier explained that this tower was a similar situation to an earlier hearing regarding the tower at Bad Creek. He explained the intention is to increase safety of line workers during storm recovery, and day to day operations.
- Mr. Bernier confirmed Duke’s intention to have county 911 services on the tower.
- Mr. Bernier explained that similar to the Bad creek tower, this tower is designed to break in half before falling to minimize damage.

Mr. Eagar questioned if Duke had any intention to open the tower up to public phone wireless use.

- Mr. Bernier explained that they are open to leasing tower space to any wireless companies, and was unaware of any pending applications for this tower.

Mr. Henderson complimented the thoroughness of the application.

- Ms Spruill explained that the tower was extremely important to duke energy.

**Consideration of SE24-000001:**

1. Is in accordance with the Comprehensive Plan and consistent with the spirit, purpose, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the Special Exemption is being requested

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

In-favor	Opposed
6	0

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

2. Is in the best interests of the County, the convenience of the community and the public welfare

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

In-favor	Opposed
6	0

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

3. Is suitable for the property in question, and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.

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

In-favor	Opposed
6	0

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

4. Is suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazards.
  - a. Motion – Mr. Henderson made a motion in the affirmative, seconded by Mr. Gilster. No Discussion
  - b. Vote

In-favor	Opposed
6	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 special exception be **Approved**.
  - a. Motion – Mr. Decker made a motion; seconded by Mr. Mays. No Discussion.
  - b. Vote

In-favor	Opposed
6	0

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

#### Consideration of VA24-000010:

6. 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. Mays. No discussion
  - b. Vote

In-favor	Opposed
6	0

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

7. 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. Henderson. No Discussion
  - b. Vote

In-favor	Opposed

6	0
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Mr. Eagar noted that the criterion **did pass**.

8. 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. Mays. No discussion.
  - b. Vote

In-favor	Opposed
6	0

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

9. 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
6	0

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

10. 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. Henderson. No Discussion.
  - b. Vote

In-favor	Opposed
6	0

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

**Item 5. \*\*\*This application was withdrawn from the 07/22/24 Agenda\*\*\* Variance application: #VA24-000011 Jim Anthony of Falls Park Subdivision is seeking relief from the 100-foot minimum between a curve and intersecting road right of way. TMS 039-00-01-014 with an address of 105 Jocassee Landing Dr. Salem SC 29676 Ref. Sec. 26-3 (e) (3)**

Mr Eagar asked why the application was left in the agenda.

- Mr. Coley explained that because of public interest the application was left for clarity.

**ITEM 6. Variance application: #VA24-000012 Devin Moeser is requesting a 6-foot variance to the front setback. TMS 271-01-01-137 with an address of 34 Ulster Dr. Seneca SC 29678. Ref. Sec. 38-10.2**

**Applicant Comments:**

Stated Name: Devin Moeser, Development Manager, Core Spaces

Mr. Moeser explained that they had built over 200 new student housing, in which the layout was designed based on the original survey that had done for the property. Upon completion of the development, a new as-built survey was done. Mr. Moeser pointed out that open discovery of the violation, he had self-reported.

Mr. Moeser explained that the issue had originally occurred because the first surveyor assumed incorrectly that the road right of way curved with the road, instead of being a point to point linear line.

**Staff comments:**

Mr. Coley showed that Ulster rd has a 66ft road right of way which condenses into a 50ft right of way. He explained, that although the violation was not originally caught, core self-reported the issue.

**Public comment:**

**Applicant rebuttal:**

NA.

**Board Questions/ Discussion:**

**Consideration of VA24-000012:**

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. Henderson. No discussion

b. Vote

In-favor	Opposed
6	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. Henderson. No Discussion

b. Vote

In-favor	Opposed
6	0

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

b. Vote

In-favor	Opposed
6	0

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

b. Vote

In-favor	Opposed
6	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. Decker made a motion; seconded by Mr. Mays. No Discussion.
- b. Vote

In-favor	Opposed
6	0

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

**ITEM 8- Adjourn** – Mr. Mays made a motion to adjourn, seconded by Mr. Henderson. Mr. Eagar called for a vote. Motion passed unanimously 6/0.