

# OCONEE COUNTY BOARD OF ZONING APPEALS

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## MINUTES BOARD OF ZONING APPEALS 6:00 PM, MONDAY, JUNE 26, 2017 COUNTY COUNCIL CHAMBERS OCONEE COUNTY ADMINISTRATIVE COMPLEX

The Oconee County Board of Zoning Appeals held a meeting on June 26, 2017, at 6:00 PM in Council Chambers at the Oconee County Administrative Building, 415 S. Pine St., Walhalla, SC 29691.

**Members Present:** Ms. Fowler  
Mr. Gilster  
Mr. McKee  
Mr. Medford  
Mr. Morgan

**Staff Present:** Mr. Gregory Gordos, Senior Planner; Adam Chapman, Planner I; Bill Huggins, Planner

**Media present:** None

ITEM 1- Call to Order

Mr. Gilster, Acting Chairman, called the meeting to order. 6:00 p.m.

ITEM 2- Approval of Minutes from May 17, 2017

Mr. Medford motioned to approve the minutes.

Mr. McKee seconded the motion.

The motion was passed 6-0

ITEM 3- Public Comment (Non-Agenda)

Mr. Red Gardner spoke about Item 3 concerning the New Life Church project. He expressed his disapproval of the appearance of that project relative to the Rustic Elegance concept. He also spoke in opposition to the Epoch housing project. He stated the County is not abiding by the Rustic Elegance idea.

ITEM 4- Special Exception Hearing for Application SE17-000003 (378 Mountain Road- Communication Tower)

Mr. Gilster called on Mr. Gordos to present the case.

Mr. Gordos stated the matter before the Board. The request is for a Special Exception approval of a communications tower on Mountain Road under Chapter 32 of the Oconee County Code of Ordinances. The tower is 195' and a monopole design. The project is in the CFD. He pointed out that every communications tower request requires a Special Exception review for approval.

Mr. James LaPann, applicant, was introduced by Mr. Gordos. Mr. LaPann presented a PowerPoint presentation detailing the Mountain Road tower request. Mr. LaPann indicated that there would be an enclosure around the unit and vegetative screening. He argued that in keeping with the criteria for approval, this use is in keeping with the Comprehensive Plan and the character of the area, which is forested and in a CFD. He stated the use is in the best interests of County residents by providing good internet access. He added that about seventy percent of E-911 calls are by cell phone. In terms of harmony with the area, Mr. LaPann noted the drawings submitted and the distance from the public road. With respect to traffic, Mr. LaPann indicated that this will be an unmanned installation and will thus generate little traffic.

Mr. LaPann explained the various levels of coverage indicated on the site drawing. He stated that this project will fill in a gap in coverage.

No one spoke in opposition to the request.

Next, Mr. Gordos explained to the Board the requirement that they consider the request based upon the four criteria for approval.

Mr. Gilster presented to the public the following criteria as outlined in Sec. 32-5.- General criteria for granting a special exception. Mr. Gordos noted that it procedurally required a request in the affirmative, discussion, and a vote on each of the following:

- a. is in accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter;
- Mr. McKee motioned to approve the first criteria. Mr. Lusk seconded the motion. There was no discussion. The motion passed 6-0.

b. is in the best interests of the county, the convenience of the community and the public welfare;

Mr. Medford motioned to approve the second criteria. Mr. McKee seconded the motion. The motion passed 6-0.

c. 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; Mr. McKee motioned to approve the third criteria. Ms. Fowler seconded the motion. The motion passed 6-0.

d. Suitable in terms of effects on highway traffic, parking and safety with adequate access arrangements to protect streets from undue congestion and hazard;

Mr. McKee motioned to approve the fourth criteria. Mr. Medford seconded the motion. There was no discussion. The motion passed 7-0.

Mr. McKee motioned to approve the Board Order with Mr. Medford seconding the motion. The motion passed unanimously.

ITEM 5- Special Exception Hearing for Application SE17-000004 (470 Dairy Farm Road – Communication Tower)

Mr. Gordos stated the matter before the Board. This property is zoned Agriculture (AD). The height maximum is 225', and the structure is a monopole. The use is located behind several agricultural buildings. These are not considered habitable.

Mr. James LaPann spoke on behalf of the request. He noted that the owners of the property where this proposal is located are present for the hearing. He stated that a farm road runs beside the farm structures back to the area where the tower will be located. Mr. LaPann showed a graphical presentation and photo simulations to show the use location, which is well back from the public road.

He argued that the use is in keeping with the spirit of the ordinance and meets all four criteria for approval.

Mr. Gilster next presented to the public the following criteria as outlined in Sec. 32-5.- General Criteria for Granting a Special Exception:

a. is in accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter;

Mr. Gilster suggested that the Commission vote on the request with one motion addressing all four criteria for approval. He called for a motion to use that method of consideration.

Mr. Medford motioned to approve the request on that basis. Mr. Mckee asked if the applicant provides a letter of insurance coverage/liability as part of the submittal process. Mr. Gordos indicated that all documentation, including insurance and an indemnity agreement, are included. The Commission voted unanimously to use the single motion method in voting on the request.

Mr. Medford made a motion to approve the request as in accordance with the four criteria for approval. Mr. McKee seconded the motion. The request was approved unanimously.

ITEM 6- Special Exception Hearing for Application SE17-000006 (Newry Road – Self Storage Facility in Lake overlay district)

Mr. Gordos stated the matter before the board. He indicated that Chapter 38, Article 11 requires that projects of this type within 75 feet of Lake Keowee or Jocassee in the Overlay require Special Exception review. Several lakefront communities are located near the subject site, which is near the Newry community.

Kevin Rotano spoke as the applicant for the request. He indicated he is not the property owner but stated that the facility would be high quality. He did not present detailed drawings and views until approval is granted to allow for preparation to go forward. All access would be from Stanton Road, according to Mr. Rotano. The facility would be for landowners in the Lake Keowee area. He further stated the project goals and upscale appearance with an appealing façade, paved drives, and attractive fencing. He also indicated that traffic impact should be minor on Hwy 130, with traffic routed onto Stanton Road.

Mr. Gilster asked about designs for the project and about DOT applications for access. Mr. Rotano stated that all access from the facility would be on Stanton. Mr. McKee asked if this is the first time the public has had a chance to consider the issue and hear the proposal. Mr. Rotano indicated that this is the first opportunity. Mr. Mckee stated that to vote on something, the members need more information to act on the request.

Mr. Gilster asked about ownership. The applicant does not have ownership or an option at this point.

Mr. McKee said it appeared the submittal may be premature.

In answer to another question, Mr. Rotano stated that no commercial business would be operating out of the facility, and traffic should be limited.

### Opposition Speakers

Red Barnett spoke in opposition to the request, citing traffic concerns, the appearance of the project, and the type of activity that might be involved.

Aaron Russy also spoke in opposition to the request based on traffic concerns.

Martha Steele spoke in opposition. She also expressed traffic concerns along Rochester Highway.

Elizabeth Cox stated that the project would detract from efforts to revitalize the Newry community, again citing traffic issues.

Mr. Gilster stated that he felt they could not vote on the item at this time. Mr. Mckee made a motion to table the item. Mr. Medford seconded the motion. The motion was approved unanimously.

Item 7-

Variance Hearing fo Application VA17-000009 (13995 Clemson Blvd – Minimum Setbacks for Communication Towers)

Mr. Gordos stated the issue, which is a variance request concerning the setback from a property line. The applicant seeks relief from the setbacks for a Communication Tower , which is set by Chapter 32-134 General Requirements-M. , which requires a setback from every property line of one foot for every foot in height of the tower.

This request involves a large tract owned by the applicant, who wishes to subdivide a small lot out of that larger area to contain an existing communications tower. The tower is already non conforming, in that it is already close to the southern boundary of the tract. This request would expand the non-conformity relative to property lines being created on all sides of the structure.

### Applicant

Mr. Hal Grayson of Veleo Group spoke on behalf of the request. His company has the 58 acre tract under contract in the subject location to develop a student housing project that will include several housing types and accompanying facilities. Mr. Grayson stated the company is developing a linear park, and is working with the County engineer and with DHEC on permitting issues.

Mr. Grayson stated that their title company would prefer that they separate out a parcel containing the tower in order to facilitate title insurance. The company will still maintain and own the property.

Mr. Grayson stated that the conditions associated with this request are unique and don't generally apply elsewhere. He also indicated that operation of the tower in the future could be precluded without the variance. He argued that there should be no detriment to surrounding properties given the tower location, which is not clearly visible from the project entrance area. In addition, landscaping is planned for the tower area. He added that there is interest in expanding the tower area to include a portion of the access road.

Ms. Fowler asked about the amount of area around the tower. Ms. Grayson said between the tower and the lake is the proposed village area. There will be townhomes and apartments. Amenities will not be near the tower. But there will be buildings nearby. Mr. Grayson said the cell tower must have insurance and there would be insurance for the project as well. Ms. Fowler asked if this request could create liability for the County given the proximity of the tower relative to proposed buildings. Mr. Grayson did not think so.

Mr. Gilster considered whether the access road or a portion of it should be included in the parcel to be created. Mr. Grayson indicated that this request does not involve Norfolk Southern. He also stated that the company plans to begin construction in August. He stated that if the Board does not approve the request, this would kill the project. Mr. Gordos stated that no permits have been formally applied for at this point. Only preliminary renderings have been provided.

Again Ms. Fowler expressed her concern about potential liability associated with the project, with housing to be located in close proximity to the tower. Ms. Fowler suggested additional liability insurance language to address her concern.

The Chairman suggested that language concerning additional insurance could be included as an additional condition of approval. Mr. Gordos indicated that he did not know the legal aspect of such language.

Mr. McKee made a motion to table the request in order to obtain guidance from the County Attorney regarding what language should be used in the conditions of approval to address the liability concerns. Ms. Fowler amended the motion to request that the applicant revise the plat to include the additional property involving the access road that the applicant would like included in the parcel to be created and submit that material for consideration at the next Board meeting. The Board voted unanimously to approve the amendment by Ms. Fowler.

Next, the Board voted unanimously to approve the amended motion by Mr. McKee.

A motion was made to adjourn and seconded. The motion was approved unanimously. The Board adjourned at approximately 7:15 p.m.

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