

## OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC



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

6:00 PM, MONDAY, JANUARY 27, 2020  
COUNCIL CHAMBERS  
OCONEE COUNTY ADMINISTRATIVE COMPLEX

- ITEM 1- Call to Order**
- ITEM 2- Election of Board Officers for 2020**
- ITEM 3- Approval of Board Calendar for 2020**
- ITEM 4- Approval of Minutes of September 23, 2019 Meeting**
- ITEM 5- Variance request for Application #VA 20-000001 \_ Request for a 20' variance from the 25' front setback requirement from the right-of-way line for property along Clemson Boulevard for the placement of a free-standing business sign.**
- ITEM 6- Public Comment (Non-Agenda)**
- ITEM 7- Staff Update**
- ITEM 8- Old Business** *[to include Vote and/or Action on matters brought up for discussion, if required]*
- ITEM 9- New Business** *[to include Vote and/or Action on matters brought up for discussion, if required]*
- ITEM 10- Adjourn**

# Board of Zoning Appeals Calendar 2020

## January-

BZA Monday 27

## January, 2021

BZA Monday 25

## February-

BZA Monday 24

## March-

BZA Monday 23

## April-

BZA Monday 27

## May-

BZA Thursday 28

## June-

BZA Monday 22

## July-

BZA Monday 27

## August-

BZA Monday 24

## September-

BZA Monday 28

## October-

BZA Monday 26

## November-

BZA Monday 23

## December-

BZA Monday 28— **Christmas Holiday (no meeting)**

\*All dates are subject to change. A date/meeting may be cancelled by the Board Chairman if no cases are submitted for review prior to the deadline for application.

# OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC



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## MINUTES

BOARD OF ZONING APPEALS

6:00 PM, MONDAY, SEPTEMBER 23, 2019

COUNTY COUNCIL CHAMBERS

OCONEE COUNTY ADMINISTRATIVE COMPLEX

The Oconee County Board of Zoning Appeals held a meeting on SEPTEMBER 23, 2019 at 6:00 PM in Council Chambers at the Oconee County Administrative Building, 415 S. Pine St., Walhalla, SC 29691.

**Members Present:** Mr. Gilster  
Mrs. Fowler  
Mr. Codner  
Mr. Morgan  
Mr. Eagar

**Staff Present:** Bill Huggins, Planner  
David Root, County Attorney

**Media present:** None

**ITEM 1- Call to Order**

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

**ITEM 2- Approval of Minutes of April 25, 2019**

An amendment was made to the minutes of the April 25 meeting. Mr. Gilster stated that on Page 4, at the end of item 5, the case is indicated as denied by a 2 to 4 vote. He felt it was customary to place the higher number first in the vote order. The amendment was approved 5-0. The minutes as amended were approved as modified.

**ITEM 3- Public Comment (Non-Agenda)**

No one from the public signed up to address the Board or make comments.

#### **ITEM 4- Legal and Procedural Advice**

##### **Legal Advice from County Attorney**

Mr. David Root was present to discuss several policy and procedure issues with the Board.

##### **Site Visits**

Mr. Root explained that based on the research staff had done, there is not a uniform practice in jurisdictions around the State concerning whether or not Board members should be encouraged to conduct individual site visits for cases coming before the body. He noted that this does often occur and that some communities do encourage the practice, as long as a quorum of the Board does not visit a site together. This would trigger a requirement to publish notice of the event, which would be considered a meeting under statutory requirements.

Mr. Codner stated that he would be concerned about even two members going on site together. Mr. Root responded that the only jurisdiction staff had encountered that formalized this process issue is Seabrook, which incorporates formal site visits into the Board meeting agenda. They begin meetings at their boardroom, take a recess and visit the site, adjourn, and return to the boardroom for the substantive hearing. This way the visits are noticed along with the Board meetings. Mr. Root pointed out the quasi-judicial nature of this proceeding, thus making due process issues critical to the process, in order to insure due process for the applicant and those who may oppose a request.

He added that the Board decision carries great weight, even when the outcome is challenged in court. You need to make sure the acquisition of evidence is done in a fair and impartial manner. Because of this, he felt that if members are going to visit a site, he prefers that they do it together to insure that all members begin deliberations on a case from the same point of knowledge, with the same information base.

Mr. Root went on to explain that the S. C. Association of Counties recommends that Board members take no site visits and speak to no one about a case prior to the hearing. Therefore, he continued, if the Board does take site visits as a body, the rules of procedure should be clearly defined, including a prohibition on field discussions about the case.

Mr. Eagar stated his concern with the Association approach. He felt it necessary to visit the site to acquire objective evidence. He recalled that in an Orientation training, they were told by presenters that it is advantageous to visit sites. Mr. Root responded that he does object to taking photos in the field, which is in effect producing evidence.

Mr. Codner stated that he understands the concern about photos, but he felt it was imperative that members visit the site.

In response to a question about grounds for appeals, Mr. Root explained that a lawyer might apply a due process argument if, for example, some members visit a site and some do not, creating an imbalance in knowledge that could influence an outcome. He added that an appearance of impropriety is also something to consider. He quoted the Association attorney's opinion to the effect that members should make their decisions based solely on evidence presented at the hearings and should not discuss the case beforehand. He added that Staff can take photos and provide evidence that they bring in. This is considered impartial evidence.

Mr. Eagar asked if this issue had emerged in case law, and Mr. Root responded that he did not find any such instances with that precise issue.

Mr. Codner stated that the Board's mission should be to do the right thing. He felt it was imperative to visit the property.

Mr. Root concluded by saying that he would have a problem with staff encouraging site visits. He said that if the Board insists on site visits he would recommend that either every member visit the site or that the Seabrook approach be utilized.

Mr. Gilster stated that he would like to place a larger responsibility on staff to provide more complete information, including photos, so that site visits are needed. He suggested that the staff and Board rules simply remain silent on the issue of site visits. Ms. Fowler stated that she has a concern about members providing evidence. She did not want to receive evidence or preformed opinions from Board members. Mr. Root added that if a Board member presents information that contradicts an applicant or opponent based on a field visit, this has the effect of casting that member as an advocate.

Mr. Huggins suggested that the staff provide a more complete photographic record as part of the agenda packet for cases as well as more detailed information about each site.

Mr. Eagar asked if it would be helpful to include language in the applications indicating that members are given permission to go on the site to assess the case. This application would be signed by the applicant. Mr. Root did not support any change to the application or process statements.

Mr. Root next called members' attention to the packet materials from the Association about ex parte communication.

### Conflict of Interest

Mr. Root next discussed issues to consider if a member is concerned about whether or not they have a potential conflict of interest in a given case.

Mr. Gilster also asked Mr. Root about third party intervention and the appeal process to the Circuit Court.

Mr. Codner asked about the finding of facts and conclusions of law. Mr. Root explained that the Board should state its findings in making a decision.

Mr. Eagar asked Mr. Root if the Board should swear in witnesses. Mr. Root responded that it is a good idea to do so and that the Chairman would handle that. He noted that the Rules of Procedure state that parties in interest may present evidence under oath.

Mr. Eagar made a motion that the Board require that individuals submitting evidence at the hearing be sworn in. There was no second, and members informally agreed to continue with the current process and to address this issue as needed.

### **ITEM 5- Old Business**

Mr. Huggins summarized development activity for the recent period for the Board.

### **ITEM 6- Adjourn**

A motion was made and seconded to adjourn. The motion was approved unanimously. The Board adjourned at approximately 7:20 p.m.

OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street -Walhalla, SC



Tel: (864)638-4218 FAX (864) 638-4168

APPLICATION FOR VARIANCE

OCONEE COUNTY, SC

APPLICANT: Electric City signs + Neon, Inc. Admin. Assit.  
Name Title/Organization  
Marie McClain

PROPERTY OWNER: (If different from applicant)

Deep South Defense - Eric McCollum

MAILING ADDRESS: 509 E. Hwy. 123 Seneca, SC 29678

PHONE: cell: \_\_\_\_\_ email: eric@deepsouthfirearms.com  
land line: 864-882-0223

PROPERTY INFORMATION

STREET ADDRESS: 509 E. Hwy. 123 Seneca, SC 29678

TAX PARCEL # 226-00-01-012 DEED BOOK/PAGE: \_\_\_\_\_

ZONING DESIGNATION: \_\_\_\_\_ ACREAGE: \_\_\_\_\_

REQUEST

CODE SECTION FROM WHICH A VARIANCE IS REQUESTED: \_\_\_\_\_

DESCRIPTION OF REQUEST:

1-2-20

Date

APPLICANT RESPONSES TO  
SECTION 38-7.1  
(You may attach a separate sheet)

1. Describe the extraordinary and exceptional condition (such as size, shape, and topography) that pertains to the subject property that does not generally apply to other land or structures in the vicinity.

The required 25' set back places sign in middle of parking lot. If approved the sign will have better visability closer to the road.

2. Are the circumstances affecting the subject property the result of actions by the applicant/owner? Explain.

There will be a connected driveway with 7-11 to help with traffic flow on Hwy.123. Sign placement under code with 25' setback will prevent this from happening.

3. Describe the ways in which application of the requirement(s) of the ordinance effectively prohibit or unreasonably restrict the utilization of the subject property.

The required 25' set back of the sign location places the sign in the middle of the parking lot.

4. Will the proposed variance result in an activity that 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. Explain.

no,



Instructions:

1. The applicant/owner must respond to the "findings" questions on page 3 of this application (you must answer "why" you believe the application meets the tests for the granting of a variance). See also Section 38-7.1 for additional information. You may attach a separate sheet addressing these questions.
2. You must attach a scaled drawing of the property that reflects, at a minimum, the following:
  - (a) property lines, existing buildings, and other relevant site improvements;
  - (b) the nature (and dimensions) of the requested variance;
  - (c) existing buildings and other relevant improvements on adjacent properties; and,
  - (d) topographic, natural features, etc. relevant to the requested variance.
3. The Zoning Administrator will review the application for sufficiency prior to placing the application on the BZA agenda. If the application does not provide sufficient information, the administrator will contact the applicant to request that the applicant provide the required information. You are encouraged to schedule an application conference with a planner, who will review your application at the time it is submitted to insure the necessary materials is provided.
4. The applicant and/or property owner affirms that the applicant or someone acting on the applicant's behalf has made a reasonable effort to determine whether a deed or other document places one or more restrictions on the property that preclude or impede the intended use and has found no record of such a restriction.

If the Community Development office by separate inquiry determines that such a restriction exists, it shall notify the applicant. If the applicant does not withdraw or modify the application in a timely manner, or at to have the restriction terminated or waived, then the Community Development office will indicate in its report to the Board of Zoning Appeals that granting the requested change would not likely result in the benefit the applicant seeks.

To that end, the applicant hereby affirms that the tract or parcel of land which is subject of the attached application is  is not  restricted by any recorded

covenant that is contrary to, conflicts with, or prohibits the requested activity.

Marie McClain Applicant Signature

1-2-20 Date

\_\_\_\_ Property Owner Signature



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**JOB NUMBER:** DEEP SOUTH DEFENSE  
**CLIENT:** DEEP SOUTH DEFENSE  
**LOCATION:**  
**DRAWING:** R1  
**SALESPERSON:** CHAD  
**DRAWN BY:** ICL  
**DATE:** 12/31/2019  
**FILE:** DEEP SOUTH DEFENSE PLOT

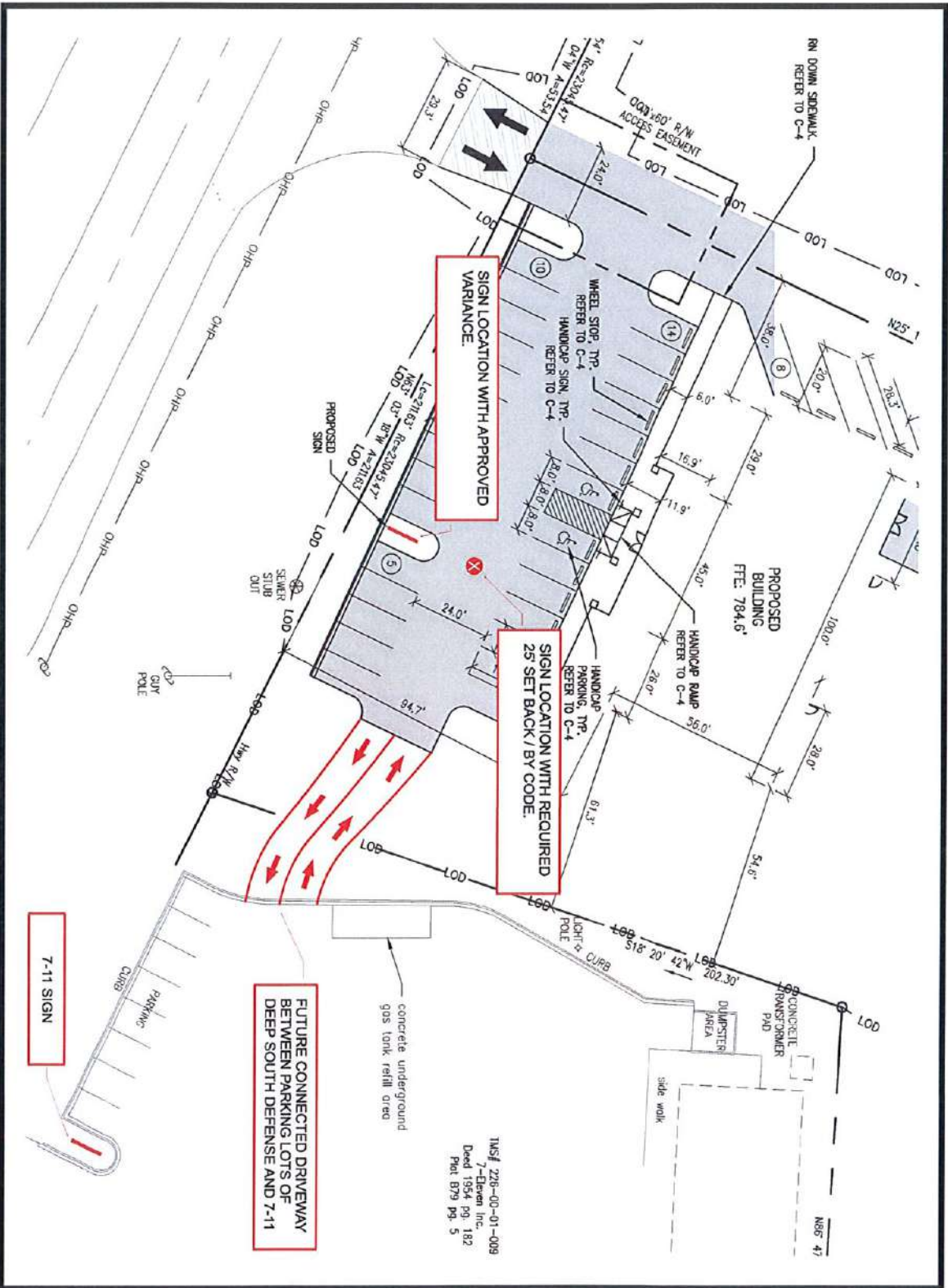
**REVISIONS DESCRIPTION**

**COLORS**

**CLIENT APPROVAL:**  
 COLORS PRINTED ON THIS SHEET ARE FOR REFERENCE ONLY.

**DATE:**  
**DATE:**  
**SALESPERSON APPROVAL:**

**DATE:**  
 THIS SIGN WILL BE CONSTRUCTED AS SHOWN, BY THE CONTRACTOR. THE SALES PERSON HAS VERIFIED THEY HAVE REVIEWED ALL OF THE INFORMATION AND FOUND IT TO BE CORRECT. THE SALES PERSON IS AUTHORIZING THE INFORMATION SHOWN ON THIS SHEET.  
 ELECTRIC CITY SIGNS & NEON INC. RETAINS ALL RIGHTS TO THE SIGN. YOU ELECT TO HAVE ELECTRIC CITY SIGNS & NEON INC. CREATE A SIGN BASED ON ONE OR MORE OF THE DESIGN LAYOUTS. ELECTRIC CITY SIGNS & NEON INC. SHALL BE DEEMED TO HAVE GRANTED YOU AN IRREVOCABLE PERPETUAL LICENSE TO USE THE SIGN, IF YOU HAVE A SIGN MADE BY AN INDEPENDENT THIRD PARTY BASED ON ONE OR MORE OF THE DESIGN LAYOUTS SHOWN IN THIS PROPOSAL. YOU SHALL PAY TO ELECTRIC CITY SIGNS & NEON INC. AS LIQUIDATED DAMAGES FOR THE ARRANGEMENT OF ELECTRIC CITY SIGNS & NEON INC.'S INTELLECTUAL PROPERTY RIGHTS AN AMOUNT EQUAL TO THE TOTAL FEES AS PROVIDED IN THIS PROPOSAL FOR ELECTRIC CITY SIGNS & NEON INC. TO CREATE THE SIGN.



# OCONEE COUNTY BOARD OF ZONING APPEALS

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## Staff Report

To: Members, Board of Zoning Appeals

From: Bill Huggins, AICP  
Planner and Zoning  
Administrator

Re: Item 4 - Application VA20-000001 - Variance Request from Article VIII, Section 32-521 and Article 10, Section 38-10.2 of the Oconee County Code of Laws concerning front setback requirement for signs in a Control Free District (CFD) for property identified as 10889 Clemson Blvd, Seneca, SC (TMS#226-00-01-012)

Property Owner: Deep South Defense LLC

Applicant: Electric City Signs

Zoning: Control Free District (CFD)

Parcel Id# 226-00-01-012

Lot Area: 1.52 acres

Zoning: CFD, Control Free District

County Code: Article 10, Section 38-10.2  
Article 8, Section 32-521

Request: The applicant is seeking a sign permit to place a free-standing sign five feet (5') from the right-of-way line of Clemson Boulevard near the Old Clemson Highway intersection to identify the new gun range business currently under construction. Electric City Signs has requested a 20' variance from the 25' front setback requirement for structures, including signs, in a CFD, Control Free

District.

The applicant states that they need the variance for reasons related to the parking lot layout of the business and the planned interconnection between the new use and the adjoining convenience store at the corner of Old Clemson Highway and Clemson Boulevard. The application states that placement of the sign based on required setbacks would place it in the parking lot driveway area and prevent the proposed connection between uses.

The application includes the attached site and sign plans.

### **Variance Standards**

The standards the Board of Zoning Appeals must consider in order to grant a variance are listed below under Section 38-7.1 of the Zoning Ordinance:

- Sec. 38-7.1. - Variances.

The Board of Zoning Appeals may grant a variance in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

- 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- 2) These conditions do not generally apply to other property in the vicinity;
- 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; and
- 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.
- 5)
  - a. The board of zoning appeals may not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted. The fact that the property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance.
  - b. The board of zoning appeals may grant a variance to extend physically an existing nonconforming use provided that the expansion does not adversely affect the character of the community and is designed so as to minimize any negative secondary impacts.

- c. In granting a variance, the board of zoning appeals may attach to it such conditions regarding the location, character, or other features of the
- d. proposed building, structure, or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.

The applicant shall have the burden of providing evidence to the county of compliance with the general requirements of this chapter and the specific requirements of the applicable section. The board of zoning appeals may impose whatever reasonable conditions it deems necessary to ensure that any proposed development will comply substantially with the objectives in this chapter.



OCCONEE COUNTY  
PUBLIC MEETING NOTICE  
BOARD OF ZONING APPEALS

WHO: Deep South Defense  
is requesting a

WHAT: Variance ZD for Freestanding Sign

PROJECT LOCATION: 20889 Clemson Blvd, Seneca

WHEN: January 29, 2020 4:00 PM

Meeting to be held at:  
Oconee County Council Chambers  
415 South Pine Street  
Walhalla, SC 29691

For more information call: 1-864-638-4218

# Case VA20-000001

## Variance Request

