OCONEE COUNTY BOARD OF ZONING APPEALS

415 South Pine Street - Walhalla, SC TEL (864) 638-4218 FAX (864) 638-4168

Minutes

6:00 PM – February 28, 2022

Members in Attendance

Gwen Fowler	Tim Mays
Marty Mckee	Jim Codner
John Eagar	Bill Gilster

Staff

James Coley, Planning Director
Vivian Kompier, Senior Planner

Media

None

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

ITEM 2 – Amend agenda – Mr. Codner made a motion to amend the agenda to add a discussion item to consider supplementing prior minutes. The motion was seconded by Mr. Eagar. Discussion: The minutes approved for November 30, 2022 need to be amended to include pages that were omitted in error. Mr. Codner called for a vote. The motion passed unanimously 6/0.

ITEM 3 – Amend the minutes from November 30, 2022 – Mr. Eagar made a motion to amend the minutes from November 30th to include two pages that were omitted; seconded by Mr. Mays. No discussion. Mr. Codner called for a vote. The motion passed unanimously 6/0.

ITEM 4 – Approval of minutes from January 24, 2022 – Mr. Eagar made a motion to approve the minutes from January 24th; seconded by Mr. Gilster. Discussion – none. Mr. Codner called for a vote. The motion passed 5/0, with Mr. McKee abstaining.

ITEM 5 – Brief statement about rules and procedures – Mr. Codner 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 6 – Variance application #VA21-015: Property owner Jeff Brown is requesting a 5' variance from the 25' required setback for new construction of a man cave and 2-car garage. TMS #039-01-02-035 with an address of 414 Ivorybill Way, Salem, SC 29676.

Applicant's opening statement and provision of evidence: Mr. Brown presented his application giving details of the lot, the home, the plans for remodeling, lack of information regarding the required setbacks at the time of purchase and design stage of remodel, and a private drive that terminates perpendicularly on their lot. Mr. Brown noted that the setbacks and septic tank requirements compress the buildable area on the lot.

Public Comment:

- Kristi Bishop, Representative of the Property Owners Association – Ms. Bishop stated the POA would agree to grant the 5' variance. Ms. Bishop confirmed that this type of request has been allowed in the past.
- Jacci Brown, co-owner of subject property – stated she believes granting of variance will solve parking issues and improve emergency vehicles access.

Applicant rebuttal: None

Staff comments:

- Mr. Coley – stated that it is the Department's view that there is a 25' front setback and that the application is valid and they have with no issues with the request.

Board questions and discussion:

- It was established that the existing structure is not in the 25' setback.
- There was clarification of the placement of the proposed garage and the positive impact it will make on the property.
- It was noted that there was no stated opposition to the variance.

Consideration of VA21-015:

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

b. Vote

In-favor	Opposed
5	1

Mr. Codner noted that the criterion passed.

2. These conditions ***do not*** generally apply to other property in the vicinity:
   a. Motion – Mr. Eagar made a motion, seconded by Mr. McKee. No discussion.
   b. Vote

In-favor	Opposed	Abstention
5	0	1

Mr. Codner 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; and
   a. Motion – Mr. Eagar made a motion, seconded by Mr. McKee. Brief discussion followed.
   b. Vote

In-favor	Opposed	Abstention
5	0	1

Mr. Codner 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. Eagar made a motion; seconded by Mr. McKee. No discussion.
   b. Vote

In-favor	Opposed	Abstention
5	0	1

Mr. Codner noted that the criterion passed.

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

In-favor	Opposed	Abstention
5	0	1

Mr. Codner noted that variance request was approved.

ITEM 7 - Special exception application #SE22-001: Jocassee Lake Tours – Kay Wade is requesting an addition to a Board Order dated July 30, 2018 for a non-residential parking area for Jocassee Lake Tours guests. TMS #038-00-01-005, a non-addressed parcel with the closest address of 112 Francis Falls Drive, Salem, SC 29676.

Applicant's opening statement and provision of evidence: Kay and Brooks Wade presented their application, providing details of the mission of their business, popularity of Devil's Fork State Park and the commercial enterprises that create parking challenges, the history of the 2018 Board Order, changes by the Park Service's parking regulations, safety concerns, and their plan to address the issues and concerns.

Board questions: Mr. and Mrs. Wade answered questions from the board:

- Confirmed the Wade's existing parking lot is grass
- Addressed drainage concerns of rainwater runoff and erosion
- Spoke to how other commercial businesses at the park handle their parking
- Clarified the details, specifically the days of the week and months of the year, of the request

Staff comments:

- Mr. Coley stated that this request does not affect the previous Board Order and confirmed that this is a commercial project inside the Jocassee Lake Overlay requiring a special exception.

Public comment:

- Sherrie Cobb, citizen – expressed her opposition to the special exception request. She stated that the Wades began operating outside of the special exception they were granted in 2018 when the Park Service changed the parking rules and is worried that if granted the current special exception, they will not abide by the parameters. She believes that they are before the Board now only because of her persistence. Ms. Cobb presented pictures in support of her claim that Jocassee Lake Tour customers are damaging her property which is adjacent to the parking lot. Mr. Codner asked if the special exception was followed to the letter of the law, would Ms. Cobb still have issue. Ms. Cobb said she would, as the nuisance and evasion of privacy has become too much.
- Debbie Sewell, citizen – expressed her opposition to the special exception request. Ms. Sewell reminded the Board that the subject property is in the Lake Overlay which was created to protect against this type of issue. She stated that if the special exception is approved it should come with the conditions of strict compliance to the order and an installation of screening to conceal the parking lot.

- Ken Sloan, President / CEO, Visit Oconee Tourism Board – expressed his support of the special exception request. He spoke to the popularity of Devil's Fork State Park, the issues of parking, and the value of Lake Jocassee Tours to the stewardship of Lake Jocassee.

Applicant rebuttal: The Wades addressed the issues identified during public comment, including boat trailers in the lot, people wandering around in the lot, cars being in the lot past 5:30 PM, the smell from porta-potties, individuals sleeping in the parking lot, and the proposed screening. When asked by the Board, Ms. Wade clarified their business hours. Ms. Cobb added that the Wades also offer moonlight tours and private tours that do no fall within the stated hours. With regards to the living screen, Ms. Cobb added that the Wades have asked her to supply the water for the plantings. Ms. Wade addressed Ms. Cobb's statements. When pressed by the Board, Ms. Wade stated that the hours for the parking lot would be 7:00 AM to 6:30 PM. Mr. Coley answered questions regarding the enforcement of the special exception if approved.

Mr. Codner read an email in opposition of the special exception from citizen Joe Beckert. Mr. Codner also stated the Board received a large number of emails in support of the special exception, noting that they were uniformly from people outside Oconee County. The Wades disagreed with that labeling, stating that many were from Oconee.

Board discussion: There was a discussion among Board members that included, but was not limited to, the intent of the Lake Overlay, the concern expressed by the adjoining property owners, the need for conditions be placed on the exception regarding the hours of operation and need to establish a buffer/screen, the negative impact on the eco-system at Lake Jocassee and the Board's responsibility to protect the lake through the Overlay designation, use of porta-potties, the fact that the exception is being requested for the possibility of a future need, and the option of working with other businesses on sharing parking space and/or shuttle services.

1. In accordance with the comprehensive plan and is consistent with the spirit, purposes, and the intent and specific requirements of this chapter, to include the definition and intent of the district in which the special exception is being requested:
    a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Mays. A brief discussion followed.
    b. Vote

In-favor	Opposed
6	0

    Mr. Codner noted that the criterion passed.

2. In the best interests of the County, the convenience of the community and the public welfare:

a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Gilster. A discussion included, but was not limited to, the balance between the welfare of the public and the detriment to private property owners, possibility of conditional approval for a trial period, and timeframes for the installation of the proposed screening.
b. Vote

In-favor	Opposed
2	4

Mr. Codner noted that the criterion failed.

3. Suitable for the property in question, and designed, constructed, operated, and maintained so as to be in harmony with appropriate in appearance to the existing or intended character of the general vicinity:
    a. Motion – Mr. Eagar made a motion in the affirmative, seconded by Mr. Gilster. A brief discussion followed.
    b. Vote

In-favor	Opposed
4	2

Mr. Codner noted that the criterion passed.

4. 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. Eagar made a motion in the affirmative; seconded by Mr. Mays. A brief discussion followed.
    b. Vote

In-favor	Opposed
5	1

Mr. Codner noted that the criterion passed.

5. Mr. Codner asked – Based on the evidence presented to the Board, do I hear a motion that the proposed special exception be **Denied.**
    a. Motion – Mr. Eagar made a motion; seconded by Ms. Fowler. No discussion.
    b. Vote

In-favor	Opposed
4	2

Mr. Codner noted that the special exception was denied.

Item 8 Adjourn – Mr. Eagar made a motion to adjourn; seconded by Mays. Mr. Codner called for a vote. Motion passed unanimously 6/0.