

**TOWN OF SILER CITY BOARD OF ADJUSTMENTS**

The Siler City Board of Adjustments met in Regular Session on **Monday, June 12, 2017** at 6:30pm in City Hall Courtroom with Vice Chair Brown presiding. Andrews gave the invocation with the recitation of the Pledge of Allegiance following. Meadows recited the Town of Siler City Mission Statement and Vision Statement.

**MEMBERS PRESENT:** Albert Alston, Darrell Andrews, Curtis Brown, Steve Crotts, Mary Harris, Butch Hudson, Linda Kolpack-Martindale, and Randy Parks

**MEMBERS ABSENT:** Ann Radcliffe

**TOWN STAFF PRESENT:** Town Attorney William Morgan, Planning Director Jack Meadows, Administrative Support Specialist Tammy Livermore, and Town Clerk Jenifer Everage.

**AGENDA ADJUSTMENTS/APPROVAL OF AGENDA**

*A motion to approve the agenda as presented was made by Brown, seconded by Harris and unanimously approved.*

**CONSENT**

*A motion to approve the consent agenda which includes April 10, 2017 Minutes was made by Andrews, seconded by Parks and unanimously approved.*

**OLD BUSINESS**

none

**NEW BUSINESS**

**Opening Statement and Procedure for Holding a Public Hearing**

Hudson read the following open statement:

The Zoning Board of Adjustment handles four types of matters. It hears applications for variances, requests for special use permits, review for special exception permits, and appeals from decisions by Town staff.

A hearing before the Zoning Board of Adjustment is quasi-judicial in that the Board functions much like a court of law. Witnesses appearing before the Board will be sworn in and, being under oath, will be held accountable.

The purpose of an evidentiary hearing is to gather facts, not to solicit citizen opinions. The Board of Adjustment must do two things. First, it must determine the facts of the case. Second, it must apply the standards in the Unified Development Ordinance, sometimes referred to as the UDO, to those facts.

In quasi-judicial decisions, this Board must act much like a court to apply the UDO to the facts of a specific case. The purpose of the hearing is to gather legally acceptable evidence in order to establish sufficient facts to apply the appropriate ordinances. The questions before the Board will be whether the proposal or zoning administrator's decision meets the standards in the ordinance, not whether it is popular among the citizenry.

Although a hearing before this Board is somewhat less formal than a courtroom trial, it is expected that all participants will observe the basic decorum one would expect in a court of law, showing respect for the Board and all other participants. The Board chair can terminate the testimony of anyone who violates this principle, or who is offering immaterial, irrelevant, redundant or legally impermissible testimony.

All witnesses desiring to offer testimony before the Board must have standing. Standing refers to who has the right to participate in the hearing and support or contest the issuance of a permit. Not all persons in the community automatically have standing just because they happen to be residents, know the applicant or have an opinion on the case. The North Carolina General Statutes specify three categories of persons or entities with standing: (1) Those who applied for approval or who have a property interest in the project or property, including, but not necessarily limited to: the applicant; owners, lease holders, and option holders; (2) the local government's staff; and (3) other persons who will suffer special damages as a result of the decision, such as an adjacent property owner who contends the decision will adversely affect the value of his or her property.

Finally, persons with standing may be allowed to call expert witnesses in appropriate cases. For example, the General Statutes now require expert testimony on the issues of the effect of a development on neighborhood property values and on the effects of traffic. As to these two issues, the Board cannot rely on the opinion testimony of lay witnesses.

Following the public hearing, the Board will deliberate and announce its decision. Later, that decision will be reduced to writing and distributed to the applicant and others who have requested a copy in writing with the Department of Planning and Community Development.

Special Use Permit – 1420 W. 3<sup>rd</sup> Street – 102' tall wireless telecommunications tower

Hudson requested a motion to declare the public hearing open.

***A motion to open the public hearing for Special Use Permit – 1420 W 3<sup>rd</sup> Street – 102' tall wireless telecommunications tower was made by Park, second by Brown and unanimously approved.***

Hudson stated since we have at least six Board of Adjustment members present, therefore we have a quorum.

Hudson read the legal notice of the subject case.

Hudson stated that the public was notified by ads in the Chatham News two weeks prior to the hearing, adjoining property owners received letters, and a sign was posted if applicable.

Hudson asked if there any exparte communication disclosures from Board members? All present answered no.

Hudson asked if there are any possible conflicts and do all Board members think they can rule fairly and impartially? All present answered no.

Hudson stated if the Board of Adjustment is interrupted, disturbed, or disrupted, then the Board of Adjustment by majority vote can order the person to leave the room.

Hudson asked all persons who have standing in the subject case and wish to testify please come to the front of the room.

The following came forward:

Jack Meadows	907 Woodland Drive	Siler City, NC 27344
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Dale Finocchi	2028 Wallace Avenue	Greensboro, NC 27403
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Hudson then administered the following oath:

“Do you solemnly swear or affirm that the testimony and information you are about to give is true and accurate to the best of your knowledge?”

Hudson asked the Town of Siler City Director of Planning and Community Development to present a summary of the case.

Meadows stated that Communications Tower Group requests a special use permit to construct a 195’ tall wireless communications tower. The subject property is identified as Country Manor Estates MHP and parcel # 13643. The subject property is:

1. owned by Ernest Edward Suits & Shirley Davis Suits;
2. located within the Agricultural-Residential (A-R) zoning district;
3. located outside the Town’s Corporate Limits;
4. located within Central Chatham fire district;
5. located within the Duke Energy Progress electric service district;
6. not located within a watershed protection area; and
7. not located within a special flood hazard area.

Meadows shared the size of tract:

1. Subject tract is 27.68 acres and includes 1 property owner and 1 tax parcel
2. Size of surrounding tracts is an average of 9 acres

Meadows shared the compatibility with existing Comprehensive Land Development Plan:

1. General residential and mixed use for the subject property.
2. General residential goals, objectives, and strategies:
  - a. Promote the development of high quality housing in varying types and costs to meet the demands of all income levels and age groups.
  - b. Maintain the integrity of existing neighborhoods.
  - c. Promote walkable interconnected neighborhoods.
  - d. Permit multi-family residential development at a moderate density with good access to larger thoroughfares.
  - e. Encourage the continual development of affordable housing on individual lots.
  - f. The major residential growth is expected in the southwestern and western portions of the planning region. These areas should be preserved for residential use and the extension of public water and sewer to these areas should be a top priority.
  - g. It is recommended that higher residential densities be restricted to areas in which sufficient public water and sewer service is available.
  - h. Continue to promote a variety of housing types to meet the demand of citizens from various economic levels.
  - i. Single-family residential density is recommended to be at a density of between 2 and 4 units per acre in the general residential category.
  - j. Multi-family residential density is recommended to be no more than 6 units per acre.
  - k. Preserve the existing density and scale of development in established residential neighborhoods by excluding the introduction of intensive, non-residential land uses into such neighborhoods and by avoiding the rezoning of established residential areas to a higher density.

- l. Encourage in-fill development in established residential areas. New development should meet yard and dimensional standards of the existing zone as closely as possible.
  - m. Preserve the existing housing stock by vigorously enforcing the minimum housing code and providing financial assistance to rehabilitate and stabilize deteriorating housing. Prevent the conversion of residences to other land uses unless such conversion will assist in stabilizing the larger residential neighborhood or unless such conversion will preserve the unique quality or architectural significance of residences.
  - n. Require that as a condition of receiving public water and/or sewer service, all new residential developments be incorporated into the Town limits.
  - o. Develop a manufactured housing zoning district for manufactured housing parks with appropriate design standards.
  - p. Develop a local street plan to ensure adequate street planning and internal circulation in all developing residential areas.
  - q. Revise zoning and subdivision ordinance standards to promote interconnectivity of neighborhoods and use of sidewalks.
  - r. Promote cluster development with usable open space and amenities.
  - s. These areas are suitable for general residential development at densities supported by public utilities
3. Mixed use goals, objectives, and strategies:
- a. Provide adequate public facilities and services for designated growth areas.
  - b. Designate areas of the Town’s planning jurisdiction as growth areas and give priority to utility extensions in those areas.
  - c. Guide new growth to designated future mixed-use development areas by making public utility extensions into those areas a top priority.
  - d. Appropriate for multi-family and higher density residential with supporting service uses. If additional interchange is proposed for US 421, area may support more types of uses.
  - e. Encourage planned, mixed-use development instead of incremental, small lot development.

Meadows shared the property is served by (16”) public water and private septic system. Street/road frontage:

Street/Road	Road Frontage (feet)	Travel Lanes	Pavement Width (feet)	Maintenance	Speed Limit (mph)	Average Daily Trips
Fellowship Church Rd.	60	2	20	State	55	NA

Meadows shared the impact on landowners, immediate neighbors, and surrounding community Proposed:

1. 195’ tall monopole tower with 4’ lighting rod
2. 100’x100’ lease area
3. 30’ wide access/utility easement from Fellowship Ch. Rd.
4. 12’ wide gravel access drive
5. 15’ paved apron from the edge of Fellowship Ch. Rd. with turn radius
6. 0.29 acre of disturbed area
7. 60’x60’ fenced in area
8. 8’ tall wooden (treated lumber) opaque fence (including 12’ wide gate) with 3 strands of 12 gauge galvanized barbed wire with 4 point barbs
9. Trees (existing/proposed) located 50’ on center around the perimeter of the fence
10. 4 future carrier areas and 6’ tall H-Frame meter rack

11. 6" of #57 stone on geosynthetic fabric for ground cover
12. ~230' minimum setback from monopole tower to all adjoining property boundaries
  - a. Required street setback is 40'
  - b. Required side and rear setback is 102'
13. The top of the monopole is ~853' above mean sea level

A determination of no hazard to air navigation has been provided by the Federal Aviation Administration. The proposed tower will be designed to meet local and state building code regulations and the standards defined by the American National Standards Association (ANSI). The proposed company will carry a liability insurance policy. The company will ensure that Federal Communications Commission (FCC) licenses, certifications, rules, regulations, and signage are obtained and adhered. A NCDOT driveway permit will be required. Chatham County Environmental Health Department approval will be required because of existing private septic systems.

Construction takes up to 4 weeks. The facility operates 24 hours per day and 7 days a week. The facility is visited by technicians up to 4 times a year.

Meadows shared the relationship of uses:

1. Current use of subject property is mobile home park.
2. Surrounding land uses include; church, vacant, forest, and single family residential.
3. Surrounded by A-R (Agricultural-Residential) zoning.

Meadows shared the staff recommendations:

The application is complete. The proposal meets the development criteria of the Unified Development Ordinance. If the Board grants the application, then Staff recommends the following conditions:

1. The applicant shall complete the development strictly in accordance with the plans submitted to and approved by the Board, a copy of which is filed in the City Hall; and
2. If any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of no effect; and
3. Prior to any work applicant must record the written decision with the Chatham County Register of Deeds, obtain site plan review approval, and obtain zoning permit approval.

Hudson stated that the applicant and applicant's witnesses may present testimony and evidence.

Fiinocchi shared information with the Board and stated that he was there to answer any questions.

Hudson stated that any opposing parties may cross examine the applicant and witnesses after the witness's testimony. No one came forward.

Hudson stated that the Board of Adjustment Members may ask questions of opponent and each witness after the witness's testimony. The Board asked the following questions:

1. Andrews: Will the area be graveled? A: Yes – no grass and a fence.
2. Martindale: Is this just the tower or do you have renters? A: We have a letter of intent from Sprint.
3. Alston: Why is there not a light required? A: After review from FAA, they did not require a light.
4. Parks: How many companies will be on the tower? A: The tower is designed/built for 4 companies.

Hudson asked if there were any opposing parties present. No one came forward.

Hudson asked if there were any more questions from the Board of Adjustment Members.

Hudson requested a motion to declare the public hearing closed.

***A motion to close the public hearing for Special Use Permit – 1420 W. 3<sup>rd</sup> Street – 102' tall wireless telecommunications tower was made by Crofts, second by Parks and unanimously approved.***

Hudson directed the Board of Adjustment Members to the worksheets.

***A motion that the application for a Special Use Permit – 1420 W. 3<sup>rd</sup> Street – 102' tall wireless telecommunications tower is complete was made by Brown, seconded by Harris and unanimously approved.***

***A motion that the application for a Special Use Permit – 1420 W. 3<sup>rd</sup> Street – 102' tall wireless telecommunications tower complies with all applicable requirements of the Unified Development Ordinance was made by Parks, seconded by Crofts and unanimously approved.***

***A motion that the application for a Special Use Permit – 1420 W. 3<sup>rd</sup> Street – 102' tall wireless telecommunications tower is granted, subjected to the following conditions: the applicant shall complete the development strictly in accordance with the plans approved by the Board, a copy of which is filed in City Hall, if any conditions affixed hereto or any part thereof shall be held invalid or void and of no effect, and the conditions recommended by Staff was made by Parks, seconded by Crofts and unanimously approved.***

Special Use Permit – Country Manor Estates MHP – 195' tall wireless telecommunication tower

Hudson requested a motion to declare the public hearing open.

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Lois Garner	274 Fellowship Church Road	Siler City, NC 27344

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Hudson stated that the applicant and applicant's witnesses may present testimony and evidence.

Fiinocchi shared information with the Board and stated that he was there to answer any questions.

Hudson stated that any opposing parties may cross examine the applicant and witnesses after the witness's testimony.

Lois Garner, 274 Fellowship Church Road, Siler City, NC 27344 came forward and asked the following questions of the developer: Garner: Why does the tower not have to have a light at 190 foot? A: This is a FAA recommendation. Garner: Is it going to interfere with my television? A: No, it can't interfere, it's at a different frequency. Garner: I hope this doesn't lower my property value. Garner: Where is it going to be located? Meadows shared the location map.

Hudson stated that the Board of Adjustment Members may ask questions of opponent and each witness after the witness's testimony. The Board had no questions.

Hudson asked if there were any opposing parties present. No one came forward.

Hudson asked if there were any more questions from the Board of Adjustment Members.

Hudson requested a motion to declare the public hearing closed.

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***A motion that the application for a Special Use Permit – Country Manor Estates MHP – 195' tall wireless telecommunications tower is granted, subjected to the following conditions: the applicant shall complete the development strictly in accordance with the plans approved by the Board, a copy of which is filed in City Hall, if any conditions affixed hereto or any part thereof shall be held invalid or void and of no effect, and the conditions recommended by Staff was made by Brown, seconded by Alston and unanimously approved.***

#### BOARD MEMBER COMMENTS

None

#### ADJOURNMENT

With no further business the Planning Board adjourned at 7:23pm.



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Butch Hudson, Chair

ATTEST:



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Jenifer J. Everage, Town Clerk