



# Spartanburg County

## Planning and Development Department

### MINUTES

### Unified Land Management

### Board of Appeals

*February 27, 2018*

**Members**

**Present:**

Michael Padgett, Chairman  
Jack Gowan, Jr., Vice Chairman  
Thomas Davies  
Kae Fleming  
Jason Patrick  
Louise Rakes  
Marion Gramling

**Members**

**Absent:**

Jonathan Adams

**Staff Present:**

John Harris, County Attorney  
Bob Harkrader, Planning Director  
Joan Holliday, Deputy Planning Director  
Joshua Henderson, Senior Planner  
Leigh Davis, Senior Planner  
Laurie Horton, Senior Development Coordinator

*NOTICE: Pursuant to Section 30-4-80 of the S.C. Code of Laws, the annual notice of meetings for this Board was provided on or before January 1, 2015 via the County website. In addition, the Agenda for this Meeting was posted on the bulletin board at the entrance to the Administration Building as well as on the County's website and was emailed to all persons, organizations, and news media requesting notice.*

**1. Call to Order**

Chairman Michael Padgett called the meeting to order.

**2. Approval of Minutes of January 23, 2018**

Kae Fleming made a motion to approve the minutes as submitted. Jason Patrick seconded the motion, which carried with a vote of 7 to 0.

**3. Unfinished Business – None**

**4. New Business –**

**a. Report of Nominating Committee & Election of Officers**

Kae Fleming presented Michael Padgett as Chairman, Jack Gowan as Vice Chairman, and Thomas Davies as Secretary as nominees by the Nominating Committee. Jack Gowan made a motion to close nominations. Kae Fleming seconded the motion. The motion carried with a vote of 7 to 0.

Marion Gramling made a motion to elect the slate as presented. Louise Rakes seconded the motion. The motion carried with a vote of 7 to 0.

**b. Variance Request – Craig Faling  
118 Lake Front Cir., Lyman (5-05-12-032.01)**

Bob Harkrader advised the Board that Mr. Faling wishes to withdraw his application. Marion Gramling made a motion to accept the withdrawal of Mr. Faling’s application. Louise Rakes seconded the motion. The motion carried with a vote of 7 to 0.

**c. Variance Request – Beacon Towers, LLC  
575 Carver Mill Rd., Spartanburg (6-17-12-032.01)**

Michael Padgett recused himself, having heard cases for Mr. Yates previously as the Director of Building Codes.

Laurie Horton presented the following staff report:

**Factual Dates**

Variance Application Received	01/29/2018
Deadline for Variance	01/30/2018
Public Notice – Herald Journal	02/11/2018
Adjoining Property owners notified	02/12/2018
Variance Sign Posted on Property	02/12/2018
Board of Appeals Hearing	02/27/2018

**Background Information**

Beacon Towers, LLC has submitted a variance request for the property located at 575 Carver Mill Road, Spartanburg, SC 29301. The applicant is proposing to construct a 195’ communication tower with associated accessory structures adjacent to Carver Mill Road. The county has not performed maintenance activities on this portion of Carver Mill Road since at least 1995. Also, the County does not have plans to perform maintenance activities on this portion of Carver Mill Road in the future. The County does not have any objections to and would help facilitate a formal road closure of the unmaintained portion of Carver Mill Road.

The applicant is requesting to reduce the required front setback to 2’ as required in Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses - Setbacks & Other Requirements.

**Staff Recommendation**

*The Board may grant a variance if it makes the following findings:*

**a.) There are extraordinary and exceptional conditions pertaining to the particular piece of property.**

*The variance request appears to meet this criteria.*

Carver Mill Road runs through the middle of the parcel in question and creates additional, unnecessary road frontage and associated front setback requirements on a road that has not been maintained by the county in many years. Topography issues restrict the use of the property further away from the road.

**b.) These conditions do not generally apply to other property in the vicinity.**

*The variance request appears to meet this criteria.*

Other properties in the vicinity are not restricted by unmaintained roads that cut through the parcel.

**c.) Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.**

*The variance request appears to meet this criteria.*

The road and topography conditions prevent the communication tower and associated structures from being placed on the property within the setbacks.

**d.) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.**

*The variance request appears to meet this criteria.*

Adjacent properties not located in close proximity to the proposed tower site.

*Given the placement of the tower facility on an unmaintained road to be formally closed, the request to reduce the required front yard setback to 2' appears to meet the four criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29). Therefore, staff recommends approval of the variance.*

Laurie Horton presented the Board with an aerial image and street view of the property.

Joan Holliday was sworn in and advised the Board that maintenance of the road comes under the railroad tracks and down to the point where Public Works has placed road closed signs. Further than that, the public right-of-way is no longer maintained and there are no plans for maintenance in the future according to Public Works.

Vice Chairman Gowan opened the public hearing.

Jonathan Yates, attorney on behalf of Beacon Towers, LLC was sworn in. He advised the Board that the proposed site would be 281' from the nearest property line. There will be no hazard to the neighborhood and no illumination. They will work with the property owners to get the road officially abandoned. The applicants believe their facility will enhance public infrastructure and access to fire, police, and EMS. Topography issues prevent the site from being placed outside of the setback from the road.

Vice Chairman Gowan closed the public hearing.

Marion Gramling made a motion to grant the variance based on the determination that the request meets all criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29).

a. The Board concludes that the Applicant(s) does have an unnecessary hardship because there are extraordinary and exceptional conditions pertaining this particular property based upon the following finds of fact:  
Carver Mill Road runs through the middle of the parcel in question and creates additional, unnecessary road frontage and associated front setback requirements on a road that has not been maintained by the county in many years. Topography issues restrict the use of the property further away from the road.

b. The Board concludes that these conditions do not generally apply to other property in the area based on the following findings of fact:  
Other properties in the vicinity are not restricted by unmaintained roads that cut through the parcel.

c. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:  
The road and topography conditions prevent the communication tower and associated structures from being placed on the property within the setbacks.

d. The Board concludes that the authorization of the variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance based upon the following findings of fact:  
Adjacent properties not located in close proximity to the proposed tower site.

Thomas Davies seconded the motion. The motion carried with a vote of 5 to 1. Voting in favor of granting the variance was Jack Gowan, Thomas Davies, Jason Patrick, Louise Rakes, and Marion Gramling. Kae Fleming voted against the motion for approval of the variance.

## **5. Other Business – None**

## **6. Adjournment**

There being no other business, Marion Gramling made a motion to adjourn. Jack Gowan seconded the motion. The motion carried with a vote of 7 to 0. The meeting adjourned at 5:20 p.m..