



Planning, Development & Inspections

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A Division of Community Services
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MINUTES OF REGULAR MEETING

Wake County Board of Adjustment

Tuesday, April 9, 2019 (9:00 a.m.)

Wake County Justice Center

300 S. Salisbury St., Room 2700

Raleigh, North Carolina

Members Present: (5) Mr. Brenton McConkey (Chair), Mr. Don Mial (Vice Chair), Ms. Sheree Vodicka, Mr. DeAntony Collins, Mr. Waheed Haq

Members Absent: (3) Mr. Brian Foxx, Mr. John Barker, Mr. Will Barker

Vacant Seat: (1) Ms. Lisa Humphreys

County Staff Present: (7) Mr. Steven Finn (Land Development Administrator), Ms. Jenny Coats (Community Services Operations Director) Ms. Celena Everette (Planner II), Ms. Regina Irizarry (Planner), Mr. Tim Maloney (Planning Development & Inspections Director), Ms. Beth Simmons (Community Services Operations Supervisor), Ms. Loretta Alston (Clerk to the Board)

Guests: Mr. Chris Wright, Wake Electric, Manager of Engineering; Mr. Don Bowman, Wake Electric, Vice President - Engineering and Operations; Mr. David Ledford, Landscape Architect

County Attorney Present: (1) Mr. Ken Murphy (Senior Assistant County Attorney)

- 1. Meeting called to order:** Mr. McConkey called the meeting to order at 9:11 a.m.
- 2. Approval of Minutes of the February 12, 2019 Meeting:** Mr. McConkey made a motion to approve the February 12, 2019 meeting minutes as drafted. The motion was seconded by Mr. Haq and the minutes were approved unanimously.
- 3. Approval of Written Decision Regarding PLG-SU-1105-2018** – Per the bylaws, the Chair reviewed and signed the decision on behalf of the board prior to this scheduled meeting. No further action was required.
- 4. BA-SU-2261-18 Electrical Substation Expansion– Request for Special Use Permit approval as required by section 4-11 of the Wake County Unified Development Ordinance (UDO) for expansion of an existing substation.**

Before the case was heard, Wake County staff members Ms. Regina Irizarry and Ms. Celena Everette were duly sworn. The voting members were identified as: Mr. McConkey, Mr. Mial, Ms. Vodicka, Mr. Collins and Mr. Haq

Testimony and Evidence Presented

Documentary Evidence Accepted into Record

Ms. Irizarry, Planner with Wake County Planning, Development and Inspections, requested that the Wake County Planning Staff Report, PowerPoint presentation, the Applicant’s verified Zoning Hardship Variance Application with supporting documentation be accepted into record. The Chair accepted documents as described into the record as evidence.

Testimony

Ms. Irizarry stated that the site is located at 3816 Burlington Mills Road between Forestville Road and Linslade Way, southwest of the intersection of Burlington Mills and Forestville Roads.

PROJECT PROFILE

WAKE COUNTY PIN: 1749 61 0748
ZONING DISTRICT: R-30
LAND USE CLASSIFICATION: Most of the property is in the Town of Wake Forest Long Range Urban Services Area; the portion in the right of way on Burlington Mills Rd is in the Town of Wake Forest Short Range Urban Services Area.
WATERSHED: Lower Neuse River Basin
APPLICANTS: Wake Electric Membership Corporation - Don Bowman and Kelly Fritz
PROPERTY OWNER: Wake Electric Membership Corporation
PROPERTY SIZE: 8.365 Acres
CURRENT LAND USE: Electrical Substation
PROPOSED LAND USE: Expansion of Existing Electrical Substation

Project Setting – SURROUNDING ZONING DISTRICTS AND LAND USES

DIRECTION	LAND USE	ZONING
North	Residential	R-30
East	Residential	R-30 and Rolesville R-1
South	Vacant / Residential	R-30
West	Residential	R-30 and Town of Wake Forest CU GR3

Aerial Map



Background

Wake Electric Membership Corporation is proposing an expansion of an existing electrical substation at Burlington Mills Road. The site is in a Neighborhood Activity Center. The subject parcel is split between the Town of Wake Forest's Short and Long Range Urban Services Areas.

The existing site contains a 37,871sf gravel substation pad, a substation structure, and 192 sf (9 ft. ht.) control house. The original .89-acre parcel at 3816 Burlington Mills Road was developed as an electrical substation in 1986, and the site was expanded to include an adjacent .24-acre parcel around 2000. Additional land was acquired and recombined with the original parcels in 2018 in anticipation of the proposed expansion, bringing the site to 8.365-acres.

With the adoption of the Wake County Unified Development Ordinance in April 2006, a Static Transformer Station in the R-30 zoning district now requires an approved special use permit.

A 50,192sf gravel substation pad, new substation structure and 288-sf (9 ft. ht.) control house are proposed for the expanded site. The proposed impervious surface area is approximately 55,363-sf (15.1% impervious surface). The petitioner plans to remove the existing substation and associated gravel pad after completion of the new structure.

Notification letters to adjoining property owners were mailed on March 26, 2019. A public hearing placard was placed on the site on March 25, 2019.

Zoning Standards

1. Utilities:
No water or wastewater systems are proposed.

2. Streets:

The property has frontage on Burlington Mills Road. The two existing entrances on Burlington Mills Rd would be replaced with two new entrances. The applicant will be required to obtain a driveway permit from the DOT for the new entrances during the permit process.

The site plan reflects the Town of Wake Forest's request to plan for the 110' ultimate right of way based on the Town's transportation plan. The proposed structures are sited to allow for 25' of additional right of way dedication if the parcel is brought into Wake Forest's planning jurisdiction in the future.

The site is not expected to generate any additional traffic

3. Parking:

Pursuant to UDO Section 15-10, two off-site parking spaces are required for this use. The site plan is in compliance with Section 15-10.

4. Landscaping and Bufferyards:

Article 16 of the UDO details required bufferyards based on the intensity of use on the site. A 10-foot deep Type F bufferyard is required along Burlington Mills Road. Forty-foot deep Type C bufferyards are required along the southern, eastern and western property lines. The site plan reflects the proper buffer requirements. The site plan also shows an additional 10-foot deep bufferyard the applicant has added to comply with the Town of Wake Forest's request.

5. Stormwater management/Impervious surface coverage:

Section 5-11-2, *Conventional Development – Non-Watershed Residential Districts*, limits impervious surface coverage for nonresidential development within Residential-30 zoning districts to 30 percent, unless stormwater devices are provided. The site plan proposes a total of 55,363 square feet of impervious area, or 15.1 percent of the site area.

6. Exterior Lighting

Section 17-11-7 *Exterior Lighting* states that: "*all exterior lighting must be shielded or directed away from any adjacent use or lot or any adjacent public street. No exterior lighting may cause illumination in excess of one foot candle at the lot line of any use*". The site plan notes that emergency floodlights will be used only during emergencies, repairs and maintenance caused by power outages, surges, equipment failure and vandalism. Emergency floodlights will be controlled by a manual switch. No automatic sensors or photocells will be used. No additional lighting is proposed on the site.

Land Use Plan

The electrical substation use is allowed with an approved Special Use permit. The proposed use is consistent with the Wake County Land Use Plan.

Findings

Special Use Required Conclusions:

The Board of Adjustment shall not approve a petition for a Special Use Permit unless it first reaches each of the following conclusions based on findings of fact supported by competent, substantial, and material evidence. The Board of Adjustment must make positive findings on the following findings of fact from Article 19-23 of the Wake County Unified Development Ordinance in order to approve or deny this special use request. The considerations listed below each required conclusion are intended to suggest some of the primary concerns pertinent to reaching the conclusion but are not intended to be all inclusive.

(1) The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets, street intersections, and sight lines at street intersection and curb cuts.
 - b. Provision of services and utilities, including sewer, water, electrical, garbage collections, fire protection.
 - c. Soil erosion and sedimentation.
 - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
- (2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses.
- (3) The proposed development will not substantially injure the value of adjoining property or is a public necessity.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
 - b. Whether the proposed development is as necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.
- (4) The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
- (5) The proposed development will be consistent with the Wake County Land Use Plan.

Considerations:

- a. Consistency with the Plan's objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
- b. Consistency with the municipal and joint land use plans incorporated in the Plan.

Recommendation

Staff recommends that, if the Board of Adjustment reaches positive conclusions on all of the required findings, that it approve the request subject to the following conditions:

- 1) The petitioner must record the notarized from pertaining to the Order of the Board in the Wake County Register of Deeds and return a copy to the Planning, Development and Inspections Division of Community Services;

- 2) The petitioner must obtain and complete appropriate building permits from the Wake County Inspections Development/Plans/Permits Division within one year of approval of the special use permit;
- 3) The petitioner must obtain an approved driveway permit from the NC Department of Transportation for the two new entrances to the site;
- 4) A final zoning inspection to verify site plan compliance must be performed by the Wake County Zoning Administrator prior to the issuance of a certificate of completion by the Wake County Planning, Development, and Inspections Division of Community Services.

Upon the conclusion of Ms. Irizarry's presentation, Mr. McConkey asked if there were any questions for staff.

The Board members engaged in a brief discussion.

- Mr. McConkey asked for clarification regarding the relocation of the structure. Ms. Irizarry indicated that the structure will take up about 13,000sqft (the current structure is about 11,000sqft) and will be moving to the west of the current structure, set back about 70 feet further back from the road. The existing structure will be removed with the new one is erected.
- Mr. Haq inquired about the driveway standards between residential and commercial driveways. Ms. Irizarry indicated there are not Wake County UDO standards, but a driveway permit will need to be obtained from NCDOT, who will apply the standards. Planner Celena Everette confirmed that the petitioner should already had that conversation with NCDOT.

Voting Members (5)

The voting members were identified as: Mr. McConkey, Mr. Mial, Ms. Vodicka, Mr. Collins and Mr. Haq.

Sworn Witness in Favor of the Petition

Mr. Don Bowman, Wake Electric Company

Mr. Bowman stated that the existing substation was built in the mid-1980's and due to explosive growth, in 2014 the load to this substation was going to reach close to capacity. He further explained that another was built near the Heritage Subdivision to alleviate the load and prolong replacement. This structure will be built adjacent to the existing structure with intentions to double the capacity and after completion, the old structure will be decommissioned.

Mr. Bowman stated he believes that it is most prudent to rebuild this station, rather than build an additional substation in the area because it is more aesthetically pleasing and allows additional setbacks to the new station. The submitted plan meets all of the county's requirement and has addressed all the justification for the special use permit.

Mr. Bowman respectfully requested that the Board grant this special use permit to improve the reliability of the station for Wake Forest residents.

Mr. McConkey requested clarification that the request meets the third finding of fact. Mr. Bowman confirmed that the structure is a public necessity considering the growth, and that an additional station is not being added, but rather rebuilt alongside an existing structure that will be later decommissioned.

Mr. Collins asked what the timeframe was for completion of the new substation and decommission of the old. Mr. Bowman indicated about one year.

Mr. Haq presented the question of aesthetics and the fact that the new infrastructure will be much taller and closer to the road. Mr. Bowman confirmed this, stating that the transmission comes from the north, which is the closet point to Burlington Mills Road. They will be planning 6-8-foot shrubbery along the fence beside the road to help with the aesthetics.

Mr. Collins asked Mr. Bowman if the new substation or if its construction would cause any traffic issues. Mr. Bowman assured the Board that the purchase of additional land and with the new setbacks, they can make sure the construction work will be confined to the job site.

There being no one further wishing to speak in favor or in opposition of the petition, Mr. McConkey closed the public hearing portion of the meeting and opened the floor for Board discussion.

Board Discussion

Ms. Vodicka indicated that she and Mr. Bowman share a common connection with the YMCA, and that in disclosing this information, further indicated that it will not impair her ability to vote on this matter. Mr. McConkey acknowledged the disclosure and proceeded with Board discussion.

FINDINGS OF FACT

The Board of Adjustment discussed the following findings of fact from Article 19-23 of the Wake County Unified Development Ordinance in order to approve this special use permit:

(1) The proposed development will not materially endanger the public health or safety;

Mr. McConkey pointed out that the statement of justification says that the plan adheres to very high safety standards by following all applicable National Electrical Safety Code (NESC) regulations. A locked chain link fence will surround the substation, and all applicable public warning signs will be clearly visible from all angles. No additional vehicle traffic will be added with this expansion; however, Wake Electric has agreed to dedicate the additional right of way needed for all future expansions of Burlington Mills Road as requested by the Town of Wake Forest. This expansion will also not endanger public or private water supplies, and emergency spill plan procedures will be maintained for the site.

(2) The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses;

Ms. Vodicka stated that since the petitioner is only rebuilding a larger infrastructure, clearly the petitioner will continue to operate within the regulations as they have done in the past.

(3) The proposed development will not substantially injure the value of adjoining property or is a public necessity;

Mr. Mial reiterated that the structure is a public necessity due to the growth in the area. The petitioner has purchased adjoining property to increase the size of operating space as to not injure the value of adjoining property.

(4) The proposed development will be in harmony with the area in which it is located.

Mr. Vodicka agrees that since there is already a substation at the location and that they are enhancing the setbacks and doing landscaping improving harmony with the area.

(5) The proposed development will be consistent with the Wake County Land Use Plan.

Mr. McConkey indicated that the staff report indicated that the development is consistent with the Wake County Land Use Plan and this point was also in the statement of justification.

There being no further discussions on the finding of facts, Mr. McConkey asked for a motion.

MOTION TO GRANT: In the matter of BA-SU-2261-18, Mr. Mial moved that the Board find and conclude that the petition does meet the requirements of Article 19-23 of the Wake County Unified Development Ordinance and the special use permit be granted with the recommended staff conditions. The motion to approve is made based on the following conclusions based on Board discussion and findings of fact:

1. The proposed development will not materially endanger the public health or safety;
2. The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of special use or class of special uses;
3. The proposed development will not substantially injure the value of adjoining property, or is a public necessity;
4. The proposed development will be in harmony with the area in which it is located, and
5. The proposed development will be consistent with the Wake County Land Use Plan.

Staff Conditions:

1. The petitioner must record the notarized from pertaining to the Order of the Board in the Wake County Register of Deeds and return a copy to the Planning, Development and Inspections Division of Community Services;
2. The petitioner must obtain and complete appropriate building permits from the Wake County Inspections Development/Plans/Permits Division within one year of approval of the special use permit;
3. The petitioner must obtain an approved driveway permit from the NC Department of Transportation for the two new entrances to the site;
4. A final zoning inspection to verify site plan compliance must be performed by the Wake County Zoning Administrator prior to the issuance of a certificate of completion by the Wake County Planning, Development, and Inspections Division of Community Services.

The motion was seconded by Mr. Haq. The special use permit was granted with a unanimous vote (5-0).

5. Planning, Development & Inspections Report

Mr. Steven Finn presented the following report:

- The Division is seeing an increase in both non-residentials and residential development in terms of applications received, especially the creation of a new lot. Less than two years ago, the general statute was changed and with it came a new process, reflected in our amended UDO.
- The special use permit approved at this meeting is an excellent example of the interaction between Technical Review Committee and municipalities in joint planning for urban service areas.
- Six training sessions will be offered by the Institute of Government for quasi-judicial board training. The closest session will be May 9th in Clayton, NC, 1-4:30pm. Please contact Steve Finn, as the division will pay for attendance.

Tim Maloney informed the Board that Ms. Lisa Humphries has resigned her position on the board. He will be working with the Clerk's office to identify a replacement. Mr. Brian Foxx also indicated that he had a change in his professional job that may prevent him from effectively serving on the Board. Mr. Maloney will contact him to find out if he wants to continue service on the Board.

Mr. McConkey stated on behalf of the Board, Ms. Humphries and Mr. Foxx's service to the board was greatly appreciated.

6. Other Business

Mr. Murphy reminded the Board that there will be a quasi-judicial hearing next meeting scheduled for May 14th. The only agenda item to date is a variance and to approve a variance there must be a supermajority vote of four-fifths majority (at least 5 members present). Mr. Murphy also reminded the Board that the standards are different than for a special use permit and that material will be in the agenda packet as always.

Mr. McConkey adjourned the meeting at 9:50 a.m.

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REGULAR MEETING
WAKE COUNTY BOARD OF ADJUSTMENT
April 9, 2019

All petitions complete, Brenton McConkey declared the regular meeting
of the Wake County Board of Adjustment for
Tuesday, April 9, 2019 adjourned at 9:50 a.m.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read 'Brenton McConkey', with a long horizontal flourish extending to the right.

Brenton McConkey
Wake County Board of Adjustment

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