

1 **CITY OF KANNAPOLIS, NC**
2 **BOARD OF ADJUSTMENT**

3
4 **Minutes of Special Meeting**
5 **Tuesday May 2, 2023**
6

7 The Board of Adjustment met on Tuesday May 2, 2023 at 6:03 PM at City Hall, 401 Laureate
8 Way, Kannapolis, North Carolina.
9

- 10 **Board Members Present:** Ryan French, Chair
11 Daisy Malit
12 Holden Sides
13 Wilfred Bailey, Sr.
14
15 **Board Members Absent:** Emily Joshi, Vice-Chair
16 Cyrus Rattler
17 Danielle Martini, Alternate Member
18

19 **City Attorney:** Walter M. Safrit
20

21 **Staff Present:** Richard Smith, Planning Director
22 Ben Barcroft, Senior Planner
23 Pam Scaggs, Recording Secretary
24

25 **Visitors Present:** Patrick Bernier Julie Radcliffe
26 Adam Jackson Michael Chin
27 Joel Widmer Logan Nesseth
28

29 **CALL TO ORDER**

30 Chair French called the meeting to order at 6:03pm.
31

32 **ROLL CALL AND RECOGNITION OF QUORUM**

33 Recording Secretary Pam Scaggs called the roll and presence of a quorum was recognized.
34

35 **APPROVAL OF AGENDA**

36 Chair French asked for a motion to approve the Agenda which was made by Ms. Malit, second by
37 Mr. Sides and the motion was unanimously approved.
38

39 **APPROVAL OF MINUTES**

40 Chair French asked for a motion to approve the April 4, 2023 meeting minutes which was made
41 by Mr. Sides, second by Ms. Malit and the motion was unanimously approved.
42

43 **PUBLIC HEARING**
44

45 **SWORN IN FOR TESTIMONY**

46 Ben Barcroft, Patrick Bernier, Joel Widmer and Logan Nesseth.
47

1 **BOA-2023-07 – Request for a Special Use Permit for property located at 2804 S Main Street**
2 **to allow for a Wireless Support Structure in the Office Institutional (OI) zoning district.**

3 Senior Planner Ben Barcroft gave a presentation regarding a request for a Special Use Permit
4 (SUP) to allow a wireless support structure on property located in the OI zoning district. Mr.
5 Barcroft provided the application details for BOA-2023-07, attached to and made part of these
6 minutes as Exhibit 1, noting the applicant, size, and location of the proposed use. He noted that
7 Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO) requires a SUP for a wireless
8 support structure that is either new or is a substantial modification 65 feet or taller when located
9 in the OI zoning district.

10
11 Mr. Barcroft directed the Board’s attention to Vicinity, Zoning and Future Land Use maps, the
12 conceptual site plan, and photos of the subject property. He added that while a wireless support
13 structure is not listed as a use in the “Suburban Activity 1” Character Area, it is supplemental to
14 the uses listed and therefore, staff found the request to be consistent with the 2030 Move
15 Kannapolis Forward Land Use Plan (“2030 Plan”). Mr. Barcroft utilized the site plan to further
16 illustrate location of the proposed tower on the parcel stating that the applicant successfully
17 responded to all requirements listed in the KDO regarding wireless support structures. He stated
18 that staff found compliance with all Findings of Fact located in the staff report (see Exhibit 1),
19 reminded the Board of the actions requested, concluded his presentation and made himself
20 available for questions.

21
22 Mr. Bailey stated that the existing tower is 150 feet and asked if anything had changed to require
23 a taller tower. Mr. Barcroft responded that the existing tower is a water tank, and that technology
24 requires taller towers. He deferred to applicant for further clarification. City Attorney, Wally Safrit,
25 added that there is not an existing tower and that a water tank was utilized for their communication
26 equipment.

27
28 Representative for the applicant, Patrick Bernier, stated that it is his responsibility to manage the
29 towers and that he currently is maintaining 160 cases where permission has been requested for a
30 new tower. Mr. Bernier added that the use of utilizing water tanks is being decommissioned which
31 requires the new towers. He made himself available for questions.

32
33 Mr. Safrit referred to Mr. Bernier’s statement regarding decommissioning of the water tank and
34 asked if it will be replaced. Mr. Bernier responded that the tank was being utilized as fire
35 suppression for the substation located on the property, but that it is no longer needed. Mr. Safrit
36 asked when the tank will be removed. Mr. Bernier stated that the tank will remain until clearance
37 has been received for its removal, but that he is not part of that department and does not know the
38 timeline for the removal.

39
40 Ms. Malit asked how the new tower will impact Kannapolis citizens. Mr. Bernier responded that
41 the new structure will be utilized to support communication infrastructure for Duke Energy during
42 storms as well as for hospitals and the 911 system. He added that they could potentially offer
43 capacity to host third parties for wireless communication carriers.

44
45 There being no additional questions or comments for staff, Chair French opened the Public Hearing
46 which was then closed with no public comment made.

1
2 Chair French asked for a motion to accept the City's exhibits, including the staff report into the
3 record, which was made by Ms. Malit, second by Mr. Bailey and the motion was unanimously
4 approved.

5
6 Chair French asked for a motion to approve or revise the Findings of Fact. Mr. Sides made the
7 motion to approve the Findings of Fact, second by Ms. Malit and the motion was unanimously
8 approved.

9
10 Chair French asked for a motion to approve, approve with conditions, or deny the issuance of the
11 Special Use Permit. Ms. Malit made the motion to approve, second by Mr. Bailey and the motion
12 was unanimously approved.

13
14 Chair French asked for a motion to issue the Order of Approval. Mr. Sides made the motion to
15 approve the Order, second by Ms. Malit and the motion was unanimously approved.

16
17 **PLANNING DIRECTOR UPDATE**

18 Planning Director, Richard Smith, reminded the Board that he reviewed 2023 first quarter permit
19 reports for the Board at their last meeting and directed their attention to an updated report which
20 compares 2023 data to the previous 5 years.

21
22 **OTHER BUSINESS**

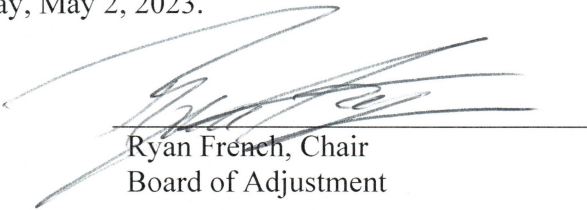
23 Mr. Bailey asked when Kannapolis citizens should expect revaluation of their properties. Mr.
24 Smith indicated that he thought Cabarrus County would complete revaluation in 2024. He added
25 that Rowan County experienced an average of a 46% increase in property values as a result of their
26 recent revaluation. He noted that state statutes require that properties be revalued every eight (8)
27 years. Mr. Safrit confirmed that revaluation will be completed in 2024 in Cabarrus County.

28
29 **ADJOURN**

30 There being no further business, Mr. Sides made the motion to adjourn, second by Ms. Malit and
31 the motion was unanimously approved.

32
33 The meeting was adjourned at 6:24 PM on Tuesday, May 2, 2023.

34
35
36 
37 _____
38 Pam Seaggs, Recording Secretary
39 Board of Adjustment
40



Ryan French, Chair
Board of Adjustment

EXHIBIT 1



Board of Adjustment May 2, 2023 Meeting

Staff Report

TO: Board of Adjustment
FROM: Ben Barcroft, Senior Planner
SUBJECT: Case# BOA-2023-07: Special Use Permit – 2804 S Main St
Applicant: Duke Energy c/o Kevin Koeneman

Request for a Special Use Permit to allow for a Wireless Support Structure located at 2804 S Main St.

A. Actions Requested by Board of Adjustment

1. Motion to accept the City's exhibits into the record.
2. Motion to approve/revise Findings of Fact for the Special Use Permit.
3. Motion to approve (approve with conditions) (deny) the issuance of the Special Use Permit
4. Motion to Issue Order of Approval.

B. Required Votes to Pass Requested Action

A majority vote is required to approve, approve with conditions, or deny the requested actions.

C. Background

The applicant, Duke Energy, is requesting a Special Use Permit (SUP) to allow for a 300-foot wireless support structure, in the Office Institutional (OI) zoning district on approximately 17.06 +/- acres of property located at 2804 S Main St., further identified as Cabarrus County Parcel Identification Number 56128301670000. This site was chosen due to its proximity to the existing 171-foot water tower that needs to be replaced. Building a new communications tower at this location helps reduce the time to change from an old system to a new one and helps minimize downtime for critical utility communications.

Pursuant to Table 4.2.B(5) of the Kannapolis Development Ordinance (KDO), issuance of a SUP is required for a wireless support structure, that is either new or is a substantial modification 65 feet or taller when located in the OI zoning district.

D. Fiscal Considerations

None

E. Policy Issues

Section 2.5.A(5) of the KDO requires that the Board of Adjustment shall only approve a special use permit if the applicant demonstrates that the criteria below have been met. Staff analysis of each criterion is noted.

Staff Findings of Fact - Based on application review:

Yes No

The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

This property is in the "Suburban Activity 1" Character Area in the *Move Kannapolis Forward 2030 Comprehensive Plan*. This Character Area includes primary uses of office and retail. The use of a wireless support structure is not listed however, it is vital for commercial development, emergency services, and governmental communications. The property contains multiple utility uses including an existing Duke Energy Substation Facility, a 171-foot aging water tower that currently supports communication assets, and a retention pond for storm water management.

Based on the character areas noted above, the proposed development is compatible with the future and existing uses in the surrounding area.

Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

The proposed construction of a wireless support structure is not anticipated to cause any traffic hazards or traffic congestion.

The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

No vibration, noise, odor, dust, smoke, or gas would be anticipated for a wireless support structure at this site.

The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

The proposed use would not impede development of the surrounding properties for uses allowed within their respective zoning districts. The proposed wireless support structure is compatible with the adjacent area, which includes auto related businesses along S. Main Street and is well buffered between the single-family dwellings to the north. The closest adjacent properties to the proposed tower are zoned General Commercial and Office Institutional. The properties to the north are zoned Residential. The tower would be setback over 300 feet from any non-Duke Energy site with a fall radius of 150 feet.

The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

There is no apparent danger or detriment to the overall public safety, health and welfare resulting from the proposed use. The proposed use is subject to all the requirements of the Kannapolis Development Ordinance.

The proposed use complies with all applicable provisions of the KDO.

The proposed use shall comply with all sections of the Kannapolis Development Ordinance, conditions of approval, and any other applicable local, State, and Federal regulations. The use of a wireless support structure shall also comply with all standards specific to a wireless

support structure according to KDO section 4.2.D(4)a.1. Please see the attached responses to meeting all the requirements for a wireless support structure, that is either new or a substantial modification 65 feet or taller. It is understood by the applicant that unless specifically relieved of a requirement, in writing, all KDO requirements must be met.

The applicant consents in writing to all conditions of approval included in the approved special use permit.

N/A unless the Board of Adjustment determines to add conditions.

F. Legal Issues

Board's Findings of Fact - Based on application review and public hearing.

In order to determine whether a special use permit is warranted, the Board must decide that each of the six findings as outlined below has been met and that the additional approval criteria has been satisfactorily addressed. If the Board concurs completely with the findings of the staff, no additional findings of fact are necessary, and the staff findings should be approved as part of the decision. However, if the Board wishes to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the six criteria below. Should a special use permit be approved, the Board may place conditions on the use as part of the approval to assure that adequate mitigation measures are associated with the use.

Yes

No

The proposed conditional use will be in harmony with the area in which it is to be located and in general conformance with the City's Land Use Plan.

Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.

The establishment, maintenance, or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.

The proposed use complies with all applicable provisions of the KDO.

The applicant consents in writing to all conditions of approval included in the approved special use permit.

G. Recommendation

Based on the above findings, staff recommends **approval** of the Special Use Permit based on the staff Findings of Fact (or as modified by the Board), the conceptual site plan, and compliance with all local, State, and Federal requirements.

The Board of Adjustment should consider all facts and testimony after conducting the Public Hearing and render a decision accordingly to approve, approve with conditions, or deny the Special Use Permit.

H. Attachments

1. Special Use Permit Application
2. Vicinity Map
3. Zoning Map
4. Future Land Use Map
5. Conceptual Site Plan
6. Letter to the Board
7. List of Notified Properties
8. Notice to Adjacent Property Owners
9. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
City Attorney	X
Assistant City Manager	X