



Board of Adjustment

MINUTES
October 19, 2023
6:00 PM

Members Present

Robert Davis
Vickie Mullins
Kenneth Turner-Alt
Donald Brooks-Alt
Brenee Orozco-Alt

Absent Members

Gregory Parks-Chair
Linda Amos, Vice-Chair
Marva Lucas-Moore
Jovan Bowser-Alt
Gary Silverman- Alt

Staff/Others Present

David Moon
Christopher Portman
Amanda Ozanich

Robert Hasty (Asst County Attorney)
Telly Shinas- Audience

Kenneth Turner: Made a motion to appoint Robert Davis as acting Chair.
Vickie Mullins: Second the motion.
All are in favor.

Chair Davis called the meeting to order at 6:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

1. INVOCATION

Vickie Mullins read the invocation.

PLEDGE OF ALLEGIANCE

Recited by all.

Chair Davis stated the procedural matters are to turn off all cell phones or to place them on silent. Any speakers that address the board please. If any Board member wishes to speak, please ask to be recognized by the Chair.

2. ROLL CALL

David Moon: called roll and made note of the absence of Gregory Parks, Linda Amos, Marva Lucas-Moore, Jovan Bowser, and Gary Silverman.

David Moon: stated we have a quorum.

SWEAR IN OF STAFF

Chair Davis swore in staff Christopher Portman and David Moon.



Board of Adjustment

3. ADJUSTMENTS TO THE AGENDA

There were none.

4. APPROVAL OF THE SEPTEMBER 21, 2023, MINUTES

Kenneth Turner: Made a motion to accept the September Meeting minutes.

Vickie Mullins: Second the motion.

All are in favor.

5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

There were none.

6. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

7. POLICY STATEMENT REGARDING APPEAL PROCESS:

David Moon: read the policy statement and introduced himself and the staff present. This included Chris Portman (Senior Planner), Telly Shinas (Planning Manager) and Amanda Ozanich (clerk).

8. PUBLIC HEARING(S)

David Moon: We have one case tonight. It is:

BOA-2023-0011: Consideration of a Special Use Permit to allow a temporary Public Utility Works, Shops, or Storage Yard in an A1 Agricultural District on 7.4 +/- acres, located at the south side of Braxton Road, west of Chicken Foot Road; submitted by Duke Energy Progress, LLC (applicant) on behalf of Kathryn Barker (owner).

David Moon: Let me have a moment to pull up the presentation. Staff will give a presentation and after the presentation we can address and question the board may have and chair you would open up the meeting for the applicator to speak and public comments. The subject site for the meeting this evening is located in the southwest of Cumberland County just south of areas of hope mills. This case is a special use permit request. The applicant owner of the property is Kathryn Barker. The agent is Duke Energy progress LLC, and the request is a special use permit. The intent is to have a storage yard for Duke Energy progress for their efforts to expand and improve the electric grid system within Cumberland County and the Region. The site for the special use is located on approximately 7.4 acres. Special use, so to understand what we are addressing this evening it's those uses for which a building permit's required for the propose activity which are essentially compatible with other uses or activities permitted in a zoning district but which possess unique challenges or possess unique characteristics or qualities that require conference of review at a public hearing by the county board of adjustment and which maybe allowed only at the finding of fact and the imposition of reasonable conditions. As shown with in the county zoning ordinance under its permissible use matrix, a public utility works and storage yard is allowed only as a special use under the A1 zoning category and the subject site is zoned A1. Under the special use criteria, there are 4 criteria that the board must address. This evening I won't read these as the board is familiar with these criteria. I will note that the applicant has provide a written



Board of Adjustment

response to each of these criteria as part of your package this evening located in the staff report. The board of adjustment has the final authority to approve, deny or approve with conditions. In granting the approval of the special use permit the board of adjustment shall impose reasonable terms and conditions as it may deem necessary for the protection of the public health and general welfare and general interest and as authorized by the general statutes in the state of North Carolina. The applicant landowner must provide written consent to all imposed conditions. Duke Energy has done so. On the table before you there is a letter from Duke Energy accepting all the conditions within the special use permit that's proposed to you this evening and within your package. Last, I would like to state that the applicant Duke Energy has conducted a neighborhood meeting with the abutting property owners and held a meeting with them to discuss their proposed project. The applicant may give you details of that meeting this evening and within your staff report in front of you there should be a summary provided by Duke Energy as to that community meeting. Now I will turn the speaker over to Chris Portman senior planner who will give a description of the application and the proposed special use permit site plan. (1145)

Chris Portman: Good evening. I am Chris Portman, senior planner in current planning. As you can see here some of the subject property is surrounded by farmland and single family residential and manufactured homes with some office and commercial activities. Here are some zoning categories located in the area. You have RR Rural Residential, R10 residential, A1 Agricultural and ONIP conditional use. There are Hydric soils on the property. There is a water line and sewer line abutting the property but due to the temporary nature of this project there are no permanent offices or public restrooms provided. They will be doing porta Johns. This is the subject property. Here is another angle as well. This is the southeast view looking along Lilly Trotter drive. The west view and the northwest view. Here is a zoomed-out portion of the site plan proposed and here is a more detailed one. The entrance will be off of Braxton rd., which is a public, state-maintained road. It will be about a 20feet wide driveway and a 317feet long from Braxton Road to site. No access will be off the abutting Lilly Trotter Drive. That is the residential neighborhood which is also a public road. The site does back up to about 16-17 Residential houses and they are proposing an 8foot tall wooden fence that surrounds the property along the residential sides and an 8foot tall, 7foot tall chain link fence with a 1foot barbwire top that will face outside of the site. (13:58). Some of the key conditions is that this is a temporary use and is a maximum of 4yrs for this and when that 4years comes they can come back for a 2-year extension for the board approval. They are limited to the area shown on the special use site plan Provided. There is no outdoor lighting proposed but may request for security reasons and that must be consistent with outdoor lighting procedures set forth in our zoning ordinance. Some more conditions are Duke power is to maintain the 25foot buffer area that is between the site and the residential zoned neighbors. As mentioned before the 8' high wooden fence on the south and west sides that will be facing the residential neighborhood at the interior edge of the buffer. The 7'high security fence the chain-link with 1'high barbed wire at the top with a fabric mesh skirt attached at the north side. The screen will be provided along all 4 sides of the site. With granting a special use permit, the board of adjustment shall impose reasonable conditions and terms as may deem necessary for the public health and general welfare and public interest as is authorized under the general state statue 160D. The landowner must give consent to all written conditions proposed. That concludes staff's presentation, and you will either make a motion to approve, deny or approve with conditions for this site. (15:34)

David Moon: Are there any questions from the board to staff?

Kenneth Turner: What is the buffer to the back yard, to the adjoining homeowners and the fence? What did you say that was going to be?

Christopher Portman: Due to the temporary nature, they are proposing and 8' high wooden fence. So, it would be the residential zoned properties here and a 25' front yard space and then the 8' high wooden fence.

Kenneth Turner: So effectively it is a 25' space from homes to fence?



Christopher Portman: correct.

David Moon: and the screen fence is located on the interior so there will be 25' from open lots to the fence.

Donald Brooks: is that 25' just at that location or would it be all the way around?

Christopher Portman: the total subject property is 123 acres. They are only utilizing about 7 and a half acres of that, so the buffer would only be around the residential properties on the south and southwest.

David Moon: Now the chain link fence that faces the North and the East will have cloth plastic screen on it, similar to what you see at ball parks. It will also provide some screening from the road which is about 300' away.

Brenee Orozco: Is staff satisfied that the conditions that were provided to the applicant are indeed staff fulfilled.

David Moon: Staff position is that the special use site plan is, which is part of the approval, or action you take this evening, and the conditions are consistent with the county's zoning code and subdivision ordinance, at this time.

Brenee Orozco: So specifically, as to special use permit justification statement, looking at that is the staff satisfied with the applicant's response in exhibit B, as to the proposed laydown yard site? The plan accompanying the SUP request has been designed to meet all Cumberland County site plan requirements.

David Moon: (1900) Yes, but it's the boards responsibility to take in consideration their response and the other information that may be presented to you this evening from affected property owners, as well as other information presented to you this evening.

Brenee Orozco: Is anyone here that's going to be able to answer those questions?

David Moon: Yes.

Robert Davis: do we have any speakers?

David Moon: We have several speakers that are in favor. They are appearing to all be with the applicant, Duke Energy, Progress energy. I'm first going to call Amy Crout. She's the legal counsel, and she's serves as the lead, and she may call others that are also on this list.

Robert Davis: Please state your name and address.

Amy Crout: My name is Amy Crout. I'm an attorney at Smith Anderson. My address is 150 Fayetteville St., Raleigh NC.

Robert Davis: Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

Amy Crout: I do. Thank you. Alright Chair Davis, members of board. Thank you for having us here tonight. I do have members of the Duke team with me. As well, our engineers and appraiser are here to answer any questions that you have in terms of formal presentations, I'll be giving a formal presentation and our appraiser plans to get up. Any other questions you have, we're available to answer before you close the public hearing. We are requesting that you approve the special use permit for the temporary lay down yard located off Braxton Road. First and foremost, I



Board of Adjustment

always like to thank our staff members with the county who helped us put together a site plan and work with us on the application. We appreciate all their work as we work through the process.

As for my presentation, I'll be going through the application materials and explaining how Duke's request meets all four of the relevant requirements. Shown on the screen. First just kind of want to give a general idea of the location and aerial map. Duke is always sensitive to the placement and particularly design of the storage yards, especially in this case in relation to surrounding land uses and they really do make every effort to minimize impacts ensure it doesn't materially endanger public health and safety and make sure it's in harmony with the area that its located.

(21:29) And then here we meet those goals. This is 123-acre property. We are only locating on that South side and the blue area. That's the special use area and it's the only area of the 123 acres that this special use permit covers. It does. It is located in an area of mix of residential and agricultural uses and zoning. In you can see that there are residential like a neighborhood to the West and the South, and we'll discuss them a little bit. The neighborhood meeting that we held and the protections we are putting in place to protect those residents.

Just as always, this is allowed with a special use permit in this A1 zoning district, and we think it's consistent with the overall plan.

(22:20) I do like to spend a little bit of time talking about what a lay down yard is and why it's necessary and for the board members who are here last month, this will probably be duplicative. But here we go. The lay down yard is a public necessity as it supports the nearby transmission line upgrade specifically for this one, Duke is rebuilding an 8-mile section of transmission line within an existing easement in the Fayetteville and Hope Mills area. So, this particular lay down yard is really here to support that upgrade project. The purpose of that lay down yard is to store materials and contractor equipment necessary to complete that project in a central location to that line upgrade. So, on the site there will be some bucket trucks, poles, nuts, and bolts. Importantly, there's no energized equipment stored at the site and there's no active construction on the site or full-time employees. This is truly like a drop off pickup center, and it'll be used in our conditions. We have it set Mondays through Fridays, 6:00 AM to 7:00 PM to minimize that impact on traffic and noise on neighbors and their properties, and I'll also note, even though we have 6:00 AM to 7:00 PM, often times the actual use is really limited to what our daylight hours are, because unless we decide for security reasons that it's necessary, it won't be lighted. Importantly, the lease is temporary. It's only going to be there for four years. We're hoping that construction of the actual lay down yard will begin in December and that will be done and completed. And materials can be delivered in February. So, at that point that really becomes a true pickup drop off location for the employee. The line upgrade project overall and as this temporary lay down yard associated with it serves Duke Energies continuous commitment to provide customers with reliable, safe, and increasingly clean energy. As such, it doesn't materially endanger the public health and safety and we would argue that it actually helps increase it, adds new equipment and technology. It strengthens the regions energy delivery system to better withstand extreme weather events, avoid outages and to improve restoration time so it really is a public necessity for this area. It also helps achieve Cumberland County's 2030 vision statements one and three, which called for a more diversified economy and infrastructure that keeps. (24:51)

Faced with development, we do this by enhancing and expanding the electrical infrastructure for the entire region. As I mentioned, knowing that the proposed lay down yard does abut some residential properties to the West and South, Duke held a neighborhood meeting prior to submitting their application. They mailed notice to 35 property owners, including residents and businesses, with properties either abutting or in view of the special use permit site.

The project overview on the screen is part of the materials that were provided to the landowners in the mailed notice. At this meeting, only two neighbors attended, and Duke gave a project overview, talking a little bit about the community benefits of the line rebuild. They showed a map of the lay down yard and gave residents pictures of the fence rendering. The only questions that were asked was really about security for the lay down yard and what security measures will be in place, which do address where fencing it's gated and locked. If additional security is needed, we'll provide the lighting, and that lighting plan shows that that pole mounted light won't spill into the residential property. And the only other questions were actually unrelated to the special use permit site. They were



Board of Adjustment

related to other portions of that 123-acre property, so not this special use permit site in particular. Just for context, the two neighbors that attended the meeting were located here. Where the red dots are in comparison to the site. So those are the two neighbors that showed up. Also present and is here with us tonight. (26:35)

So again, Duke has been very intentional in trying to reach out to neighbors and talk to them and intentionally in our conversations with staff to make sure we're really protecting all of our property, neighboring property owners in our site plan design and use. For the site plan, I think staff did a pretty good job of kind of walking through it, so I'll move a little bit more quickly through this piece, the lay down yard itself is 7.2 acres. The Access Rd. is .2 acres making the total bill upon area 7.4 acres and the total density for the entire project is only about 7.1 acres for that 123-acre site. Taking a closer look again, you have the access Rd. to the actual lay down yard that's set back over 300 feet from the road. It includes a 20-foot drive Aisle that allows trucks to easily maneuver within lay down yard and all of it is designed to be accessible for Emergency vehicles in case there is any need for access, you'll see to the bottom of the screen that there's a mobile office toilet and parking area again that allows for only 20 vehicles. There is no full-time staff that will affect minimally on traffic patterns and nothing on this site requires additional public or private water, sewer, or other utilities. (28:01)

If Duke deems necessary, you can see where that full mountain light would be at the top near the access driveway. Again, the photometric plan we provided shows it does not spill into those residential properties and would only be if we needed it for security purposes. In terms of protections for neighboring residential properties I think this goes to some of the questions that board members were asking earlier about fencing and buffering, so you'll see to the West and to the South, we have a 25 Foot front there between the Property lines and lay down yard we also have the purple line is our chain link Fence. It's a 7-foot chain link fence with a 1 foot of barbed wire and to the north and eastern sides, it will be screened so you won't be able to see into the lay down yard from the road on this one. (00:28:57). The blue line is our 8-foot length, and this is just to make it, you know, you're going to be looking into a chain link fence, screen chain link fence. You'll be seeing a very nicely constructed and maintained 8-foot privacy fence around properties for those neighbors.

This kind of gives you some renderings of what that would look like. Lilly driver Lane is the only Rd. that dead ends straight to site from the residential area and that is what you will be seeing from the end of that road the 8-foot-tall private wooden fence and then you can see just how that would work at the bottom. You have the 25 Foot buffer with the privacy fence and the chain link fence there, importantly, as part of our conditions, it will be maintained. The fences and is responsible for mowing and maintaining the grass strip between not only the two fences, but also between that 8-foot privacy fence and property line so we are committed to making sure that that area stays well maintained.

For the applicants proposed conditions, Staff walked through these. Again, we have lighting if needed and a Photometric plan was provided in the site plan. We asked that it would be approved, and we do as staff said. They do meet all zoning. There is hours of operation and are limited Monday thru Friday, 6am to 7pm, except during periods of emergency. The site may be accessed 24/7 until the period of emergency had ended. It is not intended to be accessed except for true emergencies. If our crews need to get in and get equipment. It's really to allow them to do so and access the site.

(31:08) For the next, because it's a temporary use, we're not adding any landscaping between the proposed use and residential properties instead we're putting that 8 ft tall, privacy fence. A lot of times we ask that we don't add any landscaping because if we plant trees or bushes next to our fences it often allows creatures assistance to get in and compromise the safety of the actual laydown yard, which is why we have decided to put that wooden fence up, (31:40) the screen fence in the other areas and have agreed to maintain all lands, you know the grass strips around it.



Board of Adjustment

Again, site plan only affects this small property, not the 123 acres. We are responsible for maintaining the fencing, and that grass strip. So those are the proposed conditions.

In terms of overall consistency with the special use standards and considerations, we really this meets all four standards for required by section 1606.C and staff did find that the site plan is to be consistent with the zoning code. Given the temporary nature, the site design, location, and requirement that the site be returned in the same or better condition at the end of the use, we do think the request is reasonable and informing with the surrounding areas. You know, in terms of its temporary, it's only four years. It's limited use during the week. It's not a full Construction site, so there's less noise. There will be no active construction during the day. Site design, it's a limited use of this 123-acre property. No additional utilities are needed and there's no removal of existing landscaping and primarily in four years when they're done with it. They're going to return it back to the same condition.

(00:33:05) While we would state that this is a public necessity, the impact study conducted by Cedar Creek Appraisal found that the temporary lay down yard will have a neutral effect on the value of surrounding properties, including those residential properties and thus maintain the value of those adjoining or budding properties. Our appraiser will speak to that in a moment. An environmental study found that no wetlands jurisdictional streams subject to state riparian buffer rules are on the property. So that is the gist of our application. We are happy to answer any specific site plan questions that you may have. Our engineers here. Again, duke worked very intentionally with staff and intended to work with the neighbors to really minimize the impacts on these property owners, and we would ask that you approve of the site plan and special use permit.

Brenee Orozco: (33:59) Hey I have a question just for clear, in your letter, the second line says we agree to the extent the bullet points conditions are applicable. Since the understanding is that the property will be developed in accordance with the site plan and I have an idea of what you mean, but can you expound specifically on the part to the extent of the bullet point.

Amy Crout: If you look at this special use permit conditions, there are several DEQ and NCDOT, just kind of boiler language that staff tend to typically put in there. We would meet those to the extent we are required to under the ordinance and as they meet our site plan, we just wanted to make sure we were being very clear about that, and I think staff can address a little bit more about why those boilerplate languages are in there if you like.

Kenneth Turner: (34:58) Just out of curiosity, with over 100 acres available space. Why would you have put it so close to adjoining property owners?

Amy Crout: I think it was the area that we were able to lease from the property owner, probably the topography of the land. It's just the negotiations with the property owners over that 123-acre place. Duke doesn't own all 123 acres. So, it becomes a negotiation of where we can successfully locate on the property, and we can have our engineers speak to that if?

David Moon: Miss Kraut was at the intent of the property owner to continue farming the remainder of the property?

Amy Crout: The remainder of the property will continue to farm.

Kenneth Turner: What was the last crop that was formed on that property? Corn, when was that?

Amy Crout: Yes. So, I can answer that. The last the last crop was corn, and it was farmed about a month ago. And so, it is an active farm currently. So, it's not, it's not going from vacant to a higher use. It isn't actively farmed piece of property so.



Donald Brooks: I thought you said something about a wooded area around the property. Around the 7 acres.

Amy Crout: A wooden fence that's.

Donald Brooks: So, the whole land is it's all farmland, the whole 123 acres is all farmlands.

Amy Crout: it's not all farmland this area right here if we can go back to it. This area right here is farms and the area we will be using is farmland. So, this is the area that is farmed, and this is the area of the special use permit. I am not sure of what wooded area you are referring to.

Donald Brooks: the next question I have is how many residential homes are in that neighborhood?

David Moon: So right there, there's approximately 21 homes that abut that property line. The number of homes that actually abut the special use site are 16.

Donald Brooks: and the other homes besides that?

David Moon: Staff has not counted the overall number of residential homes.

Donald Brooks: And so, I was asking when you said you had, you had the public meeting with the with the residents, only two homeowners out of all those homes showed up for the meeting?

Amy Crout: from everyone we mailed, we only had 2 homeowners show up for the meeting.

Robert Davis: any more questions?

Amy Crout: if we could call our appraiser, Alan Hair.

David Moon: he is listed as a speaker.

Amy Crout: I have copies of the impact study report for the board, and we asked that it be placed in the record.

Robert Davis: ok, lets get you sworn in. Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

Alan Hair: I do.

Robert Davis: please state your name and address.

Alan Hair: My name Alan Hair. My address is 1204 Arsenal Ave Fayetteville, NC, 28305. I'm an appraiser here in town and I'll tell you a little about myself. I graduated from NC state in Forestry and got my appraisal license, my brokerage license and I also got what they call M.A.I designation which is like a PhD in appraising. I'm a licensed irrigation contractor and licensed landscape contractor and a license LED remediator. was hired by the Council for Duke Energy Progress, Smith Anderson to form an impact study to determine the effect that the temporary laydown yard would have on the surrounding property values. To do this, my team and I went to the market and found situations that were similar and how and we studied how the real estate market would behave in these similar



Board of Adjustment

situations. The situations that we found were actually more intense and probably should be more detrimental than the temporary lay down in the yard. The fact that it's temporary, there's not been a lot of construction activity. We found three scenarios where we could do what we call paired sales and determine the appreciation rates of these sales and then measure that during the construction period. And we found that we had we had one that was next to an apartment development, Kingsley townhouses which is off of Cliff Dale Road and Lowell Harris and that is Cliff Dale Forest subdivision. We had two pairings in that we also found along the I-295 corridor the Outer loop. There's pear tree W subdivision. We have property right adjoining the 295 loop and then we have the double subdivision. We found a house on Bradley Rd. which also abuts the I-295 loop. And so, they're in the midst of construction. We tried to get the appreciation rate before they started construction.(40:50) And then after or during construction to see if it would have any deleterious effects on the appreciation rights of the property values, we measured this against the appreciation rate of the ZIP code for the construction and that gives us a baseline to see if there's any suppression. So, in every case, all three cases we found that there was no effect on the property, even the properties that abutted 295, they appreciated at the same rate or above the rate of the baseline over the broader market. So, there's no deleterious facts for actual intense construction projects. So, a temporary lay down yard, which is to have minimal activity should not have any impact whatsoever on the property values of the adjoining subdivision. Does anybody have any questions?

Brenee Orozco: I am sorry if you already stated it but what was the dates that you see on the documents prepared on October 16th as of.

Alan Hair: could you speak up a little bit.

Brenee Orozco: Yeah, I see the effective dates. What were the dates that you looked at your comps?

Alan Hair: in September.

Brenee Orozco: in 2023?

Alan Hair: yes ma'am.

Robert Davis: Any questions?

Brenee Orozco: you found, based on your research that there were no impacted. The other properties were not impacted by the laydown yard?

Alan Hair: The pairings that we did were adjoining or close to actual construction sites. The construction of 295. So, you're talking about a more intense and more active type of construction process other than just a lay down yard and those properties appreciated at or above the baseline, which was we used the ZIP code, the appreciation rate for the ZIP code over the two or three-year period and they appreciate it at or above so that we saw no suppression whatsoever, the appreciation rate. So that would that we drew the conclusion then that if you're by a temporary lay down you're that has a maximum time of four year. There's, there's not going to be any deleterious effect on the adjoining property owners in the Bridlewood subdivision.

Brenee Orozco: so, at the very least it would maintain the value.

Alan Hair: at the very least it would appreciate at the same rate as the broader market, correct. Any other questions?



David Moon: There are four other speakers, but if they are not called but they were listed as new one, which is Nuwan Wijesuriya, Jessica Wenger, Zachary Eulo, and Josh Katsikin. She's not calling them. I am just listing them as a speaker. Those listed as opposed to this application, there are two. The first is Sharon Vela if I have that pronunciation right.

Sharon Vela: yes.

Robert Davis: (44:22) Yes, ma'am. Please take look for the mic. Please. Raise your hand. Do you swear to tell the truth, the whole truth and nothing but the truth so help you god?

Sharon Vela: Yes,

Robert Davis: state your name and address.

Sharon Vela: My name is Sharon Vela. I live on 5524 walking trail way. I have been a realtor for over 14yrs, and we did not get a letter from Duke and that is why we were not there. I was not informed until after the meeting by one of the residents that it does not effect. My property will be affected and as being a realtor, I did not do any comparisons in preparation for this, but I do believe in my experience it will impact. My other concern is my dogs. I have a hound dog and even though they are inside dogs at 6:30 in the morning, if they hear like when they hear the trash cans come the trash come out any big vehicles, they will be going off. So, my biggest concern is the noise, especially at 6:30 in the morning and other biggest concern is the smells, but mostly the noise. I do feel a little bit better knowing that there will be a wooden fence, but I do believe in my experience, especially as being a heavy buyer's agent, and I've heard of a lot of buyers, I've shown a lot of buyers and I know that it will impact for the four years. It will impact the sale and then the people that will be asking what's going on with this because I have shown lots of houses and they ask, and a lot of times they walk away. So, I do believe that it will impact our value and like I said, I'm concerned about the dogs, and I was not informed.

Kenneth Turner: Does farm equipment running early in the morning, which typically happens frequently, not created issues for you?

Sharon Vela: No, mostly the farm equipment doesn't. They don't start till like 8 in the morning and usually I'll know because my dogs do go out as not really gone out at 6:30. But normally it's when everybody's kind of awake, especially in my household, I do have, I take care of my mom. So, I'm a morning person and I'm up first so I know when my dogs start going off and most of the time the first thing that comes out in the morning is around 7 is the trash, but usually. The farm equipment, I guess they've been very kind of. They're usually in the daytime where they come by our location of eligible going crazy.

Kenneth Turner: Are you one of those that back up to the actual? I don't know where that is. Could you point that out?

Sharon Vela: It's right here. 5524 walking trail way and we did not get a letter.

Brenee Orozco: on or about when did you find out.

Sharon Vela: I've found Cheryl's, whose house is right. Cheryl's house are the 2 dots. The ones that are close to chicken foot road. She's the one that called us and told us that they just came back from a meeting, and I didn't know about that and that they got a letter. But after the meeting is when I was informed.



Brenee Orozco(49:53): so, the same date of the meeting?

Sharon Vela: yes, that evening she called and told me. But the two people, if you look at those dots, they are not affected.

Brenee Orozco: now, what have you done to educate yourself on this project? Since your neighbor called and told you?

Sharon Vela: I've not done too much. I am starting college and then real-estate and I got a lot going on, but I've not done any. I should have done some compared market analysis, but I did not because I do CMAs, but I do know as my experience as being a realtor and showing buyers that it will. It will affect right now where the market is right now, it is a sellers' market and there's very low. It's about supplying demand and right now the supply is very, very low. The market has slowed down in the last couple of months. So, with the supply being low right now, all the houses are gone. I mean, you can't be picky as a buyer. So once that changes and I do feel that the market is starting to change, it has slowed down quite a bit. I have slowed down. I usually have about three to four closings a month, the last two months I've not had closing. I do have a listing that's going to be closing, in the first week of November and then I also have a house that I'm the buyer's agent that will be closing near the end of November. So I do believe the market has been very wiggly in the last 2-3 years, but I do believe if that ever changes over to a buyer market or the if inventory does increase, which right now houses are especially houses that are in the three hundreds and up are staying so right now the houses in our neighborhood have gone up to about the upper 260's to the 300's and because of inflation and because of the prices of the House that goes, they've gone up so much. When we bought a house, we bought it in 2008 and it was 185. Right now, the value of my house is probably going to be about 280. So, you're looking at OK, you got a lot of people that only qualify up to about 275, so anything that's less than that, they're going quick no matter where they're at, no matter what's affecting them. But anything other than after that, not getting as many buyers. So, and the houses are staying on the market a little bit longer. There's one house that's listed right now it is closer to walking trail way. It's like the 3rd or 4th house. It just came on the market, and it's set, but it's been about two weeks and usually houses are going on market and walking trail way and the Ridgewood subdivision they usually are on the microphone only a week.

Brenee Orozco: Is there any activity out there that you would suggest that a prospective buyer saw and therefore decided not to buy the House that you said has been on the market for two weeks now as it would regularly be so.

Sharon Vela: I would say probably the construction and probably what's behind, I know the biggest concern is going to be what's going to happen after the four years now? I think that if they educate a lot of the sellers and give out information that this is only going to be for 4yrs, and it will be better than what it was before. And we can inform the prospective new buyers that it might ease their mind a little bit. And my concern also is if we switch this over from agricultural to special, is it going to stay in that zoning or is it going to go back to agricultural zoning. (54:05)

Brenee Orozco: now based on your statement. Is it you're understanding that they're required there, that we're being asked to change the zoning? I want to make sure that we're on the same page.

Sharon Vela: Yes, I would like it to change back to agriculture because if they're only here for four years, then who else is going to go back into that property? If it's a special?

Robert Davis: For after that, I believe that she answered earlier that she said it was go back to the original format.



Board of Adjustment

Amy Crout: we are not requesting rezoning of the property. It stays A1. It stays agricultural and after the 4yrs it will be returned to the condition it's in.

(54:52) **Brenee Orozco:** Just wanted to make that's why I was asking with her understanding that I thought.

Robert Davis: yes, but no construction has begun as of yet?

Brenee Orozco: Just to be clear, it's your it's. Is it your contention that the property values will be impacted and that they will be impacted detrimentally impacted?

Sharon Vela: I don't believe they will be detrimental impacted, but they will be impacted.

Brenee Orozco: Ok but not detrimentally?

Sharon Vela: no.

Brenee Orozco: based on your understanding of what you've heard here today and the presentations, do you think that it's not a public necessity?

Sharon Vela: Could you say that again?

Brenee Orozco: do you disagree that requested use is, that there is not a public necessity in existence.

Sharon Vela: I'm not quite understanding.

Brenee Orozco: They're saying that there is, we need to consider if there is a public necessity to have the project if you will, do you disagree that it's not necessary?

Sharon Vela: no, I don't disagree.

Robert Davis: any other questions.

Sharon Vela: I do have a question about my dog. She is a coon hound and has a very deep bark. So, is that gonna cause me to get people complaining? That's that my biggest concern is the 6:30 in the morning because I know my dog is going to go off.

Kenneth Turner: I have two dogs and all I can tell you is I do everything I can to not aggravate my neighbors and umh. If this passes, then that's just the that's the best that you can do.

Donald Brooks: I'm sorry, I have a question about, what about you getting notified. You said you didn't get a letter? I guess my question is, was a random selection that you send that aside to or did you also have to make you send it to all of the residents in that area?

Robert Davis: ok

Vickie Mullin: from what we received in our packet, there was a public hearing notice that was put out, correct.



David Moon: Yeah, if I could address that first on the neighborhood meeting, there is no county adopted policy that requires a neighborhood meeting. It was conducted voluntarily by Duke Energy, and we have no requirement as to what mail out notice that they may provide by state statute and the county ordinances. There is public notification that is required. OK, quasi-judicial cases, which is what is before you this evening based on findings of fact, we mail out notice typically to the abutting property owners. All property owners are abutting the subject special use site were sent a letter notifying them of the meeting. In addition, the property was posted with a sign along that roadway that was mentioned that butts up to the development and we also place a notice twice within the Fayetteville observer. All of that complies with the general statutes of North Carolina and the county ordinances.

Brenee Orozco: Ma'am, just you're an abutting property, right?

Sharon Vela: yes.

Robert Davis: thank you very much. Would the attorney answer his question?

Donald Brooks: were they randomly selected to the places that you mailed the letter too?

Amy Crout: They were not. They were sent to neighboring residents that either abutted the property or a business owner across the way who could see the special use permit site. And it is my understanding that while she might not have received it, she the 5524 walking trailway was on that mailing list.

Donald Brooks: so, you said that mailing address was on the mailing list, correct?

Amy Crout: yes.

David Moon: are we ready for the next speaker?

Robert Davis: are there any more questions? Next speaker.

David Moon: our next speaker is Gaberto Vela.

Robert Davis: raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

Gaberto Vela: so, help me God, I do.

Robert Davis: State your name loudly in the microphone.

Gaberto Vela: (1:01:09) my name is Gaberto Vela. I'm her husband and I am a 30 yr. veteran. 12 marine Corp 18th army. I haven't been in infantry for the past 12 years as far as RMU as far as a laydown area. The only issue I actually have is it a true laydown yard, just nuts and bolts.

Robert Davis: could you speak a little closer to the mic.

Gaberto Vela: apologies. The only issue I actually have is. In my time in the military, I was in charge of mostly fabrications overseas. Electricity along with our contractors and junction boxes. Everything that pretty much Duke



Board of Adjustment

has on a laydown yard. If it's truly a nut and bolt laydown yard, I don't have a problem with that. The only issues I have will there be any type of capacitors there? PCB's, arsenics, the stuff that blows up aside from the fuses? That is what I was trying to address and if there will be an issue with anything that's going to be recovered from construction. Any kind of EOC event. An emergency event. Is that something that is going to be stored there or is hazmat, what's going to happen.

Robert Davis: is there anyone that would like to address this issue? Yes, sir. Please come up to the podium. Do you swear to tell the truth the whole truth and nothing, but the truth so help you God.

Nuwan Wijesuriya: I do.

Robert Davis: could you please state your name.

Nuwan Wijesuriya: my name is Nuwan Wijesuriya, and I work for Duke Energy, and I am at 411 Faithful St. Raleigh, NC. As far as this gentleman's question. This is an 8-mile-long line rebuild. So, the material that will be there is primarily steal poles, nuts and bolts and wire for the lines. We are not going to be housing any materials that are going to be containing PCB's. Additionally, duke does not install any material that has PCB's since they were outlawed in 1978.

Robert Davis: Thank you, so what you are saying is that this is poles and bolts and you are storing them in the yard to come get them as needed and you take them out to put poles up.

Nuwan Wijesuriya: right the poles come in sections, and they get taken to the site and get constructed at the site. So, this will basically warehouse steal poles, steal nuts and bolts and the conductive that will be used on top of the line.

Robert Davis: And it's not every day. It's 6:00, they come back and try getting new polls out of no. OK, if needed to come and take the polls out and put them up.

Nuwan Wijesuriya: That's right. When it comes time to have active construction at a particular location on the line, that's when they kind of take that too.

Robert Davis (1:04:56): Thank you, Sir.

Brenee Orozco: And before I ask my question, I would ask that you speak up please, so that it's heard.

Nuwan Wijesuriya: Oh, sure. Yeah.

Brenee Orozco: Thank you so very much, Sir, in consideration of whether a project would be developed this evening, whether the plan would be in harmony with the area in which it's located that specifically. Being a neighborhood and madam's concern about the dogs being awakened, bothered, and barking early in the morning and I would like to address that. OK, what, just to be clear, what time do you, what time are your people supposed to be there? If that's a question you can answer. If it's not, then. Just let me know who I should be asking that to. So, is it 6:30 in the morning? Because I want to address her concerns because she's the neighbor. It's abutting her property and she's got dogs. And when I think of being in harmony with the area in which it's located, it's a neighborhood. And that may be a valid concern, so I'd like to address it.



CUMBERLAND
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Board of Adjustment

Amy Crout: (1:06:21) Yeah, first I think, 1st we would just also note yes, it is next to a neighborhood, but it's also active farmland now. So, and this is just a temporary storage yard, and this is not a full time construction site. So, it will be very limited use and we just put the parameters in there of Monday through Friday, 6:00 AM to 7:00 PM that's in our special that's in the conditions, so we cannot go before then or after then unless it's an emergency. And that doesn't mean every morning at 6:00 AM there will be someone at the site. As I mentioned in my previous presentation, a lot of times we need to take advantage of daylight hours. The sites not lighted, so it can make it difficult to work. You know at night or very early in the morning. So typically, daylight hours but we put those parameters on there so we can.

Brenee Orozco: 6:00 AM to 7:00.

Amy Crout: That's the current window in the special use permit. That doesn't mean that's going to happen every day.

Brenee Orozco: And if you decide to post lights at Dukes discretion. You will have those lights down towards the ground and when other as in your understanding is in conformity with the regulations.

Amy Crout: Yes, any light posted will be in conformity with the regulations, and if we go back to this slide, there's only one current pole mount on the proposed site and that's at that very kind of northern northeastern corner of the property right by that access Rd. And so, there's a photometric plan that was submitted with the site and it shows this spill area, and it doesn't come near the residential property.

David Moon: Madame Orozco's condition B3 of the proposed special use permit states, except for during periods of emergency, hours of operation, shall be limited to Monday through Friday from 6:00 AM to 7:00 PM during periods of emergency, the site may be accessed 24/7 until the period of emergency has ended.

Brenee Orozco: Thank you. I just wanted to make sure given we have the homeowner that's made her contention that, that was clear for everyone in the room.

Robert Davis: Any other questions?

David Moon: Sir, that was the last registered speaker under the opposed section.

Robert Davis: No speak of them. We can close the public hearing, correct?

David Moon: You may, unless you decide to entertain anyone else who wants to speak from the audience.

Robert Davis: Anyone else who wants to speak?
None. OK, yes.

Kenneth Turner: I'd like to make a motion.

David Moon: You may close it, yes.



Robert Davis: Yeah. At this time, since we have no others to speak with . I close the public hearing section of this meeting, good, now we're going to discussion, correct, good discussion question.

Kenneth Turner: Any questions I'll say when you finish discussion, I'll make a motion.

Brenee Orozco: I just want to make sure that as we are addressing our findings of fact that specifically point out Mr. Alan Hair's plan as prepared on October 16th, 2023. Based on that, the use will maintain or enhance the value of the joining or abutting property not hearing any contrary, contradictory information that the use is public necessity. So, I draw out our findings of fact that we specifically want to ensure that when we have some circumstances to support a statement that's important.

Robert Davis: I believe Ken's been through that, I believe.

Kenneth Turner: I'm a little confused as to her question honestly. Would you repeat that so I can understand?

Brenee Orozco: It's not a question. I will table it for when you make your findings of fact.

Kenneth Turner: They've already made the findings of fact that I agree.

Robert Davis: So, with and what?

Kenneth Turner: So, what I would be making is a motion based on exhibit I. Which is the Special use permit conditions. The site plan is identified and Exhibit E and also as we address in your situation, exhibit J being the applicants written response, does meet the four criteria necessary for approval. With that in mind, I make the motion we approve the special use permit for Duke Energy.

Vickie Mullins: I second.

Robert Davis: Motion second, are there any questions?

Brenee Orozco: No, I don't have any questions, but I would like a moment to consider what he said thank you.

Robert Davis: OK. Yeah.

Brenee Orozco: Thank you for that time. I have nothing further.

Robert Davis: Motion has been made and a second. All in favor say aye. Motion is unanimous.

Kenneth Turner Motioned to approve.

Vickie Mullins Seconded the motion.

All are in favor.

David Moon: Chair that concludes the case for this evening, we proceed on to the agenda. There is one other item on the agenda and that is the 2024 deadline and meeting schedule for the Board of Adjustment. Staff is asking for an approval from the board of adjustments regarding this this schedule.

Brenee Orozco: I moved to approve this schedule.



Board of Adjustment

Vickie Mullins: I second.

Robert Davis: All in favor. All are in favor. Motion carried.

Brenee Orozco: motion to adjourn.

Vickie Mullins: Second

All are in favor. Adjourned at 7:15pm.