



## Board of Adjustment

MINUTES  
March 21, 2024  
6:00 PM

### Regular Members

Gregory Parks-Chair  
Linda Amos, Vice-Chair  
Robert Davis  
Marva Lucas-Moore  
Vickie Mullins

### Absent Members

Linda Amos, Vice-Chair  
Robert Davis  
Jovan Bowser-Alt  
Kenneth Turner-Alt  
Gary Silverman- Alt  
Brenee Orozco-Alt

### Staff/Others Present

David Moon  
Timothy Doersam  
  
Amanda Ozanich  
Robert Hasty (Asst County Attorney)

### Alternate Members

Brenee Orozco-Alt  
Donald Brooks-Alt  
Jovan Bowser-Alt  
Kenneth Turner-Alt  
Gary Silverman- Alt

### Present Members:

Gregory Parks-Chair  
Vickie Mullins  
Marva Lucas-Moore  
Donald Brooks

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

#### 1. INVOCATION & PLEDGE OF ALLEGIANCE

Donald Brooks ~~read~~<sup>Said</sup> the invocation. Pledge said by all.

Pledge Recited by all.

Chair Parks stated the procedural matters are to turn off all cell phones or to place them on silent. Please speak clear. Please do not repeat what the last speaker spoke. The Chair requested to limit time per speaker to 5 minutes. If any Board member wishes to speak, please ask to be recognized by the Chair.

#### 2. ROLL CALL

David Moon called the roll. Mr. Moon made note of the absence of Linda Amos, Robert Davis, Kenneth Turner, Gary Silverman, Brenee Orozco, and Jovan Bowser. Mr. Moon stated we do have a quorum.

#### 3. SWEAR IN OF STAFF

Chair Parks swore in staff Timothy Doersam and David Moon.

#### 4. ADJUSTMENTS TO THE AGENDA

There were none.

#### 5. APPROVAL OF THE OCTOBER 19, 2023, MINUTES

**Vickie Mullins made a motion to approve the minutes from the October 19, 2023, meeting as written, seconded by Mr. Donald Brooks. All are in favor.**



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

There were none.

7. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

8. POLICY STATEMENT REGARDING APPEAL PROCESS:

Mr. Moon read the policy statement.

9. PUBLIC HEARING(S)

Chair Parks read:

**BOA-2024-0002:** Consideration of a Special Use Permit to allow a telecommunications monopole in an A1 Agricultural District on 261.39 +/- acres, located at 3142 County Line Road; submitted by Ryan Woods (applicant) on behalf of Grays Creek Properties, LLC (owner).

**David Moon:** Thank you, chair. I am David Moon, Deputy Director of planning and inspections. I'll provide the introduction while Tim Doersam, planner with planning and inspections, will provide the presentation.

The case before you is a special use permit for a communication tower for Duke Energy Progress. They will be the sole user. It will not be a common communication tower with multiple antennas for communication companies. It will fully serve the purpose of communications for Duke. They can coordinate the operations of the transmission center and I believe the solar panel station. The applicant can provide more details.

This slide shows the property located on the southwest corner of the county, in the vicinity of Rufus Johnson Road and County Line Rd.

This is a special use. As a special use which are those uses for which a permit is required for the proposed activities, which are essentially compatible with other uses or activities permitted in a zoning district, but which presents unique challenges or possess unique characteristics or qualities that require comprehensive review at a public hearing by the county Board of Adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions. 00:07:55

This next slide is from the zoning ordinance for the county. This shows that a communication tower is a special use under the A1 agricultural zoning category.

The board this evening will make its decision based on four special use criteria from the zoning ordinance. These four criteria are: the use will not materially endanger the public health or safety if located according to the plan submitted and proposed; The use meets all required conditions and specifications; the use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and the location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Cumberland County's most recent Land Use Plan, either comprehensive or a detailed area plan. 00:09:09



The Board of Adjustment has the authority to approve, deny or approve with conditions. Your actions this evening is final. If the applicant or adjacent property owners affected wish to appeal, then that appeal goes to the County Superior Court. With that, I'll turn the mic over to Tim Doersam. He'll provide the key information about the special use application. Thank you.

**Timothy Doersam:**

Good evening, ladies and gentlemen, Board. My name is Timothy Doersam. I am a planner with the current planning office, with the planning and inspection department. The subject property, it is located on a total of about 261, give or take, acres of land. The special use permit, as described, is going to affect only approximately 1.21 acres. Here we kind of see the surrounding areas. To the north of the subject property, we have several residential subdivisions that are located across County Line Rd. Of the actual site, to the north, is more rural agricultural farm use along with some single family residential. To the east, we have predominantly wooded lands. To the South is more wooded lands with the extension of the solar farm that reaches across seaplane County line and to the West, we have the majority of the solar farm that is located on the property site.

(presentation slide descriptions)

This is a close up of the actual subject site that the tower will be housed on, which is an existing utility substation that Duke Energy is owning and operating. It will be located within the existing channeling fence as well. Here we see the surrounding and fencing zoning of the area. It is predominantly A1 agricultural. We do have some scatterings of R40 residential and a pocket of R20 residential to the west.

From soils, the property does have hydric soils with some hybrid inclusion soils to the top right portion of it. It is located in the Greys Creek Water District, but there are no water lines and there are no sewer lines located along the county Line Rd. and the applicant is not proposing any well or septic, as they are not foreseeing that it is a necessity for the tower operation.

We have a picture looking at the property itself at one of the security gates that Duke Energy has and operates for the sake of keeping people away from their apparatuses.

This is a western view from down county line Rd., this is looking across it to one of the Jefferson Landing subdivision properties that is across the street from County Line Rd.

This is looking across it, to one of the Jefferson Landing subdivision properties that is across the street from County Line Rd. And here is the eastern view looking down county line roads.

This is sheet one of the actual site plans, you get an idea of the surrounding wooded areas that are to the east and towards the north of the subject site. That would house the tower and then again to the South and to the West is the Solar Farm and all these solar panels are used for it.

For the key conditions that we have for the special use permit, the 1st is that they're only one tower constructed and in operation at any given time. Within the special use permit area. The tower may be replaced by a new tower with any special use permit area, but once that tower is completed and in operation, the old tower must be removed within 90 days.

There are no third-party co-locations allowed on the new monopole.  
Any additional antenna that would be put onto the monopole would be solely used by Duke.



## Board of Adjustment

The existing 8-foot-high chain link fencing that is around the existing substation. That is found to be sufficient to satisfy Section 927, subsection E of the county zoning Ordinance.

No additional vegetation buffers shall be required because the site is sufficiently screened because of the existing wooded areas to the east and to the north property lines and the Special use permits expirations date will be two years from the date of approval.

**Chair Parks:**

Can I ask a question? Once they get the special use permit, do they have to come back in 2 years to get another special use permit?

**David Moon:**

As long as they proceed with the use approved within the special use, within those two years, then they have what is called vested rights. If they should not install that tower, then there's the risk that it expires. Should it expire and they would like to put a Monopoly on the site, then they would have to request a special use permit again.

**Timothy Doersam:**

And as Mr. Moon has said, you have the ability to: approve, deny or approve with conditions, the Special use permit that is being heard tonight. That concludes my presentation. Thank you for your time.

**David Moon:**

Chair, the staff has reviewed the special use site plan and found it to be consistent with the county's zoning ordinance. The proposed tower is a maximum height of 120 feet, so they will be limited to the height in the special use permit. That is identified within the proposed special use permit.

**Chair Parks:**

You all basically have done the improvement yourself. We just need to say...

**David Moon:**

The role is to determine that this use within the A1 zoning district at this location, meets those four criteria. You're also approving the subdivision, or rather the special use permit and the conditions of approval. There is 27 conditions in there that the applicant must meet. To install, to operate, and to remove the structure.

**Chair Parks:**

Do we have anybody who's going to talk?

**David Moon**

Well, if you have any questions of the staff the board can ask those now. If not, then chair you can close the staff discussion and open the public hearing.

**Chair Parks**

No.

**Donald Brooks:**

It's 261 acres. Is it possible in the future this could be resolved for residential areas and if so? Just have a buffer needs to be around in order for it to be rezoned a residential area?



## Board of Adjustment

**David Moon:**

The applicant can address that to some extent, but currently the property is used as a solar farm. The applicant is Duke and there's a separate property owner and he's most likely leasing the property to Duke, as well as to the solar panel operators, but ultimately yes, it could. A property owner can request to rezone a property, but that rezoning has to be approved by the board of County commissioner at a hearing.

**Donald Brooks:**

So on the 261 acres, it is a solar farm, is there right now?

**David Moon:**

Yes. Can we go back to the air photo. As you can see, the solar farm is not only north of the county line, it extends south over the county line into Bladen County. The 261 acres only covers the solar farm within Cumberland County. There is more acreage within Bladen County.

**Chair Parks:**

Is Mr. Woods here? Or somebody speaking for him?

**Amy Crout:**

Yes, I have a presentation if you like.

**David Moon:**

Yeah, you've closed the staff discussion and you're opening up for the public hearing, yeah.

**Chair Parks:**

I am. Please state your name your address please.

**Amy Crout:**

My name is Amy Kraut. I'm an attorney at Smith Anderson, 150 Fayetteville St. Ste. 2300, in Raleigh. I'm here on behalf of Duke Energy to do a presentation and talk to you a little bit about and we have notebooks to pass out tonight.

**Chair Parks:**

I'm sorry I didn't swear you in.

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

**Amy Crout:** I do

**Amy Crout**

All right, Miss Tucker is just passing around notebooks with the application materials and an impact study that was conducted for the property. And we asked that the notebook, my presentation and the staff presentation. All go on record for this case.

So first we always just like to start by thanking the county and staff for the work they've done to get us this far, we work very closely with them on this application, and we appreciate the opportunity with the county on Duke projects and we're working with them. You might recognize me. I was here on 2 of the previous Duke projects.



## Board of Adjustment

One of the first things I kind of like to do with these cambium poles is explain what it is and how it serves to you, because it's not what you typically think of when you think of a wireless communication tower. We think wireless communication tower, we think 2300 feet tower with guidewires attached and lots. The barrier antennas on the top. This is not at all what this is. You can see a rendering of what the typical 120 foot cambium pole looks like on the screen. It's 120 foot above ground, 20 foot underground with an attached wireless network device at the top and it's. Place within an existing Duke Energy substation for Duke Energies Communication Network. It remotely monitors the substation and securely transmitted data to and from other substations. That's why the 120 feet is important. It operates within a line of sight from other cambium poles.

So, because it's needed to securely transmit data. We do not allow any third parties, so any of those cell phone carriers, they're not allowed to Co locate on our pole and it's the reason why Duke doesn't Co locate on any, you know, traditional wireless communication towers.

**Chair Parks:**

So can I ask you a question, you say transmit data. So, no electricity?

**Amy Crout:**

No, not electricity.

**Chair Parks:**

So, it has nothing to do with the solar panels?

**Amy Crout:**

So, the Cambion pole monitors the activity on a substation. The substation is already existing and that handles all the electricity it taps into the solar farm and the transmission line distribution towers already on the property. This is just to monitor the kind of ins and outs of how the substation is functioning.

**Chair Parks:**

So instead of y'all checking it with manual people y'all just get it transmitted, the information, through the poles, I guess.

**Amy Crout:**

Yeah. So, the reason that this is, we used to have communications provider that are no longer providing services to Duke Energy, so we need to update our system and these upgrades are necessary to ensure that that substation operates efficiency and meets all customer needs. It's also a part of Dukes, commitment to smart technology improvements this monopole helps support a smarter grid and more reliable and efficient operations and as part of those communication functions it serves during the following major storms. It allows duke to communicate important messages to their employees during the power restoration process. So overall, it's really benefiting the public health and safety. It supports the energy grid for the surrounding area and is really a public necessity in this case because our communications provider is no longer serving.

**Donald Brooks:**

The line of sight, I understand that type of communication. What is the line of sight communicating with?

**Amy Crout:** our other cambion poles and substations.



**Donald Brooks:**

So, you're actually that the communication people against go across private property. The site, I mean the line of site.

**Amy Crout:** it is a Wi-Fi event.

**Donald Brooks:**

Right. But if someone wanted to ~~hear~~ build something there that you see, not 120 feet from the sound breaker number. Because they will block your line of sight.

**Amy Crout:**

I don't believe... We have Aaron Cook here with Duke Energy. He could answer that question better for you in terms of how those that communication specifically works in functions. I'm happy to bring him up at the end.

**Amy Crout:**

With my presentation to answer that brief, because really this this is just a special use permit application that affects You know 1.21 acres to.

**Donald Brooks:**

From the best of the construction, but the transmission is not restricted to that 1.2 acres, it's going Across somewhere else. To some other pole that it is communicating with.

**Amy Crout:**

Yes.

**Donald Brooks:**

So, it is beyond the communications beyond the 1.2 acres.

**Amy Crout:**

It communicates with other parties beyond, correct? Yeah.

**Amy Crout:**

Looking at the location and the aerial map of this property, you know, I think staff did a did a really good job of explaining. This is a very small part of a very large parcel owned by Greys Creek properties that's being leased as a solar farm and that's a long-standing recorded lease. So that's between Greys Creek properties and the Solar Farm. Duke is a not a part of that lease. However, Duke does have an easement over that small blue highlighted area for the substation, and the substation was built in part to serve the Solar farm. You can see there are taps. Our substation from the solar farm.

What's important is, as you mentioned, that highlighted blue area is the only area that this special use permit affects. It does not affect the entire 261 Parcel. So, while it was never our intent to do so, you couldn't build this on the previous special use permit. It wouldn't allow you to build a monopole anywhere except for a finite use existing substation. So very limited in scope. Being located on such a large parcel and within the existing substation means the use doesn't materially endanger the public health and safety. Neither would it impact the Value abutting properties and is in harmony with the general areas and existing substations around the bio solar farm.

Again, the staff went over this the site plan and full design. I'm just going to cover it in a little bit in more detail to the extent it helps the entire construction plans. In that notebook that you have again, the blue area kind of



## Board of Adjustment

highlights, you know Dukes, part of the substation and where that monopole would be located. The specific location and for the monopole will be that where that Red Star is. You can see it set back more than 350 feet from all property lines and 350 feet is the closest one. Our next one is 408 feet and then 600 feet, so it's really insulated within the property. Again, it's going to be 120 feet above ground, 20 feet below ground, and this monopole design is really chosen because it's the least intrusive and most aesthetic option. It won't be painted, it'll be constructed of galvanized steel, which conforms aesthetically to the other equipment and distribution. Powers that are already within the existing substation on the site there are transmission or distribution lines already across the solar farm. One cutting through the middle and one cutting across the corner.

Because it's going into an existing site, there are already adequate utilities, access roads, equipment storage. We're not proposing any of that. No other changes or infrastructure truly just building this monopole to monitor communications.

The substation is already fenced and gated, and as noted is only accessed for routine maintenance which is approximately once a month that was already occurring. So, there will be no additional traffic impact to the site. Going over, you know the wireless communication towers ordinance, you know, I think as staff mentioned this use is unique and doesn't always perfectly fit in the traditional concept of what you think the wireless communication tower is. So what Dukes application is, it went through each of section 927's requirements related to our communication towers and set forth how we met those and then the couple that didn't quite fit with our use, we asked for some special use conditions initially those were special use conditions 1621 and 22 and you can find those on exhibit I of the special use permit that's in staff's staff report. To walk through those originally, we submitted the Sup for the entire property. Staff asked us and we had no issue with just limiting it to Dukes existing substation. That's the intent. So that's the only area that this will apply to. 00:29:18

Next, the wireless communication hours or next technically requires a 10-foot fence around. Told here we're already putting it in an existing substation. There's already fencing around the substation, and it is an 8-foot fence with barbed wire. This is Duke standard fencing that they use around all substations for security purposes.

Condition 17. This is kind of already part of the code, but we also ran these proposed conditions again by the property owner, obviously and the solar farms attorney. And there is a question about what would happen if you knew the pole would be abandoned or seized operations. Would we remove it? So, we propose this condition, we'll remove it per the code in 90 days, if it ever ceases to be used.

Next, is a condition that we actually worked with staff on. It just allows the pole to be relocated in the substation if needed with administrative approval. Condition 21. I talked about this. The pole is only used for Dukes internal purposes, so no third-party Co locations would be allowed on the monopole. There are some significant security and safety issues here. One we're securely transmitting and collecting data using this pole. But also, their safety and security concerns anytime and outside third party enters the substation. You know we really try to avoid that at all costs due to those concerns.

Finally, condition 22. Again, this monopole is located in an existing substation, all of that infrastructure is already there. The solar farm is already there, the substation is already there. We're just adding this pole, so we're asking that the existing vegetation that buffers the substation and the solar farm is sufficient. Because any additional landscaping really compromises security into the site. You know we want to be able always able to see within our substations. That's not just for the safety of Duke employees, but also local law enforcement always kind of line of sight into the substation is important to us and quite frankly, landscaping around pitching around Substation encourages animals to get in the substation and so not great for that. 00:31:59





## Board of Adjustment

So overall this request meets the four standards required by the ordinance. The location of the monopole and an existing substation will materially endanger the public health or safety. We actually think it benefits the public health and safety because it supports more reliable and efficient operations as staff Noted they found that the special use site plan is consistent with the county zoning code and meets those requirements. Aside from being a public necessity, which is one of the requirements under the code, the dual requirement of that is also, you know that it won't have any. It will maintain property values of adjoining properties. We had an impact study conducted that found that real estate values aren't impacted. By either the use or proximity of an existing monopole communications tower, such that properties in close proximity to the monopole should maintain their value and we have Allan Hair, here who will get up and can talk a little bit more about that impact study if you would like. Otherwise, the location and character of the pole is in harmony with the area and conforms to the county plans. It will aid in the existing substations functionality and should increase efficiency and reliability in the area. It doesn't inhibit any future land development plans for the area, and it overall supports economic development, safety and Quality of life as electricity is used from all forms of land use. The Cambion pole it really supports Dukes commitment to provide customers with reliable, affordable, and increasingly clean energy, and Cumberland County and throughout Duke service area. And we ask that you approve this request and are happy to answer any questions and bring Al Hair to go through that entire report. 00:34:08

**David Moon:**

Miss Crout, do you have any other speakers with your party?

**Amy Crout:**

No other speakers that would likely need to speak. I would ask just that that impact study being included in the record for the purposes of this meeting.

**David Moon:**

Is it in that packet that was distributed?

**Amy Crout:**

It was in the packet that's distributed, and I do think it might be helpful if Mr. Hair just came up, introduced himself and gave just a two second summary of that.

**Chair Parks:**

Mr. Hair, I need swear you in please. Do you swear to tell the truth the whole truth and nothing but so help you God?

**Allen Hair:**

I do.

**Chair Parks**

You state your name and address.

**Allen Hair**

My name is Marcus Allen Hair II and I live at 5114 Cedar Creek Rd. Fayetteville, NC. And I am a general certified real estate appraiser in the state of North Carolina, a licensed real estate broker in state North Carolina, a license irrigation contractor, the state of North Carolina, a licensed landscape contractor and a lead paint remediation for people who need lead paint remediation. I did an impact study on this particular monopole and what I did was I found properties that sold in close proximity to these monopoles, and then I found other comparable that sold further away. The theory being that if there's any influence from the monopole towers, the influence would mitigate as you



## Board of Adjustment

got further away from the town, and I was not able to find any sort of information On the monopole. To the real estate values, the first data set that I had was Beaver Creek South, which is off of Bingham and the church, all the church on Bingham, has 150-foot monopole and Beaver Creek South in that in that data set. I had three comparables and the comparable with sold adjoining the tower side. All the comparable are very consistent. They were all built in 1991. They all have the same room count. They were all three bedrooms, 2 bath. They all had a garage and the Comparable adjoining the tower site, sold for just slightly more than the other comparable, but it was at the upper end of the range. I wouldn't say there would be any statistical variation or deviation. It's not significant enough to say that you know the towers has a positive influence on it. The second study that I did was in, it's called the Roxanna Williams subdivision is it's kind of like where Drake Park is and the Lafayette village, the intersection of Ireland Drive and record rd. So, the tower there is right where there used to be, like a golden grouse steakhouse and cardiology clinic. Now they're going down walleyes purchased the site. The tower is right behind that. It's 180-foot monopole tower. And I had sales all in that subdivision and found no difference. That was all neutral, all the comparable. All the comparable had generally the same price per square foot, so at the same price, but, then I had a commercial sale. It was the towers located on Rayford Road, right where the old Christ United Church used to be. It's now Chipotle and a panda. Express the Panda Express site sold. It's 130 feet from that 181-foot monopole tower. And then I had the Panera Bread sale commercial sites and there was virtually no difference in those sales either. So, my conclusion is that the presence of these towers, while you may have a preconceived notion that they have a damaging effect on real estate values, they really don't have any impact on the markets, not the markets not currently recognizing these towers and they've just been pretty ubiquitous and in our modern times that we just kind of ignore them. I'll take any questions anybody may ask.

**Chair Parks:** any questions? None

**David Moon:**

Chair that concludes the speakers. No one has signed to speak in opposition to the special use permit.

**Robert Hasty:**

Chair do you accept the report as part of the record?

**Chair Parks:** yes

**David Moon:**

Chair if the board chooses to vote in favor of the application. Then I suggest that in your motion for each of the four criteria, you base it on the applicant's response. The special use permit conditions and the special use site plan.

**Marva Lucas-Moore**

I'll make the motion that we incorporate exhibit J the special use criteria with four special requirements we accept as written.

**Chair Parks:**

The motion has been made. Do we have any discussions on that motion?

**Robert Hasty:** that is also to approve the special use permit?

**Marva Lucas-Moore:**

Yes, and to approve the special use permit and site plan. Thank you.

**Chair Parks:** All in favor. Unanimous vote in favor to approve.



## Board of Adjustment

Marva Lucas-Moore Motioned to Approve with conditions.

Donald Brooks Second

All are in Favor

10. Discussion Update (s): none

11. Adjournment: Motion to adjourn made by Vickie Mullins. Chair Parks Adjourned at 18:41