**DRAFT**

**Smithfield Board of Adjustment**

**Minutes**

**Thursday, January 31, 2013**

**6:30 P.M., Town Hall, Conference Room**

**Members Present: Members Absent:**

John Parrish, Chairman

Mark Lane

Stephen Upton

Sarah Edwards

Paul Worley

Eddie Foy

**Staff Present:**

Mark Helmer, Senior Planner

Veronica Hardaway, Administrative Support Specialist

**CALL TO ORDER**

**APPROVAL OF MINUTES FROM DECEMBER 20, 2012.**

Paul Worley made a motion, seconded by Stephen Upton to approve the minutes as written. Unanimous.

**Public Hearings:**

Chairman Parrish opened the public hearing. All witnesses were sworn in.

**BA-13-01 Johnston County Public Utilities:**

Mr. Helmer stated the applicant is requesting an 80 foot variance to the maximum building height for the construction of a communication tower on property located within an R-20A (Residential-Agricultural) zoning district. The property considered for approval is located on the west end of Huntley Drive approximately 5,100 feet west of its intersection with South Bright Leaf Boulevard and further identified as Johnston County Tax ID# 15099006.

Mr. Helmer stated that Johnston County Utilities Department is requesting to build a 120 foot SACTA tower and will be used in conjunction with various public utility assets such as sewer pumps and well pumps. These assets report to a central command through a wireless system that utilizes the SACTA tower.

Mr. Helmer stated that the Town of Smithfield Planning staff and the Unified Development Ordinance views the SACTA tower as an accessory use to existing public utility and considers it a use by right on property located within an R-20A (Residential-Agricultural) zoned district.

Mr. Helmer stated that the maximum height allowed for structures within the R-20A (Residential-Agricultural) zoning district is 40 feet. The proposed structure is needed to be 120 feet in height. Therefore, the applicant is requesting an 80 foot variance to the maximum height for an accessory structure located within an R-20A zoning district.

Chairman Parrish asked if there were any opposition to the request. Mark Helmer stated there were none.

Mr. Michael Keen of Johnston County Utilities Department spoke in favor of the request stating the need to upgrade the system that allows the various utility pumps across the county to report information to Department Headquarters.

Mr. Keen stated the proposed location was set in the woods and the maximum 40 foot height as allowed by the Town of Smithfield Unified Development Ordinance did not allow for adequate height required for a good signal.

Mr. Keen stated the requested height was necessary to provide adequate service to its customers and to insure the general health, welfare, and safety of the public.

Mr. Parrish said he was glad to see the necessary improvements being made to the public utility.

Chairman Parrish asked for questions or comments from the Board.

There being no other questions or comments Chairman Parrish closed the public hearing and asked for a motion to move to the Finding of Fact.

Mark Lane made a motion, seconded by Paul Worley to move to the Finding of Fact for a variance. Unanimous.

Chairman Parrish stated that a variance may be granted by the Board of Adjustment if it concludes that by granting the variance the following finding is supported by the Board of Adjustment decision:

A) That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance

**The ordinance will allow up to a 40’ tower, but this height will not reach above the trees and would block the line of site to the Jones Brothers and Reclaim Water elevated water tanks. A 120’ SACTA is needed.** *All members stated true.*

B) That the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit;

**All of the setback and landscape requirements will be met. The ordinance allows for a 40’ tower, but we are looking to extend to 120’.** *All members stated true.*

C) That in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done

**The SACTA upgrade will provide better service and reduce utility cost for the majority of citizens and businesses in Johnston County.** *All members stated true.*

D) If the applicant complies strictly with the provisions of the Ordinance, he can make no reasonable use of his property;

**The property is currently used as wastewater treatment facility. If the SACTA upgrade cannot be completed then the County will suffer hardship in that the fifty four (54) wastewater pump stations throughout the County will not be monitored as required by law through the North Carolina Department of Environmental and Natural Resources.** *All members stated true.*

E) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;

**Johnston County will be the only party affected by the hardship. However, if the tower cannot be extended then the citizens of Johnston County could be affected by poor service.** *All members stated true.*

F) The hardship relates to the applicant’s land, rather than personal circumstances;

 **The hardship affects only Johnston County’s properties.** *All members stated true.*

G) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;

**This hardship is unique because it will affect the utilities services of Johnston County citizens and businesses. The tower extension is needed to provide better lines of sites for the higher frequency radios.** *All members stated true.*

H) The hardship is not the result of the applicant’s own actions; and

**The action is needed to provide better lines of sites above the tree lines. A 40’ tower will not accommodate this.** *All members stated true.*

I) The variance will neither result in the extension of a nonconforming situation in violation of Article 8 nor authorize the initiation of a nonconforming use of land.

**The wastewater treatment plant and its property is an existing conforming use to which communication towers are permitted up to 40’.** *All members stated true.*

After reviewing the Finding of Fact, Paul Worley made a motion, seconded by Sarah Edwards to approve the request for a variance. Unanimous.

**Old Business:**

There was none.

**New Business:**

There was none.

**Adjournment:**

Being nothing further, Chairman Parrish adjourned.

Submitted this 31st day of January, 2013.

Mark Helmer, AICP

Senior Planner/GIS Specialist