



# Franklin County Communique to the Board of Adjustment

## REQUEST FOR VARIANCE 21-VAR-01 78 Broadway Dr.

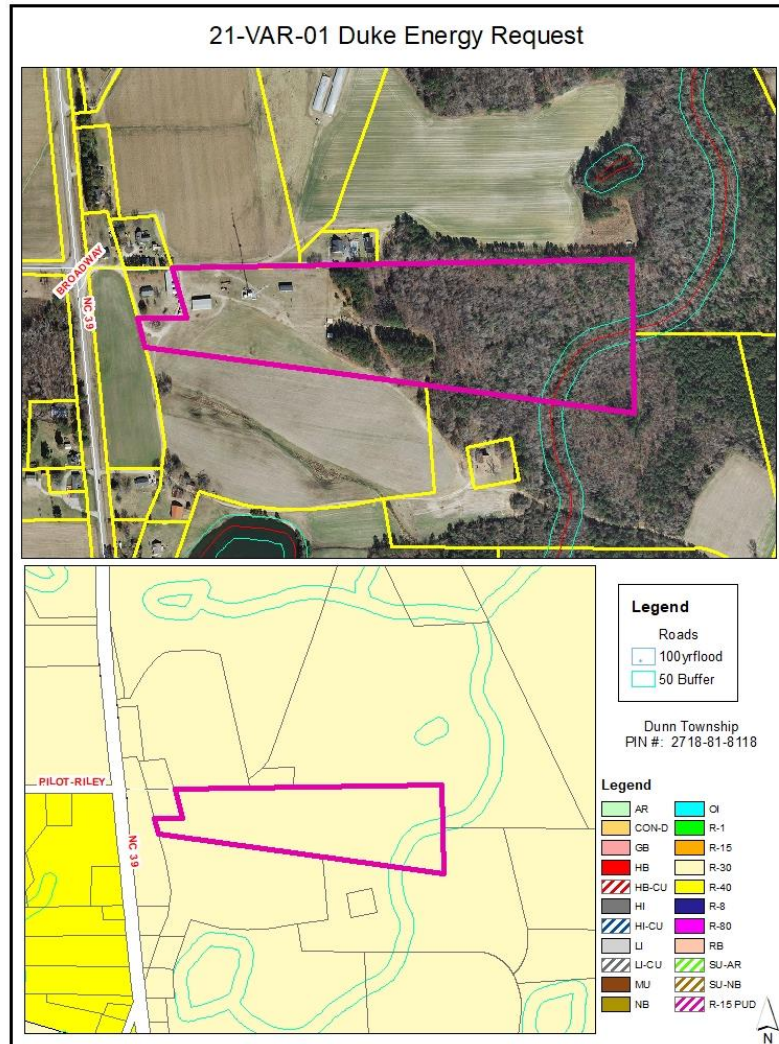
### PETITIONER(S):

Name of Petitioner: Duke Energy  
Address: 1120 E Franklin Blvd  
CityStateZip: Gastonia, NC 28054

### OWNER(S):

Name of Owner: Ricky & Charles Watkins  
Address: 99 Broadway Dr  
CityStateZip: Zebulon NC 27597

### LOCATION:



### ATTACHMENTS:

Variance Application with Letter  
Existing Conditions Site Map

**PARCEL INFORMATION**

OWNER	PARCEL #	ZONING	AREA
Ricky & Charles Watkins	2718-81-8118	R-30	23.49
<b>TOTAL</b>			<b>23.49 Acres</b>

**ADJACENT PROPERTY SITE DATA**

	ZONING	LAND USE
<b>Subject Property</b>	R-30	Agriculture/Residential
<b>North</b>	R-30	Agriculture
<b>South</b>	R-30	Agriculture
<b>East</b>	R-30	Agriculture
<b>West</b>	R-30	Agriculture

**VARIANCE REQUEST**

Variance 21-VAR-01 requested by Duke Energy to allow for a Variance from the Unified Development Ordinance Article 15-8, Lot Size and Setbacks, for the height of the tower plus twenty percent (20%) setback requirements at 78 Broadway Dr. Franklin County PIN 2718-81-8118.

**UDO Requirements:**

**Section 15-8. Lot Size and Setbacks.**

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way, existing or proposed structures, and road and street lines by the greater of the following distances: A distance equal to the height of the proposed wireless telecommunications facility structure plus twenty percent (20%) of the height of the facility or structure, or the existing setback requirement of the underlying zoning district, whichever is greater.

DISTRICT	MINIMUM LOT SIZE			MINIMUM YARD REGULATIONS <sup>1</sup>		
	Area in Sq.Ft.	Sq.Ft. per Dwelling Unit	Frontage In Feet	Front Yard Setback in Feet	Side Yard Width in Feet	Rear Yard Depth in Feet
R-30 Residential District				40	30	50

**BACKGROUND INFORMATION**

The applicant is petitioning the board for a variance from the setback requirements. According to the UDO, the setback must meet the distance equal to the height plus twenty percent (20%) of a communications tower to accommodate for a fall zone. The applicant has stated within the petition to allow for the replacement of the 40-year-old communications tower with a new communications tower of the same height and location which is occupied by both Duke Energy and Franklin County. The applicant has stated the current 300 ft. tower will not pass structural inspections with the new added equipment and has outlived its expectant life. The newer, safer tower will be constructed to allow for an engineered break point at 100 ft to cause the tower to collapse on itself. This newer tower will allow for the current occupants to continue operations in serving the community for many years to come. Neither Franklin County nor Duke Energy can continue to operate without the updated newer equipment and would be forced to relocate. The applicant has stated that it would be a considerable loss of time and money without the variance approval due to the prime location and the dependency on this tower.

**BOARD OF ADJUSTMENT FINDINGS**

NOTE: Board of Adjustment Members should use the following area to make notes on evidence presented related to each of the required Findings as it is presented during the public hearing.

**Section 24-2, (B)** A variance may be granted by the board of adjustment if it concludes that strict enforcement of the Ordinance would result in practical difficulties or unnecessary hardships for the applicant and that, by granting the variance, the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done. It may reach these conclusions if it finds that:

- (1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of a variance, no reasonable use be made of the property.

FINDING \_\_\_ Yes \_\_\_ No

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- (2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

FINDING \_\_\_ Yes \_\_\_ No

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- (3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that the circumstances exist that may justify granting or a variance shall not be regarded as self-created hardship

FINDING\_\_\_ Yes \_\_\_No

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- (4) The requested variance is consistent with the spirit, purposes, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

FINDING\_\_\_ Yes \_\_\_No

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***In granting any variance, the Board of Adjustment may impose reasonable conditions concerning the use or development of the subject property to:***

- a. Insure that the criteria for the granting of such approval will be complied with; and***
- b. Reduce or minimize any potentially injurious effect of the variance of development standards on adjoining properties, the character of the neighborhood, or the health, safety, morals, or general welfare of the community.***

## **BOARD OF ADJUSTMENT MOTION**

***Please note that 4/5 vote is required for approval of all motions.***

**Suggested Motion #1:**

**I move to affirm that the Findings of Fact located within Section 24-2, (B) of the UDO, have/have not been satisfied for the variance(s) requested for the property located at 78 Broadway Dr., Franklin County PIN 2718-81-8118.**

**Suggested Motion #2:**

**Based upon the Board's Findings of Fact, I move to approve/deny Variance 21-VAR-01 requested by Duke Energy to allow for a Variance from the Unified Development Ordinance Article 15-8, Lot Size and Setbacks, for the height of the tower plus twenty percent (20%) setback requirements at 78 Broadway Dr. Franklin County PIN 2718-81-8118.**