

BOARD OF ZONING APPEALS

July 1, 2009

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3
4 Present: Chairman Joshua McDuffie, Harold Branham, Elaine Perrine, Torrey Rush,
5 Susanne Cecere, Sheldon Cooke, William Smith]

6
7 Called to order: 1:00 p.m.

8 CHAIRMAN MCDUFFIE: I'll call this meeting of the Richland County Board of
9 Zoning Appeals to order. At this time Ms. Amelia Linder, our attorney, will brief the
10 applicants.

11 MS. LINDER: Good afternoon. My name is Amelia Linder and I'm the attorney
12 for the Board of Zoning Appeals and I would like to welcome you this afternoon. I'd like
13 to go through just a few rules of procedure and how we're going to handle this afternoon
14 so there's no confusion. The Board of Zoning Appeals, as you may know, is a *quasi*
15 judicial court, that means it has the powers of making final decisions. If you're unhappy
16 or disagree with the Board's decision you have the right to take it to Circuit Court and
17 you'll have that right after, within 30 days of receiving the final Order. The Board will
18 make a decision today on the cases that are before them, but we will wait until the
19 Minutes are approved next month before the Order is signed and mailed out. So there
20 is a little bit of a, a delay there. Today we're gonna proceed with the applicant who will
21 have up to 15 minutes to present their case. If there's any opposition here to what the
22 applicant is requesting they will have up to three minutes to speak. And then the
23 applicant will have another five minutes to rebut what the opposition has to say. You
24 need to be signed up on a sign-up sheet if you're planning to speak, and the Board will
25 take the cases normally in the order that they're presented on the Agenda. When you
26 come to the podium to speak you need to address your remarks to the Board. There

1 will be no audience demonstrations, clapping, cheering, booing, or anything like that.
2 You will be under oath and I'll give that to you at the end of my, what I'm telling you
3 now. The evidence that you present here is not as formal as a court. You could, but
4 you'd have testimony. If you have documents you'd like to submit we can accept those.
5 Please turn off or silence your cell phones. You may come and go as you please as
6 long as you do so quietly. If there's an Executive Session that means that it'd be a
7 private meeting and we'll go behind closed doors for that. I don't anticipate any today.
8 Are there any questions about the rules that I've kind of gone over right now? If there's
9 no questions and you plan to testify I need you to stand at this time. That means if
10 you're planning to come to the podium I need you to stand, raise your right hand. Do
11 you swear or affirm that the testimony you shall give shall be the truth, the whole truth,
12 and nothing but the truth so help you God?

13 AUDIENCE: I do.

14 MS. LINDER: If anyone answered in the negative please let me know.
15 Otherwise, you're all sworn in and you may be seated. Thank you.

16 CHAIRMAN MCDUFFIE: Thank you very much, Ms. Linder. Next item on the
17 Agenda is approval of Minutes from June 2009. Are there any questions or are there
18 any corrections or modifications to the Minutes?

19 MS. PERRINE: The only correction was in the Members Present, Susanne
20 instead of Susan. Other than that.

21 CHAIRMAN MCDUFFIE: Anything else? Alright, is there a motion to approve
22 the Minutes?

23 MS. PERRINE: I make a motion to approve the June 3rd Minutes.

1 CHAIRMAN MCDUFFIE: As, as amended?

2 MS. PERRINE: As amended.

3 CHAIRMAN MCDUFFIE: Is there a second?

4 MR. SMITH: I'll second.

5 CHAIRMAN MCDUFFIE: Okay. All in favor?

6 *[Approved: Branham, Perrine, Rush, McDuffie, Cecere, Cooke, Smith]*

7 CHAIRMAN MCDUFFIE: The Minutes from June 2009 are approved and we'll
8 now move to the Public Hearing portion of today's Agenda. Mr. Price, if you would
9 please present the first case.

10 **CASE NO.: 09-10V:**

11 MR. PRICE: Okay, the first item we have is Case 09-10 Variance. The applicant
12 is Steven Rayl, the location is 108 Vallenga Road. The applicant is requesting a
13 variance to encroach into the setbacks on property zoned rural. More specifically the
14 applicant is requesting a variance to encroach into the rear yard setback. You don't
15 have an aerial in your, in your packets and that was because we were having some
16 problems, which was holding up the print job. However, you do see it on the monitor.
17 As you can see just looking at the configuration of the, of the parcel and where the
18 home is located. This is the existing structure, it's a little less than 1,500 square feet.
19 And the applicant is proposing to make this addition, which is one of the old school
20 portables the school districts have been selling lately and they would like to add that
21 onto the home, I believe for a den. Here's a different view, once again. This is
22 showing, of course, it's the rear, I believe the fence sits on the rear property line
23 [inaudible]. One of the things that I did point out during the discussion portion was Staff

1 looked at a sketch of the, of the property which will be on page 7 in your Agenda. Just,
2 if you look, use the rural setbacks, which the setbacks are 40 from the front property line
3 and 50 from the rear for a total of 90, and what I did was I used probably a reasonable
4 size for a structure of 40', so you add that together that comes out to 130. So if you
5 were to scale that almost down the middle, mostly from the middle going toward the
6 east property line is where the structure could be. Essentially any addition to the
7 existing structure would not, could not take place going toward the western property line
8 without a variance. That's kind of where we are now. I'll let the applicant present
9 anything he may have unless you have some questions.

10 CHAIRMAN MCDUFFIE: Alright.

11 MR. BRANHAM: Mr. Chairman, if I may I'd like to recuse myself in this case.
12 Mr. Rayl and I belong to the same Fraternal organization.

13 CHAIRMAN MCDUFFIE: So noted.

14 MR. BRANHAM: Thank you.

15 CHAIRMAN MCDUFFIE: Alright, at this time I'd like to call Mr. Rayl to the
16 podium. Please state your name and address for the Record.

17 **TESTIMONY OF STEVEN RAYL:**

18 MR. RAYL: My name is Steve Rayl. My address is 319 Springwood Road,
19 Columbia, South Carolina 29206. And may I note my name up here was spelled with
20 an e, it's, it's, there's no e on it, the Rayl.

21 CHAIRMAN MCDUFFIE: Please, please present your case.

22 MR. RAYL: As you've been shown my variance is for the setback on the back
23 part of the property. The angle of the fence that comes across at the shortest point

1 there is, is – yeah, from that corner back to the, the way that fence comes across there
2 is, is where I would like my variance. I could move, move the building 18' forward, but
3 that would, that would make the whole property out of, out of kilter. As you saw on the,
4 on the aerial view of the property, of that area - yeah, where you see that little
5 horseshoe kind of across the street, there's a home there, I own that home, I own the
6 mobile home next to it on the corner, and then over to the side there's a duplex that I
7 own, and those two large commercial properties up front there, I also own those.
8 Where the house across the street and the duplex was at one time there was a, there
9 were dilapidated mobile homes on there that, I don't think they were condemned but
10 they should've been, I condemned them. And I bought the duplex from the Dreher High
11 School property and moved it out there and put it all back together. I came before the
12 Board on that particular property to get it changed to commercial cause I would've liked
13 to put a couple offices but I've since rented it as residential, but I continue to pay
14 commercial taxes on it, which I try to increase the tax base for the county. And the
15 other house, there was another trailer there, I bought that house from my banker that
16 was about five miles up the road in Elgin and had that moved there and put that back
17 together. And this house across the street that we're talking about now, it's a small two-
18 bedroom house and it's really cramped. My plan was for this addition to, you know, I'll
19 vinyl side the whole thing and, and make it blend and paint the house and make it very
20 attractive like I do with the properties that I do this with. And also increase the tax base
21 for the county. I have a letter, if I may read, from the lady that lives on the corner, on
22 the corner structure in the mobile home. I bought that property from her, it's – yeah,
23 and the condition was she could live there till she moves to Florida or dies and I pay

1 taxes and insurance on it. This letter is from the lady that lives there. "To Whom It May
2 Concern: I, Virginia Tatem, live at 125 Lockman Road for 33 years. For the past seven
3 years Steve Rayl has improved this area more than anyone else. Sincerely, Virginia
4 Tatem." Do I had this –

5 CHAIRMAN MCDUFFIE: Please give that to Mr. Price.

6 MR. RAYL: As I said my reason for the request is just that it'll look better overall
7 in that, in that place and just to make it more family oriented in that area. Any
8 questions?

9 CHAIRMAN MCDUFFIE: Are there any questions from the Board at this time?

10 MS. CECERE: Yes. According to this picture is this where the structure will
11 actually be located?

12 MR. RAYL: With your permission –

13 MS. CECERE: Where it is now? [Inaudible]

14 MR. RAYL: Yes. If I move it 18' forward it'll be in front of the house and it'll, it'll
15 kind of dog-leg around there and it, if I have to do that I have to do that, but it, it won't
16 make the property look as well as I would like for it to.

17 MS. CECERE: How will it connect to the house?

18 MR. RAYL: The, where you see that small space at the front there's, behind that
19 little corner there on the existing house, it, the last picture – yeah, that area there is
20 approximately six feet, that front area that you noticed was maybe two. Where the six
21 feet section is, in sort of the middle, it connects into the kitchen area and I'll build a four
22 to six foot walkway through there and it'll attach to the kitchen and make all that area
23 much more open as it goes into the den.

1 CHAIRMAN MCDUFFIE: So it will be fully attached to the house, I mean –

2 MR. RAYL: Yes, um-hum (affirmative). It'll have a brick –

3 CHAIRMAN MCDUFFIE: Without going outdoors?

4 MR. RAYL: - brick underlayment skirt, the whole nine years. I'm a residential
5 contractor and a commercial, I also have my commercial license so I know about the
6 Codes and to me that's for minimum standards. I usually don't build to that, I like my
7 stuff.

8 MS. CECERE: And it will have a brick foundation?

9 MR. RAYL: Yes, ma'am.

10 MS. CECERE: Is someone living in the house now?

11 MR. RAYL: Yes, ma'am.

12 MS. CECERE: Is it rental property?

13 MR. RAYL: Yes, ma'am, it's a rental.

14 MS. PERRINE: And you own, I think you said, a good bit of the property –

15 MR. RAYL: Around that area, yes.

16 MS. PERRINE: Okay.

17 MR. RAYL: I've owned that property for about 10 years and I'm just kind of
18 quietly developing it and upgrading it with homes, and on the right, this side of that
19 property there's a dilapidated mobile home there and a gentleman named Manning
20 owns that, and I'm talking about buying that and then I'll move the trailer and buy
21 another house and move it there and, and that's just kind of what I do.

22 MS. PERRINE: How did you, did you talk with anybody at the county before you
23 put that out there?

1 MR. RAYL: No, ma'am. I didn't, that was an oversight on my part.

2 MS. PERRINE: So how did you find out that you needed to come before us?

3 MR. RAYL: An inspector came out. We set it down there and actually I got that
4 building for I think \$3,000 and, and it was, there were other people looking at it and so I
5 kind of snapped it up and moved it there and then I knew I'd have to come get my
6 permits and go from there. I should've got my permits first, so I, I apologize.

7 CHAIRMAN MCDUFFIE: Are there any other questions for the applicant?

8 MR. PRICE: Excuse me, Mr. Chair. Just for the Record, I know the applicant
9 stated that he could move the home up, what was it, I think 20'?

10 MR. RAYL: Seventeen.

11 MR. PRICE: Seventeen?

12 MR. RAYL: Eighteen.

13 MR. PRICE: Actually if it's gonna be physically connected, in order for it to meet
14 the requirements of the rural district the home would need to be moved up 31'. It's a 50'
15 setback from the rear.

16 MR. RUSH: With that being said, what, if he moves it up 31' –

17 MR. PRICE: He probably wouldn't –

18 MR. RUSH: - [inaudible] encroach in the –

19 MR. PRICE: Front yard setback.

20 MS. PERRINE: But could it be moved up so that it's kind of attached a little bit
21 there to the porch? Or is it -

1 MR. RAYL: If I moved I up that far I don't know how I would attach it to the
2 house, and then I'd have a front setback problem. I thought if I moved it up 18' I would,
3 I would fit both but evidently I don't, I wouldn't.

4 MS. PERRINE: Have you bought other school rooms or whatever they call it?

5 MR. RAYL: Portable classrooms.

6 MS. PERRINE: Have you bought those before?

7 MR. RAYL: No, ma'am. Typically I buy homes that are, have trees growing in
8 the walls, the whole back half of the house might be rotted off, and I have a passion of
9 redesigning those and, and building those, putting those back together and selling them.
10 I've done that in Rosewood. I have a house in Quinine Hills now that I'm working on. I
11 have a house over on Hillcrest. I have one in Prosperity. I also have a remodeling
12 company. This company's called Woodcreek Land Company and it, Woodcreek Land
13 Company owns, owns that and any rentals that I have are just right there because I
14 don't want to have to drive all over for rental properties, but I keep them contained and I
15 can keep up with them that way. But I do remodeling and then buy homes that I rebuild.

16 CHAIRMAN MCDUFFIE: Mr. Price, do we have a [inaudible] I guess with the, he
17 couldn't really put this on the lot without encroaching into some setback somewhere.

18 MR. PRICE: Yes, based on where the existing structure is or at least the
19 [inaudible], yeah, pretty much any addition to that home, especially on that side of the
20 property, would more than likely need a variance.

21 CHAIRMAN MCDUFFIE: Mr. Rush, would you care to go through the Findings of
22 Facts for us?

1 MR. RUSH: Okay, I'll start at number four. Are there any extraordinary or
2 exceptional conditions pertaining to the particular piece of property? I don't know, I
3 want to open that up for discussion. I don't know if you have some input.

4 CHAIRMAN MCDUFFIE: I guess I, I would concur with the, the recommendation
5 of Staff, that the current configuration of the lot being the size that it is and the shape
6 that it is would make it very difficult to do any kind of an addition, you know, for this
7 property. And I think, you know, that's probably just a, a matter of the lot being
8 essentially smaller than what would be done now or what would currently be subdivided
9 in a rural district. So, I mean, I would say that that probably is a, an exceptional
10 condition of a general rural district lot.

11 MR. SMITH: I agree with that. I'm just looking at the space. There's not much
12 that can be done within that certain area, so.

13 MS. CECERE: I have a question for Mr. Price. If that unit was turned length-
14 wise you'd still have encroachment?

15 MR. PRICE: Yes, ma'am.

16 MS. CECERE: Okay. Thank you.

17 MR. PRICE: You know, to kind of give you an idea of what you're looking here, if
18 you look at, once again if you look on page 7 of your Agenda and if you look of the rear
19 of the existing one story brick home [inaudible] but the existing home, that home itself is
20 encroaching into the required setback by at least about 15'. So –

21 MS. CECERE: That was, excuse me, that was done before –

22 CHAIRMAN MCDUFFIE: It's a grandfathered non-conforming structure.

1 MR. PRICE: Correct. So you can kind of just draw a line across, and once again
2 I'm sorry I don't have that plat up there, but if you were to draw a line all the way across,
3 you can see that the home [inaudible] it wouldn't be able to fit it anyway, in the rear
4 portion.

5 CHAIRMAN MCDUFFIE: Mr. Rush, would you –

6 MR. RUSH: Oh, I'm sorry. Yes, do these conditions generally apply to other
7 property in the vicinity? I would say, I guess you have a lot of properties in that area
8 that are pretty unconventional, if you will. Mr. Price, is that correct?

9 MR. PRICE: Yes, I think just kind of looking around from the aerial, I think we
10 could find some of the homes encroaching –

11 MR. RUSH: Is that a mobile home lot?

12 MR. PRICE: Mixed.

13 MR. RUSH: It's mixed? Oh, okay.

14 MR. PRICE: And there are –

15 MR. RUSH: [Inaudible] mobile home park –

16 MR. PRICE: - and you've got your homes out there, but –

17 MR. RUSH: Okay.

18 MR. PRICE: - but [inaudible] single-family stuff.

19 MR. RUSH: Okay. Would the – would the application of this chapter to this
20 particular piece of property effectively prohibit or unreasonably restrict the utilization of
21 the property because of extraordinary or exceptional conditions? And I guess yes on
22 that. Will granting this variance be of substantial detriment to the adjacent property or
23 public good, or will it hard the character of the district? I don't, you know, just because, I

1 guess with that property being in an area where, you know, I guess you have a lot of,
2 just looking at the aerial, there's a lot of non-conforming issues going on up there.

3 CHAIRMAN MCDUFFIE: I think the other would be that if you're, if you're
4 improving the property by adding more, you know, more space for say a den or a
5 playroom or whatever, you're essentially making an upgrade to the, to the area not a,
6 not creating a substantial detriment.

7 MR. RUSH: Yeah.

8 CHAIRMAN MCDUFFIE: In theory it should capture a higher rent and, you
9 know, be a nicer property for somebody to rent, so. The bigger questions I guess, the
10 big question to me is that the best spot to put it in and I think probably if you're looking
11 at that property that's likely the best, you know, layout for it. You know, and, and, you
12 know, how close is it to the, you know, to the neighboring structures on the next
13 property? And it appears like there's a pretty, you know, a pretty good setback on that.
14 It's still pretty far from the neighbors. You're not building right up on top of them or
15 anything like that. So it seems to be a very reasonable way to do something that –
16 seems to me like it would be meet all the, [inaudible] the criteria for a variance.

17 MR. SMITH: I'd like to make a motion. I'd like to make a motion to approve
18 Variance No. 09-10, Mr. Steven Rayl.

19 MR. PRICE: Yeah, Staff would, if it is the Board's pleasure to approve this
20 request, Staff would like to request that the, all the stipulations be a part of your
21 approval; one that [inaudible] structure be finished to match the existing structure. Two,
22 in a brick foundation on the [inaudible] that matches the existing structure also. And
23 there, it must be physically attached to the existing structure.

1 MR. RAYL: Can I ask a question about that?

2 CHAIRMAN MCDUFFIE: Please.

3 MR. RAYL: Existing structure is a brick, is a brick exterior. Does that mean I
4 would have to put brick on this? I was wanting to put vinyl siding or hardy plank on it.

5 CHAIRMAN MCDUFFIE: I think it could be motioned just to, you know, to match,
6 you know, not necessarily be the same, but not, you know, would not be visibly distinct
7 as a separate –

8 MR. RAYL: Oh, no. It'll blend well.

9 MS. CECERE: That would have to have a brick foundation, correct?

10 MR. RAYL: Correct.

11 MS. CECERE: And, and then siding or hardy plank or whatever. It wouldn't
12 have to be brick all the way up. Just so that it looks aesthetically –

13 MR. SMITH: Yeah. I'll amend the motion. Again I would like to make a motion
14 to approve the variance, 09-10, with the stipulations of Staff, and conditions of Staff, for
15 Mr. Steven Rayl.

16 CHAIRMAN MCDUFFIE: Is there a second to the motion?

17 MR. RAYL: I second it. [Laughter]

18 CHAIRMAN MCDUFFIE: A second from the Board. [Laughter]

19 MR. COOKE: I'll second it.

20 CHAIRMAN MCDUFFIE: Okay. Alright so at this time we have a motion to
21 approve Variance 09-10 with the stipulations that it be finished in a manner that
22 matches the existing structure, or that compliments the existing structure, has a brick

1 foundation, and is physically connected to the house. At this time we'll have a vote. All
2 in favor?

3 MR. PRICE: Those in favor: Rush, McDuffie, Cecere, Cooke, Smith.

4 CHAIRMAN MCDUFFIE: Okay. All opposed?

5 MR. PRICE: Those opposed: Perrine.

6 *[Approve: Rush, McDuffie, Cecere, Cooke, Smith; Opposed: Perrine; Abstained:*
7 *Branham]*

8 CHAIRMAN MCDUFFIE: Okay. Mr. Rayl, at this time you have your variance
9 and Mr. Price will be in touch. Thank you very much.

10 MR. RAYL: Thank you.

11 CHAIRMAN MCDUFFIE: Mr. Price, if you would please call the next case.

12 **CASE NO.: 09-18 SE:**

13 MR. PRICE: Before, I guess before we get into that case, I know the last time we
14 had a communication tower before you, there was some, I guess [inaudible] between
15 Staff and the Board as to what that ordinance is actually requesting. We have since
16 proposed an amendment to that ordinance and it is before County Council where
17 essentially the way it reads – and I'll get that to you – it essentially reads that if you're
18 abutting a residential district that for every foot of the tower that is your setback up to
19 250', and then at the 250' mark, if it's a 300' tower, let's say for example, you, the
20 maximum setback would be 250.

21 CHAIRMAN MCDUFFIE: From the property line or from the nearest residence?

1 MR. PRICE: From the property line. From the property line. However, that's for
2 residential. If there's a non-conforming residential structure the setback would just be
3 50'. So that is the language that's before County Council at this time.

4 CHAIRMAN MCDUFFIE: When you say non-conforming residential structure
5 mean a residential [inaudible] on a, a –

6 MR. PRICE: Commercial lot.

7 CHAIRMAN MCDUFFIE: - commercial lot?

8 MR. PRICE: Yes.

9 MR. RUSH: With that being said and being that it's before Council and it hadn't
10 been approved by Council –

11 MR. PRICE: But –

12 MR. RUSH: Can there be a debate from the applicant's standpoint if, let's say
13 we went forward with it, we're going by the new rules but they're interpreting it by the old
14 rules, do we have an issue there?

15 MR. PRICE: Well, at, at this time this particular case that you have before you
16 would actually meet those conditions of the new ordinance, of the amended ordinance.

17 MR. RUSH: Okay.

18 MR. PRICE: So that, and by the time we get any more that come forward,
19 because we don't have any in the pipeline for our August meeting, that would actually
20 be law.

21 CHAIRMAN MCDUFFIE: Thank you very much, Mr. Price.

22 MR. PRICE: The next item is Case 09-18 Special Exception. The applicant is
23 requesting the Board of Zoning Appeals to grant a special exception to permit the

1 construction of a communication tower in an RU zoning district. The applicant is Mason
2 Byrd representing Pegasus Towers. The location is the rear of 1437 Salem Church
3 Road. The parcel size is a little more than 10 acres and it's currently undeveloped. The
4 subject parcel is heavily wooded and as stated undeveloped. And there's a, there's a
5 portion in the middle I guess that has been cleared. The applicant proposes to erect a
6 190' telecommunications tower within a 6,400 square foot leased area. The
7 surrounding area consists of, there's some subdivisions in the area, large residential
8 tracts and heavily wooded, undeveloped parcels. As previously stated [inaudible]
9 amendment to our Land Development Code regarding communications towers and
10 setbacks from property lines. This tower does meet those requirements.

11 CHAIRMAN MCDUFFIE: Alright, and we have Tom Purell(?). I don't know if –
12 please state your name and address for the Record and then -

13 **TESTIMONY OF TOM TERREL:**

14 MR. TERREL: Thank you. I'm Tom Terrel, 300 North Green Street, Greensboro.
15 I'm here today with Harold Timmons representing Pegasus Tower Company. First, we
16 submitted a substantial amount of information that should be in your packet and we ask
17 that that be incorporated into our evidence on each of the points that we need to make
18 for the special exception. Second, we certainly appreciate coming to a place where the
19 Staff Report is favorable, recommends approval of something, and we appreciate the
20 conclusion that this tower which will be on a 10 acre rural tract would not impair the
21 properties in the immediate or surrounding area. I would like to address a few issues,
22 though, and I will address more specifically item number (d) which is about the impact to
23 the neighbors. The ordinance here in Richland County allows a 300' tower, this will be

1 below that. This will be at 195', that means it will not be lit. It's about 1/3 below what
2 would be available, possible. The compound which some communities to be screened,
3 Pegasus always screens those anyway with a landscaping plan, although it's 333' from
4 Muskrat Road. You can't, you won't be able to see it anyway because of the existing
5 vegetation. The, now what, on the issue of visibility, the fact is all towers are visible,
6 unless you are concealing them in a farm silo or a church steeple and we do that when
7 they are available. The fact is they are visible and we, we have come to expect that.
8 This particular tower will be designed to look like a pine tree. You may have seen those
9 and actually what's more interesting is that they are out there and prevalent but you
10 don't notice them. Now this is a little of a taller variety but it will still soften the impact
11 substantially. The issue of property values, we think you will probably hear some claims
12 about that. I've been doing this for 15 years, representing different tower companies
13 and carriers. I have never ever seen an appraiser's report saying that an existing harms
14 anybody's property value. There have been plenty of opportunities for one to emerge, I
15 just haven't seen it, but you will hear the claim. What we do experience though, and
16 we're hearing it more and more, are areas developing, especially new subdivisions,
17 where property values go down because folks cannot use their wireless computers,
18 their wireless phones in the home, or it's inadequate in the home. That will affect
19 property values. And on that issue also Mr. Timmons and I get to a lot of counties and
20 towns in three states, and I would be willing to bet that Richland County is exactly the
21 same as everybody else, is that your tax department by policy does not lower the value
22 of someone's taxable property because there's a cell tower nearby. You wouldn't call
23 that an adoptive policy, but it's pretty close to being a county policy, you know, when

1 your tax department taxes on that basis. I would like very briefly to address need cause
2 that does tie into some other issues. I think everybody here understands that we live in
3 a wireless world. Everybody who is significant to you uses a cell phone, whether it's
4 your doctor, your spouse, your child, your pastor, your emergency service departments;
5 everybody is wireless and it's not just for phone calls, it's to store music, it's to have a
6 calendar, it's to decide where you turn to get to the restaurant you're going to for your
7 anniversary. These are the things that we use cell phones for. I can send a document
8 to somebody while I sit in this room by using this little cellular device. But to do that you
9 have to have a wireless infrastructure. This particular site fills a gap. I don't know if you
10 can see it from here, these are done by computer modeling. I'll hand this up if that's
11 okay with the attorney, I'll pass it down. This is a, the white on this map is by
12 sophisticated computer modeling showing gaps in coverage. And I have circled here,
13 you'll see the word 'Tanner' on here that shows there's a lot of white space. That's
14 where there is no coverage for several carriers. Now there are some carriers that may
15 cover that very, very well, but until we're ready to, for everybody in the country to go to
16 one carrier, and don't think we are, we have to cover this for all who are doing business.
17 And if you, on the second map that I'll hand you it shows what this would look like with
18 this tower on line and fully built out; that is, basically it eliminates that gap in coverage. I
19 would, I'll just hand this – Members of the Board, we know that there are people who
20 don't want cell towers. We encounter this every week that we have a different hearing.
21 People want the benefit of their tower, of their cell phone but don't want a tower
22 anywhere they can see, and frankly we just, there's nothing that we can do to address
23 that. You know, people want to be able to drive anywhere they want to drive, but they

1 don't want there to be traffic congestion. It's just the fact of the world and we have to
2 have wireless coverage. If we are trying to put something in an urban area we're told by
3 neighbors, go out to the country. If it's out in the rural area we're gold, why don't you
4 put it into the city? The fact is we hear it from both angles and it's scientifically driven,
5 it's not like a convenience store or a gas station, you have to go where science tells you
6 there's the gap. And Pegasus finds those, it builds the towers only because carriers
7 come to Pegasus and say, we have a need in this area. Anyway, I think that's all that I
8 would like to say. I'll close at this point, 15 years ago when we started doing this there
9 would be packed rooms for one tower. Thankfully the numbers have dwindled
10 substantially the more everybody uses a cell tower, a cell phone.

11 **TESTIMONY OF HAROLD TIMMONS:**

12 MR. TIMMONS: For the Record my name's Harold Timmons, 906 James Dale
13 Parkway, Greensboro, North Carolina, and I'm here to speak in regards to the request
14 before you on behalf of Pegasus Tower Company. And I will not hold you for very long
15 but I would like to speak to the standards of review that are listed in your Zoning
16 Ordinance as they relate to this particular special exception. Item A deals with traffic
17 impact. As you know communication towers are not traffic generators, the only traffic
18 that's actually generated by a communication tower site is the maintenance that is
19 needed to be done at once, which involves a single technician utilizing a small, you
20 know, commercial vehicle, passenger van, SUV, something to that affect, small tools
21 and most of the work is done inside of the shelter building itself. Typically an annual
22 and bi-annual visit to the site takes place, check on the equipment, there are times of
23 inclement weather where they may be a need for a technician to go out, but basically

1 that is the extent of traffic. Vehicle and pedestrian safety, it is a rural road, not very
2 heavily traveled, and therefore considering the minimal amount of vehicle traffic
3 associated to this particular request that would not be an issue that would endanger the
4 general health, safety or welfare of the citizens of the community. Potential impact of
5 noise, lights, fumes or obstruction of airflow, basically the equipment placed at the site
6 will be located inside shelter buildings so therefore noise would be either non-existent or
7 minimal, especially considering the distance the site is located off of the public roadway
8 and the existing vegetation, because of the height under 200' there are no lights
9 required for this site and there are no lights planned for this site. Fumes, there's no
10 equipment there that would generate any fumes as a normal aspect of the operation. In
11 terms of obstruction of airflow, the construction basically just contains fencing of the
12 compound area where the shelter building is located, the tower, on a 6,400 square foot
13 area of this property. Therefore, it's very minimal and therefore there's really no
14 obstruction of airflow as we can determine. And on Item E, orientation and spacing of
15 improvements or buildings, again the development is confined within 6,400 square feet.
16 It is fenced. To the outside of that fencing there will be landscaping installed and inside
17 of that will be your typical shelter building that won't actually be visible from the public
18 roadway, so therefore we do not view orientation and spacing of the building to be of
19 any concern of the general public. And with that I will conclude and if you have any
20 questions of me I will certainly do my best to try to answer those.

21 CHAIRMAN MCDUFFIE: Thank you very much. Are there any questions at this
22 time for either of the applicants?

1 MR. SMITH: I just want to confirm with the Staff that the, this was published in
2 the newspaper?

3 MR. PRICE: Yes.

4 CHAIRMAN MCDUFFIE: At this time we have several individuals signed up in
5 opposition. And I will just, everyone has right to speak, but I would just ask that if,
6 please only speak if you have something new to add to the, to the conversation. If
7 you're just going to repeat what somebody else has said – the first person signed up is
8 Mr. John Cable. Please come and state your name and address for the Record.

9 **TESTIMONY OF JOHN CABLE:**

10 MR. CABLE: My name is John Cable. I live at 1419 Salem Church Road. We
11 have, I represent, I'm here representing the Weed Family, has owned property abutting
12 where the cell tower will be constructed for 40 years. The Weeds are one of the original
13 18th Century Dutch Fork inhabitants of the Irmo area. What I wanted to bring forth here
14 is that I'm a little upset about this because this is a beautiful rural and residential area.
15 A cell tower being put in there is not gonna look very pretty. We hear, you know, I
16 understand from reading about these cell towers and how they go through the process,
17 it really doesn't matter about that. But I still want to object, okay. And would it be
18 possible for me to present some graphics for your consideration? This shows where the
19 Weed family property is, where the cell tower would be proposed. I would say we're, I
20 guess about 250', something like that, so I think it meets the setbacks. So, but what I
21 wanted to first bring up is that obviously we are concerned that it will in fact affect our
22 property values. When given the opportunity, I was just talking with Mr. Terrell earlier
23 and he said, we suggested that if it came to the fact that an appraiser said, when we

1 were attempting to sell the property, that the cell tower lowed the value of the property,
2 that his company would reimburse us. Well, they're not getting into those kinds of
3 contracts. So my guess is he's not really that convinced that maybe it wouldn't be
4 lowering them. So anyway, what I wanted to also show you is, well my real concern is
5 the tree lines in that area are 50 to 60' high. This cell tower's gonna be 195'. Okay, so
6 that cell tower's gonna stick up about three quarters up above that, that tree line. I
7 wanted to give you, here's a, I think something very similar to that in Anderson, South
8 Carolina, just to show you what the visual impact might be in that general area. Okay,
9 now you can, I understand they're gonna make a pine tree out of it, well all I can say is
10 all the garland and all of the Christmas decorations you put on that is probably still not
11 gonna make that look like a pine tree, okay?

12 CHAIRMAN MCDUFFIE: Thank you very much, Mr. Cable.

13 MR. CABLE: Well, was – is that, my, my time is up? Well, I had one other
14 consideration that I think you need to hear. Okay, that area is, as far as I can tell is a
15 wetland. There's an actual intermittent creek head that runs through there. The area
16 that's been cleared impacts that. I don't know if anyone has looked into whether there's
17 a permit or not, but I think that should be something to consider.

18 CHAIRMAN MCDUFFIE: Thank you very much.

19 MR. RUSH: Mr. Price, could you pull up the wetlands map?

20 CHAIRMAN MCDUFFIE: At this time we have a, I can't quite read the last name
21 here, Mr. –

22 MR. MONTS: Ronald Monts?

23 CHAIRMAN MCDUFFIE: Yes, sir.

1 MR. MONTS: That's me.

2 CHAIRMAN MCDUFFIE: Please state your name and address for the Record.

3 **TESTIMONY OF RONALD MONTS:**

4 MR. MONTS: My name is Ronald Monts. I live at 80 Muskrat Run. We just
5 finished building a house a couple years ago and, and we've been trying to sell a piece
6 of property right beside it for quite some time. The sign, the zoning change sign, I don't
7 know how long or when that's supposed to come up in effect, but the first time I seen
8 the zoning change or subject to a zoning hearing was, I think last week or a little bit
9 over. I don't know what kind of timeframe y'all give for that. But as far as newspapers, I
10 really don't look at newspapers, maybe I should start looking at newspapers. But that
11 was the first time I heard about what's going on. I talked to a real estate appraiser and
12 she said a tower will not help your property value, it will hurt your property value,
13 regardless of what this gentleman says. If y'all had a place like where I lived and y'all
14 had a tower going up right beside you, you're not gonna, you don't want a tower right
15 beside your place. We had somebody that was looking at it, in fact last Wednesday,
16 and they looked, they came and they looked at it and they made a comment about the
17 rezoning sign. And we haven't heard back from him. So don't tell me it doesn't make a
18 difference cause it does. Let's see, if this thing does go through, you said that there's a
19 bunch of maybe trees of 50, 60, 70' tall, that's on the perimeter outside of this stand.
20 Who's to make sure that the owner does not go back and cut those trees down so we
21 see the tower? That's, I want to know these things, see what's going on. Cause like I
22 said, I've only known this for about a week and I think it's y'all's job to make sure that we
23 know and they know what's going on [inaudible] the County Council, so I don't, I don't

1 know. So I think we need to be more know what's going on. We've had to do
2 something before and we did it the right way and we got turned down what we was,
3 proposed to do. So, you know, there's a right way and a wrong way of doing things and
4 hopefully that y'all don't vote yes. Thank you.

5 CHAIRMAN MCDUFFIE: Next up I have Loretta McEntire. Please state your
6 name and address for the Record.

7 **TESTIMONY OF LORETTA MCENTIRE:**

8 MS. MCENTIRE: My name is Loretta McEntire, and I live at 216 Montclair Drive
9 which is located off of Salem Church Road. And I do have several issues here; one
10 issue is that the case number gives the address as Salem, 1437 Salem Church Road,
11 but the zoning sign was not placed on Salem Church Road, it was placed on Muskrat
12 Run, which is not viewed by the public. The people using this driveway are
13 homeowners back in there. My family owns the property back there and it's zoned high
14 density, which abuts this property. I have been in real estate for 25 years and I can tell
15 you right now I've never sold any property close to a tower. I can tell you what detracts
16 and attracts people. There's plenty of property, I don't know whether it's available or
17 not, out of Dreher Shoals Road, which is less than quarter of a mile away, that would be
18 more appropriate for a communications tower. I'm also concerned about the negative
19 and environmental issues associated with communication towers. I have my grandkids
20 here and I want them to grow up in a safe environment. Thank you very much.

21 CHAIRMAN MCDUFFIE: Thank you very much. We also have a Mr. Mac Duffy
22 signed up to speak.

1 MR. PRICE: Mr. Chair, just for the Record, everything was posted and
2 advertised according to the requirements of our Code and there was some thought
3 about posting along Salem Church Road, however, if you take a look at the aerial here,
4 you would have been in front of somebody else's property and –

5 CHAIRMAN MCDUFFIE: The property itself does not [inaudible] Salem Church
6 –

7 MR. PRICE: - [inaudible], yes, sir.

8 CHAIRMAN MCDUFFIE: And it's just to, to confirm though the property was
9 properly posted?

10 MR. PRICE: Yes.

11 CHAIRMAN MCDUFFIE: State your name and address for the Record.

12 **TESTIMONY OF MAC DUFFY:**

13 MR. DUFFY: Mac Duffy, live at 114 Muskrat Run, Irmo, South Carolina 29063.
14 And right now I'm currently homeless but I'm living with my mother who currently – and
15 Pegasus Towers actually contacted her a few times trying to get the tower on her
16 property. She denied them over and over, so she wanted me to state that. I just came
17 in from Stockholm, Sweden, we've been in living in Europe for the past few years, and I
18 hate to say this, but Europe is much more forward thinking when it comes to health risks
19 and science. It's just, in Paris they [inaudible] wireless from their libraries because
20 people started getting cancer when they started putting wireless into their libraries. The
21 European Parliament on June 17th, just overwhelming passed a Resolution on the
22 health concerns with electromagnetic fields. From now on in Europe they cannot build a
23 tower close to a church, which there's a church about a quarter mile away from this

1 tower. They cannot build towers close to schools, retirement homes or health care
2 institutions. And I know this is a rural setting, especially to someone who doesn't live
3 here. Mr. Terrel lives in Greensboro, North Carolina, he's gonna build this tower then
4 never see it again. I grew up in this place for 30 years and it would be a very big
5 eyesore. I was doing a tower search and there are nine registered towers within a four
6 mile radius of my mom's address. I don't understand why we need another one. I don't
7 understand why cell phone companies can't join together and use one tower instead of
8 building tower after tower after tower. There are 46 antennas within a four mile radius
9 of my mom's house. I know people say that cancer can't be caused by electromagnetic
10 fields, I know people that are sensitive, my wife is one of them. There's a lot of issues.
11 There's a lot of long-term health risks that could happen, we can't, we cannot promise
12 each other that it will happen or it won't happen. So I don't want to take that risk. I don't
13 want to take that risk. And I want to bring my daughter to mom's place. This is, this is
14 land that is rural now where they want to develop soon. So I really hope y'all take this
15 into consideration when, and not just – listen, my cell phone doesn't work very good at
16 my mom's house and I have to use hers, but don't complain. I don't complain at all. I
17 tell people to call me on the home phone. It's not a big deal. It's not. And it is
18 becoming a wireless world, and I really think that's quite scary. Thank you for your time.

19 CHAIRMAN MCDUFFIE: Alright, that is all of the, all the people signed up to
20 speak in the public hearing. At this time, just, I'll begin going through the, the criteria for
21 a special exception and then – oh, I'm sorry. I was just going to confirm that –

22 MR. PRICE: I could be wrong here, but isn't there supposed to be a rebuttal -

23 CHAIRMAN MCDUFFIE: Oh, oh.

1 MR. PRICE: - by the applicant?

2 CHAIRMAN MCDUFFIE: Yes, I'm sorry. I apologize.

3 MR. TERREL: Thank you, and I'll be brief. There are just four points I'd like to
4 cover. This is not a wetland. There's an area that you see from Muskrat Road that was
5 cleared. This is not the area of the proposed site. That's 330' in, this is 50' in. If it were
6 a wetland it could not be built. Second, about an appraiser's opinion, we hear that all
7 the time actually; somebody has spoken to an appraiser, but the fact is, this is what's
8 called an external obsolescence, a use outside of your property that would have a
9 negative impact. When an appraiser has to, under their certification guidelines, actually
10 provide objective criteria to show that they've got a comparable, nobody will put their
11 signature on it because they can't find them. That's, they just don't exist. On the issue
12 of electromagnetic fields, by law you are not allowed to base any decision on that. I
13 would like briefly just to address that because that's come up. You can get on the
14 Internet, and there are a lot of Internet gurus who can find studies, you know, somebody
15 saying the electromagnetic fields cause this, cause that, cause this, cause that. But the
16 fact is you will not find a study that has come out of MIT, Cal-Berkeley, Harvard, the
17 University of Chicago, Oxford, any of the top research institutions in the world that say
18 that electromagnetic fields at the levels used by cell towers cause any problem. In fact
19 all of those studies conclude otherwise. Why can't all cell companies get together and
20 choose one site? That's because each tower only covers a certain area and what you
21 need is a tower here and a tower here so that when you travel down the road your cell
22 signal is handed off to the next tower. It would be wonderful if South Carolina only
23 needed one cell tower that's tall enough to cover the whole state. It doesn't work that

1 way. It'd be awfully cheaper if we could. And my final point, Mr. Duffy I thought it was
2 interesting that his cell phone does not work and he has to use a land line. Truth is in
3 South Carolina there are more cell phones than there are land lines. That, that number
4 50% mark was crossed a couple years ago. And there are other statistics about how
5 they're used very heavily. For example, 60% of all 911 calls nationally are coming from
6 cell phones. I don't know exactly what South Carolina's would be, but most states are
7 pretty much in that range. So if they, you know, that's why it's important among others.
8 Once again, we're always glad to answer questions that you have.

9 MS. CECERE: I have a question. Were there other property owners contacted
10 in regards to possibly locating that tower at a different location?

11 MR. TERREL: Let me answer it without trying to be evasive. That's not
12 information that we typically get. I didn't know that Mr. Duffy's mom had been
13 contacted. But it's so hard, when I showed you that coverage map, what we get or the
14 engineers is a map that shows the white area, where there's a gap. And then there's a
15 different team that comes in and then goes out and tries to find an area of, where a
16 tower would work, where you can cover as much of it as possible, and where you have
17 access, and where you don't have wetlands, and where there's not what's called land
18 use [inaudible] that would block the signal, and where you have a willing property
19 owner, and, you know, and the setbacks, and it goes on. Finding a site is, it's not
20 impossible but there are times when it's so hard, companies like Pegasus just go
21 somewhere else. So the chance that there was another property owner who was
22 approached –

1 MS. CECERE: But did you not say in your previous statement when you first got
2 up there that that area may be covered by some other companies, just not covered by
3 Pegasus?

4 MR. TERREL: No, Pegasus is not a carrier. Pegasus constructs the tower.

5 MS. CECERE: Yeah, okay. But that area that you, from what I remember, and I
6 may be wrong, but the, I thought in your statement you said that the area that's lacking,
7 that white area may be covered by a different carrier.

8 MR. TERREL: Oh, that's right, very likely. In fact, anywhere you see a map that
9 has white space there's at least one company where you can get coverage. But –

10 MS. CECERE: Right. Okay, let me say this. Now I know I have a cell phone
11 and in some places it works and in some places it doesn't.

12 MR. TERREL: Right.

13 MS. CECERE: But, but that doesn't mean I'm gonna get three cell phones to
14 cover that, you know, because that area over here doesn't work and that doesn't work in
15 this area, but I know that if I drive at a certain place my cell phone doesn't work, so I just
16 wait till I get through that area and go to the next one. But it just seems to me that we
17 are getting a lot of towers and then we still don't enough coverage on one of those
18 carriers.

19 MR. TERREL: Well, that is correct. That is correct. Now if we wanted to go
20 nationally to one carrier that we gave a monopoly to that would control everything, and I
21 don't think that we do, then we could do that, but in fact there are many carriers, and
22 that's good, your price goes down. I don't know who your, who your carrier is but your
23 price per month is much lower because it's competing with other carriers for package

1 plans and things like that. And it's just the way it goes is that you will not have one
2 tower that's perfect for everybody. That's, we can't change that fact.

3 MS. CECERE: Okay. Did, did this company try to co-locate with other carriers?

4 MR. TERREL: We are not – well, a tower company is not a co-locator, only the
5 carriers who use the antennas are the ones who co-locate. The companies who can't
6 use the other towers come to us. You don't approach a tower company to construct a
7 tower if you can find another tower that works for your coverage. It's so much quicker,
8 so much cheaper, so much more efficient to co-locate. You don't have anybody billing
9 for you. The only reason Pegasus is here is because there are some carriers who can't
10 fill this gap.

11 MR. RUSH: With that being said do you have any documentation that they
12 decided or they tried to co-locate with other, cause part of ordinance shows that you
13 have to have, show proof of an attempt to co-locate. Does the other carriers, the carrier
14 that Pegasus is building the tower for, did they attempt –

15 MR. TERREL: That's right. And as I read your ordinance when that carrier
16 comes along, that carrier will have to make that demonstration. The carrier, what your
17 ordinance reads is a user. We're not the user, we are, it's the analogy would be a
18 shopping owner versus the shopping center tenant are two different types of entities.
19 We construct the facility.

20 CHAIRMAN MCDUFFIE: To clarify though, is there a, is there a proposed carrier
21 that –

22 MR. TERREL: Yes, that has requested this tower. We have two, we have two
23 carriers who have approached us. One of them, I try Mr. Chairman, we have to deal

1 with this all the time, if we are required by the local ordinance, and in this case we're
2 not, to disclose who that is, then we always do that. If we are not, then the two carriers
3 that we're dealing with, for competitive reasons, choose not to be disclosed. I can tell
4 you this, is that Pegasus, like most companies, doesn't have the funds to go out on a
5 speculative basis to look to cover sites. The only reason they do, and in fact you can
6 spend up to \$100,00 just to get to the approval standpoint. You don't do that unless you
7 have carriers who have approached you.

8 MS. PERRINE: So you're building so they will come.

9 MR. TERREL: No, no, no. We build it for someone who has approached us.

10 But –

11 MS. PERRINE: You've got two.

12 MR. TERREL: That's correct. Oh, I'm sorry, when you say build it they will
13 come, that's usually a statement for we do it speculatively and then they see it – no, in
14 fact we would be willing, we would invite you even to impose the condition, if you would
15 choose, that this tower should not be built until there is a written proof of there being a
16 tenant with a signed lease. That's, we would have no problem with that.

17 CHAIRMAN MCDUFFIE: I guess, it said somewhere in here and I'm trying to
18 find it again, but that there would be opportunities for co-location on this tower?

19 MR. TERREL: Oh, absolutely.

20 CHAIRMAN MCDUFFIE: How many [inaudible]?

21 MR. TERREL: A minimum of four, probably more than that. But that would be
22 four carriers. You would also add to that what I call the whip antenna for, your local

1 emergency departments will look for space and we work with them very positively,
2 positive terms.

3 MR. RUSH: I don't know, I'm a little stumped right now because although they
4 do have proof saying that they would allow companies to co-locate on their tower, I
5 mean, it clearly states that, you know, the proposed user must show proof of an attempt
6 to co-locate on existing communication towers. I mean, that's in our ordinance. Being
7 that, you know, I understand that that would be used with the, you know, retail shop but
8 you've still got to build it to Code regardless.

9 MR. TIMMONS: If I may add, the proposed uses for this existing, I mean, this
10 structure that's proposed are currently providing service to this, to not this particular
11 area but to the broader community. The existing structures that are out there, they are
12 already utilizing those structures. So in terms of co-locating or approaching other towers
13 in regards to co-locating on them, that really does not make sense in this case because
14 they're already utilizing those structures. The need for this structure is based on the
15 fact that they're providing service in the general community, but the existing facilities do
16 not reach this particular area, and therefore the only solution to solve that problem is to
17 find a location to place a structure, and therefore close that hole. So that's why in that
18 case the co-location aspect is already addressed because they're already utilizing the
19 existing structures.

20 MR. RUSH: I guess with that being said I, I would like to see some
21 documentation on, you know, those – is that documented on this example here, where
22 they're not able to be reached? I mean, I would love to see some study by these same

1 existing companies that they can't reach those particular areas, even though they've got
2 a cell tower in the general vicinity.

3 MR. TERREL: We're at an –

4 MR. RUSH: I guess what I'm getting at is I understand the statement he just, you
5 guys just made, but where's the proof of this co-location, whether it's the same client or
6 not, where's the proof of it?

7 CHAIRMAN MCDUFFIE: Would it be the Board's pleasure then at this time to, to
8 defer the case until such time as –

9 MR. TERREL: If I might, I think we can offer a solution to that so you wouldn't
10 have to, is that this Board does have the power to adopt conditions, is that you just
11 place the condition that no building permit could be issued until the proof of co-location
12 has been provided.

13 CHAIRMAN MCDUFFIE: [Inaudible] the granting of any special exception.
14 Given that it's a requirement in the Code, and that would –

15 MR. TERREL: Well, I would add that possibly the maps that have been provided
16 to you show the existing proof of co-location –

17 CHAIRMAN MCDUFFIE: They, they certainly show that –

18 MR. TERREL: Because they show coverage, they show coverage.

19 CHAIRMAN MCDUFFIE: - [inaudible] the coverage.

20 MR. TIMMONS: The coverage, that's fine. And therefore if they weren't on
21 those structures then those would, would not show what they're showing. So we feel
22 that we've met that, that we've in a sense met that criteria because it's not a situation of
23 where we're trying to provide service in an area where there is an existing structure.

1 The closest existing structure I believe on the statement of intent that was provided is in
2 the neighborhood of a couple of miles, and in today's environment existing structures
3 are located in the neighborhood of two, two and a half, and sometimes even one mile
4 apart. So there is a physical separation that, that's required. So this separation that,
5 that is being provided for by the location of this structure meets that standard for the
6 separation of structures, so to, to talk about co-location on the structures that they're
7 already being used is like a duplication of effort, because if the existing structures could
8 reach the area, if you could add more antennas that would reach the area there would
9 be no need for the tower.

10 CHAIRMAN MCDUFFIE: I certainly understand that nobody would, would
11 intentionally go out and build a tower unless it was going to be profitable to do so or,
12 you know, provide some sort of a business advantage. I, I certainly understand that,
13 however, you see how [inaudible] that the carriers that will be operating on this tower,
14 you know, have attempted to co-locate elsewhere and we would need some sort of a
15 statement. I think in the past we've had a statement from the engineers, from the actual
16 carriers themselves.

17 MR. PRICE: Yeah, I mean, traditionally the, it was actually the actual carriers
18 that were constructing the tower as opposed to a company that builds the towers and
19 then has the carriers come on.

20 MR. TERREL: Yeah, I, I don't read the ordinance that way. I, having to, there's
21 a certain level, certain standards of proof that we have to provide. I turn to your
22 attorney, I don't, you know, see that in the ordinance or interpret the ordinance that way.

23 MS. CECERE: I think we have required it in the past.

1 CHAIRMAN MCDUFFIE: That is consistent with what we have done in the past.
2 We've always had, we've always had some sort of a physical documentation from an
3 applicant, as far as I recall, basically stating that, you know, from some sort of a PE type
4 of, type of person that said, you know, we have attempted to co-locate on the tower,
5 none of the towers are suitable to meet our, either meet our requirements – is that
6 correct, Mr. Price?

7 MR. PRICE: Well, you know, traditionally they will actually show what coverage
8 is available and where, why it won't reach certain areas and why they need certain
9 heights, so yes traditionally we've had that.

10 CHAIRMAN MCDUFFIE: What is the Board's pleasure at this point?

11 MR. RUSH: [Inaudible]

12 CHAIRMAN MCDUFFIE: I had mentioned that as a possibility.

13 MS. CECERE: Yeah, I'd like to, I'd like to see proof.

14 CHAIRMAN MCDUFFIE: Would anyone like to make a motion to defer then, or a
15 motion to continue [inaudible]?

16 MS. CECERE: I make a motion to defer Case 09-18 for a special exception.

17 CHAIRMAN MCDUFFIE: For the purposes of?

18 MS. CECERE: For the purposes of additional proof to co-locate or attempt to co-
19 locate, yes.

20 MR. COOKE: [Inaudible] communication tower.

21 CHAIRMAN MCDUFFIE: Speak up, please?

1 MR. COOKE: On existing communication towers, I mean, our ordinance, I mean,
2 clearly states that, yeah, the proposed user must show proof of an attempt – I don't
3 know if that's an attempt or not. I don't think that is.

4 CHAIRMAN MCDUFFIE: Is there a second?

5 MR. RUSH: I'll second that.

6 CHAIRMAN MCDUFFIE: Okay. All in favor of deferring?

7 MR. PRICE: Those in favor: Branham, Perrine, Rush, McDuffie, Cecere, Cooke,
8 Smith]

9 *[Approve: Branham, Perrine, Rush, McDuffie, Cecere, Cooke, Smith]*

10 MR. TERREL: I guess how soon would that come back?

11 MR. PRICE: First Wednesday of August.

12 CHAIRMAN MCDUFFIE: First Wednesday of August. Thank you to everyone
13 that came out today.

14 MR. COOKE: Mr. Chairman? That guy had something –

15 CHAIRMAN MCDUFFIE: Thank you to everyone that came out today and we
16 will render a decision on this case the month of August. Thank you very much. Mr.
17 Price?

18 MR. PRICE: Just for clarification for everyone, it will be August the 5th at 1:00 is
19 when the next hearing will be scheduled for this particular case.

20 CHAIRMAN MCDUFFIE: Okay. Mr. Price, would you please call the next case?

21 **CASE NO.: 09-20 V:**

22 MR. PRICE: The next item is Case 09-20 Variance. The applicant is Melinda
23 Lucka [inaudible] University Suites. It's on Bluff Road. The applicant is requesting the

1 Board of Zoning Appeals to grant a variance to exceed the maximum number of parking
2 spaces on property zoned RM-HD. The parcel is a little less than 14 acres, it's
3 undeveloped at this time. What is being proposed for this property is student housing.
4 It falls into the category of multi-family [inaudible] student housing. The applicant is
5 proposing a 94 unit multi-family development. The surrounding area is comprised of
6 multi-family and single-family uses and there's some industrial. The abutting property
7 and, I mean, actually if you're looking at the aerial [inaudible] what we're looking at is
8 this particular area. [Inaudible] In which you have [inaudible] properties abutting it,
9 abutting this proposed development. They're also for student housing actually, and also
10 the piece that she has highlighted here inadvertently, that has also been developed for
11 student housing also, so.

12 CHAIRMAN MCDUFFIE: Since the aerial was –

13 MR. PRICE: Yes. So what we have here, and I'll kind of talk about this a little bit
14 cause this was a little unique for Staff also, the way our Code typically reads, each unit
15 is – multi-family development, you're required to have at least one space per unit with a
16 maximum of three spaces per unit. And that typically works out for your traditional
17 multi-family development, let's say you have a family of, you know, mom, dad, some
18 kids, I mean, the mom and dad might have a car, kids typically, you know, ride with
19 mom and dad. So of course those would be, those parking spaces should be enough to
20 accommodate those particular uses. What makes this a little unique is because it's
21 student housing and the actual users, the actual, the residents of each unit in each
22 bedroom pretty much require their own car and thus a required parking space. Staff
23 kind of looked at this in a number of ways. We tried to find other categories that maybe

1 this particular use would fall in under. There was nothing, at least from a parking
2 standpoint, so we decided to be a little unique. As pointed out, you know, really the
3 applicant could still, even without a variance, could proceed on and that's to provide one
4 parking space per unit, so you know, you multiply that by three and that leaves
5 everybody else without a parking space, or they could just go ahead with a maximum of
6 three parking spaces per unit and then still seem to fall short of the intended number of
7 students that would be in –

8 CHAIRMAN MCDUFFIE: This may be the first case that I recall where we've
9 actually seen someone wanted to build beyond the, the required number of parking
10 spaces. Usually it's somebody wanting to not build as many parking spaces as would
11 be required.

12 MR. PRICE: And that's what makes it a little unique in this particular case. But if
13 there's any question y'all have Staff would be happy to answer and at this time, there
14 really aren't, aren't a lot of pictures to really show regarding this. As you can see, once
15 again it is this particular area. I will pull it up on the GIS and show you, but at this time
16 I'll just turn it over to the –

17 CHAIRMAN MCDUFFIE: At this time I'll call the applicant, Ms. Melinda Lucka?
18 Please state your name and address for the Record.

19 **TESTIMONY OF MELINDA LUCKA:**

20 MS. LUCKA: I'm Melinda Lucka, I'm with Austin Rogers law firm in the Mt.
21 Pleasant office. I've never been before you and as you stated usually this kind of
22 parking request is for fewer spaces possibly to have higher density. In this situation –
23 and my address, excuse me, is 505 Bell Hall Parkway, Suite 101, Mt. Pleasant 29464.

1 And I'm here on behalf of John Kale, who is the director of development for University
2 Suites, and also our project engineer is here, Dana Hamilton, and he's with Weaver
3 Engineering. It is more typical, and I appeared before more boards asking for fewer
4 parking spaces in order to have a higher density and here we find ourselves in kind of
5 an unusual situation with this ordinance and other ordinances that are similar to this in
6 the state, that actually allow a higher density. We could have built, if we built typical
7 apartments we could have had up to about 150 apartments, which would've allowed
8 parking wise maybe 450 to 600, depending on you calculate the number of spaces, but
9 because University Suites LLC Company chooses to do university type townhouses,
10 their design is such that they want to, and the concept of university housing, is such that
11 they're not looking to get the maximum number of units but they do want to make sure
12 that they provide enough parking. And I think that I've got to give them a lot of credit for
13 that because a lot of times you see projects where parking overflows all over the place
14 and here I think the reality is that students to have their own cars, they also have family
15 members, you know, there's a clubhouse and a pool, but they have family members,
16 they have study groups, and so there will be realistically more cars that if you just had a
17 typical apartment complex. I would like to show you, if I may, a picture of the type of
18 design, and if you could add this to the Record. And so we've gotten, we're in a
19 situation where we, I talked with Mr. Price a couple of times and a hardship is in this
20 situation the ordinance. The ordinance has categories and, and y'all may know this, but
21 way back in the '60s the standard industrial classification code book set up a number of
22 land use codes, and each classification of land use – multi-family, single-family – wasn't
23 really I guess looking in the future to anticipate different kinds of residential housing. I

1 don't know if that book's been amended over the years. Some ordinances have. This
2 particular zoning ordinance for the county doesn't have specifically a standard student
3 housing classification. So we would ask for your approval so that we could have 375
4 spaces and there again, if we built out to full capacity the ordinance would allow 450
5 upward, because the density of the, of the, high density zoning classification actually
6 allows more. We'll be glad to answer any questions. Also Mr. Kale is here and if you
7 would like to ask him specific questions or any engineering or design type questions Mr.
8 Hamilton is here.

9 CHAIRMAN MCDUFFIE: Thank you very much. Would you please state your
10 name –

11 **TESTIMONY OF JOHN KALE:**

12 MR. KALE: Hi Mr. Chairman, rest of the Board. My name's John Kale, I work for
13 University Suites, we're based out of 763 Jay Clyde Morris Boulevard, Newport News,
14 Virginia. And –

15 CHAIRMAN MCDUFFIE: If I could get you, before you leave today, just to sign
16 in.

17 MR. KALE: Okay. I apologize. I just wanted to reiterate what Melinda
18 addressed. This is a rendering of a job that we just finished in Conway, South Carolina
19 at Coastal Carolina University. And currently the zoning classification is for RM-HD,
20 which I believe is a density permitting 16 units per acre. As you can see we don't do
21 your typical garden style apartments, we do townhouses. We, it limits our density, but
22 our, our students and residents seem to like it better and we believe it looks better. And
23 because we use townhomes our footprint only allows us 10 units per acre. So if we

1 were to come in and build garden style apartments and have three parking places per
2 unit, it would be way over the amount of parking spaces I'm, we're asking for today
3 based upon our restriction and our product. And I just wanted to – and take a look at
4 the pictures of the townhouse, we're very proud of it. It's, we don't sell, we own and
5 build, develop and manage on our own, so we take a lot of pride in our work. And I'm
6 happy to address any of your questions.

7 CHAIRMAN MCDUFFIE: Thank you very much. Is there anyone else that wants
8 to speak on behalf of that applicant or?

9 MR. HAMILTON: I'm here to answer questions.

10 CHAIRMAN MCDUFFIE: Are there any questions for any of the applicants at
11 this time?

12 MR. PRICE: [Inaudible] When Ms. Lucka and I were talking about this and we
13 were just trying to get our numbers correct on exactly what was being asked, just kind of
14 show you this in a different light of what is actually being asked, as opposed to going
15 from 282 to 375, that's actually probably 302. What would currently be allowed for the
16 multi-family development that they have would be, the maximum would be 282 parking
17 spaces.

18 MR. RUSH: How many units is that?

19 MR. PRICE: Ninety-four. [Inaudible] required to – the maximum would be 282.
20 For the clubhouse, based on the square footage of the clubhouse they would be
21 required to provide 20 parking spaces, so now we're at 302 units [inaudible] on the
22 property.

1 CHAIRMAN MCDUFFIE: With the clubhouse, it said they, you said they're
2 required to –

3 MR. PRICE: The clubhouse is 20.

4 CHAIRMAN MCDUFFIE: But could they provide more than 20 for the clubhouse
5 or not?

6 MR. PRICE: I believe that's the maximum.

7 CHAIRMAN MCDUFFIE: Okay.

8 MR. PRICE: So you're looking at 302, so if, what they're asking for is essentially
9 one extra parking space for each of the four bedroom units, that's 62 additional parking
10 spaces. If every unit on the property, for every bedroom had a parking space, including
11 what the clubhouse would have, you would have 364 parking spaces on that property.
12 Thus, what they're asking for from talking to Ms. Lucka, you know, in case family comes
13 over, you know, sometimes friends come over, there would be like 11 additional parking
14 spaces. So that would be what's on the property is typically not used or required.

15 CHAIRMAN MCDUFFIE: Are there any questions for any of the applicants at
16 this time?

17 MR. SMITH: Have you guys looked at – Ms. Lucka?

18 MS. LUCKA: Yes, sir.

19 MR. SMITH: Have you looked at the, I don't know, when it comes down to 11
20 more, I mean, we're already going over the maximum and looked at not incorporating
21 the 11 more just to be able to keep it more concise. Because what you're doing is, I
22 understand what you're doing, I lived in these type of properties when I was in college
23 and I do understand where you're coming from in some cases, but to be able to, to

1 come out of the Code that is, that's in place, 11 more on top of the one extra that goes
2 with each, each unit, you know, is a push. And I'm just trying to think, have you guys
3 looked at the plans from that perspective, as less?

4 MS. LUCKA: Well, I mean, we looked at it in the most, what we thought and the
5 developer thought, was the most realistic way of looking at it so that spaces wouldn't be
6 outside the property. And so in doing that we had to look at the number of bedrooms
7 and the number that Mr. Price just said that you're asking about the 11, we believe is
8 realistic too because people do have, you know, family comes to town, study groups,
9 there are additional people that may come from time to time to that apartment complex,
10 or the townhouse development. And because they've done these in the past they've
11 kind of come up with this to be a figure that works for this type of property. So actually
12 we would, you know, ask for your blessing on that, if you could. And if there's any thing
13 that they may want to speak to that might go into a little bit more detail, I'd welcome
14 that.

15 MR. KALE: Yeah, I just want to get on specific numbers basis cause I
16 understand your concern. From a zoning aspect we're permitted to put 150 units on this
17 property. So that's 150 units times three parking spaces, that, I mean, I don't have a
18 calculator but that's a lot more parking spaces. We're putting 94, or, is it, 94 units on
19 this property so we're restricting our density and with that aspect would appreciate the
20 blessing of this variance cause essentially we're putting less parking on that what we
21 would, if we built maximum to the zoning ordinance, we, we'd be permitted to do.

22 MR. SMITH: I understand.

1 CHAIRMAN MCDUFFIE: I, I certainly appreciate the idea of building enough
2 parking on housing that's obviously gonna be occupied or intended to be occupied by
3 students specifically. It seems to go the other way when you have students parking on
4 the street or parking in, you know, in a [inaudible] or in a yard or something like that. I
5 guess my one big concern about granting a variance in this type of situation would just
6 be that we don't end up with sort of a sea of asphalt, you know.

7 MR. KALE: Well, I'll let my engineer speak on that aspect.

8 **TESTIMONY OF DANA HAMILTON:**

9 MR. HAMILTON: My name's Dana Hamilton with Weaver Engineering located at
10 1006 Sixth Avenue South, Suite 3 in North Myrtle Beach, South Carolina 29582. One
11 thing I wanted to speak about is the number of spaces, and as you know, you have to
12 provide a certain number of accessible spaces along with the regular spaces you
13 provide. University Suites requires one regular space per bedroom and we try to
14 provide that amount of spaces and in addition add the accessible spaces to that, so the
15 extra spaces will actually, a lot of them will be in the accessible spaces, so you know,
16 and as far as the – I wanted to speak to the impervious area, you mentioned a sea of
17 asphalt. Right now our calculations are showing that we're at around 47% impervious
18 on this site, so there's a lot of green space left on this site and we're taking into account
19 all of the landscape areas around the buildings, the landscape islands in the areas that
20 will not be built upon. And some of my calculations and my research, the clubhouse
21 there is actually a maximum for the clubhouse for one per 100 square feet, so that's 40
22 spaces for the clubhouse that they are allowed, so I just wanted to make that point.

23 CHAIRMAN MCDUFFIE: And then we'd really be up to 322 then instead of 302.

1 MR. HAMILTON: Right. And we're asking for 375 so, yes.

2 MR. PRICE: Let's see what that comes out to if you take away the 11 spaces
3 that, you know, that number now we're looking at 373.

4 CHAIRMAN MCDUFFIE: Any questions for, either for Staff or for the applicant or
5 discussion at this time?

6 MR. KALE: You know, we're a company in the student housing business and I
7 understand what you were saying, you, it's similar to a facility you lived at. Well this will
8 be our seventh project that we've done and developed and parking, we could put 800
9 parking spaces out there and from the management perspective it's always a complaint,
10 so it, in this business, you know, you can never, never have enough parking. We're just
11 trying to accommodate our existing residents hopefully.

12 CHAIRMAN MCDUFFIE: Thank you. Mr. Rush, will go through the criteria for
13 this one.

14 MR. RUSH: Are there extraordinary or exceptional conditions pertaining to the
15 particular piece of property? We'll say yes on that. Do these conditions generally
16 apply to the property in the vicinity? No. Would the application of this chapter for this
17 particular piece of property effectively prohibit or unreasonably restrict utilization of the
18 property because of extraordinary or exceptional conditions? I'll say yes on that.

19 CHAIRMAN MCDUFFIE: Okay.

20 MR. RUSH: Will granting of this variance be of potential detriment to adjacent
21 property owners? I'll say no.

22 CHAIRMAN MCDUFFIE: I think [inaudible].

1 MR. RUSH: I don't know if those questions actually lined up with this particular
2 case, you know, but –

3 MR. SMITH: With everything being said, I mean, I'd like to make a motion to
4 approve the variance 09-20 pertaining to, excuse me, wrong one, 09-20. I completely
5 agree with what was being said. It's just a matter of just understanding what the
6 purpose of the, of the property was gonna be. And again, I'd like to approve 09-20
7 variance. Do you guys have any conditions at all pertaining to this one?

8 MR. PRICE: No, because this is gonna cap it at 375 [inaudible].

9 MS. CECERE: I second.

10 CHAIRMAN MCDUFFIE: Okay. We have a motion and a second to approve 09-
11 20. All in favor?

12 MR. PRICE: Those in favor: Branham, Perrine, Rush, McDuffie, Cecere, Cooke,
13 Smith]

14 *[Approve: Branham, Perrine, Rush, McDuffie, Cecere, Cooke, Smith]*

15 CHAIRMAN MCDUFFIE: Okay, you have your variance and Mr. Price will be in
16 touch. Mr. Price, if you would call our last case.

17 **CASE NO.: 09-21 V:**

18 MR. PRICE: The last case is Case 09-21 Variance. The applicant is Samuel
19 Thomas. The location is 104 Buck Drive, Hopkins. The applicant is requesting a
20 variance to place an accessory structure in front of the primary structure on property
21 zoned RU. The applicant has [inaudible] two acre tract. The subject property has an
22 existing 2,053 residential structure. The applicant, once again, is proposing to establish
23 an accessory dwelling in front of the building line of the residential structure. This

1 property is in the Deer Ridge Farm subdivision. I believe in your packet you should
2 have some information from the applicant stating, you know, the reason why he's trying
3 to keep the particular structure. I believe it belonged to a family member, 70 years old
4 [inaudible] and it's just something he wants to kind of keep in the family. Staff did visit
5 the site. What you have here just kind of looking at the aerial, and I can go to a closer
6 aerial also. You can see where there is some, this is the flood zone, wetlands, excuse
7 me, that's on the property, kind of cuts across the rear. I had a chance to kind of walk
8 around, so here's a plat provided by the applicant. Here's your house [inaudible] there
9 is a pond and if you were to walk, and I was gonna draw on this, there's a little creek
10 that does run along in there. What it essentially does is kind of sets on part of the
11 property, especially over here cause you have to cross that to get there. One of the
12 things that, while meeting with the applicant, we discussed is we were looking at this
13 particular area and I want to show you some pictures here. This area does seem quite
14 wet when I was out there. You know, the ground was real moist, you can see the mud
15 there. And one of the things that the applicant was showing me, and you'll in other
16 pictures, is that [inaudible] we saw a number of ditches along the property and kind of
17 [inaudible] water to run off there because of the wetness of the ground. Once again
18 here's a picture of the home, you can barely see it behind the trees. This is the subject
19 property. I don't know what you can see from here but this is where the creek kind of
20 runs right behind this tree line.

21 CHAIRMAN MCDUFFIE: Is this just sort of a wet weather kind of creek or is it
22 full time?

23 MR. PRICE: No, I think it's full time.

1 CHAIRMAN MCDUFFIE: Okay.

2 MR. PRICE: Now this is the area, this is going to the side of the home where his
3 truck is parked. I'd like to talk a little bit more about more about what happens when he
4 parks there. This is according to him. This is one of the areas he was showing, I guess
5 over time, you know, it stays moist and, you know, [inaudible] grass just stopped
6 growing. There's some of the ditches that he's placed along, on that side of the
7 property. And right now I'll just turn it over to the applicant.

8 CHAIRMAN MCDUFFIE: At this time, Mr. Thomas, please state your name.

9 **TESTIMONY OF SAMUEL THOMAS:**

10 MR. THOMAS: Yes. Good afternoon, I'm Samuel Thomas. I live at 104 Buck
11 Drive, Hopkins, South Carolina. I'm trying to get a approval for this little house to sit
12 down in front of the existing structure. That is really the only stable piece of property,
13 well piece on the property that will hold up the house nicely. On the side of the
14 driveway next to the shop there stays wet. When it rains it stays even wetter. It almost
15 liquefies. I have an additional statement here that I got from the well driller that put the
16 well down last year that testifies to the fact that the black mud goes down at least 15'
17 deep on that side. In fact it's just right up from where the truck is parked there. And I
18 have some additional pictures of the lot around the house, and it looks real nice sitting
19 down there. I've had no disapproval from any of the neighbors. In fact, everybody
20 seems to like what I'm doing. In fact, I've cleaned the lot up, especially the underbrush
21 and what have you. Here's the pictures or the letter. Excuse me. Yeah, I just came up
22 with that, oh jeez, yesterday actually, had a little trouble tracking down the well driller.
23 But I've cleaned out the underbrush and tried to clean up the property. Everybody in

1 the neighborhood said they didn't even know there was a pond back there until I
2 cleaned out the underbrush, you know. Which is basically what I'm trying to do, I'm
3 trying to, you know, hang on to that little house. Like I said, my grandfather built it, well
4 at least 70 years ago by my recollection. I acquired the house 25 years ago. I
5 remodeled it then and the piece of property that it was sitting on was in the City of
6 Columbia and I sold it, and so I wanted to keep the little house. And I tried to see about
7 getting it set down over on that side of the driveway, but the more I tried to get things in
8 over there the muddier it got. There was just no way to set it down over there. And so
9 there's a nice little teardrop, you know, pretty much in the middle of the lot that is sand
10 and clay, it is very stable. And that's really the only practical place to put it, you know,
11 outside of the driveway itself, which actually is, you know, the drain field for the septic
12 tank and the little island right there in front of the existing house is where the septic tank
13 is located. So that's the only practical place for me to put it.

14 CHAIRMAN MCDUFFIE: Are there any questions for either Staff or for Mr.
15 Thomas?

16 MR. RUSH: I guess looking down from the aerial to the right side, what's the
17 issue with the right side of the property?

18 MR. THOMAS: Is there what on the right side?

19 MR. RUSH: Right there, no. Which side is the driveway?

20 MR. THOMAS: Well, it's on the right side facing the, from the street, yes. Okay,
21 that's the –

22 MR. RUSH: Okay, that side of the property is too wet?

1 MR. THOMAS: Yes, sir. Before I put the trenches in the water run down the
2 middle of the driveway constantly, and even when they came out, you know, the other
3 week and took pictures and stuff, you know, it hadn't rained in a week and it's been so
4 hot, there's still water, ground water, you know, six to eight inches below the surface of
5 the ground.

6 MR. RUSH: And on the other side of the house what's the issue?

7 MR. THOMAS: It's not only not accessible, but it's even worse.

8 MR. RUSH: I think that's where the creek runs.

9 MR. THOMAS: Yes, sir. And that's a constant flow creek.

10 MS. CECERE: How large is this structure?

11 MR. THOMAS: Sixteen feet wide, 22' long. It's about 350, 351 square feet. It's
12 really small.

13 CHAIRMAN MCDUFFIE: And you stated that this will not be used for a
14 residential –

15 MR. THOMAS: No, sir.

16 CHAIRMAN MCDUFFIE: - structure?

17 MR. THOMAS: No, no, no.

18 MR. PRICE: That was one of the things that, when I visited the site, that we
19 discussed, that you know, this was going to be an accessory structure it just needed to
20 be stated for the Record [inaudible].

21 CHAIRMAN MCDUFFIE: And we could include that in any kind of a motion that
22 we would be making?

23 MR. PRICE: Yes.

1 MR. THOMAS: Yeah, I've got my own house there, you know, it's, you know, a
2 nice little structure, you know, like put my little office down in there instead of having it
3 crowded up in the end of the shop there, something like that. But main thing I'm just
4 trying to, you know, save the structure and get it legal and set down at this point.

5 MR. SMITH: I have question.

6 MR. THOMAS: Yes, sir.

7 MR. SMITH: Was this property, this property was down town Columbia at one
8 time?

9 MR. THOMAS: The house was, the small house.

10 MR. SMITH: Before you moved it.

11 MR. THOMAS: Well, not exactly down town, it was off of Brennan Road, right off
12 of Kilbourne and Trenholm, that little cut through street is Brennan.

13 MR. SMITH: Okay.

14 MR. THOMAS: I sold to a developer last year and, you know.

15 MR. SMITH: [Inaudible]

16 MR. THOMAS: Yeah.

17 MR. SMITH: Cause I think I, I recognize it looking at it.

18 MR. THOMAS: Well, you can see it from the street there, you know, and it was a
19 cut through street so everybody used, you know, drove by there, so.

20 MR. SMITH: Okay. Thank you.

21 MR. THOMAS: Sure.

22 MR. SMITH: I have no more questions.

1 CHAIRMAN MCDUFFIE: Any other questions? Mr. Branham, would you care to
2 go through the Findings of Fact?

3 MR. BRANHAM: Are there extraordinary and exceptional conditions pertaining
4 to the particular piece of property? Yes. Do these conditions generally apply to other
5 property in the vicinity? No. Would application of this chapter to the particular piece of
6 property effectively prohibit or unreasonably restrict the utilization of the property
7 because of the aforesaid extraordinary and exceptional conditions? Yes. And then the
8 last one, will the granting of this variance be of substantial detriment to adjacent
9 property or to the public good or will it harm the character of the district? And I would
10 answer no to that.

11 CHAIRMAN MCDUFFIE: Thank you.

12 MR. BRANHAM: And meeting those conditions, Mr. Chairman, I'd like to make a
13 motion that we approve Variance –

14 MR. SMITH: I'd like to second it.

15 MR. BRANHAM: - 09-21.

16 CHAIRMAN MCDUFFIE: Okay. If you could put in a stipulation about, that it not
17 be used for a residential structure.

18 MR. BRANHAM: Yes, the building itself, the small building? I would be glad to
19 do that.

20 CHAIRMAN MCDUFFIE: We had a second down here I think?

21 MR. SMITH: Yes. I seconded.

22 CHAIRMAN MCDUFFIE: Alright. All those in favor?

1 MR. PRICE: Those in favor: Branham, Perrine, Rush, McDuffie, Cecere, Cooke,
2 and Smith.

3 *[Approve: Branham, Perrine, Rush, McDuffie, Cecere, Cooke, Smith]*

4 CHAIRMAN MCDUFFIE: None opposed then. Mr. Thomas you have your, you
5 have your variance and Staff will be in touch.

6 MR. THOMAS: Thank you very much. I really appreciate it and appreciate your
7 time.

8 CHAIRMAN MCDUFFIE: At this time is there any further business? I know that
9 there's some training coming up I believe? Has everybody received information about
10 that?

11 MR. RUSH: That training doesn't go towards, that's just regular training, that
12 doesn't go towards hours you need?

13 MS. HAYNES: [Inaudible]

14 MR. RUSH: Oh, do you? Okay, I thought you said it didn't.

15 MS. HAYNES: [Inaudible]

16 MR. RUSH: How many hours is this?

17 MS. HAYNES: [Inaudible] one's an hour and a half, the other one's two.

18 MR. RUSH: Okay.

19 CHAIRMAN MCDUFFIE: Alright.

20 MR. PRICE: Maybe a suggestion, not something we have to undertake now.
21 There are, every now and then we come across some issues in our Land Development
22 Code, and to be honest with you the Board of Zoning Appeals probably of all of the
23 Boards uses the entire Land Development Code more than anybody. You definitely use

1 it more than the Planning Commission, and really think even Council. There's, as some
2 issues come up, you know, I really would like to get input from, you know, the Board,
3 things that you could think, you know, we need to look at, change. Now, of course, if we
4 meet, and Ms. Linder, please correct me, but you know, with four of you together that's
5 a quorum, that's a meeting. I, you know, [inaudible] that could, you know, potentially we
6 have like a little committee of you, maybe two or three, kind of sit down, we can kind of
7 look at certain issues and then you can bring that back, you know, to the Board and
8 discuss it.

9 CHAIRMAN MCDUFFIE: Yeah, I'd be happy to do that as well. Can we get one
10 more person? Would anyone else like – alright, Mr. Price, you have your committee.

11 MR. PRICE: And that would be you, Ms. Cecere and who else?

12 CHAIRMAN MCDUFFIE: Mr. Rush.

13 MS. CECERE: Mr. Rush.

14 MR. PRICE: Okay. Yeah, we can just talk about some, the little things that
15 come up such as when the cell tower and other things –

16 MR. SMITH: [Inaudible] signs. Definitely want to make sure I can get as much
17 information as possible.

18 MR. COOKE: Yeah, like signage and stuff like that.

19 CHAIRMAN MCDUFFIE: At this time I'd like to adjourn the meeting.

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21 *[Meeting Adjourned]*