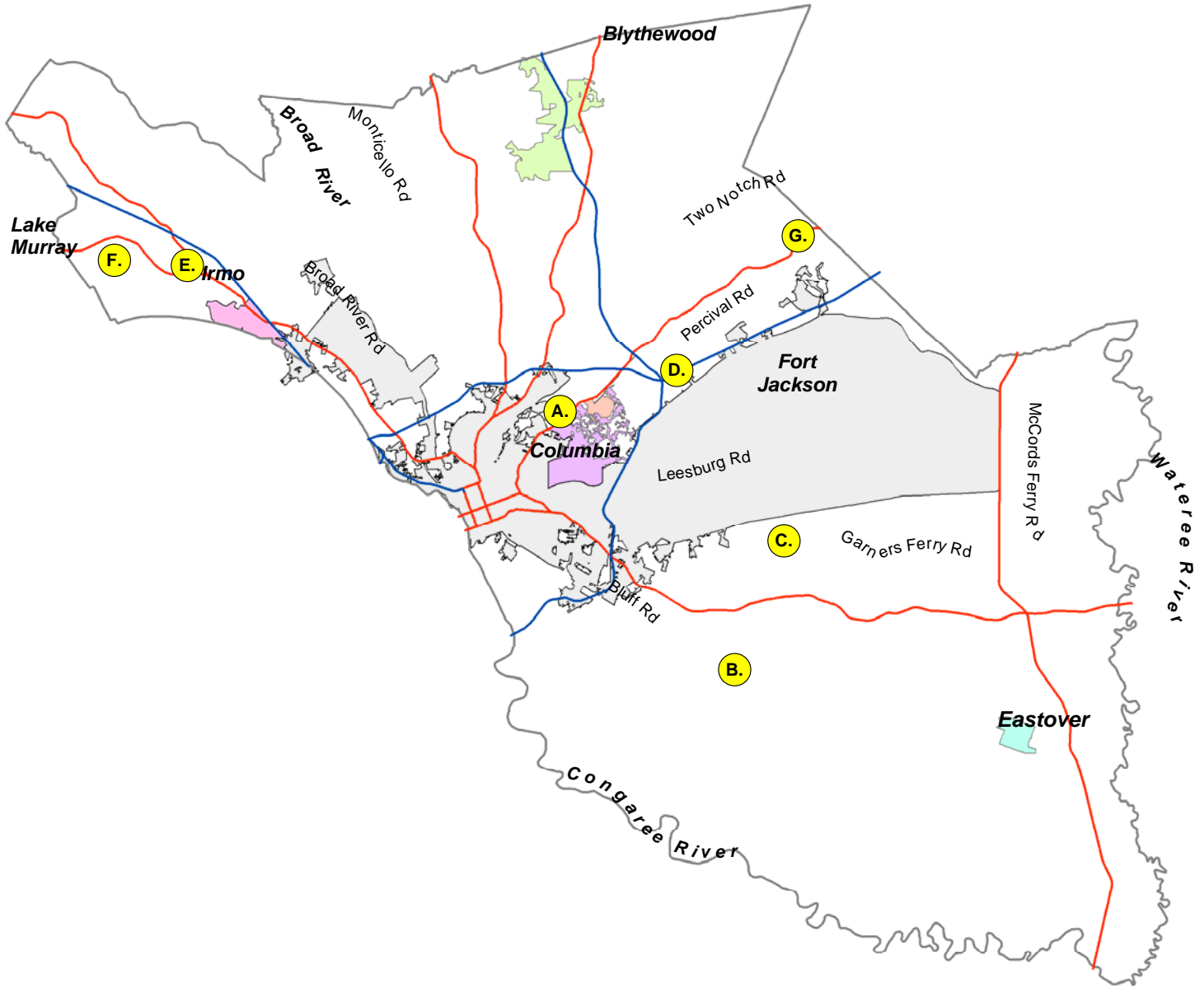


RICHLAND COUNTY
BOARD OF
ZONING APPEALS



Wednesday, March 2, 2005
1:00 p.m.
Council Chambers

RICHLAND COUNTY BOARD OF ZONING APPEALS PUBLIC HEARING MARCH 2, 2005



| CASE NO. | APPLICANT | TMS NO. | ADDRESS | DISTRICT |
|-------------|------------------|-------------|-------------------------------|------------|
| A. 05-35 SE | Dianne Nwokolo | 14205-03-02 | 1842 Malcolm Drive | Jeter |
| B. 05-49 SE | Johnathan Yates | 21600-02-03 | 5690 Lower Richland Boulevard | Scott |
| C. 05-53 SE | Sylather Collins | 25009-02-01 | 208 Auburnleaf Drive | Mizzell |
| D. 05-35 SE | Keith Eubanks | 19810-01-02 | 1300 Polo Road | Montgomery |
| E. 05-55 V | James Wenger | 02513-02-39 | 533 Cabin Drive | Corley |
| F. 05-56 SE | Johnathan Yates | 01509-01-04 | Forest Shealy Road | Corley |
| G. 05-57 V | Carolyn Peake | 29000-02-07 | 10950 Two Notch Road | Hutchinson |

**RICHLAND COUNTY
BOARD OF ZONING APPEALS
PUBLIC HEARING
MARCH 2, 2005, 1:00 P.M.**

**2020 HAMPTON STREET
2nd FLOOR COUNTY COUNCIL CHAMBER**

AGENDA

- | | | |
|-------------|---------------------------------------|---|
| I. | CALL TO ORDER & RECOGNITION OF QUORUM | TERRY BROWN, CHAIRMAN |
| II. | RULES OF ORDER | BRAD FARRAR, DEPUTY COUNTY ATTORNEY |
| III. | PUBLIC HEARING | GEONARD PRICE, ASSISTANT ZONING ADMINISTRATOR |

OPEN PUBLIC HEARING

- | | | |
|-----------|---|---|
| A | 05-35 SE | Requests a special exception for the establishment of a family daycare on property zoned single family residential (RS-2) |
| 1 | Dianne Nwokolo 1842 Malcolm Dr. 14205-03-02 | |
| B | 05-49 SE | Requests special exception for the construction of a communication tower on property zoned rural (RU) |
| 11 | Johnathan Yates 5690 Lower Richland Blvd. 21600-02-03 | |
| C | 05-53 SE Sylather Collins 208 Auburnleaf Dr. 25009-02-01 | DEFERRED |
| D | 05-54 V | |
| 27 | Keith Eubanks 1300 Polo Rd. 19810-01-02 | |
| E | 05-55 V | |
| 35 | James Wenger 533 Cabin Dr. 02513-02-39 | |

F 05-56 SE
47 Johnathan Yates
Forest Shealy Rd.
01509-01-04

Requests special exception for the construction of a communication tower on property zoned rural (RU)

G 05-57 V
61 Carolyn Peake
10950 Two Notch Road
29000-02-07

Requests variance to encroach into the side yard setbacks by 10 feet on property zoned rural district (RU)

IV. APPROVAL OF MINUTES
February 2, 2005

V. OTHER BUSINESS

A. Cell Tower Discussion

B. Review and Approval of By-laws and Rules of Procedures

VI. ADJOURNMENT



2 March 2005
Board of Zoning Appeals

REQUEST AND ANALYSIS

05-35 Special Exception

REQUEST

The applicant is requesting the Board of Zoning Appeals to grant a special exception to permit the establishment of a family daycare on property zoned RS-2 (single family residential).

GENERAL INFORMATION

Applicant

Dianne Austin Nwokolo

Tax Map Number

14205-03-02

Location

1842 Malcolm Drive

Existing Zoning

RS-2 (Single Family Residential)

Parcel Size

.23 acre tract

Existing Land Use

Residential

Existing Status of the Property

The subject property has an existing single-family residential structure, which is located at the end of Malcolm Drive (a dead end). There is not a distinguished driveway. A fence encloses approximately three-fourths of the property (the front property is not fenced).

Proposed Status of the Property

The applicant proposes to establish a family daycare for a maximum of six (6) children. The ages of the children would range from newborn to twelve (12) years old. The proposed hours of operation are 2:30pm to 7:30am.

Immediate Adjacent Zoning and Land Use

North - M-1; undeveloped/industrial

South - RS-2; residential

East - M-1; undeveloped

West - RS-2; residential

Character of the Area

The subject property is located within a community of single-family residential structures

An undeveloped, industrial zoned parcel abuts the rear of the property.

ZONING ORDINANCE CITATION

Section 26-63.4(5) authorizes the Board to permit day nurseries and kindergartens as special exception subject to the provisions of Section 26-84. Section 26-84 requires

that, before granting such a special exception, the Board will ensure that the Department of Special Services has approved the daycare facility. The applicant has submitted a letter from DSS.

CRITERIA FOR SPECIAL EXCEPTIONS

In addition to definitive standards in this chapter, the Board shall consider the following:

1. Traffic impact.

The average weekday trips per day for a single-family residential structure is approximately 9.5 (based on the Addendum to the Long Range Major Street Plan for Richland County – adopted by the Richland County Planning Commission - Oct.1993). The establishment of this daycare would generate approximately twelve (12) additional trips per day.

2. Vehicle and pedestrian safety.

There were no obstacles or conditions present that seem to present vehicle or pedestrian safety.

3. Potential impact of noise, lights, fumes or obstruction of airflow on adjoining property.

There should be a minimal, if any, impact of noise, lights, fumes or obstruction of airflow by the establishment of a family daycare.

4. Adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view.

The proposed use does not impose an adverse impact on the aesthetic character of the environs and does not require screening.

5. Orientation and spacing of improvements or buildings.

The size of the lot and the location of the existing structure precludes the need for changes in orientation and spacing of improvements or buildings.

DISCUSSION

Staff visited the site.

The subject parcel is located just past the corner of Malcolm and McCaw.

The applicant is proposing to operate a daycare for six (6) children. Staff did not observe any conditions or factors that would negatively impact this community by the establishment of a family daycare.

The applicant is required to provide loading and unloading in an area other than the right-of-way. Staff believes the lack of a distinguishable driveway doesn't prevent the applicant from providing the required loading and unloading area. The location of the site at a dead end significantly minimizes any potential traffic impact.

If the Board finds that this request has merit, staff asks that the following conditions be applied.

CONDITIONS

1. Vacancy, abandonment or discontinuance for any period of twelve (12) months (as verified by a business license) will void the special exception.

26-602.2(d)

- 1) Violation of conditions and safeguards prescribed in conformity with this chapter, when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter, punishable under penalties established herein;
- 2) Failure to begin or complete, or begin and complete, an action for which a special exception is required, within the time limit specified when such time limit is made a part of the terms under which the special exception is granted shall void the special exception.

OTHER RELEVANT SECTIONS

Sec. 26-84. Child day care facilities.

Child day care facilities are permitted as special exceptions in RS-1, RS-1A, RS-2, RS-3, RR, RG-1, RG-2, MH-1, MH-2 and MH-3 districts, and as permitted uses in C-1, C-2, C-3, D-1 and RU districts subject to the following provisions:

26-84.1 General requirements.

a. Permitted Uses--Before granting a zoning permit for the establishment of a child day-care center or a group day-care home, the zoning administrator will ensure that the applicant has applied to the South Carolina Department of Social Services (DSS) for a license to operate the facility and has received a letter from the regulatory agency (DSS) that the facility in question is suitable to accommodate the maximum number of children to be cared for. Prior to issuing a zoning permit for the establishment of a family day-care home, the zoning administrator will ensure that the applicant has applied to DSS for registration of the day-care home.

b. Special Exceptions--Before granting a special exception for the establishment of a child day-care facility, the board of adjustment will ensure that the action outlined in paragraph a. above has been accomplished.

26-84.2 Fencing.

Fencing shall be as prescribed by DSS, but in no case less than 4 feet in height, cyclone type or equivalent.

26-84.3 Play equipment.

No play equipment shall be closer than 20 feet to any residential lot line.

26-84.4 Loading and unloading.

An adequate area to accommodate the loading and unloading of children shall be provided and such area shall not be located within any public right-of-way.

26-84.5 Space.

Indoor and outdoor space shall be as prescribed by relation for child day-care facilities published by DSS.

26-84.6 Signs.

Signs are permitted in accordance with Article 8, "Regulation of Signs" as applied to the district in which the child day-care facility is located.

(Ord. No. 1027-83, § 1, 4-5-83; Ord. No. 1191-44, § IV, 9-4-84; Ord. No. 055-00HR, § XI, 10-3-00)

ATTACHMENTS

- DSS letter
- Plat
- Day nursery information sheet
- Pictures of subject property

CASE HISTORY

No record of previous special exception or variance request.

Rcpt # _____

Application # _____

Paid \$ _____

Filed _____

**RICHLAND COUNTY
BOARD OF ZONING APPEALS
SPECIAL EXCEPTION APPEAL**

NOTICE TO APPLICANTS

No application for special exception will be processed unless the following conditions are met no later than the first (1st) day of the month prior to the date of the Board meeting, which is held the first Wednesday of each month:

- a. All questions on this application have been fully answered;
- b. The application has been signed by the owner or his agent with the written authorization of the owner;
- c. A plot plan drawn to scale, showing the actual dimensions and shape of the lot, the exact size and location on the lot of all buildings and signs existing and proposed, and the location of all required parking spaces has been submitted on an 8 1/2" X 11" size pieces of paper.

1. Location: 1842 Malcolm Drive
TMS #: Page 14205 Block 03 Lot 02 Zoning District RS-2
2. The Board of Zoning Appeals is requested to consider the granting of a special exception permitting : (nature of special exception) Family Daycare
3. The Board of Zoning Appeals is authorized to grant or deny special exception of this specific nature in Section _____ of the Zoning Ordinance.

PROPOSED NEW CONSTRUCTION

1. Free Standing Structure () Addition to an existing building ()
2. Use _____ Number of square footage _____
3. Answer only if a commercial or manufacturing use :
 - a. Total number of parking spaces on lot _____
 - b. Number of trucks _____ size _____
 - c. Number of proposed and existing signs _____
Size of proposed or existing signs _____
 - d. Number of employees working on premises _____

EXISTING USES AND STRUCTURES ON LOT

1. Number of existing uses / structures 1
2. Size and use:

| | |
|-------------------------------|------------------------|
| a. Square footage <u>1893</u> | Use <u>residential</u> |
| b. Square footage _____ | Use _____ |
| c. Square footage _____ | Use _____ |

Dianne Austin-Nwokolo

Appellant's Signature

Dianne Austin-Nwokolo

Print Name

803 754-9440

Telephone Number

1842 Malcolm Dr Columbia S.C 29204

Address, City, State & Zip Code



Serving Children and Families

KIM S. AYDLETTE, STATE DIRECTOR

November 23, 2004

Mr. John Hicks
Richland County Zoning Division
2020 Hampton Street
P.O. Box 192
Columbia, SC 29202

Re: Ms. Dianne Austin-Nwokolo
1842 Malcolm Drive
Columbia, SC 29204

Dear Mr. Hicks:

The Division of Child Day Care Licensing and Regulatory Services of the South Carolina Department of Social Services has received an inquiry from the above-named individual to operate a Family Day Care Home, providing daycare for a maximum of 6 children.

In order to complete the application process, we require verification from your office that zoning requirements have been met. If additional information is needed, please contact me at 929-2740.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads 'Marilyn Hager'. The signature is written in a cursive, flowing style.

Marilyn Hager
Senior Day Care Regulatory Specialist, Region V



**RICHLAND COUNTY, SOUTH CAROLINA
PLANNING & DEVELOPMENT SERVICES DEPARTMENT**

Zoning & Land Development Division
2020 Hampton Street
Columbia, SC 29202
Ph. 803-576-2178 Fax 803-576-2182

DAY NURSERIES

How many children? 6 children

What ages would the children be? 0-12 yrs

What would the hours of operation be? 2:30 pm - 7:30 am

How many employees would there be? 1

Is the rear yard fenced? Yes No (If no, what provisions are being made?)

partial

Are there provisions for the loading and unloading of children off of the public right-of-way?

Yes (if yes, please describe)

large driveway at at dead-end Street.

No (if no, what provisions are being made?)







2 March 2005
Board of Zoning Appeals

REQUEST AND ANALYSIS

05-49 Special Exception

REQUEST

The applicant is requesting the Board of Zoning Appeals to grant a special exception to permit the construction of a communication tower in a RU (Rural) district.

GENERAL INFORMATION

Applicant

Jonathan Yates

Tax Map Number

21600-02-03

Location

Lower Richland Blvd.

Existing Zoning

RU (Rural District)

Parcel Size

43.89 acre tract

Existing Land Use

Undeveloped

Existing Status of the Property

It is undeveloped and heavily wooded.

Proposed Status of the Property

The applicant proposes to erect a 225-foot self-support tower, within a 10,000 square foot leased compound.

Immediate Adjacent Zoning and Land Use

- North - RU; residential
- South - RU; commercial/residential
- East - RU; residential
- West - RU; undeveloped/church

Character of the Area

The subject property is amongst a community of residential structures, undeveloped parcels, commercial and institutional uses.

ZONING ORDINANCE CITATION

Section 26-61.4(4) of the Zoning Ordinance authorizes the Board of Zoning Appeals to authorize radio, television and all other types of communications towers subject to the provisions of section 26-94A.

CRITERIA FOR SPECIAL EXCEPTIONS

In addition to definitive standards in this chapter, the Board shall consider the following:

1. Traffic impact.

N/A

2. Vehicle and pedestrian safety.

N/A

3. Potential impact of noise, lights, fumes or obstruction of airflow on adjoining property.

The lights of the communication tower could pose a potential impact on adjoining properties. The applicant has addressed these concerns in previous applications.

4. Adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view.

The depth of the structure within the heavily wooded parcel should serve to help minimize the aesthetic impact of the communication tower on the environs.

5. Orientation and spacing of improvements or buildings.

The submitted site plan does not seem to necessitate any changes.

(9) Special exception requirements (as found in section 26-94):

(a) In addition to the requirements for special exceptions found in section 26-602.2c, the zoning board of adjustment shall consider the following:

(1) Will the proposed structure endanger the health and safety of residents, employees or travelers, including but not limited to the likelihood of the failure of such structures.

To be addressed by the applicant.

(2) Is the proposed tower located in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties.

To be addressed by the applicant.

(3) Is the proposed structure necessary to provide a service that is beneficial to the surrounding community.

To be addressed by the applicant.

(4) Does the proposed use meet the setback requirements of the underlying zoning district in which it is located.

The site plan indicates that the proposed tower meets all required setbacks, however, the site plan review phase will ensure that all requirements have been met.

(5) Is the proposed tower within one thousand (1,000) feet of another tower unless on the same property.

To be addressed by the applicant.

(6) Has the applicant attempted to collocate on existing communication towers and is the applicant willing to allow other users to collocate on the proposed tower in the future subject to engineering capabilities of the structure and proper compensation from the additional user.

To be addressed by the applicant.

DISCUSSION

The applicant proposes to erect a 225-foot self-support tower tower, within a 10,000 square foot leased compound.

Staff visited the site.

The criteria for a special exception in section 26-602 indicates that applicant has taken necessary measures to minimize the impact of a communication tower on the surrounding area.

The applicant must address before the Board the special exception requirements of section 26-94.

CONDITIONS

1. The setback requirements, as measured from the lease area, must be met, unless, as stated in section 26-94A (2), a special exception is granted by the Board of Zoning Appeals.

26-602.2(d)

- 1) Violation of conditions and safeguards prescribed in conformity with this chapter, when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter, punishable under penalties established herein;
- 2) Failure to begin or complete, or begin and complete, an action for which a special exception is required, within the time limit specified when such time limit is made a part of the terms under which the special exception is granted shall void the special exception.

OTHER RELEVANT SECTIONS

Due to consideration for health, safety impact on neighboring properties and aesthetics, any such uses proposed for the county shall comply with the following supplemental requirements:

(1) At the time of application for a special exception or zoning permit satisfactory evidence shall be submitted that alternative towers, building or other structures do not exist within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria or provide a location free from interference of any nature, or are otherwise not available for use.

(2) When a proposed site for a communication tower adjoins a residential zoning district, or property on which an inhabited residence is situated, the minimum setback from the property line(s) adjoining the residential zoning district or residential use shall be fifty (50) feet. For towers over fifty (50) feet in height, the set back shall increase one

(1) foot for each one (1) foot of tower height in excess of fifty (50) feet; with the maximum required separation being two hundred fifty (250) feet.

When the separation requirement as set forth herein from a residential zoning district or residential use cannot be met, such location may be permitted by a special exception approval from the zoning board of adjustment subject to the provisions of section 26-94A below.

(3) Towers shall be illuminated as required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agencies. However, no nighttime strobe lighting shall be incorporated unless required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agency.

(4) Each communications tower and associated buildings shall be enclosed within a fence at least seven (7) feet in height.

(5) Each tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

(6) No signage of any nature may be attached to any portion of a communications tower.

(7) Communications towers shall have a maximum height of three hundred (300) feet.

(8) A communications tower which is no longer used for communications purposes must be dismantled and removed within one hundred twenty (120) days of the date the tower is taken out of service.

(9) Special exception requirements:

(a) In addition to the requirements for special exceptions found in section 26-602.2c, the zoning board of adjustment shall consider the following:

(1) Will the proposed structure endanger the health and safety of residents, employees or travelers, including but not limited to the likelihood of the failure of such structures.

(2) Is the proposed tower located in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties.

(3) Is the proposed structure necessary to provide a service that is beneficial to the surrounding community.

(4) Does the proposed use meet the setback requirements of the underlying zoning district in which it is located.

(5) Is the proposed tower within one thousand (1,000) feet of another tower unless on the same property.

(6) Has the applicant attempted to collocate on existing communication towers and is the applicant willing to allow other users to collocate on the proposed tower in the future subject to engineering capabilities of the structure and proper compensation from the additional user.

(b) A site plan, elevation drawing(s), photographs and other appropriate documentation must be submitted with the request for special exception which provide the following information:

(1) Site plan must include the location of the tower(s), guy anchors (if any), transmission building and other accessory uses, parking, access, fences and adjacent land use. Landscaping and required buffering must also be shown.

(2) Elevation drawings must clearly show the design of the tower and materials to be used.

(3) Photographs must show the proposed site and the immediate area.

(4) Submittal of other detailed information, such as topography and aerial views, which support the request are encouraged at the option of the applicant.

(Ord. No. 048-95HR, § I, 9-5-95; Ord. No. 012-99HR, § III, 4-20-99)

| |
|--------------------|
| ATTACHMENTS |
|--------------------|

- Site plan

| |
|---------------------|
| CASE HISTORY |
|---------------------|

No record of previous special exception or variance request.

Paid \$ _____

**RICHLAND COUNTY
BOARD OF ZONING APPEALS
SPECIAL EXCEPTION**

Filed _____

NOTICE TO APPLICANTS

No application for a special exception will be processed unless the following conditions are met no later than the first (1ST) day of the month prior to the date of the Board meeting, which is generally held the first Wednesday of each month:

- a. All questions on this application have been fully answered;
- b. The application has been signed by the owner or his/her agent with the written authorization of the owner;
- c. A plot plan drawn to scale, showing the actual dimensions and shape of the lot, the exact size and location on the lot of all buildings and signs existing and proposed, and the location of all required parking spaces has been submitted an 8½" x 11" size pieces of paper.

1. Location: Lower Richland Blvd.
TMS #: Page 21600 Block 02 Lot 03 Zoning District RU
2. The Board of Zoning Appeals is requested to consider the granting of a special exception permitting:
A wireless communications tower.
3. The Board of Zoning Appeals is authorized to grant or deny a special exception of this specific nature in Section _____ Zoning Ordinance.

PROPOSED NEW CONSTRUCTION

1. Free standing structure () Addition to an existing structure ()
2. Use Comm. tower Number of square footage 2400
3. Answer only if a commercial or manufacturing use:
 - a. Total number of parking spaces on parcel: N/A
 - b. Number of trucks: 0 size(s): _____
 - c. Number of signs: proposed 0 existing 0
 - d. Number of employees working of premises: 0

EXISTING USES AND STRUCTURES ON LOT

1. Number of existing uses/structures: 0
2. Size and use:
 - a. Use Commercial square footage _____
 - b. Use _____ square footage _____
 - c. Use _____ square footage _____
 - d. Use _____ square footage _____


Appellant's Signature

151 Meeting St.
Address

843-853-5200
Telephone Number

Cingular Wireless/JLYates
Printed (typed) Name

Charleston, SC 29401
City, State, Zip Code

Alternate Number

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

151 Meeting Street / Sixth Floor / Charleston, South Carolina 29401-2239

Tel: 843.853.5200 Fax: 843.722.8700

www.nelsonmullins.com

Brian A. Hellman

843.534.4416

brian.hellman@nelsonmullins.com

December 6, 2004

Via Federal Express

Mr. Geonard Price
Richland County Planning Department
2020 Hampton Street
Columbia, SC 29202
(803) 576-2180

RE: Cingular Wireless / # 091-412 B / TMS # 21600-02-03 / 5690 Lower Richland
Blvd. Hopkins, SC 29061
Application for Special Exception
Our file number: 21772/09475

Dear Mr. Price:

On behalf of our client, Cingular Wireless, Inc., I am enclosing for your review the requisite applications, fees, and the following supporting details regarding compliance of the above site with the Richland County Zoning Ordinance Section 26-94A.

For Section 26-94A – Supplemental Requirements

- (1) At the time of application for a special exception or zoning permit satisfactory evidence shall be submitted that alternative towers, building or other structures do not exist within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria or provide a location free from interference of any nature, or are otherwise not available for use.

Cingular is in the business of providing cellular communications and does not engage in building towers. As such, Cingular only builds these towers as a last resort. The first thing Cingular looks for in placing its equipment is an existing structure or tower that will allow us to provide coverage in the designated area. In this case, there are no structures or towers under the

control of Cingular or other entities that could be used. If such sites were available, Cingular would use those sites.

- (2) When a proposed site for a communication tower adjoins a residential zoning district, or property on which an inhabited residence is situated, the minimum setback from the property line(s) adjoining the residential zoning district or residential use shall be fifty (50) feet. For towers over fifty (50) feet in height, the set back shall increase one (1) foot for each one (1) foot of tower height in excess of fifty (50) feet; with the maximum required separation being two hundred fifty (250) feet.

When the separation requirement as set forth herein from a residential zoning district or residential use cannot be met, such location may be permitted by a special exception approval from the zoning board of adjustment subject to the provisions of section 26-94A below.

This 225' tower will be located at least 250'-10" from any adjoining property line, which are zoned RU. The underlying zoning district (RU) setbacks are forty (40) feet for front yards, twenty (20) feet for side yards, and fifty (50) feet for rear yards. The setback line is the same as the depth or width of any required yard. This communications tower will be set back at least 250'-10" from any property line, or 12.5 times the minimum required by the underlying zoning district.

- (3) Towers shall be illuminated as required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agencies. However, no night time strobe lighting shall be incorporated unless required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agency.

The tower will be finished in a galvanized gray finish which quickly oxidizes to a dull gray patina and will be non-reflective and omit no glare. This tower will be illuminated; however, Cingular will employ the use of a very sophisticated illumination package which involves an intermittent white light during the day and at night, the white light will turn into a soft red light. This light is designed to channel the light above the horizontal to aid air navigation but not to be noticeable from the ground. At night, the light has the same effect on the ground as a forty watt patio bulb.

- (4) Each communications tower and associated buildings shall be enclosed within a fence at least seven (7) feet in height.

This tower and associated buildings are enclosed and secured by a security fence at least seven (7) feet in height.

- (5) Each tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

This tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

- (6) No signage of any nature may be attached to any portion of a communications tower.

No signage of any nature may be attached to any portion of this communications tower.

- (7) Communications towers shall have a maximum height of three hundred (300) feet.

This proposed wireless communications tower is a 225' lattice design.

- (8) A communications tower which is no longer used for communications purposes must be dismantled and removed within one hundred twenty (120) days of the date the tower is taken out of service.

Cingular Wireless has agreed to remove the tower and/or antenna within 90 days after cessation of use as is provided in the enclosed letter by South Carolina counsel, Jonathan L. Yates, attached as Exhibit B.

Special exception requirements:

- a. requirements for special exceptions found in section 26-602.2c

- i. Traffic impact;

Upon completion of construction, this facility will be unmanned and only visited 8-10 times per year, having virtually no traffic impact.

- ii. Vehicle and pedestrian safety.

Due to the inherent safety features of wireless communication devices, this wireless communications facility will have a positive impact on vehicle and pedestrian safety.

- iii. Potential impact of noise, lights, fumes or obstruction of air flow on adjoining property

This tower is lighted as required by the FAA (see section 3, above), and will have no impact with respect to noise, fumes, or obstruction of air flow on adjoining property.

- iv. Adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view.

The tower will be finished in a galvanized gray finish which quickly oxidizes to a dull gray patina and will be non-reflective and omit no glare. Also, this tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

- v. Orientation and spacing of improvements or buildings.

There are no other improvements or buildings on this parcel.

- (1) Will the proposed structure endanger the health and safety of residents, employees or travelers, including but not limited to the likelihood of the failure of such structures.

Due to the inherent safety features of wireless communication devices, this wireless communications facility will be a beneficial addition not only to the health and safety of residents, employees or travelers, but to law enforcement personnel as well. The proposed tower is set back from all property lines a distance equal to or greater than its proposed height so that in the event of structural failure, the health and safety of residents, employees or travelers will not be compromised.

- (2) Is the proposed tower located in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties.

The proposed communications tower is being placed in a rural section of Hopkins in Richland County. The proposed tower is being placed on the property of Phillip Stewart, which is zoned RU. The subject property is perfect for this proposed tower in that it is a rather large parcel with significant tree cover. With our placement on the subject property, we will be able to effectively cover the Hopkins and surrounding vicinity with a

minimum visual impact to the surrounding area. In addition, the tower will be finished in a galvanized gray finish which quickly oxidizes to a dull gray patina and will be non-reflective and omit no glare.

- (3) Is the proposed structure necessary to provide a service that is beneficial to the surrounding community.

Wireless devices are enabled by communications towers. With their inherent safety features, wireless devices and the towers that enable their use provide a service that is beneficial to the surrounding community, residents, travelers, and law enforcement.

- (4) Does the proposed use meet the setback requirements of the underlying zoning district in which it is located.

The underlying zoning district (RU) setbacks are forty (40) feet for front yards, twenty (20) feet for side yards, and fifty (50) feet for rear yards. The setback line is the same as the depth or width of any required yard. This communications tower will be set back at least 250'-10" from any property line, or 12.5 times the minimum required by the underlying zoning district.

- (5) Is the proposed tower within one thousand (1,000) feet of another tower unless on the same property.

The tower will not be located within 1,000 feet of any existing tower or antenna.

- (6) Has the applicant attempted to collocate on existing communication towers and is the applicant willing to allow other users to collocate on the proposed tower in the future subject to engineering capabilities of the structure and proper compensation from the additional user.

Cingular always attempts to co-locate its equipment on an existing tower. Cingular has investigated all nearby publicly and privately owned sites and was unable to find a suitable site.

- b. A site plan, elevation drawing(s), photographs and other appropriate documentation must be submitted with the request for special exception which provides information required by this ordinance section:

Mr. Geonard Price
December 6, 2004
Page 6

A copy of the site plan incorporating the typical specification for this structure is attached hereto, as Exhibit A.

- (1) Site plan must include the location of the tower(s), guy anchors (if any), transmission building and other accessory uses, parking, access, fences and adjacent land use. Landscaping and required buffering must also be shown.

A copy of the site plan incorporating these requirements is attached hereto, as Exhibit A.

There is a sense of urgency to us in getting this special exception approved; therefore any assistance you can give us is very much appreciated. Please contact me at 843-534-4416 or brian.hellman@nelsonmullins.com once the hearing date has been set, or if you have any questions or concerns that I may answer or address.

Very truly yours,



Brian A. Hellman

Enclosures

cc: Jonathan L. Yates, Esq.

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

151 Meeting Street / Sixth Floor / Charleston, South Carolina 29401-2239

Tel: 843.853.5200 Fax: 843.722.8700

www.nelsonmullins.com



Jonathan L. Yates

843.534.4240

jonathan.yates@nelsonmullins.com

December 6, 2004

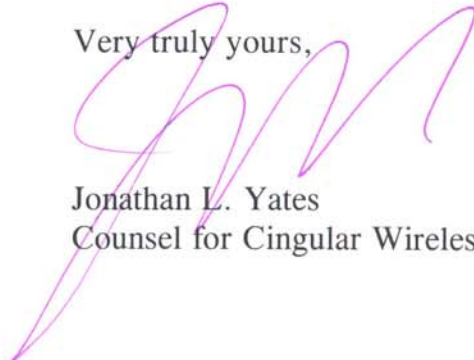
Mr. Geonard Price
Richland County Planning Department
2020 Hampton Street
Columbia, SC 29202
(803) 576-2180

RE: Cingular Wireless / # 091-412 B / TMS # 21600-02-03 / 5690 Lower Richland
Blvd. Hopkins, SC 29061
Application for Special Exception
Our file number: 21772/09475

Dear Mr. Price:

Regarding a 225 foot lattice tower to be located at the address indicated above in Hopkins, South Carolina, TMS # # 21600-02-03, Cingular Wireless hereby agrees to remove the said tower and/or antenna within 90 days after cessation of use.

Very truly yours,


Jonathan L. Yates
Counsel for Cingular Wireless

JLY:dls

05-49 SE
JONATHAN YATES
TMS 21600-02-03

Site →





2 March 2005
Board of Zoning Appeals

REQUEST AND ANALYSIS

05-54 Variance

REQUEST

The applicant is requesting the Board of Appeals to grant a special exception to reduce the number of required parking spaces in a C-3 (General Commercial) zoned district.

GENERAL INFORMATION

Applicant

Keith Eubanks

Tax Map Number

19810-01-02

Location

1300 Polo Road

Existing Zoning

C-3 (General Commercial)

Parcel Size

23± acre tract

Existing Land Use

Undeveloped

Existing Status of the Property

A multi-family development is proposed for the subject property.

Proposed Status of the Property

The applicant proposes to reduce the required off-street parking by 29 spaces from 493 to 464.

Immediate Adjacent Zoning and Land Use

North - C-1/C-3; undeveloped

South - Interstate

East - C-3/undeveloped

West - M-1; warehouse

Character of the Area

The surrounding area is comprised primarily of undeveloped parcels. West of the parcel is a warehouse (Blue Cross/Blue Shield).

ZONING ORDINANCE CITATION

Section 26-602.3 of the Zoning Ordinance authorizes the Board of Zoning Appeals to grant variances from the strict interpretation of the Zoning Ordinance that are not contrary to the public interest when literal enforcement would result in unnecessary hardship.

Under no circumstances shall the Board grant a variance to permit a use not generally or by special exception permitted in the district involved. No nonconforming use of

neighboring lands or structures in the same district or in other districts shall be grounds for the issuance of a variance. Under no circumstances shall the Board grant a variance to permit a decrease in minimum lot size, minimum lot width or in any other manner create a nonconforming lot.

CRITERIA FOR VARIANCE

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

(a) That there are extraordinary and exceptional conditions pertaining to the particular piece of property.

Staff observed that there is a large area of wetlands that runs through the middle of the parcel. The rear of the parcel has slopes 22+ feet.

(b) That these conditions do not result from the actions of the applicant.

There is no evidence to suggest that the applicant created any of the current conditions.

(c) That these conditions do not generally apply to other property in the vicinity.

Staff was unable to confirm or refute that these condition apply to other properties.

(d) That because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Applying the required parking requirements would not unreasonably restrict the utilization of the property.

(e) That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The granting of this variance will not create a detriment to the adjacent property, the public good, or the character of the district.

DISCUSSION

Staff visited the site.

The applicant is requesting a variance to reduce the number of required parking spaces from 493 to 464. The proposed construction of the development requires the number of parking spaces.

The development will be composed of a 3,800 square foot office (required 13 parking spaces); 72 one-bedroom units (144 parking spaces); 120 two-bedroom units (240 parking spaces); and 48 three-bedroom units (96 parking spaces).

According to the site plan supplied by the applicant, the reduction in parking spaces will be taken from the one-bedroom units. Proposed for the units are 108 spaces, rather than the required 144. The required parking for the remaining units and structures will stay the same.

The subtotal for the proposed number of spaces is 444. The applicant's proposed 20 spaces for miscellaneous and amenity uses brings the total of proposed spaces to 464.

CONDITIONS

26-602.2(c)

- 1) Violation of conditions and safeguards prescribed in conformity with this chapter, when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter, punishable under penalties established herein;
- 2) Failure to begin or complete, or begin and complete, an action for which a special exception is required, within the time limit specified when such time limit is made a part of the terms under which the variance is granted shall void the variance.

OTHER RELEVANT SECTIONS

26-78.2 *Special requirements.* The following requirements shall apply to the following specific uses, instead of the general requirements listed above:

- (1) Dwelling units:
 - a. In single family and two family structures: Two (2) spaces per dwelling unit as units are constructed.
 - b. In all other types of structures housing dwelling units: Two (2) spaces per dwelling units, or one (1) space for each 500 square feet of gross floor area, whichever is less.

ATTACHMENTS

- Plats
- Aerial
- Topography map

CASE HISTORY

There are no records of this property previously requesting a special exception or variance.



RICHLAND COUNTY BOARD OF ZONING APPEALS VARIANCE APPEAL

Fee \$100.00 Receipt# 368932

Applicaton# Date 31 Jan. 2005

No application for a variance will be received for inclusion on the Board of Zoning Appeal's Agenda unless the following conditions are met not later than the first day of the month prior to the date of the Board meeting, which is generally held on the first Wednesday of each month.

- a) All questions on this application have been fully answered.
b) The application has been signed by the owner or his agent with the written authorization of the owner.
c) A plot plan drawn to scale, showing the actual dimensions and shape of the lot, the exact size and locations on the lot of all buildings and signs existing and proposed, and the location of all required parking spaces has been submitted.
d) The Zoning Administrator has certified that the proposed use and construction plans comply with all provisions of the Zoning Ordinance except those for which a variance has been requested.

- 1. Location 1300 Polo Road (Tract Adjacent to Blue Cross/Blue Shield Warehouse)
2. Lot 02 Block 01 Page 19810 Zoning District C-3
3. Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property as described in the provisions of Section 26-78.2(1)b of the Richland County Zoning Ordinance.
4. Applicant requests a variance to allow use of the property in a manner shown on the attached site plan, described as follows: Reduction of number of required parking stalls.
5. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.
a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as following: There are over 3 acres of wetlands, jurisdictional ditches and buffer area that run through the center of the subject property.
b) Describe how the conditions listed above were created: There are over 100 acres of offsite upstream watershed area that drain through the subject property.
c) These conditions do not generally apply to other property in the vicinity as shown by: The offsite watershed area drains through two sets of large pipes that run under I-20 from south to north and discharges onto the subject property.
d) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: Application of the parking requirement would not allow for preservation of wetlands and associated buffers.
e) The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: With Approved Variance, apartment complex would have parking ratios: 1BR Unit-1.5 per unit; 2BR Unit-2 per unit; 3BR Unit-2 per unit; preserve wetlands and associated buffers.
6. The following documents are submitted in support of this application [a site plan must be submitted]:
a) 24x36 Topographical Map / Wetlands Exhibit.
b) 24x36 Polo Road Apartments Variances Plan (Sheet P-1).
c) 8.5x11 of both a) and b).

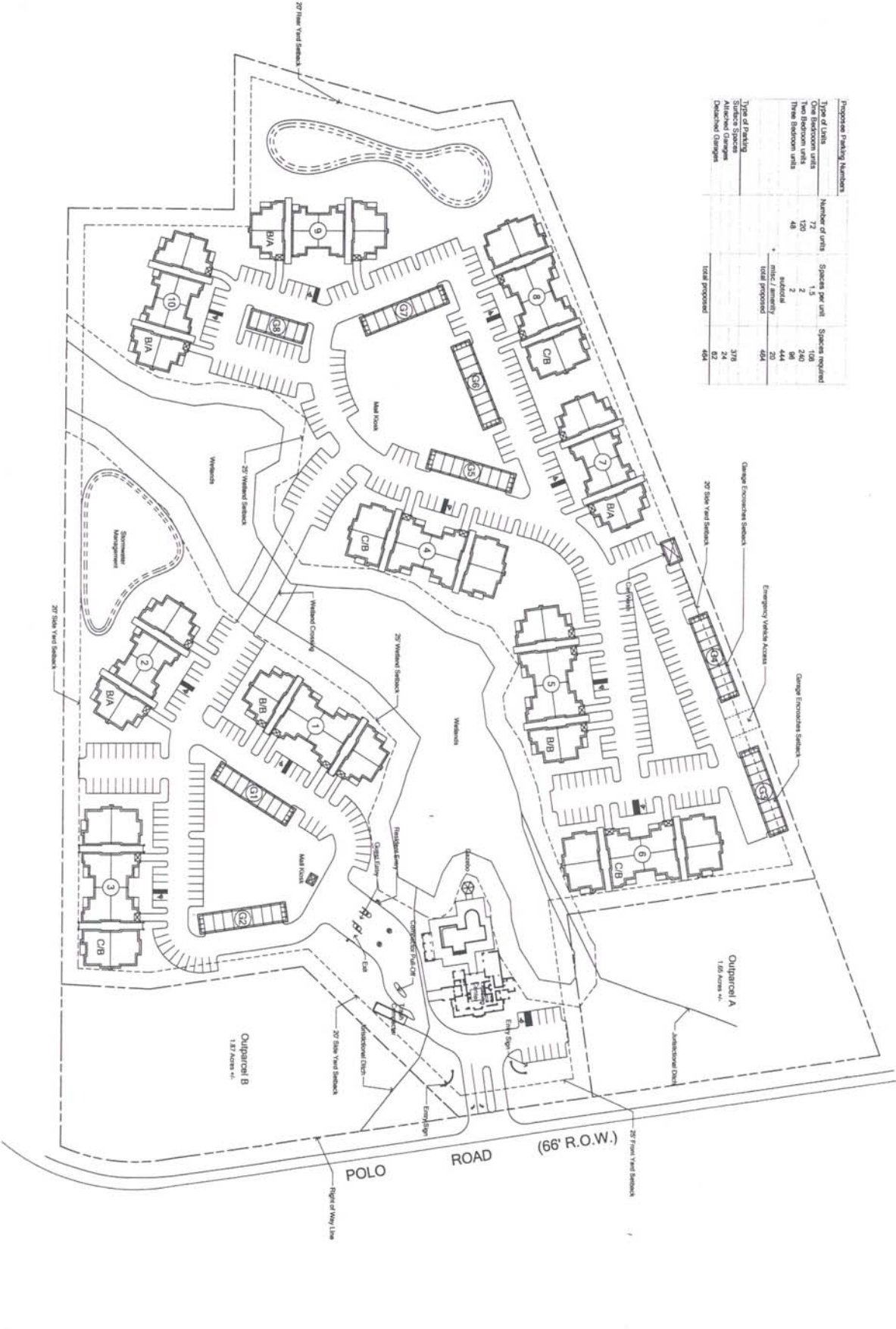
(Attach additional pages if necessary)

Keith K. Eubanks, P.E.

1/28/2005 Date

Signature of Applicant(s)

| Proposed Parking Numbers | |
|--------------------------|-----------------|
| Type of Units | Number of units |
| One Bedroom units | 72 |
| Two Bedroom units | 17 |
| Three Bedroom units | 48 |
| | Total |
| | 137 |
| Spaces per unit | Spaces required |
| 1.5 | 106 |
| 2 | 34 |
| misc / amenity | 44 |
| Total proposed | 184 |
| | 47 |
| Total proposed | 231 |
| | 24 |
| | 207 |



SGN+A
 P-1

Simonson Germany Nonemaker + Associates, Inc.
 Planning Architecture Landscape Architecture
 Date: 27 January, 2005
 Sheet Number: P-1
 Sheet Title: Polo Road Apartments
 Variances: _____

1190 West Druid Hills Dr., NE Suite T-63 Atlanta, GA 30329
 Telephone: 404-634-4466 Facsimile: 404-634-4433
 Design Development Documents
Polo Road Apartments
 Richland County, South Carolina
 A Residential Development by Applegate & Co. Charleston, South Carolina

| Revisions: | Date: | Drawn: |
|------------|-------|--------|
| | | |
| | | |
| | | |

CASE 05-54 V
KEITH EUBANKS
TMS 19810-01-02





2 March 2004
Board of Zoning Appeals

REQUEST AND ANALYSIS

05-55 Variance

REQUEST

The applicant is requesting the Board of Zoning Appeals to grant a variance to encroach into the required rear yard setback for an accessory use in a RS-1 (Single Family Residential) zoned district.

GENERAL INFORMATION

Applicant

James Wenger

Tax Map Number

02513-02-39

Location

533 Cabin Drive

Existing Zoning

RS-1

Parcel Size

.43 acre tract

Existing Land Use

Residential

Existing Status of the Property

A single-family residential structure is located on the subject property.

Proposed Status of the Property

The applicant proposes to encroach an accessory structure, 2.3 feet into the required five (5) -foot setback.

Immediate Adjacent Zoning and Land Use

North - RS-1; common area

South - RS-1; residential

East - RS-1; residential

West - RS-1; residential

Character of the Area

The subject property is located in the Milford Park subdivision at the end of a cul-de-sac.

ZONING ORDINANCE CITATION

Section 26-602.3 of the Zoning Ordinance authorizes the Board of Zoning Appeals to grant variances from the strict interpretation of the Zoning Ordinance that are not contrary to the public interest when literal enforcement would result in unnecessary hardship.

Under no circumstances shall the Board grant a variance to permit a use not generally or by special exception permitted in the district involved. No nonconforming use of neighboring lands or structures in the same district or in other districts shall be grounds for the issuance of a variance. Under no circumstances shall the Board grant a variance to permit a decrease in minimum lot size, minimum lot width or in any other manner create a nonconforming lot.

CRITERIA FOR VARIANCE

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

- (a) That there are extraordinary and exceptional conditions pertaining to the particular piece of property.**
Staff observed no extraordinary and exceptional conditions to the property or structure.
- (b) That these conditions do not result from the actions of the applicant.**
The applicant acknowledges his role in creating the necessity for the variance.
- (c) That these conditions do not generally apply to other property in the vicinity.**
Staff was unable to confirm or refute that these condition apply to other properties.
- (d) That because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.**
Applying the required setback requirements would not unreasonably restrict the utilization of the property
- (e) That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.**
The granting of this variance will not create a detriment to the adjacent property, the public good, or the character of the district.

DISCUSSION

Staff visited the site.

The applicant is requesting a variance to encroach a storage building 2.3 feet into the required five (5) foot setback.

According to the applicant, the storage building was established using faulty survey stakes. The applicant states during a survey revision, the property stakes were altered from the original position, thus the violation was created.

The side yard setbacks were also encroached by the structure. The applicant resolved this violation by acquiring additional side yard property.

The common area for the subdivision abuts the rear of the property.

CONDITIONS

N/A

26-602.2(c)

- 1) Violation of conditions and safeguards prescribed in conformity with this chapter, when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter, punishable under penalties established herein;
- 2) Failure to begin or complete, or begin and complete, an action for which a special exception is required, within the time limit specified when such time limit is made a part of the terms under which the variance is granted shall void the variance.

OTHER RELEVANT SECTIONS

N/A

ATTACHMENTS

- Plat.

CASE HISTORY

There are no records of this property previously requesting a special exception or variance.



**RICHLAND COUNTY
PLANNING AND DEVELOPMENT SERVICES
P.O. BOX 192
2020 HAMPTON STREET
COLUMBIA, SOUTH CAROLINA 29202**

**BOARD OF ZONING APPEALS
VARIANCE APPEAL**

Appeal # _____

Fee \$100.00

Application # _____

Filed 31 Jan, 2005

Receipt # 368923

Filed _____

No application for a variance will be received for inclusion on the Board of Zoning Appeal's Agenda unless the following conditions are met not later than the first day of the month prior to the date of the Board meeting, which is held on the first Wednesday of each month.

- (a) All questions on this application have been fully answered.
- (b) The application has been signed by the owner or his agent with the written authorization of the owner.
- (c) A plat plan drawn to scale, showing the actual dimensions and shape of the lot, the exact size and locations on the lot of all buildings and signs existing and proposed, and the location of all required parking spaces has been submitted.
- (d) The Zoning Administrator has certified that the proposed use and/or construction plans comply with all provisions of the Zoning Ordinance except those for which a variance has been requested.

***If the Zoning Administrator finds that the requirements of the Zoning Code for a variance have not been met, the application will be rejected.**

1. Location 533 CABIN DRIVE IRMO SC 29063

2. Lot 59 39 Block 02 Page 02513 Zoning District RICHLAND RS-2

3. Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property as described in the provisions of Section _____ of the Richland County Zoning Ordinance.

4. Applicant requests a variance to allow use of the property in a manner shown on the attached site plan, described as follows:

SHED IS WITHIN THE 5 FOOT PROPERTY LINE EASEMENT. FACING WOODS.

5. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.

a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as following:

OUR SHED'S FOUNDATION WAS SET BASED UPON INCORRECT PROPERTY PIN PLACEMENT

b) Describe how the conditions listed above were created:

THE ORIGINAL SURVEY PINS (MARKERS) WERE NOT CORRECTLY PLACED DUE TO NEW CONSTRUCTION OF OUR HOUSE.

c) These conditions do not generally apply to other property in the vicinity as shown by: _____

d) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: _____

e) The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons:

CORRECT, THE SHED'S PLACEMENT WAS PLANNED TO CAUSE NO NEIGHBORHOOD OBSTRUCTION & TO NOT BLOCK ANYONES VIEW.

6. The following documents are submitted in support of this application [a site plan must be submitted]:

a) LETTER FROM DEVELOPER - THE MUNGO COMPANY

b) LETTER FROM HOME OWNERS ASSOCIATION

c) _____

(Attach additional pages if necessary)

PROPOSED NEW CONSTRUCTION

1. Free-standing structure Addition to an existing building ()
2. Use STORAGE/GARDEN SHED No. of sq. 500
3. Maximum height of building above finished grade 14 FT No. of stories 2
4. Total parking spaces on lot (See Sec. 7-1.4) NONE
5. Answer only if a commercial or manufacturing use:
 - a. No. and size of trucks _____
 - b. No. of employees working on premises _____
 - c. No. and size of proposed and existing signs as shown on plot plan _____

EXISTING USES AND BUILDINGS ON LOT

- No. of existing buildings 1
- Sq. ft. 3400 Use HOUSE - RESIDENCE
- Sq. ft. _____ Use _____
- Sq. ft. _____ Use _____

JAMES WENGER, Jr. 533 CABIN DR IRMO SC 29063 803.622.7557
 Appellant Address Phone Number

The use and construction as proposed herein complies with the terms of the Zoning Ordinance except for the variances

 Zoning Administrator

FOR USE OF BOARD OF ZONING APPEALS

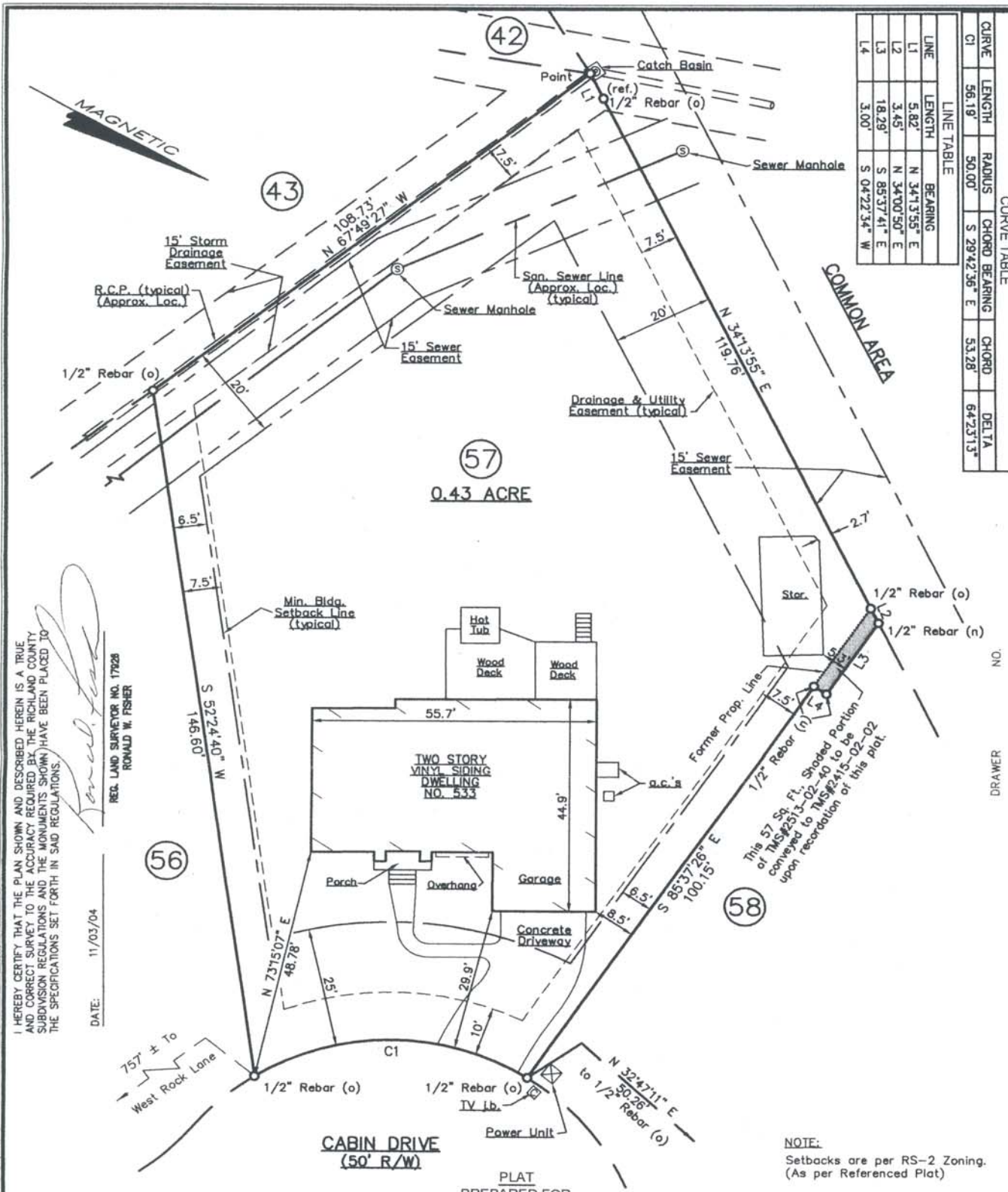
1. Landmarks commission referral required:
 () Yes () No
 Date referred _____ Date returned _____
 2. Other referrals: Agency _____
 Date referral _____ Date returned _____
 3. Any previous requests for same variance/special exception () Yes () No
 If "yes", Appeal No. _____ Date _____
 4. Public hearing set for _____ Date posted _____
 5. Advertised in _____ Date _____
 6. Public hearing held _____ Appellant appeared () Yes () No
 7. Findings of Board of Zoning Appeals:
 - a. The requirements of Section 26-602.3b(1) have been met by the applicant:
 () Yes () No
 - b. The reasons set forth in the application on the reverse side justify the granting of the variance, and the variance as granted is the minimum variance that will make possible the reasonable use of the land, building, or structure:
 () Yes () No
 - c. The granting of this variance will be in harmony with the general purpose and intent of the ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare: () Yes () No
 8. () Requested variance is granted with the following conditions and safeguards:

 9. () Requested variance is denied for the following reasons:

- Record of Vote: (1) _____ (2) _____
 (3) _____ (4) _____ (5) _____
 (6) _____ (7) _____
- Date _____ Board of Zoning Appeals Chairperson _____

| CURVE TABLE | | | | | |
|-------------|--------|--------|---------------|--------|-----------|
| CURVE | LENGTH | RADIUS | CHORD BEARING | CHORD | DELTA |
| C1 | 56.18' | 50.00' | S 29°42'36" E | 53.28' | 64°23'13" |

| LINE TABLE | | |
|------------|--------|---------------|
| LINE | LENGTH | BEARING |
| L1 | 5.82' | N 34°13'55" E |
| L2 | 3.45' | N 34°00'50" E |
| L3 | 18.29' | S 85°37'41" E |
| L4 | 3.00' | S 04°22'34" W |



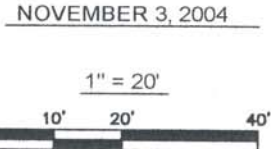
I HEREBY CERTIFY THAT THE PLAN SHOWN AND DESCRIBED HEREIN IS A TRUE AND CORRECT SURVEY TO THE ACCURACY REQUIRED BY THE RICHLAND COUNTY SUBDIVISION REGULATIONS AND THE MONUMENTS SHOWN HAVE BEEN PLACED TO THE SPECIFICATIONS SET FORTH IN SAID REGULATIONS.

DATE: 11/03/04

REG. LAND SURVEYOR NO. 17928
RONALD W. FISHER

JAMES L. WENGER & JULIE S. WENGER
 RICHLAND COUNTY, NEAR COLUMBIA, S.C.

THE SAME BEING DESIGNATED AS LOT NO. 57 AND A MINOR PORTION OF LOT NO. 58, ON BONDED PLAT OF MILFORD PARK, PHASE TWO, BY BELTER & ASSOCIATES, INC., DATED DECEMBER 7, 2002, REVISED FEBRUARY 14, 2003, AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR RICHLAND COUNTY IN RECORD BOOK 766, PAGE 572. REFERENCE IS ALSO MADE TO AFOREMENTIONED REVISED BONDED PLAT OF MILFORD PARK, PHASE TWO & PHASE FOUR, DATED DECEMBER 7, 2002, REVISED JULY 22, 2003. ADDITIONAL REFERENCE IS MADE TO PLAT PREPARED FOR JAMES L. WENGER & JULIE S. WENGER, BY COX and DINKINS, INC., DATED SEPTEMBER 24, 2003.



COX AND DINKINS, INC.
 724 BELTLINE BLVD.
 COLUMBIA, SOUTH CAROLINA 29205
 803-254-0518 Fax: 803-765-0993
 Email: cdinc@coxanddinkins.com

I hereby state that to the best of my knowledge, information, and belief, the survey shown herein was made in accordance with the requirements of the Minimum Standards Manual for the Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class-B survey as specified therein; also there are no visible encroachments or projections other than shown.

REG. LAND SURVEYOR NO. 17928
 RONALD W. FISHER





The MUNGO Company™

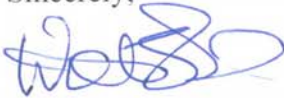
January 28, 2005

Mr. James L. Wenger
533 Cabin Drive
Irmo, SC 29063

Mr. Wenger,

The Mungo Company has no objection to the shed in construction on your property, located at 533 Cabin Drive in the Milford Park Subdivision.

Sincerely,



William J. Dixon
Vice-President of Development

BD/lgr

Milford Park

Homeowners Association

3614 Landmark Dr, Suite A
Columbia, S.C. 29204

(803) 743-0600
(803) 790-0340 Fax

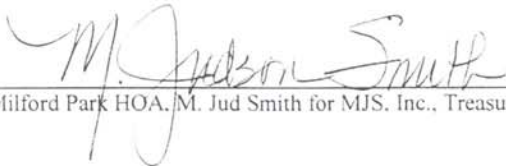
Memorandum

To: James and Julie Wenger
From: Milford Park Architectural Review Committee
Date: 1/26/05
Re: Placement of storage building, Lot 57

Dear Mr. and Mrs. Wenger:

Per your request for the Association to provide documentation stating that the Association was in agreement with the location of the shed that had been placed within the lot, please be aware that the original approval letter stated that the building should have been located a minimum of five (5) feet from the property line. Upon further inspection it was determined that the shed was placed approximately 2 feet from the existing property line. This correspondence serves as notice that the Association has no objection to the location of the existing structure as the lot is adjacent to a non-public common area. The Association is in agreement with a variance from the standard 5 foot placement from the property line.

Authorization:


(Milford Park HOA, M. Jud Smith for MJS, Inc., Treasurer)

1/26/05
(Date)

Disclaimer: Neither Declarant, nor the Association, nor any other member of the Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. FURTHER, NEITHER DECLARANT, NOR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE SHALL BE LIABLE IN DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURAL CONTROL COMMITTEE PROVIDED FOR IN THE DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURAL CONTROL COMMITTEE FOR APPROVAL AGREES, BY SUBMISSION OF SUCH PLAN AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, ASSOCIATION, ITS BOARD MEMBER OR OFFICERS, OR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE, TO RECOVER ANY SUCH DAMAGES, AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.



2 March 2005
Board of Zoning Appeals

REQUEST AND ANALYSIS

05-56 Special Exception

REQUEST

The applicant is requesting the Board of Zoning Appeals to grant a special exception to permit the construction of a communication tower in a RU (Rural) district.

GENERAL INFORMATION

Applicant

Jonathan Yates

Tax Map Number

01509-01-04

Location

Forest Shealy Road

Existing Zoning

RU (Rural District)

Parcel Size

8.97 acre tract

Existing Land Use

Undeveloped

Existing Status of the Property

It is undeveloped and heavily wooded.

Proposed Status of the Property

The applicant proposes to erect a 150-foot self-support tower, within a 10,000 square foot leased compound.

Immediate Adjacent Zoning and Land Use

- North - RU; undeveloped/residential
- South - RS-1; residential
- East - RS-1; residential
- West - RU/PUD; undeveloped/institutional/residential

Character of the Area

The neighboring parcels are composed of wooded and undeveloped lots, a mixture of single-family dwellings on large tracts, developing subdivisions, and an elementary school.

ZONING ORDINANCE CITATION

Section 26-61.4(4) of the Zoning Ordinance authorizes the Board of Zoning Appeals to authorize radio, television and all other types of communications towers subject to the provisions of section 26-94A.

CRITERIA FOR SPECIAL EXCEPTIONS

In addition to definitive standards in this chapter, the Board shall consider the following:

1. Traffic impact.

N/A

2. Vehicle and pedestrian safety.

N/A

3. Potential impact of noise, lights, fumes or obstruction of airflow on adjoining property.

The lights of the communication tower could pose a potential impact on adjoining properties. The applicant has addressed these concerns in previous applications.

4. Adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view.

The depth of the structure within the heavily wooded parcel should serve to help minimize the aesthetic impact of the communication tower on the environs.

5. Orientation and spacing of improvements or buildings.

The submitted site plan does not seem to necessitate any changes.

(9) Special exception requirements (as found in section 26-94):

(a) In addition to the requirements for special exceptions found in section 26-602.2c, the zoning board of adjustment shall consider the following:

(1) Will the proposed structure endanger the health and safety of residents, employees or travelers, including but not limited to the likelihood of the failure of such structures.

To be addressed by the applicant.

(2) Is the proposed tower located in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties.

To be addressed by the applicant.

(3) Is the proposed structure necessary to provide a service that is beneficial to the surrounding community.

To be addressed by the applicant.

(4) Does the proposed use meet the setback requirements of the underlying zoning district in which it is located.

The site plan indicates that the proposed tower meets all required setbacks, however, the site plan review phase will ensure that all requirements have been met.

(5) Is the proposed tower within one thousand (1,000) feet of another tower unless on the same property.

To be addressed by the applicant.

(6) Has the applicant attempted to collocate on existing communication towers and is the applicant willing to allow other users to collocate on the proposed tower in the future subject to engineering

capabilities of the structure and proper compensation from the additional user.

To be addressed by the applicant.

DISCUSSION

The applicant proposes to erect a 150-foot self-support tower tower, within a 10,000 square foot leased compound.

Staff visited the site.

The criteria for a special exception in section 26-602 indicates that applicant has taken necessary measures to minimize the impact of a communication tower on the surrounding area.

The applicant must address before the Board the special exception requirements of section 26-94.

At the time of agenda preparation, staff has been unable to deduce whether a residential structure on the parcel.

CONDITIONS

N/A

26-602.2(d)

- 1) Violation of conditions and safeguards prescribed in conformity with this chapter, when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter, punishable under penalties established herein;
- 2) Failure to begin or complete, or begin and complete, an action for which a special exception is required, within the time limit specified when such time limit is made a part of the terms under which the special exception is granted shall void the special exception.

OTHER RELEVANT SECTIONS

Due to consideration for health, safety impact on neighboring properties and aesthetics, any such uses proposed for the county shall comply with the following supplemental requirements:

(1) At the time of application for a special exception or zoning permit satisfactory evidence shall be submitted that alternative towers, building or other structures do not exist within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria or provide a location free from interference of any nature, or are otherwise not available for use.

(2) When a proposed site for a communication tower adjoins a residential zoning district, or property on which an inhabited residence is situated, the minimum setback from the property line(s) adjoining the residential zoning district or residential use shall be fifty (50) feet. For towers over fifty (50) feet in height, the set back shall increase one

(1) foot for each one (1) foot of tower height in excess of fifty (50) feet; with the maximum required separation being two hundred fifty (250) feet.

When the separation requirement as set forth herein from a residential zoning district or residential use cannot be met, such location may be permitted by a special exception approval from the zoning board of adjustment subject to the provisions of section 26-94A below.

(3) Towers shall be illuminated as required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agencies. However, no nighttime strobe lighting shall be incorporated unless required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agency.

(4) Each communications tower and associated buildings shall be enclosed within a fence at least seven (7) feet in height.

(5) Each tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

(6) No signage of any nature may be attached to any portion of a communications tower.

(7) Communications towers shall have a maximum height of three hundred (300) feet.

(8) A communications tower which is no longer used for communications purposes must be dismantled and removed within one hundred twenty (120) days of the date the tower is taken out of service.

(9) Special exception requirements:

(a) In addition to the requirements for special exceptions found in section 26-602.2c, the zoning board of adjustment shall consider the following:

(1) Will the proposed structure endanger the health and safety of residents, employees or travelers, including but not limited to the likelihood of the failure of such structures.

(2) Is the proposed tower located in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties.

(3) Is the proposed structure necessary to provide a service that is beneficial to the surrounding community.

(4) Does the proposed use meet the setback requirements of the underlying zoning district in which it is located.

(5) Is the proposed tower within one thousand (1,000) feet of another tower unless on the same property.

(6) Has the applicant attempted to collocate on existing communication towers and is the applicant willing to allow other users to collocate on the proposed tower in the future subject to engineering capabilities of the structure and proper compensation from the additional user.

(b) A site plan, elevation drawing(s), photographs and other appropriate documentation must be submitted with the request for special exception which provide the following information:

(1) Site plan must include the location of the tower(s), guy anchors (if any), transmission building and other accessory uses, parking, access, fences and adjacent land use. Landscaping and required buffering must also be shown.

(2) Elevation drawings must clearly show the design of the tower and materials to be used.

(3) Photographs must show the proposed site and the immediate area.

(4) Submittal of other detailed information, such as topography and aerial views, which support the request are encouraged at the option of the applicant.

(Ord. No. 048-95HR, § I, 9-5-95; Ord. No. 012-99HR, § III, 4-20-99)

| |
|--------------------|
| ATTACHMENTS |
|--------------------|

- Site plan

| |
|---------------------|
| CASE HISTORY |
|---------------------|

No record of previous special exception or variance request.

Paid \$ _____

**RICHLAND COUNTY
BOARD OF ZONING APPEALS
SPECIAL EXCEPTION**

Filed _____

NOTICE TO APPLICANTS

No application for a special exception will be processed unless the following conditions are met no later than the first (1ST) day of the month prior to the date of the Board meeting, which is generally held the first Wednesday of each month:

- a. All questions on this application have been fully answered;
- b. The application has been signed by the owner or his/her agent with the written authorization of the owner;
- c. A plot plan drawn to scale, showing the actual dimensions and shape of the lot, the exact size and location on the lot of all buildings and signs existing and proposed, and the location of all required parking spaces has been submitted on an 8½" x 11" size piece of paper.

1. Location: Forest Shealy Road
TMS #: Page 01509 Block 01 Lot 04 Zoning District RU

2. The Board of Zoning Appeals is requested to consider the granting of a special exception permitting:
A wireless communications tower.

3. The Board of Zoning Appeals is authorized to grant or deny a special exception of this specific nature in Section _____ Zoning Ordinance.

PROPOSED NEW CONSTRUCTION

- 1. Free standing structure () Addition to an existing structure ()
- 2. Use Comm. tower Number of square footage 2400
- 3. Answer only if a commercial or manufacturing use:
 - a. Total number of parking spaces on parcel: N/A
 - b. Number of trucks: 0 size(s): _____
 - c. Number of signs: proposed 0 existing 0
 - d. Number of employees working of premises: 0

EXISTING USES AND STRUCTURES ON LOT

- 1. Number of existing uses/structures: 0
- 2. Size and use:

| | |
|--------------------------|----------------------|
| a. Use <u>Commercial</u> | square footage _____ |
| b. Use _____ | square footage _____ |
| c. Use _____ | square footage _____ |
| d. Use _____ | square footage _____ |



 Appellant's Signature
 Cingular Wireless/JLYates
 Printed (typed) Name

151 Meeting St.

 Address
Charleston, SC 29401

 City, State, Zip Code

843-853-5200

 Telephone Number

 Alternate Number

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

151 Meeting Street / Sixth Floor / Charleston, South Carolina 29401-2239

Tel: 843.853.5200 Fax: 843.722.8700

www.nelsonmullins.com

Brian A. Hellman

843.534.4416

brian.hellman@nelsonmullins.com

January 5, 2005

Via Federal Express

Mr. Geonard Price
Richland County Planning Department
2020 Hampton Street
Columbia, SC 29202
(803) 576-2180

RE: Cingular Wireless / #091-259A White Rock / TMS # 01509-01-04 / Forrest Shealy
Road, Chapin, SC 29036
Our file number: 21772/09545

Dear Mr. Price:

On behalf of our client, Cingular Wireless, Inc., I am enclosing for your review the appropriate completed special exception application forms, a \$50 check for the special exception application fee, and the following details regarding compliance of the above-mentioned site with the Richland County Zoning Ordinance Section 26-94A.

For Section 26-94A – Supplemental Requirements

- (1) At the time of application for a special exception or zoning permit satisfactory evidence shall be submitted that alternative towers, building or other structures do not exist within the applicant's tower site search area that are structurally capable of supporting the intended antenna or meeting the applicant's necessary height criteria or provide a location free from interference of any nature, or are otherwise not available for use.

Cingular is in the business of providing cellular communications and does not engage in building towers. As such, Cingular only builds these towers as a last resort. The first thing Cingular looks for in placing its equipment is an existing structure or tower that will allow us to provide coverage in the designated area. In this case, there are no structures or towers under the control of Cingular or other entities that could be used. If such sites were available, Cingular would use those sites.

- (2) When a proposed site for a communication tower adjoins a residential zoning district, or property on which an inhabited residence is situated, the minimum setback from the property line(s) adjoining the residential zoning district or residential use shall be fifty (50) feet. For towers over fifty (50) feet in height, the set back shall increase one (1) foot for each one (1) foot of tower height in excess of fifty (50) feet; with the maximum required separation being two hundred fifty (250) feet.

This 150 foot tower will be located at least the maximum required separation of one hundred fifty (150) feet from property adjoining a residential zoning district, or property on which an inhabited residence is situated.

- (3) Towers shall be illuminated as required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agencies. However, no night time strobe lighting shall be incorporated unless required by the Federal Communications Commission, Federal Aviation Administration or other regulatory agency.

This 150 foot tower will not be illuminated.

- (4) Each communications tower and associated buildings shall be enclosed within a fence at least seven (7) feet in height.

This tower and associated buildings are enclosed and secured by a security fence at least seven (7) feet in height.

- (5) Each tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

This tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

- (6) No signage of any nature may be attached to any portion of a communications tower.

No signage of any nature may be attached to any portion of this communications tower.

- (7) Communications towers shall have a maximum height of three hundred (300) feet.

This proposed wireless communications tower is a 150 foot self support (monopole) design.

- (8) A communications tower which is no longer used for communications purposes must be dismantled and removed within one hundred twenty (120) days of the date the tower is taken out of service.

Cingular Wireless has agreed to remove the tower and/or antenna within 90 days after cessation of use as is provided in the enclosed letter by South Carolina counsel, Jonathan L. Yates, attached as Exhibit B.

Special exception requirements:

a. requirements for special exceptions found in section 26-602.2c

i. Traffic impact;

Upon completion of construction, this facility will be unmanned and only visited 8-10 times per year, having virtually no traffic impact.

ii. Vehicle and pedestrian safety.

Due to the inherent safety features of wireless communication devices, this wireless communications facility will have a positive impact on vehicle and pedestrian safety.

iii. Potential impact of noise, lights, fumes or obstruction of air flow on adjoining property

This tower is unlighted, and will have no impact with respect to noise, fumes, or obstruction of air flow on adjoining property.

iv. Adverse impact of the proposed use on the aesthetic character of the environs, to include possible need for screening from view.

The tower will be finished in a galvanized gray finish which quickly oxidizes to a dull gray patina and will be non-reflective and omit no glare. Also, this tower site shall be landscaped in accordance with the requirements of Article 5 of the county landscape ordinance.

v. Orientation and spacing of improvements or buildings.

There are no other improvements or buildings on this site.

(1) Will the proposed structure endanger the health and safety of residents, employees or travelers, including but not limited to the likelihood of the failure of such structures.

Due to the inherent safety features of wireless communication devices, this wireless communications facility will be a beneficial addition not only to the health and safety of residents, employees or travelers, but to law enforcement personnel as well. The proposed tower is set back from all property lines a distance equal to or greater than its proposed height so that in the event of structural failure, the health and safety of residents, employees or travelers will not be compromised.

- (2) Is the proposed tower located in an area where it will not substantially detract from aesthetics and neighborhood character or impair the use of neighboring properties.

The proposed communications tower is being placed in a rural section of Richland County. The proposed tower is being placed on the property of Joseph and Dorothy Goscinski, which is zoned RU. The subject property is perfect for this proposed tower in that it is a reasonably large, odd-shaped parcel that is trisected by power lines. With our placement on the subject property, we will be able to effectively cover portions of Highway 76, Chapin, Lake Murray, and surrounding areas with a minimum visual impact to the surrounding area. In addition, the tower will be finished in a galvanized gray finish which quickly oxidizes to a dull gray patina and will be non-reflective and omit no glare.

- (3) Is the proposed structure necessary to provide a service that is beneficial to the surrounding community.

Wireless devices are enabled by communications towers. With their inherent safety features, wireless devices and the towers than enable their use provide a service that is beneficial to the surrounding community, residents, travelers, mariners, and law enforcement.

- (4) Does the proposed use meet the setback requirements of the underlying zoning district in which it is located.

The underlying zoning district (RU) setbacks are forty (40) feet for front yards, twenty (20) feet for side yards, and fifty (50) feet for rear yards. The setback line is the same as the depth or width of any required yard. This communications tower will be set back at least 150' from any property line, or 3.0 to 7.5 times the minimum required by the underlying zoning district.

- (5) Is the proposed tower within one thousand (1,000) feet of another tower unless on the same property.

The tower will not be located within 1,000 feet of any existing tower or antenna.

- (6) Has the applicant attempted to collocate on existing communication towers and is the applicant willing to allow other users to collocate on the proposed tower in the future subject to engineering capabilities of the structure and proper compensation from the additional user.

Cingular always attempts to co-locate its equipment on an existing tower. Cingular has investigated all nearby publicly and privately owned sites and was unable to find a suitable site.

Mr. Geonard Price
January 5, 2005
Page 5

- b. A site plan, elevation drawing(s), photographs and other appropriate documentation must be submitted with the request for special exception which provides information required by this ordinance section:

A copy of the site plan incorporating the typical specification for this structure is attached hereto, as Exhibit A.

- (1) Site plan must include the location of the tower(s), guy anchors (if any), transmission building and other accessory uses, parking, access, fences and adjacent land use. Landscaping and required buffering must also be shown.

A copy of the site plan incorporating these requirements is attached hereto, as Exhibit A.

There is a sense of urgency to us in getting this special exception approved; therefore any assistance you can give us is very much appreciated. Please contact me at 843-534-4416 or brian.hellman@nelsonmullins.com once the hearing date has been set, or if you have any questions or concerns that I may answer or address.

Very truly yours,



Brian A. Hellman

Enclosures

cc: Jonathan L. Yates, Esq.

Nelson Mullins

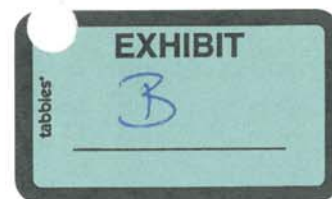
Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

151 Meeting Street / Sixth Floor / Charleston, South Carolina 29401-2239

Tel: 843.853.5200 Fax: 843.722.8700

www.nelsonmullins.com



Jonathan L. Yates

843.534.4240

jonathan.yates@nelsonmullins.com

January 5, 2005

Mr. Geonard Price
Richland County Planning Department
2020 Hampton Street
Columbia, SC 29202
(803) 576-2180

RE: Cingular Wireless / #091-259A White Rock / TMS # 01509-01-04 / Forrest
Shealy Road, Chapin, SC 29036
Our file number: 21772/09545

Dear Mr. Price:

Regarding a 150 foot monopole tower to be located at the address indicated above, Cingular Wireless hereby agrees to remove the said tower and/or antenna within 90 days after cessation of use.

Very truly yours,


Jonathan L. Yates
Counsel for Cingular Wireless

JLY:dls

**CASE 05-56 SE
JOHNATHAN YATES**

TMS 01509-01-04





2 March 2005
Board of Zoning Appeals

REQUEST AND ANALYSIS

05-57 Variance

REQUEST

The applicant is requesting the Board of Zoning Appeals to grant a variance to encroach into the required side yard setbacks in a RU (rural) zoned district.

GENERAL INFORMATION

Applicant

Carolyn Peake

Tax Map Number

29000-02-07

Location

10950 Two Notch Road

Existing Zoning

RU (Rural)

Parcel Size

1 acre

Existing Land Use

Residential

Existing Status of the Property

There is a manufactured home on the subject property.

Proposed Status of the Property

The proposed structure will encroach into each required side yard setbacks by 7 feet.

Immediate Adjacent Zoning and Land Use

- North - RU; residential
- South - RU; residential
- East - RU; residential
- West - RU; residential/commercial

Character of the Area

The subject property is located in an area that is composed of residential (manufactured homes and single family) and commercial structures.

ZONING ORDINANCE CITATION

Section 26-602.3 of the Zoning Ordinance authorizes the Board of Zoning Appeals to grant variances from the strict interpretation of the Zoning Ordinance that are not contrary to the public interest when literal enforcement would result in unnecessary hardship.

Under no circumstances shall the Board grant a variance to permit a use not generally or by special exception permitted in the district involved. No nonconforming use of

neighboring lands or structures in the same district or in other districts shall be grounds for the issuance of a variance. Under no circumstances shall the Board grant a variance to permit a decrease in minimum lot size, minimum lot width or in any other manner create a nonconforming lot.

CRITERIA FOR VARIANCE

The board of zoning appeals may grant a variance in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

(a) That there are extraordinary and exceptional conditions pertaining to the particular piece of property.

Staff observed that the parcel is nonconforming. The parcel doesn't meet the minimum lot width requirements for the RU district.

The parcel also has a parallelogram shape.

(b) That these conditions do not result from the actions of the applicant.

There is no evidence to suggest that the applicant created any of the current conditions.

(c) That these conditions do not generally apply to other property in the vicinity.

There are neighboring parcels that have the same nonconformity and parcel shape.

(d) That because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Applying the required setback requirements would not unreasonably restrict the utilization of the property.

(e) That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The granting of this variance will not create a detriment to the adjacent property, the public good, or the character of the district.

DISCUSSION

Staff visited the site.

The applicant is requesting a variance to encroach into the required side yard setbacks (20 feet) by seven (7) feet for the placement of a manufactured home.

As stated, the lot is nonconforming. The minimum lot width requirement for a parcel in a RU district is 120 feet. The parcel has a lot width of 100 feet.

The applicant proposes this request so the manufactured home can be placed parallel to Two Notch Road. Without the variance, the home would have to be angled toward Two Notch Road or oriented so the front door would face the side yard property line.

CONDITIONS

26-602.2(c)

- 1) Violation of conditions and safeguards prescribed in conformity with this chapter, when made a part of the terms under which the special exception is granted shall be deemed a violation of this chapter, punishable under penalties established herein;
- 2) Failure to begin or complete, or begin and complete, an action for which a special exception is required, within the time limit specified when such time limit is made a part of the terms under which the variance is granted shall void the variance.

OTHER RELEVANT SECTIONS

26-51.4 Nonconforming lots of record.

- (1) *Single lots:* Notwithstanding limitations imposed by other provisions of this ordinance, a single-family detached dwelling or single-family manufactured home and customary accessory buildings may be erected on any single lot of record at the effective date of adoptions or amendment of this ordinance, so long as a single-family detached dwelling or single-family manufactured home is a permitted use in that district and the lot in question meets the requirements of the county health department. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirement for area or width, or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area, width, or both, shall conform to the regulations for the district in which such lot is located.

26-61.7 Minimum lot width.

The minimum lot width of any lot is one hundred twenty (120) feet.

ATTACHMENTS

- Plat.

CASE HISTORY

There was a request for a special exception (02-07) request that was withdrawn (applicant failed appear).



**RICHLAND COUNTY
PLANNING AND DEVELOPMENT SERVICES
P.O. BOX 192
2020 HAMPTON STREET
COLUMBIA, SOUTH CAROLINA 29202**

**BOARD OF ZONING APPEALS
VARIANCE APPEAL**

Appeal # 05-51V Fee \$100.00 Application # _____
 Filed _____ Receipt # 369028 Filed 10 Feb, 2005

No application for a variance will be received for inclusion on the Board of Zoning Appeal's Agenda unless the following conditions are met not later than the first day of the month prior to the date of the Board meeting, which is held on the first Wednesday of each month.

(a) All questions on this application have been fully answered.
 (b) The application has been signed by the owner or his agent with the written authorization of the owner.
 (c) A plat plan drawn to scale, showing the actual dimensions and shape of the lot, the exact size and locations on the lot of all buildings and signs existing and proposed, and the location of all required parking spaces has been submitted.
 (d) The Zoning Administrator has certified that the proposed use and/or construction plans comply with all provisions of the Zoning Ordinance except those for which a variance has been requested.

***If the Zoning Administrator finds that the requirements of the Zoning Code for a variance have not been met, the application will be rejected.**

1. Location 10950 Two Notch Rd Elgin SC 29045
2. Lot 7 Block 2 Page 29000 Zoning District RU
3. Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property as described in the provisions of Section _____ of the Richland County Zoning Ordinance.
4. Applicant requests a variance to allow use of the property in a manner shown on the attached site plan, described as follows: to encroach into existing side setbacks by 10' on each side.
5. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.
 - a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as following: the lot is nonconforming ^(lot frontage) and is at a slant/tilt as compared to Two Notch Rd.
 - b) Describe how the conditions listed above were created: Property has been in this condition for 40+ years.
 - c) These conditions do not generally apply to other property in the vicinity as shown by: adjacent properties are all in the same condition.
 - d) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: Application of the ordinance would require the home to be set at an angle and not aligned as the adjacent lot homes.
 - e) The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: All adjacent lots are also nonconforming and the adjacent lot homes are facing Two Notch Rd in the same manner as
6. The following documents are submitted in support of this application [a site plan must be submitted]:
 - a) plat
 - b) _____
 - c) _____

being requested for the new home placement.

(Attach additional pages if necessary)

PROPOSED NEW CONSTRUCTION

1. Free-standing structure Addition to an existing building ()
2. Use Residential (mt) No. of sq. 1512
3. Maximum height of building above finished grade 12' No. of stories 1
4. Total parking spaces on lot (See Sec. 7-1.4) _____
5. Answer only if a commercial or manufacturing use:
 - a. No. and size of trucks _____
 - b. No. of employees working on premises _____
 - c. No. and size of proposed and existing signs as shown on plot plan _____

EXISTING USES AND BUILDINGS ON LOT

- No. of existing buildings 0
- Sq. ft. _____ Use _____
- Sq. ft. _____ Use _____
- Sq. ft. _____ Use _____

Appellant Carolyn B. Peate Address 1075 Waxwing Lane Phone Number 803-635-4555 (h)
Winnsboro SC 29180 803-217-2148 (w)

The use and construction as proposed herein complies with the terms of the Zoning Ordinance except for the variances

Zoning Administrator

FOR USE OF BOARD OF ZONING APPEALS

1. Landmarks commission referral required:
 Yes No
 Date referred _____ Date returned _____
2. Other referrals: Agency _____
 Date referral _____ Date returned _____
3. Any previous requests for same variance/special exception Yes No
 If "yes", Appeal No. _____ Date _____
4. Public hearing set for _____ Date posted _____
5. Advertised in _____ Date _____
6. Public hearing held _____ Appellant appeared Yes No
7. Findings of Board of Zoning Appeals:
 - a. The requirements of Section 26-602.3b(1) have been met by the applicant:
 Yes No
 - b. The reasons set forth in the application on the reverse side justify the granting of the variance, and the variance as granted is the minimum variance that will make possible the reasonable use of the land, building, or structure:
 Yes No
 - c. The granting of this variance will be in harmony with the general purpose and intent of the ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare: Yes No
8. Requested variance is granted with the following conditions and safeguards:

9. Requested variance is denied for the following reasons:

Record of Vote: (1) _____ (2) _____
 (3) _____ (4) _____ (5) _____
 (6) _____ (7) _____

Date _____ Board of Zoning Appeals Chairperson _____

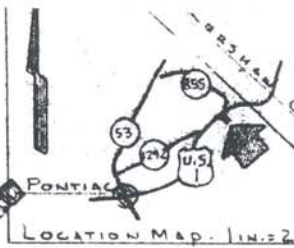


NOTE: POND LOCATION BY FIELD SURVEY AND DRAFTED TO SCALE.

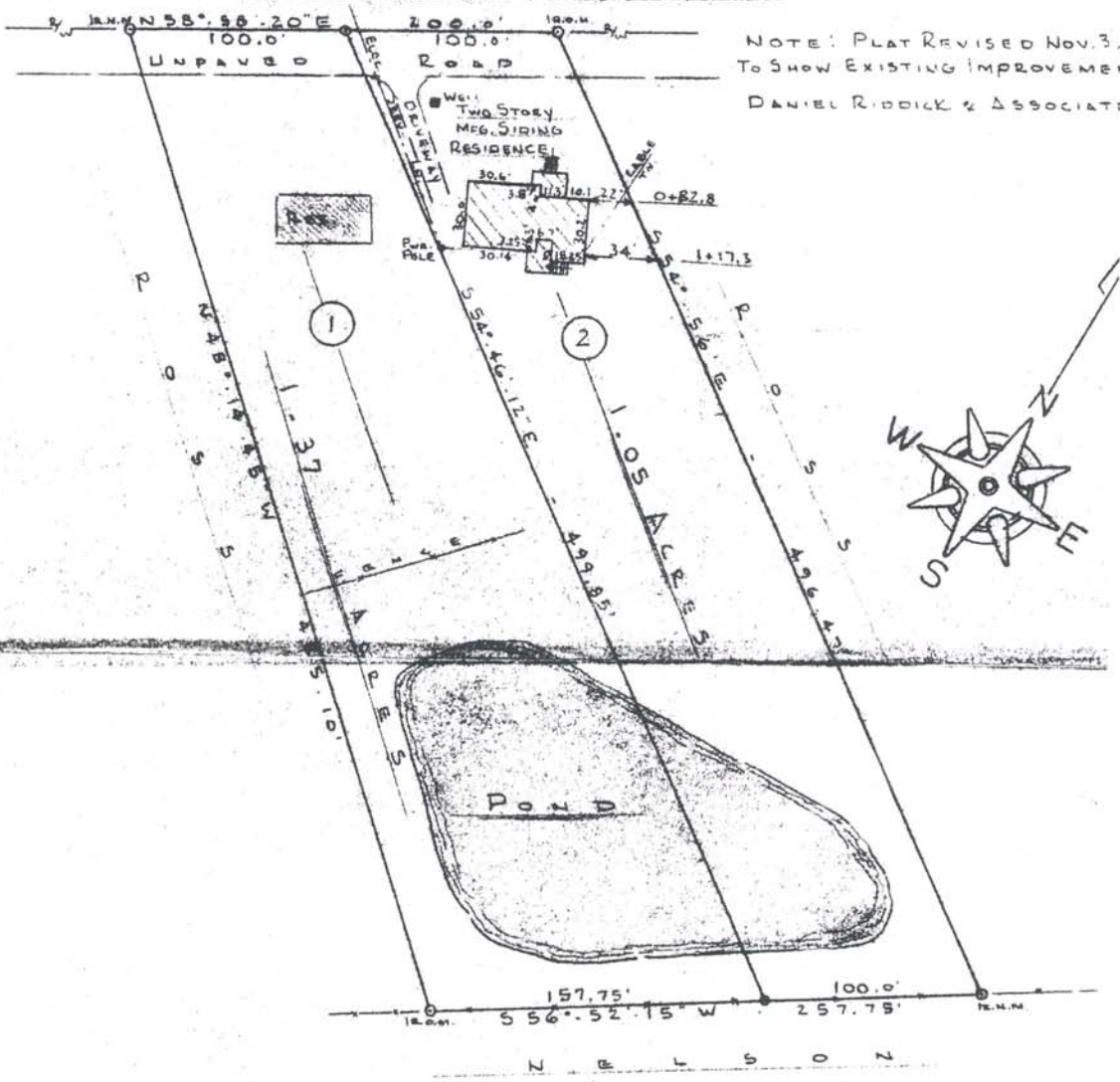
1987 NOV 17 AM 11:27

REFERENCE:
PLAT BOOK B - PAGE 65

LEGEND: 12.0 M. IRON PIN (NEW), 12.0 M. IRON PIN (OLD)



U. S. HWY No. 1 50 R/W



NOTE: PLAT REVISED NOV. 3, 1987 TO SHOW EXISTING IMPROVEMENTS
DANIEL RIDDICK & ASSOCIATES

PREPARED FOR
DONNIE E. PEAKE AND CAROLYN B. PEAKE
PARCEL ① - MARY BRASSELL
PARCEL ② - DONNIE E. PEAKE AND CAROLYN B. PE

LOCATED 2 MILES NORTHEAST OF PONTIAC
RICHLAND COUNTY - SOUTH CAROLINA
SCALE: 1 IN. = 60 FT. - AUGUST 8, 1985
DANIEL RIDDICK & ASSOCIATES, INC.



Adjacent structures

